

FILED
U.S. DISTRICT COURT
DISTRICT OF COLORADO

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

2014 AUG 19 PM 3:37

14 - CV - 02297

JEFFREY R. COLWELL
CLERK

Civil Action No.

Darrell Fortner (To be supplied by the court)

All Plaintiffs IN PRO SE

BY _____ DEP. CLK

Please see Attached Ex # 1, Plaintiff,

v.

State of Colorado,

County of El Paso, Colorado.

Black Forest Fire Board,

_____, Defendant(s).

(List each named defendant on a separate line.)

COMPLAINT

PARTIES

1. Plaintiff See Attached Ex # 1 is a citizen of United States
who presently resides at the following address:
reside and/or own property in El Paso County, Colorado
2. Defendant Black Forest Fire Board
State of Co. Co. of El Paso is a citizen of _____
who live(s) at or is/are located at the following address:
see attach Ex # 1
3. Defendant _____ is a citizen of _____
who live(s) at or is/are located at the following address:
see attached Ex # 1
(Attach a separate page, if necessary, to list additional parties.)

JURISDICTION + VENUE

4. Jurisdiction is asserted pursuant to following statutory authorities:
28 USCS 1391; 28 USCS 1346 (a) (1);
and 28 USCS 1343 (3)(4) for Federal Constitutional Claims
28 USCS 1391 (d) 28 USCS 1402 (b)
This Court has jurisdiction to hear state tort claims pur. to 28 USCS 1367 (e)
5. Briefly state the background of your case: see attached Ex # 1.
6. This is a matter of public concern!
7. See attached Ex # 1. First 14th Amendments Violated
8. Negligence acts of state + county employees
concerning The control Burn and The
Black Forest Fire;
9. Plaintiffs were denied equal protection from the fire;
10. Pattern of same Events everytime there is a fire;
11. Dangerous conditions exist in Black Forest
(Rev. 07/06) Concerning Fire. *
12. custom and policies ineffective;
13. -See Attached Ex # 1. 2.

**FIRST CLAIM FOR RELIEF
AND SUPPORTING FACTUAL ALLEGATIONS**
(Please number your paragraphs and attach any necessary additional pages.)

Negligence of state and county employees
Harvey failed to timely turn over command to
his superiors.

See attached Complaint Marked Ex # 1.

Scott Campbell ignited a fire in Black Forest
as a result Burned Thousands of acres
and destroyed hundres of homes.

See attached Complaint Ex # 1.

**SECOND CLAIM FOR RELIEF
AND SUPPORTING FACTUAL ALLEGATIONS**

(Please number your paragraphs and attach any necessary additional pages.)

Please see attached Complaint
marked Ex # 1.

customs and policies are responsible
for the Black Forest fire.

**THIRD CLAIM FOR RELIEF
AND SUPPORTING FACTUAL ALLEGATIONS**
(Please number your paragraphs and attach any necessary additional pages.)

The Board violated plaintiffs' First Amendment Right to speak at public hearings,

See attached Complaint Ex # 1

State + County Through Campbell pulled 2000 gal. water tanker and other resources off the Black Forest fire to protect his co-workers' home + property.

The Fire Board concealed the findings of the private investigation paid for by public funds (tax payers \$200,000,000) from the general public including the plaintiffs.

see attached Complaint Ex # 1.

REQUEST FOR RELIEF

Plaintiff requests the following relief:

Compensatory damages \$1,000,000.00 for each Plaintiff
Economic damages for emotion distress to be
Proven at trial.
punitive damages as the Jury deems proper,
Declaratory relief Policies + Customs be Amended.
Plaintiffs Demand Trial by Jury on all issues
Please see Ex # 1. Attached

Date: August 16, 2014.

See attached Ex # 1.
All Plaintiffs FN PRO SE

(Plaintiff's Original Signature)

Donall Johns

(Street Address)

5999 Leon Young Dr #500
80924

(City, State, ZIP)

(719) 495-7639

(Telephone Number)

Plaintiff's Exhibit # 1
The Complaint



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

CIVIL ACTION NO. _____

VERIFIED COMPLAINT

1. VIOLATION OF THE 1st, AND 14th AMENDMENTS TO THE U.S. CONSTITUTION; NEGLIGENCE; PERSONAL INJURY; LOSS OF REAL AND PERSONAL PROPERTY; LOSS OF INCOME; WRONGFUL DEATH OF TWO CIVILIANS; WRONGFUL DEATH OF FAMILY PETS AND LIVESTOCK; ECONOMIC LOSSES FOR EMOTIONAL DISTRESS; ABUSE AND MISUSE OF POWER IN OFFICE; MISUSE OF PUBLIC FUNDS; CUSTOMS AND POLICIES ARE INEFFECTIVE; ATTORNEY FEES 42 USCS 1988; INTEREST AT THE LEGAL RATE; COST; DECLARATORY RELIEF.

