

<p>BEFORE THE DIVISION OF ADMINISTRATIVE HEARINGS, OFFICE OF ADMINISTRATIVE COURTS, STATE OF COLORADO 633 17<sup>th</sup> Street Denver, CO 80293</p>	<p style="text-align: center;"><b>▲ COURT USE ONLY ▲</b></p> <p>Case Number:</p>
<p><b>Complainants:</b></p> <p>MARTHA WALLNER, JOANNE SEEKER, STANLEY BURGESS, WILLIAM CHIN, and RONALD PACE</p> <p><b>Respondents:</b></p> <p>WOODMEN HILLS METROPOLITAN DISTRICT and LARRY BISHOP</p>	
<p>Attorney for Complainants:</p> <p>Richard W. Daily, No. 2938 Richard W. Daily LLC 621 Seventeenth St., Suite 1535 Denver, Colorado 80293</p> <p>Telephone: (720) 963-1121 Fax: (720) 897-2802 E-mail: RDaily@DailyLLC.com</p>	
<p style="text-align: center;"><b>COMPLAINT UNDER THE COLORADO FAIR CAMPAIGN PRACTICES ACT</b></p>	

Martha Wallner, Joanne Seeker, Stanley Burgess, William Chin and Ronald Pace, Complainants herein, through their undersigned attorney, Richard W. Daily, respectfully submit this Complaint under the Colorado Fair Campaign Practices Act, in which they allege a violation of C.R.S. § 1-45-117(1)(a)(I)(D) by Respondents Woodmen Hills Metropolitan District and Larry Bishop.

1. Complainants Martha Wallner, Joanne Seeker, Stanley Burgess, William Chin and Ronald Pace believe that Woodmen Hills Metropolitan District (“the “District”) and Larry Bishop (“Bishop”) violated C.R.S. § 1-45-117(1)(a)(I)(D) by causing a two-page letter to be distributed to the residents of the Woodmen Hills community purporting to identify and correct “factual errors” allegedly contained in a recent radio news report. This letter was distributed on or about June 16, 2009.

2. The District is a Title 32 Special District, and a political subdivision of the State of Colorado. Its office is located at 8046 Eastonville Road, Falcon, CO 80831-6175 .

3. Bishop is the District Manager of the District. His business address is 8046 Eastonville Road, Falcon, CO 80831-6175.

4. Complainants are members of a committee (the “Recall Committee”) which was formed to seek an election to recall Janice Pizzi, a member of the Board of Directors of the District.

5. On or about March 3, 2009, members of the Recall Committee submitted the issue of the recall for purpose of having the form of the petition approved by the Court. On June 11, 2009 the Recall Committee filed completed petitions seeking Ms. Pizzi’s recall with the Designated Election Official. On June 16, 2009 the Official found there to be a sufficient number of valid signatures to require that an election be held on the issue of Ms. Pizzi’s recall from office.

6. On June 9, 2009, a story was posted on the website of TV Station KRDO (Channel 13), which stated, in part:

Petitioners are asking for a recall of the district board president. They allege Janice Pizzi is acting irresponsibly, spending too much and misusing her authority. "We are talking about every homeowners' money," says Martha Wallner, who's on the recall committee.

It's money that some people living in Woodmen Hills say isn't being handled properly. "You're renegotiating our bonds because we can't make the bond payments," Wallner says of Pizzi and the board, "so don't spend more money."

Petitioners allege Pizzi voted to spend \$85,000 on new trucks the district didn't need. The petition also claims she hasn't kept campaign promises to reduce district employees' salaries. Petitioners want transparency. "People just were not sure their best interest was at heart," says petitioner Shirley Nichols.

The full text of this story, referred to herein as the “June 9 Story,” is available at <http://www.krdo.com/Global/story.asp?s=10505938>. A copy of the June 9 Story is attached hereto as Exhibit 1.

7. The June 9 Story accurately portrays positions which have been taken by members of the Recall Committee.

8. On or about June 16, 2009, Bishop and the District caused a letter to be sent to residents of the Woodmen Hills Metropolitan District, a copy of which is attached hereto as Exhibit 2, and which is referred to herein as the “Bishop Letter.”

9. Upon information and belief, the Bishop Letter was prepared by Bishop in the ordinary course of his employment as District Manager of the District. Bishop’s salary is paid for by public moneys. Accordingly, public moneys were spent to prepare the Bishop Letter.

10. Upon information and belief, the Bishop Letter was distributed by the District electronically to residents of the District, at District expense, and public moneys were used for that purpose.

11. The Bishop Letter makes explicit reference to the effort to recall District Director Jan Pizzi, and to the June 9 Story. It contains a link to the full text of that June 9 Story on the KRDO Website.

12. When read as a whole, the Bishop Letter conveys the message that the effort to recall Director Pizzi should be disapproved, notwithstanding assertions by Mr. Bishop that he had no such intent. It seeks to discredit the recall effort. It thus has the effect of urging the rejection of the recall issue by the voters of the District within the meaning of C.R.S. § 1-45-117(1)(a)(I)(B).

13. The Bishop Letter purports to identify and correct two “factual errors” in the June 9 Story.

14. One of the “factual errors” asserted to have been made in the story is flagged as follows:

**Error:** Petitioners alleged Jan Pizzi voted to spend \$85,000 on new trucks the District didn’t need.

Id. at 1, emphasis in original.

15. A casual reader will interpret this statement as an assertion that Jan Pizzi never voted to spend money on new trucks, and that the Recall Committee members are misinformed about Ms. Pizzi’s voting record. Interpreted in this manner, Mr. Bishop’s statement is either false or materially misleading.

16. In fact, Ms. Pizzi joined the other members of the District’s Board of Directors in voting to spend substantial sums on the purchase of new trucks at the Board’s regular meeting that was

held on April 16, 2009. *See, Minutes of the Regular Meeting of the Board of Directors of the Woodmen Hills Metropolitan District*, April 16, 2009, at 8. A copy of these minutes is attached hereto as Exhibit 3.

17. In seeking to “correct” the alleged error, Mr. Bishop asserted that “the board of directors voted unanimously in November to buy two F-150 trucks at a price of \$21,599 each.” This statement is also false, because the unanimous vote to purchase trucks took place in April, 2009, and not in November, 2008.

18. Because the Bishop Letter falsely asserts that the June 9 Story was either in error or was materially misleading, the Bishop Letter cannot be considered to be a “factual summary” within the meaning of C.R.S. § 1-45-117(b)(I). Moreover, the Bishop Letter does not contain arguments for or against the recall issue, which is required for any official communication to qualify as permissible under C.R.S. § 1-45-117(b)(I).

19. Complainants ask (a) that the Court determine that the use of public moneys to prepare and distribute the Bishop Letter was in violation of the Fair Campaign Practices Act, (b) that the Court formally find such a violation, and (c) that Respondents be sanctioned in the manner prescribed by law.

DATED: June 22, 2009.

Respectfully submitted,

Richard W. Daily LLC

By: \_\_\_\_\_  
Richard W. Daily, No. 2938  
Attorney for Complainants

**Complainants:**

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