

SUPERIOR COURT
YAVAPAI COUNTY, ARIZONA

2011 MAR -2 PM 3: 55 ✓

JEANNE HUNO, CLERK

BOBBI JO BALL

BY: _____

L. Richard Mabery
L. RICHARD MABERY, P.C.
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State Bar I.D. No. 005188

Attorney for The Verde Ditch Company

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF YAVAPAI

GEORGE W. HANCE, et al.,)

Plaintiffs,)

vs.)

WALES ARNOLD, et us., et al.,)

Defendants,)

THE VERDE DITCH COMPANY,)

Petitioner,)

v.)

ROSCOE M. OWSLEY, a married man.)

Respondent.)

No. P1300CV 4772

Division 1

**RENEWED APPLICATION FOR
ORDER TO SHOW CAUSE**

(OSC Hearing Requested)

The Verde Ditch Company, through undersigned counsel, respectfully requests that the Court enter an Order to Show Cause as to why Roscoe M. Owsley should not be ordered to appear and show cause why judgment should not be entered against him for his failure to comply with the

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Court's Order Promulgating New Rules and Regulations for the Operation of the Verde Ditch dated August 8, 1989, and recorded on October 17, 1989 at Book 2192, Page 24, Official Records of Yavapai County, and with Paragraph (4) of the Order for Authorization and Approval of a Special Assessment filed with the Court on September 27, 2005. Mr. Owsley has failed and refused to pay his regular and special Verde Ditch assessments. This Application is supported by the following Memorandum of Points and Authorities and the Affidavit of a Verde Ditch Commissioner, filed with the Court on January 3, 2011.

There are currently the following amounts due:

		<u>Amount</u>	<u>Interest</u>	<u>Penalty</u>
A.	2005 Special Assessment	\$150.00	\$81.08	
B.	2006 Assessments	195.00	100.49	\$19.50
C.	2006 Special Assessment	150.00	66.08	
D.	2007 Assessments	195.00	80.99	39.00
E.	2008 Assessments	255.00	80.41	64.50
F.	2009 Assessments	255.00	54.84	90.00
G.	2009 Special Assessment	75.00	10.52	
H.	2010 Assessments	255.00	29.34	<u>115.50</u>
I.	2010 Special Assessment	<u>75.00</u>	<u>6.16</u>	
		\$1,605.00	\$509.91	\$328.50

The total amount of delinquent assessments is \$1,605.00; plus interest of \$509.91, late payment penalties in the amount of \$328.50, and reasonable attorney's fees and costs of not less than \$800.00, if uncontested, or such reasonable amount as the Court may deem appropriate if

contested. Repeated attempts have been made to collect these past due assessments by the Verde Ditch, to no avail. Attached hereto as Exhibit "A" is a copy of a letter dated November 12, 2010 to Mr. Owsley, demanding payment of the amounts due. Attached hereto as Exhibit "B" is a copy of a letter dated January 19, 2011, along with a Certificate from Palmer Investigative Services reflecting hand delivery of the letter. Mr. Owsley has failed to respond to any communication from the Verde Ditch Company or counsel

The Verde Ditch Company further requests that Roscoe M. Owsley be ordered to appear and show cause why judgment shall not be entered against him for the total amount due, including penalties, interest, reasonable attorney's fees and costs incurred herein, pursuant to Paragraph 6 of the Rules and Regulations for the Operation of the Verde Ditch dated August 8, 1989, and Paragraph (4) of the Order for Authorization and Approval of a Special Assessment, filed with the Court on September 27, 2005.

RESPECTFULLY SUBMITTED this 20th day of January, 2011.

L. RICHARD MABERY, P.C.

By _____

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Attorney for the Verde Ditch Company
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Prescott, Arizona 86301

/ckw

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— Or —

549 South Main Street
Cottonwood, Arizona 86326
(928) 634-5722

Toll-Free From The Verde Valley
(928) 634-8683

REPLY TO PRESCOTT OFFICE

November 12, 2010

Mr. Roscoe Owsley
P.O. Box 3450
Camp Verde, Arizona 86322

Mr. Roscoe Owsley
4291 East Canyon Drive
Camp Verde, Arizona 86322

Re: *Verde Ditch Water Assessments*

Dear Mr. Owsley:

Please be advised that this office represents the Verde Ditch Company. The Verde Ditch Company has forwarded to us a copy of the delinquent assessments for Yavapai County Parcel No. 404-01-067Q.

According to the records of the Company, there is currently due and owing the amount of \$1,605.00, plus interest and penalties from 2005 to the current date.

Pursuant to Rule 6 of the Rules and Regulations pertaining to the Verde Ditch, the Verde Ditch Company is entitled to seek recovery of its attorney's fees and court costs in the event it has to pursue formal action for collection of these delinquent balances. If you have any questions as to the assessment amounts or need to discuss payment terms, please contact the Verde Ditch office at 928-567-4212 or my office as noted above.

