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COUNTY COURT , LARIMER COUNTY, COLORADO Court Address: 201 La Porte Avenue, Suite 100 Fort Collins, CO 80521-2761 (970)494 3720	
Plaintiff: POUDRE FIRE AUTHORITY, a Colorado public entity, 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: .: 2016CV31096 Courtroom 3C

DEFENDANT'S AMENDED CLOSING ARGUMENTS
Part 1 Issues of Plaintiffs' Amended Complaint

Comes now Defendant Pro Se in the above captioned case in a no less earnest effort then the first but with the benefit of more considerations toward Defendant's perspective.

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I. INTRODUCTION

Of the category of issues presented to the Court by Plaintiffs as a basis for 'trespass' and/ or 'nuisance' Defendant compiles them here for review with basis. Defendant presents the items per Amended Complaint and for the sake of argumentation presents defense from the point of view of Plaintiffs' present contention of rights in the Easement.

For the matter of nuisance the following standards where considered in Defendant'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.

For trespass standards of assessment are those of the **Colorado Revised Statues**

II. ARGUMENTS FOR MOOT ,or FRIVOLOUS, or INAPPROPRIATE

11a. "welded chain" on gate w/ claimed consequential injury to personal
(Trial Ex 6 ACCEPTED)

A Larimer County Sheriff Office (LCSO) summarized incident #10 4933 on 08/21/2010.

Arguing from most broad perspective the event occurred 7 years to the month , or a little more than 6 since this action commencement; Issue is statue of Limitations barred. Defendant perceives it be outside of any res gestae consideration. Plaintiffs had sufficient time to bring forth any 'cause' about the event and boundary location but did not.

Defendant testimony was the only first hand witness. No witness statement requested at the time of the incident.

Defendant's actions were initiated under protection of Defendant's private property rights (signifanctly prior to any as claimed here) Alternatively stated Defendant took steps to secure personal property from previous 'encumbering'. The Gate was part of a fence, NOT a 'boundary fence line ' in 2010; . Property on the other side of the fence for the most part was described as inclusive to Defendant's property.(Judicial notice Larimer District Court 13CV31044/Judge Howard). A portion of land on the other side of the gate still is.

As to a 'trap' - 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 skilled knowledge of the short duration for a potential issue. Tampering? Sheriff's report gave notice to Plaintiffs regarding boundary issue.. There is no liability.

See 'NOTE'at end of '13d' regarding survey.

<u>11b LCSO report ref. claimed unsafe actions and photographing</u>.
Trial . Ex 10 Accepted

A Larimer County Sheriff Office (LCSO) summarized incident #11 6308 on 08/9/2011.

In the most broad sense consideration given to appreciating that there is year between this event and the prior event/claim (11a). ,More significantly this event is just a bit short of a ' 6 years ago 'mark.. from the present. Defendant perceives the issue it be outside of outside 'statute of limitations' and/or any 'res gestae' consideration; As with 11a

Alternatively, there is no written statement taken from the Defendant, at the time of the incident or presented for evidence. If the standards for issue either trespass or nuisance are to be held for this event, first person witness is appropriate.

Evidence and/or testimony revealed Plaintiffs' witnesses to claimed event

- where on a public-way,
- not notably dressed to ID them to PFA
- there is direct relationship between driving more alert in a residential zone and being surprised.
- Assuming witness where/are PFA employees considering travel to PFA Training Facility only two of how many felt affronted enough to report but not testify. According to statements
    - "It was shortly before 8AM." -What time was the class?
    - " a gentleman came out of the trees" or " a gentleman jumpeds out of the side of the road"
    - "and screamed at me in a very aggressive way." or "not sure if he said anything as I was shaken up"
    - I could tell what he was screaming about"
    - "he had a camera'

Is the real story clear?

Defendant gave testimony in response to LCSO report mentioned safety issue (duty to the 'victims') in response to LCSO 'admonishment':

"it needed to be in a safer manner "

Defendant clarified that that the 'camera' was used from "a driveway" and was on the eastbound side of the CR 48, east of the easement; Thus not a (liability) "safety due 'victim'' issue

Thus this issue requested to be received as moot towards trespass or nuisance

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11e Reduction in the with of the easement/fabrication of time(cost) expenditure

No exhibit entered - no testimony

A frivolous (except a burdening for Defendant's time) claim in the A. Complaint at 11e

A claim of "interference" in the use of the easement "to reduce width of the extent of 20' to 30'feet; And an expenditure to return them.

