

<p>Chaffee County District Court 142 Crestone Avenue Salida, CO 80461</p>	<p>DATE FILED: March 28, 2019 7:27 PM FILING ID: 59CC77C8754A9 CASE NUMBER: 2019CV30013</p>
<p>ALISON BROWN, Plaintiff</p> <p>vs.</p> <p>CHAFFEE COUNTY; CHAFFEE COUNTY BOARD OF REVIEW; JON ROORDA, PLANNING MANAGER, CHAFFEE COUNTY PLANNING AND ZONING; DAN SWALLOW, DIRECTOR OF DEVELOPMENT SERVICES, CHAFFEE COUNTY; and CHAFFEE COUNTY BOARD OF COUNTY COMMISSIONERS, Defendants</p>	<p>▲ COURT USE ONLY ▲</p>
<p><b>Attorneys for Plaintiff</b> Charles J. Cain (Attorney No. 51020) <b>CAIN &amp; SKARNULIS PLLC</b> 101 N. F Street, Suite 207 Salida, Colorado 81201 719-530-3011 Telephone 512-477-5011 Facsimile Email: <a href="mailto:ccain@cstrial.com">ccain@cstrial.com</a></p> <p>Michael D. Scott (Attorney No. 36692) P. O. Box 1360 Salida, Colorado 81201 303-514-2729 Telephone E-mail: <a href="mailto:michaeldscottlaw@gmail.com">michaeldscottlaw@gmail.com</a></p>	<p>Case Number: _____</p>
<p style="text-align: center;"><b>PLAINTIFF'S ORIGINAL COMPLAINT</b></p>	

Plaintiff Alison K. Brown (Dr. Brown), by and through her attorneys Charles J. Cain and Michael D. Scott, files this Complaint for damages under 42 U.S.C. § 1983 due

to Chaffee County's actions and inactions relating to Dr. Brown's property on Antelope Road.

### **I. JURISDICTION AND VENUE**

1. This Court has subject matter jurisdiction because the events complained of have occurred in Chaffee County, Colorado, and the resolution of this dispute requires the application of Colorado law.

2. Venue is proper in Chaffee County as it is where Dr. Brown resides; it is where the affected property is located; and it is where the material facts and circumstances giving rise to Dr. Brown's claims occurred.

3. The District Court maintains original jurisdiction over this matter pursuant to Article VI, Section 9 of the Colorado Constitution.

### **II. PARTIES**

4. Dr. Brown is a resident of Chaffee County, and the owner of separate properties in Chaffee County located at 11600 Antelope Road, Salida Colorado 81201, and 11555 Antelope Road, Salida Colorado 81201.

5. Defendant Chaffee County is a statutory county, a body corporate and politic established pursuant to the Colorado Constitution, Article XIV, and to C.R.S. § 30-11-102.

6. Defendant Chaffee County Board of Review is tasked by Chaffee County with reviewing appeals related to decisions made by the Chaffee County Department of Building Safety and reviewing the Building Department staff's interpretation and application of the 2006 International Building Code.

7. Defendant Jon Roorda, named herein in his official capacity as Planning Manager, Chaffee County Planning and Zoning, is tasked by Chaffee County with, *inter alia*, interpreting the Chaffee County Land Use Code (CCLUC).

8. Defendant Dan Swallow, named herein in his official capacity as Director of Development Services, is tasked by Chaffee County with, *inter alia*, issuing building permits and certificates of occupancy and coordination of land use and construction in unincorporated areas.

9. Defendant Chaffee County Board of County Commissioners (CCBOCC) is authorized to exercise the powers of Chaffee County pursuant to C.R.S § 30-11-103.

### **III. BACKGROUND**

#### **A. Preliminary Statement.**

10. These are constitutional claims for damages. They are ancillary to and distinct from the matter styled 2018CV30016, *Alison K. Brown v. Chaffee County Board of Review, et. al.*, currently pending in Chaffee County District Court. Dr. Brown's claims under 42 U.S.C. § 1983 do not require an exhaustion of state remedies and may co-exist while C.R.C.P. 106 appeals are pending. *See Eason v. Bd. of Cnty Comm'rs of the Cnty of Boulder, Colo.*, 70 P.3d 600, 609–10 (Colo. App. 2003); *Bd. of Cnty Comm'rs of the Cnty of Douglas County v. Sundheim*, 926 P.2d 545, 549 (Colo. 1996).

