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BY DEPUTY

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4 480-290-4819  
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6 SUPERIOR COURT OF ARIZONA  
7  
8 PINAL COUNTY

9 In the Matter of the Estate of:

Case No.: PB201300213

Francisca Margarita Lopez-Ruiz

MOTION FOR SANCTIONS VERSUS JERRY  
DEROSE FOR KNOWINGLY MAKING A  
FALSE STATEMENT OF LAW TO THE COURT  
AND COMMITTING PERJURY

Honorable Justice Washburn

13 MOTION FOR SANCTIONS VERSUS JERRY DEROSE FOR KNOWINGLY MAKING A  
14 FALSE STATEMENT OF THE LAW TO THE COURT AND COMMITTING PERJURY

15 1. Mr. DeRose Willfully and Knowingly Made a False Statement of Law to the Court

16 In the matter of PB201300213, in a Response, filed by Jerry B DeRose on 4/17/2019, hereafter  
17 referred to as the "Response," to Henry S. Ruizmeeden's Motion for Jury Trial for Determination of  
18 Fraud and Evasion and for Recovery of Expenses as a Result of Unreasonable Conduct filed on  
19 3/8/2017, Mr. DeRose knowingly made a false statement of law to the Court. This purposive,  
20 malicious and willful omission was a brazen and unlawful attempt to mislead the court to gain a  
21 favorable Ruling for his clients, Martha Popisil and Julia S. Ruiz and avoid the recovery of  
22 unnecessary expenses from his clients in favor of the Estate of Francisa M. Lopez-Ruiz and Henry S  
23 Ruizmeeden.  
24

25 2. Petitioner Maintains Martha Popisil and Julia S. Ruiz are "Person" and Subject to 14.1105 A.  
26 Remedies for Unreasonable Conduct  
27

28 MOTION FOR SANCTIONS VERSUS JERRY DEROSE FOR KNOWINGLY MAKING A FALSE  
STATEMENT OF LAW TO THE COURT AND COMMITTING PERJURY - 1

1 Petitioner maintains that Martha S. Popisil and Julia S. Ruiz fall within the scope of A.R.S. 14.1105  
2 A. Remedies for Unreasonable Conduct, as both parties are a "person" and fall within the scope of  
3 Petitioners Motion, as 14.1105 A. Remedies for Unreasonable conduct states " A. If the court finds  
4 that a decedent's estate or trust has incurred professional fees or expenses as a result of unreasonable  
5 conduct, the court may order the person who engaged in the conduct or the person's attorney, or both,  
6 to pay the decedent's estate or trust for some or all of the fees and expenses as the court deems just  
7 under the [circumstances] [HR1] " (see Exhibit B). *see attached*

8  
9 3. Mr. DeRose Falsely Cites 14.1105 D. (3). As the Scope of All Parties Subject to ARS 14.1105 A.

10 Remedies for Unreasonable Conduct

11 In Mr. Derosé's Response, Mr. DeDrose falsely cites a 14.1105 D. (3). as the defining criteria  
12 whereby his clients would fall outside the scope of the 14.1105 A Remedies for Unreasonable  
13 Conduct. In Mr. DeRose's Response, Mr. DeRose purposively, maliciously and falsely states "The  
14 statute defines the "person engaged in the conduct" as a fiduciary, an attorney or guardian ad litem.  
15 A.R.S. 14-1105 (D) (3). Popisil and Ruiz were not fiduciaries, attorneys or guardian ad litem at the  
16 time the alleged unreasonable conduct occurred" (see Exhibit A. *see attached* page 2, line 15-17 of Jerry DeRoses  
17 Response). The A.R.S. full citation of Mr. DeRose's citation is 14.1105. D. (3). "Person who  
18 engaged in the conduct" includes a fiduciary, an attorney or a guardian ad litem. Mr. DeRose brazenly  
19 and maliciously cited an explanatory statue citation "including fiduciaries, an attorney or a guardian  
20 ad litem" as the defining criteria for "persons" failing within 14.1105. D. Remedies for Unreasonable  
21 Conduct.  
22

23 4. Mr. DeRose Has Violated the State Bar of Arizona Rules of Professional Conduct 3. Advocate E.R

24 3.3.

