

| | | |
|---|---|--|
| District Court, Larimer County, State of Colorado 201 LaPorte Avenue, Suite 100 Fort Collins, CO 80521-2761 (970) 494-3500 | DATE FILED: September 1, 2016 CASE NUMBER: 2016CV230 | |
| Plaintiff: LARRY SARNER, v. Defendant: CITY OF LOVELAND, a home rule city in the state of Colorado. | ▲ COURT USE ONLY ▲ | |
| | Case No.: 2016CV230 Courtroom: 5C | |
| <p style="text-align: center;">ORDER RE BOND AND JURISDICTION</p> | | |

Plaintiff, Larry Sarnar, filed a complaint in this matter requesting judicial review and amendment of the form and content of ballot titles concerning ballot measures in the 2016 general election. Plaintiff also filed a Motion to Waive Bond Requirement, alleging that he is not required to file a bond under C.R.S. 1-11-203.5(1).

Defendant, City of Loveland, filed a Motion to Dismiss for Lack of Subject Matter Jurisdiction alleging that this Court cannot take jurisdiction of Plaintiff's Complaint until Plaintiff complies with C.R.S. 1-11-203.5(1) by filing a bond approved by this Court.

C.R.S. §1-11-203.5(1) provides, in pertinent part:

“Before the district court is required to take jurisdiction of the contest, the contestor shall file with the clerk of the court a bond, with sureties, running to the contestee and conditioned to pay all costs, including attorney’s fees, in case of failure to maintain the contest. The judge shall determine the sufficiency of the bond and, if sufficient, approve it.”

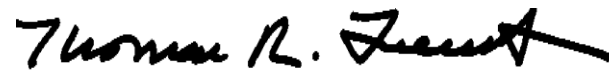
Defendant alleges that attorney’s fees in this matter for Defendant may well exceed \$10,000, in addition to costs and expert witness fees.

The Court finds that security in this case helps insure that a groundless action is not maintained, and helps insure that Plaintiff is able to pay any costs or fees that may be ordered paid by Plaintiff. This is clearly the intent of the statute as there would otherwise be no reason for the statute to refer to attorney fees among the costs the bond is conditioned to pay. The Court also finds that the intent of the statute is satisfied by a bond in the form of a cash deposit or a surety bond. As such, the Court denies Plaintiff’s Motion to Waive Bond Requirement.

Plaintiff has filed no bond or bond substitute in this matter. Therefore, the court declines to take jurisdiction over any hearing in this matter, at this time, because no bond or substitute bond has been filed, and the Court finds that security is required in this case to insure that Plaintiff is able to pay any costs or fees that are ordered. C.R.S. 1-11-203.5(1). The Court approves a \$10,000 cash deposit or \$10,000 surety bond as sufficient security under C.R.S. 1-11-203.5(1).

The court has provisionally scheduled a hearing on September 8, 2016, 2:00 p.m., but the court finds that it will have no jurisdiction to proceed with the hearing and will dismiss the action unless the bond or bond substitute approved by the Court is posted no later than 12:00 p.m. by September 6, 2016.

SO ORDERED: September 1, 2016.

A handwritten signature in black ink, reading "Thomas R. French". The signature is written in a cursive style with a prominent, sweeping flourish at the end.

Thomas R. French
District Court Judge