Neither of which is truthful as evidenced in an email per Trial Exhibit 17 which is not admitted. Judicial notice requested be taken about the right facts in 13CV 31044 for CSU boundary issue or in summary (Trial Ex. 17)

Nothing regarding this issue should be accepted to evidence. It is a false claim and requested to be compiled with other similar transgression by Plaintiffs brought to light in the course of this litigation.

11i mis-reporting of driving incident as on Easement; But not on easement;
(Trial Ex. 26 ACCEPTED)

One claim of two for year2014. (see 11 h)

CSU Police Officer (CSU)summarized incident #14-2441 on 09/30/2014.

Claimed as an event that took place on the easement; But as noted in Defendant's Amended Response , the event did not take place on the easement, but according to the Exhibit on Overland Trail a public thorofare. (by reckoning a mile away and more on a 'public thorofare'). Trial exhibit ITEM 26.

No first hand witness gave testimony; No incident narrative from Defendant was requested.

The issue in this matter factually does not support claim, as stated in Amended Complaint at 11i and/or a frivolous claim (except a burdening for Defendant's time It should not thus held compiled for any of Plaintiff's relief.
It is requested to be compiled with other similar transgression by Plaintiffs brought to light in the course of this whole litigation.

<u>11o "...two adjoined metal signs</u>
(Trial EX 44 entered)

"... (Erection) of "two metal signs on his property".
"...Defendant has unlawfully placed restriction on the Easement..'

- Free speech starts Defendant's defense. There are 'aculeate' issues of free speech in Plantiffs' claim: The location, is on my property; Not on the easement.
- Any issues of logo use and that of actual text have gone no further than claim.

Considering only the top one of the two "Signs" is addressed here.("Sign").

Plaintiffs' creating lawsuit for A "NO U TURN" sign in Defendant's own driveway seems it would be a move further frivolous suit.

For Argument's sake and as a second defense, Defendant premises a division of concepts limiting an interpretation to just the "...top one of the two...":signs" and the logo

Use of the" PFA logo" without a surface such as sign seems convoluting .. Defendant premises the following:

- It is not the having a copy of the logo 'per se. But rather
- But rather use of the logo in conjunction with the text . The whole "Sign"

Thus 'having the logo per se is one not the issue being adjudicated ; Therefore a 'de minimus ' issue here and not in consideration for the transgression. Rather it is the totality of the "Sign."

Notice of the inconsequential' nature accorded toward the 'Sign', by Plaintiffs' to be considered as a compelling basis for voiding this claim and for as a nuisance or as more r frivolity in conducting this litigation.

Example 1

- The Plaintiffs' mis-characterized wording on the 'Sign' consisting of 'but a mere count of three words'
- In the AMENDED COMPLAINT" attention called to "The top sign..... reads "PFA Personnel Only." (A. COMPLAINT 11o /pg7)
- When in reality the sign reads PFA ACCESS ONLY (Trial . EX 44)

Example 2

There is no validly Plaintiffs' claim even as the "Sign" really reads

"..Defendant has unlawfully placed restriction on the Easement .. (A. COMPLAINT 11o /pg7)

To Whit in direct self contradiction thereof is the Plaintiffs' validation as access

"Without the Easement....(PFA personnel etc) cannot access the Training Center."(A.COMPLAINT #9)

There is 5OO feet +/- of nothing else down that way except the PFA facility.

Is it a nuisance to be so informed?

Example 3

At trial Plaintiff's representation, City Deputy Manager and by Chief Callahan, displayed a (minusa) of being nuisance(d)

- City manager could not accurately describe the size of the sign
- Chief Callahan, despite acknowledgement of (plethora) of trips made past the sign and to the facility could not recall the 3 words; Without a visual review.
- The Plaintiffs' claim 'standing on its own is bears insufficient credibility' for a claim of any transgression; That have not been proven. Even allowing the presumption of Plaintiffs' claim of extents of rights in the Easement.

The Plaintiffs' claim 'standing on its alone is bears insufficient credibility' for a claim of any transgression; That have not been proven. Even allowing the presumption of Plaintiffs' claim of extents of rights in the Easement.

PARTIAL CONCLUSION

There are 6 Complaint issues under the category somewhere about 33%.of all. Plaintiffs' bring before the Court issues that didn't happen as stated. If there is Court concurrence, consideration is strongly requested for not only the effect on the litigation but also towards the behaviors exemplified at the worst by Item#9s

III. ALTERNATIVE IN EASEMENT ENCUMBERING

<u>11j- Blocking in landscapers.</u>

(Trial Exh 27 but not entered) No first person witness, save defendants.

