

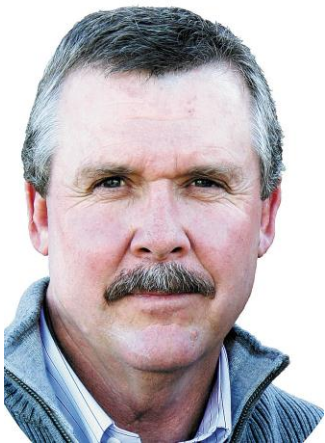


Secretary of State to intervene in court ruling

Gessler's office to oppose judge's decision to fine commissioner

[George Lurie](#)

Posted 1/24/14



Rowland

A spokesperson for Colorado Secretary of State Scott Gessler has confirmed that Gessler's office will attempt to nullify a recent ruling by an administrative judge who fined Board of County Commissioners Chairman Robert Rowland \$1,000 for violating Colorado's Fair Campaign Practices Act.

"We are planning to intervene in the case," Andrew Cole, a spokesperson for the Secretary of State, said on Jan. 24.

"The judge directed the commissioner to personally pay the fine to the county, which is not what the constitution directs," said Cole. "In addition, we have some broader First Amendment concerns with the ruling and what it could mean for elected officials going about their work."

Rowland said he was encouraged by the Secretary of State's support, adding, "I am a long way away from writing that check."

Cole said lawyers in the Colorado Attorney General's office are currently working on Gessler's response to the judge's controversial ruling, which was issued on Dec. 24.

On Jan. 16, the BOCC held a special meeting during which commissioners voted 2-1 to appeal the judge's ruling — with Commissioners Rowland and Kurt Schlegel voting in favor of the appeal and Commissioner Larry Ross casting the dissenting "no" vote, arguing an appeal would be an additional drain on county resources.

“It's kind of a fluid situation right now but my objective is to file the appeal before the end of January,” said County Attorney Alex Beltz, who explained that filing an appeal “effectively stops the clock” on the judge's deadline for Rowland to pay the fine.

Since the ruling was made public Jan. 4, Rowland said that he has also heard from a number of other county commissioners around the state, as well as from the CCI — Colorado Counties Inc., a statewide nonprofit which supports county commissioners, mayors and city and town councilmembers.

“Everybody I've talked to, except Jill Duvall, is very upset by this ruling,” said Rowland.

Duvall, an Elbert County resident who ran against Rowland in the 2012 election and who is chair of the Elbert County Democratic Party, filed the original complaint with the Secretary of State's office in early December and a one-day hearing was held in a courtroom in downtown Denver on Dec. 13.

Because it had to be reviewed, Judge Robert Spencer's subsequent ruling was not made public until early January.

Duvall alleged Rowland violated the Fair Campaign Practices Act by spending county funds to hire consultant Tim Buchanan, who Duvall claimed had urged voters — at four pre-election public meetings sponsored by the county — to support Ballot Issue 1C, which sought to raise property taxes to help offset the county's near-insolvent financial position.

County voters defeated that ballot initiative by an 8-1 margin this past November.

At the Dec. 13 hearing, Duvall was represented by Elizabeth attorney Lark Fogel, who also ran unsuccessfully for county commissioner in 2012.

In his ruling, the judge states: “At no time during the town hall meetings did the consultant or Commissioner Rowland specifically ask voters to vote for Ballot Issue 1C. Nevertheless ... because the meetings occurred shortly before the election and the consultant's presentation was obviously designed to underscore the county's need for increased revenue, the meetings could not be reasonably interpreted as anything but a plea for passage of Ballot Issue 1C.”

The judge concluded that Rowland and the BOCC “no doubt intended to comply with the FCPA and to act in the best interests of their county, but they nonetheless violated the FCPA by spending public money to urge voters to support a pending ballot issue.”

Because Duvall had named him personally in her complaint, the judge ordered Rowland “as an individual responsible for the improper expenditure to reimburse the county general fund the amount of \$1,000 within 30 days.”

