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8
9 **SUPERIOR COURT OF ARIZONA**

10 **YAVAPAI COUNTY**

11 LA MERRA HOLDINGS, LLC, a Delaware
12 Limited Liability Company, and THE SMOKE
13 TRAIL RANCH PROPERTY OWNERS
ASSOCIATION, INC., an Arizona Nonprofit
Corporation

14 Plaintiffs,

15 v.

16 YAVAPAI COUNTY, ARIZONA, by and
17 through the YAVAPAI COUNTY BOARD OF
SUPERVISORS and GLOBAL COMMUNITY
18 COMMUNICATIONS ALLIANCE, an Arizona
Corporation.

19 Defendants.

Case No. _____

COMPLAINT

(Declaratory and Injunctive Relief)

20
21 For its Complaint against defendants, Plaintiffs La Merra Holdings, LLC and The
22 Smoke Trail Ranch Property Owners Association, Inc. allege as follows:

23 1. Plaintiff La Merra Holdings, LLC (“La Merra”) is a Delaware Limited Liability
24 Company which owns residential real property located Yavapai County, Arizona, and which
25 is located within a platted subdivision known as “Sedona Ranch” (the “La Merra Property”).
26

1 2. Plaintiff The Smoke Trail Ranch Property Owners Association, Inc. (“Smoke
2 Trail HOA”) is an Arizona Nonprofit Corporation which represents five (5) property owners
3 which own real property in Yavapai County in an area commonly known as “Smoke Trail
4 Ranch.”

5 3. Defendant Yavapai County is a governmental subdivision organized pursuant to
6 the Constitution of Arizona, and which performs acts pursuant to the decisions of Defendant
7 Yavapai County Board of Supervisors.

8 4. Defendant Global Community Communications Alliance (“Global”) purports to
9 be a non-profit corporation organized under the laws of Arizona, and which owns real
10 property adjacent to La Merra Property and Smoke Trail Ranch (the “Global Property”).

11 5. This Court has jurisdiction over the subject matter of this case because Plaintiffs
12 seek both declaratory and injunctive relief.

13 6. This Court has jurisdiction over the defendants, and venue is appropriate in this
14 Court, because the acts complained of herein is located in Yavapai County, Arizona, and the
15 real property that is the subject of this action is located in Yavapai County, Arizona.

16 7. This case qualifies for classification under Tier 3 discovery pursuant to Rule
17 26.2 of the Arizona Rules of Civil Procedure.

18 **ALLEGATIONS COMMON TO ALL COUNTS**

19 8. The foregoing allegations are incorporated herein by this reference.

20 9. The Global Property comprises approximately 15 acres having Assessor Parcel
21 Number 408-31-025L.

22 10. The Global Property is subject to the zoning ordinances and use limitations
23 imposed by Yavapai County, and the Global Property is currently zoned R1-12 and R1L-35.

24 11. The foregoing zoning allows only certain permitted residential uses, which are
25 described and codified in Section 400 of the Yavapai County Planning and Zoning Ordinance
26 (the “Zoning Ordinance”).

1 12. Sedona Ranch is an upscale subdivision planned and platted by La Merra.

2 13. La Merra currently owns four residential lots in Sedona Ranch.

3 14. Sedona Ranch is contiguous with and located immediately to the southeast of the
4 Global Property.

5 15. Smoke Trail HOA is a home owners association representing five (5) property
6 owners in Smoke Trail Ranch.

7 16. Properties in Smoke Trail Ranch are located in the immediate vicinity to the
8 west of the Global Property.

9 17. Sedona Ranch and Smoke Trail Ranch are also subject to residential zoning
10 pursuant to the Zoning Ordinance.

11 18. Pursuant to the Zoning Ordinance, “[a]ny use or structure not specifically
12 permitted by District Provisions (or analogous to a permitted use or structure) shall be
13 deemed prohibited and unlawful.”

14 19. Global has consistently used the Global Property in ways not permitted by any
15 applicable District Provisions imposed by the Zoning Ordinance, including, *inter alia*, open
16 fire pits, camp sites, non-permitted improvements, outdoor latrines, stages, amplified music,
17 commercial sales, and food sales (collectively, the “Prohibited Uses”).

