

<p>8<sup>th</sup> JUDICIAL DISTRICT COURT        Court Address: Larimer County Justice Center        201 LaPorte Ave, Ste 100        Fort Collins, CO 80521        Phone: 970-498-6100</p>	
<p><b>Plaintiffs:           SAVE GRASSROOTS RADIO</b></p> <p><b>PAUL D. BAME,        EDWARD C. ARTHUR        and ALEXANDER M.        "SANDY" LEMBERG</b></p> <p>v.</p> <p><b>Defendant:</b></p> <p><b>PUBLIC RADIO FOR        THE FRONT RANGE        d/b/a KRFC</b></p>	
<p>WALTER L. GERASH LAW FIRM, P.C.        Walter L. Gerash #2373        1439 Court Place, Denver, Colorado 80202        PH: (303) 825-5400; FAX: (303) 623-2101        ATTORNEY FOR PLAINTIFFS</p> <p>LONN HEYMANN LAW FIRM, P.C.        Lon M. Heymann #34793        1439 Court Place, Denver, Colorado 80202        PH: (303) 825-9100; FAX (303) 623-2101        ATTORNEY FOR PLAINTIFFS</p>	
<p><b>AMENDED COMPLAINT AND JURY DEMAND</b></p>	

COME NOW the plaintiffs, above named, by and through their attorneys, Walter L. Gerash of WALTER L. GERASH LAW FIRM, P.C. and Lon M. Heymann of LONN HEYMANN LAW FIRM, P.C., and for their amended complaint, pursuant to C.R.C.P. 15(a), and jury demand against the defendant, state and allege as follows:

## **GENERAL ALLEGATIONS**

1. This is an action seeking redress against the Board of Directors (herein “the Board”) of Public Radio of the Front Range d/b/a KRFC (herein “KRFC) for its unlawful and anti-democratic choices to:

a. Prohibit a vote of the KRFC membership, including the individual plaintiffs, whether to accept an amendment of the mission statement after a protest petition was properly submitted to the Board;

b. Revoke the KRFC memberships of Plaintiffs Paul D. Bame (herein “Bame”) and Edward C. Arthur (herein (“Arthur”), as well as a non-party; and

c. Deny access to the KRFC membership list to Alexander M. “Sandy” Lemberg (herein “Lemberg”) who requested a copy of the membership list in complete conformity with required procedures.

2. At all times relevant to the claims set forth herein, KRFC was a non-profit corporation authorized to do business in the State of Colorado, as defined in C.R.S. 7-121-401(26). KRFC’s primary place of business and office address are 619 South College Avenue #4, Fort Collins, CO 80524.

3. At all times relevant to the claims set forth herein, the plaintiffs were residents of the State of Colorado. Each of the plaintiffs, Bame, Arthur, and Lemberg, was a member, as defined in C.R.S. 7-121-401(24), of Defendant KRFC, a community radio station in Fort Collins, Colorado.

4. Save Grassroots Radio is an unincorporated non-profit association, registered with the Colorado Secretary of State, consisting of current and former KRFC members, including former Board members and founding members.

5. Jurisdiction and venue are proper in Larimer County, Colorado, because the relevant incident took place and the injuries were suffered in Larimer County, Colorado

## **FACTS**

**Board ignores a petition requiring a membership vote  
to ratify changes to the mission statement.**

6. On March 16, 2006, the Board decided to ignore a petition drafted under Article XI of the KRFC Bylaws, requiring a vote of the membership to accept an amendment of the mission statement if 50 signatures of members are obtained on a protest petition.

7. The mission statement of KRFC is a key governing document for the corporation on par with the bylaws and articles of incorporation, as reflected in several provisions of the corporate bylaws.

8. During a meeting on February 16, 2006, the Board unanimously adopted the Mission, Vision and Core Values documents which included proposed amendments to the KRFC mission statement. These proposed amendments reflected intent to move the radio stations governance and content in a direction antithetical to its founding vision of democratic control and public affairs programming, along with cultural programming.

