

Colorado Supreme Court 2 East 14th Avenue Denver, CO 80203	DATE FILED: October 2, 2020 CASE NUMBER: 2020SA234
Original Proceeding District Court, City and County of Denver, 2019CV33124	
<b>In Re:</b>	
<b>Plaintiffs:</b>  John Suranyi, Jill Suranyi, and John Suranyi As Personal Representative,  <b>v.</b>	Supreme Court Case No: 2020SA234
<b>Defendants:</b>  Watermark Harvard Square AL LLC and Watermark Retirement Communities Inc.	
ORDER OF COURT	

Upon consideration of the record in this case and the briefs submitted by the parties and amici curiae, the court makes the rule to show cause absolute and remands the matter to the district court for further proceedings consistent with this order. Although the district court cited and discussed *In re District Court*, 256 P.3d 687 (Colo. 2011), it did not properly conduct the required balancing test. *See id.* at 692 (noting that “it must be apparent from the order” that the trial court properly performed the required balancing test). As we explained in *In re District Court*, “minimal analysis” of the relevant principles does not suffice. *Id.* Further, the district court failed to make specific findings

related to the proportionality factors identified in C.R.C.P. 26(b)(1). On remand, as to each of the separate discovery requests at issue, the district court should properly perform the balancing test we adopted in *In re District Court*, 256 P.3d at 691-92, and make specific findings related to the proportionality factors set forth in C.R.C.P. 26(b)(1).

ACCORDINGLY, IT IS HEREBY ORDERED that the rule to show cause is MADE ABSOLUTE and the matter is REMANDED with instructions to proceed as outlined above.

BY THE COURT, EN BANC, OCTOBER 2, 2020.