

DISTRICT COURT, DELTA COUNTY, COLORADO

Court Address: 501 Palmer Street, Suite 338, Delta, CO 81416

Phone Number: (970) 874-6280

Plaintiffs: Travis Jardon; Corrine Holder; Susan Raymond;
Mark Cool; and Andrea Robinsong;

v.

Defendants: Delta County Board of County Commissioners;
Edwin Hostetler; Eileen Hostetler; Greg Hostetler; Carmen
Hostetler; Anna Hostetler; and Roland Hostetler

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Case Number: 2012 CV 314

Division:

Courtroom:

Hon. J. Steven Patrick

PLAINTIFFS' OPENING BRIEF UNDER RULE 106(a)(4)

Plaintiffs, Jardon, Holder, Raymond, Cool, and Robinsong ("Plaintiffs"), by and through counsel of record, hereby submit their Opening Brief, in accordance with Rule 106(a)(4), as follows.

INTRODUCTION

This court, in its order of July 5, 2012, determined that there were substantial deficiencies in the record and remanded the matter back to Delta County ("County") for another hearing, which was held on September 4, 2012. The County had pre-determined to approve these applications, in spite of the court order and the evidence presented in opposition to the applications, presented at the September 4, 2012, hearing. At the hearing, the applicants did not present competent evidence to challenge the assertions of the neighbors that the chicken farm

operation was causing serious health problems to its neighbors, and that its presence would cause real estate values for the neighbors to drop substantially. The County manufactured its own evidence to support the applicants, did not give the neighbors notice of this, and based its decision on evidence the county obtained after the public hearing was closed. The County's conduct is a violation of the neighbors' due process rights. Under these circumstances, the county decision of October 22, 2012 cannot stand, and this court must order that the subject land use permits be revoked.

STANDARD OF REVIEW

1. The Public Hearing of September 4, 2012, the County's subsequent decision were part of a quasi-judicial administrative proceeding, as to which Rule 106(a)(4) is applicable. C.R.C.P. 106(a)(4)(I) states that the "review shall be limited to a determination of whether the body or officer has exceeded its jurisdiction or abused its discretion, *based on the evidence in the record before the defendant body or officer.*" (Emphasis added). Rule 106(a)(4) does not contemplate a new evidentiary hearing at the district court level, but rather that the district court review the record from the September 4, 2012, public hearing. *Widder v. Durango Sch. Dist.*, 85 P.3d 518 (Colo. 2004). The court's review is based solely on the record which was before the Board. *Lieb v. Trimble*, 183 P.3d 702 (Colo. App. 2008).
2. Plaintiffs assert that the Rule 106(a)(4) standard is not a determination of whether there is any evidence in the record to support the County's decision, but rather the existence of competent evidence in the record to support its decision. *See Lieb v. Trimble*, 183 P.3d at 704. A reviewing court must set aside decisions based on a record which contains "no competent evidence" supporting the decision. *Board of County Commissioners v. O'Dell*, 920 P.2d 48, 50 (Colo.

1996). Decisions which are “devoid of evidentiary support can only be explained as an arbitrary and capricious exercise of authority” and do not merit the reviewing court’s deference. *Id.* The court must determine whether (1) competent evidence in the record to support the government body’s decision; and (2) “whether there was a misinterpretation or misapplication of governing law.” *Board of County Commissioners of Routt County v. O’Dell*, 920 P.2d 48 (Colo. 1996), *Sierra Club v. Billingsley*, 166 P.3d 309, 312 (Colo.App. 2007). “No competent evidence means that the governmental body’s decision is ‘so devoid of evidentiary support that it can only be explained as an arbitrary and capricious exercise of authority’.” *Board of County Commissioners of Routt County*, at 50.

3. The phrase “competent evidence” appears in several legal contexts. In addition to Rule 106(a)(4), it is a legal standard in the Colorado Administrative Procedure Act, C.R.S. §24-4-101, *et seq.*, and in motion practice in criminal cases. In *Colorado Mun. League v. Mountain States Tel. & Tel. Co.*, 759 P.2d 40, 44 (Colo. 1988), the court said: “For purposes of judicial review of administrative decisions, competent evidence is the same as substantial evidence.” In *City of Colorado Springs v. Givan* 897 P.2d 753, 756 (Colo. 1995), which is a Rule 106(a)(4) case, the Court said: “Substantial evidence ... means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion, ... and must be enough to justify, if the trial were before a jury, a refusal to direct a verdict when the conclusion sought to be drawn from it is one of fact for the jury.” See also *Burns v. Board of Assessment Appeals of State of Colorado*, 820 P.2d 1175, 1176 (Colo. App. 1991) (“And, the substantial evidence standard requires that there be more than merely ‘some evidence in some particulars’ to support the administrative body’s decision.”).

4. Several recent opinions highlight the extent to which Rule 106(a)(4) is a remedy for violations of rights of participants in administrative proceedings. This court, in its order of July 5, 2012, quoted Justice Rice in her dissent in *Widder v. Durango School District*, *supra*. Justice Rice is very clear and emphatic as to what due process means. She wrote:

While the termination decision resembles, in some respects, a quasi-judicial proceeding, I find that the absence of an impartial decision-maker prohibits such a conclusion or, at the very least, establishes that the purported quasi-judicial proceeding did not comport with due process. A quasi-judicial proceeding must be conducted in accordance with procedural due process. *Soon Yee Scott v. City of Englewood*, 672 P.2d 225, 227 (Colo.App. 1983); *see also, e.g., Douglas County Bd. Of Com'rs v. Public Utilities Com'n of State of Colo.*, 829 P.2d 1303, 1310 (Colo. 1992) (“When an agency acts in a quasi-judicial capacity, procedural due process requires that the agency give notice and afford a hearing to affected individuals.”). Crucial to the notion of due process is that a hearing be conducted by an impartial officer, who is held to the same standards as a judge. *See, e.g., In re Murchison*, 349 U.S. 133, 136, 75 S.Ct. 623, 99 L.Ed. 942 (1955) (“A fair trial in a fair tribunal is a basic requirement of due process.”); *Wells v. Del Norte Sch. Dist. C-7*, 753 P.2d 770, 772 (Colo.App. 1987) (“When administrative proceedings are quasi-judicial in nature, agency officials should be treated as the equivalent of judges.”). Although there exists a presumption of integrity, honesty, and impartiality in favor of those serving in quasi-judicial capacities, a party who demonstrates a personal, financial, or official stake in the decision on the part of the decision-maker overcomes that presumption. *See First Bank v. Dep't of Regulatory Agencies*, 852 P.2d 1345, 1353 (Colo.App. 1993).

