

<p>DISTRICT COURT Larimer County, Colorado 201 LaPorte Avenue Fort Collins, Colorado 80521</p>	<p style="text-align: right;">COPY</p> <p>2018 DEC -4 AM 9:57</p> <p>FILED IN COMBINED COURT LARIMER COUNTY CO</p>
<p>PLAINTIFF: Stacy Lynne</p> <p>v.</p> <p>DEFENDANTS:</p> <p>Noah Beals, Senior Planner, City of Fort Collins: in his individual and official capacity</p> <p>Jeremy Call, Senior Associate – Logan Simpson Design, Contractor for the City of Fort Collins: in his individual and official capacity</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p>Stacy Lynne 305 West Magnolia Street #282 Fort Collins, Colorado 80521 970-402-1582 stacy_lynne@comcast.net</p>	<p>Case Number: 18CV220</p> <p>Division: 31 Courtroom:</p>
<p>COMPLAINT</p>	

Plaintiff Stacy Lynne brings this complaint under the Colorado Governmental Immunity Act (CGIA) (Title 24, Section 10) and Colorado Revised Statute §13-25-124 for libel and slander (defamation).

JURISDICTION AND VENUE

1. Plaintiff Stacy Lynne is an investigative journalist residing in Fort Collins, Colorado.
2. Defendant Noah Beals is a senior planner employed by the City of Fort Collins (a home-rule municipality in Larimer County, Colorado).
3. Defendant Jeremy Call is a senior associate at Logan Simpson Design and is employed as a contractor for the City of Fort Collins.
4. Pursuant to Colo. Const. Art. VI, Section 9, and C.R.S. §13-6-104, this Court has jurisdiction over this action because it involves a civil matter and the amount in controversy exceeds \$15,000.
5. Venue is proper per C.R.C.P. 98.

THE PARTIES

1. **Plaintiff** Stacy Lynne resides in Fort Collins, Colorado in Larimer County. A basic introduction to the Plaintiff is necessary here because Stacy Lynne is routinely denigrated and disparaged when opposing parties respond or reply. Stacy Lynne previously saved this introductory material for a rebuttal...to counter the opponent's fallacies *after* she was attacked. But that approach – waiting to set the record straight until after the reader is deceived by the opponent – has not proved beneficial in the past. First impressions stick. And, if the Court's first impression about a Plaintiff comes from the Defendant who is motivated to skew the truth, then the overpowering impact of emotionally-distorted bias prevails.

Simply: Stacy Lynne is trying to save everyone time and confusion by laying a foundation that is based on accuracy and clarity.

Stacy Lynne is an investigative journalist.¹ She has invested more than 10 years investigating local government issues and during the past five years, she added a concentration on the criminal justice system. Her work has been included in multiple criminal justice cases through Rule 16 discovery disclosures and appeals processes. Stacy Lynne has media credentials issued by the Eighth Judicial District. She has produced full-length documentary films and numerous mini-series. Stacy Lynne's work has been referenced by countless mainstream media organizations for more than a decade.

¹ Defined by Colorado Revised Statutes, Department of Regulatory Agencies. Stacy Lynne is legally and ethically obligated to tell people that she is a journalist -- she does not use the term lightly, inaccurately, or for personal gain.

The United Nations Educational, Scientific and Cultural Organization (UNESCO) provides a resonating definition of investigative journalism:

“Investigative Journalism means the unveiling of matters that are concealed either deliberately by someone in a position of power, or accidentally, behind a chaotic mass of facts and circumstances – and the analysis and exposure of all relevant facts to the public.”²

Stacy Lynne is not a daily news reporter. The Columbia School of Journalism says, “Daily news reporting is seldom investigative, it is mostly reactive.”³

As an investigative journalist, much of Stacy Lynne’s work is conducted in confidential settings, with confidential (and sometimes anonymous) sources, outside of the public view. Of course, she uses all of the usual public sources of information...police records, court records, municipal records, county and state records, open records searches and the like, so that she can verify information using original source documents and credible people. But her name and her face are not instantly recognizable because she goes about her work quietly. Intentionally absent is a desire for publicity.

Stacy Lynne is also a private-sector consultant. In this realm, she is also largely out of the public view. This low-profile approach helps the people and organizations that she works with trust the integrity of her character and her methods. They know that Stacy Lynne will use discretion and the law to protect their rights and confidentiality.

Compounding the significant (but often unrecognized) differences between investigative journalism and daily news reporters is the current state of affairs that is plaguing our country: fake news, opinion pieces masquerading as facts, infotainment instead of evidence-based articles, decision-making by elected officials that is based on pressure from special interest groups, and policies that are adopted as a result of narrow-minded outcome-determinative biases.

