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*SENT VIA EMAIL TO:* [jbaier@deltacounty.com](mailto:jbaier@deltacounty.com) & [cora@deltacounty.com](mailto:cora@deltacounty.com)

John Baier  
County Attorney  
Office of the Delta County Attorney  
540 Columbia Street, Ste. A  
Delta, CO 81416

Records Custodian  
Delta County

RE: Colorado Open Records Act Notice of Intent to Sue

Mr. Baier,

I am writing on behalf of Delta County Citizen Report, Inc. ("DCCR") to provide notice of intent to sue pursuant to C.R.S. 24-72-204(5)(a) of the Colorado Open Records Act ("CORA"). DCCR submitted four CORA requests to Delta County pertaining to bank records associated with credit cards used by the Delta County Administrator, Robbie LeValley. Delta County denied producing records to DCCR in violation of CORA for each request.

1. First CORA Violation

On September 6, 2019, DCCR submitted a CORA request for "Delta County credit card charge monthly statements with all accounts associated with County Administrator Robbie LeValley... for the period [of Jan. 1, 2015 to Sept. 1, 2019]." Ex. A. Delta County provided Ms. LeValley's county credit card records from November 2018 to September 1, 2019 but denied DCCR credit card records prior to November 2018. Delta County's reason for denying records is that Ms. LeValley did not have a credit card in her name prior to November 2018.

However, Delta County has now admitted on multiple occasions – both verbally and in response to the Third and Fourth CORA Request – that Ms. LeValley was associated with a credit card prior to November 2018 – i.e. she was consistently using one credit card prior to November 2018. Records exist for the credit card Ms. LeValley was associated with from January 1, 2015 to November 2018, and Delta County denied inspection of those records.

2. Second CORA Violation

On September 12, 2019, DCCR submitted an expanded CORA request for "all Delta County credit and/or debit card charge monthly statements with all accounts associated and/or used by County

Administrator Robbie LeValley... [from Jan. 1, 2014 to Sept. 1, 2019].” Ex. C (emphasis in original). With regard to Ms. LeValley’s records, Delta County responded that “[t]here are no further documents responsive to the request. Ms. LeValley did not have a County credit card until late 2018.” Ex. E.

However, Delta County has now admitted on multiple occasions that Ms. LeValley was both associated with and used credit card prior to November 2018. The request asked for all credit card records associated with and/or used by Ms. LeValley. Records exist for the credit card associated with and/or used by Ms. LeValley from January 1, 2014 to November 2018, and Delta County denied inspection of those records.

### 3. Third CORA Violation

On March 24, 2021, DCCR submitted a third CORA Request for “all Delta County credit and/or debit card charge monthly statements with all accounts associated and/or used by County Administrator Robbie LeValley... [from Jan. 1, 2014 to Sept. 1, 2019].” Ex. C (emphasis in original). With regard to Ms. LeValley’s records, the third CORA request was worded the exact same as the September 12, 2019 CORA request.

Delta County responded that the records requested did in fact exist – despite denying their existence in September 2019 – and that it would take 187 hours (over three full business weeks) to locate and redact those records. Delta County stated that “the total cost will be between \$4170 and \$4620” for the records. The time and cost contain no justification. Rather, the time and cost contain wild speculation intended to out price the public and effectively deny records.

Furthermore, records must be produced within a “reasonable time.” A reasonable time under CORA is 3 working days but can be extended to a maximum of 7 working days upon written notice of the records custodian. C.R.S. 24-72-203(3)(b). The baseless estimate of time provided by Delta County was nearly 23.5 working days, in direct violation of CORA.

### 4. Fourth CORA Violation

On November 11, 2021, DCCR submitted a fourth CORA request for “all Delta County credit and/or debit card expense statements for all accounts associated with and/or used by County Administrator Robbie LeValley from Oct. 1, 2012 to Nov. 13, 2018.

As of December 1, 2021, DCCR has received no formal response from Delta County with regard to its records request. Once again, Delta County is required to provide the requested records in three working days or less, or may notify DCCR of its need for an extension which “shall not exceed seven working days.” C.R.S. 24-72-203(3)(b). If an extenuating circumstance exists which requires 7 days to fulfill the request, Delta County is required to notify DCCR in writing of its need for an extension.

To date, DCCR has not received a response to the request in 13 working days (excluding Veterans Day and Thanksgiving) – a direct violation of CORA and a denial of records.

**NOTICE:** For over two-years, Delta County has consistently denied and attempted to conceal records for credit and debit cards associated with and used by Ms. LeValley. This letter serves as DCCR’s notice of intent to file a lawsuit for Delta County’s four CORA violations pursuant to C.R.S. 24-72-204(5)(a).

Regards,

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Chris Mochulsky  
*Attorney for DCCR*