| COUNTY COURT , LARIMER COUNTY, COLORADO<br>Court Address:<br>201 La Porte Avenue,<br>Suite 100<br>Fort Collins, CO 80521-2761<br>(970)494 3720 | DATE FILED: June 22, 2017<br>CASE NUMBER: 2016CV31096<br><br>FILED IN COMBINED COURTS LARIMER COUNTY COLORADO 2017 JUN 21 PM 2:07 |
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| Plaintiff:<br>POUDRE FIRE AUTHORITY, a Colorado public entity,<br>V.<br>Defendants:<br>KEITH GILMARTIN, an individual. | ↑ ↑<br>**COURT USE ONLY** |
| Attorney or Party Without Attorney<br>Name and Address:<br><br>**DEFENDANT- KEITH GILMARTIN-PRO SE**<br>3316 W VINE DR.<br>FORT COLLINS, CO 80521<br><br>Phone Number: (970) 412 6906<br>E-mail:keithgil2@gmail.com | Case Number:<br><br>.: 2016CV3 1096<br><br>Courtroom |

DEFENDANT'S OBJECTION TO PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

NOW comes Defendant- pro se, in OBJECTION TO PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION
In deference to the late submission of this Objection it is offered only as Notice to the Court and a Summary basis for any needed exploration by the Court before issuance of an ORDER

SUMMARY

1. The request for the INJUNCTION arises out of the 'dried ink' of a Deed of Easement between parties. Plaintiff's unabashed actions as opposed to agreement with its benefactor and 'partner' in Colorado State University and growth south thru open land , choose to incrementally burden the Easement and neighborhood to the east, since approximately, with the replacement of new PFA Chief, around 2011. Defendant is the only, known, living signatory to that agreement that conveyed rights to the Grantee. .

2. Plaintiffs requests protections, justified by submission of a list of actions, claimed perpetrated by Defendant. Defendant has countered consistently, in submitted responses in this ligitagtion, that those claimed actions are inherently within Defendant's rights, in general, either as a user of 'claimed to be' "public property" or in conjunction with his rights as a property owner or as servient owner of the property on which the subject easement traverses.;

3. The rights believed conveyed in the easement, by Plaintiff, are simultaneously spotlighted as in dispute and as submitted as part of the captioned litigation; And now presented, by Plaintiff as a basis for the Injunction.

4. Defendant highlights for specific notice by the Court of the following:

   a. Plaintiff did not seek preliminary relief contemporaneously with the filing of his Complaint. Parties are well into litigation. Docket is 7 months into schedule with trial set for August 14, 2017.

   b. While permissible under CRCP rules it is unclear why if a "danger of real, immediate, and irreparable injury which may be prevented by injunctive relief;" the above Motion is only recently being instigated.

   c. Among any nefarious possibilities, a basis may lie in a reference was made in Plaintiff's MOTION FOR TEMPORAY RESTRAINING ORDER AND PRELIMINARY INJUNCTION to a recent event as exigent to the need for 'a late in the Motion. Acceptance as a percentage of total for cause for an injunction is objected to as tainted. Defendant claims interference with appropriate investigation and ambush by it's presentation to the Court. The incident was shared by a passerby, his 'take' shared immediately with Plaintiff Poudre Fire at the 3400 Vine facility. It is only by close scrutiny that the disparity in the experience of the event became apparent. Additionally there was no documentation taken of Defendant, as with another claim, by investigating police services. . If credence is given to the passerby as the tipping point it is Defendant who needs the Injunction against the Plaintiff.

   d. Additionally there has been a one side transgression by Plaintiffs waiting for the light of day. The transgression status is highlighted with evidence, no yet fully formed yet forth coming from and in Larimer County Judical Administration own time, which regards judicial observation made during the June 8th hearing. .

PRECIDENT AUTHORITY STANDARDS

1. **The writ of the injunction is the strong arm of the court and , to render its opeation benign and useful, the** power to issue it should be exercised with great discretion and when necessity requires it. Mc Lean v Farmer's highline Canal & Reservoir Co. 44 Colo. 184, 98 Pl16

2. Under Rule 65, a party seeking issuance of a preliminary injunction must demonstrate: (1) a reasonable probability of success on the merits; (2) a danger of real, immediate, and irreparable injury which may be prevented by injunctive relief; (3) that there is no plain, speedy, and adequate remedy at law; (4) that the granting of a preliminary injunction will not disserve the public interest; (5) that the balance of equities favors the injunction; and (6) that the injunction will preserve the status quo pending a trial on the merits. *Rathke v. MacFarlane*, 648 P.2d 648, 653-654 (Colo. 1982). A court cannot grant injunctive relief unless each criterion is met by the moving party. *Id.*

3. Any as listed in the Colorodo Revised Statues or Colorado Code of Civil Procedure.

CONCLUSION

1. It is requested of the Court, that in any interim issued ORDER that may give latitude to ANY assumptions of rights conveyed by the 'Deed of Easement', by decree or blatant allowance, for EITHER party's 'self-interpretation, be avoided.

2. Consideration for the limitation of rights present in the Deed of Easement, as inclusive in item #4(.d) above, must also be given consideration – for any extensions of right that might be extruded intrinsically or extrinsically , with the allowance of the Deed of Easement as boundary, in any ORDER.

3. It is requested the Court not give rise to a mini trial during the hearing or after. Such would allow significant inequity.

4. In stipulation Defendant suggest a limitation at a "shared right for 'ingress and egress'" for its consideration as any maximum to a mediated and stipulated agreement.

5. Exhibit A is conceptual text, and presented to Plaintiffs for consideration by Email as a basis for a stipulated agreement.

RESPECTFULLY SUBMITTED

This June 21, 2017

Keith Gilmartin

Keith Gilmartin

# • CERTIFICATE OF SERVICE

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- I certify that a true and accurate copy of this document was served on the listed parties

- Attorney for Plaintiff:
  - Kelley B. Duke, #35168 Case No.: 2016CV3 1096
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