

DISTRICT COURT, COUNTY OF BOULDER, COLORADO Boulder County District Court Boulder County Justice Center 1777 6th Street Boulder, Colorado 80302	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
Plaintiffs: CITIZENS FOR QUIET SKIES and KIMBERLY GIBBS, v. Defendant: MILE-HI SKYDIVING CENTER, INC.	Case Number:
Randall M. Weiner, #23871 Law Offices of Randall M. Weiner, P.C. 3100 Arapahoe Avenue, Suite 460 Boulder, Colorado 80303 Phone Number: 303-440-3321 Fax Number: 866-816-5197 randall@randallweiner.com	
COMPLAINT	

Plaintiffs, by and through counsel, Law Offices of Randall M. Weiner, P.C., file this complaint and in support thereof states as follows:

PARTIES

1. Plaintiff Citizens for Quiet Skies (“Citizens”) is a citizens’ group whose offices are in Boulder County. Citizens for Quiet Skies is a group of Boulder County residents who are concerned about the negative noise impact to the community caused by aviation operations, particularly noise caused by skydiving operations. The group was formed in 2010.
2. Kimberly Gibbs is a resident of Boulder County who lives at 7468 Mt. Sherman Road, Longmont, CO 80503.
3. Defendant Mile-Hi Skydiving Center, Inc. (“Mile-Hi”) is a skydiving company operating in Boulder County. Mile-Hi’s main office is at 229 Airport Rd #34G, Longmont, CO 80503. Mile Hi operates out of the Vance-Brand Municipal Airport in Longmont, CO.

JURISDICTION AND VENUE

4. The principle place of business of Defendant Mile-Hi is in Longmont, Boulder County, Colorado. The events complained of occurred within Boulder County. Because this is an action for tort, jurisdiction and venue are proper in the Boulder County District Court, Boulder County, Colorado.

GENERAL ALLEGATIONS

5. Mile-Hi owns and operates four (4) planes for the purpose of providing skydiving services to its clients: 1 DeHavilland Twin Otter, 2 Beechcraft King Air B90s, and 1 Cessna Turbo 206.
6. Additionally, Defendant Mile-Hi Skydiving typically operates a second Twin Otter during the summer.
7. Mile-Hi entered a lease agreement with the city of Longmont in 2007 for a significantly expanded operation. The lease is currently inactive and will become active when Mile-Hi begins construction of the expanded facility.
8. In addition to being based at Vance Brand Municipal airport, Mile-Hi also utilizes the airport as a "drop zone", where the parachutists land.
9. Mile-Hi operates year round and does not close during the winter or any other season.
10. "Peak skydiving season" is May through September.
11. Mile-Hi operates every day of the week, as demand dictates, including Saturday and Sunday.
12. The busiest days of the week are typically Saturday and Sunday.
13. A typical skydiving "operation" involves loading the jump plane with passengers, taking-off and climbing to jump altitude, allowing skydivers to exit the plane and returning back to the airport.
14. Operations during peak season typically begin at approximately 7:15 am and run continuously until dark, i.e. 8:30 pm. These operations result in more than 12 hours of nearly constant noise to affected areas.
15. Jump altitude is considered to be approximately 12,500 feet above ground level. Skydivers can also exit the aircraft at somewhat lower altitudes, around 8,000 feet above ground.
16. The time duration for a skydiving operation varies depending on the type of plane.

The Twin Otter is considered among the fastest in the fleet and it takes approximately 10 minutes to reach jump altitude from the ground. The complete operation, including loading and descending takes about 20 minutes. The less powerful aircraft require a few more minutes to conduct an operation.

17. Mile-Hi operates several, and commonly three (3), aircraft concurrently and continuously throughout the day.
18. Defendant also performs periodic nighttime skydiving events, typically on Friday nights during "peak season."
19. These nighttime events have operated until after midnight, with no notice provided to the public.
20. Mile-Hi operates planes within a geographic "flight box."
21. The "flight box" is defined as follows: Beginning at a point located at 40 degrees 12'50"N 105 degrees 16'50"W thence direct to 40 degrees 12'30"N 105 degrees 14'50"W thence direct to 40 degrees 08'10"N 105 degrees 03'40"W thence direct to 40 degrees 03'40"N 105 degrees 06'50" thence direct to 40 degrees 04'00"N 105 degrees 16'50"W thence direct to beginning.
22. The "flight box" includes areas of the City of Longmont surrounding the airport, a large portion of unincorporated north Boulder County, including Lyons, Hygiene, Table Mountain, Niwot and Gunbarrel.
23. The flight box extends several miles away from the airport.
24. The Mile-Hi planes operate continuously in repetitive circles within the boundaries of the flight box, and occasionally the planes may fly outside the boundaries of the box.
25. Thousands of north Boulder County residents who live under the Mile-Hi Skydiving "flight box" are affected by the noise.
26. Plaintiffs' homes are generally situated in rural residential areas with low ambient noise levels.
27. The Mile-Hi planes climb aggressively to reach jump altitude, which creates intense and unwanted noise over Plaintiffs' homes.
28. Mile-Hi planes also descend aggressively, causing intense and unwanted noise over Plaintiffs' homes.
29. While all the planes create noise disruption, the DeHavilland Twin Otter creates a low-frequency reverberating drone that is particularly disruptive, far-reaching,

and can easily be heard from several miles away.