2. BLACK FOREST FIRE VICTIMS; DARRELL FORTNER; JENNIFFER FORTNER; YEVETTE FORTNER; MATTHEW NICCOLI; WILLY R. SCOTT; JEFFERY SCOTT; RAY ROZAK II; LINDA ROZAK; JUDITH A. SCOTT; JAMES SCOTT; ERIC SCOTT; DIANE APODACA; LESLIE E. APODACA; ANTHONY DAVID; LAUREN DAVID; KENT OSBORNE; MARIE TURNER; JACE TURNER; SUE FLETCHER; PATRICIA MAIN; CHRISTOPHER MAIN; JOHN SCHRAEDEL; JENNIFER SCHRAEDEL; ANNA SKINNER; JOHN BRADSHAW; JEFFREY YONKEY; JANICE H. WOODARD; ANDREA G. ROBERSON; LISA BRANT; RODGER L. CHRISTIANSEN; CLAUDIA F. CHRISTIANSEN; LISA AKERLUND; KENT G. ROBERSON; EDWIN E. BUSBY; LINDA L. BUSBY; TRACY WHITING; FLOYD NEISWANGER; JILL JONES-BIRD; JEAN N. KEENAN; GALE WESTMORELAND; SHARON BOWEN; PAUL HUNTSMAN; CHARMAINE VIALPANDO; DEBBIE HUTCHINSON; VICKY CONTRERAS; ZACHARY MUNDAHL; SUSAN BARNHILL; BETTY FITZPATRICK;

**DALE GRADNER; IVY SEIGEL; LEE SEIGEL; BARBARA HOFFMANN;
DICK HOFFMANN; MICHAEL TURNER; ANN M. GAFFNEY; GEOFF
PACKETT; LEE ANN NILLES; KEVIN LARSON;**

**AND DOES, ONE THROUGH FIVE HUNDRED,
PLAINTIFFS, IN PRO SE,**

**3. VS.,
STATE OF COLORADO;
COUNTY OF EL PASO, COLORADO;
BLACK FOREST FIRE BOARD;
AND DOES, ONE THROUGH 100 DEFENDANTS.**

4. PLAINTIFFS DEMAND TRIAL BY JURY ON ALL ISSUES HEREIN.

PARTIES

**5. BLACK FOREST FIRE VICTIMS: DARRELL FORTNER, JENNIFFER
FORTNER, YEVETTE FORTNER, and MATTHEW NICCOLI, 5999 Leon
Young Dr., Co. Springs, Co. 80924 (719) 495-7639;
WILLY R. SCOTT, JEFFERY SCOTT, JUDITH A. SCOTT, JAMES SCOTT, and
ERIC SCOTT, 6650 Gun Club Tr., Co. Springs, Co. 80908 (719) 439-0981);
ANTHONY DAVID and LAUREN DAVID 6930 Juanita St., Co. Springs, Co.
80908 (719) 494-1549);
KENT OSBORNE, 12590 Holmes Rd., Co. Springs, Co. 80908 (707) 272-0063;
MARIE TURNER and JACE TURNER, 1309 Holmes Rd., Co. Springs, Co.
80908 (719) 495-1982;
RAY ROZAK and LINDA ROZAK, 13330 Holmes Rd., Co. Springs, Co. 80908
(719) 495-6767;
LESLIE E. APODACA and DIANE APODACA, 15380 Black Forest Rd., Co.
Springs, Co. 80908 (719) 495-3365;
SUE FLETCHER, 4465 Leprechaun Lane, Co. Springs, Co. 80908
(719) 495-3777; PATRICIA MAIN and CHRISTOPHER MAIN, Ravine Dr. Co.
Springs, Co. 80908 (719) 209-7296;
JEFFERY YONKEY, 13425 Homes Rd., Co. Springs, Co. 80908 (719) 331-4168;**

JOHN A. BRADSHAW, 7520 Pinery Cir., Co. Springs, Co. 80908
(719) 495-1982;
JOHN SCHAREDEL and JENNIFER SCHAREDEL, 7575 Pinery Cir., Co.
Springs, Co. 80908 (719) 650-2211;
JANICE H. WOODARD, 6385 Vessey Rd., Co. Springs, Co. 80908
(719) 205-1338;
ANDREA G. ROBERSON and KENT G. ROBERSON, 13060 Vollmer Rd., Co.
Springs, Co. 80908 (719) 495-1301;
LISA AKERLUND, (719) 495-1303;
LISA BRANT, 13455 Meadow Glen Lane, Co. Springs, Co. 80908
(719) 495-1324;
ROGER L. CHRISTIANSEN and CLAUDIA F CHRISTIANSEN, Black Forest
Rd., Co. Springs, Co. 80908 (719) 495-4167;
EDWIN E. BUSBY and LINDA L. BUSBY, 8680 Shoup Rd., Co. Springs, Co.
80908 (719) 495- 2000;
TRACI WHITING, 13385 Pine Dr., Co. Springs, Co. 80908 (909) 720-8981;
FLOYD NEISWANGER, 408 E. Colo. Blvd., Monrovia, Calif. 91016
(719) 244-8550;
JILL JONES-BIRD, Co. Springs, Co. 80908 (719) 495-9484;
JEAN N. KEENAN, 13750 Homestead Rd., Co. Springs, Co. 80908
(719) 426-7283;
GALE WESTMORELAND, 12780 Black Lane, Co. Springs, Co. 80908
(719) 495-7844; SHARON BOWEN, 14060 Black Forest Rd., Co. Springs,
Co. 80908 (719) 291-1214;
PAUL HUNTSMAN, 5150 Vista Del Norte Point, Co. Springs, Co. 80919
(719) 332-3535;
CHARMAINE VIALPANDO, at 13210 Sierra Madre Rd., Co. Springs, Co. 80908
(719) 238-3188;
IVY R. SEIGEL and LEE SEIGEL, 12755 Thiebaud lane, Co. Springs, Co. 80908
(719) 492-2634;
BARBARA HOFFMANN and DICK HOFFMANN, 6723 Knight Dr., Co.
Springs, Co. 80908 (719) 495-2707;
DEBBIE HUTCHINSON, 12420 Rhine St., Co. Springs, Co. 80908;
VICKY CONTRERAS, 12890 Rusk Lane, Co. Springs, Co. 80908;
ZACHARY MUNDAHL, at 12890 Rusk Lane, Co. Springs, Co. 80908;
SUSAN BARNELL, 8650 Pine Cone Rd., Co. Springs, Co. 80908;
BETTY FITZPATRICK, 3803 Half Turn Rd., Co. Springs, Co. 80917;
DALE GARDNER, 12680 Herring Rd., Co. Springs, Co. 80908;
MICHAEL TURNER, P.O. Box 88364, Co. Springs, Co. 80908 (719) 357-3175;
ANN M. GAFFNEY, 13035 Black Forest Rd., Co. Springs, Co. 80908

