

COURT OF APPEALS, STATE OF COLORADO 2 E. 14 th Avenue Denver, CO 80203	DATE FILED: July 24, 2016 4:01 PM FILING ID: 1BAFFFB99E839 CASE NUMBER: 2015CV30864
Larimer County District Court Thomas R. French Civil Case No. 15CV30864	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
Plaintiff-Appellant: SHANNON M. LEWIS v. Defendants-Appellees: CHARLES C. RICHARDS and THE CITY OF LOVELAND	
Attorney for Appellant David J. Furtado, Atty. Reg. No. 28002 Furtado Law PC 3773 Cherry Creek North Suite 575 Denver, Colorado 80209 Phone: (303) 755-2929 Facsimile: (303) 309-6463 E-Mail: dfurtado@furtadolaw.com	Case No. 16CA _____
NOTICE OF APPEAL	

1. Plaintiff Shannon M. Lewis, hereafter Appellant, by and through counsel and pursuant to C.A.R. 3, hereby give notice of appeal of the trial court's Order of Summary Judgment, issued June 20, 2016. This notice is timely. C.A.R. 4.

STATEMENT OF THE CASE

2. On October 7, 2015, Shannon Lewis filed a complaint against Defendants for negligence against Defendant Charles C. Richards and respondeant superior against The City of Loveland. Her Complaint against Defendants is grounded in causes of action plead arising from her automobile accident that occurred on December 29, 2014 in Loveland, Colorado. Defendants filed their Answer to Complaint and Jury Demand on December 11, 2015.

3. On March 25, 2016, Defendants filed their Motion for Summary Judgment. In their Motion for Summary Judgment Defendants request a dismissal of Ms. Lewis' Complaint as Defendants believed her causes of action are barred by res judicata, issue preclusion and by collateral estoppel, claim preclusion. Defendants base their argument on the fact that on April 30, 2015 Ms. Lewis' insurer, State Farm Mutual Automobile Insurance Company filed a Complaint against the same Defendants as subrogation action as subrogee of Darren L. Benter and Shannon Lewis. The complaint was filed in the County Court for Larimer County, Colorado and was assigned case number 2015C031448. The action filed by State Farm Mutual Automobile included a claim for relief to recover payments made by State Farm resulting from the December 29, 2014 accident that formed the basis of Ms. Lewis' lawsuit. The action filed by State Farm also included a claim to recover amounts expended by Darren Benter and Shannon Lewis paid to satisfy a deductible associated with their claim. Following an agreement between the parties, the action filed by State Farm was dismissed with prejudice on June 3, 2015.

THE JUDGMENT AND ORDERS APPEALED AND THE BASIS FOR JURISDICTION

4. The Larimer County District Court's June 20, 2016 Order granting Defendant's Motion for Summary Judgment.

RESOLUTION OF ISSUES

5. The Larimer County District Court's Order Granting Defendants' Motion for Summary Judgment prematurely resolved the legal issues between the parties.

FINAL JUDGMENT

6. The judgment is final for purposes of C.R.C.P. 54(b) because it conclusively

resolved all issues between the parties.

THE DATE THE JUDGMENT WAS ENTERED

7. The Larimer County District Court issued its order on June 20, 2016.

EXTENSIONS TO FILE MOTION(S) FOR POST-TRIAL RELIEF

8. No extensions were requested to file C.R.C.P. 59 or C.R.C.P. 60 motions for post-trial relief.

THE DATE ANY MOTION FOR POST-TRIAL RELIEF WAS FILED

9. No motions for post-trial relief were filed.

**THE DATE ANY MOTION FOR POST-TRIAL RELIEF WAS DENIED OR DEEMED
DENIED PURSUANT TO C.R.C.P. 59(j)**

10. No motions for post-trial relief were filed.

**WHETHER THERE WERE ANY EXTENSIONS GRANTED TO FILE ANY
MOTION(S) OF APPEAL**

11. No extensions were sought or granted.

ADVISORY LISTING OF THE ISSUES TO BE RAISED ON APPEAL

12. Was Plaintiff's lawsuit against Defendants barred on the basis of res judicata or "claim preclusion"?

13. Did the trial court err in dismissing Appellant's claims against Appellee due to the fact that her insurer filed a subrogation action against the same Defendants/Appellees?

14. Any other issues raised upon review of the appellate record.

**WHETHER THE TRANSCRIPT OF ANY EVIDENCE TAKEN BEFORE THE TRIAL
COURT OR ANY ADMINISTRATIVE AGENCY IS NECESSARY TO RESOLVE THE
ISSUES RAISED ON APPEAL**

15. A transcript of the Scheduling Conference hearing held on May 16, 2016 may be
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necessary to resolve the issues on appeal.

WHETHER ORDERS ON REVIEW WERE ISSUED BY A MAGISTRATE

16. The challenged orders on review were not issued by a magistrate.

PRE-ARGUMENT CONFERENCE

17. A pre-argument conference is not requested.

COUNSEL

18. Ms. Shannon Lewis was represented by:
Furtado Law PC
David J. Furtado, CO Atty. Reg. No. 28002
3773 Cherry Creek North Drive, Suite 575
Denver, Colorado 80209
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19. Charles C. Richards and The City of Loveland were represented by:
Bradley D. Tucker, CO Atty. No. 22436
Winslow R. Taylor, CO Atty. No. 46898
TUCKER HOLMES, P.C.
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Centennial, CO 80111
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**AN APPENDIX CONTAINING A COPY OF THE JUDGMENT OR ORDER BEING
APPEALED, THE FINDINGS OF THE COURT, IF ANY, THE MOTION FOR NEW
TRIAL, IF ANY**

20. Attached hereto as "Appendix A" is a copy of the Larimer District Court's June 20, 2016 Order Granting Defendant's Motion for Summary Judgment.

**A CERTIFICATE OF SERVICE SHOWING SERVICE ON THE TRIAL COURT AND
ALL PARTIES**

21. The certificate is appended to this Notice of Appeal.
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Dated this 24th day of July, 2016.

FURTADO LAW PC

This document was filed electronically pursuant to C.R.C.P. §1-26
The original signed document is on file at the offices of Furtado Law
PC

/s/David J. Furtado
David J. Furtado, Atty. Reg. No. 28002
Attorney for Appellant

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **NOTICE OF APPEAL** was served, via ICCES e-filing, this 24th day of July, 2016 to the following:

To: Bradley D. Tucker, Esq.
Winslow R. Taylor, Esq.
TUCKER HOLMES, P.C.
Quebec Centre II, Suite 300
7400 East Caley Avenue
Centennial, CO 80111
Attorneys for Defendants

**Advisory Copy Filed and Served Via
ICCES Upon:**

Clerk of the District Court
Larimer County District Court
201 La Porte Avenue, Suite 100
Fort Collins, Colorado 80521

/s/ David J. Furtado
David J. Furtado