30. The noise and vibrations from Defendants' planes, particularly the Twin Otter, can be heard and felt inside residents' homes, even with the windows closed.
31. The noise and vibrations from Defendants' planes, particularly the Twin Otter, can be heard almost constantly throughout and beyond the flight box due to the amount and quality of noise it generates.
32. Mile-Hi operations result in nearly continuous unwanted noise over affected areas for the entire duration of daily operations.
33. Mile-Hi operations occur without proper or sufficient noise control or noise abatement.
34. As a result of Defendant' conduct, the individual Plaintiffs have suffered from excessive noise, vibrations, and other harms in, around and to their homes.
35. Plaintiffs have lost sleep, endured stress and anxiety and had their lives disrupted due to the excessive noise harms.
36. Operations during the weekend are particularly disruptive when Plaintiffs seek to enjoy their homes, property, and outdoor recreation.
37. Operations during the early morning before 9 am are particularly disruptive to Plaintiffs.
38. As a further result of Defendant's conduct, the individual Plaintiffs, as well as other members of their families and the public, have been and continue to be injured physically and mentally, and have experienced headaches, stress and anxiety, sleep disruption, and other conditions.
39. As a further proximate result of Defendant's conduct, Plaintiffs' interests in their homes and property have been reduced in value.

FIRST CLAIM FOR RELIEF

(Negligence)

40. Plaintiffs incorporate the general allegations set forth hereinabove.
41. Defendant owed the Plaintiffs a duty to exercise reasonable care in the operation and maintenance of, and flight patterns for, their airplanes.
42. Defendant was negligent and careless in the operation and maintenance of, and flight patterns for, their airplanes.
43. Defendant failed to comport with a reasonable standard of care by utilizing planes or equipment that would minimize noise, vibrations and other harms.

44. Defendant failed to comport with a reasonable standard of care by utilizing flight patterns that would minimize noise, vibrations and other harms.
45. As a direct and proximate result of the negligence and carelessness of Defendant, Plaintiffs have suffered and continue to suffer injuries and losses identified herein.

SECOND CLAIM FOR RELIEF

(Trespass)

46. Plaintiffs incorporate the general allegations set forth hereinabove.
47. Noise and vibrations from Defendant's skydiving operations have intruded onto Plaintiffs' properties, interfering with the Plaintiffs' possessory interests in their property.
48. The physical intrusion of the noise and vibrations have caused and continue to: cause damage to Plaintiffs' property and diminish their values, negatively impact the individual Plaintiffs' health and wellbeing, and negatively impact Plaintiffs' enjoyment of their properties.
49. As a direct and proximate result of the physical intrusion, Plaintiffs have suffered and continue to suffer discomfort, annoyance, loss of use and enjoyment of life, and other injuries and losses identified herein.

THIRD CLAIM FOR RELIEF

(Nuisance)

50. Plaintiffs incorporate the general allegations set forth hereinabove.
51. Defendant, by causing excessive noise and vibrations above and on Plaintiffs' properties, have created a private nuisance.
52. Defendant's flights at night, on weekends, and in the early morning do not comport with community norms.
53. Noise from Defendant's planes can be heard many miles from the Vance-Brand Airport.
54. The failure of Defendant to utilize adequate noise abatement equipment, to modify their airplanes' flight patterns, or to fly during normal business hours has created a continuing nuisance.
55. The aforesaid private nuisance has proximately caused damage to Plaintiffs, has unreasonably interfered with their use and enjoyment of their property, caused discomfort and annoyance, and caused, and will continue to cause, damage to their health, safety and well-being.

FOURTH CLAIM FOR RELIEF
(Negligence per se)

56. Plaintiffs incorporate the general allegations set forth hereinabove.
57. The conduct of Defendant was and is in violation of City of Longmont.
58. Specifically, Defendant's operations violate Longmont Municipal Code 10.20.100.
59. As a direct and proximate result of Defendant's conduct, Plaintiffs have suffered injuries and losses identified herein.

FIFTH CLAIM FOR RELIEF
(Respondeat Superior)

60. Plaintiffs incorporate the general allegations set forth hereinabove.
61. At all times relevant hereto, the employees and agents of Defendant were responsible for flight plans, noise control, aircraft operation and maintenance and other issues in the course and scope of their employment with Defendant.
62. At all times relevant hereto, Defendant was responsible for the actions its employees. Defendant is vicariously liable for the negligent actions of its employees.
63. As a direct and proximate cause of Defendant' employees' and agents' conduct, Plaintiffs have suffered damages and losses identified herein.