5. Our Supreme Court in the case of *Churchill v. University of Colorado*, 285 P.3d 986 (Colo. 2012), has significantly clarified the law of Rule 106(a)(4). Churchill was a university professor who was dismissed from his job after publication of a controversial essay. Churchill sued the University for money damages. In dismissing his money damage claims, Chief Justice Bender held that Rule 106(a)(4) was a significant remedy, which the Plaintiff should have asserted, at p. 994. The court said Rule 106(a)(4) provides a remedy when the administrative body violates the constitutional rights of a party to the proceeding. In pertinent part, the Court said: “an administrative hearing is per se arbitrary and capricious if it violates a party’s

constitutional rights.” See *Colorado Racing Comm’n v. Smaldone*, 177 Colo. 33, 492 P.2d 619, 620 (1972) (reasoning that the application of an unconstitutional administrative policy necessarily amounts to an abuse of discretion).” At p.1006. The court said: “Although C.R.C.P. 106(a)(4) does not provide for the same remedies in terms of economic damages, it nevertheless ensures that the Regents are not above the law and provides relief from conduct violating the constitution. “

The Court then said:

Another basis for setting aside an administrative decision as arbitrary and capricious would be a showing at a C.R.C.P. §106(a)(4) hearing that the administrative decision-makers held some institutional bias or personal grudge against the affected party. *Venard v. Dep’t of Corr.*, 72 P.3d 446, 449–50 (Colo.App. 2003) (holding that an allegedly biased administrative hearing officer abused her discretion by failing to recuse herself because a decision-maker “must be neutral and detached”). Any appearance of impropriety sufficient to cast doubt on the impartiality of the Regents and the investigating faculty members would be grounds for a reversal of the underlying administrative decision to terminate Churchill’s employment. *Id.* at 450. Hence, we conclude that the proper forum for Churchill’s continued assertion that the Regents’ investigation and ultimate termination of his employment was tainted by the personal animus that many at the University allegedly held against him was in the C.R.C.P. §106(a)(4) context.

BACKGROUND

6. Plaintiffs own real property adjoining the properties of the Hostetlers, which properties are the subject matter of land use applications.

7. Property rights are protected by both the State of Colorado and the United States Constitutions. Colorado Constitution, Article II, Sec. 25. United States Constitution, Amendments 5, and 14. All parties, including the adjoining landowners, have a right of due process as to the proceedings before the County. *Douglas County Bd. Of Com’rs v. Public*

Utilities Com'n. of Colorado, 829 P.2d 1303, 1310 (Colo. 1992). A fair trial in a fair tribunal is a basic requirement of due process. *In re Murchison*, 349 U.S. 133, 136, 75 S.Ct. 623 (1955).

8. Delta County does not have zoning, but as to certain intensive land use activities it has adopted the Delta County Regulations for Specific Development as Amended (“RSD”), for purposes of this Brief, effective August 1, 2009. **R0773-0817**. The RSD requires that applications for specific development must be consistent with the Delta County Master Plan (“Master Plan”), effective October 1996. **R0759-0772**. Additionally, the RSD requires that the BOCC use the Master Plan “in designing, reviewing, evaluating and constructing” specific developments. **R0789, Article VI, Sec. 1**.

9. The Master Plan provides that “the right to develop and improve private property does not constitute the right to physically damage or adversely impact the property or property value or neighboring landowners.” Master Plan, p. 10, Article IV. This regulatory statement created a property right for the adjacent properties, that these property owners had a right of due process in these proceedings. Plaintiffs’ assertions of property rights are based upon the RSD and the incorporated Master Plan.

10. Article VI Section 2(A) of the RSD provides that: Compatibility with Adjacent Land Uses – Comments received from surrounding property owners, other interested persons and existing land use shall be among the factors considered to determine compatibility. The specific development must be consistent with the Master Plan and Advisory Planning Committees’ addenda to the Master Plan. Density shall be computed using Section 2.7 C of the Delta County Subdivision Regulations and be compatible with surrounding land uses and densities. **R0789**.

11. In the implementation of the County's land use regulations the compatibility of a new development with the existing land uses should be given priority consideration. **R0769, Section IV. B.2.** In cases where there is incompatibility between an existing and a proposed land use, the property right of the existing use should be given priority. **R0769, Section 4(B)(2).**

12. Notably, the RSD does not regulate agricultural uses; however, it does regulate commercial agricultural uses, of which confined animal operations is one. **R0779.**

13. "The applicant and Board of County Commissioners *shall* use the performance standards contained herein and the Delta County Master Plan in designing, reviewing, evaluating and constructing new and expanding specific developments as listed in Article II, Section 4 in the unincorporated area of Delta County." *Id.* (Emphasis added). **R-0789 , Article VI, Section 1.**

14. The RSD and its incorporation of the Master Plan have kept areas like Redlands Mesa and Powell Mesa destinations for families and individuals planning for retirement. Additionally, the RSD's requirement that proposed developments be consistent with the Master Plan, has encouraged traditional farming and agriculture in Redlands Mesa and Powell Mesa.

15. In 2011, Rocky Mountain Layers submitted its application, SD11-0004, pursuant to the RSD, to the Delta County Planning Commission (the "Planning Commission") for approval of a confined animal operation for laying chickens in Redlands Mesa at 28509 North Road, Hotchkiss, Colorado. Shortly thereafter, in 2011, Western Slope Layers submitted its application, SD11-0006, pursuant to the RSD to the Planning Commission for approval of a confined animal operation for laying chickens on Powell Mesa and 34637 Powell Road, Hotchkiss, Colorado.

16. Each of the applications propose using a 400' x 50' building which contains access

to a 335' x 90' fenced area outside the building to house 15,000 chickens. **Trial court order, p.**

2.

17. On August 15, 2011, the BOCC held a public hearing on the applications. Trial court Order of July 5, 2012, p. 2. Notwithstanding the Leroux Creek Area Advisory Planning Committee recommendation of denial of the applications, and the Planning Commission's recommendation of denial of the applications, the BOCC approved the applications submitted by Rocky Mountain Layers and Western Slope Layers. **Trial court order, p. 2.**

18. On October 3, 2011, the BOCC adopted Resolution Nos 2011-R-049 and 2011-R-050, approving the applications with conditions. **R0824.**

19. Plaintiffs filed a lawsuit against the County, challenged these land use approvals and prevailed on this challenge by the Court's Order of July 5, 2012. See *Jardon v. Delta County*, 2011 CV 282, in the District Court for Delta County, Colorado.

