

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 1:16-cv-01284-NYW

Pat Alley, Dave Brackhahn, Wayne Bryant, Greg Giehl, Cole
Graham, Vernon Greenamyre, Bill Gottschalk, Sue
Gottschalk, Stephen Keno, Tom Kramer, Jeffrey Maehr,
Sharon Parker, Tracy Salazar, Dennis Spencer, David West,
John and Jane Does, 1-600,
Plaintiff(s),

v.

Archuleta County Board of County Commissioner Clifford
Lucero; Commissioner Steve Wadley; Commissioner Michael
Whiting; Previous Archuleta County Attorney Todd Starr,
Defendants.

DEFENDANTS MOTION FOR SUMMARY JUDGMENT

COMES NOW, Defendants and in for their Motion for Summary Judgment states
as follows:

1. The Plaintiffs allege that the Board of County commissioners action of
December 12, 2103 "... left Plaintiffs no other option but to prepare and file this
complaint..." Motion to Show Cause – Archuleta County – Ballot Initiatives; ¶ 2, page 4
of 22.

2. C.R.S. 13-80-102 (1) provides:

(1) The following civil actions, regardless of the theory upon
which suit is brought, or against whom suit is brought, must be
commenced within two years after the cause of action accrues, and not
thereafter:

...

(h) All actions against any public or governmental entity or any
employee of a public or governmental entity, except as otherwise
provided in this section or section 13-80-103;

3. Accordingly, Plaintiffs' claims are barred by the statute of limitations.

4. However, even if the court were to disregard the statute of limitations the Plaintiffs' seek to enforce an initiative process at the county level which simply does not exist. Dellinger v. BoCC for County of Teller, 20 P.3d 1234 (Colo. App. 2000) is directly on point.

5. Further Defendants claims against Defendant Todd Starr arise out of his service as County Attorney and certain advice he gave the Board of County Commissioners' of Archuleta County. First, these Plaintiffs are not in privity with Defendant Starr. "In light of this relationship, an attorney's obligation is generally to his or her client and not to a third party." Baker v. Wood, Ris & Hames, Prof'l Corp., 2016 CO 5, ¶ 20, 364 P.3d 872, 877, reh'g denied (Feb. 8, 2016). Secondly, they have failed to comply with Colo. Rev. Stat. Ann. § 13-20-602.

6. Both C.R.C.P. 11 and C.R.S. § 13-17-102 authorize the imposition of sanctions or attorney's fees if a claim is not well grounded in fact or is not warranted by existing law or a good faith attempt to establish, modify or reverse existing law. This Motion to Show Cause, which isn't even a recognized pleading is just that, Frivolous, groundless, lacking in substantial justification and not well grounded.

WHEREFORE Defendants pray the court enter judgment in favor of the defendants and against the defendants and for their attorney's fees and costs incurred herein and for such other and further relief as the court deems just and equitable.

Respectfully submitted this 1st day of September, 2016.

/s/ Todd M. Starr

TODD M. STARR, Atty.

CERTIFICATE OF SERVICE

The undersigned herein certifies that on this 1st day of September, 2016 a true and correct copy of the forgoing Motion for Summary Judgment was served on the parties below via ICCES:

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/s/ Todd M Starr

TODD M. STARR