

F I L E D
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

March 16, 2007

TENTH CIRCUIT

Elisabeth A. Shumaker
Clerk of Court

PUBLIC SERVICE COMPANY OF
COLORADO,

Plaintiff - Counter-Defendant -
Appellee,

v.

BOARD OF COUNTY
COMMISSIONERS OF SAN
MIGUEL COUNTY, State of
Colorado; ELAINE FISHER, San
Miguel County Commissioner in her
official capacity; ART GOODTIMES,
San Miguel County Commissioner in
his official capacity; VERNON
EBERT, San Miguel County
Commissioner in his official capacity;
THE SAN MIGUEL COUNTY
PLANNING DEPARTMENT, State of
Colorado; MICHAEL ROZYCKI, San
Miguel County Planning Director, in
his official capacity,

Defendants - Appellees,

PATHFINDER DEVELOPMENT,
INC.,

Defendant - Counter-Claimant -
Appellee,

WILLARD F. JANKE,

Intervenor - Appellant.

No. 06-1187
(D.C. No. 1:04-CV-1828-RB-CBS)
(D. Colo.)

ORDER AND JUDGMENT*

Before **BRISCOE, HOLLOWAY**, and **LUCERO**, Circuit Judges.

Willard F. Janke appeals the district court's denial of his motion to intervene in Pub. Serv. Co. of Colo. v. Bd. of County Comm'rs, No. 04-RB-1828 (D. Colo. Sept. 2, 2004). Because we determined that case is moot, we remanded with instructions to dismiss. Pub. Serv. Co. of Colo. v. Bd. of County Comm'rs, Nos. 05-1295 & 05-1321 (10th Cir. 2007). Accordingly, Janke's appeal is **DISMISSED** as moot.

ENTERED FOR THE COURT

Carlos F. Lucero
Circuit Judge

* This order and judgment is not binding precedent except under the doctrines of law of the case, res judicata and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 (eff. Dec. 1, 2006) and 10th Cir. R. 32.1 (eff. Jan. 1, 2007).