

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 19-cv-01301-CMA-STV

ALISON BROWN,

Plaintiff

v.

CHAFFEE COUNTY BOARD OF COUNTY COMMISSIONERS,

Defendant

FINAL PRETRIAL ORDER¹

1. DATE AND APPEARANCES

Pursuant to the Order of this Court, the attorneys for the parties to this action are to appear before The Honorable Regina M. Rodriguez for the United States District Court for the District of Colorado for a Final Pretrial Conference pursuant to Rule 16 of the Federal Rules of Civil Procedure.

Plaintiff Alison Brown (Plaintiff or Dr. Brown) is represented by Charles J. Cain and Chelsea L. Jones of Cain & Skarnulis PLLC. Defendant Chaffee County Board of County Commissioners (Defendant or the County) is represented by Leslie L. Schluter and Sophia A. N. Fernald of Dagner | Schluter | Mitzner | Werber, LLC.

2. JURISDICTION

This Court has subject matter jurisdiction pursuant to 28 U.S.C. section 1446(a) and Defendant's removal of this action from Chaffee County District Court, Colorado to

¹ Plaintiff files this Final Pretrial Order individually to ensure timely filing as Defendant needed additional time to prepare.

the United States District Court for the District of Colorado. Neither party disputes this Court's jurisdiction.

3. CLAIMS AND DEFENSES

a. Plaintiff's Claims

This case involves an ongoing and long-standing dispute between Dr. Brown and the County regarding the permitted use of her rural property. The County has waged a targeted campaign against Dr. Brown across multiple fronts, each time depriving her of due process of law and giving rise to a new claim. Specifically, those claims arise from:

- (i) the County's deprivation of Dr. Brown's vested property rights in representations of land use compliance in 2016 without due process of law;
- (ii) the County's deprivation of Dr. Brown's vested property right in the October 2016 zoning certification of land use compliance without due process of law;
- (iii) the County's deprivation of Dr. Brown's vested property right in the November 2016 building permit without due process of law;
- (iv) the County's deprivation of Dr. Brown's vested property right in the June 2017 zoning determination of the original kennel ordinance without due process of law;
- (v) the County's deprivation of Dr. Brown's vested property right in land use with its enforcement of the amended kennel ordinance without due process of law; and
- (vi) the County's deprivation of Dr. Brown's vested property right in land use with its enforcement of an unconstitutionally vague and overbroad outfitting ordinance without due process of law.

To prove a procedural due process claim under 42 U.S.C. section 1983, a plaintiff must show that the conduct complained of was committed by a person acting under color of state law and the conduct deprived the plaintiff of rights, privileges, or immunities secured by the Constitution or laws of the United States. *Parratt v. Taylor*, 451 U.S. 527,

535 (1981), *overruled on other grounds by Daniels v. Williams*, 474 U.S. 327 (1986). In evaluating these claims, a court must consider (1) whether a property right has been identified; (2) whether governmental action with respect to that property right amounts to a deprivation; and (3) whether the deprivation occurred without due process of law. *Hillside Comm. Church v. Olson*, 58 P.3d 1021, 1025 (Colo. 2002) (citing *Fusco v. Conn.*, 815 F.2d 201, 205 (2nd Cir. 1987)). Property rights under the Fourteenth Amendment are created and their dimensions defined by existing rules or understandings that stem from an independent source such as state law. *Jordan-Arapahoe LLP v. Bd. of Cnty. Comm'rs of Cnty. of Arapahoe*, 633 F.3d 1022, 1026 (10th Cir. 2011). Under Colorado law, courts have recognized property rights in building permits as well as zoning classifications when a landowner takes substantial actions in reliance, to his or her detriment, on representations and affirmative actions by the government. *Eason v. Bd. of Cnty. Comm'rs of Cnty. of Boulder*, 70 P.3d 600, 605-06 (Colo. App. 2003). For procedural safeguards owed these rights, the fundamental requirement is the opportunity to be heard at a meaningful time and in a meaningful manner. *Stanko v. Maher*, 419 F.3d 1107, 1115 (10th Cir. 2005). Courts generally have found due process requires notice and hearing *before* the State deprives a person of their rights. *Zinermon v. Burch*, 494 U.S. 113, 127 (1990); *Eason*, 70 P.3d at 607-09.

2016 Zoning Classification

Dr. Brown has three independent bases of vested property rights in the County's 2016 Zoning Classification of her land use: the issuance of a certificate of zoning compliance; the issuance of a building permit; and the affirmative representations made and actions taken by the County that Dr. Brown relied upon to her detriment. At that time,

Dr. Brown submitted a building permit application for a residence at 11600 Antelope Road. Chaffee County Planning Manager, Jon Roorda, was tasked with the review of Dr. Brown's land use compliance in this application. This review involved classifying the proposed building and its related land use under the Chaffee County Land Use Code (CCLUC) and determining whether such classification was permitted or subject to additional review. As part of this review, Roorda advised Dr. Brown of various permitted uses for rural zones under the CCLUC, the classification of uses under CCLUC Table 2.2, and the applicable levels of review. Roorda also requested and Dr. Brown provided detailed information regarding her current and intended land use for the building, which included her foxhounds, foxhunting, and intent for the building to house a caretaker for the foxhounds and her property. Based on this information, Roorda advised Dr. Brown of changes to make to her application to comply with the CCLUC and meet the "Permitted subject to Certificate of Zoning Compliance" classification, which she made. Following these revisions, Roorda classified Dr. Brown's application and land use as a permitted Single Family Dwelling under Table 2.2; issued a certificate of zoning compliance; and approved her land use in the issued building permit.² Dr. Brown relied on these actions and representations to her detriment and began construction.

Months later, prompted by neighboring property owners' complaints, Roorda revisited his classification of Dr. Brown's land use. In this subsequent review of Dr. Brown's same land use, Roorda changed the 2016 classification of her use from a permitted Single Family Dwelling to Outfitting Facilities and Kennel under Table 2.2, which

² Given the County's past misrepresentations of Dr. Brown's claims, it is necessary to clarify that this is not a claim for a permitted use in the classification of land use as a kennel or outfitting facility. Dr. Brown's disputes those classifications and argues the opposite—that her land use was classified at that time to *not* be a kennel or outfitting facility, but rather, a permitted use under the CCLUC.

were subject to Limited Impact Review. At that time, Chaffee County determined without pre-deprivation notice or hearing that Dr. Brown's permitted land use, including the future use of the building that was then under approved construction, was now unlawful. In changing its original classification, the County deprived Dr. Brown of her vested property rights in the building permit, the Certificate of Zoning Compliance, and the affirmative representations of land use compliance Chaffee County made to her and on which she substantially relied. Further, Chaffee County made this determination without complying with its own procedural requirements under the CCLUC, which required inspection and confirmation of land use violations; notice and description of the specific violations; and the opportunity to cure the specific violations prior to enforcement. While Dr. Brown sought administrative and state remedies, these remedies were inadequate to address the injuries caused and later foreclosed when the County subsequently amended the definition of kennel, mooting her pending appeal.

