

<input checked="" type="checkbox"/> Small Claims <input type="checkbox"/> County Court <input checked="" type="checkbox"/> District Court <input type="checkbox"/> Probate Court <input type="checkbox"/> Juvenile Court <input type="checkbox"/> Water Court Saguache County, Colorado Court Address:	DATE FILED: April 17, 2006 5:00 PM CASE NUMBER: 2006CV27 <i>Filed in the Combined Court Saguache County Colorado</i>
<hr/> Plaintiff <i>Carl Holbrook & Edger Carpenter</i> v. Defendant <i>Jean Selvage Richard Williams</i> <i>Bob Selvage Beth Pool</i>	APR 17 2006 <i>Lynn Thompson</i> Clerk of the Combined Court ▲ COURT USE ONLY ▲ <hr/> Case No. <i>06CV27</i> Division No. <i>me</i>

COUNTY/DISTRICT COURT
 County of Saguache, Colorado
 Certified to be a full, true and correct
 copy of the original in my custody
 Date: *October 16, 2006*
 BRANDIE TAYLOR
 Clerk of the County/District Court
 By: *[Signature]*



**Our intention: To contest the Bonanza election of April 4th 2006. CONTESTORS: Gail Holbrook- registered elector of Bonanza
Edgar L. Carpenter- registered elector Bonanza**

**CONSTEEES: Joan Selvage, Bob Selvage, Richard Williams, Beth Pool
Candidates for mayor and 3 trustees, town board
Election April 4,2006**

We are appealing the results of the 4/4/06 election in which candidates not residing in Bonanza for the 12 months immediatly preceding election have changed the language of 31-10-301 regarding qualifications of candidates on a public document and fraudulently run for office.

(1) The four constees have not spent any time in the town of Bonanza during this past 12 months except to appear for town meetings and leave immediatly afterwards as members of the town board. The statutory intent appears to serve the best interests of a community by providing that people who actually live therein best serve residents by being available and having public records available within the town.

(2) The changing of the language in 31-10-301 from "resided in" to "resident of" in the Candidate Qualifications issued to the public appears to change the qualifications to that of elector.

(3) The above contestees were all write-in candidates which means that their names should not have appeared on the ballot- (31-10-902) Three candidates had turned in nomination petitions with 10 signatures, and should have been the only names printed on ballots. When mail-in ballots were recieved on March 22, all 8 names were on the ballot. The only names printed on the ballots should have been Gail Holbrook, Ed Carpenter and Mary Osmond.

(4) No watchers were allowed at the polling place election day. (31-10-602)

(5) Candidate Challenge forms were unavailable even from the Secretary of State's office so we used Voter Challenge forms re-worded to fit the need. The 4 challenges were handed to the town clerk on election day. None of the candidates were present to accept the challenges, nor had they -nor the clerk been in Bonanza since March 4th.

(6) Challenge forms were not signed or returned, Bob Selvage hand delivered replys April 8th stating that the time for challenging candidacy had passed, signed by Terry Furney, election official.

(7) Candidate Beth Pool was listed "inactive" on the county clerk's registration list until 3/4/06.

The situation has persisted for several years whereby people living in the town have been excluded from participating in voted decisions or having access to town papers readily because they are outnumbered by voters registered in Bonanza but living full time in Pueblo. Under present circumstances issues of immediate concern to people living in this smallest mountain town, such as snow removal, flooding, vandalism, development, protection of the conservation easement, are not immediately apparent to town board members living in Pueblo. Town papers are not open to inspection except for one hour before and after monthly meetings and members of the board are not available except by long distance phone, and this often must wait until evening after they are home from jobs.

To the best of our knowledge none of the challenged have spent even 10 nights in Bonanza during this past year, and then not consecutively.

This past summer the platted 75 ft. width of Main Street was bottlenecked down to 35ft. width for about three blocks to accommodate property needs of people owning very old cabins which had been built 100 years ago on street right-of-way rather than on their rightful lots. While the townspeople want the cabins preserved, our concern is snow removal and probable future development needs for parking space, sidewalks, etc. Our requests that minimum footage be taken from Main Street were not honored. The property owner benefiting most- 19 lots adjoined- was the Furney family. Terry Furney was appointed town clerk as plat map changes were being planned.

