
STATE OF COLORADO
SECRETARY OF STATE
Administrative Hearing Office
1700 Broadway, Suite 550
Denver, CO 80290

Case number:

2025 AHO 15 CPF
(*in re* ED 2025-01)

IN THE MATTER OF:

ELECTIONS DIVISION of the SECRETARY OF STATE

Complainant

v.

DOUGLAS COUNTY VICTORY FUND,

Respondent

ORDER ON MOTION FOR ENLARGEMENT OF TIME

1. The parties have filed a joint motion for an enlargement of time to file “stipulated facts in lieu of an answer from Respondent in the hope of permitting the Hearing Officer to resolve this matter expeditiously without a hearing.” Motion, p. 1. The motion states that the parties are working on stipulated facts that could be submitted to the administrative court for decision without a trial. They do not cite a procedural road map, but the intent appears to be to tee up this matter decision based on the submission of stipulated facts—i.e., with motions and an order for summary judgment pursuant to C.R.C.P. 56.

Where “matters outside the pleadings are presented to and not excluded by the court, the motion [for judgment, or to dismiss the complaint] shall be treated as one for summary judgment and disposed of as provided in Rule 56, and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by Rule 56.” C.R.C.P. 12(c).

2. While I am not opposed to stipulated facts as an alternative to a trial of the facts, there are certain pitfalls that can be created by stipulated facts that are not carefully drawn.

- a. **Ambiguity and omission.** If key dates, exhibits, or jurisdictional predicates (service, standing, timeliness, exhaustion) aren’t expressly stipulated, a hearing officer can’t assume them.
- b. **An anemic record for appeal.** If the stipulation is skeletal (or mixes facts with argument), the trial court’s path to decision is more difficult and its decision can be hard to review. In the August 27 Order, I pointed to some of the difficulties posed by gaps and inconsistent facts in the Complaint. If this case proceeds to decision based on stipulated facts, appellate courts at each level will have to review the legal questions de novo without credibility determinations or live proof.
- c. **Stipulations that smuggle in law, not facts.** Courts aren’t bound by stipulations of law, only facts.
- d. **Incomplete stipulations impair adequate findings.** Whether the case proceeds under C.R.C.P. 52 (trial without a jury)¹ or C.R.C.P. 56 (summary judgment), each requires findings of all facts necessary to make special findings and to support legal conclusions. Sparse stipulations can lead to abbreviated findings, inviting reversal or remand.
- e. **Stipulating to “what a witness would say” is just a proffer—not a fact.**

¹ C.R.C.P. 52 requires special findings in actions “tried upon the facts without a jury.”

3. Having pointed out my concerns, I am inclined to grant the parties what they have requested, mainly, some additional time for the case to proceed toward summary judgment under C.R.C.P. 56. I am not, however, willing to relieve Respondent of the obligation of answering the Complaint. The assertion of facts in the Complaint and admission or denial of facts and assertion of others in the Answer are integral to establishing the material and relevant facts that support a judgment.

4. IT IS THEREFORE ORDERED THAT Respondent shall either answer the Complaint or file a Motion for Summary Judgment on or before September 25, 2025. In the event of an Amended Complaint, the Answer or Motion for Summary Judgment will be due 21 days after service of the Amended Complaint. C.R.C.P. 12(a)(1). Obviously, Stipulated Facts can be submitted at any time.

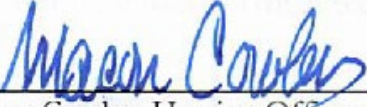
5. IT IS FURTHER ORDERED THAT if the parties submit a joint “Stipulated Statement of Facts” in connection with a motion or motions for summary judgment, the statement shall be submitted in numbered, short paragraphs, with pinpoint exhibit references. There will be no “stipulated testimony” formulations unless the parties also stipulate that the stated facts in the testimony are true.

6. The parties will also submit a single list of genuinely disputed questions—if any. These will be the subject of a hearing or mini trial under C.R.C.P. 56(d). The list of disputed questions of fact is due on the same date that replies to motions for summary judgment are due under C.R.C.P. 121, § 1-15(c).


7. Responsive pleadings and replies to motions and/or cross motions for summary judgment shall be due on the following schedule as set forth in C.R.C.P. 121, § 1-15.

- a. A responsive pleading to a motion for summary judgment is due 21 days after service of the motion. C.R.C.P. 121, § 1-15(1)(b).
- b. A reply to responsive pleading on summary judgment is due 14 days after service of the responsive pleading. C.R.C.P. 121, § 1-15(1)(c).

SO ORDERED this 12th day of September 2025.



Macon Cowles, Hearing Officer



CERTIFICATE OF SERVICE

The undersigned hereby certifies that one true copy of this Order was sent via email on September 12, 2025 to the following:

Peter G. Baumann, Esq.
Senior Assistant Attorney General
Ralph L. Carr Colorado Judicial Center
1300 Broadway, 6th Floor
Denver, Colorado 80203
Peter.Baumann@Coag.Gov
Counsel Of Record

Christopher Murray, Esq.
First & Fourteenth PLLC
chris@first-fourteenth.com
Respondent's Counsel

Lloyd Guthrie
4676 Ponderosa Trail
Littleton, CO 80125
Lguthrie42@comcast.net
Third-Party Complainant

/s/ N. B. Porte

Nathan Borochoff-Porte, Administrative Court Clerk