

DISTRICT COURT,  
WELD COUNTY, COLORADO

901 9<sup>th</sup> Ave.  
Greeley, CO 80631

▲ COURT USE ONLY ▲

**Plaintiff:**  
MARGARET R. COLUCCI

v.

**Defendants:**  
NATIONAL BOARD OF CHIROPRACTIC  
EXAMINERS;  
SALVATORE D. LARUSSO;  
STEVEN R. CONWAY;  
JOHN C. NAB;  
PAUL N. MORIN;  
DANIEL M. COTE;  
LEROY F. OTTO;  
JOHN R. MCGINNIS;  
FARREL GROSSMAN; and  
KIRK SHILTS

Case Number: \_\_\_\_\_

Div.: \_\_\_\_\_

**Attorneys for Plaintiff:**  
S. Kato Crews, #31927  
Hoffman Crews Nies Waggener & Foster LLP  
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Greenwood Village, Colorado 80111  
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**COMPLAINT AND JURY DEMAND**

Plaintiff, Margaret R. Colucci, asserts the following for her Complaint against the Defendants:

**PARTIES**

1. Plaintiff is a practicing chiropractor and resident of the state of Nevada. Dr. Colucci served as a Board of Director of the National Board of Chiropractic Examiners from 2015 to February 23, 2018.

2. Defendant National Board of Chiropractic Examiners ("NBCE") is a Texas non-

profit corporation with a principal place of business at 901 54<sup>th</sup> Ave., Greeley, CO 80634.

3. Defendant Salvatore D. LaRusso is a resident of the state of Florida. At all times relevant to the Complaint, Dr. Salvatore served as President of the Board of Directors of the NBCE ("Board"), and has served on the Board from 2008 – present.

4. Defendant Steven R. Conway is a resident of the state of Wisconsin. At all times relevant to the Complaint, Dr. Conway served as Vice President of the Board, and has served on the Board from 2012 – present.

5. Defendant John C. Nab is a resident of the state of Wisconsin or Missouri. At all times relevant to the Complaint, Dr. Nab served as Treasurer of the Board, and has served on the Board from 2016 – present.

6. Defendant Paul N. Morin is a resident of the state of Maine. At all times relevant to the Complaint, Dr. Morin served as Secretary of the Board, and has served on the Board from 2009 – present.

7. Defendant Daniel M. Cote is a resident of the state of Oregon. At all times relevant to the Complaint, Dr. Cote served as a Board, and has served on the Board from 2013 – present.

8. Defendant LeRoy F. Otto is a resident of the state of Minnesota. At all times relevant to the Complaint, Dr. Otto served as a Board, and has served on the Board from 2011 – present.

9. Defendant John R. McGinnis is a resident of the state of South Carolina. At all times relevant to the Complaint, Dr. McGinnis served as a Board, and has served on the Board from 2017 – present.

10. Defendant Farrel Grossman is a resident of the state of South Carolina. At all times relevant to the Complaint, Dr. Grossman served as a Board, and has served on the Board from 2013 – present.

11. Defendant Kirk Shilts is a resident of the state of Massachusetts. At all times relevant to the Complaint, Dr. Shilts served as a Board, and has served on the Board from 2017 – present.

### **JURISDICTION AND VENUE**

12. Personal jurisdiction is proper in the State of Colorado because each Defendant has sufficient minimum contacts with this state.

13. NBCE's principal place of business is in Greeley, Colorado.

14. All non-entity Defendants are members of the Board of NBCE.



15. The business, finances, control, direction, and management of NBCE's affairs is vested in the Board.

16. NBCE's Board Policy Manual provides that "NBCE business will be conducted in accordance with the laws of Texas and Colorado as appropriate, the corporation's articles of incorporation, bylaws of the corporation, board policies and generally accepted business practices that will accomplish the NBCE mission." (Emphasis added.)

17. As Board members, each of the individual Defendants conducts the business of NBCE in accordance with Colorado law.

18. The purpose of the NBCE is to prepare and administer test and measurement services to the chiropractic profession, including to individuals who reside in Colorado. Each of the individual Defendants, as Board members, has made decisions and taken action and/or votes which affect aspiring chiropractors who reside in Colorado.

19. Each of the individual Defendants transacts or conducts business in Colorado on behalf of NBCE:

- a. Upon information and belief, each individual Defendant has flown to Colorado and attended NBCE Board Meetings or other meetings on behalf of NBCE at NBCE's headquarters in Colorado.
- b. Upon information and belief, each individual Defendant has flown to Colorado and attended NBCE Board Meetings or other meetings/events on behalf of NBCE at NBCE's Horace C. Elliott Center in Greeley, Colorado.
- c. Upon information and belief, each individual Defendant has signed an NBCE Confidentiality Policy for Directors, which is maintained at the NBCE's principal place of business in Colorado.
- d. Upon information and belief, each individual Defendant has made telephone calls and sent various mailings and emails to the NBCE Executive Director, or other NBCE staff, who reside in Colorado.