2017 Zoning Classification

Dr. Brown has a vested property right in the County's 2017 Zoning Classification of her land use. In 2017, Roorda changed the classification of her land use to a kennel based on alleged breeding of the foxhounds. The Chaffee County Board of Adjustment denied Dr. Brown's administrative appeal and affirmed Roorda's subsequent classification, representing to Dr. Brown that its determination of kennel—and compliance with the CCLUC—turned on breeding and Dr. Brown's license as a small-scale breeder. Dr. Brown had not bred foxhounds on her property, and she appealed the Board's determination. However, based on the Board's representations, she also took immediate steps to change the license on which the Board based its determination. Dr. Brown

disclaimed any intent to breed to avoid the classification of kennel and comply with the CCLUC. The County was notified of this change. Despite Dr. Brown's compliance, the County still sought enforcement of the original kennel ordinance against her, depriving her of a vested property right without due process. In contravention of its own procedural requirements, the County did not inspect the property to confirm either violations or Dr. Brown's abatement, and instead directly proceeded with litigation against Dr. Brown, while seeking new bases for enforcement. Specifically, the County sought enforcement now on the number of foxhounds located on Dr. Brown's property, despite acknowledging then there was no number limitation under the original definition of kennel and no basis for its enforcement. The County provided no pre-deprivation notice or hearing on these new alleged violations. As above, the County's subsequent amendment of the kennel ordinance foreclosed Dr. Brown's post-deprivation remedies under the original ordinance. Even had these post-deprivation remedies been available, they also would be insufficient to address the injury caused.

Enforcement of the Amended Kennel Ordinance

Dr. Brown had a vested property right under the original definition of kennel. In response, the County amended the kennel ordinance to enact a number limitation specifically to terminate Dr. Brown's land use. Unsurprisingly, both state and county law prohibit the enforcement of post hoc amendments to terminate lawful land use. Despite this, the County sought immediate enforcement against Dr. Brown now under the amended definition of kennel across multiple fronts, including moving for injunctive relief, denying Dr. Brown a certificate of occupancy in the same building with the same use the County had previously approved for construction; denying Dr. Brown a temporary

camping permit on her 11600 Antelope Road property; and denying Dr. Brown a temporary camping permit on her 11555 Antelope Road property. Again, the County pursued each of these enforcement actions—now under the amended definition of kennel—without pre-deprivation notice or hearing and without providing county procedural requirements for inspection, confirmation of land use violations, or opportunity to cure. These deprivations amounted to a complete deprivation of the use of Dr. Brown’s property. At that time, the court in *Bd. of Cnty. Comm’rs of Chaffee Cnty. v. Brown*, 2017 cv 30035, rejected the County’s enforcement of the amended kennel ordinance against Dr. Brown, finding it was without due process of law. This finding has preclusive effect here. Similarly, the County’s other enforcement actions taken at that same time were also without due process of law.

Further, when Dr. Brown attempted to comply and relocated foxhounds to another property, the County amended the definition of kennel again in the guise of interpreting it to change the meaning of the term “parcel” under the CCLUC so as to aggregate the number of dogs across Dr. Brown’s two legally separate properties. The County subsequently admitted this interpretation of a fundamental term under the CCLUC was limited solely to this ordinance and has been applied solely to Dr. Brown’s properties. This amendment was also without the required notice or hearing. When Dr. Brown attempted to appeal this determination, the County denied her post-deprivation administrative review until the state court compelled it. Again, the post deprivation remedies available were inadequate to address the injuries the County caused Dr. Brown.

Vagueness and Overbreadth of Outfitting Facilities Definition

Finally, the County's enforcement of the outfitting ordinance against Dr. Brown also deprived her of vested property rights without due process of law and deprived her constitutionally protected conduct. An ordinance's overbreadth gives rise to a claim when its reach prohibits constitutionally-protected conduct. An ordinance's vagueness gives rise to a claim when it fails to provide fair notice of prohibited conduct, gives too much discretion to government, or can be unevenly enforced. The outfitting ordinance applied to Dr. Brown provides no clear notice of what activities constitute outfitting. Chaffee County citizens, the County, and even the state court has acknowledged the vagueness and overbreadth of the ordinance. The County exploited this vagueness to arbitrarily and discriminately enforce the ordinance against Dr. Brown. Despite acknowledging the breadth of land use that would fall under the ordinance, including land use by its own representatives, the County has admitted Dr. Brown is the only person against whom the outfitting ordinance has been enforced. The County also has admitted it enforced the ordinance against Dr. Brown without inspecting her property or finding any evidence of land use violations. During the enforcement, the County was unable to clearly or consistently articulate what conduct classified Dr. Brown's land use as outfitting— instead changing it to be whatever the County wanted, including a prohibition on Dr. Brown meeting with friends or personally hunting on property outside the County's purview. In fact, Dr. Brown eventually stopped all guided foxhunting, and the County still sought enforcement against her. This ordinance is unconstitutionally vague and

overbroad. The County's enforcement of it against her deprived Dr. Brown of protected property interests without due process of law.

In connection with the above claims, Dr. Brown seeks the following relief:

- (i) Determination of her vested property rights in the use of her property.
- (ii) Economic damages in the amount of approximately \$315,956.05, which includes: Dr. Brown's Chaffee County administrative hearing expenses (\$13,464.71); additional construction loan interest expenses for 11600 Antelope Road (\$24,752.71); cost of kennels and greenhouse for 11600 Antelope Road (\$85,816.00); cost of barn and horse boarding facilities and outbuildings for 11600 Antelope Road (\$87,581.00); temporary kennel expenses (\$8,164.17); cost of kennels built in Fremont County (\$60,340.00); additional loan expenses for construction in Fremont County (\$15,658.46); and fair market rent and holdings costs for 11600 Antelope Road (\$20,179.00).
- (iii) Non-economic damages related to Dr. Brown's emotional distress, mental anguish, loss of sleep, physical discomfort, humiliation, and loss of enjoyment of life given the scope, duration, and nature of the County's actions against her.
- (iv) Nominal damages (in the alternative).
- (v) Payment of attorney's fees and expenses³ in the amount of \$531,926.55, which includes: \$363,882.22 incurred to date in this litigation; and \$168,044.33 incurred to date at the administrative level.

b. Defendant's Defenses

See supra at fn. 1.

4. STIPULATIONS

The parties have exchanged proposed stipulations, but agreement has not yet been reached. The parties will continue to confer in advance of the Court's setting of the Final Pretrial Conference.

³ These fees and expenses are continuing to accrue.

5. PENDING MOTIONS

There are currently two pending motions, and one outstanding discovery dispute, to be decided before trial:

1. Defendant's Motion for Summary Judgment [Dkt. 110] filed March 18, 2021

Plaintiff's Response to Defendant's Motion for Summary Judgment [Dkt. 123] and Appendix [Dkt. 124] filed April 22, 2021; Supplemental Evidence [Dkt. 144] filed June 22, 2021

Defendant's Reply in Support of Motion for Summary Judgment [Dkt. 128] filed May 6, 2021

Plaintiff's Surreply to Defendant's Motion for Summary Judgment [Dkt. 136] filed May 26, 2021⁴

Defendant's Reply to Plaintiff's Surreply to Motion for Summary Judgment [Dkt. 140-2] filed June 8, 2021⁵

2. Defendant's Motion for Leave to File Reply to Plaintiff's Supplement to Summary Judgment Record [Dkt. 145] filed June 25, 2021⁶

Plaintiff's Response to Defendant's Motion for Leave to File Reply to Plaintiff's Supplement to Summary Judgment Record [Dkt. 146] filed June 29, 2021

Defendant's Reply in Support of Motion for Leave to File Reply to Plaintiff's Supplement to Summary Judgment Record [Dkt. 148] filed July 12, 2021

3. On February 11, 2021, Magistrate Judge Varholak granted Plaintiff's Motion for Sanctions [Dkt. 92], directing Defendant to reimburse Plaintiff for the fees and costs of additional two hours of deposition [Dkt. 109]. Defendant disputes the amount owed.