Actually we do not believe the Pueblo candidates should be legal to vote in the town because we do not believe they will ever return and reside in Bonanza. We believe the statutory intent is to determine the best interest of the community.

We ask the court to provide immediate relief and to disqualify candidates who havenot and do not reside in the town.

*The causes set forth in the preceding statements
are true to the best of my knowledge and belief.*

*Edgar L. Carpenter
Joel C. Holbrook*

#20 BONANZA
VILLA GROVE, CO 80155

659-2245

District Court, Saguache County, State of Colorado Court Address: P.O. Box 164 Saguache, CO 81149	
Plaintiffs: GAIL HOLBROOK and EDGAR CARPENTER v. Defendants: JOAN SELVAGE; BOB SELVAGE; RICHARD WILLIAMS; BETH POOL	FILED Document CO Saguache County District Court Filing Date: May 3, 2006 4:01 PM CASE NUMBER: 06CV27 Filing ID: 11198737 Review Clerk: Lynne Thompson
Attorney for Defendants: Benjamin F. Gibbons Gibbons & Associates, P.C. 800 1 st Avenue Monte Vista, CO 81144 Phone Number: (719) 852-4731 FAX Number: (719) 852-4732 E-mail: gibbonsassociates@amigo.net Atty. Reg. #: 17815	▲ COURT USE ONLY ▲ <hr/> Case Number: 06CV27 Div.: Ctrm:
ANSWER	

COMES NOW, Defendants Joan Selvage, Bob Selvage, Richard Williams, and, Beth Pool, by and through their counsel, Gibbons & Associates, P.C., by Benjamin F. Gibbons, and answers the Complaint as follows:

I. ANSWER

1. To the extent that the Complaint can be interpreted as alleging that the above-named Defendants were not eligible to be elected or appointed to their current positions as elected officials of the Town of Bonanza, the same is denied.
2. To the extent that the Complaint can be interpreted as alleging that the above-named Defendants are not legal registered voters in the Town of Bonanza, the same is denied.
3. To the extent that the Complaint can be interpreted as alleging that the above-named Defendants have not properly conducted the official business of the Town of Bonanza, the same is denied.
4. To the extent that the Complaint can be interpreted as alleging any other claim for relief, the same is denied.

II. AFFIRMATIVE DEFENSES

The Defendants assert the following affirmative defenses:

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 By: *[Signature]*



1. Plaintiffs' Complaint fails to state a claim for which relief can be granted.
2. Plaintiffs' claims fail due to estoppel, waiver, and laches.
3. Plaintiffs' claims are barred by the appropriate Statute of Limitations. Defendants' further state that Defendant Williams has been a Town Board Member for 8 years; Defendant Joan Selvage has been a Town Board Member for 7 years; Defendant Bob Selvage has been a Town Board Member for 4 years; and Defendant Beth Pool has been the Town Clerk for 1 year.

The last election conducted in the Town of Bonanza was on April 2, 2006. §1-4-501 (3) C.R.S. states that "The qualification of any candidate may be challenged by an eligible elector of the political subdivision within five days after the designated election official's statement is issued that certifies the candidate to the ballot. The Complaint was filed in this matter on April 20, 2006.

4. This action is substantially frivolous, groundless, or vexatious as defined in §13-17-101, C.R.S. and the Defendants request their reasonable attorney fees and costs incurred in defending this action.

III. REQUEST FOR RELIEF

WHEREFORE, the Defendants request that the Plaintiffs' Complaint be dismissed in its entirety and that the Court award the Defendants their reasonable attorney fees and costs incurred in defending this action, and such other and further relief as the Court deems just and appropriate.

RESPECTFULLY SUBMITTED this 3rd day of May, 2006.

GIBBONS & ASSOCIATES, P.C.

