

COUNTY COURT, DOUGLAS COUNTY, COLORADO Court Address: 4000 JUSTICE WAY STE. 2009, CASTLE ROCK, CO, 80109		DATE FILED: March 22, 2023 2:43 PM CASE NUMBER: 2022S125
Plaintiff(s) JAMES D ROGERS v. Defendant(s) BANNOCKBURN HOMEOWNERS ASSOCIATION		
		△ COURT USE ONLY △
		Case Number: 2022S 125 Division: G Courtroom:
Order re: Request for Attorney Fees and Costs		

The Court has reviewed the file and the motions submitted by Mr. Rogers and from Bannockburn Homeowners Association. Mr. Rogers is seeking costs in the amount of \$394.84. Bannockburn Homeowners Association is seeking attorney fees and costs in the amount of \$23,642.46. The Court conducted a trial in this matter and entered a ruling in favor of, and against, both parties. Mr. Rogers filed four separate suits which the Court consolidated into one trial. At the trial, the Court found in favor of Mr. Rogers in two of the matters and in favor of the Homeowners Association in the other two matters. The Homeowners Association asserts that they are the prevailing party and are therefore entitled to attorney fees. Their assertion of the prevailing party is premised on them succeeding as to two disputed issues at trial.

The first issue, according to the Homeowners Association, revolved around when the 30-day deadline commenced and whether it restarted when the Homeowners Association responded to the request. The Court did not find that the 30-day deadline restarted upon their response and found in favor of the Plaintiff, finding that the Homeowners Association did not timely comply.

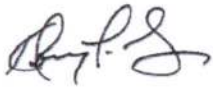
The basis of Mr. Rogers claim in each of the letters was that he requested documents be provided and made available for his inspection by the Homeowners Association. The Homeowners Association conceded with regards to the first letter that they had not complied within 30 days of the request as required regarding the initial filing. At trial, the Homeowners Association then also argued, despite their concession, that the 30 days did not start upon receipt of the letter but rather that it started upon their response to Mr. Rogers with the amount of the costs for the requested documents. Those two positions are contradictory and while that was a defense asserted by the Homeowners Association, the Court did not find it persuasive. Given that position, the Court does not find that was a disputed issue but rather a defense set forth potentially explaining why they did not comply despite their admission to not complying. The second issue, according to the Homeowners Association, was whether each letter (originally filed as a separate case) constituted one request or multiple requests subject to sanctions. The Court did rule in favor of the Homeowners Association as to this issue. However, despite ruling in their favor, the Court still found that the Homeowners Association did not timely comply with regards to two of the letters.

The Court found each letter submitted by Mr. Rogers to represent one request despite each letter containing between 12-22 separate or individual requests. As such, the Court, upon examining each letter and the evidence submitted, looked for any evidence of failing to timely comply. Upon discovering a single example of a failure to timely comply in one letter, the Court entered a sanction as allowed and moved to the next letter. Given that each letter represented one request, there was no need to go beyond that for purposes of the ruling and sanction imposed.

As such, the Court disagrees with the Homeowners assertion that they are the prevailing parties. While the Defendants prevailed on some issues, they did not prevail on all. Ultimately, both parties succeeded on two claims and failed on two claims.

Therefore, the Court finds it appropriate for each side to be responsible for their own fees and costs. As such, the Court denies the request for attorney fees by both sides.

Issue Date: 3/22/2023

A handwritten signature in black ink, appearing to read 'Kolony Loren Fields', written in a cursive style.

KOLONY LOREN FIELDS
County Court Judge