⁴ The Court granted Plaintiff's motion for leave to file a surreply. See Pl.'s Mot. to Strike New Grounds Raised in Def.'s Summ. J. Reply or, in the Alternative for Leave to File Surreply [Dkt. 133] filed May 14, 2021; Minute Order dated May 18, 2021 [Dkt. 134].

⁵ The Court granted Defendant's motion for leave to file a reply to Plaintiff's surreply. See Def.'s Mot. for Leave to File Reply to Pl.'s Surreply to Mot. for Summ. J. [Dkt. 140] filed June 8, 2021; Minute Order dated June 14, 2021 [Dkt. 141].

⁶ Defendant filed this motion following the Court's granting of Plaintiff's motion to supplement the summary judgment record. See Pl.'s Mot. for Leave to Supplement Summ. J. R. [Dkt. 142] filed June 17, 2021; Minute Order dated June 22, 2021 [Dkt. 143].

Plaintiff reserves the right to file additional motions related to Defendant's discovery abuse. Counsel also anticipates filing Motions in Limine (via Trial Briefing) and Motions to Exclude pursuant to the deadlines set forth in the individual rules of The Honorable Regina M. Rodriguez for the United States District Court for the District of Colorado.

6. WITNESSES

a. Plaintiff's Non-Expert Witnesses⁷

(1) Witnesses who will be present at trial

Keith Baker	Mr. Baker is a Chaffee County Commissioner and is expected to testify regarding this role, the County's interpretation and application of the CCLUC, how the CCLUC was interpreted and applied against Dr. Brown, and Dr. Brown's related land use.
Christie Barton	Ms. Barton is a Chaffee County Planner and is expected to testify regarding this role, the County's interpretation and application of the CCLUC, how the CCLUC was interpreted and applied against Dr. Brown, and Dr. Brown's related land use.
Karen Barworth	Ms. Barworth is the Chief Financial Officer of NAVSYS Corporation (NAVSYS) and is expected to provide testimony primarily via business record affidavit. She may testify regarding the structure of NAVSYS, Dr. Brown's role with NAVSYS, and the loans Dr. Brown obtained from NAVSYS, if needed.
Charley Bearden	Mr. Bearden may testify regarding his personal knowledge of Dr. Brown's use, development, and construction of kennels in Fremont County, as well as Dr. Brown's foxhound relocation efforts.
Alison Brown	Dr. Brown is expected to testify regarding her claims and damages.

⁷ The contact information for Plaintiff's non-expert witnesses was previously identified in Plaintiff's Fifth Amended Disclosures Pursuant to Federal Rule of Civil Procedure 26(a)(1) served on April 15, 2021.

Jerry Burk	Ms. Burk is expected to provide testimony primarily via business record affidavit. She may also testify regarding Dr. Brown's businesses and tax returns, if the need arises.
Bruce Cogan	Mr. Cogan is a Chaffee County Planning Commissioner and is expected to testify regarding this role, the County's interpretation and application of the CCLUC, how the CCLUC was interpreted and applied against Dr. Brown, and Dr. Brown's related land use.
Jennifer Davis, Esq.	Ms. Davis is a Chaffee County Attorney and is expected to testify regarding this role, the County's interpretation and application of the CCLUC, how the CCLUC was interpreted and applied against Dr. Brown, and Dr. Brown's related land use.
Michael Fay	Mr. Fay is expected to testify regarding his personal knowledge of Dr. Brown's land use and development, as well as Dr. Brown's foxhound relocation efforts.
Greg Felt	Mr. Felt is a Chaffee County Commissioner and is expected to testify regarding this role, the County's interpretation and application of the CCLUC, how the CCLUC was interpreted and applied against Dr. Brown, and Dr. Brown's related land use. He is also a similarly situated resident of Chaffee County and is expected to testify regarding his own activities and/or treatment by Chaffee County under the CCLUC.
Nick Fisher	Mr. Fisher is the PACFA Program Administrator and is expected to testify regarding PACFA licensing, Dr. Brown's license with PACFA, related amendments to that license in conjunction with communications with Chaffee County.
Carla Gershenoff	Ms. Gershenoff is expected to testify regarding her personal knowledge of Dr. Brown's land use and development, the related complaints and enforcement actions, and Dr. Brown's foxhound relocation efforts.

Mike Harris	Mr. Harris is a licensed professional counselor and is expected to testify regarding his personal knowledge of Dr. Brown's mental anguish and emotional distress.
Sandra Hobbs	Ms. Hobbs is expected to testify regarding her personal knowledge of Dr. Brown's land use and development, the related complaints and enforcement actions, Dr. Brown's foxhound relocation efforts, and Dr. Brown's mental anguish and emotional distress.
Jeff Klein	Mr. Klein is an accountant and is expected to provide testimony primarily via business record affidavit. He may also testify regarding the accounting maintained in relation to Dr. Brown's claims, if the need arises.
Aaron Krochel	Mr. Krochel is the head inspector for the Chaffee County building department and is expected to testify regarding this role, the County's inspection and issuance of certificates of occupancy, as well as personal knowledge of the inspections performed at Dr. Brown's properties and Dr. Brown's related land use.
Bill McCormick	Mr. McCormick is a member of the Chaffee County Board of Adjustment and is expected to testify regarding this role, the County's interpretation and application of the CCLUC, how the CCLUC was interpreted and applied against Dr. Brown, and Dr. Brown's related land use.
Jim Miller	Mr. Miller is expected to testify regarding his personal knowledge of Dr. Brown's land use and development, the related complaints and enforcement actions, Dr. Brown's foxhound relocation efforts, and Dr. Brown's mental anguish and emotional distress.

Larry Payne	Mr. Payne is expected to testify regarding his personal knowledge of Dr. Brown's land use and development, the related complaints and enforcement actions, and Dr. Brown's foxhound relocation efforts. He is also a similarly situated resident of Chaffee County and may testify regarding his own activities and/or treatment by Chaffee County under the CCLUC.
Jon Roorda	Mr. Roorda is the Chaffee County Planning Manager and is expected to testify regarding this role, including its review and classification of land use and determinations and treatment of land use violations. Mr. Roorda is expected to testify regarding the County's interpretation and application of the CCLUC, how the CCLUC was interpreted and applied against Dr. Brown, and Dr. Brown's related land use.
Michael Scott, Esq.	Mr. Scott is Dr. Brown's former attorney and is expected to testify regarding the facts surrounding the various underlying administrative hearings.
Don Stephens	Mr. Stephens is expected to testify regarding Dr. Brown's land use and development and the construction at 11600 Antelope Road.
Dan Swallow	Mr. Swallow is the Director of Development Services for Chaffee County and is expected to testify regarding this role, including its oversight and knowledge of other departments and County personnel. Mr. Swallow is expected to testify regarding the County's interpretation and application of the CCLUC, how the CCLUC was interpreted and applied against Dr. Brown, and Dr. Brown's related land use.
Tim Vrudny	Mr. Vrudny is a professional engineer and is expected to testify regarding Dr. Brown's construction plans and related land use and development.