**By: /s/ Benjamin F. Gibbons
Benjamin F. Gibbons, #17815**

CERTIFICATE OF MAILING

I do hereby certify that on the 3rd day of May, 2006, I placed in First Class U.S. Mail a true and correct copy of the above Entry of Appearance, to the following:

Gail Holbrook
Edgar Carpenter
#20 Bonanza
Villa Grove, CO 81155

/s/ Fawn Gallegos

<p>DISTRICT COURT Saguache County, Colorado 4th & Christy P.O. Box 164 Saguache, Colorado 81149 (719) 655-2522</p>	<p>FILED Document CO Saguache County District Court Filing Date: 10/29/2014 10:31 AM Case Number: 06CV27 Filing ID: 11673467 Review Clerk: Lynne Thompson</p>
<p>Plaintiffs: GAIL HOLBROOK and EDGAR CARPENTER</p> <p>v.</p> <p>Defendants: JOAN L. SELVEGE, ROBERT L. SELVEGE, RICHARD T. WILLIAMS, BETH A. POOL, and the TOWN OF BONANZA, a Colorado municipality.</p>	<p>COURT USE ONLY</p>
<p>Attorney for Plaintiffs: Matthew K. Hobbs, #33225 EUGENE L. FARISH, P.C. 739 1st Avenue, P.O. Box 430 Monte Vista, CO 81144 Phone Number: 719-852-5101 E-mail: hobbs@farishlaw.com</p>	<p>Case Number: 06CV27</p> <p>Division:</p> <p>Courtroom:</p>
<p>AMENDED COMPLAINT</p>	

Plaintiffs by and through their attorney, Matthew K. Hobbs of the law firm Eugene L. Farish, P.C., hereby file this *Amended Complaint*.

GENERAL ALLEGATIONS

1. The Town of Bonanza is a Colorado municipality located in Saguache County, Colorado.
2. The Town of Bonanza is a statutory town.
3. Plaintiffs are registered electors in Bonanza and residents of the Town.
4. The Town of Bonanza Board of Trustees is composed of four trustees and one mayor.

COUNTY/DISTRICT COURT
County of Saguache, Colorado
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copy of the original in my custody
Date: October 14, 2014
BRANDIE TAYLOR
Clerk of the County/District Court

By: 



5. All four trustee positions and the mayoral position were up for election on April 4, 2006.
6. A municipal election for the Board of Trustees of the Town of Bonanza was held on April 4, 2006.
7. The election was held via mail ballots.
8. The ballots were mailed to the registered electors on or about March 20, 2006.
9. Candidates for the aforementioned election were: Gail Holbrook, Edgar Carpenter, Mary Osmond, Joan Selvege, Bob Selvege, Richard Williams, Karen Caylom, and Beth Pool.
10. After the election, the Town of Bonanza declared Joan Selvege to be the Mayor; Bob Selvege, Beth Pool, and Richard Williams were awarded seats as trustees (collectively referred to herein as Selveges/Williams/Pool).
11. Upon information and belief Selveges/Williams/Pool own real property outside the municipal boundaries of Bonanza.
12. Upon information and belief Selveges/Williams/Pool did not reside in Bonanza for twelve consecutive months prior to the election.

**FIRST CLAIM FOR RELIEF
(Election Contest)**

13. Averments in Paragraphs 1 through 12 are hereby incorporated into this claim for relief.
14. The Court should declare that Selveges/Williams/Pool are ineligible for the offices to which they were elected.
15. The Court should declare Plaintiffs are elected to the Board of Trustees.

**SECOND CLAIM FOR RELIEF
(42 U.S.C. § 1983 - Due Process)**

16. Averments in Paragraphs 1 through 15 are hereby incorporated into this claim for relief.

17. On or about March 4, 2006, Gail Holbrook, and Edgar Carpenter submitted petitions for nomination to be candidates for the Board of Trustees.
18. Upon information and belief Selveges/Williams/Pool submitted affidavits of intent to run as write-in candidates on or about March 4, 2006.
19. Selveges/Williams/Pool names appeared on the Town ballot despite the fact that they failed to submit petitions and instead submitted intents to run as write-in candidates.
20. The Town of Bonanza violated Plaintiffs' right to due process of the law by allowing Selveges/Williams/Pool to run for election despite not having lived in Town of Bonanza for more than twelve consecutive months.
21. The Town of Bonanza violated Plaintiffs' right to due process of the law by declaring the Selveges/Williams/Pool elected and by allowing "write-in" candidates to be listed on the ballot alongside Plaintiffs.

