

DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO 1437 Bannock St. Denver, Colorado 80202	DATE FILED March 20, 2025	
Plaintiff: CARYN ANN HARLOS v. Defendant: LIBERTARIAN PARTY OF COLORADO and HANNAH GOODMAN	▲ COURT USE ONLY ▲ Case No: 24CV578 Courtroom: 259	
ORDER DENYING RESPONDENTS’ MOTION FOR ATTORNEY FEES AND COSTS PURSUANT TO C.R.S. § 13-17-102 AND C.R.C.P. 121, SECTION [1-22]		

THIS MATTER comes before the Court on “Respondents’ Motion for Attorney Fees and Costs Pursuant to C.R.S. § 13-17-102 and C.R.C.P. 121, Section [1-22]” (“Motion”) filed by Defendants Libertarian Party of Colorado (“LPCO”) and Hannah Goodman (collectively, “Defendants”) on October 11, 2024. Plaintiff Caryn Ann Harlos (“Plaintiff”) filed her Opposition to Respondents’ Motion for Attorney Fees and Costs on October 16, 2024. Defendants did not file a Reply. The Court, having reviewed the Motion, all pertinent pleadings and authority, and being otherwise fully advised on the matter, finds and orders as follows:

LEGAL AUTHORITY

C.R.C.P. 121 § 1-22 allows a party to request attorneys fees at the conclusion of an action, including requests made pursuant to C.R.S. § 13-17-102, within 21 days of entry of judgment or “such greater time as the court may allow.” C.R.C.P. 121 § 1-22(a), (b).

C.R.S. § 13-17-102(1) additionally allows a court to award, as part of its judgment, reasonable attorney fees. For instance, the statute provides “the court shall award . . . reasonable attorney fees against any . . . party who has brought . . . a civil action, either in whole or in part,

that the court determines lacked substantial justification.” C.R.S. § 13-17-102(2). Moreover, the statute allows a court to award reasonable attorney fees where:

the court finds that . . . a party brought . . . an action . . . that lacked substantial justification or . . . was interposed for delay or harassment . . . or if the court finds that . . . a party unnecessarily expanded the proceeding by other improper conduct, including, but not limited to, abuses of discovery procedures

C.R.S. § 13-17-102(4).

Furthermore, C.R.S. 13-17-102(6) states:

A party . . . appearing without an attorney . . . shall not be assessed attorney fees . . . unless the court finds that the party clearly knew or reasonably should have known that the party's action . . . or any part of the action . . . , was substantially frivolous, substantially groundless, or substantially vexatious; except that this subsection (6) does not apply to situations in which an attorney or legal paraprofessional licensed to practice law in this state is appearing without an attorney or a licensed legal paraprofessional, in which case, the attorney or licensed legal paraprofessional is held to the standards established for attorneys or licensed legal paraprofessionals elsewhere in this article 17.

For clarity, C.R.S. § 13-17-102 defines the phrase “Lacked substantial justification” as an action or claim that is “substantially frivolous, substantially groundless, or substantially vexatious.”

C.R.S. § 13-17-102(9)(a). A claim or action is “frivolous” for purposes of awarding fees pursuant to C.R.S. § 13-17-102 “when the proponent can present no rational argument based on the evidence or the law to support the claim.” *In re Parental Responsibilities Concerning D.P.G.*, 472 P3d 567, 572 (Colo. App. 2020). Further, a claim or action is “groundless” if there is no credible evidence to support the allegations in the complaint.” *Black v. Black*, 482 P.3d 460, 488 (Colo. App. 2020). Lastly, a claim or action is vexatious if it is “brought or maintained in bad faith.” *Id.* Notwithstanding the above, the simple fact that a claim lacks merit does not by itself mean the action was frivolous, groundless, or vexatious. *Sifton v. Stewart Title Guar. Co.*, 259 P.3d 542, 546 (Colo. App. 2011).

Finally, per C.R.S. § 13-17-102, a “licensed legal paraprofessional” means a person who is licensed by the Colorado Supreme Court . . . to perform certain types of legal services.” C.R.S. § 13-17-102(9)(b).

ANALYSIS

Defendants argue the Court should award their attorney fees and costs pursuant to C.R.C.P. 121 and C.R.S. § 13-17-102 because “Plaintiff’s claims are frivolous,” “there simply was no controversy,” and “there was nothing to enjoin.” In support of the Court’s application of C.R.S. § 13-17-102(6) against Plaintiff, Defendants represent that “upon information and belief, [Plaintiff] is licensed in the state of Colorado as a paraprofessional” Defendants further state that Plaintiff’s “filing in this litigation [was] vexatious,” resulting in “unnecessary time and legal expenses” for Defendants, and warranting an award of fees and costs.