25 By purposively and maliciously misrepresenting the ARS. 14.1105 D. to the Court as the defining  
26 criteria to determine the applicability of his clients as subject to Petitions Motion, Mr. Derosé has  
27 violated the State Bar of Arizona's Rules of Professional Conduct 3. Advocate E.R. 3.3. Candor

28 MOTION FOR SANCTIONS VERSUS JERRY DEROSE FOR KNOWINGLY MAKING A FALSE  
STATEMENT OF LAW TO THE COURT AND COMMITTING PERJURY - 2

1 Towards the Tribunal wherein its states a "(a) A lawyer shall not knowingly: (1) make a false  
2 statement of fact or law to a tribunal."  
3


4 5. By Knowingly Making a False Statement of Law to the Court in Has Committed Perjury

5 By knowingly making a false statement of Law to the Court, Jerry DeRose has committed Perjury,  
6 A.R.S. 13.2702 Perjury. A.2. by making a "false unsworn declaration, certificate, verification or  
7 statement in regard to a material issue that the person subscribes as true under penalty of perjury,  
8 believing it to be false."  
9

10 6. Petitioner Moves for Sanctions Versus Jerry B DeRose for Knowingly Misleading the Court and  
11 Committing Perjury.

12 Mr. DeRose has made a false statement of Law to the Court in his Response to Henry S.  
13 Ruizmeeden's Motion filed on 3/8/2017 and Mr. DeRose knowingly mislead the court and committed  
14 Perjury. Therefore, Henry S. Ruizmeeden, requests a Motion for Sanctions in the amount of  
15 \$50,000.00 against Mr. DeRose and in favor of only Henry S. Ruizmeeden, as a penalty for  
16 purposively and maliciously misleading the court in favor of his clients and to the detriment of the  
17 Petitioner Henry S. Ruizmeeden and the Estate of Francisca M. Lopez-Ruiz.  
18

19  
20 Dated this 10th day of May, 20 19.

21  
22   
Attorney Name per S

23  
24 I have filed the Original of the attached document(s) on the 10th day of May, 20 19 with  
25 the Clerk of the Superior Court of Pinal County.

26 I have mailed/delivered copies of the attached document(s) on the 11th day of May, 20 19  
27 to:

28 MOTION FOR SANCTIONS VERSUS JERRY DEROSE FOR KNOWINGLY MAKING A FALSE  
STATEMENT OF LAW TO THE COURT AND COMMITTING PERJURY - 3

1 Jerry DeRose 101 N Broad Street, Ste 2, Globe AZ, 85502

2 Joe M. Ruiz 1081 Maple Lane Watkinsville GA, 30677

3 Marta Pospisil 8121 E Maguire Pl. Tucson AZ, 85710

4 Julia S. Ruiz 4825 N Pala Road Stanfield AZ, 85172

5 Carlos Lopez-Ruiz 2245 N. 36<sup>th</sup> Street, Apr 114 Phoenix AZ, 85008

6 James J. Osborne, Jones, Skelton & Hochuli, P.L.C. 40 N. Central Ave Ste 2700 Phoenix AZ, 85004

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MOTION FOR SANCTIONS VERSUS JERRY DEROSE FOR KNOWINGLY MAKING A FALSE STATEMENT OF LAW TO THE COURT AND COMMITTING PERJURY - 4

EXHIBIT A

1 accordance with the rules deprives the Court of jurisdiction. *Bryant v. Bloch Cos.*, 166  
2 Ariz. 46, 48, 800 O.2d 33 (App. 1990). Ruizmeeden has not filed a complaint in the  
3 probate proceedings and served Pospisil, Ruiz or the Estate as required by Rule 4, *Arizona*  
4 *Rules of Civil Procedure*.