(2) Witnesses who may be present at trial if the need arises

100 Elk Outdoor Center	100 Elk Outdoor Center is a similarly situated business in Chaffee County and may testify regarding its operation and/or treatment by Chaffee County under the CCLUC.
Denise Ackert	Ms. Ackert may testify regarding her personal knowledge of Dr. Brown's mental anguish and emotional distress.
Karin Adams	Ms. Adams is a former Chaffee County Planning Commissioner and may testify regarding this role, the County's interpretation and application of the CCLUC, how the CCLUC was interpreted and applied against Dr. Brown, and Dr. Brown's related land use.
Adventure Unlimited Ranches	Adventure Unlimited Ranches is a similarly situated business in Chaffee County and may testify regarding its operation and/or treatment by Chaffee County under the CCLUC.
Antero Llamas	Antero Llamas is a similarly situated business in Chaffee County and may testify regarding its operation and/or treatment by Chaffee County under the CCLUC.
Jim Aragon	Mr. Aragon is an Area Wildlife Manager with the Department of Parks and Wildlife and may testify regarding his personal knowledge of Dr. Brown's land use and the legality of her activities under state wildlife review.
Jim Armor	Mr. Armor is a former NAVSYS board member and may testify regarding his personal knowledge of the loans Dr. Brown obtained from NAVSYS.
Patty Baldwin	Ms. Baldwin is an assistant to the Chaffee County Commissioners and may testify regarding this role, the County's interpretation and application of the CCLUC, how the CCLUC was interpreted and applied against Dr. Brown, and Dr. Brown's related land use.

Buena Vista Mountain Adventures	Buena Vista Mountain Adventures is a similarly situated business in Chaffee County and may testify regarding its operation and/or treatment by Chaffee County under the CCLUC.
Jim Dalrymple	Mr. Dalrymple is a former NAVSYS board member and may testify regarding the loans Dr. Brown obtained from NAVSYS.
Deer Valley Ranch	Deer Valley Ranch is a similarly situated business in Chaffee County and may testify regarding its operation and/or treatment by Chaffee County under the CCLUC.
Karen Elliot	Ms. Elliot is a similarly situated resident of Chaffee County and may testify regarding her own activities and/or treatment by Chaffee County under the CCLUC.
Harold Engelbrecht	Mr. Engelbrecht is a similarly situated resident of Chaffee County and may testify regarding his own activities and/or treatment by Chaffee County under the CCLUC.
Mary Ewing	Ms. Ewing is the District Director for the Masters of Foxhounds Association (MFHA) and may testify regarding her personal knowledge of Dr. Brown's land use.
Samar Fay	Ms. Fay may testify regarding her personal knowledge of Dr. Brown's foxhound relocation efforts.
Dennis Fischer	Mr. Fischer is a similarly situated resident of Chaffee County and may testify regarding his own activities and/or treatment by Chaffee County under the CCLUC.
Lt. Col. Dennis Foster	Lt. Col. Dennis Foster is the former Executive Director of the MFHA and may testify regarding his personal knowledge of Dr. Brown's land use.
Frontier Ranch	Frontier Ranch is a similarly situated business in Chaffee County and may testify regarding its operation and/or treatment by Chaffee County under the CCLUC.

Rusty Granzella	Mr. Granzella is a Chaffee County Commissioner and may testify regarding this role, the County's interpretation and application of the CCLUC, how the CCLUC was interpreted and applied against Dr. Brown, and Dr. Brown's related land use.
Gaylord Green	Mr. Green was a NAVSYS board member and may testify regarding the loans Dr. Brown obtained from NAVSYS.
Pat Green	Mr. Green is the Deputy Building Official and may testify regarding this role, the County's interpretation and application of the CCLUC, how the CCLUC was interpreted and applied against Dr. Brown, and Dr. Brown's related land use.
Chris Gutterrez	Mr. Gutterrez may testify regarding his personal knowledge of Dr. Brown's land use and the related complaints and enforcement actions.
David Haynes	Mr. Haynes may testify regarding his personal knowledge of Dr. Brown's land use and the related complaints and enforcement actions.
Frank Holman	Mr. Holman is a member of the Chaffee County Right to Farm and Ranch Board and may testify regarding this role, the adoption of the Right to Farm and Ranch policies and procedures, the County's interpretation and application of these policies and procedures, how they were interpreted and applied against Dr. Brown, and Dr. Brown's related land use. He is also a former member of the Planning Commission and Board of County Commissioners and may testify regarding the adoption, interpretation, and application of the CCLUC, as well as its previous versions and subsequent amendments
Susan Dempsey Hughes	Ms. Hughes may testify regarding Dr. Brown's purchases of her Antelope Road and Fremont County properties.
Chris Kline	Ms. Kline is the Western Colorado Inspector for PACFA and may testify regarding her personal knowledge of Dr. Brown's property and land use.

Jeff Kwolkoski, P.E.	Mr. Kwolkoski may testify regarding noise measurements taken on Dr. Brown's property.
Dick Lee	Mr. Lee is a similarly situated resident of Chaffee County and may testify regarding his own activities and/or treatment by Chaffee County under the CCLUC.
Chris Martin	Mr. Martin is a similarly situation resident of Chaffee County and may testify regarding his own activities and/or treatment by Chaffee County under the CCLUC.
John McCarthy	Mr. McCarthy is a similarly situation resident of Chaffee County and may testify regarding his own activities and/or treatment by Chaffee County under the CCLUC.
Jim McConaghy	Mr. McConaghy is a member of the Chaffee County Right to Farm and Ranch Board and may testify regarding this role, the adoption of the Right to Farm and Ranch policies and procedures, the County's interpretation and application of these policies and procedures, how they were interpreted and applied against Dr. Brown, and Dr. Brown's related land use.
Nancy Mitchell	Ms. Mitchell may testify regarding her personal knowledge of Dr. Brown's foxhound relocation efforts.
On Time Builders, LLC	On Time Builders, LLC may testify regarding the construction at 11600 Antelope Road.
Katie Parker	Ms. Parker may testify regarding her personal knowledge of Dr. Brown's foxhound relocation efforts.
Mindy Patterson	Ms. Patterson may testify regarding her personal knowledge of Dr. Brown's foxhound relocation efforts.

