

District Court, Larimer County, State of Colorado 201 LaPorte Avenue, Suite 100 Fort Collins, CO 80521-2761 (970) 494-3500	DATE FILED: March 15, 2019 CASE NUMBER: 2018CV149 <p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p>Plaintiff: Eric Sutherland</p> <p>v.</p> <p>Defendants: The City of Fort Collins, et al.</p>	
ORDER GRANTING MOTION TO QUASH	

Plaintiff filed a Motion to Quash on March 14, 2019. Having considered the motion and applicable law, the Court finds and orders as follows.

Plaintiff served subpoenas to attend and produce on Delynn Coldiron and Rita Knoll. The service of the subpoenas does not comply with the requirements of Rule 45, therefore the Court grants the motion to quash.

“Serving a subpoena requires delivering a copy to the named person or service otherwise ordered by the court consistent with due process.” C.R.C.P. 45(b)(2). This Court did not order that the subpoenas could be served other than through personal service. Therefore, Plaintiff was required to personally serve his subpoenas in accordance with Rule 45. Plaintiff did not personally serve his subpoenas until March 14, 2019, one day before the scheduled hearing.

Plaintiff’s subpoenas ask Ms. Coldiron and Ms. Knoll to attend and testify at the March 15, 2019 hearing and to produce certain documents. Plaintiff did not serve either request in a timely manner, thus the Court grants the motion to quash. A subpoena requiring the production of documents must be served “no later than 14 days before compliance is required”. C.R.C.P. 45(b)(1)(C). In this case Plaintiff served his subpoenas one day before compliance is required. This violates Rule 45 and therefore the Court quashes the subpoenas as far as they require Ms. Coldiron and Ms. Knoll to produce documents.

Further, subpoenas requesting attendance and testimony must be served “no later than 48 hours before the time for appearance”. Again, Plaintiff served his subpoenas less than 48 hours before the hearing is scheduled to begin. This violates Rule 45 and therefor the Court quashes the subpoenas as far as they require Ms. Coldiron and Ms. Knoll to attend and testify at the March 15, 2019 hearing.

Order

The Motion to Quash is granted.

Dated: March 15, 2019.

BY THE COURT:



Gregory M. Lammons
District Court Judge