

<p><b>DISTRICT COURT, JEFFERSON COUNTY, COLORADO</b> 100 Jefferson County Parkway, Golden, CO 80401</p>	<p>DATE FILED: August 4, 2023 2:00 PM FILING ID: D0216A68FEC98 CASE NUMBER: 2019CV30887</p>
<p><b>Plaintiff:</b> BIG SKY METROPOLITAN DISTRICT NO. 1, a quasi-municipal corporation and political subdivision of the State of Colorado, v. <b>Defendant:</b> GREEN MOUNTAIN WATER AND SANITATION DISTRICT, a quasi-municipal corporation and subdivision of the State of Colorado.</p>	<p>Case No. 2019cv30887</p>
<p><b>Plaintiff:</b> CDN RED ROCKS, LP, a Colorado limited partnership, v. <b>Defendant:</b> GREEN MOUNTAIN WATER AND SANITATION DISTRICT, a quasi-municipal corporation and subdivision of the State of Colorado.</p>	<p>Case No. 2019cv31158</p>
<p><b>Plaintiff:</b> CARDEL HOMES U.S. LIMITED PARTNERSHIP, a Florida limited partnership, v. <b>Defendant:</b> GREEN MOUNTAIN WATER AND SANITATION DISTRICT, a quasi-municipal corporation and subdivision of the State of Colorado.</p>	<p>Case No. 2019cv31250</p>
<p><b>Attorneys for Plaintiff Big Sky Metropolitan District, No. 1</b> Charles E. Norton, #10633; cnorton@nortonsmithlaw.com Alicia M. Garcia, #53860; agarcia@nortonsmithlaw.com NORTON &amp; SMITH, P.C. 1331 17th Street, Suite 500 Denver, CO 80202 Telephone: 303-292-6400</p> <p><b>Attorneys for Plaintiff CDN Red Rocks, LP</b> Marsha M. Piccone, #15268; mpiccone@foxrothschild.com Caleb Durling, #39253; cdurling@foxrothschild.com FOX ROTHSCHILD LLP 1225 17th Street, Suite 2200 Denver, CO 80202 Telephone: 303.292.1200</p> <p><b>Attorneys for Plaintiff Cardel Homes U.S. Limited Partnership:</b> Stanley L. Garnett, # 12282 <a href="mailto:stan.garnett@garnettlegalgroup.com">stan.garnett@garnettlegalgroup.com</a> Andrew P. Garnett, # 45220</p>	<p>▲ COURT USE ONLY ▲</p> <p>Consolidated Case No. 2019cv30887</p> <p>Division: 2</p>

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**JOINT MOTION PROPOSING NEW CASE DEADLINES AND REQUESTING CONSOLIDATED BENCH TRIAL**

Plaintiffs Big Sky Metropolitan District No. 1 (“Big Sky”), CDN Red Rocks, LP (“CDN”), Cardel Homes U.S. Limited Partnership (“Cardel”) and Defendant Green Mountain Water and Sanitation District (“Green Mountain”) (CDN and Cardel, collectively, the “Developer Plaintiffs”), through their respective counsel, submit the following joint motion to reset case deadlines and set consolidated bench trial in light of the March 23, 2023 Court of Appeals Opinion reversing summary judgment order.

**CERTIFICATION REGARDING C.R.C.P. 121, SECTION 1-15(8)**

All counsel met in person on July 21, 2023, to confer regarding the necessary case deadlines submitted herein.

**I. STATEMENT IN SUPPORT**

1. The Court of Appeals issued an Opinion on March 23, 2023, reversing this Court’s May 6, 2021 summary judgment order against Big Sky and August 19, 2021 order dismissing the Developers Plaintiffs for lack of standing.

2. After the Court of Appeals mandate issued, this Court held a Status Conference on July 23, 2023. At the Status Conference the parties agreed to work together to propose new case deadlines for the Court's consideration.

3. Counsel for the parties met in person on July 21, 2023, to discuss the necessary case deadlines proposed herein. The parties submit to the Court that these deadlines are reasonable and intended to efficiently move this litigation forward toward conclusion.