Dave Potts	Mr. Potts is a former Chaffee County Commissioner and may testify regarding this role, the County's interpretation and application of the CCLUC, how the CCLUC was interpreted and applied against Dr. Brown, and Dr. Brown's related land use.
Rocky Mountain High Adventure Base	Rocky Mountain High Adventure Base is a similarly situated business in Chaffee County Dr. Brown's may testify regarding its operation and/or treatment by Chaffee County under the CCLUC.
Cheri Rost	Ms. Rost is a similarly situated resident of Chaffee County and may testify regarding her own activities and/or treatment by Chaffee County under the CCLUC, as well as Dr. Brown's foxhound relocation efforts.
Cathy Saul	Ms. Saul may testify regarding her personal knowledge of the County's treatment of Dr. Brown's land use under the CCLUC.
Gordon Schieman	Mr. Schieman is a similarly situated resident of Chaffee County and may testify regarding his own activities and/or treatment by Chaffee County under the CCLUC.
Thomas Skaja	Mr. Skaja is the Special Uses Administrator for the U.S. Forest Service and may testify regarding his personal knowledge of Dr. Brown's land use.
Spruce Ridge Llama	Spruce Ridge Llama is a similarly situated business in Chaffee County and may testify regarding its operation and/or treatment by Chaffee County under the CCLUC.
Ed Thompson	Mr. Thompson may testify regarding his personal knowledge of Dr. Brown's application for a building permit, the construction of the building, and the related land use.
Trail West Lodge	Trail West Lodge is a similarly situated business in Chaffee County and may testify regarding its operation and/or treatment by Chaffee County under the CCLUC.

Rob Treat	Mr. Treat is a Chaffee County Planning Commissioner and may testify regarding this role, the County's interpretation and application of the CCLUC, how the CCLUC was interpreted and applied against Dr. Brown, and Dr. Brown's related land use.
Quinton Turner	Mr. Turner may testify regarding his personal knowledge of Dr. Brown's land use.
David Twiggs	Mr. Twiggs was the Executive Director of the MFHA and may testify regarding his personal knowledge of Dr. Brown's land use, as well as Dr. Brown's registration and involvement with the MFHA.
Ute Trail Guide Services	Ute Trail Guide Services is a similarly situated business in Chaffee County and may testify regarding its operation and/or treatment by Chaffee County under the CCLUC.
Kathryn Wadsworth	Ms. Wadsworth is a former Chaffee County official and may testify regarding the adoption, interpretation, and application of the CCLUC, as well as its previous versions and subsequent amendments.
Doug Welch	Mr. Welch is a former Chaffee County Planning Commissioner and is expected to testify regarding the County's interpretation and application of the CCLUC, including how it was interpreted and applied against Dr. Brown.
Ted Wright	Mr. Wright was a NAVSYS board member and may testify regarding the loans Dr. Brown obtained from NAVSYS.

(3) Witnesses where testimony is presented by deposition

None.

b. Plaintiff's Expert Witnesses⁸

(1) Witnesses who will be present at trial

Brian J. Connolly, Esq.	Mr. Connolly is expected to testify as to generally accepted norms, expectations, and best practices of professional conduct for land use planners; Chaffee County's processing, review, and eventual disposition of the building permit application filed by Plaintiff for the construction of a dwelling unit on her property, finding that it did not accord with sound principles and best practices of land use planning; whether Chaffee County consistently and accurately applied the CCLUC in reviewing Plaintiff's application; and Chaffee County's interpretation, application, and enforcement of the CCLUC during the course of events leading to this case, finding that it did not accord with generally-accepted norms, expectations, and best practices of professional conduct in the practice of land use planning.
Robert L. Myers	Mr. Myers is expected to testify that the change in the allowable use of Dr. Brown's properties resulted in damages related to over-improvements to her 11600 Antelope Road property, the loss of use and holding costs, and over-improvement of her Fremont County property.

⁸ The contact information for Plaintiff's expert witnesses was previously disclosed in Plaintiff's Designation of Expert Witnesses served on September 8, 2020.

Alison Brown ⁹	Dr. Brown is expected to testify as to the administrative expenses she incurred from the County's actions against her; the interest incurred on the loan for construction of the originally approved Additional Single Family Dwelling at 11600 Antelope Road; the expense she incurred developing 11600 Antelope Road to support her foxhounds and foxhunting; the expenses she incurred to construct temporary kennels when compelled to temporarily relocated her foxhounds to avoid forcible removal; and the expenses incurred to construct kennels in Fremont County when compelled to relocate her foxhounds.
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(2) Witnesses who may be present at trial if the need arises

None.

(3) Witnesses where testimony is presented by deposition

None.

Plaintiff also identifies all witnesses listed by Defendant. Plaintiff reserves the right to amend and/or supplement this witness list, as well as identify any additional rebuttal or impeachment witnesses.

c. Defendant's Non-Expert Witnesses

See supra at fn. 1.

d. Defendant's Expert Witnesses

See supra at fn. 1.

⁹ While Dr. Brown's expected testimony is factual in nature, she was disclosed as an expert witness pursuant to Federal Rule of Civil Procedure 26(a)(2)(C) out of an abundance of caution in the event such testimony is viewed as expert in nature pursuant to Federal Rule of Evidence 702.

7. EXHIBITS

a. Plaintiff's Exhibit List

<u>No.</u>	<u>Description</u>	<u>Stipulated into Evidence</u>
1	CRS § 30-28-139	
2	C.R.S. § 38-1-101(3)	
3	CCLUC Article 1, Article 2, Article 4, Article 7, Article 15	
4	Warranty Deed 11600 Antelope Road [BROWN 000100-000102]	
5	Easement Agreement 11600 Antelope Road [BROWN 000103-000108]	
6	Misc. Photos of 11600 Antelope Road and Related Land Use [BROWN 000041-000099]	
7	Dr. Brown's Residential Building Permit Application Form and Certificate of Zoning Compliance [BROWN 000146-000148]	
8	Original Building Plans [BROWN 000924-000933]	
9	Email Correspondence between Dr. Brown and Dan Swallow dated Feb. 2014 [Def Discl 001-002]	
10	Calendar Entries Aug. 2016 [BROWN 009820-009824]	
11	Email Correspondence between Dr. Brown and Jon Roorda dated Aug. 22, 2016, enclosing Aug. 21, 2016 letter [BROWN 000153-000157]	
12	Email Correspondence between Dr. Brown and Jon Roorda dated Oct. 12, 2016 [BROWN 000149-000152]	
13	Excerpts of CCLUC Article 15 reflecting the original definition of kennel [BROWN 001324] and the definition of outfitting facility [BROWN 001325]	
14	Email Correspondence between Dr. Brown and Tim Vrudny dated Oct. 14, 2016 [BROWN 000897]	
15	Revised Building Plans [BROWN 000898-000911]	

16	Third-Party Correspondence with Chaffee County Officials dated Jul. 2016-Apr. 2017 [BROWN 000226-000236]	
17	Email Correspondence between Dr. Brown and Chaffee County Commissioners dated Nov. 28, 2016 [BROWN 000217-000219]	
18	Email Correspondence between Dr. Brown and Chaffee County Commissioners dated Nov. 28, 2016 [BROWN 000220-000221]	
19	Chaffee County Building Department Permit Detail [BROWN 00239-00240].	
20	Special Use Application & Permit, USDA Forest Service [BROWN 000529-539]	
21	Chaffee County Assessor Zoning Detail [BROWN 000004]	
22	Chaffee County Assessor Zoning Detail [BROWN 000838-000839]	
23	Chaffee County Assessor Property Report [BROWN 000832-000837]	
24	Letter from Jon Roorda to Dr. Brown dated Mar. 28, 2017 [BROWN 000242-000243]	
25	Email Correspondence between Michael Scott and Jennifer Davis dated Apr. 26, 2017 [BROWN 006578]	
26	Right to Ranch Conflict Resolution Procedures adopted May 02, 2017 [BROWN 009996-009998]	
27	Letter from Jon Roorda to Dr. Brown dated May 08, 2017 [BROWN 000246-000247]	
28	Appeal to Board of Adjustment [BROWN 000249-000278]	
29	Staff Report dated June 23, 2017 [BROWN 000279-000286]	
30	Board of Adjustment June 28, 2017 Meeting Minutes [BROWN 000287-000293]	
31	Board of Adjustment Decision Letter dated June 29, 2017 [BROWN 000294-000295]	