LAW OFFICES OF L. RICHARD MABERY, P.C.

Mr. Roscoe Owsley

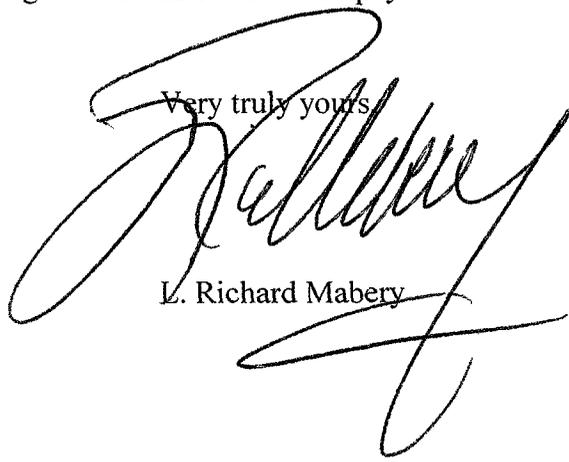
November 12, 2010

Page 2

Should you require verification of this amount or dispute the amount owing, please make your request, in writing, within thirty (30) days, and copies of relevant documents will be provided.

Be advised that the Verde Ditch Company has determined that, as to those shareholders who do not pay delinquent assessments, an action will be brought to seek a judgment for the full amount of the assessments, penalties, interest, attorney's fees and court costs. We sincerely hope that will not be necessary and prompt arrangements will be made for payment.

Very truly yours,


L. Richard Mabery

L.RM/ckw
cc Verde Ditch Company

**THIS IS AN ATTEMPT TO COLLECT A DEBT, AND ANY INFORMATION
OBTAINED WILL BE USED FOR THAT PURPOSE.**

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(928) 634-8683

REPLY TO PRESCOTT OFFICE

January 19, 2011

Hand Delivered

Sgt. Roscoe Owsley
Camp Verde Marshal's Office
646 South 1st Street
Camp Verde, Arizona 86322

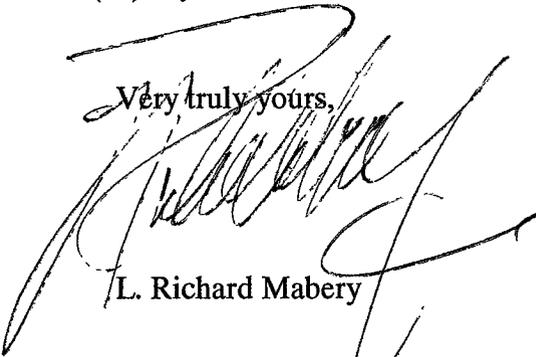
Re: *Verde Ditch Water Assessments*

Dear Sgt. Owsley:

We have received no response to our prior communications. The Rules and Regulations as developed by the Yavapai County Superior Court require the Verde Ditch to file an Application for Order to Show Cause and the Order will require you to appear and explain why you are refusing to pay the Verde Ditch past due assessments. We would hope you would want to avoid such a Court appearance, given your position.

Please contact this office within ten (10) days of the date of this letter. Otherwise, the Order to Show Cause will be served.

Very truly yours,


L. Richard Mabery

LRM/ckw
cc: Verde Ditch Company

**THIS IS AN ATTEMPT TO COLLECT A DEBT, AND ANY INFORMATION
OBTAINED WILL BE USED FOR THAT PURPOSE.**

Certificate of Service of Process by Certified Process Server
Case Number:

vs.

SGT. ROSCOE OWSLEY

The undersigned certifies under penalty of perjury: That I am fully qualified pursuant to RCP 4(d), 4(e), and 45(b), to serve process in this case; that on 01/20/2011, from L. Richard Mabery, Esq., #005188, Attorney for Plaintiff

I received the documents listed below:

Sealed Envelope

I personally served a copy of each document listed above on those named below in the manner and at the time and place shown, hereafter, set forth, to wit:

Entity Served:

Sgt. Roscoe Owsley

Address where served:

Camp Verde Marshal's Office, 646 South 1st Street, Camp Verde, Arizona

Date and Time: 1-30-11 3:23 pm

Manner of Service

Personal upon SGT. ROSCOE OWSLEY

Substitute at abode upon _____

Authorized to accept upon _____

Posted on main entrance by posting _____

Mailed Certified Mailed to Defendant

Other _____

Military Status: NO Physical: w/m / 6'0" / 210 / SHORT BROWN / 40 / GLASSES

I certify under penalty of perjury, the foregoing is true and correct.



DALE A. MICALE

Process Server, Yavapai, County

Executed on 1-30-11

Palmer Investigative Services

P.O. Box 10760

Prescott, AZ 86304-0760

928.778.2951

\$ 50.00 Total Cost