(719) 464-7144;

GEOFF PICKETT, 13405 Black Forest Rd., Co. Springs, Co. 80908

(719) 337-4682;

Lee Ann Nilles, 13330 Alta Dena Dr., Co. Springs, Co. 80908 (710) 290-2116;

KEVIN LARSON, 13350 Alta Dena Dr., Co. Springs, Co. 80908 (719) 499-7513;

Plaintiffs are all natural persons, citizens of the United States, reside in, and/or own property in El Paso County, Colorado, sustained damages and losses in El Paso County, State of Colorado.

6. DEFENDANT, STATE OF COLORADO, is a state within the United States, 1300 Broadway, 10th floor, Denver, Co. 80203, hereinafter, "State".

DEFENDANT, COUNTY OF EL PASO, COLORADO, is a public entity, is organized under the laws of the State of Colorado, 200 South Cascade Ave., Colorado Springs, Colorado, 80903, hereinafter, "County".

(THE BLACK FOREST FIRE BOARD), THE BLACK FOREST FIRE/RESCUE PROTECTSION DISTRICT is a governmental subdivision of the State of Colorado, at Fire station # 1, 11445 Teachout Rd., Co. Springs, Co.80908, hereinafter, "Fire District", (FIRE BOARD)

JURISDICTION AND VENUE

7. This Court has jurisdiction under 28 USCS 1331, this is a Federal Question; 28 USCS 1346 (a) (1)(2); and 28 USCS 1343 (3)(4) for the federal Constitutional claims.

8. The acts or omissions complained of occurred within the State of Colorado.

9. Plaintiffs reside and/or own real property in El Paso County, Colorado, which is within the Federal District of Colorado. Thus, venue is properly laid in this Court pursuant to 28 USCS 1391(b) 28 USCS 1402(b).

10. Plaintiffs' have complied with the requirements of (state) law waiving sovereign immunity. On about December 3, 2013, and pursuant to CRS 24-10-109, A NOTICE of CLAIM was timely and properly presented (within 180 days) upon the Colorado State Claims Board; The Attorney General for the State of Colorado; El Paso County Attorney for the County of El Paso, Colorado, The Board of County

Commissioners of El Paso County, Colorado, and the Black Forest Fire Board of Black Forest, Colorado.

- 11, As of the date of filing this Verified Complaint, neither State, County, nor any defendant named herein has accepted or rejected Plaintiffs' claims.
12. More than 90 days have passed from date of service of the NOTICE of CLAIM. The amount in controversy exceeds \$10,000,000.00.
13. PRO SE Plaintiffs are entitled to attorneys' fees, act of 1976, 90 stat, 2641 as amended 42 USCS 1988.
14. This Court has supplemental jurisdiction to hear State Tort Claims pursuant To 28 U.S.C.S. 1367(a)
15. Proper notice of claim was timely served upon all Defendants Pursuant to C.R.S. 24-10-109.

16. **THIS IS A MATTER OF PUBLIC CONCERN!**

GENERAL ALLEGATIONS

- 17, Plaintiffs incorporate by this reference, all the statements so stated above as though fully set forth herein.
- 18, This civil action arises as a result of a Control Burn, Black Forest Fire that began June 11, 2013 in Black Forest, County of El Paso, State of Colorado due to the following:
 - a. The Fire burned over the course of approximately ten (10) days;
 - b. The Fire burned more than 15,000 acres;
 - c. The Fire destroyed approximately 485 homes, hundreds of out buildings, took the lives of two (2) civilians, many family pets, livestock, and destroyed hundreds of businesses;
 - d. Defendants, State and County employees' failure to properly assist the victims of the Black Forest fire;

e. Defendants, State and County employees violated the First and Fourteenth Amendment to the United States Constitution;

19. The State of Colorado as employer of all State employees named herein is, as a matter of law, liable for the negligent acts of its employees.
20. County of El Paso, Colorado as employer of the County employees named herein is, as a matter of law, liable for the negligent acts of its employees.
21. Defendant, State of Colorado is amenable to suit responsible for the negligent acts and omissions of its employees in their official capacity.
22. Defendant, County of El Paso, Colorado is amenable to suit responsible for the negligent acts and omissions of its employees in their official capacity.
23. At all times herein relevant, all the defendants' State and County employees were in the scope of their employment.
24. At all times herein relevant, the Black Forest Fire, (commonly known as the most destructive Fire in Colorado history), hereinafter as the "Fire".
25. At all times herein relevant, Terry Maketa, Sheriff of El Paso County, an employee of the County, and under State Code Section 30-10-512 and 30-10-513 C.R.S to act as Fire Warden of the County in case of a forest fire.
26. At all times herein relevant, the Sheriff appointed a Deputy Fire Marshal (to act on his behalf relating to fire prevention and fire control in El Paso County), Scott Campbell under Colorado State Code Sections 30-10-512 and 30-10-513 C.R.S., representing the State and the County.
27. At all times herein relevant, Scott Campbell is an employee of the County, representing the State and the County.
28. At all times herein relevant, Robert Harvey was the Fire Chief of Black Forest, Colorado, an employee of the County of El Paso, and under Colorado State Code Section 32-1-101 C.R.S., representing the State and the County.

29. At all times herein relevant, James Rebitski was the Assistant Fire Chief of Black Forest, Colorado, an employee of the County of El Paso, and under the Colorado State Code Section 32-1-101 C.R.S., representing the State and the County.