32	Warranty Deed for 11555 Antelope Road [BROWN 000109-000121]	
33	Email Correspondence between Judy Haines and Dr. Brown dated May 7, 2017 [BROWN 006565-006569]	
34	Headwaters Hounds Facebook Post dated May 16, 2017 [BROWN 006570]	
35	Email Correspondence from Dr. Brown dated June 30, 2017 [BROWN 006574-006575]	
36	Email Correspondence between Black Canyon Animal Sanctuary and Dr. Brown dated July 24, 2017 [BROWN 006571-006573]	
37	Summary of Temporary Foxhound Placement [BROWN 006577]	
38	Misc. Headwaters Hounds Foster Care Agreements [BROWN 006986-006989]	
39	Original PACFA Application [BROWN 000522-000524]	
40	Original 2017-2018 PACFA License [BROWN 000525; 006992]	
41	PACFA License Change Application [BROWN 000526-000528]	
42	Email correspondence between Nick Fisher and Dr. Brown dated June 30, 2017 [BROWN 009423-009425]	
43	Letter from Nick Fisher to Dr. Brown dated Sept. 21, 2017 [BROWN 006985]	
44	Amended 2017-2018 PACFA License [BROWN 006994]	
45	2018-2019 PACFA License [BROWN 000521]	
46	Email Correspondence between Michael Scott and Jennifer Davis dated July 2017 [BROWN 006579]	
47	Email Correspondence from Dr. Brown dated Sept. 04, 2017 [BROWN 009827]	
48	Email Correspondence between Michael Scott and Jennifer Davis dated Oct. 12, 2017 [BROWN 006583-006584]	

49	Recording of Sept. 12, 2017 Board of County Commissioners' Meeting [BROWN 010000]	
50	Recording of Oct. 10, 2017 Board of County Commissioners' Meeting [BROWN 010001]	
51	Recording of Nov. 7, 2017 Board of County Commissioners' Meeting [BROWN 010002]	
52	Chaffee County Resolution 2017-67 [BROWN 000001-000003]	
53	Email Correspondence between Michael Scott and Jennifer Davis dated Nov. 2017-Dec. 2017 [BROWN 006595-006597]	
54	Warranty Deed for 317 East 3rd Street [BROWN 005615]	
55	Email Correspondence from Dr. Brown dated Dec. 12, 2017 [BROWN 006576]	
56	Email Correspondence between Michael Scott and Jennifer Davis dated Dec. 19, 2017 [BROWN 006604]	
57	Inspection Notice dated Dec. 20, 2017 [BROWN 000310]	
58	Inspection Notice dated Jan. 2, 2018 [BROWN 000311]	
59	Email Correspondence from Nancy Mitchell dated Jan. 04, 2018 [BROWN 009828]	
60	Letter from Jon Roorda to Dr. Brown dated Jan. 18, 2018 [Def Disc 037]	
61	Temporary Use Permit Application dated Jan. 23, 2018 [BROWN 000467-000468, 001329-001330]	
62	Email Correspondence between Jennifer Davis and the Colorado County Attorney's Association listserv dated Jan. 23, 2018	
63	Appeal to Board of Review dated Feb. 06, 2018 [BROWN 001351-001359]	
64	Letter from Jon Roorda to Dr. Brown dated Feb. 07, 2018 [BROWN 000469; 001331]	
65	Misc. Photos following denial of Certificate of Occupancy [BROWN 007005-007006; 007024-007041]	

66	Board of Review Meeting Minutes dated Feb. 08, 2018 [BROWN 001418-001419]	
67	Transcript of Feb. 08, 2018 Board of Review Public Hearing [BROWN 001420-001523]	
68	Letter from Jon Roorda to Dr. Brown dated Feb. 14, 2018 [BROWN 000495-000496]	
69	Staff Report dated Feb. 15, 2018 [BROWN 001360-001366]	
70	Email Correspondence between Michael Scott and Jennifer Davis dated Feb. 2018 [BROWN 006607-006608; Def Discl 093-094]	
71	Appeal to Board of Adjustment dated Mar. 09, 2018 [BROWN 001332-001349]	
72	Letter from Jon Roorda to Dr. Brown dated Mar. 14, 2018 [BROWN 000488]	
73	Email Correspondence from Dr. Brown dated Mar. 15, 2018 [BROWN 009829]	
74	Email Correspondence between Dr. Brown and Jon Roorda dated Mar. 2018 [Def Discl 097-100]	
75	Letter from Jon Roorda to Dr. Brown dated Apr. 02, 2018 [BROWN 001547]	
76	Email Correspondence between Dr. Brown and Chaffee County Officials dated May 2018 [BROWN 000420-000421]	
77	Email Correspondence between Michael Scott and Jennifer Davis dated May 2018 [BROWN 006614]	
78	Certificate of Occupancy [BROWN 005728]	
79	Chaffee County Resolution 2018-34 [BROWN 009849-009852]	
80	Purchase Agreement 2366 CR 2 [BROWN 006654-006672, 006702-006703]	
81	Warranty Deed for 2366 CR 2 [BROWN 008334-8335]	
82	Purchase Agreement 2412 CR 2 [BROWN 006852-006870]	

83	Warranty Deed for 2412 CR 2 [BROWN 006648-006653]	
84	Misc. Photos depicting Fremont County Properties [BROWN 007043-007058]	
85	Resolution No. 25, Series of 2018 [BROWN 006903-006907]	
86	Staff Report dated Nov. 16, 2018 [BROWN 001565-001571]	
87	January 15, 2019 Planning Commission Meeting Minutes [BROWN 009871-009877]	
88	Chaffee County Resolution 2019-35 [Def Discl 161-165]	
89	Chaffee County Resolution 2019-42 [Def Discl 197-201]	
90	May 09, 2019 Chaffee County Joint Work Session with Board of Commissioners and Planning Commission Agenda [BROWN 009834]	
91	Appeal to Board of Adjustment dated Sept. 26, 2019	
92	Transcript of Nov. 18, 2019 Board of Adjustment Public Hearing	
93	Nov. 18, 2019 Board of Adjustment Meeting Minutes [BROWN 009835-009841]	
94	Board of Adjustment Decision Letter dated Nov. 21, 2019 [BROWN 009842-009844]	
95	Outfitting Facilities Amendment Request Mar. 06, 2018 [BROWN 009991-009992]	
96	Staff Report dated Apr. 16, 2018 [BROWN 009993-009994]	
97	Email Correspondence between David Moore and Chaffee County Commissioners [BROWN 008905]	
98	Article (<i>County Planning Commission Schedules Work Session on 'Outfitting Facilities'</i>) dated Apr. 27, 2018 [BROWN 009758-009759]	
99	Article (<i>Commissioners refer outfitter discussion to joint planning session</i>) dated May 10, 2018 [BROWN 009760-009762]	

