

FORT COLLINS MUNICIPAL COURT 215 N. Mason Fort Collins, CO 80521 Phone (970) 221 6800	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
Plaintiffs: Colleen Hoffman, Rick Hoffman, Ann Hunt v. Defendant: THE CITY COUNCIL OF THE CITY OF FORT COLLINS, the governing body of a Colorado municipal corporation; and THE ADMINISTRATION BRANCH OF THE CITY OF FORT COLLINS, by and through its City Manager, Darin Atteberry.	
<hr/> Parties without attorney Colleen Hoffman, pro se 1804 Wallenberg Drive Fort Collins, CO 80526 (970) 484 8723 cohoff@comcast.net Rick Hoffman, pro se 1804 Wallenberg Fort Collins, CO 80526 (970) 484 5154 rick-hoffman@comcast.net Ann Hunt, pro se 1800 Wallenberg Drive Fort Collins, CO 80526 (970) 484 5242 ARH4@COMCAST.NET	Case Number: 2017 CIVIL 01
Motion for Disqualification of Judge Pursuant to Rule 97 C.R.C.P. and Motion for Expansion of Time for Filing Opening Brief	

Pursuant to C.R.C.P. Rule 97, Plaintiffs, Colleen Hoffman, Rick Hoffman and Ann Hunt request disqualification of Theresa Ablao as judge in this case. Simultaneously, we request that the time for filing an opening brief under C.R.C.P. Rule 106 (a)(4)(VII) be expanded.

As *pro se* litigants in this matter, the Plaintiffs herein use the plural pronouns (we, us, our) to refer to themselves. Unless otherwise noted, all references to the Plaintiffs in this pleading where a statement of position on any matter is made or inferred indicate a jointly adopted position agreed to by all 3 individual plaintiffs.

INTRODUCTION AND CONFERENCE

We first became aware of the requirements of C.R.C.P. Rule 97 on May 26th, 2017. This information came to us in an email from a citizen of Fort Collins that is interested in this case. Prior to this email, we had no idea that Theresa Ablao had been an attorney working in the Office of the Fort Collins City Attorney.

Our initial response to this information was to allow citizens that are interested in the operation of the municipal court to bring the matter to the attention of City Council members. Because City Council is both a defendant in this case and the governing body possessing control over the rules and personnel of the Municipal Court, this strategy presented what appeared to be the best opportunity to reconcile this apparent and glaring conflict with the C.R.C.P. that Council had, itself, created when it adopted the C.R.C.P. However, despite the efforts of 3 citizens reaching out to Council, no response was forthcoming. The citizens did not receive feedback from Council members and no action of Council, such as amending Rule 97, was taken to reconcile the problem.

Prior to making this motion, we did initiate conference with the parties in this action. The Defendants did state that they would oppose this motion, but stated that the rationale for opposing the motion would be reserved for a responsive pleading once the motion was made. This approach, of course, leaves us with no other option but to make this motion because, to the best of our knowledge and belief, Judge Ablao's previous employment with the Office of the City Attorney is evidence that she was of counsel for the Defendant and disqualifies her to preside over this matter. The Intervenors in this matter also stated opposition without giving any basis and noted without citation of authority that we were improperly conducting conference by email.

That time which has elapsed since conference with the Defendant has been characterized by our dumbfounded disbelief that the attorneys for the Defendant would file pleadings with blatantly false statements annotated with erroneous attribution of authority. See our Reply brief in support of our Motion for Reconsideration filed simultaneously with this Motion. As with many other examples that came before it, the filing of a pleading containing statements that the attorneys must have known to be false gave us great pause as to the integrity of this entire process.

DISQUALIFICATION IS REQUIRED PURSUANT TO RULE 97

C.R.C.P. Rule 97 states: A judge shall be disqualified in an action in which he is interested or prejudiced, or has been of counsel for any party, or is or has been a material witness, or is so related or connected with any party or his attorney as to render it improper for him to sit on the trial, appeal, or other proceeding therein.

There is no doubt that Theresa Ablao has been of counsel to the Defendant City Council and the Defendant Administrative Branch of the City of Fort Collins. As previously mentioned, if the Defendants' attorneys wished to dispute this commonly held understanding based upon examination of multiple public records, they have had two weeks to provide information to the contrary. Certainly, the current staff of the Office of the City Attorney, including John Duval, who is known to have worked in the Office with Theresa Ablao, would have first hand knowledge of this matter.

We also allege here that Theresa Ablao is connected with the Defendants and their attorneys so as to render it improper for her to preside over this proceeding. This allegation has, as its basis, the simple fact that the Defendant City Council appointed Theresa Ablao to her two- year position as a judge of the municipal court and Judge Ablao is reliant upon the Defendant for re-appointment to continue in this position. This allegation also has, at its basis, the fact that Theresa Ablao was formerly employed by the attorneys for the Defendant.

C.R.C.P. Rule 97 also states: Upon the filing by a party of such a motion all other proceedings in the case shall be suspended until a ruling is made thereon.

With the proper filing of this Motion, the utility of filing an opening brief as prescribed by C.R.C.P. Rule 106 (a) (4) (VII) is suspended until a ruling is made. We regret the delay to follow. We have pursued this issue with due diligence and the reasonable hope that we would not be the party to initiate disqualification and no assertion may possibly attach to the timeliness of our action at this juncture. To the contrary, our actions can already be seen to have had great effect by creating, for the first time, some rules for this court and parties to actions in this court to follow. It should not be surprising that the adoption of the C.R.C.P. would create some difficulties for this municipal court and this situation is one of them. Consequently, we respectfully request an expansion of time to file our Opening Brief until 7 days after a ruling is made on this motion.

WHEREFOR, we respectfully request that this Court find that Theresa Ablao is disqualified from presiding over this matter.

We further request that all previous Orders made by Judge Ablao be reviewed by her replacement based upon the current record before the court as of this date with proper action taken *sua sponte* upon completion of such review.

We further respectfully request an expansion of time for filing an opening brief in this matter be granted and to require filing of an opening brief no later than 7 days after a ruling on this Motion is made.

Respectfully submitted this 23rd day of June, 2017.

Colleen Hoffman

Colleen Hoffman

1804 Wallenberg Dr.
Ft. Collins, CO 80526
Address of Lead Plaintiff

Rick Hoffman

Rick Hoffman

Ann Hunt

Ann Hunt