30. At all times herein relevant, Defendants and each of them acted under color of State Law.

31. At all times herein relevant, Defendants, State and County through their employees' conduct engaged in under color, and negligence acts or omissions that subjected Plaintiffs to the deprivation of rights, property damages, privileges, and immunities secured by the Federal Constitution and Laws.

32. At all times herein relevant, Defendants, State and County's customs and policies were the legal proximate cause of loss and damages to Plaintiffs.

33. June 11, 2013 the Black Forest fire started at Falcon Road in Black Forest, Colorado.

34. Dangerous (fire) conditions existed at Falcon Road consisting of thick, tall grass; thick, small pine trees; and thick pine needles.

35. As a result of both fires, millions of dollars of real and personal property were lost in the destruction, including the wrongful death of two civilians, many animals, and injuries to an unknown number of other animals.

36. June 11, 2013, Defendants, State and County, and all the named herein employees of Defendants, State and County knew or should have known of the following dangerous fire conditions:

a. June 1, through June 11, 2013 it was extremely hot (in the 90's) with extreme drought in El Paso County, Colorado.

b. June 11, 2013 it was very windy, 25 to over 40 mph winds in El Paso County, Colorado.

c. June 11, 2013 the National Weather Service forecasted high wind warnings and extreme fire danger, RED FLAG warnings were in effect.

37. June 11, 2013 the Black Forest Fire Department, under the direction of the Fire Chief, had posted the Smokey the Bear sign, (Extreme Fire Danger), located at Black Forest Road and Shoup Road stating, "Extreme Fire Danger".
38. Prior to June 11, 2013, Scott Campbell, all members of the El Paso County Commissioners, the County attorneys, the Black Forest Fire Board, Robert Harvey, and all the firemen of the Black Forest Fire Department had personal knowledge that there existed very dangerous conditions in Black Forest, Co., concerning fires.
39. Defendants, State and County failed to timely, adequately, and reasonably use the resources available to them.
40. Defendants, State and County through Robert Harvey, failed to timely turn over command to his superiors.
41. June 11, 2013, Defendants, State and County, through Scott Campbell, the El Paso County Assistant Deputy Fire Marshal, ignited a control burn in Black Forest, Colorado.
42. As a result, the control burn got out of control and caused millions of dollars in damage. Real and personal property was lost in the destruction, approximately 485 homes, wrongful death of two civilians, many animals, and injuries to an unknown number of other animals, and 15,000 acres burned.
43. The control burn should be named the TWIN FIRE, because it became the major part of the Black Forest Fire and was as destructive or worse than the Black Forest Fire.
44. As a result of the control burn getting out of control in Black Forest, it was the legal proximate cause of the Black Forest Fire to become the most destructive fire in Colorado history.
45. Defendants, State and County had a policy, either formal or informal, of allowing their resources to be depleted before calling for assistance.
46. Defendants, State and County and their employees failed to timely, adequately, and reasonably communicate with each other to timely, adequately, and reasonably contain and extinguish the Fire.

47. Defendants, State and County failed to have proper equipment to contain and extinguish the Fire.

48. The State and County's customs and policies are outdated, ineffective, and were the legal proximate cause of losses and damages to Plaintiffs.

49. A pattern exists, (a long history of the same behavior) in Defendants' acts for containing and extinguishing the Black Forest fire and other fires in the State has been proven over and over again to be ineffective. Part of those patterns are set out as follows:

- a. 1994, the South Canyon fire, 14 firefighters died, and 2,115 acres burned.
- b. June 20, 2000 the Bircher fire five people injured 22,000 acres, firefighting cost \$5,600,000.00.
- c. June 2002 Missionary Ridge fire, death of one firefighter, 73,000 acres, 56 homes destroyed, firefighting cost \$40,000,000.00.
- d. 2002, the Hayman fire five firefighters died, 137,760 acres 733 structures destroyed, firefighting cost \$39,000,000.00.
- e. 2002, Big Elk fire, 4436 acres, death of three firefighters, firefighting cost \$ 4,000,000.00.
- f. 2012 the High Park fire took the life of one person and 87,284 acres, insurance claims \$97,100,000, firefighting cost \$39,200,000.00.
- g. 2012, the Lower North Fork fire started by the State, took the lives of three civilians,
- h. June 23, 2012 the Waldo Canyon fire destroyed 346 homes, 18,247 acres burned, insurance claims at \$352,600,000.00.
- i. June 11, 2013 the Royal Gorge fire destroyed property 3,800 acres and started the same day as the Black Forest fire.
- j. June 19, 2013 the East Peak fire 13,572 acres burned.
- k. June 20, 2013 West Fork fire Complex caused the evacuation of the entire town of South Fork, Colorado, 110,405 acres burned.
- l. The current custom and policies are outdated, ineffective, and are the legal proximate cause of losses and damages to Plaintiffs.
- m. Nothing was ever done that was effective in containing and extinguishing the fires.
- n. The helicopters with small buckets of water that are used to fight forest fires have proven to be ineffective.
- o. See Plaintiff's Exhibit 12-1 and 12-2 attached hereto and incorporated herein by this reference, showing faulty firefighting equipment, and out of commission while the Black Forest Fire burns.

p. Defendants, State, County, and their employees knew or should have known that dangerous conditions existed in Black Forest, Colorado concerning fires.

