

DISTRICT COURT, GRAND COUNTY, COLORADO 307 Moffat Avenue Hot Sulphur Springs, CO 80451	DATE FILED: March 17, 2023 2:34 PM FILING ID: AF7F5DCA19A44 CASE NUMBER: 2021CV30008
<p><b>Plaintiff:</b> GRANBY RANCH METROPOLITAN DISTRICT, a quasi-municipal corporation and political subdivision of the State of Colorado,</p> <p>v.</p> <p><b>Defendants:</b> HEADWATERS METROPOLITAN DISTRICT, a quasi-municipal corporation and political subdivision of the State of Colorado; GRAY JAY VENTURES, LLC.; REDWOOD CAPITAL FINANCE CO., LLC, GRANBY PRENTICE, LLC; and GR TERRA, LLC.</p>	
<p><b>Attorneys for Julie Krueger:</b>          Reid J. Allred, #37934          CAMBRIDGE LAW LLC          4610 S. Ulster Street, Suite 150          Denver, Colorado 80237          (303) 488-3338          (303) 488-3337 (fax)          reid@cambridgelawcolorado.com</p>	<p style="text-align: center;"><b>▲ COURT USE ONLY ▲</b></p> <p>Case Number: 2021CV30008</p> <p>Division: 1</p>
<p><b>REPLY IN SUPPORT OF MOTION TO QUASH PLAINTIFF’S SUBPOENA TO JULIE KRUEGER OR FOR A PROTECTIVE ORDER</b></p>	

Non-party Julie Krueger submits the following Reply in support of her Motion to Quash Plaintiff’s Subpoena to Julie Krueger or for a Protective Order (“**Motion**”).

**INTRODUCTION**

In its response brief, Plaintiff does not (and cannot) refute the fact that Ms. Krueger has a serious medical condition—neurogenic claudication—and takes daily mind-altering medication, which affects her ability to recall events. It does not dispute that the acute pain Ms. Krueger suffers also affects her ability to recall events accurately. Plaintiff also cannot refute that the idea of

participating as a witness in a deposition related to this dispute causes Ms. Krueger significant mental distress, which in turn amplifies her physical pain. (*See* Motion ¶¶ 7-15; *id.* Ex. B ¶¶ 3-12.)

Plaintiff does not address these significant and concerning issues, but instead argues that because Mr. Krueger *may have* discoverable information that the other board members who were already deposed could not remember or never knew, she should have to endure physical and mental anguish. Plaintiff also suggests conducting the deposition in her home or limiting its length, but these accommodations will not alleviate Ms. Krueger’s pain or the stress that will exacerbate it. (*See id.* Ex. B ¶¶ 11-12 (“The idea of participating as a witness in a deposition . . . causes me a lot of mental distress, which in turn greatly amplifies my physical pain . . . [and] causes me to further struggle to recall events and details.”).)

If Ms. Krueger must provide evidence in this matter, the Court should issue a protective order limiting her participating to responding to questions under Rule 31(a), Colorado Rules of Civil Procedure. If the number of questions posed is reasonable (up to 20) and she is provided ample time to answer (at least 21 days), she should be able to answer written questions without causing her pain and distress. Answering questions in writing would allow Ms. Krueger time to respond, which will allow her to work on answers when she feels well, increase the accuracy of the responses, and (most important) reduce her pain and distress. Such a compromise will balance the burden on Ms. Krueger with Plaintiff’s alleged need for any information she may have.

## ARGUMENT

Participating in a deposition of any length and at any location would impose a severe burden on Ms. Krueger due to her health condition. (*See id.* Ex. B ¶¶ 11-12.) The burden of the deposition outweighs the probative value of Ms. Krueger’s oral testimony.

As this Court is aware, Plaintiff’s claims in this case involve the relationship of two metropolitan districts and events that occurred *over some twenty years*, dating back to 2003. Asking Ms. Krueger to sit for a deposition for any amount of time (whether it is in her home or elsewhere) and talk about documents and events that occurred 20 years ago poses an undue burden on her mental and physical health, given her condition. Plaintiff cannot establish the probative value necessary to overcome the burden on Ms. Krueger.

Plaintiff has already deposed two GRMD and Headwaters board officials for a total of 12.5 hours. Allowing GRMD to depose yet another board member about the very same time frame, merely because she was the one who signed certain agreements and because the other board members cannot recall events from 20 year ago, is not justification for putting Ms. Krueger in harm’s way.

The Rules make clear that “the issuing court *must* quash or modify a subpoena that . . . subjects a person to undue burden.” C.R.C.P. 45(c)(3)(A)(iv) (emphasis added). Furthermore, Rule 26 allows the court to “make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense.” *Id.* 26(c). The Court should quash the subpoena and issue a protective order to shield Ms. Krueger from physical pain and mental distress.

Here, quashing the Subpoena for a deposition and allowing the Plaintiff to proceed with questions under Rule 31 is in the interest of justice. Doing so will allow Plaintiff to discover whether Ms. Krueger has any additional knowledge beyond what the other two long-time board members (Lance Badger and Kyle Harris) remember, while still protecting Ms. Krueger from negative mental- and physical-health ramifications.

The burden a deposition imposes on Ms. Krueger far outweighs Plaintiff's need for the deposition. The subpoena should be quashed, and the Court should issue a protective order, requiring Plaintiffs to obtain discovery from Ms. Krueger only by way of Rule 31. *See* C.R.C.P. 45(c)(3)(A)(iv); *id.* 26(c).

### **CONCLUSION**

WHEREFORE, Julie Krueger respectfully requests that this Court quash the subpoena for her testimony and issue a protective order preventing the oral deposition and allowing Plaintiff to issue up to 20 written questions to Ms. Krueger, pursuant to Rule 31(a), Colorado Rules of Civil Procedure, which Ms. Krueger will answer within 21 days.

Dated this 17th day of March, 2023.

Respectfully submitted,

CAMBRIDGE LAW LLC

By: s/ Reid J. Allred  
Reid J. Allred, #37934

*Attorneys for Julie Krueger*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 17th day of March 2023, a true and correct copy of the foregoing document was served via the Court's e-filing system on all counsel of record.

*s/ Reid J. Allred*  
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Reid J. Allred