11. The conduct of Chaffee County, through its staff and governmental units, rendered Dr. Brown homeless for a period of approximately five months, forcing her to dry camp on her two parcels during the middle of winter. She suffered severe emotional and physical distress. She suffered substantial economic harm associated with the denial

of the use of her land, the diminishment of value in both properties located on Antelope Road, the loss of investments she made in her properties, and, ultimately, the expense associated with relocating her foxhounds and “outfitting facilities” to another county.

12. Chaffee County deprived Dr. Brown of vested property rights in violation of constitutional protections by first granting Dr. Brown a permit to construct her home, certifying her lawful use and zoning compliance, only to subsequently and substantially alter its position and determine her use unlawful. Under this new position, the County actively targeted Dr. Brown, applying unconstitutionally vague and overbroad definitions of the CCLUC; refused to issue a Certificate of Occupancy and camping permits to Dr. Brown; and amended definitions and retrospectively applied them to Dr. Brown without notice or opportunity to be heard.

***B. The Underlying Dispute.***

13. From 2014 to 2016, Dr. Alison Brown operated ma foxhunting club located at 11600 Antelope Road.

14. Dr. Brown originally purchased her property on May 6, 2014. She constructed kennels and adopted foxhounds in and around July 2014. She applied for and received approval as a hunt club through the Master of Foxhounds Association on October 1, 2014. The U.S. Department of Agriculture inspected and permitted Dr. Brown’s kennels. Additionally, the U.S. Forest Service determined that Dr. Brown’s operations, which were non-commercial, were such that she would be classified as a special activities’ coordinator, as opposed to an outfitter.

15. Dr. Brown conducted hunts from November 1, 2014 through March 31, 2015; and September 1, 2015 through March 31, 2016. Commonly referred to as depredatory hunts, the hunts primarily involved chasing coyotes on public and private land to move them from the area and prevent them from threatening livestock. Dr. Brown peaceably housed foxhounds, horses, and other livestock at her property during this two-year span while she continued to improve the property.

16. In June 2016, Chris Vely and Laura Barton (collectively the Velys) purchased approximately 40 acres adjoining 11600 Antelope Road. Unbeknownst to Dr. Brown, within months of their purchase the Velys began to secretly complain to county officials about noise from Dr. Brown's foxhounds while simultaneously soliciting Dr. Brown to mitigate the noise from the hounds. Dr. Brown constructed a large hay barn and purchased steel containers in an effort to reduce the sound levels experienced by the Velys. The Velys turned down other mitigation proposals that would have involved the placement of screens on their property.

17. The Velys sued Dr. Brown and her company, Headwaters Hounds, LLC, on December 21, 2016, claiming nuisance. In a well-publicized case, Dr. Brown ultimately prevailed at trial and was awarded a substantial monetary judgment by the jury as a result of defamatory publications by the Velys about Dr. Brown's foxhunting activities. The jury further found that Dr. Brown's foxhunting activities constituted "agricultural activities" that fell within the Right to Farm and Ranch law, C.R.S. 35-3.5-101 *et seq.*, and that the noise from the foxhounds did not constitute a common law nuisance. Finally, in an order

dated July 23, 2018, the Honorable District Judge Patrick Murphy determined that the noise relating to the foxhounds fell within the parameters of C.R.S. 25-12-101 *et. seq.*

18. The Velys' complaints, as well as their efforts at recruiting other "allies" and soliciting county officials, continued throughout the trial and continue to this day.

**C. *The Conduct of Chaffee County Officials.***

19. On August 8, 2016, Dr. Brown submitted a residential permit application to the Chaffee County Building Department to construct an "accessory residential dwelling/guest house."

20. On August 21, 2016, Roorda on behalf of the Chaffee County Planning Department asked for a description of current and planned use of 11600 Antelope Road, as he had been receiving complaints from neighbors. In response, Dr. Brown submitted a detailed letter to the County of Dr. Brown's current and intended use of the property. At the time, Dr. Brown had approximately thirty hounds located at the property.

21. On October 12, 2016, Roorda and Dr. Brown corresponded regarding her current and intended use of the property in writing, providing the County further knowledge of the use. Roorda suggested the aggregate use of her property would qualify as an "outfitting facility" under the CCLUC, which would require a limited impact review. Dr. Brown responded saying she had revised the plan so as not to trigger that designation based on previous discussions they had and representations made by Roorda.

22. Shortly after this correspondence, the County, through Roorda, on October 24, 2016, issued a building permit identifying the area as rural and the "use compliance" of Dr. Brown's application.