9. Article XI of the KRFC Bylaws states regarding changes to the mission statement:

**. . . Information regarding the changes shall be presented to the members a reasonable time before the public meeting at which the changes will be ratified. . . If the proposed amendments of the Corporation's Mission Statement receive unanimous approval by the Board of Directors, and with 21 days advance notice, no petition protesting the changes signed by at least 50 members is received by the Corporation, then the proposed changes are accepted *without a vote by the members*.**

10. On or about February 24, 2006, a letter from KRFC Board President Greg Krush, dated February 20, 2006, was received by some KRFC members. Members were informed that a new mission statement had been adopted. A March 4, 2006, public meeting was announced.

11. Motivated by their commitment to the democratic management and an element of public affairs programming reflected in the founding mission statement, several KRFC members participated in a petition drive to obtain the signatures required under Article XI to authorize a membership vote where the Board's vote could be overridden.

12. At the March 16, 2006, public meeting the Board rejected the petition which had the required number of valid signatures and denied the membership an opportunity to vote against the amendments to the mission statement.

13. As the result of the Board's prohibition against a membership vote to approve the amendment of KRFC's mission statement, the plaintiff KRFC members were denied rights under C.R.S. 7-126-101 *et seq.*

**Board revokes the memberships of three members who participated in the petition drive to overturn the Board's proposed changes to the mission statement.**

14. On March 16, 2006, the KRFC Board of Directors voted to revoke the memberships of Plaintiffs Bame and Arthur, both founding members of KRFC who participated in the petition drive challenging the changes in the mission statement and the stations' governance and programming.

15. The KRFC Board of Directors failed to use any policy adopted to address disputes regarding membership status, including the progressive discipline policy it had formerly developed for volunteers.

16. The KRFC Board of Directors justified the membership terminations by referring to bylaw III.1: "Members shall not conduct any activity that is detrimental to the welfare of the Corporation. Such conduct shall result in membership revocation as deemed by the Board of Directors."

17. Neither the KRFC Board of Director's actions nor the implementation of bylaw III.1 itself are fair and reasonable procedures carried out in good faith, pursuant to C.R.S. 7-126-302.

18. No notice was provided to the members prior to their revocation.

19. No substantive charges or bases for termination were presented.

20. The members were afforded no opportunity to be heard by the Board of Directors before their memberships were revoked.

21. As the result of the wrongful termination of their memberships, Plaintiff Bame and Plaintiff Arthur suffered the loss of valuable rights under C.R.S. 7-126-101 *et seq.* and property and suffered emotional and psychological injuries.

**Board denies access to a copy of the membership list to a founding member who makes a proper request.**

22. On February 22, 2007, Plaintiff Lemberg requested in writing a copy of the KRFC membership list.

23. Making explicit reference to C.R.S. 7-136-102(3)(c) and C.R.S. 7-136-105, and assuring that no improper use would be made of the membership list, Lemberg articulated the specific purpose for which he sought a copy of the membership list:

**[T]he purpose of this request is to inform members of certain actions of the KRFC Station Manager and Board of Directors including but not limited to a change of the KRFC bylaws, opposing the change in the mission statement; and revocation of membership of several KRFC members. The membership list will be used to generate support among members for fair hearings and due process for those members and support among members for fair consideration of the petition, pursuant to KRFC bylaws, opposing the change in the mission statement.**

24. The Board denied Lemberg's proper request for a copy of the KRFC membership list and violated Plaintiff Lemberg's rights under C.R.S. 7-136-101(3) and 102(3).

**FIRST CLAIM FOR RELIEF BY ALL PLAINTIFFS  
AGAINST DEFENDANT PUBLIC RADIO FOR  
THE FRONT RANGE d/b/a KRFC  
(Violation of Non-Profit Memberships' rights,  
Pursuant to C.R.S. 7-126-101 *et seq.*)**

25. Plaintiffs incorporate, by reference, all preceding paragraphs of this Amended Complaint as if fully set forth herein.