In most cases, the Secretary of State's office is the governmental entity responsible for enforcing and collecting fines issued by administrative judges but with Gessler announcing his intention to oppose the decision to fine Rowland, technically, the power to try to enforce the fine would fall to the complainant in the case, Jill Duvall.

“At two of the public meetings, I personally heard Robert Rowland repeatedly say ‘mill levy, mill levy,’” said Duvall. “The county is guilty of using county money to promote a ballot issue. They were wrong and had their hands slapped.”

When informed the Secretary of State's office was planning to get involved, Duvall said, “I hadn't heard anything about that. It sounds very political to me.”

13 comments on this story | [Add your comment](#)

Robert Thomasson

If the SOS wishes to intervene on the part of Mr. Rowland, so be it. Gessler is doing exactly what he accuses others of doing. As Rowland chose to ignore the rules that define his office, Gessler, hopes to gain notoriety with the Tea Party base in his upcoming bid to become Governor of Colorado. His office has almost no sway in these cases. The evidence in the case is air tight and the Appellate Judge, does not consider anything other than the correctness of the lower courts decision. This string of articles in the ECN, involving the misbehavior of Tea Party Commissioner, Robert Rowland are unusual. First, an article about an alleged assault by a woman in Douglas County shows up. The story had to have been submitted by Rowland himself. Without so much as a word from the Parker Police or the alleged perpetrator of the assault, ECN prints the story? Is that standard operating procedure at the newspaper? What it appears like to those who know Mr. Rowland and who are aware of his public behavior, is that he called in his own story. ECN needs the money from the legal advertisements, appears to have run a flimsy piece that is purely hearsay in nature. That looks bad for the paper, the reporter and ultimately Mr. Rowland. Now this piece. Gessler knows that he has little jurisdiction over these matters. Gessler is also smart enough to know that Rowland needed to recuse himself on the vote to appeal as it directly impacted his personal wealth. That is a conflict of interest. Gessler knows it. The voters that he hopes to enrage by defending Rowland will likely be impressed by the words, but not the outcome. Rowland just keeps making himself look bad, he always has to keep talking when he shouldn't. Now let's see how long this comment stays up. That would be one way to show the public you are not reporting with bias. By the way, if Rowland broke the rules, the political affiliation of the people who bring it to the court's attention is meaningless. It was wrong whether reported by a Republican or Democrat.

Friday, January 24 | [Report this](#)

JNesbitt

I attended one of these community meetings. The message I got from it was this: Here is where we (Elbert County) are financially; here is what we can offer citizens with the dollars we have and if you want more than that you have a choice to make. The voters resoundingly said NO to any new taxes. That is fine -- they made their choice and they (we) will get what the County can afford to provide. Which means if the Motor Vehicles gets backed up again -- you can't lament or complain -- you made the choice. If your road doesn't get plowed right away, then dig yourself out. If the washboards on your road rattle your teeth, then drive slower. No new taxes mean that we have to be more self reliant. The funny thing about counties like ours is that we all pretend that we are self reliant until we need something and then we start to whine. This is our bed -- we gotta sleep in it. It was our choice to say no.

As for the comments of Mr. Thomasson -- I have to smile. Elbert County News is the only newspaper that seems to NOT be dominate by the likes of Ms. Duvall. When I pick up the Prairie Times, the Ranchland News or God Forbid I resort to the op-ed New Plains all I ever see are articles and letters written by the Duvalls - rarely a week goes by when you don't hear from her or her husband. I have stopped picking up the local rags because the message is so clearly slanted -- they can't even pretend to be unbiased. So whether or not you agree or disagree with the SOS getting involved in this little "scandal" hearing a voice other than the drone of Duvall and her chums is refreshing. It is laughable that Thomasson claims that Rowland dominates this newspaper when Thomasson and his crew try to dominate everything else! Amazing that another opinion got through the quagmire of Elbert County media. We are quite the little Peyton Place in Elbert County -- it is lovely to look at but this group of folks illustrates that there is often an ugliness just below the surface and you only realize it if you live there -- it isn't left or right -- it's just ugly. I wager most of Duvall's motivation is sour grapes. God woman, let it go. Find some peace if only for yourself. Enjoy life!