In contrast to the disastrous reality that is mainstream mass media, these are the words that fill Stacy Lynne’s world: credibility, integrity, accuracy, thoroughness, facts, evidence, reliable verification methods, process transparency, analysis, decision-making based on the scientific method.

2. **Defendants** – Noah Beals and Jeremy Call are being sued as individuals and in their official capacities as hired public employees of the City of Fort Collins.

² www.unesco.org/investigative-journalism

³ Chapter 1. Defining Investigative Reporting. Columbia School of Journalism.

STATUTE OF LIMITATIONS AND COMPLIANCE WITH CGIA

The actions that give rise to this complaint occurred in 2018. The written Notice of Claim entirely satisfied the notice required under CGIA [C.R.S. 24-10-109(1)(2)(3)(4)(5)(6)] and complies with the statute of limitations for libel and slander (defamation):

- 1) ...within 182 days after the date of discovery of the injury... The first known date of injury occurred on February 15, 2018, 160 days prior to the filing of the NOTICE OF CLAIM.
- 2) The name and address of the claimant, a concise statement of the factual basis of the claim, the name and address of any public employee involved, a concise statement of the nature and extent of the injury suffered, and a statement of the amount of monetary damages are included.
- 3) Service via civil process service of the NOTICE OF CLAIM to the governing body, the attorney representing the public entity, and to the known defendants was completed on July 24, 2018.
- 4) Not applicable.
- 5) The CGIA NOTICE OF CLAIM was filed in time.
- 6) This COMPLAINT is filed with the court clerk and served to all parties within the one-year statute of limitations for libel and slander (defamation) and after the 90-day required waiting period for the NOTICE.

STATUTORY AUTHORITY AND CASE LAW: CGIA AND DEFAMATION

To satisfy the willful and wanton exception to the CGIA, a plaintiff must establish not only the elements of a claim for defamation, but also that the defendant's conduct was done heedlessly and recklessly, without regard to the consequences, or rights and safety of others, particularly plaintiff. *Drake v. City County of Denver*, 953 F. Supp. 1150 (D. Colo. 1997).

Court applied definition of "willful and wanton" found in § 13-21-102 (1)(b). *King v. U.S.*, 53 F. Supp. 2d 1056 (D. Colo. 1999).

C.R.S. 13-21-102 (1)(b): "**willful and wanton** conduct" means conduct purposefully committed which the actor must have realized as dangerous, done heedlessly and recklessly, without regard to consequences, or of the rights and safety of others, particularly the plaintiff.

C.R.S. 24-10-105. Prior waiver of immunity - effect - indirect claims not separate. (1) It is the intent of this article to cover all actions which lie in tort or could lie in tort regardless of whether that may be the type of action or the form of relief chosen by the claimant. No public entity shall be liable for such actions except as provided in this article, and no public employee shall be liable for injuries arising out of an act or omission occurring during the performance of his or her duties and within the scope of his or her employment, **unless such act or omission was willful and wanton**, except as provided in this article. Nothing in this section shall be construed to allow any action which lies in tort or could lie in tort regardless of whether that may be the type of action or the form of relief chosen by a claimant to be brought against a public employee except in compliance with the requirements of this article.

C.R.S. 13-25-124. Libel and slander - how pleaded. In an action for libel or slander, it shall not be necessary to state in the complaint any extrinsic facts for the purpose of showing the application to the plaintiff of the defamatory matter out of which the cause of action arose. It shall be sufficient to state generally that the same was published or spoken concerning the plaintiff; and, if such allegation is controverted, the plaintiff shall establish on the trial that it was so published or spoken.

"[D] efamatory statements are so egregious and intolerable because the statement destroys an individual's reputation: a characteristic which cannot be bought, and one that, once lost, is extremely difficult to restore." *Zueger v. Goss*, 2014

A claim for willful and wanton conduct must state more than "conclusory allegations;" a plaintiff must "set forth in his complaint specific facts which support his claim that public employees acted willfully and wantonly." *Anderson v. Board of Commissioners*, 2006

Thus, a complaint must "do more than merely assert" that a public employee's acts or omissions were willful or wanton; it must, at a minimum, also "set forth specific facts to support a reasonable inference" that the employee was consciously aware that his or her acts or omissions created danger or risk to the safety of others, and that he or she acted, or failed to act ... *Gray v. UNIVERSITY OF COLORADO HOSP.*, 2012

CLAIM FOR RELIEF: LIBEL AND SLANDER (DEFAMATION)

INTRODUCTION

It is always wise to begin a problem-solving exercise with literal definitions of words and phrases. The purpose in defining terms is to ensure that we understand the problem we are attempting to solve. Accuracy matters.