4. As articulated below, Green Mountain withdraws its opposition to the motion to strike the jury trial demand and formally withdraws its jury trial demand against each plaintiff. As a result, the Parties request the Court consolidate all three cases into one bench trial.

5. This motion supersedes the Parties' prior motions to reset case deadlines and does not revive any deadline which had run prior to the case being stayed on May 19, 2021, pursuant to the Court's order on that day.

## **II. PROPOSED CASE DEADLINES**

a. Discovery Cutoff:

i. **September 29, 2023.**

b. Deadline for All Parties to Complete Mediation:

i. **December 1, 2023.**

c. Deadline to file summary judgment:

i. **November 17, 2023.**

d. Deadline to file motions challenging admissibility of expert testimony pursuant to CRE 702:

i. **70 days before trial date.**

e. Deadline to exchange draft of witness lists and exhibits lists, and copies of

exhibits:

- i. 35 days before trial date.**
- f. Last day to file pretrial motions, including motions in limine:
  - i. 35 days before trial date.**
- i. Last day for proponent to provide designation of preserved witness testimony to other parties:
  - i. 28 days before trial date.**
- g. Last day for responsible party to file proposed trial management order:
  - i. 28 days before trial date.**
- h. Last day for responsible party to file trial briefs:
  - i. 14 days before trial date.**

### III. OUTSTANDING MOTIONS BEFORE THE COURT

The following motions are fully briefed and ripe for ruling from the Court.

	<b>MOTION</b>	<b>DATE FILED</b>	<b>FILED BY (PARTY)</b>
1.	*Motion for Partial Summary Judgment (2019CV30887)	09/11/2019	Big Sky (Plaintiff)
2.	*Motion for Summary Judgment (2019CV30887)	09/11/2019	Green Mountain (Defendant)
3.	*Motion to Dismiss (2019CV31158)	09/11/2019	Green Mountain (Defendant)
4.	*Motion to Dismiss (2019CV31250)	10/24/2019	Green Mountain (Defendant)
5.	Motion to Quash Subpoena (C.R.C.P. 45)	11/20/2020	Rita Bertolli (Non-Party)

\*Portions of motion were resolved by Court's orders of January 29, 2020 and October 26, 2020

**IV. GREEN MOUNTAIN'S WITHDRAWAL OF JURY TRIAL DEMANDS AND JOINT REQUEST TO CONSOLIDATE TRIALS AND SET BENCH TRIAL SPRING 2024**

Green Mountain withdraws its opposition to Big Sky's Motion to Strike Jury Demand and has withdrawn its jury trial demand. Therefore, the parties respectfully jointly request this Court consolidate the three cases into one for trial and that this Court set a bench trial in the late spring of 2024, the Court's calendar permitting. The Parties believe the bench trial can be completed in five days. The request to consolidate these trials is made in the interest of judicial economy. Having one trial will maximize the efficient resolution of this dispute and bring this matter to a uniform and expedient conclusion.

WHEREFORE, for the foregoing reasons, the Parties request that this Court reset the above deadline dates in the case.

A proposed Order is attached.

Dated: August 4, 2023

<p><b><i>Counsel for Plaintiff Big Sky Metropolitan District No. 1:</i></b></p> <p><u>s/ Charles E. Norton</u>  Charles E. Norton, #10633  Alicia M. Garcia, #53860  NORTON &amp; SMITH, P.C.</p>	<p><b><i>Counsel for Plaintiff CDN Red Rocks, LP:</i></b></p> <p><u>s/ Caleb Durling</u>  Marsha M. Piccone, #15268  Caleb Durling, #39253  FOX ROTHSCHILD LLP</p>
<p><b><i>Counsel for Plaintiff Cardel Homes U.S. Limited Partnership:</i></b></p> <p><u>s/Andrew P. Garnett</u>  Andrew P. Garnett, # 45220  GARNETT POWELL MAXIMON BARLOW</p>	
<p><b><i>Counsel for Defendant Green Mountain Water and Sanitation District</i></b></p> <p><u>s/Michael J. Ogborn</u>  Michael J. Ogborn, #20932  OGBORN MIHM, LLP</p>	

**CERTIFICATE OF SERVICE**

I certify that on the 4th day of August, 2023, a true and correct copy of the foregoing was served electronically via ICCES to the following:

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