20. The Court, in its July 5, 2012 order, found that the approval by the Board of the subject applications was an abuse of discretion, and not supported by competent evidence in the record at the time of the decision. The Court also found that the Master Plan to be regulatory in nature and various requirements of the Master Plan had not been met. **Order on Rule 106 Claim, p. 9.** Thus, the Court remanded the case for a second hearing to address the following issues required for the issuance of a permit under the Master plan:

- a. Compatibility of the proposed plan with the character of the surrounding neighborhood;
- b. Impact on property values of the surrounding property;
- c. Sufficiency of the conditions and the undertakings of the Applicants to address the concerns identified in the record; and
- d. Capability and capacity of County staff to monitor the compliance with the conditions and undertakings.

21. The Board held a new hearing on September 4, 2012, to address the four (4) issues cited by the Court.

22. The County made a decision after the public hearing of September 4, 2012. Despite the fourteen day requirement for a decision in the RSD and Plaintiffs' counsel letter urging the County to decide something, the County waited for its own manufactured evidence to be ready. Commissioner Lund announced the decision of the County on October 22, 2012. He said there was conflicting evidence in the record to support the applications, but did not identify what that conflicting evidence was. **R0754**. He then cited the air quality monitoring test as a basis for approval of the applications. **R0754**. He admitted that the County had paid for the tests, and considered information outside of the public hearing of September 4, 2012. **R0753**.

Commissioner Hovde also relied on the air quality monitoring test results as a basis for approving the subject applications. **R0755-0756**. Although Commissioner Atchley acknowledged that the subject applications were subject to the RSD, he belittled that fact because it was basically an agricultural operation. **R0756**.

23. On November 19, 2012, the County adopted written resolutions of approval for the subject applications. **Resolution 2012R-048 and 2012R-055**. A comparison of the two resolutions with those approved in 2011 shows that no new conditions were imposed on the applicant, but some conditions were slightly modified to help the applicants.

a. Spring water (Condition 4):

2011 resolution: "acquire a new water right for use of the spring and provide a copy of the augmentation plan for commercial use of the spring. Additionally, provide a plan for backup water supply in the event a call is placed on the Gunnison River and water must be diverted from the spring."

2012 resolution: “Acquire a new water right for the use of Blade Spring, and a plan for backup water supply”

b. Condition 9

2011 resolution: “The following plans are required including but not limited to”

2012 resolution “The following plans are required”

c. Condition 9K

2011 resolution “all of the above required plans shall be prepared professionally and shall not be considered complete until approved and accepted by Delta County Staff”

2012 resolution: “All of the above required plans shall be prepared in a neat, legible, and professional manner and shall not be considered complete until approved and accepted by Delta County staff”

The only real change between the 2011 and 2012 resolutions is that the newer one does not require that all of the plans be prepared professionally (which can be interpreted to mean by a professional), but only need to be in a neat, legible, and professional manner.

ARGUMENTS

I. THERE IS NO RECORD SUPPORT OF THE BOARD’S FINDING AS TO COMPATIBILITY OF THE PROPOSED USES WITH THE CHARACTER OF THE NEIGHBORHOOD PURSUANT TO THE MASTER PLAN

24. The Master Plan requires that a specific development application must be compatible with the character of the surrounding neighborhood. Thus, a use of land which is not compatible with the surrounding uses and neighborhood would be inconsistent with the Master Plan and should be denied.

Character of the Neighborhoods

25. Redlands Mesa is composed of “rural residential” and small “traditional

agriculture” properties, where people feel safe raising their children and those ready for retirement can peacefully enjoy the natural landscape. **R0356-0357, R0349-0350, R0388, R0831.** The adjoining, neighbors’ properties are small, traditional agricultural and rural residential properties, including minor subdivisions. The owners of the agricultural properties raise hay, oats and corn, and have a total of 14 horses and 4 cows grazing their land.” **R0614-0615.** Many residents of Redlands Mesa, like Mike Korbin, Corinne Holder, and Caryn Braddy, have lived there for more than 20 years. **R0401, R0396, R0353-0354.**

26. Powell Mesa, a mile north of Hotchkiss, looks like most of eastern Delta County, i.e., hay operations, orchards, small horse and cattle ranches, organic vegetable farms, and some retirement homes built with life savings. **R0614.** The neighborhood’s character is rural residential and small traditional agriculture. **R0614, R0718, R0765.** Similar to Redlands Mesa, Powell Mesa is a family neighborhood with children and retirement homes. **R0732, R0376 ,R0349-0357.** Dr. Raymond’s farm, immediately downwind of the chicken farm, has been owned by her family since 1964 and she has lived there for the last 28 years. **R0732, R0911.**

27. If a proposed and/or current land use (as is the reality in this case) endangers the health of those surrounding the area, surely it cannot be compatible with the existing land uses. There is rampant evidence in the record, showing not only that there is a high likelihood of the proposed laying operations creating health hazards, but that the one which is already running is an immediate health hazard. Dr. Fran Lazear, a licensed veterinarian, informed the Board that Redlands Mesa and Powell Mesa are not appropriate locations for a chicken farm of this type, due to the risk of contamination by runoff water, dust, and flies, and the fact that both Mesas are

populated and irrigated. **R0405-0408**. Therefore, persons living in those areas may be introduced to pathogens such as E-coli, Salmonella, and Campylobacter, and mitigation strategies cannot entirely eliminate these problems. The character of the now operating chicken farm increases the danger of passing these diseases onto surrounding neighbors.

28. Genell Pridgen, who holds a BS in Biology and has over 30 years of experience in poultry production, informed the Board that the drainage on site differs from what was originally approved and that the amended drainage provides problems. She noted that there is no trench to will stop runoff from the outdoor pen, which will lead to manure and other chicken debris running toward public water and waters of the State. She also opined that the drainage ditch that is in place is not sufficient enough to withstand a large rainfall. All of this poses a problem as bacteria in the chicken manure can live for as long as five weeks, creating a risk of contamination. **R0640-0646**. Even a possible endangered species of bird, the Yellow-Billed Cuckoo, present on Powell Mesa before the chicken farm was present, is in danger of contracting harmful diseases from this operation. **R0346**.