23. Also, on October 24, 2016, Roorda issued a Certificate of Zoning Compliance, again identifying the “use permitted per Zoning.”

24. Dr. Brown, in reliance on these representations by the County, commenced construction at the property in earnest.

25. However, months later on March 28, 2017, Roorda submitted a letter to Dr. Brown substantially altering the County’s position. This letter now identified her use of the property as unlawful and required Dr. Brown to submit applications for limited impact review so as to obtain permission from the County to continue using the property as previously permitted. This notice was provided to Dr. Brown following approximately five months of construction at the site.

26. On May 8, 2017, Dr. Brown received another letter from Roorda demanding a limited impact review be submitted by May 30, 2017, or the matter would be referred to the County attorney.

27. On May 30, 2017, Dr. Brown submitted an application to the Board of Adjustment for Appeal of the administrative decision that a limited impact review as an outfitting facility and kennel was required.

28. On June 23, 2017, Dr. Brown received a County Staff Report outlining their position on outfitting and kennel operations. The report falsely claimed that there were waste disposal violations, trespassing allegations, and lighting code violations at the property.

29. On June 28, 2017, an appeal was heard by the Board of Adjustment at 5:30 p.m. in the County Commissioners’ board room. The Board was in possession of a

number of negative letters from surrounding homeowners, but Dr. Brown was not provided with this material until after the meeting.

30. On June 29, 2017, Dr. Brown received a letter from the Board of Adjustment denying her appeal.

31. On August 17, 2017, the County then filed a complaint against Dr. Brown for injunctive relief (the County Lawsuit).

32. On August 29, 2017, the Planning Commission met to discuss a change in the kennel definition that was submitted by the County attorney. The proposal was to change the definition of kennel in the CCLUC. The original definition of kennel (when Dr. Brown's building permit was approved) was: "A kennel is an establishment other than a pet shop or veterinary clinic or hospital in which dogs, cats, and other animals are boarded for compensation, or are bred or are raised for sale purposes. Dogs used as part of an agricultural activity are not included in this definition."

33. Dr. Brown did not board animals for compensation or breed or raise them for sale purposes and, thus, did not meet this definition.

34. The proposed change to the definition was: "An establishment other than a pet shop or veterinary clinic or hospital, in which more than five dogs, cats, and/or other animals, more than four months age, are kept. Dogs used as part of an agricultural activity are not included in this definition."

35. The Planning Commission approved the change.

36. On September 12, 2017, the County Commissioners met to review the CCLUC kennel change. The Commissioners agreed to establish a working group at the



next meeting based on overwhelming testimony against this change from citizens at the hearing.

37. On October 10, 2017, with no public discussion since the September 12 hearing, the County Commissioners reversed course and announced that they were not going to establish a working group and, instead, approved the change in the definition of kennel under the CCLUC.

38. On October 11, 2017, the County Commissioners approved Resolution 2017-67, thereby changing the definition of “kennel” to: “Any lot, parcel, tract or structure in which more than seven dogs, six months old or older, are bred, or kept, raised, trained, housed, or boarded for longer than two weeks. This definition shall not apply to a properly permitted pet shops (*sic*) or veterinary hospital.”

39. On December 12, 2017, the County filed a motion for preliminary injunction in the County Lawsuit, seeking to enjoin Dr. Brown’s use of the property under its definition of “Outfitting Facility” and the newly adopted November 7, 2017 definition of “Kennel.”

40. On December 19, 2017, Dr. Brown sold her home on 317 E. 3rd Street, in anticipation of moving into her home on Antelope Road.

41. On December 20, 2017, a building inspection was performed, which identified some minor corrections. However, the correction notice also stated “Note—When Final is approved cannot give ok to occupy until land use violation is resolved.”

42. On December 21, 2017, Dr. Brown submitted an application for a camping permit for 11600 Antelope Road.

43. On January 2, 2018, a final inspection was performed, which was approved, but the correction notice stated, “Corrections completed. No occupancy until land use code violations are corrected.”

44. On January 10, 2018, Dr. Brown sent a letter of complaint regarding denial of the Certificate of Occupancy to Bob Christiansen, County Administrator (Christiansen).

45. On or about January 17, 2018, during the course of the Brown/Vely lawsuit, County officials Dan Swallow, Jon Roorda, and Jenny Davis, met with Mr. Vely at his residence, ostensibly to inspect the site for noise-related complaints. None of these officials contacted Dr. Brown about their visit.