But before we get specific about what these words mean literally, in the interest of fairness, you should know that City Attorney Carrie Daggett says, “However, we do not agree that there are any grounds for a defamation or other claims against the City in connection with the events you are describing, and believe such a claim would be frivolous and groundless.”⁴

If you believe that Ms. Daggett is being honest when she says that this case is “frivolous” and “groundless”, then save yourself some irreplaceable time and don’t read past this point.

But if you suspect Ms. Daggett is being less than forthcoming in her assessment of the merits of this case, read on.

Words and Phrases

Actual malice:⁵ The deliberate intent to commit an injury, as evidenced by external circumstances. *Defamation.* Knowledge (by the person who utters or publishes a defamatory statement) that a statement is false, or reckless disregard about whether the statement is true.

⁴ April 11, 2018: email from Carrie Daggett to Stacy Lynne and others

⁵ Black’s Law Dictionary, Bryan A. Garner, Editor in Chief. Third Edition, 2001.

Defamation (legal):⁶ The act of harming the reputation of another by making a false statement to a third person

Defame:⁷ To harm or destroy the good fame of; bring into disgrace; to harm the reputation or good name of by uttering injurious charges

Defamation per se:⁸ A statement that is defamatory in and of itself and is not capable of innocent meaning

Defamatory:⁹ Tending to harm a person's reputation, usually by subjecting the person to public contempt, disgrace, or ridicule, or by adversely affecting the person's business

Frivolous:¹⁰ Lacking a legal basis or merit; not serious; not reasonably purposeful

Groundless:¹¹ Lacking reason or validity

Fact:¹² Something that has actual existence; the reality of events or things the actual occurrence or existence of which is to be determined by evidence

Opinion:¹³ A belief stronger than impression and less strong than positive knowledge

⁶ Black's Law Dictionary, Bryan A. Garner, Editor in Chief. Third Edition, 2001.

⁷ Webster's Third New International Dictionary, Unabridged, Philip Babcock Gove, PhD, Editor in Chief, 2002.

⁸ Black's Law Dictionary, Bryan A. Garner, Editor in Chief. Third Edition, 2001.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² Webster's Third New International Dictionary, Unabridged, Philip Babcock Gove, PhD, Editor in Chief, 2002.

¹³ *Id.*

FACTUAL BASIS OF THE CLAIM

January 2018

As follow-up to a 2015 interest in the process related to a smoking ban in downtown Fort Collins, in 2018, Stacy Lynne began an in-depth investigation into the no smoking ordinance.

Stacy Lynne's 2015 curiosity about the smoking ban was reignited in 2018 by the stories people were telling about being arrested and taken to jail for smoking in public. The January 2018 no smoking ordinance investigation included open records access requests from the municipal court, interviews with downtown business owners and employees, and an interview with a lieutenant currently employed at Fort Collins Police Services. It was during the research of the smoking ordinance on the City's website that Stacy Lynne noticed a reference to the sign code update in a city council agenda item summary.

February 1 and February 7, 2018

Sign code update public meetings were held at the Museum of Discovery and the Drake Centre. Stacy Lynne attended the public meetings because of potential overlap with the no smoking ordinance, and because the City claimed it was concerned about privately-owned business sign "aesthetics" in downtown Fort Collins. The aesthetic concern posited by the City is antithetical to hundreds of smoking ban signs that the City has mounted in the same downtown zone where it has "concerns" about hundreds of business signs. Notably: all of the business signs that were exploited as examples of "concerns" are in compliance with the City's sign code, even though Noah Beals (Senior City Planner) and Jeremy Call (hired consultant/contractor from Logan Simpson Design Inc.) used photos of those private businesses to show the public what the City and the consultant are "reconsidering".

The public meetings were sparsely attended. Stakeholders were noticeably absent. The changes that Noah Beals and Jeremy Call presented were substantial. The few people who attended both public meetings were given voting devices, shown pictures of local business signs from the downtown zone, and then the attendees (sign companies, real estate agents, former city board/commission members, and the like) were told to vote on changes to the privately-owned signs.

The sign code update involves numerous and significant changes that the City and Logan Simpson Design Inc. is “reconsidering” for privately-owned businesses in downtown Fort Collins. It didn’t make sense that the process was void of the community and thousands of stakeholders. Due to the extraordinary exclusion of business owners, building owners, landlords and tenants, and community members – all of whom will be directly impacted by sign code changes – Stacy Lynne changed her focus from the smoking ban ordinance to the sign code update. She walked door to door to talk with business owners about their thoughts regarding the sign code update. The business owners *en masse* did not know about the public meetings; and, they were unaware of the depth and breadth of the changes that Noah Beals and Jeremy Call were “reconsidering”. The information that Stacy Lynne provided to the business owners during conversations about the process was strictly limited to materials that were disseminated by Noah Beals and Jeremy Call. The same materials were also posted on Facebook @Focus Fort Collins.