- 50.** Defendants, State, County, and the employees of these entities named herein were negligent in handling the Fire, denied Plaintiff's Due Process and Equal Protection under the Law.
- 51.** Defendants, State and County, through their employees, had a Duty of Care to Plaintiffs to contain and extinguish the Fire.
- 52.** Defendants, State and County through their employees, failed that Duty of Care for the plaintiffs.
- 53.** Plaintiffs were denied their First Amendment Rights to speak at public hearings at the Black Forest Fire Board meetings concerning the Fire.
- 54.** The Black Forest Fire Board through, Ed Bracken, Preston Cooper, and Walt Seelye forcefully removed several Plaintiffs from the meetings.
- 55.** The Black Forest Fire Board, through Edwin Bracken, Preston Cooper, and Walt Seelye misused public funds for their own private investigation.
- 56.** Defendants, State and County, through Hickenlooper, Lathen, Clark, Hisey, Litteton, Folsem, and May failed to properly respond and care for the Black Forest Fire victims, including the plaintiffs,
- 57.** Defendants, State and County through its employees, failed to apply for Federal assistance from (FEMA) for the Black Forest fire victims, including the plaintiffs.

**FIRST CLAIM FOR RELIEF
(Negligence)**

58. Plaintiffs incorporate by this reference all other allegations of this Verified Complaint as though fully set forth herein.
59. A pattern of these same events exists every time there is a forest fire in the State of Colorado, Placing all defendants on NOTICE that their customs and policies are outdated, ineffective, and are the legal proximate cause of damages to Plaintiffs.
60. See Plaintiff's Exhibits, One (1) through Eleven (11) attached hereto and incorporated herein by this reference, showing a pattern of events of fires burning out of control for several days without any changes in these patterns.
61. While performing their duties in prevention and suppression of fires, Defendants, State and County owed a Duty of reasonable Care to the general public, including the plaintiffs.
62. Defendants, State and County, breached that Duty of Care in one or more of the following manners:
- a. Defendants, State and County failed to keep radio dispatch lines available for incoming reports of the fire and failed to have any alternative dedicated mechanism for reporting the Fire;
 - b. Defendants, State and County failed to properly train their employees to contain and suppress the Fire;
 - c. Defendants, State and County failed to properly supervise their employees in containing and suppressing the Fire;
 - d. Defendants, State and County failed to timely, adequately, and reasonably respond to the Fire;
 - e. Defendants, State and County failed to timely, adequately, and reasonably suppress the Fire;
 - f. Defendants, State and County through Scott Campbell pulled a 2,000 gallon water tanker and five firefighters off of the main Black Forest Fire for the

protection of the home and property of their co-worker, Bob MacDonald, (acting commander of Emergency Services for the County of El Paso), leaving the plaintiffs' homes and property unattended;

g. Defendants, State and County failed to timely, adequately, and reasonably use the resources available to them to contain and suppress the Fire;

h. Defendants, State and County unreasonably delayed the containment and suppression of the Fire;

i. Defendants, State and County, through Robert Harvey, refused assistance from other sources offered to contain and suppress the Fire;

j. Defendants, State and County, through Robert Harvey, failed to timely, adequately, and reasonably turn over command to his superiors;

k. Defendants, State and County through Harvey and Campbell failed to adequately and reasonably communicate with each other, to timely, adequately, reasonably, contain and suppress the Black Forest Fire;

l. June 11, 2013 Defendants, State and County through Scott Campbell, ignited a control burn in Black Forest, Colorado;

m. Scott Campbell ignited this control burn, while in the scope of his employment.

n. This control burn got out of control, as a result burned thousands of acres of private land, destroyed millions of dollars of real and personal property;

63. June 11, 2013, Defendants, State, County, and all the named herein employees of Defendants, State and County knew or should have known of the following dangerous conditions:

- a. June 11, 2013 was extremely hot (in the 90s);
- b. Extreme drought existed throughout the area;
- c. June 11, 2013 was Very windy (20 to 40 mph winds);
- d. Prior to June 11, 2013 very dangerous conditions existed in Black Forest, Colorado concerning fires;

- e. Prior to and on June 11, 2013, the Black Forest Fire Department posted on the Smokey the Bear Sign at Shoup and Black Forest Roads, "Extreme Fire Danger!"
- f. June 11, 2013, the National Weather Bureau forecasted high wind warnings, extreme fire danger, and RED FLAG WARNINGS;
- g. There already existed a pattern of fires throughout the State of Colorado, and all Defendants knew or should have known of the dangerous fire conditions in Black Forest, Colorado;
- h. The pattern of fires will not change unless the customs and policies are changed...that County, State, and Federal Government work together to contain and suppress wildfires;
- i. There are thousands of people currently existing living in wooded areas and the old customs and policies, are out dated and ineffective;
- j. See Plaintiff's Exhibits One (1) through Eleven (11), attached hereto and incorporated by this reference to this civil action clearly showing an existing pattern of ineffective events of containing and extinguishing fires;
- k. The helicopters with small buckets of water to fight forest fires have a long history of being proven ineffective; See Plaintiff's Exhibit 12(1) and 12(2) attached hereto and incorporated herein by this reference;
- l. Helicopters with small buckets of water are no match for forest fires;

64. One or more of the State and County's negligent acts or omissions was a proximate cause of damages and losses to Plaintiffs.