46. On January 18, 2018, Christiansen responded to Dr. Brown’s letter, and again denied the Certificate of Occupancy.

47. Also, on January 18, 2018, Dr. Brown received a notice that her camping permit for 11600 Antelope Road was denied due to alleged CCLUC violations.

48. Having been denied occupancy of her home or camping rights on the same parcel, on January 23, 2018, Dr. Brown submitted an application for temporary camping permit for 11555 Antelope Road. This parcel is located to the south of 11600 Antelope Road and was unimproved. Dr. Brown indicated on her request that she would keep no more than seven dogs at 11555 Antelope Road.

49. On February 7, 2108, Roorda, on behalf of the Development Services Department, denied the camping permit for 11555 Antelope Road. In doing so, Roorda took the position that Dr. Brown could only have seven dogs between both 40-acre parcels (11600 and 11555 Antelope Road) and that, due to violations of the CCLUC, he was

denying the permit. The response did not contain a statement of the right to appeal the determination of the alleged violation as required by the CCLUC. Instead it stated: “Chaffee County will not consider a Temporary Camping Permit Application for this property until the outstanding violations are abated.”

50. At the time, there were no outstanding CCLUC violations associated with 11555 Antelope Road.

51. On February 22, 2018, the Board of Review held a meeting in which it considered Plaintiff’s appeal of the Building Department’s denial of Plaintiff’s Certificate of Occupancy. The Board of Review determined that the County had the authority to deny a Certificate of Occupancy for land use issues that had no relationship to building safety.

52. At the meeting, Swallow testified that the County was pursuing other legal means to enforce the CCLUC as to its allegations of Dr. Brown’s unrelated land use violations. Swallow testified that he denied Dr. Brown’s Certificate of Occupancy because he considered Dr. Brown to be defiant. Swallow further testified that the Certificate of Occupancy would not be denied due to the number of dogs kept at 11555 Antelope Road.

53. The Board of Review denied Dr. Brown’s appeal and directed Swallow, Director, Chaffee County Development Services, to inspect Dr. Brown’s property at 11600 Antelope Road for land use violations and to issue the Certificate of Occupancy if none were found.

54. Roorda completed this inspection on March 7, 2018. Roorda noted that Dr. Brown had seven dogs on her property located at 11600 Antelope Road and seven dogs located on her property at 11555 Antelope Road. Contrary to Swallow’s

representation to the Board of Review, Roorda considered the presence of Dr. Brown's foxhounds on 11555 Antelope Road when making his determination as to whether he would recommend issuing a Certificate of Occupancy for the residence located at 11600 Antelope Road.

55. Roorda also admitted that he was unable to determine whether Dr. Brown was in violation of the CCLUC for operating an outfitting facility based on a physical inspection of the property.

56. Contemporaneous with these events and as a condition to the issuance of a Certificate of Occupancy, the County attorney was reiterating the County's demands to Dr. Brown's counsel that Dr. Brown keep no more than seven dogs collectively on both parcels she owned, and, *inter alia*, that she not lead expeditions or outings involving third parties utilizing horses or dogs kept on her property or "serve as Master of Foxhounds."

57. On or about March 8, 2018, the County posted a public notice limiting the jurisdiction of the Board of Adjustment regarding appeals of administrative interpretations and revising the notice of violation requirements.

58. On March 9, 2018, Dr. Brown filed an Appeal of Administrative Interpretation based on Roorda's February 7, 2018 administrative interpretation of the CCLUC that preempted his Administrative Review of Plaintiff's Temporary Camping Permit Application.

59. Dr. Brown appealed, among other things, Roorda's interpretation that Dr. Brown's separate properties were merged to form a single parcel for purposes of

enforcement of the CCLUC. Dr. Brown's position is that her properties have not been merged per C.R.S § 30-28-129.

60. On March 14, 2018, Roorda rejected Dr. Brown's Appeal of Administrative Interpretation, alleging that the review of Dr. Brown's appeal should have come under Administrative Review rather than Administrative Interpretation, the former having a shorter timeframe (fourteen days) than the latter (thirty days).

61. Dr. Brown filed an appeal of Roorda's administrative interpretation to the Board of Adjustment regarding the notice of violation for kennel dated February 14, 2018.