29. Doctors Marcella Abuid and Sara Knutson provided the Board with a letter outlining the potential risk of harm to those closely associated with confined poultry operations. They then explain that both have treated patients from Powell Mesa and nearby Hanson Mesa (downwind) who have experienced exacerbations of conditions, deterioration of lung disease, or asthma which correlate with the timing of the chicken farm. **R0624**. This timing confirms that such are caused by the Hosteters' poultry operation. **R0337-0340**.

30. In fact, there are several instances, which were reported to the County and in evidence given to the Board that the chicken farm now operating on Powell Mesa was causing people illness. The timing of such illnesses correlate with the timing of the opening of the chicken farm:

- a. Dr. John Marlin filed a complaint on July 8, 2012, stating that, though his family had lived in Colorado for seven years, two of them on Powell Mesa, and had not suffered allergies or rhinitis before the chicken farm began operating, they had all been suffering from such once the chicken farm began its business. **R0515.**
- b. Dr. Heidi Marlin informed that Board that though she had never had problems before; but once the chicken farm went in approximately a half mile from her house, she began suffering from allergic rhinitis and conjunctivitis. Her symptoms worsened when she was close to the facility, and got much better on a vacation outside the area, showing a direct correlation to the poultry operation. **R0516.**
- c. Andrea Robinsong informed the Board that though she did have asthma, it was easily controlled with medication for the fifteen years she had been living in her current house, just over a half mile from the poultry operation. Once the chicken farm went in, her medication no longer worked to control her asthma, which has affected her overall health. **R0532-0539, R-0918.**
- d. Robert Day complained to the Board that he had boarded his cat, Kimmie, at Dr. Susan Raymond's clinic four times previously in the past year with no problems. Once the poultry operation went in, he boarded Kimmie there for the fifth time, and upon returning, she was diagnosed by a veterinarian in Grand Junction with immune mediated bronchitis(asthma) caused by the pollutants she encountered at Dr. Raymond's. **R0502-0503.**
- e. Heather Caldwell, who visits her parents 3-5 times a week on Powell Mesa, began coughing in reaction to the debris coming from the chicken farm. She eventually developed bronchitis and had to go to the Emergency Room. **R0498.**

31. There are a very large number of similar complaints which abound in the record.

Neighbors have complained of increased ear, nose, throat and eye irritations, difficulty breathing, and increased allergies and infections. Nearly all of these complaints note that the symptoms began on or around the time of the chicken farm's arrival. **R0378-0379, R0495, R0496, R0497, R0499-0500, R0501, R0504-0505, R0508, R0510-0512, R0513, R0514, R0528-0530, R0531, R0543, R0347-0348, R0836.** Dr. Susan Raymond even introduced a health map during the September 4, 2012, hearing which outlined the surrounding area of the poultry operation and the

health complaints since it began. **R0933**. This map, though poorly reproduced in the record, shows that nearly all of the neighbors surrounding the chicken farm have new health complaints. The wind graph accompanying the map shows the predominant wind direction in the surrounding area, when the fans are operating to ventilate, to cool, and to disburse ammonia from the chicken farm. **R0624**.

Hardship on Existing Land

32. Dr. Susan Raymond entered many videos into the record at the September 4, 2012, hearing which show the chicken farm while the ventilation fans are running as well as the surrounding properties. These sample videos taken randomly throughout the summer, show a daily occurrence of pollutants, dust and debris coming from the poultry operation. **R-CD 6**. In **R-CD 3**, which was taken the evening prior to the hearing on September 4, 2012, it shows the tremendous amount of discharge from the chicken farm. Mark and Stacy Cool, neighbors within 800 feet east of the facility, made complaints consistent with the videos. **R0366**. Other neighbors also complained to the County. **R0820**.

33. Further, several neighbors have issued complaints to the Board, not only regarding their own health and safety, but the overall character of the land. **R0370-0371, R0349-0350, R0353-0354, R0378-0379, R0396 R0616-0619**. Perhaps Adam Silverstein says it best in his complaint, when he states "The facility is not compatible with the neighborhood. Our mesa is filled with pasture, vegetables and fruit. This new facility is more of a commercial/industrial facility; its giant physical presence is clearly out of place; all the immediate neighbors also feel this way, so how can you argue otherwise?" **R0836**.

34. Dr. Susan Raymond has operated her veterinary business on Powell Mesa for 28 years. However, when the chicken farm began operations less than 1,000 feet from her house, there were complaints from people who worked there, or who were visiting her clinic or residence. **R0502-0503, R0504-0505, R0506-0507, R0513, R0517, R0920-0921.** Animals were also getting sick. As this business was established in the same place for 28 years and has only begun receiving these types of complaints after the chicken farm was implemented, it seems obvious that the chicken farm is interfering with her established business. Therefore, it is not compatible with the surrounding use of a veterinary business.

Problems with Infrastructure

35. The people of Powell and Redlands Mesa are not only concerned for their health and safety of the neighborhood. There are also legitimate concerns about the infrastructure being able to support a commercial industrial operation of this magnitude.

36. The DeFields, neighbors to the Powell Mesa facility, wrote to the Board, expressing concerns about increased traffic in the area. They have a family and animals, and additional traffic may be detrimental to how they enjoy both. **R0376.** Several neighbors in Redlands Mesa echoed their concerns, citing that the roads in the neighborhood were places to walk dogs and teach kids to ride bikes, and they are worried that increased traffic will interfere with these activities. **R0349-0357.**

37. The DeFields' concerns have already been substantiated by neighbors to the already operational chicken farm on Powell Mesa. Mark and Stacy Cool used to be able to walk their dogs on the road, but the chicken farm has added so much traffic, they cannot do so. **R0366.** William and Kerry Folger note that the increased traffic caused by the chicken farm on the

narrow road presents a hazard for mothers pushing baby carriages, people riding bikes, and people walking their animals. **R0378-0379**. Semi-trucks are driving up the residential street at all hours of the day and night; for example, the chickens were delivered after midnight. **R0522, R0909. R-CD 4 (video), 024,025, and 026**. These semis were not present before the chicken farm, but now come up to three times in five days, and hardly ever arrive during regular business hours. **R0524, R0925**. An incoming operation which affects the surrounding neighborhood to the point where it is now dangerous to walk up and down the road which used to be well traveled by pedestrians is not compatible with the surrounding neighborhood.

