

DISTRICT COURT, LARIMER COUNTY,
COLORADO
201 LaPorte Avenue, Suite 100
Fort Collins, CO 80521-2761
Phone: 970-498-6100

DATE FILED: December 1, 2017 10:00 AM
FILING ID: 116AF6972483C
CASE NUMBER: 2017CV30903

Plaintiff:

ILSE G. WESTPHAL

v.

Defendants:

ANTHONY JOHN JANSA; JANSA TRUCKING, LLC,
a Colorado Limited Liability Company; JANSA
TRUCKING, LLC, a North Dakota Limited Liability
Company; THE CITY OF FORT COLLINS, a Colorado
municipal corporation

COURT USE ONLY

Attorneys for Defendant City of Fort Collins

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Case No. 2017-CV-030903

Div. 3C

John Duval
Deputy City Attorney
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**DEFENDANT CITY OF FORT COLLINS'
CERTIFICATE OF CONFERRAL REGARDING ITS MOTION TO DISMISS
PURSUANT TO C.R.C.P. 121 and C.R.S. § 24-10-106**

Defendant, City of Fort Collins, by and through its counsel, submits its Certificate of Conferral regarding its Motion to Dismiss pursuant to C.R.C.P. 121 and C.R.S. § 24-10-106.

CERTIFICATION – C.R.C.P. 121

First, undersigned counsel, Peter Middleton, expresses his sincerest apology to the Court for the oversight in not including a certificate of conferral. It will not happen again.

Second, to assure this Court, undersigned counsel did confer and speak with Plaintiff's counsel, David Herrera (on the telephone) well before filing the motion (on or before November 16, 2017), and expressed that he intended to file (a) a motion for extension of time in which to respond to the Complaint and (b) a motion to dismiss based on governmental immunity. *See* Defendant's Motion for Extension of Time to Answer or Otherwise Respond to Plaintiff's Complaint and Jury Demand at ¶ 3 filed November 16, 2017, in which Defendant also documented his intention to file a motion to dismiss ("Defendant anticipates filing a motion to dismiss...).

In their telephone conferral, Mr. Middleton explained to Mr. Herrera that it was the City's position that governmental immunity applied and that the exceptions or waiver provisions to immunity did not apply. Mr. Herrera disagreed with the City's position and objected to the motion to dismiss, as expected. Mr. Herrera graciously agreed to the motion for extension of time. Counsel discussed and agreed on the length of the extension for the convenience of both counsel.

In sum, undersigned counsel, Mr. Middleton, certifies that he did in fact confer with the Plaintiff's counsel regarding this motion to dismiss, by telephone and well before filing it, and Plaintiff objects. Mr. Middleton requests the court to acknowledge this conferral certificate, find that the conferral was proper, and importantly, accept his apology for the oversight.

For good measure, undersigned counsel also certifies that he spoke with counsel for the Jansa Trucking defendants, which take no position on the City's motion.

Dated: December 1, 2017

/s/ Peter C. Middleton

Peter C. Middleton, Esq., #32335
of HALL & EVANS, L.L.C.
**ATTORNEYS FOR DEFENDANT
CITY OF FORT COLLINS**

/s/ John R. Duval

John R. Duval, Esq., #10185
Deputy City Attorney
of City of Fort Collins
**ATTORNEY FOR DEFENDANT
CITY OF FORT COLLINS**

In accordance with C.R.C.P. 121 § 1-26(7), a printed copy of this document with original signatures is being maintained by the filing party and will be made available for inspection by other parties or the Court upon request.

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of December, 2017, I electronically filed and served the foregoing **DEFENDANT CITY OF FORT COLLINS' CERTIFICATE OF CONFERRAL REGARDING ITS MOTION TO DISMISS PURSUANT TO C.R.C.P. 121 and C.R.S. § 24-10-106** via the Colorado Courts E-Filing system upon the following:

David M. Herrera, Esq. HERMS & HERRERA, L.L.C. 3600 South College Avenue, Suite 204 Fort Collins, CO 80525 david@hhlawoffice.com <i>Counsel for Plaintiff</i>	James M. Meseck, Esq., #33021 White and Steele, P.C. 600 17 th Street, Suite 600N Denver, CO 80202 jmeseck@wsteele.com <i>Counsel for Jansa Defendants</i>
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Original Signature on File

/s/Julie Eaglesham

Julie Eaglesham