DISTRICT COURT , **LARIMER COUNTY, COLORADO** Court Address: 201 La Porte Avenue, Suite 100 Fort Collins, CO 80521-2761 (970)494 3720	FILED IN COMBINED COURTS LARIMER COUNTY, CO 2017 SEP -8 PM 4: 15 DATE FILED: September 8, 2017 CASE NUMBER: 2016CV31096
Plaintiff: **POUDRE FIRE AUTHORITY** **CITY OF FT COLLINS** V. Defendants: **KEITH GILMARTIN, an individual.**	**COURT USE ONLY**
Attorney or Party Without Attorney Name and Address: **DEFENDANT- KEITH GILMARTIN-PRO SE** 3316 W VINE DR. FORT COLLINS, CO 80521 Phone Number: (970) 412 6906 E-mail:keithgil2@gmail.com	Case Number: .: 2016 CV 31096 Courtroom 3C

DEFENDANT'S CLOSING ARGUMENTS

1. DEFENDANT'S CLAIM FOR INAPPLICABLE PLAINTIFF CLAIMS

Of the category of issues presented to the Court by Planitiffs as a basis for 'trespass' and/ or 'nuisance' are those Defendant believes the Court should not consider . To that end those items are tabulated for review.
These items are presented as blatantly false within themselves , come with dirty hands or believe should not be considered via *'res gestae'* favoring Plaintiffs.

For the matter of nuisance the following standards where considered in Defedant's measure.

(1) that the defendant's conduct unreasonably interfered with the use and enjoyment of the plaintiff's property;
(2) that the interference was so substantial that it would have been offensive or caused inconvenience to a reasonable person in the community; and
(3) that the interference was either negligent or intentional.

Amended Complaint		Trial Exhibit	Request Basis
Item #	**Associated Exhibit**		
11a	E	6	A Larimer County Sheriff Office (LCSO)summarized incident #10 4933 on 08/21/2010. It is requested judicial notice be taken that is within a 7year mark since its occurrence to commencement of this action. Defendant perceives it be outside of any *'res gestae'* consideration. Defendant gave evidence in open Court as to 'no knowledge' of 'victims' or any parties likelihood to tamper with the generally locked gate; especially at that hour of the day and knowledge of the short duration for a potential issue. Additionally any otherwise was heresy. Plaintiff had sufficient time to bring forth any 'cause' about boundary but did not.
11b	F	10	A Larimer County Sheriff Office (LCSO)summarized incident #11 6308 on 08/9/2011. It is requested judicial notice be taken that is within a 6 year mark since occurrence to commencement of this action. No issue between this and the prior. Defendant requests consideration, as perception is to be outside of any *'res gestae'* consideration for Plaintiffs; As with 11a Additionally The 'NARRATIVE by LCSO office is hearsay and further, aspects of it addressed by Defendant . Given evidence in response to mentioned safety issue "it (photographing) needed to be in a safer manner " The photos were taken from "a driveway"; What's more, taken from the eastbound side of the road.

11e	*	17	11e This issue is noted as a claim, a total fallacy, in Amended Response. While not an entered evidentiary 'item ' it is never the less a false claim and requested to be noted . A claim of "interference" in the use of the easement characterized as: "attempted to reduce width of the Easement approximately 20' to 30 feet....", "...moving the fence posts...", "... delineating the Easement...", and " to expend time moving ...(posts) back....". All contradicted in the event as correctly characterized in email per Trial Exhibit Book #17. Nothing related to the Easement or Plaintiffs' rights. Judicial notice requested be taken about the right facts in 13CV 31044 and CSU boundary issue.
11g	*	22	11g Judicial notice is requested towards comments by Judge Howard to Plaintiff, during the initial INJUNCTION hearing, with respect to Plaintiffs' justifying claims of an incident involving parked vehicles on the easement..Judicial note additionally requested on related email in Trial Exhibit book that item 22. Defendant was not aware of same till exploring the book post trial. Notice directed to sentence #2: "Linda said cars were parked outside the east gate and someone reported Keith going through them." So? With all the them(s') drivers who arrived in 'them(s')' cars it was it was on a single "someone reported Keith going through them" . With no further documentation to support a trespass or nuisance level indignation?
11i	*	26	A CSU Police Officer (CSU)summarized incident #14-2441 on 09/30/2014. Described as an event that took place on the easement but as noted in Defendant's Amended Response and discussed in Defendant's giving evidence CSU Police investigated events generally do not included and contact with Defendant for rebuttal or conformation of events. In this case that the even didn't even take place on the easement, but by reckoning it was a mile away and more egregious to the claim error, on a public street..as described Trial exhibit book item 26.

11m	J	45 &29	This event was explored by Defendant, in giving evidence, from the perspective of a vehicle, in this situation, the Defendant's should have been held JUSTIFABLY to be parked, in the easement and off the paved area, without being required to move and cited for Harassment; This from the hel d contention by Plaintiff that the easement was a public street. A judicial notice request of Trial exhibt 45par3 is pertinent corroboration. With this issue of the un-likelyhood of veracity for "shinning bright lights into their eyes trying to prevent them from being able to see." Trial exhibit book item 29, pg3par 3(an subtle point of lights, plural , was missed) Defendants gave evidenence regarding the likely hood of such and event and was cross examined by Plaintiffregarding a distinction laser vs light.
11o	K	44	That of the much maligned sign, aspects were explored in Defendant's cross examination of the City Assistant Manager who after apparent recently on site recalled it at the size of a desk photo at 4"x 6". Chief Callaghan, under cross examination, having admitted going by it unspecific number of time daily, could not recall from memory the the three words on the sign. From this credence is veracity to be given " ...calculated to prevent the Authoriy and authorized agents ....from using the Easement as permitted by the Deed."to add to compiling to meet a threshold of 'private nuisance'
12			This item appears to be a summation of events either mention or not documented or given as evidendence such to allow confirmation or grounds to refute.
13			As to claim therein , "The authority installed speed limit signs indicating that drivers should not exceed 25 mph within the Easement." Is the claim valid? A judicial notice via Google maps with text entry in 'search' with these two items: "3400 W Vine" and 80521 What should be presented is one one nice long , clear, Goole infamous , street level view looking west of the easement's 500 +/- feet "improved" 'access' to the PFA 'facility. Once there, make observation for a sign/no sign.

• CERTIFICATE OF SERVICE

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- I certify that a true and accurate copy of this document was served on the listed parties
- placing it in the U.S. mail, postage pre-paid to the following parties
-

- Attorney for Plaintiff:
  - Kelley B. Duke, #35168 Case No.: 2016CV3 1096
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- X: Keith Gilmartin
-
- Keith Gilmartin
- Date: 9/8/2017