

<b>FORT COLLINS MUNICIPAL COURT</b> 215 N. Mason Fort Collins, CO 80521 Phone (970) 221 6800	
<b>Plaintiffs:</b> Eric Sutherland, J & M Distributing, DBA Fort Collins Muffler and Automotive  v.  <b>Defendant :</b> THE CITY COUNCIL OF THE CITY OF FORT COLLINS, the governing body of a Colorado municipal corporation; and THE ADMINISTRATION BRANCH OF THE CITY OF FORT COLLINS, by and through its City Manager, Darin Atteberry.  <b>Intervenor:</b> NEXT CHAPTER PROPERTIES, LLC	<p style="text-align: center;">▲ COURT USE ONLY ▲</p> Case Number:  2018civil01
<hr/> <b>Party without attorney</b> Eric Sutherland 3520 Golden Currant Fort Collins, CO 80521 (970) 224 4509 sutherix@ yahoo.com	
<b>REPLY IN SUPPORT OF MOTION FOR CLARIFICATION OF AMENDED SCHEDULING ORDER</b>	

Defendants City of Fort Collins and Next Chapter Properties have both submitted *Responses* opposing the relief requested in my *Motion for Clarification*. Both Defendants urge this court to strike this *Motion*.

There can be no surprise that neither the City or Next Chapter acknowledged or addressed the spirit of the *Motion* or sought to refute the very simple and sound logic underlying my request for relief. I am attempting to save this court valuable time by eliminating any necessity to review a very lengthy and involved record that need never have been certified to this court in its entirety to begin with.

The City and Next Chapter could not bring themselves to address the crux of my *Motion*; the only part of the record of the court below that required review by this court would have been that part of the record, if it existed, that refuted the allegation of the Plaintiffs that a *complete absence* of necessary design details and review of the same represented an abuse of discretion. Of course, no part of the record could be said to refute the allegation of *complete absence*. If there was,

then that part of the record and only that part of the record needed to be certified and reviewed.

What has happened here was a classic case of lawyers doing what lawyers do. When there is no law or facts to argue before the court, lawyers engage in conflation, obfuscation and general mischaracterization in the hopes of creating enough confusion to induce a decision contrary to the ends of justice. This court, unfortunately, appears to have been susceptible to the exercise of bad faith of the defendants and, as a result, has labored unnecessarily.

As a means of illustrating the bad faith underfoot here, this court is urged to consider the alternative path that might have been taken by Defendants in response to my *Motion for Clarification*. If it were possible, Defendants could have assisted this court by pointing to that part of the 500+ page record that needed to be reviewed to support their position and defeat Plaintiffs' allegations. In other words, Defendants might have finally shouldered the burden of proof that they should have born in this proceeding. This approach, of course, was not chosen because there is no part of the 500+ page record to point to.

My *Motion for Clarification* should not be stricken. No earnest efforts of parties in any judicial proceeding taken to arrest or reduce judicial inefficiency and the toll it takes should be discouraged ... and certainly not this effort. Instead, the assistance offered to all parties and this court by an earnest attempt for clarification of an *Order* of this court should be taken at face value and the relief requested should be granted.

WHEREFOR, Plaintiff Eric Sutherland respectfully requests that this Court Clarify why the review of 500 pages of record from the court below is necessary when this entire case is decided exclusively on the absence of elements alleged to be absent ... with no refutation of such absence by Defendants.

Respectfully submitted this 26th day of November, 2018

Eric Sutherland

Eric Sutherland

I hereby certify that the above Motion was served to the Defendants City and Next Chapter via email on 11/26/2018

Eric Sutherland