SIXTH CLAIM FOR RELIEF
(Equitable Relief)

64. Plaintiffs incorporate the general allegations set forth hereinabove. Defendant refuses to protect the health of Plaintiffs by changing flight patterns utilizing appropriate noise abatement technology, or following reasonable community standards by flying only during regular and reasonable hours.
65. Damages alone are an inadequate remedy given the current health risks and property intrusions associated with Defendant's activities.
66. Plaintiffs will suffer irreparable harm, damage and injury unless Defendant is enjoined and required to conduct additional activities in such manner as to protect the health, safety and property enjoyment of the Plaintiffs, including changing flight patterns and using noise abatement technology.

WHEREFORE, Plaintiffs pray for relief as follows:

- a. Damages for the reduction in value of the Plaintiffs' interest in their homes;
- b. Damages for the past and future loss of use and enjoyment of the Plaintiffs' homes;
- c. Damages for past and future emotional distress, stress and anxiety of dislocation and remediation necessitated by the acts of Defendant;
- d. Damages for past and future pain and suffering, annoyance, disturbance and discomfort, both temporary and permanent, and both physical and mental, caused by the acts of the Defendant;
- e. Damages to the personal property of the Plaintiffs;
- f. Damages for the Plaintiffs' past and future loss of enjoyment of life and the medical expenses incurred by the Plaintiffs;
- g. Damages for medical monitoring;
- h. For injunctive relief to require Defendant to undertake additional remediation activities to fully protect the health and safety of Plaintiffs, including limiting hours of operation and changing flight patterns;
- i. For court costs, expert witness fees, deposition expenses, and attorney's fees;
- j. For statutory interest from the date this cause of action accrued or as otherwise allowed by law; and
- k. For other and further relief as the Court deems just and proper.

Dated this 29th day of October, 2013.

Respectfully submitted,

LAW OFFICES OF RANDALL M.
WEINER, P.C.

Original Signature on file at
Law Offices of Randall M. Weiner, P.C.

By: /s/ Randall M. Weiner
Randall M. Weiner, #23871
Kara B. Cook, Law Clerk

Plaintiffs' Addresses are:

Citizens for Quiet Skies
7468 Mt. Sherman Road
Longmont, CO 80503

Kimberly Gibbs
7468 Mt. Sherman Road
Longmont, CO 80503

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

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Court Address: Boulder County District Court Boulder County Justice Center 1777 6th Street Boulder, Colorado 80302	
Plaintiffs: CITIZENS FOR QUIET SKIES and KIMBERLY GIBBS, v. Defendants: MILE-HI SKYDIVING CENTER, INC.	▲ COURT USE ONLY ▲
Attorney or Party Without Attorney (Name and Address): Randall M. Weiner, #23871 Law Offices of Randall M. Weiner, P.C. 3100 Arapahoe Ave., Suite 460 Boulder, Colorado 80303 Phone: 303-440-3321 E-mail: randall@randallweiner.com Fax Number: 866-816-5197	Case Number: Div.: _____
DISTRICT COURT CIVIL (CV) CASE COVER SHEET FOR INITIAL PLEADING OF COMPLAINT, COUNTERCLAIM, CROSS-CLAIM OR THIRD PARTY COMPLAINT	

1. This cover sheet shall be filed with the initial pleading of a complaint, counterclaim, cross-claim or third party complaint in every district court civil (CV) case. It shall not be filed in Domestic Relations (DR), Probate (PR), Water (CW), Juvenile (JA, JR, JD, JV), or Mental Health (MH) cases.

2. Check the boxes applicable to this case.

Simplified Procedure under C.R.C.P. 16.1 **applies** to this case because this party does not seek a monetary judgment in excess of \$100,000.00 against another party, including any attorney fees, penalties or punitive damages but excluding interest and costs and because this case is not a class action or forcible entry and detainer, Rule 106, Rule 120, or other expedited proceeding.

Simplified Procedure under C.R.C.P. 16.1, **does not apply** to this case because (check one box below identifying why 16.1 does not apply):

This is a class action or forcible entry and detainer, Rule 106, Rule 120, or other similar expedited proceeding, **or**

This party is seeking a monetary judgment for more than \$100,000.00 against another party, including any attorney fees, penalties or punitive damages, but excluding interest and costs (see C.R.C.P. 16.1(c)), **or**

Another party has previously stated in its cover sheet that 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.)

Date: October 29th, 2013

*s/ Randall M. Weiner

* The "S/" is a symbol representing the signature of the person whose name follows the "S/" on the electronically or otherwise signed form of the E-Filed or E-Served document pursuant to C.R.C.P. 121 Ir 1-26(1)(f). A printed or printable copy of an E-Filed or E-Served document with original or scanned signatures is maintained by the filing party and is available for inspection by other parties or the court upon request pursuant to C.R.C.P. 121 Ir 1-26(7).

Signature of Party or Attorney for Party

NOTICE

- ✓ This cover sheet must be filed in all District Court Civil (CV) 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.
- ✓ This cover sheet must be served on all other parties along with the initial pleading of a complaint, counterclaim, cross-claim, or third party complaint.
- ✓ This cover sheet shall not be considered a pleading for purposes of C.R.C.P. 11.