38. On the night the chickens were delivered to the facility on Powell Mesa, there were several issues. The first issue was they were delivered after midnight. **R0909**. Further, the truck delivering the chickens went off the road and damaged nearly a half mile of Mark and Stacy Cool's fence, damage which has still not been rectified. **R0366**. Perhaps most shocking is that the trucks cannot even drive directly to the facility. There is a turn in the road which requires them to back up a hill, into a neighbor's driveway, before going toward the direction of the turn. **R0524, R0909, R0919**. Surely, this speaks to the incompatibility of the facility with the surrounding neighborhood, if trucks cannot even drive directly to the facility.

39. Finally, the roads themselves may not be adequate to support the increased semi-truck traffic. Bryan Braddy and Caryn Braddy explained to the Board their concerns regarding increased semi truck traffic on the narrow, 1/4 mile long private driveway that provides access to the land-locked parcel, which is the subject property. This included observations that the road is only wide enough for a one passenger vehicle, and the surroundings do not support the road being widened; it is a gravel road and large trucks will create added noise and dust. When their

modular home was delivered, they were required to augment the road in order for the truck to make the turns in the road, and then required to return it to its original state. However, there has been no mention of the Hostetlers affecting and changing the roads on Redlands Mesa in any way. **R0349-0350, R0353-0354.**

40. The record is simply devoid of competent evidence to refute these documented problems. There are opinions of people who live on Powell Mesa, not directly adjoining the facility, who state they do not feel the neighborhood has been harmed. There are opinions from those who do not live anywhere near the proposed farms (including members of the Hostetler family) that they would feel fine with it next door. They believe that because there are businesses running in the neighborhood, the chicken farm is no different. They focus on the “ag is ag” argument and ignore the sheer volume and industrial nature of this confined animal operation. **R0245, R0246, R0250.** However, there are many specific instances in the record and noted above, which are not opinions, but facts, which show otherwise.

41. Nothing in the record refutes that people are getting sick from this chicken farm. Absolutely nothing in the record refutes any concerns about the increased traffic and infrastructure limitations for an operation of this magnitude. However, there are multiple notes in the record that support the Plaintiffs’ position, that this type of operation is simply not compatible with the surrounding land use.

II. THERE IS NO RECORD SUPPORT OF THE BOARD’S FINDINGS THAT THERE IS NO IMPACT ON PROPERTY VALUES OF THE SURROUNDING PROPERTY PURSUANT TO THE MASTER PLAN

42. Admitted into evidence at the September 4, 2012, hearing, was a letter dated September 4, 2012, by Steven Harper which put the County on notice that the Master Plan is a statement of

fundamental property rights law. Further, that these rights must be protected in these proceedings. He quoted from the Master Plan: “The right to develop and improve private property does not constitute the right to physically damage or adversely impact the property or property values of neighboring landowners.” **R0390.**

43. The Record contains undisputed competent evidence that the confined animal operations will substantially decrease the property values of the property owners in Redlands Mesa and Powell Mesa. Elaine Brett, a neighbor, wrote the County on August 31, 2012, which statement is in the record. **R0359-0361.** She said:

Truly, common sense tells us that unless you are in the same business of confined animal factory operations, the potential for odor, contamination and public health issues make the neighboring land highly unattractive.

44. Real estate broker of 30 years, Mogli Cooper, submitted a letter for the Record which stated that allowing an industrial/commercial use in a residential/agricultural environment will have detrimental effects on your property values, negatively impact your quality of life, and open the door to diminished marketability, loss of use and enjoyment, and loss of exclusivity. **R0367-0368.**

45. Adjoining property owner, Dr. Susan Raymond, testified about the detrimental effect of the chicken farm on her property. **R0732-0735.** Her property is coated with chicken debris. She has now come down with asthma from the chicken debris. She believes the presence of this facility restricts her ability to sell her property, because who would buy this property next to the chicken farm. Her property is her life’s work and her major investment, which is now ruined.

46. Travis Jardon testified to the harmful effects on property values at the public hearing. He referenced expert reports as to the substantial harm the subject applications will have to his

property. He stressed the negative effects of dust, odor, noise levels, and heavy industrial traffic connected with the chicken farm activity. **R0726-0728:**

47. Ms. Naomi Gray, a nearby neighbor on Redlands Mesa, wrote the County on September 1, 2012, which letter is in the record. **R0384-0385.** She opposed the granting of the applications and cited the decline in property values as a main reason for her opposition. She referenced numerous studies which showed that property values decline substantially and particularly so decline the closer the property is to the chicken farm.

48. Reg and Diane Cridler wrote the County and described their opposition to the proposed chicken farm on Redlands Mesa. They described their contact with three realtors to sell their property, who said that their proximity to a chicken farm would have to be disclosed and their property values would go down substantially. **R0370-0371.**

49. Plaintiffs submitted into evidence on September 4, 2012, a report from Dr. John Kirkpatrick, who is a national expert as to the adverse economic consequences of confined animal operations. Dr. Kilpatrick has a Ph.D. in economics and is licensed in Colorado as a Certified General Appraiser. The report is site specific to the subject land use applications. It is a very thorough report consisting of 18 pages. **R0559-0595.** It focuses on the detrimental effect of the stink and pollution from the confined animal operation. Dr. Kilpatrick concludes, based on the facts of this case, and other cases, that

Property value impacts can range as high as 88% for homes located immediately adjacent to the AO, rendering the property useless and unmarketable for any residential purpose. The existence of a facility, such as is proposed in this case, constitutes an incurable external obsolescence on the surrounding and nearby residences. While there are proposals for potential mitigation, these have not proven to be effective in our observation, and may not even be feasible. **R0575.**

50. Plaintiffs submitted into evidence the report of Ms. Pam Sant of September 2, 2012.

R0557-0558. Ms. Sant is the principal in her business, and has done substantial appraisal work in the Delta County area. She is licensed as a Certified General Appraiser by the State of Colorado. She discusses the facts of the case and concludes that “without a doubt, this [confinement operation] will have a negative effect on surrounding properties. This is a form of external obsolescence that cannot be cured by the surrounding properties. ... I would anticipate the negative loss could be significant based on the videos and pictures provided.”

51. The record is devoid of competent evidence establishing that no adverse impact to the neighboring properties would result from the proposed confined animal operations. The letters from realtors are not a rebuttal to Dr. Kilpatrick as they are not qualified as appraisers, and do not discuss the chicken farm operation. **R0549-0554, R0267-0268.** The applicants’ would-be experts either do not address the subject applications, or their information is not relevant. Mr. Michael Bean, of ARC Appraisals, has already been discredited by this court, as his information is based on chicken farms in Illinois. **R0544-0548; Trial Court Order, p. 10.** Wildrose Appraisals only discusses the concept of “incurable obsolescence” and does not apply this concept to the subject properties. **R0555-0556.** Dr. Koelbeck bases his opinion on setbacks in Illinois of ¼ mile (1320 feet). Here, the chicken house is 817 feet from the Cool home and 638 feet from the Raymond property line and less than 1,000 feet from the Raymond house.