What I wish for this county is that people would just let the people we elected do their jobs. The constant challenging of day to day business is costing this county time and money it can ill afford.

Saturday, January 25 | [Report this](#)

RobertThomasson

JNesbitt forgets that Jill Duvall exercised her rights by law. It was not the Duvalls that found Robert Rowland guilty, it was the ALJ and the laws of Colorado that found him in breach. Nesbit complains about the Duvalls , but strays from the article and the facts of the case. Perhaps Nesbit, who seems quick to trash people and publications with no regards for the findings of the case before us might do well to enlighten us on just where a respected judge's opinion was in error and avoid what is apparently partisan rhetoric.

Saturday, January 25 | [Report this](#)

JNesbitt

Indeed I do stray from the article -- you missed my point. I don't really care about the "lawsuit" nor do I care about the Secretary of State's intervention. I think it is all political BS. I care about the county and honestly no one in place right now left or right is diabolical -- I like some of our elected leaders more than I like others. There are some personalities that grate against me too. I think Duvall's claims are silly -- if she put as much energy into feeding the hungry as she does in criticizing current elected officials everyone would be fat. I think the defenses to her attacks are silly. It is all a bunch of silly wasted time, energy and money. I support the Elbert County news in sharing "the other side of the story" though -- as I said earlier a different perspective (whether I agree or not) is refreshing. Off to do my life and get off this silly computer. How do I allow myself get sucked in like this?

God bless!

Saturday, January 25 | [Report this](#)

RobertThomasson

JNesbitt, I believe that you miss my point. You are taking this comment section and trying to focus your attention on Jill Duvall. Your comment about her feeding the poor is ironic in that in fact the Duvalls are probably two of the most generous individuals in Elbert County. I have worked side by side with them doing charity work. Jim is a man of the cloth and has provided spiritual guidance to many in our county. Stick to the story and stop trashing someone because you do not care for them exercising their rights under the law. The State of Colorado found merit in the complaint and ruled that Rowland violated the law. This is not opinion, it is a court ruling. If Gessler decides to intervene he does so at the risk of tarnishing his standing with many conservatives in Elbert County who agree with the verdict. Try as you might to dismiss this event as just partisan bickering, it is not. Elbert County needs Commissioners that follow the rules. Those commissioners, now and in the future will most assuredly be Republicans. As a former Republican from a Republican clan, I can assure you that it is their belief that to follow the rules while in office is a desirable trait. If you don't like the Duvalls, write a letter to the editor and ask them to print your opinion. These comments should best be focused on the topic at hand.

Saturday, January 25 | [Report this](#)

SSHICKPatriot

INVITATION: 10AM Monday January 27,2014 215 Comanche St. Kiowa, CO 80117 Special BOCC Meeting to Accept/Approve the 2012 Budget Audit from Eide Bailly.

According to Commissioner Schlegel's remarks in the Elbert County News on January 23, 2014, " The decision to bring in an outside contractor to finish the audit has already cost the county nearly \$90,000 and 'unanticipated issues' have caused the cost of the audit to balloon."