20. The individual Defendants, in governing NBCE's affairs, solicit persons from Colorado via the internet, and accept (and have accepted) orders and online credit card payments for publications, tests, and test materials, from persons who are residents of Colorado.

21. From the NBCE website – [www.nbce.org](http://www.nbce.org) and <https://cart.nbce.org> – the individual Defendants, in governing NBCE's affairs, transact business with Colorado residents.

22. Defendant NBCE, and the individual Defendants as the governing Board of NBCE, regularly transact business in Colorado with the Colorado Board of Chiropractic Examiners ("CBCE"); CBCE uses Part IV of the Examination administered by NBCE, and the

Special Purposes Examination offered through NBCE. *See* Colorado Board of Chiropractic Examiners Policies §§ 30-3, 30-21.

23. Defendants LaRusso, Conway, Nab, and Morin have traveled to Colorado to attend Executive Committee meetings, and/or have telephoned in to Colorado to attend those Executive Committee meetings telephonically.

24. Each of the individual Defendants uses, or has authorized or approved of the use, of a Travelers Colorado Insurance Identification Card for purposes of insurance coverage when on travel and when using hired or non-owned automobiles, as reflected in NBCE's Bylaws.

25. Upon information and belief, in or about May 2012, Defendants LaRusso, Conway, Morin, and Otto, authorized the hiring of lawyers located in Greeley, Colorado from the law firm Otis Coan & Peters, to file a lawsuit on behalf of NBCE in Weld County District Court, Colorado, in Case No. 2012CV428.

26. Upon information and belief, in or about September 2013, Defendants LaRusso, Conway, Morin, Grossman, Cote, and Otto, authorized NBCE to execute a Settlement Agreement in Colorado to resolve a lawsuit in Weld County District Court in Case No. 2012CV428.

27. Upon information and belief, on or about April 29, 2016, Defendants Morin, LaRusso, Conway, Nab, Grossman, Cote, and Otto, approved Amended and Restated Bylaws of NBCE which provide that the composition of the Board will consist of one District Director from District No. 4, which includes Colorado in that district.

28. In or about April 2017, the individual Defendants approved or authorized NBCE's hiring of legal counsel in Denver, Colorado, from the law firm Robinson and Henry PC, to investigate the Corruption Letter (defined below) and take Plaintiff's pre-action deposition.

29. In or about October 2016, the individual Defendants hired a new Executive Director of NBCE to work out of NBCE's principal office in Greeley, Colorado.

30. In or about May 2017, the individual Defendants voted to remove Board member Ron Tripp, whose District IV included Colorado. In or about July 2017, Defendants filled the vacant District IV position with Benjamin Lurie.

31. Venue is proper in this Court pursuant to C.R.C.P. 98(c) for the reasons stated above and because Defendant NBCE's principal place of business is in Weld County, Defendants all serve on the NBCE Board and govern its operations, and because this Complaint has designated this county for purposes of venue.

### **GENERAL ALLEGATIONS**

32. Plaintiff is the President of the Federation of Chiropractic Licensing Boards



("FCLB").

33. In 2015, the FCLB appointed Plaintiff to serve on the NBCE Board.

34. Plaintiff was the only female Board member from May 2016 until the time of her removal from the Board.

35. In August 2016, the Board (to include each individual Defendant except Defendants Shilts, McGinnis) met and voted on whether Norman Ouzts, a then current NBCE Board member, should be hired as the next Executive Director of NBCE.

36. Upon information and belief, Dr. Ouzts was a long-time friend and/or close colleague or confidant to some male members on the Board, to include at least Defendant Grossman.

37. Plaintiff and others did not vote in favor of Dr. Ouzts' hiring as Executive Director of NBCE, at least in part because his qualifications did not fit the job description, which prevented Dr. Ouzts from attaining that position at that time.

38. Later, after certain members of the Board modified, or directed the modification of, the Executive Director job description, in or about October 2016, Dr. Ouzts was again presented to the Board for a vote to fill the Executive Director position.

39. This time the vote passed despite Plaintiff and three others voting against Dr. Ouzts' hiring, and on January 5, 2017, the Board (through Defendant LaRusso) announced Dr. Ouzts as the new NBCE Executive Director to work out of NBCE's principal office in Greeley, Colorado.

40. Dr. Ouzts immediately resigned his position on the Board and assumed the Executive Director role as an employee of NBCE.

41. Three months later, in April 2017, an anonymous sender mailed a two-page pamphlet titled, *National Board of Corrupt Examiners: Strikes Again....* ("Corruption Letter").

42. Some or all of the individual Defendants have taken the position that the Corruption Letter was defamatory.

43. Generally, the Corruption Letter accused the entire Board, and certain Board members specifically, of corruption related to the hiring of Dr. Ouzts.