[T]he climatic conditions in Delta County are much different and thus certain environmental problems are more likely to occur. Any dust manure, particulate matter and VOC’s emitted from this facility will tend to stay airborne longer and travel farther in this lower humidity. Again, proper background research by Delta County would have exposed this. Genelle Prignen. **R0643.**

52. All of the adjacent property owners opposed approval of the applications. None of the

proponents, other than the applicants themselves, lived within 1000 feet of the subject facility.

53. The County failed to find that the applications for development would not adversely impact neighboring property values, as required by the Master Plan. Neither Resolution No. 2012-048 or Resolution No. 2012-055 contain findings that the confined animal operations are consistent with the Master Plan. **R0934-0949.**

54. The overwhelming evidence in the record supports denial of the applications. There is no competent evidence in the record to rebut this. Therefore, the County's approval of these applications is an abuse of discretion.

III. THERE IS NO RECORD SUPPORT OF THE BOARDS' FINDINGS THAT THE CONDITIONS AND THE UNDERTAKINGS OF THE APPLICANTS ARE SUFFICIENT TO ADDRESS THE CONCERNS IDENTIFIED IN THE RECORD

55. The trial court, in its order of July 5, 2012, remanded this matter back to the County because there was no evidence in the record of the 2011 hearings that the commitments of the applicants or the conditions imposed by the County would "(a) make the proposed agricultural uses compatible with the existing uses, (b) not adversely impact the surrounding property values or (c) not physically damage the surrounding properties." **Order, p. 9.** The court specifically remanded this matter back to the County for evidence in the record and findings that "the sufficiency of the conditions and the undertakings of the applicants 'are suitable' to address the concerns identified in the record." **Order, p. 12.**

56. The applicants, Edwin and Eileen Hostetler, have not built the chicken farm structure on their property on Powell Mesa in accordance with the plans submitted to the County. The Hostetlers began construction of their facility in October 2011. The engineering plans were not obtained until January 2012. At the request of the Plaintiffs, the county issued a cease and desist

order to the applicant. The applicants started construction without engineering plans. Contrary to the engineering plans, they built the chicken facility in a hole. It was supposed to be built higher than the surrounding pen area so water would drain away from the building. Instead, the outside pen drains into the building. In addition, the engineering plans called for a drainage ditch 60' from the facility. The drainage ditch is now 15 feet from the chicken facility. **R0854-0856.**

57. The applicants did not build the southwest retention pond called for in the engineering plans. They simply refused to build this, and the County agreed with this. **R0071, R0091.**

58. Plaintiffs presented evidence that these engineering plans were defective and would not protect the surrounding community and waters of the state from pollution from the operations. ERO Study, **R0885-0896.**

59. Plaintiffs presented written comments from Kathy J. Martin, a professional engineer in Oklahoma, as to the defects in the engineering plans as to the subject facilities. **R0625-R0639.** She pointed out numerous deficiencies in what was actually done as compared to what was proposed. She strongly disputed the drainage report submitted on behalf of the applicants and asserted that there was substantial groundwater pollution potential from these operations. This report is in stark contrast to the report submitted by Mesa Engineering on behalf of the applicants, which said there was a very remote chance of groundwater contamination. **R0181, R0182.** The letter of Barbara Galloway August 30, 2012, , a hydrologist for E.R.O. Resources Corporation, submitted into the record at **R0381 and R0382,** showed that the representations of Mesa Engineering were wrong and that there was a very high chance of groundwater contamination from these operations, based on the county's own water samples obtained April

24, 2012, just before the chickens were delivered. The County paid Enviro Chem Analytical, Inc. of Grand Junction to do surface water testing at five different sites. **R0108-0109, R0141.** At site no. 3, right below and to the west of the chicken facility in Barrow Gulch, the total suspended solids were elevated almost five times greater than any of the other four sites tested.

R0381. It is apparent that groundwater contamination has already occurred.

60. Ms. Martin noted that there were serious concerns about air pollution during operation of the facility. **R0625-0639.**

61. Sandra Genell Pridgen wrote about the poor environmental design of the subject applications. **R0640-0648.** Ms. Pridgen also reviewed the conditions imposed by the County and noted their deficiencies. **R0862-0884.** Ms. Pridgen regards the fly management plan as bunk, and she thinks the manure management plan is based on unrealistic, utopian conditions. She also thinks that the flies are going to be a problem in terms of polluting and carrying bacteria and disease to the neighbors' properties.

62. The mitigation plan imposed by the County and represented by the applicant are not working in actuality to protect the adjacent property owners. There is substantial evidence that there are serious air quality problems with this operation. Dr. Raymond took numerous videos, all of which showed a cloud of pollutants coming from the chicken farm. Disc 1 through 6.

63. In an effort to limit pollution, Hostetler is now misting its operation, which shows that his prior mitigation efforts are failing. **R0066-0072.** Now the chicken facility is attempting to mist to keep down dust, which moisture is in turn also being expelled by the fans onto the neighboring property, which moisture contains pollutants. **R0056, 1.4. 8.** The misting plan is not working to limit pollution. Nor is the outside watering activities limiting pollution. **CD-6, videos 016.**

Irrigation water went off in August, and there was no sprinkler water after this date. All this misting is contrary to the applicant's representation of a dry facility. **R-0874.**

64. Fly monitoring is a condition of the applicants' operation. The applicant and the County have failed to mitigate the fly problem. On June 20, 2012, the sticky paper flytraps and the jar with attractant traps were filled with flies. **R0054, I. 2.17.** At the same time, Dr. Raymond was having a severe fly problem at her property. See Dr. Raymond complaint at **R0928-0932**, Darryl Eddy at **R0915 and R0916**, Vicki Miles at **R0517**, Shauna Vincent at **R0543**, Richard Ruden at **R0540**, and Herrod Saunder at **R0541 and R0542.**

65. The conditions imposed by the County required a biosecurity plan. **R0222-0226.** The video **CD-5** of August 16, 2012, shows Mr. Hostetler and Mr. Lakin in the pen without protective clothing. In a county inspection report, workers were observed entering the facility without protective clothing. **R0060.**

66. The applicants' representations about dead bird disposal are inadequate. Dr. Raymond addressed this in her comments. **R0436-0437.** Ms. Genelle Pridgen criticized the condition at **R0645-0646.**

67. The neighbors have filed numerous health complaints with the County. **R0518-0521, R-000540-0543, R0517, R0915- 0916.** This is substantial evidence that the conditions imposed on the applicant have not worked.

