

<p>DISTRICT COURT, PITKIN COUNTY, STATE OF COLORADO</p> <p>Pitkin County Courthouse 506 East Main Street, Suite E Aspen, Colorado 81611</p>	<p>▲ COURT USE ONLY ▲</p>
<p>Plaintiff:</p> <p><b>Marilyn Marks,</b></p> <p>Defendant:</p> <p><b>Kathryn Koch.</b></p>	<p>Case Number: 09 CV 294</p>
<p>Attorneys for Kathryn Koch:</p> <p>John P. Worcester, City Attorney Jim True, Special Counsel City of Aspen 130 S. Galena St. Aspen, Colorado 81611</p> <p>Telephone: (970) 920-5055 Facsimile: (970) 920-5119 E-mail: <a href="mailto:johnw@ci.aspen.co.us">johnw@ci.aspen.co.us</a> <a href="mailto:jimt@ci.aspen.co.us">jimt@ci.aspen.co.us</a></p>	<p>Div.: 3</p>
<p style="text-align: center;"><b>MOTION FOR PROTECTIVE ORDER PROPOSED DEPOSITION OF TRUEBALLOT</b></p>	

Comes now the Defendant, Kathryn Koch, by and through her undersigned counsel, and hereby moves this honorable court for a protective order to prevent Plaintiff from deposing TrueBallot, Inc. officers or employees; or, in the alternative, a protective order limiting any depositions to only matters relevant to the case at bar or which are reasonably calculated to lead to the discovery of admissible evidence. In this regard, deposition questions should be limited so as to prohibit the

following types of questions: how the ballot images were created, how they were duplicated internally, how the election was conducted, how the tabulation of results were done by the Defendant or TrueBallot, how the pre-election or post-election auditing procedures were performed, or any other questions that do not solicit relevant evidence or which can reasonably be calculated to lead to the discovery of admissible evidence.

Pursuant to Rule 26(c), C.R.C.P., the undersigned counsel for Defendant certifies that the parties conferred with regard to this motion during the status conference held by the court on January 28, 2010, but were unable to resolve the dispute.

In support of her motion, Defendant has contemporaneously filed a Memorandum in Support of Motion for Protective Order with the court.

DATED this 4th day of February, 2010

Respectfully submitted,

Original signature on file

John P. Worcester, #20610  
City Attorney

James R. True, #9528  
Special Counsel

**CERTIFICATE OF SERVICE**

I hereby certify that on this 4<sup>th</sup> day of February, 2010, a true and correct copy of the foregoing MOTION FOR PROTECTIVE ORDER was mailed postage prepaid in the U.S. Mail and filed electronically with Nexis/Lexis to the following person(s):

Robert A. McGuire, Esq.  
1624 market Street, Suite 202  
Denver, Colorado 80202

ram@lawram.com

*Original signature on file*

Tara L. Nelson