

DENVER DISTRICT COURT 1437 BANNOCK ST. STATE OF COLORADO DENVER, CO 80204	<p style="text-align: center;">COURT USE ONLY</p> <hr/> Case Number: 2020CV031228
<p>Plaintiff: HUGH TURNER CLEMENTS; NATHANIEL WERNER; DENVER HOMELESS OUT LOUD; SOLIDARITY NOT CHARITY; FORT COLLINS HOMELESS COALITION; BOULDER RIGHTS WATCH; SAFE ACCESS FOR EVERYONE;</p> <p>v.</p> <p>Defendant: COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, and JILL HUNSAKER RYAN, AS THE EXECUTIVE DIRECTOR OF THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT</p> <hr/> <p>Attorney for Plaintiff: Jason Flores-Williams 1851 Bassett St 509 Denver, CO 80202 Reg. No. #49702 303-514-4524 Jfw@jfwlaw.net</p>	
MOTION FOR HEARING PURSUANT TO C.R.C.P 106(a)(IV)(VIII)	

COME NOW PLAINTIFFS, by and through Counsel, and respectfully request that pursuant to Colorado Rule of Civil Procedure 106(a)(IV)(VIII), this Court use its wide-ranging discretion to set a hearing with regard to the Colorado Department of Public Health and Environment’s duties and obligations concerning thousands of homeless citizens in the State of Colorado during a state of pandemic emergency.

1. Since filing this Petition on April 1, 2020, Plaintiffs have been contacted by motel owners wanting to house the homeless community, but who are prevented from offering the housing by local authorities—thereby evidencing the need for a state level directive in this crisis.¹
2. In other words, *but for* the Colorado Department of Public Health’s inaction and refusal to perform, *right now* homeless could be distancing, quarantining, and slowing the transmission and death rates of Covid-19 around the State.
3. The urgency is evident: if this state agency does not comply with its mission and statutory obligation to use its power and expertise to protect the most vulnerable in our state, then this will become a Public Health disaster for Colorado.²
4. Plaintiffs have adhered to the heightened ethical standard expected during this emergency, attempting to work with Defendant to resolve these issues without the further aid of litigation; but after engaging in good faith efforts, now must focus on the duty owed to the thousands of poor and homeless that they advocate for and represent, i.e. to seek an rightful order that the Colorado Department of Public Health and Environment comply with its statutory mandate and prevent needless death and suffering in the homeless community.³
5. Without the guidance and intervention of the Colorado Department of Public Health and Environment regarding housing and shelter of the Colorado homeless

¹ Plaintiffs will provide direct testimony and/or affidavits, whichever the Court prefer.

² In Cities and regions “ahead” of Colorado, homeless shelters and communities have become hotspots for transmission and retransmission of the virus. <https://www.nytimes.com/2020/04/13/nyregion/new-york-coronavirus-homeless.html?action=click&module=Top%20Stories&pgtype=Homepage>. See also [Expert Aff. Koester, reattached as Exhibit “A”]

³ Dep’t of Health has had the 106 Complaint for two weeks. [See “waiver of service.”] See also Para. 35 in the Complaint citing to an order of this Court that *ex parte* relief in the form of an R.65 Temporary Restraining Order is inappropriate when seeking action from a State Agency.

during this pandemic, thousands will contract and retransmit the disease. Hundreds will die. The Court has wide-ranging discretion to set hearings and response schedules pursuant to CRCP 106(a)(IV)(VIII). One could not envision a more devastatingly apt and emergent state of affairs in which the Court, respectfully, would be justified in exercising it.

WHEREFORE, the Plaintiffs respectfully request per C.R.C.P. 106:

1. That the Court schedule a hearing in this matter; notice of which Plaintiffs will immediately serve on representatives of the Defendant—Colorado Attorney General—through means electronic and telephonic;⁴

Respectfully submitted,

s/Jason Flores-Williams
Jason Flores-Williams #49702
Attorney at Law
1851 Bassett 509
Denver, CO 80202
Attorney For Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that the above Motion was efiled on 4/17/20 causing a copy to be electronically submitted to the Court and to be on public record for view and access of any party.

s/Jason Flores-Williams
Jason Flores-Williams #49702
Attorney at Law
1851 Bassett 509
Denver, CO 80202

⁴ Plaintiffs have current email addresses and contact information for representatives of the Defendant.