26. Prohibiting a vote of the membership regarding amendment of the KRFC mission statement, the KRFC Board of Directors violated the

membership rights of all plaintiffs under that Colorado Revised Nonprofit Corporation Act, C.R.S. 7-121-101 *et seq.*, requiring that the Board's actions conform to the Articles of Incorporation, the Bylaws, and policies and procedures of the non-profit.

WHEREFORE, Plaintiffs request damages as set forth in the Prayer for Relief below.

**SECOND CLAIM FOR RELIEF  
BY PLAINTIFFS SAVE GRASSROOTS RADIO,  
PAUL D. BAME, AND EDWARD C. ARTHUR  
AGAINST DEFENDANT PUBLIC RADIO FOR  
THE FRONT RANGE d/b/a KRFC  
(Wrongful Termination of Non-Profit Membership,  
Pursuant to C.R.S. 7-126-302)**

27. Plaintiffs incorporate, by reference, all preceding paragraphs of this Amended Complaint as if fully set forth herein.

28. The KRFC Board of Directors wrongfully revoked the memberships of Plaintiffs Bame and Arthur in violation of the Colorado Revised Nonprofit Corporation Act, C.R.S. 7-121-101 *et seq.*, including in particular C.R.S. 7-121-302.

WHEREFORE, Plaintiffs request damages as set forth in the Prayer for Relief below.

**THIRD CLAIM FOR RELIEF BY  
PLAINTIFF ALEXANDER M. "SANDY" LEMBERG  
AGAINST DEFENDANT PUBLIC RADIO FOR  
THE FRONT RANGE d/b/a KRFC  
(Violation of Non-Profit Memberships' rights,  
Pursuant to C.R.S. 7-136-101(3) and 102(3))**

29. Plaintiffs incorporate, by reference, all preceding paragraphs of this Amended Complaint as if fully set forth herein.

30. Denying a copy of the membership list, the KRFC Board of Directors violated the membership rights of Plaintiff Alexander M. "Sandy" Lemberg under the Colorado Revised Nonprofit Corporation Act, C.R.S. 7-121-101 *et seq.*, including in particular C.R.S. 7-136-101(3) and 102(3).

WHEREFORE, Plaintiffs request damages as set forth in the Prayer for Relief below.

**PRAYER FOR RELIEF BY ALL PLAINTIFFS**

31. Plaintiffs and each of them request that this Court enter judgment in Plaintiffs' favor, for injunctive relief as to all claims set forth herein, and for special and compensatory damages as to all claims as set forth herein, including but not limited to mental suffering, interference with enjoyment of life, and loss of opportunities.

32. Plaintiffs further request interest as allowable by law, court costs, expert witness fees, attorney fees allowed by law, and such other and further relief as the Court deems just and proper.

**JURY DEMAND**

**PLAINTIFFS DEMAND TRIAL TO A JURY OF SIX ON ALL ISSUES  
SO TRIABLE**

Respectfully submitted,

LONN HEYMANN LAW FIRM, P.C.

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Dated: January 29, 2007

ATTORNEY FOR PLAINTIFFS

Plaintiffs' Addresses:

Save Grassroots Radio  
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Paul Davis Bame  
520 North Sherwood Street #18  
Fort Collins, CO 80521-2035

By:  /s/ Paul D. Bame

Edward C. Arthur  
1242 West Mountain Avenue  
Fort Collins, CO 80521

By:  /s/ Edward C. Arthur

Alexander M. "Sandy" Lemberg  
6851 Poudre Canyon Route  
Bellvue, CO 80512  
Lemberg

By:  /s/ Alexander "Sandy M.

*Original Signatures on file at the  
Lonn Heymann Law Firm, P.C.*