February 15, 2018

Business owners contacted Stacy Lynne as soon as a Downtown Business Association membership meeting ended. The business owners told Stacy Lynne that Noah Beals told a large group of downtown business owners that no votes were taken at the public sign code update meetings. The business owners were emotionally charged when they told Stacy Lynne what

Noah Beals said during the meeting because there was a glaring discrepancy: Stacy Lynne told business owners that **votes were taken**. Noah Beals told the business owners that **no votes were taken**.

February 16, 2018

Stacy Lynne emailed Noah Beals (Substantial Accuracy Issue, 2/16/2018):

Hello Noah,

Thank you for responding.

Business owners who attended the Downtown Business Association's meeting at the Old Town Library on February 15, 2018 are left with the impression (based on your choice of words to the group during the meeting) that no votes were taken during the February 1, 2018 Downtown Sign Code Update meeting.

Based on the DBA meeting and your explanation to me in an email, it sounds like you were misleading when you told the DBA members that no voting occurred.

Here are some relevant facts:

1. The meeting attendees were given individual voting devices.
2. The consultants were adamant about getting the votes registered for each question.
3. The votes were tallied and displayed in percentages.
4. Those percentages were displayed on the question slide in red numbers to indicate the voting results.

Because you told downtown business owners that voting did not occur at the downtown sign code update meeting, when in fact it did, you and I have a substantial issue to work through.

This is why the issue is of gave concern: When I talked with business owners about the sign code meeting that happened without their participation, I was meticulous in the accurate transfer of information from me to them. I take extreme care with the truth and as part of that process, I use only original sources and official documents. I used your documents and your recorded statements and your consultant's statements when I talked with a long list of people who were not included in this significant public matter.

I propose that we meet as soon as possible with your supervisor to work on a solution to correct this issue.

Please provide the name of your supervisor and that person's contact information.

Thank you,

Stacy Lynne
Investigative Journalist

February 21, 2018

Stacy Lynne met with Mayor Pro Tem Gerry Horak, City Councilor Ray Martinez, and Tom Leeson (Department Head, Development Review Center) to discuss the process related to the sign code update and how the stakeholders were omitted from the process. This meeting was also an attempt to clarify and resolve the issue with Noah Beals' defamatory statements to the downtown business owners. Specifically discussed was whether votes were taken at the February 1, 2018 meeting (slides from the meeting were shown to Horak, Martinez and Leeson verifying that votes were taken) and why Noah Beals told business owners that votes were not taken.

February 23, 2018

Laurie Kadrich, Director of Planning, Development and Transportation and Stacy Lynne met to discuss the sign code update process and the concerns about Noah Beals' defamatory statements to business owners.

Stacy Lynne:

Credibility is the only thing I have as a journalist, especially as an investigative journalist – I don't do reports on daily...you know...there was an accident on the corner...I don't do that. I do much deeper stories and so credibility is all I have for that. So, when I went to the owners, I used the City's – and I took this (meaning the slides from the City meetings) to all of the owners. This is exactly what they saw from the sign code meeting. From the first one and then the second one. And these are *your* documents. I took a photo of every slide that was used in the meetings and I showed these to the business owners because they had a lot of questions. Like, first of all, why wasn't I notified by somebody – the Chamber, the DDA, the DBA, the City. So, you know, that is a lot of organizations to miss a major update. My transfer of information is meticulous as far as accuracy. So, when I went to them and I said this is what the City presented at the meeting: the types of signs you are reconsidering. This is your board. So, at the DBA meeting, on Thursday the 15th, a lot of the business owners were there. They were very unhappy and emotional. Mr. Beals stood up and said there were no votes, no votes were taken at this downtown meeting.

I actually need a resolution to this because the business owners are very concerned about the disconnect between the votes and Noah standing up at a Downtown Business Association meeting and saying no votes were taken. I can't let that stand. I can't because it impacts my entire life. So, we need to work out a solution. It's a really serious issue for me to somehow correct this record publicly. For me, it's a serious legal issue and you can understand the whole defamation issue that is involved here. He is publicly telling people that I was incorrect when in fact, I am using your documents and his recorded statements to talk to the business owners. So, the elements of defamation have been satisfied.

So, it concerns me greatly. And it is an issue for the owners as well.

Laurie Kadrach:

And rightly so.

March 7, 2018

A second meeting between Stacy Lynne and Laurie Kadrach was held to continue the discussion about how to resolve the defamation problems caused by Noah Beals.