44. Angered with the Corruption Letter, the individual Defendants engaged counsel to investigate the letter.

45. The individual Defendants believed the origin of the pamphlet was an "inside job," and therefore, they couched the investigation as an "ethics investigation."

46. Under the NBCE Board Policy Manual, Board members are required to cooperate in ethics investigations, and if they fail to do so, the failure itself is deemed an ethics violation.
47. In or about May 2017, as part of the "ethics investigation," investigators interviewed all NBCE Board members, to include Plaintiff.
48. Plaintiff interviewed with the investigators for at least two hours, during which time it turned into an interrogation.
49. At all times, Plaintiff consistently denied having anything at all to do with the Corruption Letter.
50. Regardless, in about July 2017, Plaintiff received a letter from NBCE's attorney ("Board Attorney") indicating she was one of three involved with the creation and/or dissemination of the Corruption Letter, and he wanted to depose her.
51. Because of the Corruption Letter and his belief that Plaintiff colluded over the letter, Defendant Grossman told third-parties that Plaintiff was "in big trouble" and "this will be the shortest tenure of Board Presidency ever," the latter referring to her role as President of FCLB.
52. Despite her cooperation, the individual Defendants insisted upon Plaintiff sitting for a pre-action deposition in connection with the "ethics investigation."
53. The individual Defendants did not seek a pre-action deposition of all Board members.
54. In a December 14, 2017 email from the Board Attorney to Plaintiff's Nevada counsel, the Board Attorney indicated that Defendants already concluded that "Dr. Colucci was likely complicit in the creation and/or dissemination of a libelous pamphlet in April of 2017."
55. The individual Defendants apparently reached this conclusion outside of a properly noticed meeting and in derogation of Chapter 4 of the Board Policy Manual.
56. In a Board meeting in about October 2017, and during a conversation which included the subject of Plaintiff's pre-action deposition, Defendant Conway openly stated that the reason the Board wanted a deposition was because if anyone lied under oath they would commit perjury.
57. For at least these reasons, Plaintiff was hesitant to subject herself to a pre-action deposition, which appeared to be a set-up by Defendants.
58. In October 2017, during a board meeting in Los Angeles, Defendants called a surprise vote to remove Plaintiff from the Board for failing to cooperate with the "ethics investigation" because she did not sit for a pre-action deposition.



59. The vote was not successful.

60. Prior to the October 2017 unsuccessful vote to remove Plaintiff, the individual Defendants, with the aid of Defendant NBCE (by and through its Executive Director, Dr. Ouzts), presented select and incomplete information to the Board in an effort to make the case for her removal.

61. For example, NBCE (through Dr. Ouzts) prepared and displayed incomplete information via PowerPoint to the Board purportedly in support of removing Plaintiff from the Board. Dr. Ouzts also circulated a summary report from the Board Attorney that was riddled with errors and inaccuracies bearing on Plaintiff's cooperation with the "ethics investigation."

62. Even after the unsuccessful vote, however, Defendants still sought Plaintiff's pre-action deposition.

63. On January 23, 2018, Plaintiff's Colorado counsel e-mailed a letter to the Board Attorney informing him that Plaintiff would not sit for a pre-action deposition, stating, in relevant part:

It is evident that the Board's decision to seek our client's pre-action deposition is made in bad faith and in breach of Board Members' fiduciary duties. It also appears to be wrought with conflicts of interest given Dr. Norman Ouzts' involvement in the matter. First, according to your December 14, 2017 email to Dr. Colucci's Nevada counsel, the Board has already concluded that "Dr. Colucci was likely complicit in the creation and/or dissemination of a libelous pamphlet in April of 2017." The Board apparently reached this conclusion outside of a proper meeting and in derogation of Chapter 4 of the Board Policy Manual. Second, in a board meeting in which the option of my client's deposition was raised, Board Member At-Large, Steven Conway, openly stated that the Board should take my client's deposition in an effort to coerce perjury. Third, Colorado law only allows for a pre-action deposition in limited circumstances, none of which apply here. *See* C.R.C.P. 27(a); Board Policy No. 2.1 (stating that "NBCE business will be conducted in accordance with the laws of Texas and Colorado as appropriate...." And fourth, Dr. Ouzts, who was hired by the Board under extremely unorthodox circumstances, appears to be directly and heavily involved in the Board's attempt to harass my client into a pre-action deposition, which raises fascinating questions over the conflicts of interest involved.

64. On January 30, 2018, Plaintiff, in order to further demonstrate her reasonable cooperation with Defendants' "ethics investigation," voluntarily took a polygraph exam on two of Defendants' most essential questions for Plaintiff: (1) "Did you cause that defamatory letter to be

written or distributed?"; (2) "Were you involved in the writing or dissemination of that defamatory letter?"