In this issue, Plaintiffs' claims, with consideration as to parties involved - apparently there is not enough nuisance factor for Plaintiff's or Plaintiff's parties for testimony. Also not included is Plaintiff's potential in depth documentation accumulated in conjunction with imposition of police power/citation; ultimately dismissed . Absence of exhibit noted for support to Defendant position

Any presence involved in events by Defendant is claimed 'not trespass' or nuisance under the assumptions for claimed rights' by Plaintiffs' in the easement. (ie public street)
Equally pertinent is the fact that , if any rights Plaintiffs' claim become not validated, what is left is _ Defendants claimed rights to investigate aberrant situations regarding owned property thus 'no trespass'. In place becomes a list the of issues involving police powers under color of authority and denying Defendant's.

11m - physically blocked trainees w/vehicle and trailer; shined a bright light while they where driving ;refused to move (blocking) vehicle till arrival of tow truck.
(Trial Ex 27 Accepted)(Amended Complaint Exhibit J)

This situation is similar to above 11j

Judicial notice requested as to the dismissal of the consequent citation from claim and events.

Given the assumption of the validity for Plaintiff's claim for rights in the Easement , in this argument, there is the associated assumption of a right to park on the easement. Testimony regarding this claim was one of the more examined issues; Including :

- The issue of available room left on the easement, taking separately approximately both sides of the Easement 900->1000 feet minus that for a vehicle and trailer for turnaround for training maneuvers
- The issue of the unavailability of source light necessarily bright to accomplish claimed blinding effect where addressed in the course of Defendant's testimony .Discussed evidence regarding brightness of the day and time of day from as evidence in the cast shadows from Defendants vehicle and trailer and for the and Cross by Plaintiffs.
- Unavailability of co worker witness list during proceeding s as a result of issued citation
- Unavailability of recorded video from facility video camera during proceeding as a result of citation.
- No direct testimony for the first hand incident reporter.

Thus parking of the Defendants trailer , considering the Plaintiff's claimed rights in the Easement cannot be trespass; But an allowed use as a claimed public street.

In contrast, for 'nuisance'- 950 ft minus, and say 40ft for vehicle and trailer available for turning , would not be an affront to the average community member.

IV. ARGUMENTS FOR CLAIMS OVERTLY LACKING VERACITY

Item #9 Ethics Exception Suggested
(No Trial. Exhibit)(A. Complaint Exhibit C)

Giving the proximity of this suggested 'ethics issue' to the issue above of Plaintiff's claim of "..(people) cannot access the Training Center "Defendant raises an issue of 'false claim' in conjunction with it; As the matter has been entered into evidence. This issue is believed to be to another 'irregularity' in Plaintiffs 'conduct' in ' conducting' this litigation

Defendant Pro Se acts in good faith bring for consideration to the Courts attention and request consideration of the this apparent procedural/ethics issue, adding to the growing count of similar issues. Submission by Defendant is as follows:

Plaintiffs makes a claim that is to their benefit, advantage, convenience or otherwise AND withholding a document which refutes the assertion . To whit-:

directly refuting the Plaintiffs' claim of the Easement as " the only access "is the Plaintiff- City of Ft. Collins own GIS/mapping web site/page showing a alternate route that has apparently existed a while per the age of the satellite image .

Consequent to the such discovery, and which was not likely to be found in reasonable search –is a plethora of new "signs" designating access from La Porte Avenue to the west side of the PFA facility across CSU/state property - PFA"s lease benefactor/grantor , and the City 's intergral local governmental partner.

<u>13 "Authority has taken measures to minimize the impact... of use of the Easement</u>
(Trial Ex.37 entered)

The Plaintiff's here listed several claims that may bolster fame but are bluster., if fulfilled and it is assumed/claimed rights of Plaintiff are valid: otherwise unsubstantiated claims of self-aggrandized acts bolster only ethics issues.
A judicial notice is request:

13a. The authority installed speed limit signs indicating that drivers should not exceed 25 mph within the Easement.

- Neither a sign that contains all that wording or just a standard 25MPH speed limit sign can be seen via the pictures entered evidence via Trial Exhibit 37.
- is that displaying the Easement in length. Further confirmation of the 'non event' and with a unified view is available via 'Google maps' search w/ "3400 W Vine" ,street view. Displayed there will be a clear, famous Google , street level view of the Easement; The 500 feet +/- 'paved 'access' to the PFA 'facility- with NO signs..