**THIRD CLAIM FOR RELIEF
(42 U.S.C. § 1983 - Equal Protection)**

22. Averments in Paragraphs 1 through 21 are hereby incorporated into this claim for relief.
23. The Town of Bonanza violated Plaintiffs' right to equal protection of the law by allowing Selveges/Williams/Pool to be candidates for election despite the fact that they did not reside in Town for twelve consecutive months prior to the election.
24. The Town of Bonanza violated Plaintiffs' right to equal protection of the law by allowing Selveges/Williams/Pool to be listed on the ballot alongside Plaintiffs despite the fact that they failed to submit petitions and instead submitted affidavits for a write-in candidate.
25. The Town of Bonanza violated Plaintiffs' right to equal protection of the law by declaring Selveges/Williams/Pool elected despite not being eligible to hold such office.

FOURTH CLAIM FOR RELIEF
(C.R.C.P. 106(a)(3) - Quo Warranto)

26. Averments in paragraphs 1 through 25 are hereby incorporated into this claim for relief.
27. Because Selveges/Williams/Pool did not reside in the Town of Bonanza twelve consecutive months prior to the election they are now unlawfully holding public office.
28. Plaintiffs contacted the District Attorney regarding this matter and he declined to bring an action.
29. The Court should declare that Selveges/Williams/Pool are unlawfully holding public office and declare Plaintiffs elected.

WHEREFORE, Plaintiffs respectfully request that the Court enter judgment in favor of Plaintiffs as indicated above, award attorney fees and costs to Plaintiffs, and grant such other and further relief that the Court deems just and appropriate.

DATED this 29th day of June 2006.

Respectfully Submitted,

EUGENE L. FARISH, P.C.

s/ Matthew K. Hobbs
Matthew K. Hobbs

CERTIFICATE OF SERVICE

I certify that on June 29, 2006, this office served a true and correct copy of this **AMENDED COMPLAINT** via LexisNexis File and Serve addressed as follows:

Benjamin F. Gibbons, Esq.

s/ Sharlene A. Short

District Court, Saguache County, Colorado Court Address: P.O. Box 164 Saguache, CO 81149	
Plaintiffs: GAIL HOLBROOK and EDGAR CARPENTER, v. Defendants: JOAN L. SELVAGE, ROBERT L. SELVAGE, RICHARD T. WILLIAMS, BETH A. POOL, and the TOWN OF BONANZA, a Colorado municipality.	FILED Document CO Saguache County District Court Filing Date: 10/16/06 10:48 AM Case Number: 06CV27 Filing ID: 11835621 Review Clerk: Lynne Thompson ▲ COURT USE ONLY ▲ Case Number: 06CV27
Attorney for Defendants: Benjamin F. Gibbons GIBBONS & ASSOCIATES, P.C. 800 1 st Avenue Monte Vista, CO 81144 Phone Number: (719) 852-4731 FAX Number: (719) 852-4732 E-mail: gibbonsassociates@amigo.net Atty. Reg. #: 17815	Div.: Ctrm:
ANSWER TO AMENDED COMPLAINT	

Defendants, the Town of Bonanza, Joan L. Selvage, Robert L. Selvage, Richard T. Williams, and Beth A. Pool, by and through their attorney of record hereby submit to the jurisdiction of the Court without need for service, and answer the Amended Complaint as follows:

I. **ANSWER**

1. Defendants admit to the allegations contained in paragraphs 1-8 of the complaint.
2. Defendants answer the allegations contained in paragraph 9 of the Complaint by stating that the actual candidates for the April 4, 2006 election were: Gail Holbrook, Edgar Carpenter, Mary Osmond, Joan Selvage, Robert Selvage, Richard Williams, Karen Kaylor, Beth Pool and Mark Perkovich.
3. The Defendants admit to the allegations contained in paragraph 10 of the Complaint.
4. Defendants admit to the allegations contained in paragraph 11 of the Complaint and affirmatively state that there is no election law, case law or Constitutional prohibition on their owning property outside the Town of Bonanza.