Laurie Kadrach:

When I met with him, "well Noah, did you write 'vote' on the PowerPoint because what I saw from Stacy is it said vote on there". He said, "Yes, I did use the word vote." And I said, "Well, I would never use the word vote in that type of presentation because really, you are just using the polling technology – we call it clicker technology. I said all you're doing is using clicker technology. Nothing is firm in that and *if you use the word vote it can mean something official right?*"

So, I think we agree to what actually happened. Now, it's what, if anything could we do to – if there's anything that needs to be done to explain that to some business owners.

Stacy Lynne:

Well, from my perspective, it definitely does need to be explained because I wasn't misrepresenting what was happening at the meetings. I was telling them exactly what Noah said. The votes were taken. These are the results of the votes. And when he stood up in front of that group of peers and said no votes...

Laurie Kadrach:

Which group?

Stacy Lynne:

That was the Downtown Business Association on February 15.

March 19, 2018

Stacy Lynne filed an open records access request with Ms. Delynn Coldiron, City Clerk for “Any and all documents – including call logs and text messages – between Noah Beals (Senior City Planner), and any and all other people as related in any and all ways to the sign code update”. The records provided were not complete. City Attorney Carrie Daggett claimed that she withheld records under attorney-client privilege. Because the record was incomplete and some of the documents that were withheld were not statutorily exempt from disclosure, **Notice of Intent to File for An Order to Show Cause Pursuant to Colorado Revised Statutes (C.R.S.) 24-72-204(5)(A) Colorado Open Records Act (CORA)** was served to the City of Fort Collins on July 24, 2018.

March 28, 2018

Meeting with City Manager Darin Atteberry, Mayor Pro Tem Gerry Horak, and Tom Leeson to discuss the sign code update process and Noah Beals’ defamation issues.

Stacy Lynne:

I need to get to the third issue and it’s one of the most significant legally. Laurie and I have been trying to work through this defamation issue because Noah Beals is telling business owners that no votes were taken. That’s directly not true. I spent three weeks going door to door to business owners showing them the votes that were taken. Votes were taken and then he presented that no votes were taken. Now we have a defamation issue. My reputation and my credibility are all I have as an investigative journalist. I don’t want to file a lawsuit. I don’t want to spend my time or my money doing this. There is a way we can resolve this outside of the court, but it does need to be resolved. I can’t just let the business owners who are my working group, my peers, think that I have been inaccurate because I have been nothing but accurate.

Darin Atteberry:

What do you propose?

Stacy Lynne:

We absolutely have to address this publicly. There needs to be a public apology. He needs to address publicly that he was mistaken when he said no votes were taken. Votes were taken. So, if you want, I can write an email of what I think is a reasonable solution to keep this out of court. There are easy solutions. I mean it's not going to be comfortable for the people who are involved, but there are solutions.

Darin Atteberry:

Okay.

Gerry Horak:

I would like to deal with that as soon as possible.

Darin Atteberry:

Yeah. Yeah.

Stacy Lynne:

I do appreciate everyone's time and like I said, I don't want to do this defamation claim. I sued an elected official in Loveland a couple years ago and I prevailed. I'm not making light of this because it is expensive for the City. Thank you all.

CHRONOLOGICAL NOTE: Stacy Lynne's CORA request was provided on April 20, 2018. All of the meetings and email communications between Stacy Lynne and various members of the City of Fort Collins were completed *prior to her knowledge of the depth and breadth of damaging information that was contained in the CORA documents.*

CORA Documents

The CORA documents are laced with memorandums, emails, and cell phone screenshots to and from Noah Beals and Jeremy Call and between business owners and community members. Those communications repeatedly use the phrase “misinformation campaign”, “inaccurate information”, “misinformation that has been circulating”, “staff should address the myths”, and “confusion”.

Here are two examples that accurately illustrate the tone of the communications between Noah Beals and Jeremy Call and private business owners, business organizations, and community members:

February 12, 2018

Jason Dennison, Executive Director of Downtown Fort Collins Business Association, writes to Noah Beals about helping “stop the spread of misinformation”.

February 15, 2018

Noah Beals writes to Ann Hutchinson at the Fort Collins Chamber of Commerce and says, “There is someone not with the City contacting business owners. We want to be sure any info you get is correct...”

< END OF CORA DOCUMENTS SECTION, RESUMING CHRONOLOGY SECTION >

October 1, 2018

Colorado Open Records Act show cause hearing held due to a Complaint and Motion for Order to Show Cause that was filed by Plaintiff Stacy Lynne. Her claim was based on a previous order that was issued by District Court Judge Devin Odell wherein he required the Poudre School District to provide plaintiffs with an explicit privilege log of withheld documents. City of

Fort Collins employees City Manager Darin Atteberry, City Attorney Carrie Daggett, Senior Planner Noah Beals, Community Development and Neighborhood Services Director Tom Leeson, Director of Planning, Development and Transportation Director Laurie Kadrich, City Attorney Christopher Van Hall, and Contractor Jeremy Call gave testimony at the October 1, 2018 show cause hearing. Some of their testimony conflicted with each other and was not consistent with parts of record.