In fact, this audit has cost Elbert County taxpayers, including you, JNesbitt, over a quarter million dollars. Please plan on attending this meeting to hopefully understand our commissioners continuing practice of inappropriately and illegally spending our money. You must care about this lawsuit and the need for county patriotic residents to "constantly challenge the day to day business." You are quite correct in saying this is costing the county time and money. The commissioners' day to day business is precisely what is costing us needless expenditures. There is no need for the residents to settle for reduced services. When you take the time to pull the county records and you examine the expenditures, then you will be able to draw reasonable conclusions as to the appropriateness of the commissioners tax dollar spending. Please, look at the data yourself and come be involved. You won't have to look too far to see that ugliness just below the surface and you will understand why a Patriot can't "just let the people we elected do their job". I look forward to seeing you and other concerned citizens at this meeting. The audit goes to the heart of the lawsuit and why it was filed. The light needs to shine on how and why this very costly 2012 audit is seven months late and why the commissioners continue this trend of illegally spending our tax dollars.

Saturday, January 25 | [Report this](#)
schroyer39

Wow, another George Luire fan-boy piece for Robert Rowland; the Elbert County News is starting to sound like a broken record.

Let me see if I understand this issue. Robert Rowland hires Tim Buchanan for \$15k tax-payer dollars to promote a tax increase levied against the, uh, tax-payers. The tax increase was voted down by a margin of eight to one by the tax-payers... not a very popular ballot measure. Jill Duvall asks the question of whether it is legal for Robert Rowland to spend \$15k of tax-payer dollars to promote what is, in essence "his" ballot measure. Jill Duvall does some research, discovers that what Robert Rowland did was illegal and then she files a complaint. There is a hearing in which a judge rules that Robert Rowland did indeed break the law. The judge fines Robert Rowland \$1k, not \$15k. Robert Rowland gets mad and then decides (at a special BOCC meeting) that it is within his right to make Elbert County tax-payers foot additional bills to defend his wrong-doing.

Robert Rowland, I was taught that a leader owns his mistakes, that is, he admits when he has made them, apologizes for them, learns from them, and then moves on. Stand up and be a leader. Stop hiding behind the Attorney for the BOCC and the Secretary of State. The judge said you broke the law. Pay the fine and stop wasting everyone's time and money.

And Larry Ross, thanks for being the only member on the BOCC sensible enough to conclude that Robert Rowland's pursuit of this appeal will be yet another "drain on county resources." As if wasting a quarter-million dollars for a seriously overdue financial audit isn't enough...

Saturday, January 25 | [Report this](#)
TonyCorrado

There are many oxymorons in America, Fox News being the absolute front runner. However, with articles so lacking in facts and balance, the ECN is vying for first place in local news. What is the problem at ECN? Is it that the editors truly believe in an ideology that they cannot separate themselves from or is it the fact that they simply don't allow their local reporter to query more than elected officials in preparing an article? Either way, this is one media outlet that lacks credibility.

As for the attacks on Jill Duvall, Mr. Thomasson has nailed the truth about this activist. She is dedicated to truth, good governance and protection for Elbert County. If Ms. Duvall could somehow tolerate the extreme right wing social and political views and declare herself a Republican, her activism and issues would not be any different. The question is how would the perceptions of her actions change? We continue to see attacks on persons not because of their activist interests, but rather, the inability of people to get past the issue of party

affiliation. Political party ideology has a place in both state and national politics, but Elbert County issues are not political.

I also attended the “road shows” held by the BOCC and Mr. Buchanan. If someone can point out the factual alternatives that should have been presented, such as which county services would be cut without more revenue or where the additional revenue would be applied, I didn’t see it and apparently neither did the unbiased judge. The reason it was not considered is simply because it was never presented. Spending County resources for such a trivial and weak presentation clearly indicates that two of our commissioners are simply not competent in judging quality and professionalism. Mr. Buchanan invoicing the County for being present at the court hearing is further evidence of leadership incompetence.

People like Brooks Imperial can only attack based on party affiliation, seldom being able to make factual arguments that could reasonably be debated. The same cannot be said of New-Plains.com which Mr. Nesbitt lampoons as being biased. If anyone has alternate points of view, simply write an editorial espousing those views, sign it and request that it be posted. If such editorials are not printed, then bias can be accused, but if the articles are posted, then bias is not present. The Bishops, owners and publishers of the Prairie Times (PT) is criticized because they dare to publish a factual article by Ms. Duvall? The PT should be commended for having gone to great lengths to ensure that their articles are factual and not just “opinion.” When any article is not factual, e.g. recent ECN reporting, then the misinformation must, and will, continue to be corrected.