IV. THERE IS NO RECORD SUPPORT THAT THE COUNTY STAFF HAS THE CAPABILITY TO MONITOR THE COMPLIANCE WITH THE CONDITIONS AND UNDERTAKINGS

68. This court, by its order of July 5, 2012, ordered the County to hold a public hearing and take evidence on the issue of "the capability of the County staff to monitor the compliance with

the conditions and undertakings.” Trial Court Order at page 12. The concern of the court is that the intent of the RSD and the Master Plan that the health and real estate values of the neighbors be protected. The adequacy and enforcement of conditions is important to protect the interests of the neighbors.

69. The record is replete with references to the neighbors having to police the activities of the applicants, which should be the responsibility of the County. Examples of this include the start of construction without having a storm water discharge and other permits, **R0891-0892, R-0151, R-0353, R-381, R-0385**, complaints about animal operations ID, **R0168**, and complaints about dust and odors coming the chicken farm **R-0107, R-0496-497, and R-0513** Shortly after that the county did more inspections.

70. The neighbors have filed numerous health complaints with the County, on which the County has deliberately failed to act. **R0518-0521, R0540-0543, R0517, R0915-0916**. The County did not interview a single complainant, and has done nothing to look into this matter. This is in contrast to the guidance of the Master Plan to the County as to the primacy of the public health, safety and welfare.

71. The County’s non-action is in the face of Dr. Raymond’s extensive evidence and testimony at two public hearings and at the preliminary injunction hearing, of the harm that she and her property are directly suffering because of the activities on the Edwin Hostetler property. There are jars of flies captured on her property. There is a jar of down feathers found in her house. **R0932**. Dr. Raymond’s health is deteriorating because of her exposure the chicken farm pollution. Her employees are becoming sick. She is losing business because her clients’ animals are being exposed to the chicken farm pollution and are being made sick..

72. Mr. Nordstrom, the County health enforcer, was at the Edwin Hostetler property on the evening of August 8, 2012, to speak with Mr. Hostetler. R 906. He later wrote that he was doing an inspection, but the County had written into its conditions that Mr. Hostetler be given 24 hour notice before any inspections **R0912**. He was really there to tell Mr. Hostetler of the upcoming air quality monitoring test and to advise Mr. Hostetler to get his operation in order. Shortly following the Nordstrom visit, Mr. Hostetler brought in a substantial amount of wood chips to reduce odor, chicken manure, and dander emissions. **CD-4, 024, 025, 026. R0926**. Instead it created a tremendous increase in fungal spore counts, bacteria counts, and cellulose counts.

73. In general, the conditions are not being complied with. A storm water retention pond was not built by the Applicant. It is no longer a dry facility because of the misting. In addition, Air monitoring is not a condition on the applicants, nor has the county followed the recommendations in the report.

74. The County has modified conditions to benefit the applicants. The County allowed the applicants to proceed without a court approved water augmentation plan. . It then deleted this as a condition of approval in 2012. The County altered the professionally prepared requirement to mean that the application had to be “in a neat, legible and professional manner.”

75. Plaintiffs have presented authoritative testimony that the conditions imposed by the County are not effective to protect the public. **R0637**, Report of Kathy Martin. Further, Plaintiffs presented testimony that this cage free chicken farm operation should be stopped due to health concerns. **R0440**.

76. As to the adequacy and enforcement of conditions, applying a reasonable person standard to the conduct of the county staff, it is clear that the county staff has clearly failed to protect the

interests of the neighbors. In the staff's defense, they are no doubt receiving direction from the commissioners to do everything possible to help the applicants. The staff has participated in "gaming the system" to obtain approval of these applications, has failed to impose meaningful conditions on the applicants, and has not enforced already imposed conditions.

V. THE NEIGHBORS DUE PROCESS RIGHTS WERE VIOLATED IN THESE PROCEEDINGS

77. Before the scheduled hearing on September 4, 2012, Dr. Susan Raymond observed air monitoring activity on the Hostetler property. On August 24, 2012, she requested the County provide her with the results of the air quality monitoring report. **R0435-0441, R0831-0832, R0909, see Exhibit 1 attached hereto.**

78. Despite this request, the Plateau, Inc., August 27, 2012, report was not made available to Plaintiffs for their own inspection and rebuttal purposes before the hearing. **R0118-0140.**

79. The County manufactured this evidence in defense of its own decision in order to obtain court approval of its pre-determined decision. The Plateau, Inc. report was requested and paid for by the County. Although the County thought air quality monitoring was important enough to use its own money to pay for it, it did not impose any air quality monitoring obligations on the applicants. **Resolutions 2011-049 and 2011-50 (R01027-01038, in the record in Case No. 2011 CV 282), and Resolutions 2012-048 and 2012-055; R0934-R0949.**

80. At the hearing, Delta County Attorney Christine Knight entered the report from Plateau, Inc. regarding air monitoring analysis (**R0696**) into the record.

81. After the public hearing on September 4, 2012, the Delta County Board of County Commissioners ("Board") wanted the Plateau Inc. report changed to better support the applicants' position. A new report was sent to the Delta County Health Department on

September 28, 2012. **R0114-0117**.

82. No member of the public was made aware of this amended report or given a chance to respond thereto before the Board's decision.

83. On October 22, 2012, the Board reaffirmed its prior approval of the subject applications, and did so based upon the air quality report.

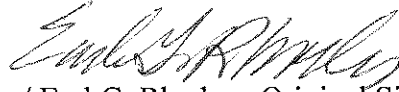
84. It is clear that the Board is biased against the Plaintiffs. Dr. Susan Raymond was a prevailing party on her first Rule 106(a)(4) challenge to the County's decision in this case. The evidence in the first case, as well as from the September 4, 2012 hearing, is that the Hostetler operation is releasing huge amounts of pollutants, and Dr. Raymond and her neighbors are subject to daily health attacks from these pollutants. The Plaintiffs' expert testimony, from Dr. Kilpatrick and Ms. Sant, is that property values have plummeted because of the operation of the chicken farm. The County gives no credibility to any of this. In addition, the County does not understand the concept of due process. In spite of being on notice from one round of litigation, the County has violated her due process rights again by paying for evidence outside the record, and making this the basis of their decision.

