District Court, Archuleta County, Colorado
449 San Juan St., Pagosa Springs, Colorado 81147

-Pat Alley;	)	
-Dave Brackhahn;	)	
-Wayne Bryant;	)	
-Greg Giehl;	)	
-Cole Graham;	)	
-Dean Greenamyer;	)	
-Bill Gottschalk;	)	
-Sue Gottschalk;	)	
-Stephen Keno;	)	
-Tom Kramer;	)	**▲ COURT USE ONLY ▲**
-Jeffrey Maehr;	)	
-Sharon Parker;	)	Case No. 16-CV-4
-Tracy Salazar;	)	
-Dennis Spencer;	)	
-John and Jane Does, 1-600, representing most signatories on ballot initiatives;	)	
	)	
Plaintiffs	)	
	)	
v.	)	
	)	
Archuleta County Board of County Commissioner Clifford Lucero, Commissioner Steve Wadley, Commissioner Michael Whiting; County Attorney Todd Starr;	)	
	)	
Defendants	)	

MOTION FOR RECONSIDERATION

The above named plaintiffs come before this court with this Motion for Reconsideration of the actual evidence presented which was unrebutted in the above referenced case, and also based on the attached Motion for Findings of Fact and Conclusions of Law. Due Process of Law requires the right to be heard and for rebuttal of the evidence presented. The Court is not to be defending the Defendants but be an independent, unbiased participant.

Plaintiffs, representing over 600 Archuleta County inhabitants, have been deprived of a proper hearing and rebuttal of standing Statutes and Constitutional protections which have been denied.

The Defendants and this court failed in lawful duties in the following ways:

1. Defendants failed to rebut counter evidence provided to the court.

2. The Court failed to address the conflict of interest raised by Plaintiffs regarding Defendant Todd Starr representing the Board of County Commissioners (BoCC) contrary to Ethics rules as presented and were unrebutted by Starr or "Rose, Walker, Starr" law firm.

3. The court made an erroneous and frivolous judgment, stating...

> "Pages 2-3 of the petition constitute prima facie evidence that the plaintiffs knew that the petition they were filing was substantially groundless and frivolous."

The court cannot presume to be a mind reader. The Plaintiffs spent considerable time and money in researching the evidence presented. The court ignored several pages of this substantial evidence Plaintiffs were providing which countered the Dellinger and other cases, (which is not law) and which has never been adjudicated in any court of law, and which was conveniently ignored and suppressed by the

Defendants and this court.

The court quoted:

> "CRS 13-17-102 (6) only allows the Court to award attorney's fees and costs against pro se parties who knew or should have known that their action... was substantially frivolous, substantially groundless, or substantially vexatious… CRS 13-17-102."

Plaintiffs were defending standing Statutes and the Colorado Constitution and clearly made an argument any jury would see and that would need rebuttal. The use of limited case precedent, which does NOT create law, and which did not address the evidence in this case presented by Plaintiffs, is erroneous at best, especially when such evidence is continually ignored and suppressed.

The charge that the Plaintiffs "knew or should have known" that the suit was "substantially groundless and frivolous" is moot based on the following facts of record;

a) After general research of the laws, Plaintiffs went to and received the proper initiative forms, approved by the County Recorder, June Madrid (Hereafter "Madrid").

b) Several of the Plaintiffs made request of BoCC Michael Whiting (hereafter "Whiting") shortly after one of the <u>many</u> BoCC meetings we attended on this topic, asking the BoCC to simply place the initiatives on the coming ballot which they had authority to do. He flatly refused, generally stating that we would have to go through the signature process.

c) Plaintiffs obtained the required number of signatures as agreed on and timely turned the initiative forms into Madrid, which were accepted.

d) When Starr later([1]) opined that this was not a lawful action, citing Dellinger, Plaintiffs spent considerable time researching the Dellinger case, Colorado Statutes, the Colorado Constitution, showing how the original source of all political power comes from the people.

