

**BEFORE THE SECRETARY OF STATE
STATE OF COLORADO**

CASE NO. OS 2007-0022

SECOND NOTICE OF HEARING

**IN THE MATTER OF THE COMPLAINT FILED BY BROOKS IMPERIAL REGARDING
ALLEGED CAMPAIGN AND POLITICAL FINANCE VIOLATIONS BY ELBERT
COUNTY DEVELOPMENT COUNCIL, INC.**

A hearing on this complaint will be held at the Office of Administrative Courts, 633 17th Street, 14th Floor, Denver, CO 80203 at 9:00 a.m. on January 14, 2008.

NOTICE REGARDING PROCEDURES AT THE HEARING

This complaint was made pursuant to the Fair Campaign Practices Act, Article XXVIII of the Colorado Constitution and Section 1-45-101, et seq., C.R.S. Under this law the person filing the complaint has the burden of proving by a preponderance of the evidence that a violation of the Fair Campaign Practices Act has occurred. Information about presenting a case before the Office of Administrative Courts can be found at <http://www.colorado.gov/dpa/oac>. By order of the Administrative Law Judge no prehearing statements are required to be filed.

At the hearing, each party will have the right to present personal testimony and the testimony of other witnesses, present documentary evidence, cross-examine witnesses and present argument to the Administrative Law Judge.

You may require the attendance of witnesses by subpoena, and subpoena forms may be obtained from the Office of Administrative Courts. A party wishing to subpoena a witness shall be responsible for arranging for service of the subpoena as required by law.

A party may be represented by an attorney at the party's expense. A party can not be represented at a hearing by a person who is not an attorney.

BEFORE THE SECRETARY OF STATE

STATE OF COLORADO

CASE NO. OS 2007-0022

PROCEDURAL ORDER

**IN THE MATTER OF THE COMPLAINT FILED BY BROOKS IMPERIAL REGARDING
ALLEGED CAMPAIGN AND POLITICAL FINANCE VIOLATIONS BY ELBERT
COUNTY DEVELOPMENT COUNCIL, INC.**

Complainant Brooks Imperial filed a Request for Summary Judgment in this matter on November 28, 2007. To date, Elbert County Development Council, Inc. has not filed a response to the motion.

Summary judgment is proper when the pleadings, affidavits, depositions, or admissions show that there is no genuine issue as to any material fact, and that the moving party is entitled to judgment as a matter of law. C.R.C.P. 56(c). The burden of establishing the nonexistence of a genuine issue of material fact is on the moving party. *Continental Airlines, Inc. v. Keenan*, 731 P.2d 708 (Colo. 1987); *Schultz v. Wells*, 13 P.3d 846 (Colo. App. 2000). The movant may satisfy this burden by showing there is no record evidence supporting the nonmoving party's case. Once the movant has met the initial burden of production, the burden shifts to the nonmoving party to establish that there is a triable issue of fact. *Civil Service Commission v. Pinder*, 812 P.2d 645 (Colo. 1991); *Schultz v. Wells, supra*.

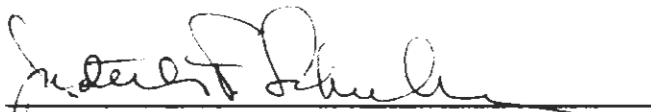
In ruling upon a motion for summary judgment, the nonmoving party is entitled to the benefit of all favorable inferences that may reasonably be drawn from the undisputed facts. *Peterson v. Halsted*, 829 P.2d 373, 375 (Colo. 1992); *Van Alstyne v. Housing Authority of City of Pueblo*, 985 P.2d 97 (Colo. App. 1999). However, once a movant makes a convincing showing that genuine issues are lacking, C.R.C.P. 56(e) requires that the opposing party adequately demonstrate by relevant, receivable, and specific facts that a real controversy exists; reliance on allegations or denials in the pleadings will not suffice when the moving party has established by affidavit the absence of a triable issue of material fact. *Ginter v. Palmer & Company*, 585 P.2d 583, 585 (Colo. 1978); *Sullivan v. Davis*, 474 P.2d 218 (Colo. 1970).

