

DISTRICT COURT, DENVER COUNTY, COLORADO		DATE FILED: May 1, 2020 7:03 PM CASE NUMBER: 2020CV31415
Court Address: 1437 BANNOCK STREET, RM 256, DENVER, CO, 80202		
KARL K SCHNEIDER v. JENA GRISWOLD et al.		
		△ COURT USE ONLY △ Case Number: 2020CV31415 Division: 259      Courtroom:
<b>ORDER REGARDING DAVID STIVER'S WRITTEN AND ORAL REQUESTS TO INTERVENE</b>		

THIS MATTER is before the Court on Karl K. Schneider's ("Petitioner") Petition for Relief Under C.R.S. 1-1-113 ("Petition"). The record reflects that all parties were served or waived service and filed responsive pleadings. Given the nature of this dispute, the Court recognizes that time is of the essence and that expedited treatment of all issues in this matter is warranted.

On April 27, 2020, a remote hearing was held before this Court on these matters. Counsel for Petitioner, Respondents and Intervenor were present. Also present and observing at the remote hearing was Randy Corporon, Esq. Not in attendance was Mr. David Stiver, a candidate for State Senate District 10.

Counsel presented argument and admitted Exhibits 1 and 2 by stipulation. Upon completion of the hearing, the Court took the matter under advisement. Procedurally, the evidence was closed and the case stands as submitted.

Yesterday afternoon, April 30, 2020, the Court received a voice mail message from Mr. Stiver at 4:23 p.m., indicating his desire to file an "amicus brief" with the Court and requesting an email account to send his pleading to. In response to Mr. Stiver's voice mail, the Court's staff attempted to contact him earlier today at the phone numbers he left. A voice message was left for Mr. Stiver directing him to return our call but otherwise all attempts to contact him were unsuccessful.

This afternoon, the Court reconvened this matter for a telephone status conference to apprise the parties of Mr. Stiver's voicemail request. All counsel of record appeared for this conference. The Court inquired of the parties as to their positions on Mr. Stiver's request and heard remarks from counsel. Counsel advised the Court that multiple efforts had been made to engage Mr. Stiver and Mr. Corporon on behalf of Mr. Stiver and to inquire whether they would be entering an appearance or participating in this litigation. Neither Mr. Stiver or Mr. Corporon advised that they would be participating in this litigation. In fact, Mr. Corporon expressly advised this Court he was not entering an opinion in this matter at the April 27th hearing. At the conclusion of the proceedings this afternoon, the Court then advised counsel of its decision on how it would address Mr. Stiver's request and allowed them to be heard regarding that decision.

Consistent with the decision I described to counsel on the record in today's conference call, the Court endeavored to advise Mr. Stiver as set forth below -

"Mr. Stiver

*The Court is in receipt of your voicemail message of April 30, 2020 at 4:23 p.m. The Court has made several attempts to return your call at the two phone numbers you left in the voicemail. ((719) 339-4479 was stated to be your cell phone; however the phone call goes straight to a busy signal and will not ring nor give the option to leave a voicemail. The Court has attempted to call you on this number not less than four times today. The second phone number you left was (719) 594-4003 and was stated to be your office number. A voicemail was left for you on this number at 11:07 a.m. this morning and no return call has been received as of this email message.*

*In response to your voicemail message that you would like to email to the Court an amicus brief in this matter, the Court replies as follows:*

Colorado Rules of Civil Procedure do not allow for filing of amicus briefs in the trial court as a matter of course. Further, any filing in a civil case must be electronically filed by an attorney through CCE, or you may file the pleadings in person in the main clerk's office, or the filing can be mailed in to the main clerk's office at 1437 Bannock Street, Room 256, Denver, CO 80202. Filings by email are expressly prohibited.

If you wish to be heard by the Court, you must first request to be added as a party in this action and you must confer with all parties for their positions. Presuming you have conferred with all parties, you may then file a motion to intervene and your brief simultaneously. You must serve all parties of record with the filings, and in this instance only you may email them to the following email addresses for the attorneys of record: cmurray@bhfs.com; jellis@bhfs.com; sgessler@gesslerlawfirm.com; waynewilliamslaw@comcast.net; grant.sullivan@goag.gov; mike.kotlarczyk@coag.gov; john@buckleylaw.com.

Despite the fact that filings by email are expressly prohibited, the Court will make a one-time exception in the instant matter to allow you to email your initial pleadings only to the Court. All pleadings filed with the Court require payment of a filing fee, which in your case will be \$234.00, that needs to be paid to the Clerk of Court by either cash, check, money order or credit card. If you would like to email the pleadings to the Court, you must pay the filing fee of \$234.00, and you must provide a phone number that the clerk's office can reach you to take the payment by credit card over the phone. You may then email the pleadings to the email address listed below, or reply to this email message, not later than 5:00 p.m. today. Also, you must then file the paper documents in the main clerk's office located at 1437 Bannock Street, Room 256, Denver, CO 80202 not later than 4:00 p.m. on Monday, May 4, 2020.

**Failure to comply with these directions will result in the Court proceeding to rule in this case without consideration of your pleadings."**

Subsequent to sending this email, and after having arranged for clerk's office staff to stay after closure to assist Mr. Stiver with his filing fee, the Court received an email from Mr. Corporon whereby he expressed that he was entering his limited appearance on behalf of Mr. Stiver and expressing his desire to file the "pleading" on behalf of Mr. Stiver. The Court's staff promptly contacted Mr. Corporon and directed him to follow proper procedure for entry of appearance and filing of pleadings by counsel utilizing CCE. The Court also, released the heldover clerk's staff in light of Mr. Corporon's anticipated entry of appearance. However, no written entry of appearance was filed by Mr. Corporon utilizing CCE, rather another email was sent by Mr. Corporon to the Court attempting to effectuate his withdrawal of earlier entry. Later, the Court then received two additional emails by Mr. Stiver (at 4:59 p.m. and again at 5:49 p.m.) attempting to file his Motion to Intervene in this matter, detailing his reasons for not previously entering the case and requesting to present evidence in the case. No other pleadings or briefs were submitted.

## ORDER

As noted above, the Court made a one time conditional exception in this matter for Mr. Stiver, appearing pro se, to "file" his Motion to Intervene, including a simultaneous filing of any brief, in this case by email. This authorization for email filing was conditioned upon Mr. Stiver submitting the appropriate filing fee which the record reflects he has not done. On that basis, and due to the expedited timing required here, the Court now orders that Mr. Stiver pay the appropriate filing fee for a Motion to Intervene by 11:00 a.m., Monday, May 4, 2020. Failure to pay that fee will result in the pleading being stricken from the record as if it had not been submitted at all.

The Court further orders that, Counsel for Petitioner, Respondents and Intervenor shall file a written response to Mr. Stiver's Motion to Intervene, which the record reflects had been served upon them by email today, not later than Monday, May 4th at 8:00 a.m. Given the urgency of timing in this matter, no Reply will be received.

Counsel for Petitioner shall serve this order upon Mr. Stiver and file a certification that the same has been accomplished, not later than 24 hours from today.

BY THE COURT:

Issue Date: 5/1/2020



MICHAEL ANTHONY MARTINEZ

District Court Judge