85. This is the last in a long line of biases against Dr. Raymond and others in these proceedings. Commissioner Lund had a political agenda to approve these applications as part of his effort on the Soil Health Initiative. He signed contracts with the federal government to make available federal moneys to farmers to buy the chicken manure generated by the Hostetlers. Commissioner Lund is the head of the Delta County Farm Bureau. Three Delta County Farm Bureau officials spoke or wrote in favor of the proponents of the applications at the September 4, 2012, hearing. **R-0251-0252, R-0738-0739**. The State Farm Bureau supports this application. **R-**

0249-0250. The County will not investigate the health complaints from the adjoining property owners, and blame this matter on a “troublemaker,” Dr. Raymond. This Court must intervene to protect the rights of the neighbors.

WHEREFORE, Plaintiffs pray that this court declare the County resolutions to be null and void, direct Edwin Hostetler to cease operations of his chicken farm and to remove all chickens from his property within 72 hours, and for such other relief as the court deems proper.

Submitted this 11th day of March, 2013.



s/ Earl G. Rhodes - Original Signature on File

Earl G. Rhodes, No. 6723

Attorney for Plaintiffs

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 11th day of March, 2013, a true and correct copy of the foregoing **PLAINTIFFS' OPENING BRIEF UNDER RULE 106(a)(4)** was served by:

- LexisNexis filing (where indicated)
- U.S. Mail, first class postage prepaid (where indicated)
- Email (where indicated)
- Telefax
- Hand delivery

on the following:

Christine L. Knight, County Attorney
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300 E. 18th Street, PO Box 346
Cheyenne WY 82003-0346
Attorneys for Defendants Edwin and Eileen Hostetler


s/ Marianne Cassedy - Original Signature on File

-----Original Message-----

From: Susan Raymond <horsemaker@tds.net>

To: Dave Rice <drice@deltacounty.com>; shansen<shansen@deltacounty.com>

Sent: Fri, Aug 24, 2012 12:16 pm

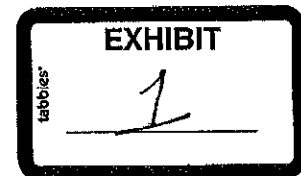
Subject: Air Monitoring Survey

This is a formal request for the scope of work, documentation, and findings of the Air Monitoring Survey.

Also, we would like to request copies of all invoices and records of expenses that the county has had to pay related to the litigation over Western Slope Layers and Rocky Mountain Layers. This would include records of staff time devoted to the applicants including reviewing applications, monitoring the facility, and enforcing the conditions. We would also like to request the same of the costs, and record of time spent of the County Attorney and support staff devoted to these Specific Development Applications. If at all possible, can we have these by Wednesday, August 29, 2012?

Respectfully submitted,

Dr. Susan Raymond
970-250-3714



PLF-000070

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Transaction ID: 50450004
Submitted by: Marianne Cassedy, Younge & Hockensmith PC
Authorized by: Earl Garner Rhodes, Younge & Hockensmith PC
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Court: CO Delta County District Court 7th JD
Division/Courtroom: 2 - Division 2
Case Class: Civil
Case Type: Rule 106
Case Number: 2012CV314
Case Name: JARDON, TRAVIS et al vs. DELTA COUNTY BOARD OF COUNTY COMMISSIONE et al

Transaction Option: File and Serve
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Documents List**2 Document(s)****Attached Document, 30 Pages Document ID: 55140922**

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Plaintiffs' Opening Brief Under Rule 106(a)(4)

Attached Document, 1 Pages Document ID: 55141036

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Document title:
Exhibit 1 to Plaintiffs' Opening Brief - Email dated 8-24-12


[Expand All](#) **Sending Parties (5)**

Party	Party Type	Attorney	Firm	Attorney Type
COOL, MARK	Plaintiff	Rhodes, Earl Garner Younge & Hockensmith PC	Privately Retained Attorney	
HOLDER, CORINNE	Plaintiff	Rhodes, Earl Garner Younge & Hockensmith PC	Privately Retained Attorney	
JARDON, TRAVIS	Plaintiff	Rhodes, Earl Garner Younge & Hockensmith PC	Privately Retained Attorney	
RAYMOND, SUSAN	Plaintiff	Rhodes, Earl Garner Younge & Hockensmith PC	Privately Retained Attorney	
ROBINSONG, ANDREA	Plaintiff	Rhodes, Earl Garner Younge & Hockensmith PC	Privately Retained Attorney	

 Recipients (7) **Service List (7)**

Delivery Option	Party	Party Type	Attorney	Firm	Attorney Type	Method
Service	DELTA COUNTY BOARD OF COUNTY COMMISSIONE	Defendant	Knight, Christine L	County Attorneys Office-Delta County	County Attorney	E-Service
Service	HOSTETLER, ANNA	Defendant	Tolin, Joshua A	Budd Falen Law Offices, LLC	Privately Retained Attorney	E-Service
Service	HOSTETLER, CARMEN	Defendant	Tolin, Joshua A	Budd Falen Law Offices, LLC	Privately Retained Attorney	E-Service
Service	HOSTETLER, EDWIN	Defendant	Tolin, Joshua A	Budd Falen Law Offices, LLC	Privately Retained Attorney	E-Service
					Privately	

Service	HOSTETLER, EILEEN	Defendant	Tolin, Joshua A	Budd Falen Law Offices, LLC	Retained Attorney	E-Service
Service	HOSTETLER, GREG	Defendant	Tolin, Joshua A	Budd Falen Law Offices, LLC	Privately Retained Attorney	E-Service
Service	HOSTETLER, ROLAND	Defendant	Tolin, Joshua A	Budd Falen Law Offices, LLC	Privately Retained Attorney	E-Service

 [Additional Recipients \(0\)](#)

 **Case Parties**

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Marianne Cassedy

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Case Number: 2012CV314
Transaction ID: 50450004
Document Title(s):
Plaintiffs' Opening Brief Under Rule 106(a)(4) (30 pages)
Exhibit 1 to Plaintiffs' Opening Brief - Email dated 8-24-12 (1 page)
Authorized Date/Time: Mar 11 2013 5:08PM MDT
Authorizer: Earl Garner Rhodes
Authorizer's Organization: Younge & Hockensmith PC
Sending Parties:
COOL, MARK
HOLDER, CORINNE
JARDON, TRAVIS
RAYMOND, SUSAN
ROBINSONG, ANDREA
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