

District Court, Arapahoe County, Colorado Court Address: 7325 S. Potomac St. #100 Centennial, CO 80112 303-645-6600	<p style="text-align: center;">▲ COURT USE ONLY ▲</p> <hr/> Case Number: 1983CV105  Ctrm/Div:15
<hr/> IN RE:  HEATHER GARDENS METROPOLITAN DISTRICT	
<hr/> Attorney for Recall Petition Committee:  Martha J. Karnopp, # 6471 13631 E. Marina Dr. #106 Aurora, CO 80014 Phone Number: 303-766-7727 E-mail: karnopplaw@gmail.com	
<b>I. Motion to Intervene in Challenge to DEO Petition Sufficiency Determination;          II. Motion to Compel Compliance with C.R.S. 32-1-910(4)(III);          III. Joinder in Designated Election Official’s Motion to Dismiss Complaint (filed          under 2024CV30677 and consolidated in this action); and          IV. Joinder in DEO’s Motion for Forthwith Hearing</b>	

I. The Recall Committee, by and through undersigned counsel, hereby moves this Honorable Court to grant permission to the Committee in intervene as a party in the controversy between the parties protesting the DEO’s determination of the sufficiency of the signed petitions and the DEO asserting his authority under C.R.S. 32-1-910(4)(III). As grounds therefor, the Recall Committee states that its fundamental Constitutional rights are being delayed and therefore denied, and that it has a right to assert its position with respect to that controversy. Wherefore, the Recall Committee request this Court for an order granting permission to intervene in the controversy between the Plaintiff and the Defendant.

II. The Recall Committee, by and through undersigned counsel, hereby moves this Honorable Court to compel the Heather Gardens Metropolitan District (HGMD) board of directors to fix a date for the recall election of the four directors (Daniel Taylor, Rita Effler, Robin O’Meara, and Craig Baldwin) who are subject to this recall action. As grounds for this motion, the Recall Committee asserts that it has complied with all the statutory requirements of C.R.S. 32-1-909(4-6) and 32-1-910, and after evidentiary hearings on protests filed, the Designated Election Official entered a Determination of Sufficiency of the petitions on March 22, 2024. On April 18, 2024, The DEO presented the petitions and Certificates of Sufficiency, and instructed the HGMD Board of Directors at their regular meeting, that, under the statute (32-1-910), it is the duty of the board to fix a date for a recall election. The four directors subject to recall, led by Daniel Taylor, refused to fix a date with Mr. Taylor stating that “We are following the statute.” The remaining director, who is not subject to recall, Eloise Laubach, moved to set the election date on July 8, but there was no second to her motion and it died. A month later, at the next regular meeting of the HGMD Board on May 16, 2024, Director Laubach again moved to set July 8 as the date of the recall election. Again, her motion was not seconded by any of the four directors subject to recall. A subsequent motion to table the issue was made by Director Craig Baldwin, seconded by Director Eloise Laubach, and passed. In the interim between the monthly regular meetings of the board, Daniel Taylor, representing himself, Director Robin O’Meara, and a number of electors who filed protests to the certification of sufficiency, has filed several lengthy documents with the court, including a Rule 106 “complaint” filed in another division of

the court, which was later consolidated into this action. All of these actions, in direct defiance of the mandatory language of the statute, have caused a delay of at least one month so far, in the exercise of the fundamental Constitutional right of the electors of the Heather Gardens Metropolitan District to a recall election. There is no basis for this refusal to comply with the statute, and the Recall Committee requests an order from this Court that the board comply with the statute and fix a date within the time limits in the statute.

**III.** Daniel Taylor insisted at the HGMD board of directors meeting on April 18, 2024, that he had submitted an appeal to the order of sufficiency by filing a request for judicial review under C.R.S. Sec 32-1-910(3)(f)), when in fact he had filed a “complaint” under Rule (106(a)(4) in a different case (2024CV030677000. The Recall Committee joins the Designated Election Official in his motion to dismiss that complaint and also moves to dismiss Mr. Taylor’s “Amended Complaint” filed in this action on May 7, 2024 after filing his Complaint – Amended on May 1, 2024. The Recall Committee moves this Court to dismiss all forms and iterations of Mr. Taylor’s complaint.

**IV.** On April 25, 2024, the DEO filed a motion for a forthwith hearing, in accordance with the Colorado Constitution. The Recall Committee hereby joins in that motion.

### **Certification Regarding Duty to Confer**

Pursuant to C.R.C.P. 121, Sec. 1-15(8), Plaintiffs oppose these motions, and the Defendant does not oppose.

WHEREFORE, for the reasons set forth above, the Recall Petition Committee respectfully requests that this Court:

- I. Enter an order granting the Recall Committee permission to intervene in the controversy between Plaintiffs and the Defendant;
- II. Enter an Order directing the Heather Gardens Metropolitan board of directors to fix a date for the recall election mandated by statute and to determine whether that election shall be by polling place or by mail ballot;
- III. Enter an Order dismissing the complaint filed by Daniel Taylor under Rule 106(a) in a separate action 2024CV030677 and all subsequent amended complaints filed by him in this matter; and
- IV. Enter an Order for a forthwith hearing for all parties.

Respectfully submitted this 17<sup>th</sup> day of May, 2024.

[Original signature on file in attorney's office.]

/s/Martha J. Karnopp\_\_\_\_\_

Martha J. Karnopp, Reg. No 6471  
Attorney for Recall Committee

CERTIFICATE OF SERVICE

I certify that on May 17, 2024, a true and correct copy of the foregoing **Motion to Intervene in Challenge to DEO Petition Sufficiency Determination; Motion to Compel Compliance with C.R.S. 32-1-910(4)(III); Joinder in Designated Election Official's Motion to Dismiss Complaint (filed under 2024CV30677 and consolidated in this action); and Joinder in DEO's Motion for Forthwith Hearing**

was filed and served *via Colorado Courts E-Filing* on the following parties and counsel of record:

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*/s/ Martha J. Karnopp* \_\_\_\_\_

Martha J. Karnopp