October 19, 2018

The City of Fort Collins answered a CORA public information request regarding wayfinding signs by claiming that no such records exist...in spite of the verifiable fact that such records do exist.

November 14, 2018

A Colorado Open Records Act (CORA) request related to the sign code update, and specifically referencing an appeal that was filed by Lamar Advertising found 4,580 responsive documents that were written between January 2018 and November 2018. A confidential memo from Noah Beals and addressed to various City employees indicates that the City of Fort Collins knows the City is at risk of being sued by Lamar because of Constitutional violations.

November 20, 2018

The sign code update was passed on first reading by the Fort Collins City Council, even though the City staff did not provide the elected officials with the usual red-line or marked through copy of the amendments.

December 3, 2018

-----Original Message-----

From: CDAGGETT@fcgov.com
To: stacy_lynne@comcast.net
Cc: cvanhall@fcgov.com
Sent: 2018-11-27 2:23:44 PM
Subject: Follow Up re Sign Code

Hi Stacy,

At the Council meeting last week, you raised legal issues regarding the proposed amendments to the sign provisions in the Fort Collins Land Use Code. We would like to be sure we understand your concerns, so that we can evaluate and consider them. Please let us know what your specific legal concerns are in case any follow up is needed.

Thank you for your interest in public policy matters in Fort Collins.

~Carrie

Carrie Daggett
City Attorney
970-221-6520
cdaggett@fcgov.com

From: STACY LYNNE <stacy_lynne@comcast.net>
Sent: Tuesday, November 27, 2018 4:46 PM
To: Carrie Daggett <CDAGGETT@fcgov.com>; stacy_lynne@comcast.net
Cc: Christopher Van Hall <cvanhall@fcgov.com>
Subject: Re: Follow Up re Sign Code

Good afternoon Ms. Daggett,

Thank you for following up regarding the legal issues in the sign code ordinance that was passed unanimously on first reading on Tuesday, November 20, 2018.

Unfortunately, I am not able to reply to your request for specificity due to the imminent filing of a lawsuit related to these issues.

Respectfully,

Stacy Lynne
Investigative Journalist

On December 3, 2018 at 9:05 AM Carrie Daggett <CDAGGETT@fcgov.com> wrote:

Thank you for your response Stacy.

Given that the courts expect parties to have attempted to work out their issues prior to resorting to litigation, you may wish to discuss your legal concerns with us before you file. If you decide that would be helpful, please let us know.

~Carrie

Carrie M. Daggett

City Attorney

City of Fort Collins

300 Laporte Avenue

970-221-6520

cdaggett@fcgov.com

STACY LYNNE<stacy_lynne@comcast.net>

12:12 PM

To Carrie Daggett Copy Christopher Van Hall, stacy lynne

December 3, 2018

Dear Ms. Daggett,

For the past 10 months I have repeatedly, and in good faith, attempted to work out the problems that have now reached this last resort of litigation. It is the City that has brought it to this point. The Complaint clearly lays out the progression for the Court and your sudden interest in working something out at this late hour seems disingenuous at best.

As an old-school investigative journalist, I am the opposite of the reporters that the City calls "favorable". I am fiercely passionate about the law, science, facts, evidence and data. I do not try to game the system, nor do I try to warp the law. The City is doing both...gaming the system and distorting the law -- it is so clearly spelled out in the sign code update that passed on first reading two weeks ago and it is well-documented in volumes of public and confidential city documents. But it isn't just the sign code revision that is being gamed. Every Fort Collins business owner who has a store-front sign has been duped because the City is being dishonest. Additionally, the City Council is being tricked by departmental staff.

In addition to my passion as noted above, I am relentlessly curious about public policy decision-making methods. I have closely watched this year's sign code update process and the smoking ban ordinance for the past four years. It has been a disheartening longitudinal observation of how not to make public policy decisions.

You repeatedly make written claims that my concerns regarding the City's legal breaches are *vexatious* and *frivolous*. A court has already ruled against the City on those dangerously threatening words. We all know that my purpose here is serious and provides value for the public good. My grounds for filing legal claims are based in well-settled law and supported by statutes and case law.

It is unfortunate that the City has chosen this path. And this is precisely why our community benefits when the rule of law is applied equally. As a slightly bittersweet irony, this email thread will be included as the final piece of the chronology for the Court.