65. Plaintiff answered "no" to each of these questions.

66. The polygraph examiner concluded that Dr. Colucci's answers to these questions "was truthful."

67. On February 6, 2018, Plaintiff's Colorado counsel e-mailed a second letter to the Board Attorney which attached the report from the polygraph examiner, and explained:

The fact that my client voluntarily submitted to a polygraph exam to answer the NBCE's two essential questions should quash any notion that she is non-cooperative. Moreover, the results of the polygraph exam fully exonerate my client. This scientific assessment of my client's truthfulness directly refutes the NBCE's unfounded conclusion that Dr. Colucci "was likely complicit in the creation and/or dissemination of a libelous pamphlet in April of 2017."

We trust that Dr. Colucci's additional cooperation by voluntarily subjecting herself to a polygraph exam will help end the NBCE's witch hunt, harassment, and scheme to remove her from the Board. Should it not, then as mentioned in my previous letter, Dr. Colucci will have no other reasonable option but to take action to preserve her legal rights.

68. The Board was set for a meeting in Phoenix to be held on February 23, 2018.

69. On or about February 21, 2018, Plaintiff learned that NBCE had not reserved a hotel room for her in Phoenix, but had for all other Board members attending the meeting.

70. Leading to the February 23 meeting, Defendant Shilts recommended to Plaintiff that she should resign from the Board and provide a resignation letter.

71. Defendant Shilts went so far as to prepare and mail a draft resignation letter to Plaintiff.

72. Prior to sending her the draft resignation letter, Defendant Shilts told Plaintiff that, "these guys hate your guts," "they are going to do everything they can to get rid of you," and that Defendant Grossman had a "vendetta" against Plaintiff.

73. Defendant Shilts's draft resignation letter detailed the circumstances of Plaintiff's unfair treatment by Defendants based on Defendants having accused her of authoring or disseminating the Corruption Letter. —



74. Leading to the February 23 meeting, Plaintiff learned that not all Board members had been provided copies of the two letters from her attorney to the Board Attorney, dated January 23 and February 6, 2018.

75. Plaintiff also knew that her attorney received no response from the Board Attorney for about three to four weeks.

76. Plaintiff also came across information which suggested that NBCE may have fired the Board Attorney.

77. As a result, on the evening of February 21, Plaintiff emailed the Board members copies of the two letters from her attorney to the Board Attorney, stating in her cover email:

Dear NBCE Board of Directors:

I am looking forward to seeing you all in Phoenix.

As you know, our previous meeting in Los Angeles involved the subject of my removal from the board with an attempt that was unsuccessful. It has come to my attention not all board members have been provided copies of two relevant letters my attorney has since sent the NBCE's attorney regarding my cooperation and negative polygraph exam. I am providing them to you now to ensure all board members have complete information concerning this legal matter, particularly since NBCE's attorney has not responded to my lawyer. It is extremely important that the complete board review this information prior to any discussion or vote that may take place at our upcoming meeting regarding this legal matter.

Thank you,

Maggie

78. Board members can and do participate in executive session.

79. Plaintiff emailed her lawyer's two letters only to the Board members.

80. Either the Board Attorney and/or Defendant LaRusso, as Chair of the Board, had a duty or obligation to provide the letters from Plaintiff's attorney to the full board.

81. After receiving copies of the letters from Plaintiff, Defendant McGinnis essentially confirmed to Plaintiff that he had not previously received copies of the letters, as did Board member Benjamin Lurie.

82. On February 23, 2018, Defendants held an unplanned executive session and voted

9 – 2 to remove Plaintiff from the Board because she emailed her lawyer's letters to them.

83. Each of the individual Defendants voted in favor of Plaintiff's removal.

84. In removing Plaintiff, Defendants took the position that Plaintiff violated "board policy" because she directly communicated with Board members outside of executive session when she emailed the Board and attached her lawyer's letters.

85. There is no provision in the NBCE Bylaws or Board Policy Manual which prohibits a Board member from communicating with other Board members outside of executive session, or discussing executive session topics with other Board members outside of an executive session.

86. Defendant LaRusso also stated just prior to vote on February 23 vote that "if at any time anyone on this Board doesn't like or trust anyone they can be removed at any time."

87. Upon information and belief, NBCE, through Dr. Ouzts, received copies of Plaintiff's two attorney letters in advance of the February 23 meeting, presumably directly from the Board Attorney.

88. Upon information and belief, NBCE, through Dr. Ouzts', was the primary point of contact for the Board Attorney on matters pertaining to Defendants' series of efforts to remove Plaintiff from the Board, including Defendants' initial harassment of Plaintiff over a pre-action deposition.

89. NBCE, through Dr. Ouzts' participated in the February 23 meeting to remove Plaintiff by, at least in part, commencing the discussion over her removal, announcing that because Plaintiff sent the two letters to the Board they were now going to take up the issue, and presenting information to the Board in advocacy of Plaintiff's removal.