13 b Such maintenance services would be expected especially under the assumption for Plaintiff's 'claimed' rights.
13c appears to be a summary, simply re-extolling of effort for 13a and 13d
13d as to the claims of

- having "taken steps to reduce the number of cars ...."as a courtesy " is -contingent upon a comparison of either time or count; there is neither.
- reasoning in light of the Plaintiffs' present litigation a " courtesy" displayed regarding Defendant's vehicle and trailer aspect in Item'11m does not support the contention.

13e Evidence of the date of a survey for this claim was not given there in. However, there was evidence accepted, a survey commissioned under PFA name (Trial Exhibit 7). That date was 11/24/2010.
<u>A note</u> regarding 13e and the survey 'dated 11/24/2010;-That was 90+/- after the welded chain/burned fingers claim in '11a' on 8/21/2010. It is unclear whether it became apparent there could be no claim of trespass or no claim of nuisance given the marked metes and bounds of Easement and Defendant property

V. NO EXHIBITS ENTERED

For the following, assumption is given, for Plaintiffs' claim for rights in the Easement and Defendant's discussion for their validity for Plaintiffs' CLAIMS FOR RELIEF.

ITEM g -"Defendant inappropriately and without permission entered (the visitors) personal vehicles..."
(No exhibit- No documentation)

It is a nice turn of a phrase for 'breaking and entering' (misdemeanor?)or" burglary' (a felony?) vs 'trespass'. (maybe with the adjective 'criminal' for added effect)

How many where unlocked, on a "public street, how long was spent in each, anything missing? Any finger print dusting; this is more then trespass or nuisance

This claimed incident was only 90 days after the mail carrier incident with

- Witness Chief DeMint's contemplation of looking "into legal options..."
- and
- Witness Chad Meyers extolling "Chad said Keith acknowledged the intent to call LCSO for further issues that occur"
- (Exhibit 15 par 1 n 2) "

Where is the beef?

Item h- Threatening gestures by using shovel as gun and throat cutting with hand
(No exhibits- No documentation)

Two days after Christmas (of2014)?

Repeat No exhibits- No documentation and no supporting first hand testimony .

Only the second 'noted Complaint for 2014. Note: the only other documented nuisance, 60 days before. (see 11i the notable mis-representation to the Court) Stated as on the easement but is embodied in "their" (driving their vehicles toward...(facility).."

No victim name, no first hand testimony; NO testimony. Who's nuisance?

For technicality it is not determinable as to whether this even happened on the easement as opposed to the prior 800 ft of CR 48(W Vine) from Overland Trail to the easement.

Also technically, assuming 25mph thus 36 ft in one second or 44ft/sec of travel at 30mph; Which action was claimed to be done first; Did he/she turn and take their eye of the road ahead so as to see the second gesture. What is the plausibility for completing both gestures within the time for observation. OR, was it the two gestures at different people. Were 'they' male or female or both, in one car or more.

> "their"
> 1.a form of the possessive case of they used as an attributive adjective, before a noun:
>> I.e. their home; their rights as citizens; their departure for Rome.

> 2.(used with a singular indefinite pronoun or singular noun antecedent in place of the definite masculine his or the definite feminine her):
> (http://www.dictionary.com)

Item 11k "acted in hostile manner verbal confrontation of "Authority Member"
(No exhibits – No documentation)

Apparently no one was 'nuisance(d)' enough to make a note or email with Plaintiffs nor call LCSO.

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12. "Defendant has on multiple additional occasions acted in a hostile and aggressive manner toward the Authority...while the Authority used the Easement"
No Exhibits –no documentation

"...on multiple additional occasions ...", "..towards' the Authority'..", "while the Authority used the Easement".

Paa-lease! And please forgive me. Researching for a legal concept analogy, thus led to Google search with "the entity" and producing "4 pages /185 hits: The last item seemed most appropriate and stopped my search .

- A PDF file at www.irs.gov "Defining the Entity –Foreign Trusts .
- A definition available at:
  - http://www.urbandictionary.com/define.php?term=The%20Entity.
- An NPR web page with a book summary for "Sleeping With The Entity"
- It was necessary to stop with , what seemed themost listed about and somehow most appropriate
  - https://exemplore.com/paranormal/The-Entity-True-Story-About-A-Woman-Who-is-Attacked

"The Entity ": a move based on one of the most famous true cases of haunting and psychic attacks.
Again no exhibits and date, no times, no location but apparently so big as to "physically preventing the Authority from using the Easement to the full extent..."

• CERTIFICATE OF SERVICE

•

- I certify that a true and accurate copy of this document was served on the listed parties
- by method listed blow and have been in formed receive documents by ICCES.

~~Hand delivery~~
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email

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