100	Article (<i>Unintended consequences dominate outfitter definition session</i>) dated June 15, 2018 [BROWN 009765-009767]	
101	Article (<i>County Commissioners Still Waiting on Outfitting Definition</i>) dated Oct. 03, 2018 [BROWN 009771-009773]	
102	Article (<i>“Outfitting” definition moves forward at joint Commissioner-Planning Commission session</i>) dated May 18, 2019 [BROWN 009787-009791]	
103	Article (<i>County Joint Session to Discuss Outfitting Definitions</i>) dated June 06, 2018 [BROWN 008897-008901]	
104	Article (<i>Joint Session to Focus on Retail Marijuana, Outfitting Definition</i>) dated May 07, 2019 [BROWN 008924-008928]	
105	Article (<i>Chaffee “Outfitting Definition” the Subject of Commissioner-Planning Commission Joint Work Session</i>) dated Aug. 27, 2019 [BROWN 008944-008949]	
106	Article (<i>Back to the Drawing Board for Chaffee Outfitting Definition</i>) dated Sept. 02, 2019 (BROWN 009792-009795]	
107	Article (<i>Chaffee Right to Farm and Ranch Board Meets, sets Feb. 27 Work Session</i>) [BROWN 009803-009806]	
108	Article (<i>Chaffee Joint Session on Outfitting Yields Draft Use Table</i>) dated Nov. 25, 2019 [BROWN 009796-009798]	
109	Article (<i>County Sets January Hearings for Nestle, Sessions on Outfitting and Agricultural Subdivision Exemptions</i>) dated Dec. 09, 2019 [BROWN 008964-008970]	
110	Article (<i>Chaffee County planners to discuss ‘outfitting facility’</i>) dated Jan. 27, 2020 [BROWN 008971-008972]	
111	Article (<i>Joint Chaffee Commissioners-Planning Commission Work Session on Outfitting Facility Definition and Marijuana Facilities</i>) dated Feb. 24, 2020 [BROWN 009807-009808]	
112	100 Elk Outdoor Website Screenshots [BROWN 009726-009729; 009731-009732]	
113	Adventure Unlimited Website Screenshots [BROWN 009734; 009737-009738]	

114	Adventure Unlimited Assessor Detail [BROWN 009735-009736]	
115	A/U Ranches Website Screenshots [BROWN 009813-009816]	
116	Antero Llamas Website Screenshots [BROWN 009743; 009745; 009748]	
117	Antero Llamas Facebook Posts [BROWN 009744; 009752-009753]	
118	Antero Llamas Assessor Detail [BROWN 009739-009742]	
119	Email Correspondence between Dr. Brown and Michele Barton dated Feb. 2021 [BROWN 009966-009967]	
120	Breaking Trail Camp and Kennel 2017-2018 Breeder Statistics [BROWN 009985-009986]	
121	Breaking Trail Camp and Kennel PACFA License [BROWN 009963-009964]	
122	Monarch Dog Sled Rides Website Screenshots [BROWN 009968-009984]	
123	Monarch Dog Sled Rides 2015 PACFA Annual Report Form [BROWN 009987]	
124	Mount Princeton Stables Website Screenshot [BROWN 009988-009989]	
125	Misc. Lachlan Clark Facebook Posts [BROWN 009896-009901; 009906; 009909]	
126	Lachlan Clark Musher Details [BROWN 009911-009915]	
127	Dog Sled Video [BROWN 010008]	
128	Dog Sled Video [BROWN 010009]	
129	Article (<i>BV couple heads north for Iditarod dog sled race</i>) dated Dec. 24, 2014 [BROWN 009902-009905]	
130	Article (<i>Iditarod racer to speak at forum series</i>) dated Mar. 09, 2016 [BROWN 009907]	

131	Email Correspondence between Dr. Brown and Michele Barton dated Apr. 14, 2021 [BROWN 00908]	
132	Complaint, <i>Brown v. Chaffee County Board of Adjustment</i> , 2017 cv 30034, Chaffee County District Court, dated July 26, 2017 [BROWN 000296-000299]	
133	Unopposed Motion to Dismiss, <i>Brown v. Chaffee County Board of Adjustment</i> , 2017 cv 30034, Chaffee County District Court, dated Dec. 21, 2017	
134	Order, <i>Brown v. Chaffee County Board of Adjustment</i> , 2017 cv 30034, Chaffee County District Court, dated Mar. 27, 2018	
135	Verified Complaint, <i>Board of County Commissioners of Chaffee County v. Brown</i> , 2017 cv 30035, Chaffee County District Court, dated Aug. 10, 2017 [BROWN 000427-000435]	
136	Answer, <i>Board of County Commissioners of Chaffee County v. Brown</i> , 2017 cv 30035, Chaffee County District Court, dated Sept. 07, 2017, [BROWN 000436-000441]	
137	Motion for Preliminary Injunction, <i>Board of County Commissioners of Chaffee County v. Brown</i> , 2017 cv 30035, Chaffee County District Court, dated Dec. 12, 2017 [BROWN 000442-000459]	
138	Transcript of Jan. 01, 2018 Hearing regarding Motion for Preliminary Injunction	
139	Transcript of Feb. 09, 2018 Hearing regarding Motion for Preliminary Injunction	
140	Order Imposing Permanent Injunction, <i>Board of County Commissioners of Chaffee County v. Brown</i> , 2017 cv 30035, Chaffee County District Court, dated May 9, 2018 [BROWN 000460-000466]	
141	Complaint, <i>Brown v. Chaffee County Board of Review, et al.</i> , 2018 cv 30016, dated Mar. 22, 2018	
142	Order, <i>Brown v. Chaffee County Board of Review, et al.</i> , 2018 cv 30016, Chaffee County District Court, dated July 29, 2019	
143	Complaint, <i>Brown v. Chaffee County Board of County Commissioners</i> , 2019 cv 30019, Chaffee County District Court, dated June 4, 2019	

144	Complaint, <i>Brown v. Chaffee County Board of Adjustment</i> , 2019 cv 30055, Chaffee County District Court, dated Dec. 19, 2019	
145	Final Judgment, <i>Vely, et al. v. Brown, et al.</i> , 2016 cv 30045, Chaffee County District Court, dated Sept. 07, 2018 [BROWN 000856-000862]	
146	Order, <i>Vely, et al. v. Brown, et al.</i> , 2016 cv 30045, Chaffee County District Court, dated July 23, 2018 [BROWN 000863-000868]	
147	Order on Motion for Determination and Motion to Intervene, <i>Vely, et al. v. Brown, et al.</i> , 2016 cv 30045, Chaffee County District Court, dated July 03, 2018	
148	Final Judgment, <i>Hutchings, et al. v. Brown, et al.</i> , 2017 cv 30016, Chaffee County District Court, dated Apr. 24, 2019	
149	U.S. Magistrate Judge's Recommendation on Motion to Dismiss [Dkt. 55]	
150	Order Adopting Recommendation on Motion to Dismiss [Dkt. 60]	
151	Defendant's Answers to Plaintiff's Interrogatories served May 6, 2020	
152	Chaffee County Resolution 2018-02 dated Jan. 02, 2018	
153	Chaffee County Resolution 2017-59 dated Oct. 03, 2017	
154	Chaffee County Resolution 2017-42 dated Jun. 27, 2017	
155	Chaffee County Resolution 2017-29 dated Apr. 18, 2017	
156	Brian Connolly Expert Report [BROWN 008422-008683]	
157	AICP Code of Ethics and Professional Conduct (Apr. 2016)	
158	Chaffee County, Colorado, Zoning Map https://www.gigshowcase.com/EndUserFiles/42450.pdf	
159	Rob Myers Expert Report [BROWN 008684-008698]	
160	Dr. Brown Economic Damages Summary dated Sept. 08, 2020	

