

<p>COUNTY COURT , LARIMER COUNTY, COLORADO Court Address: 201 La Porte Avenue, Suite 100 Fort Collins, CO 80521-2761 (970)494 3720</p> <p>Plaintiff: City of Ft Collins & Poudre Fire Authority</p> <p>vs Defendant(s): KEITH GILMARTIN</p>	<p>FILED IN COMBINED COURTS LARIMER COUNTY, CO 17 AUG 11 PM 1:42 DATE FILED: August 11, 2017 CASE NUMBER: 2016CV31096</p> <p>↑ COURT USE ONLY ↑</p>
<p>Attorney or Party Without Attorney Name and Address:</p> <p>DEFENDANT- KEITH GILMARTIN-PRO SE 3316 W VINE DR. FORT COLLINS, CO 80521</p> <p>Phone Number: (970) 412 6906 E-mail: keithgil2@gmail.com</p>	<p>Case Number: 16CV31096</p> <p>Courtroom 3C</p>
<p align="center">MOTION FOR CONTINUANCE</p>	

CERTIFICATION PURSUANT TO C.R.C.P 121

Defendant- Pro Se hereby certify that he has conferred with Mr. B Larson , on 8/10/2017, counsel for Plaintiffs. He to the best understanding of Defendant has stated that he opposes the relief sought and in opposition to the issue of easement location being new to the list of 'at issue'.

Request

This MOTION FOR CONTINUANCE is presented, to the Court, by DEFENDANT Keith Gilmartin, Defendant PRO SE, with respect and trepidation but no guilt for it late timing of this Motion.

Defendant-Pro Se did not make the conditions. A vigorous, severely taxing and to the best of ability and resources support has been given towards the needs of the litigation events. Trial is scheduled of Monday August 14 and 15.

IN SUPPORT

1. Defendant has, vigorously, although maybe as not completely as a citizen funded Plaintiffs, moved the litigation along.

2. What should not be overlooked in further support is - not minor case efficiency issue in support of the Courts time and Plaintiffs; Defendant acquiesced, to a voluntary Preliminary Injunction; A definite infringement to Defendant's rights. The Court and Plaintiff were able to advantage themselves and react the same day for the efficiency of no court room time.

3. It is requested of the Court to take judicial notice of its own oration (paraphrased) ..

"that Pro Se litigant shall be held to the same standard as that if attorney represented"

Thus with equal duty to reliance of standards come equal reliance on equal latitude. A PRO Se litigant is therefore his/her own advocate. As such:

Rule 1.16(a)(2)(6)(7) are referenced.

Further as the dual role applies, 1.16(c)(d) are referenced.

4. Lawyer owes obligation to client to act with diligence in handling his client legal work and in his representation of his client in Court

(People v Bugg 200 Colo. 512 616 P.2d 133 (1980))

5. As the biggest and most critical concern:

Court and Plaintiff was informed at CASE MANAGEMENT HEARING on July 20, 2017, of an issue regarding health of Defendant-Pro Se that would likely interfere with an ability to personally react to the needs necessary for appropriate self representation and meeting the criteria of Court procedures, including for the trial. Said notification was noted on the ORDER issued July 22, 2017 and hereby acknowledged. However, in defense of the non strict compliance—" It is not within the purview of Defendant to, on demand, command, such a medical determination. Determination came forth only as of 8/11/2017.

Exhibit 2

6. Additionally, to the Court, as basis towards consideration for a CONTINUANCE request 4 days before scheduled trial, is the following:

A. Only 10 days before trial did the Court commit to an ORDER REGARDING MOTION FOR SUMMARY JUDGEMENT (MSJ ORDER)(Yes, Acknowledged within Court prerogative)

7. In the MSJORDER Court summarily dismissed status of Defendant's statements characterizing various issues in the prior pleadings; both in the COMPLAINT and MSJ -DEFENDANT RESPONSE. Thus unjustly supporting position of Plaintiff's . As the only basis was Court's statement :

"Although Defendant Gilmartin does not provide a statement of facts or provide an affidavit to contest the statement of undisputed facts... etc" .