65. Defendants, State and County's customs and policies were responsible for the losses and damages to the plaintiffs.

66. Plaintiffs and each of them, were damaged in the sum of \$1,000,000.00 to each Plaintiff for actual loss.

67. Plaintiffs and each of them, demands damages in the sum of \$1,000,000.00 for actual losses.

68. Plaintiffs and each of them, demands damages in a sum to be set by the jury for emotional distress.

SECOND CLAIM FOR RELIEF
(Negligence / Respondent Superior)

69. Plaintiffs incorporate by this reference all other allegations of this Verified Complaint as though fully set forth herein.
70. At all times herein relevant, Harvey, Rebitski, and Campbell, were employees of the State and/or County to contain and extinguish fires.
71. While performing their duties as Fire Chief, (Harvey), Assistance Fire Chief, (Rebitski), and Fire Marshal, (Campbell) for the State and County, Defendants owed a Duty of reasonable Care to the general public, including the plaintiffs.
72. Defendants, State and County, through Harvey, Rebitski, and Campbell breached that Duty of Care in one or more of the following manners:
- a. Harvey refused assistance from other firefighting sources to adequately, reasonably contain, and extinguish the Fire;
 - b. Harvey failed to timely or reasonably turn over command to his superiors;
 - c. Defendants, State and County through Scott Campbell, while alone, ignited a control burn in Black Forest, Colorado;
 - d. Defendants, State and County, through Scott Campbell, allowed this control burn to caused destruction of real and personal property;
 - g. Defendants, State and County, through Scott Campbell, by igniting the control burn, and allowing it to get out of control, caused the Black Forest Fire to become the most destructive fire in Colorado history;
 - h. Harvey, Rebitski, and Campbell misused their authority, failed to timely, adequately, and reasonably respond, or suppress these fires, (the Black Forest Fire, nor the control burn;
73. The State and County are, as a matter of law, liable for the negligent acts of There employees.
74. The State and County are, as a matter of law, liable for the intentional acts of its employees.

75. One or more of Harvey, Rebitski, and Campbell's negligent acts or omissions was a legal proximate cause of loss and damages to the plaintiffs.
76. Defendants, State and County customs and policies were responsible for the loss and damages to the plaintiffs.
77. One or more of Harvey, Rebitski, and Campbell's negligent and/or intentional acts caused damages and losses to Plaintiffs.
78. Plaintiffs were damaged in the sum of \$1,000.000.00 to each of the plaintiffs for actual loss.
79. Plaintiffs demands damages from Defendants in the sum of \$1,000.000.00 for each of the plaintiffs for actual loss.

THIRD CLAIM FOR RELIEF

Violation of the 1st and 14th Amendment to the United States Constitution

80. Plaintiffs incorporated by this reference all other allegations of this Verified Complaint as though fully set forth herein.
81. At all times herein relevant, Bracken, Cooper, and Seelye were employees of the County, and authorities under State Law as Chairman of the Black Forest Board, and two Board members of the Black Forest Fire Board.
82. Shortly after June 11, 2013, during a Board Meeting Ed Bracken, Preston Cooper, and Walt Seelye, as members of the Black Forest Fire Board told people attending the meeting to shut their mouths, refused to allow anyone to speak, and physically forced some persons including Plaintiff, Darrell Fortner out of the building.
83. All of the plaintiffs were peaceful and all they wanted to do was to speak and be heard, but Bracken, Cooper, and Seelye would not allow these people to speak.
84. June 11, 2013 Defendants, State and County through, Scott Campbell pulled a 2,000 gallon water tanker and several firefighters from of the main Black Forest fire in order to protect the home of their co-worker, Bob McDonald.

8. Did Defendants, State and County through their employees named herein violate Plaintiff's Fourteenth Amendment to the United States Constitution?
86. Defendants, State and County, through Scott Campbell ignited a control burn in Black Forest, Colorado, which got out of control, causing millions of dollars in damage to real and personal property.
87. The control burn ignited by the negligence of Scott Campbell was the legal proximate cause of the Black Forest Fire to be the most destructive fire in Colorado history.
88. The control burn, Scott Campbell ignited caused several firefighters, trucks, and equipment to be pulled off the Black Forest Fire, leaving the Black Forest Fire unattended, and the victims of the Black Forest Fire at the mercy of the flames.
89. Did Defendants, State and County, through their employees, by negligent acts and omissions as shown throughout this Verified Complaint, fail to protect Plaintiffs, their property, and violate the First Amendment, the Due Process and Equal Protection Clause of the Fourteenth Amendment to the United States Constitution?
90. Plaintiffs were damaged in an amount to be proven to the jury at trial.
91. Plaintiffs demand damages in a sum to be proven to the jury at trial.

FOURTH CLAIM FOR RELIEF
Negligence

92. Plaintiffs incorporate by this reference all other allegations of this Verified Complaint as though fully set forth herein.
93. At all times herein relevant, Defendants, State and County had a Duty of Care to the general public, including the plaintiffs.
94. While performing their duties and acting for the State of Colorado, County of El Paso under the laws of the State, as Governor of the State of Colorado, John Hickenlooper, Board of County Commissioners of El Paso County, Colorado,

Lathen, Clark, Glenn, Hisey, Littleton, El Paso County attorneys, Amy Folsem, and Diana May owed a Duty of reasonable Care to the Black Forest Fire Victims, including the plaintiffs, and the general public.

95. Defendants, State and County through John Hickenlooper, Lathen, Clark, Glenn, Hisey, Littleton, Folsom, and May breached that Duty of Care in one or more of the following manners:

- a. Defendants, State and County through John Hickenlooper, Lathen, Clark, Glenn, Hisey, Littleton, Folsom, and May failed to timely, adequately and reasonably respond to the needs of the Black Forest Fire Victims, including the plaintiffs.
- b. Defendants, State and County, through Hickenlooper, Lathen, Clark, Glenn, Hisey, Littleton, Folsom, and May failed to timely, adequately, and reasonably request relief assistance from the Federal Emergency Management Agency (FEMA) for the Black Forest Fire Victims, including the plaintiffs.
- c. Defendants, State, County, and it's named herein employees have personal knowledge of the damages and losses of the Black Forest Fire Victims.
- d. Defendants, State and County failed to timely, adequately, or reasonably file for assistance to any agency for the Black Forest Fire Victims, including the plaintiffs.
- e. Defendants, State and County failed to file for any assistance at all to any agency for the Black Forest Fire victims, including Plaintiffs.
- f. Defendants, State and County, through Hickenlooper, Lathen, Clark, Glenn, Hisey, Littleton, Folsom, and May had the authority to provide and apply for assistance to the victims of the Black Forest fire, including the plaintiffs, but failed by negligence to do so.