90. Upon information and belief, some or all of Defendants have discussed executive session matters outside of executive session with other Board members.

91. Since her removal from the Board, Defendant Grossman texted at least two third-parties and told them Plaintiff had been removed from the Board.

92. This statement by Defendant Grossman to third-parties revealed executive session matters outside of an executive session and to third-parties, and yet, Defendant Grossman has not been removed from the Board.

93. Since her removal from the Board, NBCE (through Dr. Ouzts) emailed a representative from the FCLB and stated that Plaintiff had been removed from the Board.

94. This statement by NBCE to the FCLB representative revealed executive session matters outside of an executive session and to a third-party, and yet, Dr. Ouzts has not been



discharged as NBCE's Executive Director.

95. On February 22, 2018, Defendant McGinnis replied to Plaintiff's email which attached her attorney's letters, and stated he "appreciated" Plaintiff sending the letters and, "For what it is worth, I am not aware of any plans to discuss your situation and the investigation."

96. This statement by Defendant McGinnis reveals executive session matters outside of an executive session, and yet, Defendant McGinnis has not been removed from the Board.

97. The individual Defendants' removal of Plaintiff from the Board failed to comport with any applicable notions of due process for removal of Board members.

98. The individual Defendants' proffered reason for Plaintiff's removal from the Board is a pretext.

99. The individual Defendants' removal of Plaintiff from the Board was an *ultra vires* act because it was made in bad faith and not authorized by the applicable policies governing the Board, or applicable law.

100. The individual Defendants' removal of Plaintiff from the Board is inconsistent with prior Board precedent regarding removal of directors for alleged Board policy violations.

101. All conditions precedent to the bringing of this action, if any, have happened or have otherwise occurred.

### **FIRST CLAIM FOR RELIEF**

#### **Breach of Fiduciary Duty – Against the Individual Defendants**

102. Plaintiff incorporates all above allegations as if fully set forth in this paragraph.

103. As Board members of NBCE ("Individual Defendants"), the Individual Defendants each owe fiduciary duties of care, loyalty, and good faith to NBCE. The Individual Defendants' fiduciary duties include obligations to act prudently in governing NBCE, to discharge their actions in good faith, to act in the best interests of the NBCE, and to put the interests of NBCE before their own.

104. Individual Defendants breached their fiduciary duty of care, loyalty, and good faith by, among other things, failing to comply with the terms of the NBCE's governing corporate documents and applicable law in connection with giving proper notice and an agenda for the February 23, 2018 meeting to indicate that the subject of Plaintiff's removal from the Board (or at least, "legal matters") would be addressed at the meeting; failing to provide Plaintiff with adequate notice that emailing other Board members regarding executive session matters would be deemed a violation of "board policy;" failing to identify the specific Board policy relied on by Defendants in support of their removal decision; failing to consistently enforce "board policy" by removing other board members who have discussed executive session matters

outside of executive session; removing Plaintiff from the Board based on the their own personal interests and not the best interests of NBCE; failing to provide Plaintiff with any form of due process prior to her removal; failing to provide Plaintiff's two attorney letters to the full Board; failing to respond to Plaintiff's two attorney letters in a timely manner; and treating Plaintiff differently from male Board members.

105. Individual Defendants breached their fiduciary duties with a pattern or series of improper and wrongful acts in an effort to improperly remove Plaintiff from the Board or force her resignation.

106. Defendants' breach of fiduciary duties caused harm to Plaintiff in the form of her wrongful removal from the Board and reputational damage.

### **SECOND CLAIM FOR RELIEF**

#### **Aiding and Abetting Breach of Fiduciary Duty – Against NBCE**

107. Plaintiff incorporates all above allegations as if fully set forth in this paragraph.

108. As the entity governed by the Board, NBCE knew the Board owed it fiduciary duties.

109. Defendants breached their fiduciary duties of loyalty, good faith, and care, owed to the NBCE which caused Plaintiff's wrongful removal and reputational damage.

110. NBCE (through Dr. Ouzts) knew the Individual Defendants were in breach of their fiduciary duties because it knew, at least in part, that their actions to remove Plaintiff were not supported by NBCE's governing documents (Board Policy Manual and Bylaws), and knew certain Board members had ulterior purposes for her removal.

111. NBCE knowingly participated in Defendants' breaches of fiduciary duty by, among other things, preparing and presenting PowerPoint slides with incomplete information in advocacy of Defendants' previous attempts to remove Plaintiff from the Board; thereafter failing to provide proper notice and an agenda for the February 23, 2018 meeting to indicate that the subject of Plaintiff's removal from the Board (or at least, "legal matters") would be addressed at the meeting; failing to reserve a hotel room for Plaintiff for the February 23, 2018 meeting while reserving a room for male Board members; participating and presenting information in the February 23 meeting in advocacy for Plaintiff's removal; participating in matters pertaining to Plaintiff's removal under circumstances which present a conflict of interest; and discussing executive session matters pertaining to Plaintiff's removal with some or all of the Individual Defendants outside of executive session.