e) Plaintiffs all concluded, based on the evidence, and the fact that Dellinger did not have the evidence discovered and presented in this case, that Plaintiffs had a very sound argument to present.

f) Defendants consistently ignored the evidence, and willed not to even discuss the evidence. Defendants failed to include a certificate or statement of conferral in their Motion for Summary Judgment, contrary to D.C. COLO. LCivR 7.1(a), which Plaintiffs clearly complied with in their Motion. As stated, Plaintiffs have attempted to reason with and work out a reasonable solution, but which Defendants clearly refused to do, and insisted on preferring to cost taxpayers money (and payment to Starr) and refusing clear laws presented.

Plaintiffs in fact did not believe they "knew or should have known" that they were filing a "substantially frivolous, substantially groundless, or substantially vexatious" case, and all firmly believe that their case is relevant and this refutes the court's conclusion to immediately order an evidentiary hearing for fees on this subject based on flimsy presumptive "prima facie" evidence alone. This evidence has been rebutted herein and in previous filings with evidence in fact.

All the above, and more in the record, is substantial evidence that Plaintiffs clearly believed they have lawful standing and evidence which counters Defendants position. To continue this line of reasoning is to deny Plaintiffs Due Process of Law.

4. The court stated in its ORDER:

> "...there is no constitutional or statutory authority for a countywide ballot initiative in unincorporated non-home-rule counties. Dellinger v. Bd. of Cty. Comm'rs for Cty. of Teller, 20 P.3d 1234, 1235 (Colo. App. 2000); Bd. of Cty. Comm'rs of Cty. of Archuleta v. Cty. Rd. Users Ass'n, 11 P.3d 432, 436 (Colo. 2000); Save Palisade FruitLands v. Todd, 279 F.3d 1204, 1214 (10th Cir. 2002). See also People ex rel. Cheyenne Erosion Dist. v. Parker, 118 Colo. 13,

[1] Why would Starr wait till <u>after</u> Plaintiffs went to all the time, effort and expense to obtain the signatures to deny the initiatives? The very fact of this effort is more prima facie evidence of Plaintiff's beliefs in the merit of this case despite hearing of Starr's Dellinger Presumption.

18–19, 192 P.2d 417, 420 (1948). Archuleta County is not a home rule county."

The court and defendants claim Archuleta County is an "unincorporated" county, but Dun & Bradstreet records counter this presumption. (See Dun & Bradstreet Exhibits). In addition the attached copy of the Colorado Constitution clearly refers to counties being "municipal corporations".

There is nothing in the Colorado Statutes or Colorado Constitution stating that a county has to be home ruled or incorporated to have a right to ballot initiatives clearly declared in both. To conclude this is an invalid and erroneous presumption. The Defendants and Judiciary appear to be attempting to create or insinuate a law that they do not have any authority to do merely to undermine Plaintiff's Constitutional (not needing to be reserved) and those rights which are "reserved".

In any case, it appears this is merely semantic deceit regarding "reservation" of rights, and those existing without reservation. CRS 1-40-101, C.R.S. 30-11-103.5 and many other facts in evidence in the original brief went into detail regarding the corporate argument and the rights of the People, Dellinger not withstanding.

Plaintiffs hold in previous filings that there certainly is constitutional and statutory authority for ballot initiatives to the People inhabiting Archuleta or any Colorado County, and that there does not need to be any "reservation" of rights in statute form as the laws clearly state, nor any corporate status as well. The Colorado Constitution authorizes the initiative authority for the People and no statutes can negate this right, especially based on erroneous information regarding Archuleta County NOT being incorporated, as it surely is. The county does not need to be a home ruled county to have rights other non-incorporated counties have for ballot initiatives, as the evidence presented clearly proves.

CONCLUSION

The facts are clearly in evidence that Plaintiffs believe without doubt that their case is meritorious and not frivolous, and this needs to be lawfully adjudicated, whether herein, or in Appeal, and beyond.

Respectfully submitted,

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Greg Giehl, for all Plaintiffs