COUNTY/DISTRICT COURT
County of Saguache, Colorado
Certified to be a full, true and correct
copy of the original in my custody

Date: October 16, 2006

BRANDIE TAYLOR
Clerk of the County/District Court

By: *[Signature]*



5. The Defendants deny the allegations contained in paragraph 12 of the Complaint.
 6. Paragraph 13 required neither an admittance or denial.
 7. The Defendants deny the allegations contained in paragraph 14 of the Complaint.
 8. The Defendants deny the allegations contained in paragraph 15 of the Complaint and affirmatively state that the nomination petition for the Plaintiffs contained signatures of individuals who have not resided within the municipal boundaries of the Town of Bonanza. Therefore, the Plaintiffs were not legally nominated as "write-in" candidates, and are not eligible for election to the Town Board.
 9. Paragraph 16 does not require an admittance or denial.
 10. The Defendants admit to the allegations contained in paragraphs 17 and 18.
 11. The Defendant answer paragraph 19 by stating that Colorado Municipal Code, §31-10-306, C.R.S. authorizes the actions of the Defendants Joan Selvage, Robert Selvage, Richard Williams and Beth Pool in submitting affidavits of intent..
 12. The Defendants deny the allegations contained in paragraphs 20 and 21 of the Complaint.
 13. Paragraph 22 does not require and admission or denial.
 14. Defendants deny the allegations contained in paragraphs 23-25 of the Complaint.
 15. Paragraph 26 does not require and admission or denial.
 16. Defendants deny the allegations contained in paragraph 27 of the Complaint.
 17. The Defendants are without sufficient information or knowledge to either admit or deny the allegations contained in paragraph 28 of the Complaint.
 18. The Defendants deny the allegations/request for relief contained in paragraph 29 of the Complaint and affirmatively state that the Plaintiffs failed to meet the requirements of Petitioning to be placed on the ballot due to the fact that individuals who signed the nominating petition were not eligible to so do.
- The Defendants also affirmatively state that in the event the Court grants the relief requested in paragraph 29 of the Complaint, the results will be that the Town of Bonanza will possibly have a Town Board of two people, less than a quorum, and in effect disenfranchise the Town.
19. To the extent that each and every allegation contained in the Complaint has not been admitted or denied, the same is denied.

II. AFFIRMATIVE DEFENSES

1. Plaintiffs' Complaint fails to state a claim upon which relief may be granted.
2. Plaintiffs' claims are barred by the doctrines of laches, estoppel, and unclean hands.
3. Plaintiffs' claims are without foundation in fact, and are therefore frivolous and groundless. Defendants are entitled to an award of attorney's fees pursuant to C.R.S. §13-17-102.

WHEREFORE, the Defendants, having fully answered the Plaintiffs' Amended Complaint, request that this Court enter an Order dismissing the Complaint in its entirety and awarding the Defendants their reasonable costs of defense, including but not limited to reasonable attorney's fees, and such other and further relief that the Court deems appropriate.

RESPECTFULLY SUBMITTED this 19th day of July, 2006.

GIBBONS & ASSOCIATES, P.C.

/s/Benjamin F. Gibbons, Original
Signature on File.

By: Benjamin F. Gibbons

In accordance with C.R.C.P. 121 §1-26(9), a printed copy of this document with original signature(s) is maintained by Gibbons and Associates, P.C., and will be made available for inspection by other parties or the Court upon request.

CERTIFICATE OF SERVICE

I do hereby certify that on the 19th day of July, 2006, a true and correct copy of the above Answer was e-filed and served via justicelink:

Matthew K. Hobbs
739 1st Avenue
Monte Vista, CO 81144

/s/Fawn Gallegos