62. Roorda rejected the appeal by letter dated seventeen calendar days after the submission of the appeal.

63. Roorda's rejection was based, in part, on the suggested revision to the CCLUC Article 1.3.3.B.2.a., which had not been adopted by the CCBOCC as of the date of Roorda's notice.

64. The Board of Adjustment reviewed Dr. Brown's prior appeal of Roorda's administrative interpretation regarding the previous definition of kennel.

65. On May 9, 2018, District Court Magistrate Amanda Hunter granted the County's request for permanent injunction in the County Lawsuit as to "Outfitting Facility," enjoining Dr. Brown from "using any improved structures or facilities at 11600 Antelope Road to provide service, housing, or safekeeping to any animal or equipment that is used in conjunction with guiding services, specifically such guiding services that involve Dr. Brown's riding out or hunting with foxhounds on public lands with any other individuals who are not affecting substantial control over the foxhounds."

66. The injunction was made effective until Dr. Brown received a permit from Chaffee County to operate an outfitting facility at 11600 Antelope Road.

67. At the time, Dr. Brown did not raise a constitutional challenge to the vagueness and overbreadth of the CCLUC's definition of "outfitting facilities," however, the Court acknowledged that "the County's definition of outfitting facilities may sweep in conduct that is as benign as a grandfather taking his grandson out for a horseback ride . . . ."

68. After the issuance of the injunction, the County issued a Certificate of Occupancy to Dr. Brown. However, due to the Court's interpretation of the CCLUC, Dr. Brown was prevented from riding with foxhounds and friends on public land except for her whips (who affect substantial control over the foxhounds).

69. Most recently, the CCBOCC met on March 27, 2019, to consider Dr. Brown's appeals relating to the limited impact reviews and outfitting and kennel applications. In a candid and positive statement, a County Commissioner acknowledged at the hearing that "what is happening out there now [at 11600 Antelope Road] is generally incidental to country living in the West. And as long as it stays that way then I don't think we would really have a problem there." However, the CCBOCC was apparently advised by the Assistant County Attorney that they did not have the authority to petition the Court of their interpretation of the current definition of "outfitting facility" and to request that the Court dissolve the injunction *that was originally requested by the county attorney*. Thus, as it stands, the definition of "outfitting facility" that is the subject of this suit

remains unchanged despite the acknowledgment by the CCBOCC that changes do, in fact, need to be made.

#### **IV. CLAIMS FOR RELIEF**

##### **A. *Due Process Claims under 42 U.S.C. § 1983.***

70. Dr. Brown incorporate paragraphs 1 through 69 as if set forth verbatim.

71. At all relevant times, the conduct complained of was committed by a person acting under the color of state law and deprived Dr. Brown of rights, privileges, or immunities secured by the Constitution or laws of the United States.

72. Specifically, Dr. Brown asserts Section 1983 claims based on violations of her rights guaranteed by the Due Process and Equal Protection Clause of the Fourteenth Amendment. The Fourteenth Amendment prohibits government from depriving individuals of life, liberty, or property unless it provides process that is due and adequate procedural safeguards. Here, Dr. Brown had a protected property interest in a permitted use and zoning of her property at 11600 Antelope Road. Dr. Brown's property interest was securely vested by her substantial actions taken in reliance and to her detriment on representations and affirmative actions made by Chaffee County affirming this zoning classification and permitted use.

73. The violations of due process by Chaffee County include multiple actions taken after the County issued Dr. Brown a building permit and certified that she was in both zoning compliance and that her proposed use was permitted. These actions include, but are not necessarily limited to, the subsequent March 28, 2017 determination that Dr. Brown was operating an unauthorized/unlawful kennel; the March 28, 2017

determination Dr. Brown was operating an unauthorized/unlawful outfitting facility; the County's pursuit of injunction and civil penalties based on this changed position; the County's December 12, 2017 motion for preliminary injunction based on its November 7, 2017 amended definition of "kennel" without notice to Dr. Brown of violations under this new definition and with retroactive application; and subsequent denials of a Certificate of Occupancy and camping permits based on this changed position.

74. Thus, Chaffee County subsequently changed this lawful use to an unlawful use and sought injunctions and civil penalties against Dr. Brown. Chaffee County repeatedly deprived Dr. Brown of her rights secured by the Constitution of the United States. These deprivations occurred without due process of law and procedural safeguards of pre-deprivation notice and opportunity to be heard.