5 II. The Issues Raised in the Motions Are Not the Subject of a Civil Action in Probate  
6 Court.

7 The motions filed by Ruizmeeden address alleged misconduct committed by  
8 Pospisil and Ruiz that occurred prior to Pospisil's appointment as personal representative.  
9 Rule 4(B)(1)(a) allows a civil action within a probate case only if the decedent's estate or  
10 the personal representative or both are a party to the action and the personal  
11 representative is the only one with authority to pursue those claims. A.R.S. § 14-3715(22).  
12 Ruizmeeden has filed his motions for a jury trial and for recovery of unnecessary expenses  
13 based upon A. R. S. § 14-1105 and § 14-1106. A. R. S. § 14 – 1105 allows recovery of  
14 professional fees or expenses against a person who engaged in unreasonable conduct.  
15 The statute defines the "person who engaged in the conduct" as a fiduciary, an attorney or  
16 guardian ad litem. A.R.S. § 14-1105(D)(3). Pospisil and Ruiz were not fiduciaries,  
17 attorneys or guardians ad litem at the time the alleged unreasonable conduct occurred. In  
18 addition, Ruizmeeden is not asking for recovery of professional fees or expenses as that  
19 term is described in the statute. That term includes fiduciary fees and expenses, the  
20 fiduciary's attorney fees and expenses or other fees and expenses of additional  
21 professionals hired by the fiduciary or the fiduciary's attorney. A.R.S. § 14-1105(D)(5).  
22 The fees and expenses described by Ruizmeeden in his motion are demolition fees and  
23 fees and costs incurred in the care and management of the animals belonging to the estate  
24 and do not include fiduciary fees or professional expenses. The recreational vehicle  
25 purchased by Ruizmeeden was not an expense of the Estate. Ruizmeeden purchased the  
26 recreational vehicle for himself and titled the vehicle in his name.  
27

EXHIBIT B.1.

## VIEW DOCUMENT

The Arizona Revised Statutes have been updated to include the revised sections from the 53rd Legislature, 2nd Regular Session. Please note that the next update of this compilation will not take place until after the conclusion of the 54th Legislature, 1st Regular Session, which convenes in January 2019.

### DISCLAIMER

This online version of the Arizona Revised Statutes is primarily maintained for legislative drafting purposes and reflects the version of law that is effective on January 1st of the year following the most recent legislative session. The official version of the Arizona Revised Statutes is published by Thomson Reuters.

#### 14-1105. Remedies for unreasonable conduct; definitions

- A. If the court finds that a decedent's estate or trust has incurred professional fees or expenses as a result of unreasonable conduct, the court may order the person who engaged in the conduct or the person's attorney, or both, to pay the decedent's estate or trust for some or all of the fees and expenses as the court deems just under the circumstances.
- B. In a guardianship or conservatorship case, if the court finds that a ward or protected person has incurred professional fees or expenses as a result of unreasonable conduct, the court may order the person who engaged in the conduct or the person's attorney, or both, to pay the ward or protected person for some or all of the fees and expenses as the court deems just under the circumstances.
- C. The remedies permitted pursuant to this section are in addition to any other civil remedy or any other provision of law. The remedies permitted pursuant to this section may be invoked to mitigate the financial burden on a ward, protected person, decedent's estate or trust incurred as a result of unjustified court proceedings or unreasonable or excessive demands made on a fiduciary, fiduciary's attorney, court-appointed attorney or representative.
- D. For the purposes of this section:
1. "Court-appointed attorney" means an attorney appointed pursuant to section 14-5303, subsection C, section 14-5310, subsection C, section 14-5401.01, subsection C or section 14-5407, subsection B.
  2. "Fiduciary" means an agent under a durable power of attorney, an agent under a health care power of attorney, a guardian, a conservator, a personal representative, a trustee or a guardian ad litem.
  3. "Person who engaged in the conduct" includes a fiduciary, an attorney or a guardian ad litem.
  4. "Professional" means an accountant, an attorney, a fiduciary, a physician, a psychologist, a registered nurse, a guardian ad litem or an expert witness.
  5. "Professional fees or expenses" includes the fiduciary's fees and expenses and the fiduciary's attorney fees and expenses, as

*EMMIT B.D.*



well as the fees and expenses of any other professionals hired by the fiduciary or the fiduciary's attorney.