Sunday, January 26 | [Report this](#)

Brooks_Imperial

Thomasson, Shick, Corrado, commenting on this story, 2 of them Democrat Party officials, all of them witnesses at the trial. Duvall and Fogel, Democrat candidates. Come on folks! It's cold outside and these emperors should put some clothes on.

Dem folks don't like when others point out how they operate as a monolithic block of activists.

The answers to Elbert County's problems will not come from a group of partisans all chanting the same mantras in the echo chambers they've made of county open meetings, and most of the press. Thanks to the ECN for this refreshing departure.

BTW, I don't hold Leftist politics against the above principals. Everyone is entitled to their theories in a free country. I can't help it, however, if their answers don't persuade me. And getting offensive about it doesn't add any clarity to their position.

Yesterday at 1:02 PM | [Report this](#)

RobertThomasson

Good to see you adding your voice here Brooks. So what you are saying is that in order to be critical of Robert Rowland, you must not have political affiliation with any party. By the way, I had nothing to do with the complaint discussed in the article. I was not a witness and your assertion that I speak volumes about your partisanship, but I digress. It really is beneath someone of your intellect to draw such illogical conclusions. The only thing that matters is that the facts of the case that were brought to light by the legal counsel representing the plaintiff were more compelling than the facts presented by the Elbert County Attorney. At no time during the proceedings were witnesses asked what they felt about the political agenda of the left or right sides of the political aisle. The Judge was aware of the statutes and never allowed the attorneys to stray from the essence of the case, did Robert Rowland violate the campaign rules of the State of Colorado. Of course if the verdict would have gone the other way, the decision would be heralded by those of your ilk as a case of obvious justice. The only thing I hear in your argument is that you believe anyone who does not see things your way is somehow defective. That is not the way the real world works. Rowland was found guilty. He is not going to take that

laying down and he has decided to appeal. He has enlisted the help of a Republican candidate for Governor, SOS Gessler. Should I holler fowl because he happens to be a Republican? No, because it is not supposed to be political, right Brooks? No, let the SOS jump in and use his power (not normally associated with his position) to try and sway this case. Rowland asserts there are scores of commissioners standing up for him. There were none listed by name, and that may have swayed Gessler, but I believe the facts of the case will suffice to keep the court from overturning the verdict. If it goes the other way, it will be because the ALJ made a mistake, not because of some wild claim that the Leftists are after the good Republicans of Elbert County.

Yesterday at 8:56 PM | [Report this](#)

Brooks_Imperial

Facts of the case Robert? Was the judge aware that all of the witnesses, the complainant and the complainant's attorney were Democrats, Democrat Party Officials, and Democrat Party Candidates in Elbert County. This case was politics by judicial fiat, pushed through by the Democrat activists of Elbert County.

12 hours ago | [Report this](#)

schroyer39

Hmmm... sounds like the only person that WASN'T a Democrat was the one person that broke the law.

10 hours ago | [Report this](#)

RobertThomasson

Witnesses to wrongdoing have no political litmus test, Brooks. It has no bearing on the case. Again, I was not part of this whatsoever and yet you keep trying to invent a conspiracy. Do you have any proof with which to back up your assertion of political collusion? You need not answer as there is no truth to anything you are saying. Speculation is not evidence. Conspiracy theories are not facts. Make the appeal and see what mistakes were made, but do not be surprised if it does not go the way you hope. It is likely to get much worse and there are ethical questions that arise by Rowland's refusal to see he is financially conflicted. This could become very expensive and much worse. But I expect that will just make you conjur up even bigger imaginary Leftist plots.

7 hours ago | [Report this](#)