75. These deprivations caused Dr. Brown substantial damages. Dr. Brown seeks compensatory and economic damages, noneconomic damages, including mental suffering and emotional distress, attorney's fees pursuant to 42 U.S.C. § 1988(b), and, alternatively, nominal damages. Dr. Brown's request for attorney's fees includes fees incurred at the administrative level given the usefulness and necessity of advancing Dr. Brown's constitutional claims.

76. Further, due process of law under the Fourteenth Amendment requires clarity in regulation to provide fair notice of conduct that is regulated or required. However, Chaffee County's definitions of "Kennel" and "Outfitting Facilities" under the CCLUC failed to provide fair notice to Plaintiff of what was required and failed to provide necessary precision and guidance so that Chaffee County would not act in an arbitrary or



discriminatory way in enforcing its regulations. Before November 2017, Chaffee County defined “Kennel” under section 15.2 of the Chaffee County Land Use Code as:

An establishment other than a pet shop or veterinary clinic or hospital, in which dogs, cats and other animals are boarded for compensation or are bred or raised for sale purposes. Dogs used as part of an agricultural activity are not included in this definition.

77. Also, under section 15.2 of the CCLUC, Chaffee County defined “Outfitting Facilities” as:

The improved structures and facilities related to guiding services for outdoor expeditions, including fishing, camping, biking, motorized recreation and similar.

78. Chaffee County abandoned its own definition of kennel despite the fact that Dr. Brown’s activities were consistent with its definition, including the fact that her dogs were not boarded for compensation, or bred or raised for sale purpose, *and* that they were part of an agricultural activity. The vagueness of the “Kennel” definition is in the definition of “agricultural activity” and the broad definition of “Agriculture” under 15.2 of the CCLUC which includes “any and all forms of farm products and farm and ranch production . . . .”

79. In addition, the definition of Outfitting Facilities is unconstitutionally vague and overbroad.<sup>1</sup> As written, it would require a person to obtain a permit and go through a limited impact review for conduct as benign as a grandfather taking his grandson out for a horseback ride. This definition is broad enough to include other currently allowed

---

<sup>1</sup> Additionally, Dr. Brown is asserting claims under the First Amendment to the extent that these provisions are over broad and impact her ability to peacefully assemble on public land.

activities in Chaffee County such as sled-dogging and guided horse backing that do not require a permit.

80. These definitions as applied to Plaintiff were unconstitutionally vague and overbroad and Plaintiff requests any orders derived from them to be set aside.

81. Finally, Dr. Brown asserts that, as a class of one, she has been intentionally treated differently from others similarly situated in Chaffee County and there is no rational basis for the difference in treatment.

82. For example, there are number facilities in Chaffee County (Dr. Brown has identified at least ten that are in the same zoning classification as she is) who offer horseback and llama guiding services, including trail rides and pack trips. Many lease their animals to hunters. Mt. Princeton Trail Rides is an obvious example. However, unlike Dr. Brown, these facilities have not been required by Chaffee County to submit to a limited impact review and obtain an outfitting permit. In fact, there are countless persons in Chaffee County who ride out or “guide” outdoor expeditions, including fishing, camping, biking, motorized recreation, and similar activities without obtaining such a permit. Like Dr. Brown, these persons do not operate commercial enterprises. However, unlike Dr. Brown, they have avoided selective enforcement of the CCLUC by County officials.

83. This disparate treatment is motivated by ill-will as evidenced by, among other things, Swallow’s statement on the record that Dr. Brown was being denied a Certificate of Occupancy due to her defiance of the County.

84. Like the due process violations, this disparate treatment has caused Dr. Brown substantial damages. Dr. Brown seeks compensatory and economic damages, noneconomic damages, including mental suffering and emotional distress, attorney's fees pursuant to 42 U.S.C. § 1988(b), and, alternatively, nominal damages. Dr. Brown's request for attorney's fees includes fees incurred at the administrative level given the usefulness and necessity of advancing Dr. Brown's constitutional claims.

**V. JURY DEMAND**

85. Pursuant to C.R.C.P. 38, Plaintiff requests a jury to decide all issues of fact.

**VI. PRAYER**

Plaintiff Alison Brown prays that the Defendants be cited to appear and answer herein and that Plaintiff recover compensatory damages as described herein, or alternatively, nominal damages, damages for mental, physical, and emotional injuries, and her attorney's fees and costs. Plaintiff further request such other relief as she may be justly entitled to receive.

Respectfully submitted this 28th day of March 2019.

*/s/ Charles J. Cain*  
Charles J. Cain, No. 51020