96. Defendants, State and County knew or should have known that dangerous conditions existed in Black Forest, Colorado with regard to fire.

97. The Black Forest Fire is better known as the most destructive fire in Colorado history, yet Defendants, State and County through their employees failed to assist any of the Black Forest Fire victims including the plaintiffs.

98. There are more than eighty (80) families uninsured and more than four hundred eighty-five (485) families under-insured, most of those families lost everything, lifetimes of hard work, many of them aging, retired, and nothing left but ashes.
99. At the time of filing this complaint many of these families have no home, living in campers, make-shift shelters, and with other people.
100. Defendants, State and County through the Black Forest Fire Board, Bracken, Cooper, and Seelye misused public funds when hiring a private investigating group, Dave Fisher, Fisher Enterprises, LLC, and a private attorney, at a cost of \$200,000.00 (misusing taxpayers funds) to investigate the Black Forest fire, unreasonably, undermining, and interfering with the Sheriff's duties.
101. Defendants, State and County, through Ed Bracken, The Fire Board, Dave Fisher, and Fisher Enterprise unreasonably concealed the findings of the investigations from the general public including the plaintiffs.
102. At the time of filing this complaint, the Fire Board's successors in office are concealing the findings of the investigation from the general public, including the plaintiffs.
103. The Fire Board and the successors in office owe a duty to tender all the information of the investigation, including all witnesses names and their statements to the general public including the plaintiffs.
104. The fire Board and their successors in office failed that Duty to tender the all the investigation report to the general public including the plaintiffs.
105. Plaintiffs demands that a true copy of all the investigation report, including all witnesses' names and their statements be tendered to the plaintiffs.
106. Should the Fire Board fail to tender all the investigation report to the Plaintiffs, including witnesses' names and their statements, Plaintiffs request this Court award punitive damages in a sum to be set by the Court.
107. The Black Forest Fire Victims and Plaintiffs were and are at the time of filing this civil action suffering emotional distress in damages to be determined at trial.
108. The Black Forest Fire victims and Plaintiffs were damaged in the sum of \$1,000,000.00 for each Plaintiff for actual losses.

109. Plaintiffs demands damages in the sum of \$1,000,000.00 for each Plaintiff for actual losses;

110. Plaintiffs herein reserve the right to amend this Verified Complaint to add additional Plaintiffs and Defendants when their true names are ascertained.

REQUEST FOR RELIEF

111. Plaintiffs pray this Honorable Court enter judgment in Plaintiff's favor, awarding Plaintiffs the following:

- a. Compensatory damages in the sum of \$1,000,000.00 for each Plaintiff;
- b. Economic losses for Emotional Distress in a sum to be proven at trial;
- c. Punitive Damages as the Jury deems proper at trial;
- d. A full and complete copy of the investigation report, including the names of all witnesses and their statements.
- e. Declaratory Relief that a pattern of destruction/damages exists between the forest fires in Colorado due to lack of air support;
- f. Declaratory Relief that Plaintiffs' Constitutional Rights were violated;
- g. State and County customs and policies be reconsidered and amended, County, State, and Federal Government work together to contain and suppress wild fires;
- h. Declaratory Relief that the State's customs and policies are outdated and ineffective;
- i. Declaratory Relief that the County's customs and policies are outdated and ineffective;
- j. Post-judgment interest at the current legal rates
- k. Attorneys' fees and costs;

VERIFICATION

We, the Plaintiffs of this civil action declare, we have read the forgoing Verified Complaint, We know its contents are true and correct of our own personal knowledge, except those matters stated upon information and belief and as to those matters, we believe them to be true.

Dated: August 16, 2014.

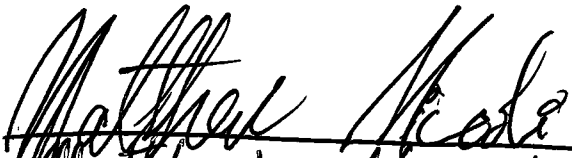


Darrell Fortner

Plaintiffs IN PRO SE




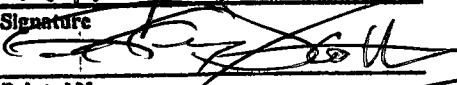
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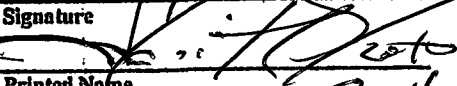


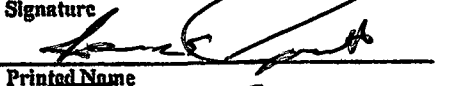
Matthew Niccoli


See Attached 4 pages of Plaintiffs


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Signature 
 Printed Name Jeffery Scott

