

DISTRICT COURT, PARK COUNTY, COLORADO Court Address: P.O. Box 190, 300 Fourth Street, Fairplay, CO, 80440	DATE FILED: September 1, 2015 4:55 PM CASE NUMBER: 2014CV30056 <p style="text-align: center;">⚠ COURT USE ONLY ⚠</p>
Plaintiff(s) INDIAN MOUNTAIN CORP v. Defendant(s) INDIAN MOUNTAIN METROPOLITAN DISTRICT	
Order: Order Granting IMC Motion to Reset Show Cause Hearing and Reassign Matter Pursuant to C.R.C.P. 107	

The motion/proposed order attached hereto: DENIED.

Issue Date: 9/1/2015



STEPHEN A GROOME
 District Court Judge

District Court, Park County, State of Colorado P.O. Box 190 Fairplay, Colorado 80440	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
Plaintiff: Indian Mountain Corp. v. Defendant: Indian Mountain Metropolitan District	
ORDER GRANTING INDIAN MOUNTAIN CORP.’S MOTION TO RESET SHOW CAUSE HEARING AND REASSIGNMENT PURSUANT TO C.R.C.P 107(c)	

THIS MATTER comes before the Court on Plaintiff Indian Mountain Corp.’s (“IMC”) Motion for Reconsideration and Request for Reassignment and Resetting in Accordance with C.R.C.P. 107(c) filed August 21, 2015 (the “Motion”). Having reviewed the Motion, any response and reply, and now being fully advised in the premises the Court now finds, concludes, and orders as follows:

On August 20, 2015, this Court entered an Order Granting Indian Mountain Metropolitan District’s (“IMMD”) Motion for Order to Show Cause and set the said hearing for September 9, 2015 at 9:00 a.m.; a period of 20 days between the date of the Court’s order and the date set for the show cause hearing. C.R.C.P. 107(c) requires that the alleged contemnor be personally served with the citation and a copy of the motion, affidavit and order at least 21 days prior to the date set for the person to appear. The Court’s August 20, 2015 Order Granting Indian Mountain Metropolitan District’s Motion for Order to Show Cause also required that James Ingalls be personally served the citation and a copy of the motion, affidavit and order at least 21 days prior to the date set for the show cause hearing. Since it is impossible meet the 21 day requirement set forth in C.R.C.P. 107 and this Court’s August 20, 2015 Order, the Court finds that the show cause hearing must be reset to a date no sooner than 21 days after Mr. Ingalls is personally served. The Court further finds that principles of due process can only be served by granting Mr. Ingalls at least 21 days in which to prepare his defense to the allegations made against him by IMMD.

In the Motion, IMC also requested that the show cause hearing be reassigned to a different presiding judge, as is its right pursuant to C.R.C.P. 107(d). In Colorado, “where conditions do not make it impracticable, or where the delay may not injur[e] public or private right, a judge called upon to act in a case of contempt in which he is involved may, without flinching from his duty, properly ask that one of his fellow judges take his place.” *Harthun v. District Court in and for Second Judicial District*, 495 P.2d 539, 542 (Colo. 1972). The Court finds that reassignment of the show cause hearing to a different presiding judge will not cause

prejudice or undue delay to any party. As such, the Court finds that the show cause hearing shall be heard by a different presiding judge.

WHEREFORE, the Court hereby CONCLUDES AND ORDERS that the show cause hearing shall be reassigned to a different presiding judge. The Court FURTHER CONCLUDES AND ORDERS that the show cause hearing shall be reset for a date not later than at least 21 days after James Ingalls is personally served with the citation and a copy of the motion, affidavit and order as required by C.R.C.P. 107(c) and this Court's previous order granting IMMD's Motion for Order to show Cause.

Entered this ____ day of _____, 2015.

BY THE COURT:

Honorable Stephen A. Groome

Attachment to Order - 2014CV30056