

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2012-090015

06/24/2013

HONORABLE EMMET RONAN

CLERK OF THE COURT
T. Galindo
Deputy

DYNAMITE MOUNTAIN RANCH
HOMEOWNERS ASSOCIATION

CHRISTINA N MORGAN

v.

KAY E LARSON, et al.

KAY E LARSON
NO ADDRESS ON RECORD

CONSTANCE JEAN GOETZ-
KIRCHNER
2018 W MORNING VISTA LANE
PHOENIX AZ 85085

MINUTE ENTRY

The Court has considered all of the pleadings filed by the parties relating to Plaintiff's Motion to Strike. The Court has also considered the statements made by the parties at oral argument.

Defendant Constance Goetz-Kirchner lied in her Answer/Counterclaim. She lied in an affidavit filed in the case. She lied in her deposition and she lied in her trial testimony. She also lied in numerous communications with the Dynamite Mountain Ranch Homeowners Association prior to the filing of the lawsuit. These false statements were not isolated in nature. They were part of a deliberate plan to misled the Homeowners Association, Plaintiff's counsel and the Court. In doing so, Defendant Constance Goetz-Kirchner has violated Rules 11 and 26.1 of the Arizona Rules of Civil Procedure.

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Plaintiff asks the Court to sanction Defendants by striking Defendant's Counterclaim and awarding Plaintiffs their costs and attorney's fees. A good argument can be made for striking Defendant's Counterclaim. However, the Court feels strongly that cases should be resolved on their merits whenever possible. However, an award of attorney's fees and costs is absolutely appropriate under the facts of this case.

IT IS ORDERED denying Plaintiff's request for an Evidentiary Hearing.

IT IS FURTHER ORDERED denying Plaintiff's Motion to Strike Counterclaim.

IT IS FURTHER ORDERED awarding Plaintiff their reasonable attorney's fees and costs incurred investigating and discovering the inaccurate information including the pleadings and hearings related to the Motion to Strike. Counsel shall file an affidavit and Proposed Form of Judgment for the Court's review.

IT IS FURTHER ORDERED setting a Telephonic Status Conference to set a date for a conclusion of the Evidentiary Hearing on **July 10, 2013 at 9:30 a.m. (Time allotted: 15 minutes)** before:

**HONORABLE EMMET RONAN
SOUTHEAST ADULT FACILITY
222 EAST JAVELINA - COURTROOM 401
MESA, AZ 85210**

NOTE: Counsel for the Plaintiff is to initiate the telephonic conference by first arranging the presence of all other counsel or self-represented parties on the conference call and by calling this division at (602) 506-0438 promptly at the scheduled time.

IT IS FURTHER ORDERED if the parties settle the matter, they shall contact this Division so the hearing can be vacated.

NOTE: ALL COURT PROCEEDINGS ARE RECORDED BY AUDIO METHOD AND NOT BY A COURT REPORTER. ANY PARTY MAY REQUEST THE PRESENCE OF A COURT REPORTER BY CONTACTING THIS DIVISION THREE (3) COURT BUSINESS DAYS BEFORE THE SCHEDULED HEARING.

ALERT: The Arizona Supreme Court Administrative Order 2011-140 directs the Clerk's Office not to accept paper filings from attorneys in civil cases. Civil cases must still be initiated on paper; however, subsequent documents must be eFiled through AZTurboCourt unless an exception defined in the Administrative Order applies.