

District Court, County of Arapahoe, Colorado Court Address: 7325 S. Potomac St. Centennial, Colorado 80112	▲ COURT USE ONLY ▲
Plaintiff(s): Daniel Taylor, Robin O’Meara, Deborah Parker, John Rasmussen, Gwen Alexander, John Guise and Forrest McClure, as Eligible Electors of Heather Gardens Metropolitan District, Daniel Taylor and Robin O’Meara, as HGMD directors subject to recall, v. Defendant(s): A.J. Beckman, as Designated Election Official.	
Daniel J. Taylor, Reg. No. 19493 3900 E. Mexico Ave., Suite 610 Denver, Colorado 80210 Office: 720-707-0087 Fax: 720-707-0429 Cell: 303-552-7660 DanielTaylor@CoTaxAtty.com	Case No. 1983CV105 Division 15
RESPONSE TO DEFENDANT’S RENEWED AND EXPANDED MOTION FOR CONSTITUTIONALLY MANDATED FORTHWITH HEARING	

Plaintiffs respond to the Defendant’s most recent motion as follows:

1. The Court has responded to the Defendant’s request for urgency by significantly shortening the timeline for response and reply to the Defendant’s motion to dismiss. Now, merely seven days from the date that the Defendant filed his reply of some 15 pages after the original motion of 20 pages and our rely of 19 pages, the Defendant is demanding an order compelling the setting of an election date for two directors and a hearing on his motion to dismiss or a hearing on the merits of Directors O’Meara and Taylor’s appeal.
2. The Defendant states that the request for judicial review has been fully briefed and is therefore ripe for determination. The Defendant is asking this court to render an opinion on the Plaintiffs’ appeal without the benefit of a record.
3. This is a direct consequence of the Defendant’s interpretation that C.R.C.P. Rule 106(a)(4) does not apply to a request for judicial review pursuant to C.R.S. §32-1-910(3)(f). Without Rule 106, we have no procedure. We have no designation of record, no standard of review, and no briefing of legal arguments that are not in direct response to the Defendant’s motion to dismiss.
4. Is the DEO’s duty solely to the members of the recall committee or is there a duty to all of the electors of the metropolitan district? Demanding that the district conduct and pay for two separate recall elections in the interest of urgency, and arguing that the electors who protested the recall petitions have absolutely no right of appeal of a decision in which the DEO stated that he couldn’t consider the false statements on the petitions or the intimidation

utilized in acquiring the petition signatures or the evidence that petitions were left unattended, does not fairly and objectively represent the district. It appears to the electors of the district that the DEO has become an advocate for the recall committee.

5. Absent the filing of numerous motions to expedite the proceedings, we would have the record designated at this point. The first motion to expedite a decision was made before the transcription of the hearing was complete. The DEO objected to Plaintiffs' request for an order to designate the record over a month ago based on his argument that C.R.C.P. Rule 106(a)(4) does not apply to this appeal, and its "time-consuming and lengthy procedure."
6. The DEO asserts that the "proper procedure" is for the Court to have a hearing to determine its jurisdiction, the issues for appeal, and factual record it will require to make a determination. The DEO does not cite where this procedure is documented, but the requiring of a court hearing to determine the procedure is more time-consuming and lengthy than simply following the procedure required by Rule 106.
7. The record can be designated quickly. Plaintiffs submitted a detailed list of documents in their request to designate the record, and the transcription of the hearing has been completed.
8. The Court may alter the briefing timeline, just as it did for the motion to dismiss. The four district directors subject to recall are concerned about the seemingly lack of any concern over the costs the DEO and its counsel are incurring in this matter. There is no oversight since four of the five directors are subject to recall. It seems that the matter has become overly contentious.
9. It is in the best interest of the electors of the district, to designate the record, establish a reasonably expedited briefing schedule, and allow the Court to make a decision on the Plaintiffs' appeal with the benefit of a record and an established standard of review.

WHEREFORE, Protesters respectfully request that this honorable court deny the Defendant's motions to determine the appeal without a record or legal brief, order that the record be designated, and establish a briefing schedule to truly expedite a determination in this matter.

Respectfully Submitted,

Daniel J. Taylor

Daniel J. Taylor, Attorney for Plaintiffs
and Plaintiff