

**EIGHTH JUDICIAL DISTRICT COURT,
LARIMER COUNTY,
STATE OF COLORADO**

Court Address:
Larimer County Justice Center
201 Laporte Avenue
Fort Collins, Colorado 80521
Telephone: 970-494-3500

Contestor/Plaintiff: Larry Sarner,

v.

Contestee/Defendant: City of Loveland;

Indispensable Party: Angela Myers, Clerk and
Recorder of Larimer County;

Party without attorney:

Larry Sarner, *pro se*
711 West Ninth Street
Loveland, Colorado 80521
Telephone: 970-667-7313
larry.sarner@gmail.com

▲ COURT USE ONLY ▲

Case Number:

16 CV 230

Courtroom: **5C**

**CONTESTOR'S RESPONSE TO CONTESTEE'S MOTION TO
DISMISS FOR LACK OF SUBJECT MATTER JURISDICTION**

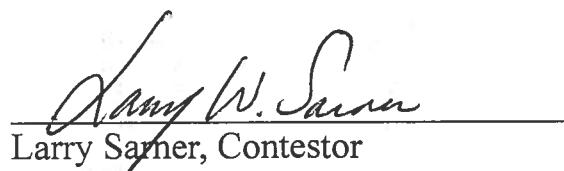
Comes now the Contestor, Larry Sarner, *pro se*, to respond to the Contestee's motion to dismiss the present action for lack of subject matter jurisdiction ("the Motion"), made on August 30, 2016, by stating as follows:

1. The Contestee's Motion to Dismiss is opposed in this Response, although certain facts and matters of law raised by the Contestee are agreed.

2. The substance of Contestee's Motion to Dismiss does not actually speak to a question of subject matter jurisdiction, but rather to the absence of a prerequisite necessary for this court to acquire jurisdiction. The lack of "a bond, with sureties, to secure payment of an award for costs, including attorneys fees, in case of Contestor's failure to maintain the contest" is a fatal flaw in my participation in this proceeding, but only if it is not cured.
3. On August 29, 2016, I filed a Motion to Waive Bond Requirement that I thought would serve as a substitute for submitting such a bond, since it was then my good faith belief that the bond was rendered unnecessary by the filing of the original petition that rendered moot any question of the Contestor's failure to maintain the contest.
4. Upon reading the Contestee's present motion to dismiss, and also upon reading Contestee's Response to my Motion to Waive Bond Requirement, I have been persuaded that the bond at issue is a statutorily imposed jurisdictional prerequisite and cannot be waived by the Court.
5. However, it would be improper to dismiss this action on the grounds stated in Contestee's Motion to Dismiss because, simultaneously with this Response, I am submitting a bond and moving this court to deem it sufficient. Those actions together cure the deficiency which gave rise to Contestee's present Motion to Dismiss.

Wherefore, Contestor respectfully requests that the Motion to Dismiss be denied by this Court upon examination of my simultaneous filings of bond submission and a Motion to Deem the Bond Sufficient.

Respectfully submitted this 1st day of September, 2016.



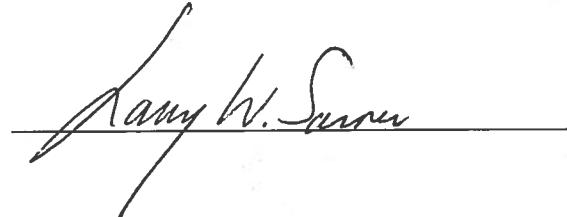
Larry W. Sanner
Larry Sanner, Contestor

Certificate of Delivery

I hereby certify that on September 1, 2016, I have delivered a true and correct copy of the foregoing, by the means indicated, to the following:

(by electronic mail and First Class Post)	(by hand)
Thomas W. Snyder, #33106	Alicia R. Calderon, #32296
Thomas A. Isler, #48472	Assistant City Attorney
Kutak Rock LLP	Civic Center
1801 California St. #3000	500 E. 3rd St. #330
Denver, CO 80202	Loveland, CO 80537
<u>thomas.snyder@kutakrock.com</u>	<u>Alicia.calderon@cityofloveland.org</u>
<u>thomas.isler@kutakrock.com</u>	

(by hand)
Angela Myers
Larimer County Clerk and Recorder
200 W. Oak St.
Fort Collins, Colo. 80521

A handwritten signature in black ink, appearing to read "Thomas W. Snyder", is written over a horizontal line.