112. These actions by NBCE in assisting the Individual Defendants' breach of fiduciary duties was substantial.

113. Because Plaintiff twice voted against Dr. Ouzts' hiring as Executive Director, and



because Dr. Ouzts knew about Plaintiff's votes, NBCE had a conflict of interest in assisting the Individual Defendants in matters pertaining to Plaintiff's removal, and yet, it NBCE assisted and encouraged the Individual Defendants with Plaintiff's removal anyway.

114. NBCE's knowing and substantial participation in the Individual Defendants' breaches of fiduciary duty aided and abetted Plaintiff's wrongful removal from the Board and contributed to her reputational damage.

**THIRD CLAIM FOR RELIEF**  
**Declaratory Judgement – Against All Defendants**

115. Plaintiff incorporates all above allegations as if fully set forth in this paragraph.

116. A dispute and actual controversy has arisen between the Parties concerning, at a minimum:

- a. Defendants' lack of compliance with NBCE's governing documents and applicable law when removing Plaintiff from the Board;
- b. the validity and legal propriety of Plaintiff's removal from the Board; and,
- c. other issues yet to be determined.

117. Judicial declarations are necessary and appropriate at this time to enable the parties to ascertain their rights and duties to resolve the current uncertainty between them.

118. A declaratory judgment would terminate at least a fraction of the uncertainty and controversy giving rise to the Complaint.

WHEREFORE, Plaintiff prays for the following relief:

1. Injunctive relief in the form of reinstatement to the NBCE Board;
2. An award of monetary damages in an amount to be proven at trial;
3. Declaratory relief as requested herein;
4. Attorney's fees and costs as may be allowed by the governing documents or law;
5. Such other and further relief as the Court deems just and proper.

and

**PLAINTIFF DEMANDS A JURY TRIAL**

DATED: March 7, 2018

HOFFMAN CREWS NIES  
WAGGENER & FOSTER LLP

*s/S. Kato Crews*

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S. Kato Crews, #31927  
*Attorneys for Plaintiff*

Plaintiff's Address:

Margaret R. Colucci  
2085 Village Center Circle, Ste 110  
Las Vegas, NV 89134



DISTRICT COURT, WELD COUNTY, COLORADO  901 9 <sup>th</sup> Ave. Greeley, CO 80631	DATE FILED: March 07, 2018 10:51 AM  ▲ COURT USE ONLY ▲
<b>Plaintiff:</b> MARGARET R. COLUCCI  v.  <b>Defendants:</b> NATIONAL BOARD OF CHIROPRACTIC EXAMINERS; SALVATORE D. LARUSSO; STEVEN R. CONWAY; JOHN C. NAB; PAUL N. MORIN; DANIEL M. COTE; LEROY F. OTTO; JOHN R. MCGINNIS; FARREL GROSSMAN; and KIRK SHILTS	Case Number: _____  Div.: _____
<b>Attorneys for Plaintiff:</b> S. Kato Crews, #31927 Hoffman Crews Nies Waggener & Foster LLP 5350 S. Roslyn St., Ste. 100 Greenwood Village, Colorado 80111 (303) 860-7140 kcrews@hcnwf-law.com	
<b>DISTRICT COURT CIVIL (CV) CASE COVER SHEET FOR INITIAL PLEADING OF COMPLAINT,          COUNTERCLAIM, CROSS-CLAIM OR THIRD PARTY COMPLAINT</b>	

1. This cover sheet shall be filed with each pleading containing an initial claim for relief in every district court civil (CV) case, and shall be served on all parties along with the pleading. It shall not be filed in Domestic Relations (DR), Probate (PR), Water (CW), Juvenile (JA, JR, JD, JV), or Mental Health (MH) cases. Failure to file this cover sheet is not a jurisdictional defect in the pleading but may result in a clerk's show cause order requiring its filing.

2. Check one of the following:

☐ This case is governed by C.R.C.P. 16.1 because:

- The case is not a class action, domestic relations case, juvenile case, mental health case, probate case, water law case, forcible entry and detainer, C.R.C.P. 106, C.R.C.P. 120, or other similar expedited proceeding; *AND*
- A monetary judgment over \$100,000 is not sought by any party against any other single party. This amount includes attorney fees, penalties, and punitive damages; it excludes interest and costs, as well as the value of any equitable relief sought.

☒ This case is not governed by C.R.C.P. 16.1 because (check ALL boxes that apply):

☐ The case is a class action, domestic relations case, juvenile case, mental health case, probate case, water law case, forcible entry and detainer, C.R.C.P. 106, C.R.C.P. 120, or other similar expedited proceeding.