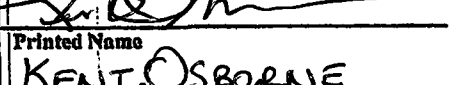
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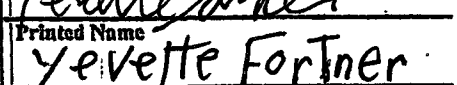
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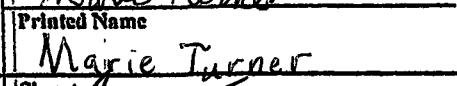
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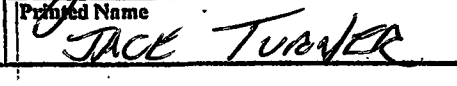
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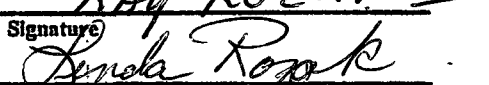
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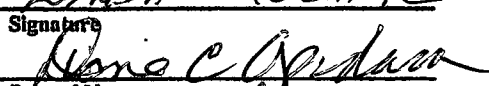
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Signature 
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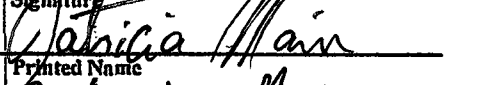
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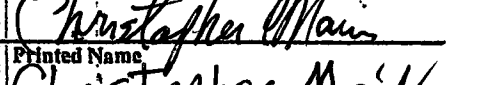
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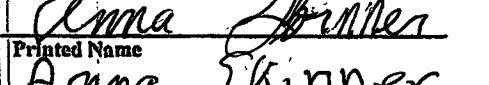
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Signature 
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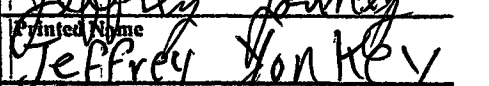
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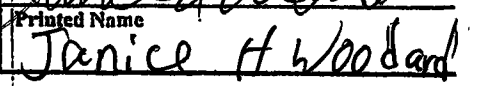
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Roger L. Christiansen
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ROGER L. CHRISTIANSEN

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Flora Neitzinger
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SHARON BOWEN

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Paul Hentsman

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Debbie Hutchinson
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Debbie Hutchinson

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Lee Seigel
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Lee Seigel

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Michael B. Turner
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Michael B. Turner

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~~PRINT~~ ~~Claudia Christiansen~~ ~~12830 N. Holmes Rd. Colo. Spgs. Co. 80908~~
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~~PRINT~~ ~~ROGER CHRISTIANSEN~~ ~~12820 N. Holmes Rd Colo Spgs, CO, 80908~~
~~WRITE~~ ~~Roger Christiansen~~ " on pg ~~Five~~ " ..

~~PRINT~~ ~~Vicky Contreras~~ ~~12890 Rusk Lane, U/S 80908~~
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~~PRINT~~ ~~Zachary Munday~~ ~~12890 Rusk Lane 80908~~
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~~PRINT~~ ~~Susan Barnhill~~ ~~8650 Pine Cone Rd 80908~~
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~~PRINT~~ ~~Jeffery Scott~~ ~~6650 Gun Club Trail~~
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~~PRINT~~ ~~Betty Fitzpatrick~~
~~WRITE~~ ~~Betty~~ 3803 HALF TURN RD, CO 80917

~~PRINT~~ ~~Dale Gardner~~ ~~12680 Herring Rd CS, CO 80908~~
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~~PRINT~~ ~~Jace Turner~~ ~~13090 Herring Rd Colo. Spgs., CO. 80708~~
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Signature	<i>Ann Marie Gaffney</i>	13035 Black Forest RD. CO 80908
Printed Name	Ann Marie Gaffney	
Signature	(719) 464-1144	
Printed Name	Ann Marie Gaffney	
Signature	Ann Marie Gaffney	
Printed Name	Geoff Pickett	
Signature	719.337.4682	
Printed Name	Geoff Pickett	
Signature	<i>Lee Ann Nilles</i>	13405 Black forest rd. 80908
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Signature	<i>Kevin Larson</i>	
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Printed Name	719-499-7513	Kevin Larson
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Year	Size	Name	Area	Notes
1994	2,115 acres (856 ha)	South Canyon fire	Colorado	Killed 14 firefighters
2002	137,760 acres (55,750 ha)	Hayman Fire in Pike National Forest	Colorado	5 firefighter deaths, 133 homes lost, 600 total structures destroyed, largest wildfire in Colorado history by area. ^[10]
2012	87,284 acres (35,323 ha)	High Park Fire	Roosevelt National Forest, West of Fort Collins	Started by lightning, it is the third largest wildfire in Colorado state history by area. It killed one person and destroyed at least 248 homes making it the most destructive fire in state history until Waldo Canyon Fire a few days later.
2012	18,247 acres (7,384 ha)	Waldo Canyon Fire	Colorado Springs area	Located near Pikes Peak, north and west of Colorado Springs in the Waldo Canyon - origin currently unknown - first reported the afternoon of Saturday, June 23. Destroyed 346 homes, formally the most destructive fire until the Black Forest Fire of 2013. Two fatalities.
2013	14,280 acres (5,780 ha) ^[11]	Black Forest Fire	Black Forest, near Colorado Springs	The most destructive fire in Colorado state history. The 14,280 acre fire destroyed 511 homes and left 28 homes partially damaged. ATF and state officials are investigating the point of origin and cause of the blaze that claimed the lives of two people. ^[12] Cause: natural causes eliminated.
2013	3,800 acres (1,500 ha) ^[13]	Royal Gorge Fire	Royal Gorge	Started June 11, 2013; jumped Royal Gorge and damaged the Royal Gorge Bridge.
2013	13,572 acres (5,492 ha) ^{[14][15]}	East Peak Fire	East Spanish Peak	Started June 19, 2013; put the entire town of Walsenburg, Colorado under pre-evacuation status. Cause: Lightning.
2013	110,405 acres (44,679 ha) ^[15] [16][17][18]	West Fork Fire Complex	Wolf Creek Pass	The second largest fire in Colorado history by area. Started June 20, 2013; forced evacuation of entire town of South Fork, Colorado. The fire is composed of three subsidiary fires that merged: West Fork fire, Pappoose fire and Windy Pass fire. Cause: Lightning.

Lower North Fork Fire 2012

See also

- 2013 Colorado wildfires