Respectfully,

Stacy Lynne

Investigative Journalist

NATURE AND EXTENT OF THE INJURY

A statement may be defamatory "if it tends so to harm the reputation of another as to lower him in the estimation of the community or to deter third persons from associating or dealing with him." *Restatement (Second) of Torts* § 559 (1976); C.J.I. —Civ.2d § 22.8 (1980); see also *Knapp v. Post Printing & Publishing Co.*, 111 Colo. 492, 144 P.2d 981 (1943); *Republican Publishing Co. v. Mosman*, 15 Colo. 399, 24 P. 1051 (1890); W. Prosser, *Handbook of the Law of Torts* 739 (4th ed. 1971).¹⁴

Noah Beals knew when he told a large group of business owners that no votes were taken at the February 1, 2018 public meeting on the downtown sign code update that he was lying. Noah Beals intentionally lied about Stacy Lynne to cover up his own mistakes. And he broadcast those lies to numerous third parties.

Jeremy Call knew when he told numerous people that Stacy Lynne was on a "misinformation campaign" that he was lying. Jeremy Call intentionally lied about Stacy Lynne to cover up his own mistakes. And he broadcast those lies to numerous third parties.

After Jeremy Call and Noah Beals repeatedly lied to downtown business organizations and to the business owners that Stacy Lynne was on a "misinformation campaign", business owners became hostile to her. Worse, some business owners did not respond to communication attempts. Even more damaging: Stacy Lynne was unable to continue building positive relationships because of this pending litigation. To protect the integrity of the legal process, she had to cease contact with business owners that she had developed mutually-beneficial professional relationships.

¹⁴ *Burns v. McGraw-Hill Broadcasting Co., Inc.*, 659 P. 2d 1351 - Colo: Supreme Court 1983

MONETARY DAMAGES

Stacy Lynne invests her life in facts, data, and evidence. She dissects and analyzes that information to present the truth of the matter to the community. Stacy Lynne is not driven by opinion or entertainment or publicity -- that is why most of you who are reading this Complaint are in the dark about the depth and breadth of her work. Stacy Lynne's focus on the facts makes her unpopular with people who are prone to making decisions based on emotional reactions or because they feel from pressured by people who have more money or more power. Others are driven to make decisions in spite of the facts, evidence and data because their goals are inconvenienced by the truth. Stacy Lynne's scientific approach to information and her analysis of the evidence understandably offends those kinds of decision-makers.

So, how much is a reputation worth? Does it *really* matter if the community and your peers falsely believe that you are a liar? If you have chosen to live as a fierce advocate of the truth...the truth...meaning the results and conclusions of scientific analysis of unadulterated collections of facts and evidence and data...but then you are falsely accused and publicly shamed by the lies of city employees and city contractors...if that happened to you, what would you do? If *you* were the Plaintiff in this case, would you care that the entire business community in your hometown believed you were a liar because the City of Fort Collins said so? Of course you would care. You would be hurt emotionally and financially because of the lies. And if you repeatedly attempted to resolve the matter outside of the courtroom, but the liars refused to retract their false statements, you would sue – because that's what people do.

The only thing that sticks in life is your reputation and character. It's what people talk about. It's what they feel. It's what they remember about you long after you are gone.

In compliance with C.R.S. §24-10-114, economic and non-economic damages are estimated at \$350,000.00.

These damages include and are not limited to defamation, intentional infliction of emotional distress and outrageous conduct.

CONCLUSION

Noah Beals' supervisor, Laurie Kadrach, the City of Fort Collins Director of Planning, Development and Transportation -- conceded that business owners should be told that Stacy Lynne was using City documents as her sources.¹⁵ But Laurie Kadrach wanted Stacy Lynne to give her a list of the names of the business owners who were concerned about the City's methods and processes that were being used for the sign code update. If Stacy Lynne exposed those business owners' names to the City, then Stacy Lynne would have violated journalistic ethics. More than that, business owners would no longer trust her. But what about the hundreds of other business owners who were lied to by Noah Beals and Jeremy Call? How would those people learn that the City was conceding that Stacy Lynne was accurate in her dissemination of information?

On March 7, 2018, Laurie Kadrach and Stacy Lynne discussed ways that the business owners could be provided with a statement that would correct Noah Beals' false statements at the Downtown Business Association meeting.

Laurie Kadrach:

Well you could send a letter, or you could go back to the meeting and say, 'last time this is what was said'...but you can never guarantee that the people who have changed their opinions are the ones that are reached. That's why I was thinking, well, if we know there are certain people that feel like we undermined what you had said to them or whatever that word might be, I'd be happy to speak directly to them.

And then, at a meeting 21 days later, Mayor Pro Tem Gerry Horak said:¹⁶

¹⁵ March 7, 2018 meeting between Laurie Kadrach and Stacy Lynne.

