

DISTRICT COURT, DENVER COUNTY  
STATE OF COLORADO  
Court Address: 1437 Bannock Street  
Denver, CO 80202

Plaintiff(s):  
COLORADO CROSS-DISABILITY COALITION *et al.*

v.

Defendant(s):  
COLORADO DEPARTMENT OF HEALTH CARE  
POLICY AND FINANCING *et al.*

Attorney or Party Without Attorney:

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Case Number: 2009 CV 11761

Ctrm.: 280

**PLAINTIFFS' REPLY IN SUPPORT OF MOTION FOR AMENDMENT OF  
FINDINGS AND JUDGMENT PURSUANT TO C.R.C.P 59**

Plaintiffs, by and through undersigned counsel, hereby submit their reply in support of their Motion for Amendment of Findings and Judgment Pursuant to C.R.C.P. 59 ("Motion").

**INTRODUCTION**

Plaintiffs' Motion, filed after a full hearing and briefing on the issue of the correct amount of reasonable attorneys' fees to be awarded in this case, suggests that the Court may have made certain calculation errors in awarding Plaintiffs' fees. In addition, the Motion requests the Court reconsider its decision to award fees only through the date of the Motion to Enforce the Settlement Agreement because the Court's rationale for awarding fees -- that Defendants' counsel's position in opposing Plaintiffs' enforcement of the settlement agreement was "utterly ridiculous" -- applies with equal force to all remaining time Plaintiffs' counsel was required to spend on this case.

In response, Defendants appear to agree the Court may have made a calculation error,

and Defendants do not address whether the Court's determination that Defendants violated Colorado's Frivolous, Groundless, or Vexatious statute, C.R.S. § 13-17-101, *et seq*, should be applied to their conduct post-resolution of the Motion to Enforce. Instead, Defendants now assert new reasons for why additional reductions should be made to the award this Court ordered. These arguments were not made during the briefing or at the hearing and must be rejected now. Defendants did not file a motion seeking to amend the judgment, and the deadline for doing so has passed.

## **ARGUMENT**

### **I. Applicable Legal Standards**

“Within 15 days of entry of judgment as provided in C.R.C.P. 58 or such greater time as the court may allow, a party may move for post-trial relief including: . . . (3) Amendment of findings; or (4) Amendment of judgment.” C.R.C.P. 59(a). Motions for post-trial relief may be combined or asserted in the alternative. The motion shall state the ground asserted and the relief sought. *Id.* The term “judgment” includes an appealable decree or order as set forth in C.R.C.P. 54(a). C.R.C.P. 58(a); C.R.C.P. 59(a).

### **II. Defendants' Failure to Comply With the Timing Requirements of C.R.C.P. 59 Bars Further Consideration of the Arguments Raised in Their Response.**

Defendants had “[w]ithin 15 days of entry of judgment” to move for post-trial relief. They did not do so. Defendants have also been granted numerous extensions to respond in this case. “A C.R.C.P 59 motion must be filed with the district court within fifteen days from the date of entry of judgment.” *In re Marriage of Buck*, 60 P.3d 788, 789 (Colo. App. 2002); C.R.C.P. 59.

Defendants did not ask this Court to reconsider its findings or judgment. It is too late to raise further arguments now.

WHEREFORE, for the reasons set forth in Plaintiffs' Motion, Plaintiffs' respectfully request this Court grant Plaintiffs' Motion in its entirety and amend its findings and judgment as set forth in that Motion.

Dated: September 30, 2011

Respectfully submitted,

COLORADO CROSS-DISABILITY COALITION  
LEGAL PROGRAM

/s/ Kevin W. Williams

Kevin W. Williams

Andrew C. Montoya

Attorneys for Plaintiffs

**CERTIFICATE OF SERVICE**

I hereby certify that on September 30, 2011, I electronically filed the foregoing using the Lexis Nexis Court Link which will provide service upon the following:

Patricia Herron, Esq.  
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/s/ Briana McCarten  
Briana McCarten  
Legal Program Assistant

*Duly Authorized Signature on file at the Colorado Cross-Disability Coalition.*