On the other hand, Plaintiff argues she has no “expertise or specialized knowledge” relevant to the instant matter and moreover, is not a licensed legal paraprofessional as Defendants represent. Plaintiff also contends “NONE of [her] claims rose remotely to the standard of C.R.S. § 13-17-102(6)”

As a brief background, this matter concerns an election-related dispute. The Emergency Petition for Emergency Production of Non-Profit Records, Requests for Declaratory Relief, and Request for Preliminary Injunction, or in the Alternative, Permanent Injunction, was filed on July 26, 2024. As the name suggests, the Petition asserted three requests for relief: (1) an “emergency demand for production of record from non-profit corporation under [C.R.S. § 7-136-102]; (2) a request for a declaration that the LPCO bylaws, National Libertarian Party bylaws, and Colorado law “prohibit the LPCO from making its own [presidential nominations] outside of the . . . national

convention . . .”; and (3) a request for a preliminary or permanent injunction preventing the LPCO from “putting RFK, Jr. and Nicole Shanahan on [the] ballot line”

On July 30, 2024, the Court issued its Order regarding the Verified Petition, ordering the parties to contact the Court to set a hearing. The hearing was scheduled for August 8, 2024 at 11:00 am. At the August 8 hearing, the parties stated their positions, and the Court (then, Courtroom 280) noted “there is no evidence of irreparable injury or any actions taken at this point that are inconsistent with the secretary of state’s position.” Courtroom 280 also set the matter for a temporary restraining order (TRO) hearing to take place on August 21, 2024. The Court (Courtroom 259) ultimately denied the TRO and preliminary injunction at the August 21 hearing and set another status conference for August 28, 2024. At the August 28 hearing, the Court ordered the parties to make a simultaneous filing regarding any remaining records issues and allowed Plaintiff to request an emergency hearing if necessary. The Court also set another status conference for September 12, 2024. On September 12, 2024, Plaintiff filed a Motion to Dismiss the action that was granted by the Court the same day.

As a preliminary matter, the Court notes that a search of the Office of Attorney Regulation Counsel’s LLP Search & Disciplinary History database revealed no record that Plaintiff is a licensed legal paraprofessional in the state of Colorado. Therefore, Defendants’ assertions to the contrary are unfounded and Plaintiff will not be held to “the standards established for . . . licensed legal paraprofessionals,” as required by the latter half of C.R.S. § 13-17-102(6). Rather, Plaintiff proceeded in this matter “without any attorney.” Therefore, in order to assess attorney fees against Plaintiff, the Court must determine she “clearly knew or reasonably should have known that the party’s action . . . was substantially frivolous, substantially groundless, or substantially vexatious.” C.R.S. § 13-17-102(6). As is pertinent to this portion of the statute, Defendants argue:

There simply was no controversy and the Court advised her of that at the time of the first appearance. There was nothing to enjoin, and the Court was not going to inject itself in the contested position within a political party. Ms. Harlos knew all of this. As was established, Ms. Harlos was the secretary of the Libertarian National Party and has been politically active for decades. Ms. Harlos is a paralegal and [has] years of legal experience. She knew what she was doing. She knew she didn't have a case but did it anyways.

In response, Plaintiff denies Defendants' characterization of her knowledge, experience, and expertise stating:

The LPCO attempted to deprive all Libertarians in Colorado from voting for the candidate nominated under our contract and [Plaintiff] did what she felt could stop them in an area in which she had no legal counsel or expertise. [Plaintiff] acted in good faith at every step of the way and immediately dismissed the case the moment any chance the LPCO could disenfranchise Colorado libertarians [had] passed.

Though Defendants describe the instant matter as “baseless” and not rising to “a level justifying the extraordinary relief she sought,” the Court reiterates that the mere fact that a suit may lack merit does not automatically mean the suit is frivolous, vexatious, or groundless for purposes of C.R.S. § 13-17-102. *Sifton*, 259 P.3d at 546; *Munoz v. Measner*, 247 P.3d 1031, 1035 (Colo. 2011). The Court is not persuaded by Defendants' contentions that Plaintiff's “lawsuit served no purpose other than to harass [Defendants]” While the Court agrees that Plaintiff's suit was likely filed both preemptively and prematurely, throughout the litigation, Plaintiff attempted in good faith to present evidence supporting her claims. The insufficiency of such evidence and subsequent denial of the requested relief do not alone entitle Defendants to an award of fees and costs under C.R.S. § 13-17-102. And the Court disagrees with any contention that Plaintiff unnecessarily prolonged the suit. In fact, Plaintiff was given the option to continue to pursue her records-related claims after the denial of the TRO by making filings regarding such claims and requesting an emergency hearing if needed, but she did not. Instead, Plaintiff filed a Motion to Dismiss the entire action on the deadline set for any records-related filings. In its totality, the litigation in this matter lasted

less than two months—a relatively short period of time. Finally, the Court is similarly unpersuaded by Defendants’ attempts to establish Plaintiff had specialized knowledge of the subject matter of the suit or the law by virtue of her prior practice as a paralegal or her political activities. Plaintiff contends any paralegal experience she possesses lasted less than a year and was in a wholly unrelated field—property insurance defense. Moreover, the Court is unconvinced that Plaintiff’s political activities conferred on her any special knowledge regarding the merit of her claims or of relevant legal concepts (*i.e.*, standing) such that she “knew she didn’t have a case but did it anyways,” as Defendants assert.

Accordingly, the Court concludes that Defendants have failed to meet their burden of demonstrating both that the instant matter was substantially groundless, vexatious, or frivolous, or that Plaintiff “clearly knew or reasonably should have known” of any such groundlessness, vexatiousness, or frivolousness.

CONCLUSION

WHEREFORE, in light of the foregoing, Respondents’ Motion for Attorney Fees and Costs Pursuant to C.R.S. § 13-17-102 and C.R.C.P. 121, Section [1-22] is **DENIED**.

IT IS SO ORDERED this 20th day of March, 2025.

BY THE COURT:

A handwritten signature in black ink, appearing to read 'Christopher J. Baumann', is written over a horizontal line.

CHRISTOPHER J. BAUMANN
CHIEF JUDGE