¹⁶ March 28, 2018 meeting with City Manager Darin Atteberry, Stacy Lynne and Tom Leeson regarding the sign code update process and Noah Beals' defamation problem.

So, let's – if we concede every point you made – and I don't have a problem with saying that – what do we need to move on from there? Because I, I, uh...I mean language wasn't used well and hopefully – I know Darin will be instructing his folks to make sure – don't make conclusions based on words like "tweak" or whatever else. If we vote, we say we voted. We don't play these...

City Manager Darin Atteberry interjected:

I want to acknowledge. I actually...I think that's...I think that these nuances and sensitivities are real, and I just want to say that I appreciate the word 'vote' is significant. And, or...if something is a significant change, the word 'tweak'...then don't use...

Mayor Pro Tem Gerry Horak:

Well, don't use the word 'tweak'. If you are using clickers, you are voting.

The previously filed NOTICE OF CLAIM was simply a notice. It did not contain every example or event or piece of evidence that exists to support a defamation claim. This COMPLAINT does not fully detail what went wrong with the City of Fort Collins' sign code update process, including how and why Noah Beals and Jeremy Call made an entire community believe a pile of lies. However, during the discovery phase of the lawsuit, we will all learn more than we can even imagine now.

But the best part of the lawsuit will be the depositions. We'll learn what Jeremy Call meant when he pontificated in his text about Stacy Lynne's intent... "why she is picking on the sign code versus her traditional interests...". We will find out what Jeremy Call knows about Stacy Lynne's "traditional interests". That will be fun for everyone. And, what did Jeremy Call find out with his attempt to "query city managers on Stacy's intent"? Who did he ask? What did those City Managers tell Jeremy Call? And what happened with the "favorable reporter" that Jeremy Call wanted to select? How does Nick Coltrain feel about being selected to write a

biased story about the sign code update? Did Nick do it? Did Nick Coltrain know he was participating in this exercise to further erode the public trust in mainstream media? Does the City of Fort Collins routinely select a “favorable reporter”? What did Jeremy Call mean when he texted Noah Beals that Stacy Lynne “definitely has a problem with small/temporary city signs”? Did he mean the sign that made light of killing puppies and kittens and making fun of people with prosthetic limbs? Or did he mean the signs that told people it was an eight-minute walk to Oak Street Plaza, even though Oak Street Plaza was across the street? Is that what Jeremy Call meant – that Stacy Lynne has a “problem” with signs that joke about animal abuse and handicaps and that tell people the wrong distance on a wayfinding sign?

The heaviest question related to Jeremy Call’s texts is this: where are Noah Beals’ texts in response? Those screenshots are missing. Is this what City Attorney Carrie Daggett withheld from the CORA under the guise of attorney-client privilege? So many questions! So much to be curious about! So many answers to be revealed.

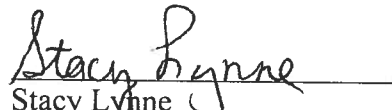
And finally, let this part stick: Throughout all of the face to face meetings and in all of the written communications with Tom Leeson, Director Laurie Kadrich, City Councilor Ray Martinez, Mayor Pro Tem Gerry Horak, City Manager Darin Atteberry, City Attorney Carrie Daggett, Noah Beals, and everyone else who has communicated about this defamation case...nobody, not one person, not ever, not even one time during all of those interactions did anyone utter a single example of how Stacy Lynne was “misrepresenting” anything during her “misinformation campaign”. The reason nobody cited such claims is simple: Stacy Lynne was relentlessly meticulous and precisely accurate in her dissemination of information to the community, to the business owners, and to the City.

Noah Beals and Jeremy Call intentionally defamed Stacy Lynne because they got caught doing unsavory things to unsuspecting business owners.

This is a case of actual malice. Defamation per se is undeniable.

This is why.

Respectfully filed on Tuesday, December 4, 2018.


Stacy Lynne
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CERTIFICATE OF SERVICE

I certify that on Tuesday, December 4, 2018, a true and accurate copy of the foregoing **COMPLAINT, JDF 600 DISTRICT COURT CIVIL SUMMONS, JDF 601 DISTRICT COURT CIVIL CASE COVER SHEET, and JDF 602 NOTICE TO ELECT EXCLUSION FROM C.R.C.P 16.1** has been filed with the Eighth Judicial District Clerk of Courts and served to:

Noah Beals, Senior Planner
City of Fort Collins
281 North College Avenue
Fort Collins, Colorado 80524

Jeremy Call, Senior Associate
Logan-Simpson Design
213 Linden Street
Fort Collins, Colorado 80524


Stacy Lynne