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7 **MONTANA SIXTH JUDICIAL DISTRICT COURT, PARK COUNTY**

8 KATHLEEN RAKELA, CLARE PARKER,
9 RUDY PARKER, EDWARD DOBROWSKI,

10 Plaintiffs,

11 vs.

12 GLASTONBURY LANDOWNERS
13 ASSOCIATION, INC., DENNIS RILEY,
14 DANIEL KEHOE, MARK SEAVER,
15 RICHARD JOHNSON, CHARLENE MURPHY,
16 KEVIN NEWBY, LEO KEELER, individually
and as Board Members,

17 Defendants,

Cause No. DV 17-150

Judge Brenda R. Gilbert

**DEFENDANTS' REPLY TO PLAINTIFF'S
RESPONSE TO MOTION FOR ORDER
RESOLVING ORDER THAT THIS
LITIGATION VIOLATES ITS
DECLARATION OF VALERY A.
O'CONNELL AS A VEXATIOUS LITIGANT**

18
19 COME NOW Defendants Glastonbury Landowners Association, Inc. (GLA), Dennis Riley,
20 Daniel Kehoe, Mark Seaver, Richard Johnson, Charlene Murphy, Kevin Newby, and Leo Keeler
21 (hereinafter "Defendants") and submit this Rely to Plaintiffs' response to Defendants' Motion for Order
22 Resolving Order that this Litigation Violates Its Declaration of Valery A. O'Connell as a Vexatious
23 Litigant. Defendants are confused as to why Plaintiffs filed this Response, and there may be a
24 misunderstanding as to the intent of the Motion.
25

26 **FACTUAL BACKGROUND**

27 The Defendants filed their Motion for the Court to Consider Whether this Litigation Violates Its
28 Declaration of Valery A. O'Connell as a Vexatious Litigant on December 28, 2017. That Motion was

1 mailed on December 28, 2017—the same day Plaintiff Kathleen Rakela obtained representation in this
2 matter. Until then, she was *pro se*, and the Motion was filed based on the representations of Valery
3 O’Connell. On January 3, 2018 the Court issued an Order setting a briefing schedule on Defendants’
4 Motion regarding Ms. O’Connell. The Court’s Order allowed Plaintiff Kathleen Rakela and Valery
5 O’Connell until January 19, 2018 to file a Brief on this issue.

6
7 Neither Plaintiff Kathleen Rakela nor Valery O’Connell filed anything according to the Court’s
8 schedule. With their complete silence on the issue, Defendants were justifiably confused, but they filed
9 their response in accordance with the Court’s schedule. The Court issued an Order granting Defendants’
10 Motion based on the lack of any response from Plaintiff or Valery O’Connell on February 7, 2018. The
11 day after the Court issued the Order, Plaintiff’s attorney then sent emails to Defendants’ counsel
12 expressing surprise at the Order.
13

14 **ARGUMENT**

15 The intent of Defendants’ Motion was to put the issue of Valery O’Connell to rest. The Motion
16 did not ask for any sanctions against Plaintiff Kathleen Rakela. It simply recognized that Ms. O’Connell’s
17 claimed authorship of pleadings is a distraction. However, Plaintiff appears to want to argue the issue
18 since she failed to argue it according the Court’s original briefing schedule, and she asks for attorney fees
19 for having to respond to the Motion.
20


21 Plaintiff is simply trying for a “do-over.” She did not brief the issue according to the Court’s
22 original schedule, and her Response would have been more appropriately filed back in January.
23 Defendants’ Motion did not open the door to re-arguing the issue—it was an attempt to end the issue. The
24 decision to re-argue the issue, and any time or expense involved, was solely the Plaintiff’s, and there is
25 no credible basis for claiming attorney fees. The February 7, 2018 Order is the law of the case, and
26 Plaintiff should be precluded from arguing the issue now.
27
28

1 Plaintiff points to her emails as evidence that she informed Defendants of her position. She fails
2 to acknowledge those emails were sent after the Court issued its Order. The issue had been decided when
3 she sent her emails so they could not have any bearing on the decision. She also fails to acknowledge that
4 she did not file a Response to the Motion on the Court's schedule. As the Court noted in its February 7,
5 2018 Order: "Given the absence of any response by Plaintiff Rakela or Valery O'Connell as allowed by
6 the briefing schedule, the Court must deem all assertions in the Defendants' Motion and Response as well
7 taken." Plaintiff's Response is simply a way to try and re-open the issue.
8

9 However, Defendants' Motion is an attempt to close the issue, and Defendants tried to do so in a
10 way that accrued no penalty to Plaintiff Rakela. Defendants made no assertions against Plaintiff.
11 However, Plaintiff's Response is to ask for sanctions against Defendants. Plaintiff also appears to be
12 under the mistaken belief that Defendants are trying to pursue further action against Ms. O'Connell.
13 Defendants' Motion makes it clear that is not their intent. Plaintiff's Response was unwarranted, and the
14 Court should disregard it and bring a close to the Valery O'Connell issue.
15

16 DATED this 18th day of May, 2018.

17
18 BROWN LAW FIRM, P.C.

19 BY 
20 Seth M. Cunningham
21 *Attorneys for Defendants*
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CERTIFICATE OF SERVICE

This does certify that a true and correct copy of the foregoing was duly served on Plaintiff by U.S. mail, postage prepaid, and addressed as follows, this 18th day of May, 2018:

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