161	Documents Provided to Rob Myers [BROWN 008787-008788]	
162	Appraisal of 11600 Antelope Road [BROWN 008699-008741]	
163	Appraisal of 11555 Antelope Road [BROWN 008742-008786]	
164	Appraisal for Fremont County property [BROWN 006716-006746]	
165	NAVSYS Board Approval of Loan [BROWN 008414-008421]	
166	NAVSYS Board Approval for Loan Increase [BROWN 008403-008404]	
167	NAVSYS Board Approval for Loan Extension [BROWN 008405-008411]	
168	NAVSYS Board Approval for Additional Loan [BROWN 008412-008413]	
169	NAVSYS Deed of Trust [BROWN 006072-006767]	
170	Summary of Loan Interest [BROWN 008081-008082]	
171	Summary of Additional Loan Interest [BROWN 008080]	
172	Loan Agreement Jun. 2, 2018 [BROWN 008107-8115]	
173	Loan Agreement, Aug. 10, 2018 [BROWN 008092-008100]	
174	Revolving Promissory Note, Aug. 10, 2018 [BROWN 008101-008105]	
175	Loan Agreement Jun. 11, 2019 [BROWN 006704-006715]	
176	Promissory Note Jun. 11, 2019 [BROWN 008084-008086]	
177	Interest on Construction Loan [BROWN 008063-008067]	
178	Fremont Kennel Expenses [BROWN 008068-008069]	
179	Antelope Road Improvements [BROWN 008789-008797]	
180	Administrative Expense Report [BROWN 008798]	
181	Michael Scott Invoices [BROWN 005672-5727, 008855-008858]	

182	C&S Invoices [BROWN 008800-008854]	
183	<i>Brown v. Chaffee County Board of Adjustment</i> , 2017 cv 30034, Certification of Record dated Sept. 2017 [BROWN 000939-000943]	
184	<i>Brown v. Chaffee County Bd. of Adjustment</i> , 2017 cv 30034, Supplemental Certification of Record dated Nov. 2017	
185	<i>Brown v. Bd. of Review, et al.</i> , 2018 cv 30016, Certification of Record dated May 2018 [BROWN 001326-001328]	
186	<i>Brown v. Bd. of Adjustment</i> , 2019 cv 30019, Certification of Record dated Jul. 2019 [BROWN 001548-001550]	
187	<i>Brown v. Bd. of Adjustment</i> , 2019 cv 30019, Supplemental Certification of Record dated Sept. 2019 [BROWN 002673-002676]	
188	<i>Brown v. Bd. of Adjustment</i> , 2019 cv 2019 cv 30055, consolidated in 2-2018 cv 30016, Certification of Record dated May 21, 2020	
189	Temporary Kennel Expenses [BROWN 008799]	
190	Construction Expenses for 11600 Antelope Road [BROWN 008397-8398]	
191	Construction Loan Expenses for 11600 Antelope Road [BROWN 008401-008402]	
192	11600 Antelope Road Construction Draw [BROWN 006553]	
193	Email Correspondence between Dr. Brown and Ed Thompson dated Jan. 2017 [BROWN 008399]	
194	Misc. Account Statements [BROWN 007059-008062]	
195	2016 Tax Return [BROWN 010613-010642]	
196	2017 Tax Return [BROWN 010110-010139]	
197	2018 Tax Return [BROWN 010140-010172]	
198	2019 Tax Return [BROWN 010173-010203]	
199	2020 Tax Return [BROWN 010204-010245]	

200	2015 Headwaters Hounds Tax Return [BROWN 010246-010276]	
201	2016 Headwaters Hounds Tax Return [BROWN 010277-010300]	
202	2017 Headwaters Hounds Tax Return [BROWN 010301-010323]	
203	2018 Headwaters Hounds Tax Return [BROWN 010324-010346]	
	Any exhibit designated by Defendant.	
	And exhibit in possession of Defendant and not produced.	
	Any filing in this matter.	
	Any document necessary to authenticate an exhibit.	

Plaintiff also identifies all exhibits listed by Defendant. Plaintiff reserves the right to amend and/or supplement this exhibit list, as well as identify any additional rebuttal or impeachment exhibits.

b. Defendant's Exhibit List

See supra at fn. 1.

c. Copies of listed exhibits must be provided to opposing counsel no later than 30 days before trial. The objections contemplated by Fed. R. Civ. P. 26(a)(3) shall be filed with the clerk and served by hand delivery or facsimile no later than 14 days after the exhibits are provided.

8. DISCOVERY

Discovery has been completed.

9. SPECIAL ISSUES

None.

10. SETTLEMENT

- a. On July 29, 2021, Plaintiff sent a settlement demand and request for conference to discuss in good faith the settlement of the case. Defendant did not respond.
- b. Counsel for the parties do not intend to hold future settlement conferences.
- c. It appears that there is no possibility of settlement.
- d. Counsel for the parties considered ADR in accordance with D.C.COLO.LCivR.16.6.

11. OFFER OF JUDGMENT

Counsel acknowledge familiarity with the provision of Rule 68 (Offer of Judgment) of the Federal Rules of Civil Procedure. Counsel have discussed it with the clients against whom claims are made in this case.

12. EFFECT OF FINAL PRETRIAL ORDER

Hereafter, this Final Pretrial Order will control the subsequent course of this action and the trial, and may not be amended except by consent of the parties and approval by the court or by order of the court to prevent manifest injustice. The pleadings will be deemed merged herein. This Final Pretrial Order supersedes the Scheduling Order. In the event of ambiguity in any provision of this Final Pretrial Order, reference may be made to the record of the pretrial conference to the extent reported by stenographic notes and to the pleadings.

13. TRIAL AND ESTIMATED TRIAL TIME; FURTHER TRIAL PREPARATION PROCEEDINGS

The parties anticipate this trial to be conducted before a jury in the U.S. District Court of Colorado located in Denver, Colorado. The parties anticipate the trial to last one week. There are no other orders pertinent to the trial proceedings.

DATED this _____ day of _____, 20_____.

BY THE COURT

United States District Judge

APPROVED:

/s/ Charles J. Cain

Charles J. Cain

ccain@cstrial.com

Chelsea L. Jones

cjones@cstrial.com

Cain & Skarnulis PLLC

400 W. 15th Street, Suite 900

Austin, Texas 78701

512-477-5000

512-477-5011—Facsimile

ATTORNEYS FOR PLAINTIFF

DR. ALISON K. BROWN

Leslie L. Schluter

lschluter@lawincolorado.com

Sophia A. N. Fernald

sferald@lawincolorado.com

Dagner | Schluter | Mitzner | Werber, LLC

8400 East Prentice Avenue, Suite 1401

Greenwood Village, Colorado 80111

303-221-4661

303-221-4594—Facsimile

ATTORNEYS FOR DEFENDANT

**CHAFFEE COUNTY BOARD OF
COUNTY COMMISSIONERS**