

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
**Magistrate Judge Kathleen M. Tafoya**

Civil Action No: 12-cv-02776-MSK-KMT  
Courtroom Deputy: Sabrina Grimm

Date: July 17, 2014  
FTR: Courtroom C-201

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Parties:

DAVID MCKAY,  
TINA M. MCKAY,  
BRANDON M. MCKAY,  
HAILEY K. MCKAY,  
M.M. (a minor), and  
C.M. (a minor),

Plaintiffs,

v.

CRYSTAL SCHWARTZ,  
JASON VERKUYL,  
DAVID HEMPEL,  
MARY ALBEE,  
JOHN/JANE DOE, and  
THE CITY OF FORT LUPTON, COLORADO, A  
Colorado Municipal Corporation,

Defendants.

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Counsel:

Ingrid DeFranco

Heidi Hugdahl  
Andrew Nathan

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**COURTROOM MINUTES**

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**MOTION HEARING**

**1:40 p.m. Court in session.**

Court calls case. Appearances of counsel.

Also present, Plaintiffs David and Tina McKay.

Discussion and argument regarding the testimony and disclosure of Stacey Elder as a witness, and potentially re-deposing prior witnesses based on Stacey Elder's testimony.

Court states its findings with respect to Ms. Elder's newly revised testimony at her deposition.

**ORDERED: Defendants' Motion to Strike Stacey Elder as a Witness [59] is GRANTED. Stacey Elder shall not be permitted to testify due to a violation of Rule 26(a) and (e) and pursuant to Rule 37(c)(1). Her testimony is STRICKEN from all briefing associated with Defendants' Amended/Corrected Motion for Summary Judgment [64] and she may not be called as a witness at any trial in this matter.**

Court advises Plaintiffs they have fourteen days to file any objections to today's ruling.

**2:40 p.m. Court in recess.**

Hearing concluded.

Total in-court time 01:00

\*To obtain a transcript of this proceeding, please contact Avery Woods Reporting at (303) 825-6119.