18 20. Moreover, Global has consistently and routinely permitted and/or encouraged its
19 business invitees to trespass onto the La Merra Property.

20 21. In 2019, Yavapai County informed representatives of La Merra and Smoke Trail
21 HOA that it would enforce its Zoning Ordinance and prohibit Global from continuing to
22 engage in the Prohibited Uses.

23 22. Yavapai County’s enforcement was subject to a public hearing at which the
24 Board of Adjustment voted unanimously to enforce its Zoning Ordinance and order Global to
25 cease the Prohibited Uses.

26

1 the deliberations and proceedings. All legal action of public bodies shall occur during a public
2 meeting.”

3 32. A.R.S. 38-431.02 required the County to “[p]ost all public meeting notices on
4 their website and give additional public notice as is reasonable and practicable as to all
5 meetings.”

6 33. Moreover, the Legislature required the Yavapai County Board of Supervisors to
7 publicly post an agenda of the February 19, 2020 meeting “of the matters to be discussed or
8 decided at the meeting or information on how the public may obtain a copy of such an
9 agenda,” and such agenda was *required* to “list the *specific matters* to be discussed,
10 considered or decided at the meeting.” (emphasis added).

11 34. A.R.S. § 38-431.02 prohibited the County Board of Supervisors from
12 “discuss[ing], consider[ing,] or mak[ing] decisions” on matters not identified in the agenda.

13 35. The Yavapai County Board of Supervisors did not comply with the Open
14 Meeting law, because they did not publicly provide the required notice or agenda that listed
15 the “specific matter” of a proposed settlement agreement between Yavapai County and
16 Global.

17 36. A.R.S. § 38-431.05 provides that “[a]ll legal action transacted by any public
18 body during a meeting held in violation of any provision of this article is null and void.”

19 37. Because the Yavapai County Board of Supervisors did not comply with the Open
20 Meeting law, the purported action of approving the Settlement Agreement is void; and thus,
21 the Settlement Agreement is void.

22 **COUNT TWO**

23 **(Injunctive Relief—Against Global)**

24 38. The allegations of the foregoing paragraphs are incorporated herein by this
25 reference.
26

1 39. Global’s continued and expanding Prohibited Uses violates zoning ordinances
2 and other regulations governing the Global Property.

3 40. Global’s continued and expanding Prohibited Uses causes a significant negative
4 impact on Plaintiffs’ use and enjoyment of the La Merra Property and Smoke Trail Ranch,
5 because the Prohibited Uses cause harmful and noxious odors, smoke, amplified music at all
6 hours, litter, debris, unsightliness, and other harms to the owners and invitees of La Merra and
7 members of the Smoke Trail HOA.

8 41. Global’s continued and expanding Prohibited Uses are unreasonable,
9 unwarranted, and/or or unlawful, and produces such material annoyance, inconvenience, and
10 discomfort to La Merra and Smoke Trail Ranch, that La Merra and members of the Smoke
11 Trail HOA have been damaged.

12 42. Plaintiffs have no just, speedy, or adequate remedy at law to avoid injury
13 resulting from Global’s continued Prohibited Uses; and therefore, injunctive relief is an
14 appropriate remedy.

15 WHEREFORE, Plaintiffs respectfully requests that the Court enter Judgment in their
16 favor and against the Defendants named herein as follows:

17 A. Declaring that the February 19, 2020 Board of Supervisors Meeting was
18 conducted in violation of the Arizona Open Meeting Law, and that as a result, any purported
19 action taken at such meeting is null and void.

20 B. Declaring that the Settlement Agreement is null and void.

21 C. Preliminarily and permanently enjoining Global from continuing the Prohibited
22 Uses;

23 D. Awarding Plaintiffs damages against Global for the injuries La Merra and
24 Smoke Trail HOA have suffered as a result of the Prohibited Uses;

25 E. Ordering any other relief the circumstances may require or that the Court deems
26 appropriate.

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RESPECTFULLY SUBMITTED this 18th day of February, 2021.

DICKINSON WRIGHT, PLLC

By: /s/ Scot L. Claus
Scot L. Claus
Vail C. Cloar
Holly M. Zoe
Attorneys for Plaintiff