☒ A monetary judgment over \$100,000 is sought by any party against any other single party. This amount includes attorney fees, penalties, and punitive damages; it excludes interest and costs, as well as the value of any equitable relief sought.

☐ Another party has previously indicated in a Case Cover Sheet that the simplified procedure under C.R.C.P. 16.1 does not apply to the case.

*NOTE: In any case to which C.R.C.P. 16.1 does not apply, the parties may elect to use the simplified procedure by separately filing a Stipulation to be governed by the rule within 49 days of the at-issue date. See C.R.C.P. 16.1(e). In any case to which C.R.C.P. 16.1 applies, the parties may opt out of the rule by separately filing a Notice to Elect Exclusion (JDF 602) within 35 days of the at-issue date. See C.R.C.P. 16.1(d).*

☐ A Stipulation or Notice with respect to C.R.C.P. 16.1 has been separately filed with the Court, indicating:

☐ C.R.C.P. 16.1 applies to this case.

☐ C.R.C.P. 16.1 does not apply to this case.

3. ☒ This party makes a **Jury Demand** at this time and pays the requisite fee. See C.R.C.P. 38. (Checking this box is optional.)

DATED: March 7, 2018

HOFFMAN CREWS NIES  
WAGGENER & FOSTER LLP

s/S. Kato Crews

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S. Kato Crews, #31927  
Attorneys for Plaintiff



<b>DISTRICT COURT, WELD COUNTY, COLORADO</b> 901 9 <sup>th</sup> Avenue, P.O. Box 2038, Greeley, CO 80632 (970) 475-2400		DATE FILED: March 07, 2018 1:51 PM
<b>Plaintiff(s):</b> Margaret R. Colucci  v.		<b>▲ COURT USE ONLY ▲</b>  Case No. 2018CV30203  Division 5
<b>Defendant(s):</b> National Board of Chiropractic Examiners; Salvatore D. Larusso; Steven R. Conway; John C. Nab; Paul N. Morin; Daniel M. Cote; Leroy F. Otto; John R. McGinnis; Farrel Grossman; and Kirk Shilts		
<b>Initial Case Management Order</b> (for cases filed on or after July 1, 2015)		

These procedures apply to all civil cases filed in Weld County District Court on or after July 1, 2015. All counsel and unrepresented parties are expected to comply with the deadlines set below. Please read this Order carefully.

**1. Case Management Deadlines:**

- A. *Service of Process:* Returns of service for all defendants must be filed within 63 days after the date of the filing of the complaint.
- B. *Default Judgment:* Application for default judgment must be filed within 21 days after default has occurred and must comply with C.R.C.P. 55 and 121, §1-14.
- C. *Trial Setting:*
  - (1) **For a case governed by C.R.C.P. 16**, a trial setting must be obtained no later than 42 days after the case is at issue, using the procedures in C.R.C.P. 121, § 1-6. The case management conference must be held no later than 49 days after the case is at issue, as required by C.R.C.P. 16(d)(1). The responsible attorney must file and serve a notice to set the case management conference no later than 7 days after the case is at issue. The proposed case management order is due no later than 7 days before the conference.

(a) The *responsible attorney* means plaintiff's counsel, unless the plaintiff is not represented by counsel, in which case it means the defense counsel who first enters an appearance in the case.

(b) A case is deemed *at issue* when all parties have been served and all pleadings permitted by C.R.C.P. 7 have been filed, or when defaults or dismissals have been entered against all non-appearing parties, or at such other time as the Court may direct.

(2) **For a case governed by Simplified Procedure under C.R.C.P. 16.1**, the responsible attorney must set the case for trial no later than 42 days after the case is at issue, unless otherwise ordered by the Court, using the procedures in C.R.C.P. 121, § 1-6. The same definitions above of *responsible attorney* and *at issue* date apply.

(3) Unless the parties encounter difficulties in setting trial or other dates, settings are conducted by telephone and do not require a court appearance. To reach the Division in which your case has been assigned, please call during division setting times between the hours of 8:30 a.m. and 10:00 a.m. on Tuesdays and Thursdays:

(a) Division 1: (970) 475-2510

(b) Division 4: (970) 475-2540

(c) Division 5: (970) 475-2550

D. A *District Court Civil Cover Sheet* (JDF 601) **must** be filed with all civil complaints.

## **2. Settlement Plan Deadlines:**

A. For all civil cases, a plan for settlement, as required by C.R.C.P. 16(b)(7) §§ 13-22-311 & -313, C.R.S., must be submitted using these procedures.