This matter is set for hearing on the merits on January 14, 2008. Elbert County Development Council, Inc. shall have up to and including January 10, 2008 within which to file (with a copy to Complainant) a response to the Request for Summary Judgment, specifically setting forth the position of Elbert County Development Council, Inc. as to

whether there are any genuine issues of material fact in dispute in this matter and whether Complainant is entitled to judgment as a matter of law with respect to the complaint. The response may be mailed or faxed to the Office of Administrative Courts at 633 17th Street, Suite 1300, Denver, CO 80203, fax number: 303 866-5909.

DONE AND SIGNED

January 3, 2008

A handwritten signature in black ink, appearing to read "Judith F. Schulman", written over a horizontal line.

JUDITH F. SCHULMAN
Administrative Law Judge

BEFORE THE SECRETARY OF STATE

STATE OF COLORADO

CASE NO. OS 2007-0022

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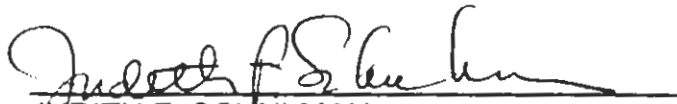
On January 3, 2008, the Office of Administrative Courts (OAC) served a procedural order on the parties by facsimile transmission, allowing the Elbert County Development Council, Inc. up to and including January 10, 2008 to file a response to a Request for Summary Judgment filed by Brooks Imperial. On January 4, 2008, Charles Groesbeek, on behalf of Elbert County Development Council, Inc. filed a response in which he indicated he has never received a copy of the Request for Summary Judgment. At Mr. Groesbeek's request, a copy of the Request for Summary Judgment is included with this Second Procedural Order. Elbert County Development Council, Inc. shall have up to and including January 10, 2008 within which to file a response to that motion.

Both parties are informed that all materials filed in this matter with OAC shall be simultaneously mailed or faxed to the opposing party and shall include a certificate of service reflecting the documents have been properly served by mail or fax on the opposing party. A copy of Mr. Groesbeek's January 4, 2008 filing is enclosed with this order for the benefit of the Complainant as it is not clear from Mr. Groesbeek's filing whether he sent a copy of that filing directly to Complainant.

All filings in this matter may be mailed or faxed to the Office of Administrative Courts at 633 17th Street, Suite 1300, Denver, CO 80203, fax number: 303 866-5909 (with a copy to the opposing party).

DONE AND SIGNED

January 4, 2008



JUDITH F. SCHULMAN
Administrative Law Judge

Case " 05 2007-0025

The Complaint by Brooks Imperial, 9 Nov 07 is
specious and frivolous.

Elbert County Development Council is a 501-c-6
That was denied use of the County's logo.
E.g. pages 3 of 10 and 7 of 10.

Charles Groesbeck is named 11 times as a
politically active citizen working for his
image of the Public Good. See pages
5 of 10 through 8 of 10.

The Plaintiff seemingly is unprepared for
trial.

Charles Holmes Groesbeck, Director of ECDC
is prepared to testify.

If it please the Court, I respectfully
suggest the Court review the Complaint
on its merits and Dismiss.

Further, please review and evaluate page
10 of 10, to Remedy sought and order
appropriately.

In summary, the submitted evidence
contradicts the Complaint.

Charles Holmes Groesbeck
2893 CR 232
ELIZABETH 80107

cell
303 627 2400

3 Jan 07

Fix at Elj Biz Center

303 646 6566

3,866 5909

Vickie

Case* 05 2007-0022

RE Procedural Order received
by Charles Groesbeek, 3 Jan 08.

Groesbeek has received no copy
of request for Summary Judgment
dated 28 Nov 2007. Hence, no reply.

The premise of 9 November 07
Complaint is false. The County Attorney
would represent ELCO Development Council
if it were a government entity.

The Plaintiff's motion to set aside
a certified election exceeds the
court's jurisdiction.

Please fax request for Summary
Judgment to Eliz Biz Center 3/646
6566

Thank you

3 Jan 08

Charles Groesbeek
3/624 2400