It is duly noted some of the findings somewhat concurrent with Defendant but some finer points not. Defendant must therefore object to the Court's action . Done however in a broad stroke. There was apparently no further validation for such preference in Court's determination found by Defendant in the MSJ ORDER. Defendant objection is postulated by:

Rule 11(a) in part "A party who is not represented by an attorney shall sign his pleadings ... Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit. The signature of an attorney constitutes a certificate by him that and belief formed after reasonable inquiry, it is well grounded in fact and..."

8. In words, during a "conferral", on 8/10/2017 with Plaintiff's advocate, Mr. B Larson, it was related that Plaintiff's interpretation of Courts MSJ ORDER - Item #2 as it allowing alternative uses then beyond " may use the Easement for ingress and egress to the Fire Authority Training Facility."

Validation of Plaintiff's interpretation for such a "plain language" phrase

Would only obfuscate Defendant's belief, in an understand of ENGLISH and for create need for a major re-schooling in the "plain language" ENGLISH Language, and be indicate further- Defendant, as self 'advocate', having insufficient ability to effectively represent Defendant/self.

With a return of a Court confirmation of Plaintiff's interpretation as invalid Defendant, submits recent observation of such exemplary behavior on the Easement" that would then be a violation of the MSJ ORDER. Exhibit #1 (And with Defendant's certification for authentication)

As such, in combination with the issue in #2 above, the MSJ ORDER possibly goes no further in resolving the issues of "limits and extents" of the Deed of Easement, brought forth from the Plaintiff's Complaint OR a becomes a basis for an Injunction.

9. Still pending:

- Court response to REQUEST FOR CLARIFICATION

- a response to be submitted, by Defendant, to PLAINTIFF's RESPONSE IN OPPOSITION TO MOTION FOR CLARIFICATION.(delayed for creation and submittal of present instrument)

10. In generalized support for a CONTINUANCE and acknowledgement and in consideration of the timing I ask again for latitude as I pursue this litigation as a Constitutional matter. Defendant submits in contrasting the following support legal validation:

A. In the interests of justice, trials must be expedited.

Benster v. Bell, 83 Colo. 587, 267 P. 792 (1928); Scofield v. Scofield, 89 Colo. 409, 3 P.2d 794 (1931).

B. Colorado Constitution. Art. II, Section 3 (2017)

10. As part of recent conferring between parties, as mentioned above, an issue in need of clarification by the court is need by maybe virtue of Defendant's naiveté or but perceived to be the surreptitious insertion of a errant issue to the litigation. Identification will be needed if Defendant is to appropriately protect his property rights. Apparently the location of the easement is AGAIN at issue with Plaintiff.

11. It has recently been revealed that an Officer of the Court may have 'overreached his authority. At this point however it appears I no longer own the easement Exhibit 3

CONCLUSION

Cancellation of presently scheduled trial will not diminish Plaintiff's ability to address nor any factors 'at issue' nor any extent to cause harm. Continuation of Preliminary Injunction is still in place and not objected to be so.

While, not requesting a quid pro quo, for past acquiescence to efficiency, it should go to the appropriate column for decision criteria.

The court expects civility. Consenting to a Continuance would be in line with that expectation.

With consideration of a finding by the Court of 'only ingress and egress' a violation will not be pursued.

Justice will be practiced in favor of expediency.

Respectfully submitted and attest to for truth to the best of knowledge,



Keith Gilmartin

CERTIFICATE OF SERVICE

This is to certify that I have duly served the foregoing
MOTION FOR CONTINUANCE
on the date and parties and addressed as below:

via:

~~1st class mail postage paid in full~~
~~Delivering in person~~
Email
ICCES

Addressed:

Ireland Stapleton Pryor & Pascoe, PC
717 17 ST. Suite 2899
Denver, Colorado 80202
Att; Duke/Larson

By Email

BLarson@irelandstapleton.com
KDuke@irelandstapleton.com

This August 11, 2017


Keith Gilmartin