- B. No later than 35 days after the case is at issue, the parties shall explore the possibility of a prompt settlement or resolution of the case.
- C. No later than 42 days after the case is at issue, the parties shall submit a document entitled, "Stipulated Plan Regarding Settlement," setting forth their plans for future efforts to settle the case. Unless notified otherwise by the Court, the Stipulated Plan Regarding Settlement is automatically adopted as an Order of the Court.
- D. The *Stipulated Plan Regarding Settlement* (ADR Plan) must include the following:
  - (1) Specification of the selected form of ADR. The parties may select any form of ADR defined in § 13-22-302, C.R.S.
  - (2) Designation of a provider who has been contacted and has agreed to provide ADR services to the parties. The parties may select any provider available in the community including Office of Dispute Resolution (ODR). ODR offers moderately priced mediation and other ADR services. ODR can be scheduled at [www.ColoradoODR.org](http://www.ColoradoODR.org) or call 720-625-5933.
- E. If no stipulated plan is submitted within 42 days after the case is at issue, the Court-ordered plan shall be that the parties must participate in mediation with ODR no later than 63 days before the trial date.
- F. Failure to comply with these procedures may result in sanctions including, but not limited to, loss of trial date.
- G. The parties must certify in the proposed trial management order (due 28 days before trial) that they have complied with the *Stipulated Plan Regarding Settlement* or with ODR.

### 3. Discovery Disputes:

- A. Consistent with C.R.C.P. 16(b)(14), the Court requires discovery motions to be presented orally, without written motions or briefs.



- B. Counsel and unrepresented parties are expected to first confer about any discovery dispute—in a meaningful way—by telephone or in person to try to resolve it. An exchange of e-mails does not qualify.
- C. If conferral does not resolve the dispute, then set a telephone hearing with the Division assigned to the case. The Court will set this hearing as quickly as possible—within a week or less, depending on the Court's docket.
- D. No later than 3 p.m. on the day before the telephone hearing, the parties may file with the Court (with service on all other parties) a letter of no more than two pages that explains the dispute and provides citations to any critical cases or other legal authority. If necessary to develop the record for any findings the Court might have to make, the parties may also submit exhibits. Multiple-page exhibits must be highlighted so that the pertinent information is easily identified.

#### **4. Page Limits:**

- A. The parties must follow the requirements of C.R.C.P. 10(d) and C.R.C.P. 121, § 1-15(1)(a), which the Court strictly enforces unless *prior* permission is obtained to deviate from those requirements.
- B. Depending on the circumstances—including the nature of the violation, the issues involved, and the implications for the parties' substantive rights—the Court may choose to consider only that portion of a motion or brief that complies with these page limit requirements, and ignore the rest; or the Court may choose to strike the entire motion or brief; or the Court may fashion some other appropriate relief.

#### **5. Court Interpreters:**

- A. As discussed in Chief Justice Directive 06-03, the Court will provide an interpreter during court proceedings for a party to a case; a victim; a witness; the parent, legal guardian, or custodian of a minor party; and the legal guardian or custodian of an adult party, if such person has limited English proficiency. A court proceeding for which

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an interpreter will be provided includes any hearing, trial or other appearance before the court.

- B. If an interpreter is required for this case, the attorney or unrepresented party shall notify the Court in writing at least 30 days before the court proceeding and specify the language being requested (e.g., Spanish). If a party has requested an interpreter and it turns out an interpreter is not needed (e.g., the case is continued or a settlement is reached) that party must notify the Court. Notification must be provided to the court at least 72 hours before the scheduled court proceeding.

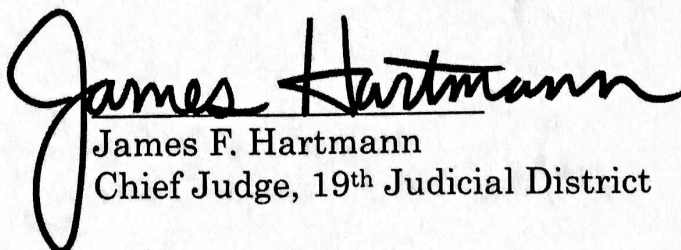
**6. Miscellaneous:**

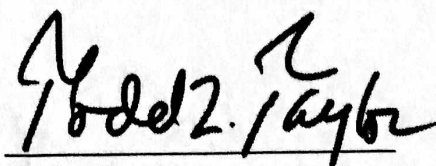
- A. The plaintiff shall send a copy of this Order to all other parties who enter an appearance, and shall file a certificate of mailing within 14 days following the entry of appearance.
- B. Any attorney entering an appearance in this case who is aware of a related case is ordered to complete and file in this case a document entitled, "Information Regarding Case(s)," to inform the Court of the related case(s) and stating whether consolidation is appropriate.


- 7. Sanctions:** If an attorney or unrepresented party fails to comply with this Order, the Court may dismiss the case without prejudice.

*So Ordered:*  
March 7, 2018

BY THE COURT:

  
James F. Hartmann  
Chief Judge, 19<sup>th</sup> Judicial District

  
Todd Taylor  
District Court Judge

  
Marcelo Kopcow  
District Court Judge