

<p>COLORADO COURT OF APPEALS  101 West Colfax Ave., Suite 800  Denver, CO 80202  303-837-3785</p>	<p><b>FILED Document</b>  <b>CO Larimer County District Court 8th JD</b>  <b>Filing Date: Dec 30 2011 1:29PM MST</b>  <b>Filing ID: 41633622</b>  <b>Review Clerk: Stacy Pacheco</b></p>
<p>District Court, Larimer, Colorado  Judge Daniel J. Kaup, Case No. 11 CV 990</p>	
<p>Appellant: <b>REBECCA SUSAN LORENZ</b></p> <p>v.</p> <p>Appellee: <b>RETREAT LANDOWNERS ASSOCIATION, INC. (RLA), a Colorado Corporation</b></p>	<p>▲ COURT USE ONLY ▲</p>
<p>Attorney for Appellant:</p> <p>John J. Fleming  FLEMING &amp; STERN  P.O. Box 1293  144 S. Uncompahgre  Montrose, Colorado 81402  Phone Number: (970) 240-2812  Atty. Reg. #: 15786</p>	<p>Case No:</p> <p>Division:</p> <p>Courtroom:</p>
<p align="center"><b>NOTICE OF APPEAL</b></p>	

The Plaintiff/Appellant, Rebecca Lorenz, through counsel, John J. Fleming, Jr. of Fleming & Stern, submits the following notice of appeal:

## NATURE OF THE CASE

### A. NATURE OF CONTROVERSY

This case originated as Complaint made by Plaintiff/Appellant Rebecca Lorenz in Larimer County District Court against the Retreat Landowners Association, Inc. (RLA). Plaintiff/Appellant is a real property owner in the subdivision known as “The Retreat.”

On June 2, 2011, Plaintiff/Appellant filed, in her Second Amended Complaint, claims against the RLA for Negligent Misrepresentation, Intentional Misrepresentation, Breach of Fiduciary Duty, Breach of Statutory Duty and Harassment/ Defamation/ Emotional Distress.

On July 5, 2011, Defendant/Appellee RLA filed a Motion to Require Joinder, or in the Alternative, Dismissal requesting that the Court order that all of the property owners of the RLA be joined as indispensable parties and if Plaintiff/Appellant failed to do so for dismissal of her claims.

On August 23, 2011, District Judge Kaup ordered Plaintiff/Appellant to amend her Complaint to join all of the property owners of the HOA as indispensable parties within forty five (45) days or her Complaint would be dismissed.

Finally, on November 17, 2011, Judge Kaup issued an order dismissing Plaintiff's/Appellant's Second Amended Complaint with prejudice, essentially for failing to properly amend her Complaint and for failing to properly join all of the property owners of the RLA as indispensable parties.

**B. JUDGMENT APPEALED AND BASIS OF JURISDICTION**

The judgment being appealed is Judge Kaup's Order dated November 17, 2011, which dismissed Plaintiff's/Appellant's Second Amended Complaint with prejudice and Judge Kaup's Order dated August 23, 2011, which ordered Plaintiff/Appellant to join all of the property owners of the HOA as indispensable parties. This Court has jurisdiction pursuant to C.A.R. 1(a)(1).

**C. ORDER RESOLVED ALL ISSUES BEFORE THE TRIAL COURT**

Since the Judgment and Order issued by Judge Kaup dated November 17, 2011, dismissed all claims, it resolved all issues pending before the trial court.

**D. JUDGMENT FINAL FOR PURPOSES OF APPEAL**

The judgment of the trial court is final pursuant to C.R.C.P. 54(b).

**E. ORDER ISSUE AND MAILING DATE**

The judgment of the trial court was entered on November 17, 2011. The order was also mailed on November 18, 2011.

**F. NO EXTENSIONS OF TIME GRANTED BY TRIAL COURT**

No motions for post-trial relief were filed and no extensions were granted to file any motions for post trial relief.

There have been no extensions of time in which to file a notice of appeal.

**ADVISORY LISTING OF ISSUES TO BE RAISED ON APPEAL**

1. Whether the trial court erred in finding that all of the property owners of the RLA are indispensable parties, thus requiring Plaintiff/Appellant to join all of the property owners in order to proceed with her complaint?
2. Whether the trial court erred in dismissing the Plaintiff's/Appellant's Second Amended complaint with prejudice for failing to join the indispensable parties?

**TRANSCRIPT INFORMATION**

A transcript is not necessary to resolve the issue on appeal since no oral testimony was taken.

**PREARGUMENT CONFERENCE**

A preargument conference is not requested before the Court of Appeals.

**COUNSEL FOR THE PARTIES**

Counsel for the Appellant, Rebecca Lorenz, is:

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Counsel for the Appellee, Retreat Landowners Association, Inc., is:

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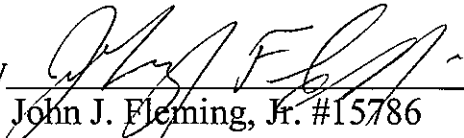
**APPENDIX**

Attached is an appendix containing a copy of the orders being appealed.

Respectfully submitted this 30 day of December, 2011.

FLEMING & STERN

By

  
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John J. Fleming, Jr. #15786

Attorney for Appellant, Rebecca Lorenz


**CERTIFICATE OF SERVICE**

I hereby certify that I have served a true and accurate copy of the foregoing **NOTICE OF APPEAL** to the following via Lexis Nexis File and Serve, email, or US Mail, postage prepaid, this 30 day of December, 2011

Colorado Court of Appeals  
101 West Colfax Ave., Suite 800  
Denver, CO 80202  
(Lexis Nexis)

William H. Short  
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Larimer County District Court  
201 La Porte Avenue, Suite 100  
Fort Collins, Colorado 80521  
(E-filed separately in trial court case)

  
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