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MONTANA SIXTH JUDICIAL DISTRICT COURT, PARK COUNTY

Daniel K. O'Connell & Valery A. O'Connell	)	
& on behalf of themselves as members of	)	
Glastonbury Landowners Association.	)	
	)	
Plaintiff(s),	)	
	)	Cause No. DV-11-114
v.	)	
	)	
Glastonbury Landowners Association, Inc.	)	
& current GLA Board of Directors	)	
	)	
Defendant(s)	)	

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PLAINTIFFS MOTION RESPONSE FOR ORDERS REESTABLISHING PARTIES TO THE COMPLAINT

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COMES NOW the above named Plaintiffs and Glastonbury Members, and move this Court for an Order Reestablishing parties to this complaint, (DV-11-114) to be Plaintiffs' "Daniel O'Connell" and "Valery O'Connell" and Defendants, "Glastonbury Landowners Association, Inc." and "GLA Board of Directors" through 2013 namely Directors: Richard Bolen, Alyssa Allen, Laura Boise, William Smith, Sheridan Stenburg, Gerald Dubiel, Paul Rantallo, Rich Spallone, Janet Naclerio: excluding Neil Kramer & Claire Parker that quit the GLA Board in 2011 & excluding new GLA Board members since March 2013 that were not n intended party to this complaint namely Scott McBride, Sean Halling, and Kenneth Haug; also that Daniel's position as a GLA Director and others positions as Directors at the time this complaint was filed June 2011 do not change regarding their defense and liabilities under this complaint.

## SUMMARY OF PLEADINGS TO THIS MOTION IDENTIFYING PARTIES TO THIS COMPLAINT

All pleadings agree "GLA Board of Directors" through 2013 Directors were: Richard Bolen, Alyssa Allen, Laura Boise, William Smith, Sheridan Stenburg, Gerald Dubiel, Paul Rantallo, Rich Spallone, Janet Naclerio, Scott McBride, Sean Halling, and Kenneth Haug. At issue then is whether or not newly added GLA Directors in 2013 are also Defendant parties, namely Scott McBride, Sean Halling, and Kenneth Haug. Since they were on the Board starting 2013, then it would make sense that they are also Defendant parties. Plaintiffs would have no issue with them being Defendants which makes most of Defendants motion reply mute.

One other issue still in dispute involves whether Daniel's position as a GLA Director at the time of this complaint was dropped or else reestablished in the amended complaint. Defendants reply offered no proof that his position as a Director was "dropped." Filed March 2013, the amended complaint, (page 13 and 15) reestablished his position and never claimed anything but this by stating, "Board member, Mr. O'Connell" "in the 21 months which followed Daniel O'Connell's election to the Board, "Plaintiff(s) gathered evidence of numerous and frequent Defendant infractions and continuous violations of their GLA governing documents (Exhibits I, K, L, M, N, O, P, and Q)." Further evidence of Daniel's position well known by all Defendants said on page 12, "Up to 42 proxy votes cast by the GLA Board of Directors were used to remove [Director] Mr. O'Connell" (Complaint at ¶14-16, & TRO Dist.Ct.Dkt. No. 33. This action is contrary GLA Bylaw Art VI(B) "Such Directors shall in all cases act as a Board and may do all such acts or

things as are not...directed to be exercised and done by the Members;" Complaint at ¶17, TRO  
*Dist.Ct.Dkt. No. 33*

This basically settles all motion issues

Plaintiffs do not wish to add any new parties by motion that were not already established, and only wish to reiterate the individually named Defendant parties that make up the GLA Directors as of March 2013 named in this amended complaint, that in the

### **COURTS AUTHORITY TO GRANT THIS MOTION**

Courts authority to grant this motion is found in the following statues that allows the above named parties because Plaintiffs' right to relief is asserted against the GLA Directors jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences by the GLA Directors from 2011 through 2013.

**M.R.Civ.P., Rule 21. Misjoinder and Non-Joinder of Parties.** Misjoinder of parties is not a ground for dismissing an action. On motion or on its own, the court may at any time, on just terms, add or drop a party. The court may also sever any claim against a party.

**M.R.Civ.P., Rule 19. Required Joinder of Parties.**

(a) Persons Required to be Joined if Feasible.

(1) Required Party. A person who is subject to service of process must be joined as a party if:

(A) in that person's absence, the court cannot accord complete relief among existing parties;

or

(B) that person claims an interest relating to the subject of the action and is so situated that disposing of the action in the person's absence may:

(i) as a practical matter impair or impede the person's ability to protect the interest; or

(ii) leave an existing party subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations because of the interest.

(2) Joinder by Court Order. If a person has not been joined as required, the court must order that the person be made a party. A person who refuses to join as a plaintiff may be made either a defendant or, in a proper case, an involuntary plaintiff.

**Rule 20. Permissive Joinder of Parties.**

(a) Persons Who May Join or Be Joined.

(1) Plaintiffs. Persons may join in one action as plaintiffs if:

(A) they assert any right to relief jointly, severally, or in the alternative with respect to or

arising out of the same transaction, occurrence, or series of transactions or occurrences; and

(B) any question of law or fact common to all plaintiffs will arise in the action.

(2) Defendants. Persons may be joined in one action as defendants if:

(A) any right to relief is asserted against them jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences; and

(B) any question of law or fact common to all defendants will arise in the action.

(3) Extent of Relief. Neither a plaintiff nor a defendant need be interested in obtaining or defending against all the relief demanded. The court may grant judgment to one or more plaintiffs according to their rights, and against one or more defendants according to their liabilities.


(b) Protective Measures. The court may issue orders -- including an order for separate trials -- to protect a party against embarrassment, delay, expense, or other prejudice that arises from including a person against whom the party asserts no claim and who asserts no claim against the party.

### CONCLUSION

For all the above facts, Plaintiffs motion is warranted for Orders reestablishing parties to this complaint, (DV-11-114) to be Plaintiffs' "Daniel O'Connell" and "Valery O'Connell" and Defendants, "Glastonbury Landowners Association, Inc." and "GLA Board of Directors" through 2013 namely Directors: Richard Bolen, Alyssa Allen, Laura Boise, William Smith, Sheridan Stenburg, Gerald Dubiel, Paul Rantallos, Rich Spallone, Janet Naclerio; excluding Neil Kramer & Claire Parker that quit the GLA Board in 2011 and (at Defendants request) including new GLA Board members since March 2013, namely Scott McBride, Sean Halling, and Kenneth Haug; and that Daniel's position as a GLA Director and others positions as Directors did not change regarding all their defense and liabilities under this complaint and amended complaint.

Respectfully submitted this **31st day of December, 2014,**

By:   
Daniel O'Connell

By:   
Valery O'Connell

**Certificate of Service**

A true and correct copy of forgoing document(s) were sent, to the following parties via first class mail and postage paid, this same day to: *one mailed 5th*  
*email*


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By:



Valery O'Connell