

Case No. 17-1344
UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

303 CREATIVE LLC and LORIE SMITH,
Plaintiffs-Appellants,

v.

AUBREY ELENIS, et al.,
Defendants-Appellees,

On appeal from the United States District Court
for the District of Colorado
The Honorable Chief Judge Marcia S. Krieger
Case No. 1:16-cv-02372-MSK

PLAINTIFFS-APPELLANTS' MOTION FOR EXEMPTION
FROM ELECTRONIC FILING

Kristen K. Waggoner
Jonathan A. Scruggs
Katherine L. Anderson
Alliance Defending Freedom
15100 N. 90th Street
Scottsdale, AZ 85260
(480) 444-0020
kwaggoner@ADFlegal.org
jscruggs@ADFlegal.org
kanderson@ADFlegal.org

David A. Cortman
John J. Bursch
Alliance Defending Freedom
440 First Street NW, Suite 600
Washington, DC 20001
(202) 393-8690
dcortman@ADFlegal.org
jbursch@ADFlegal.org

Attorneys for 303 Creative LLC and Lorie Smith

Under 10th Cir. R. 30.3(B), Plaintiffs-Appellants Lorie Smith and 303 Creative LLC request that a copy of the compact disc with an audio recording, filed conventionally as Exhibit B to Plaintiffs' Response to Show Cause Order in the district court (Audio Recording of the Proceedings of the Eleventh (2017-2018) Monthly Meeting Before the Colorado Civil Rights Commission Which Took Place on June 22, 2018, *303 Creative LLC v. Elenis*, No. 1:16-cv-02372-MSK (D. Colo. June 7, 2019), ECF No. 74-3), be exempt from electronic filing.

Plaintiffs-Appellants will soon file their opening brief in this appeal, along with their electronic appendix consistent with 10th Cir. R. 30.1(A). But as a physical data storage medium, the compact disc described above cannot be "readily" included in that electronic appendix. 10th Cir. R. 30.3(B)(1). Plaintiffs-Appellants filed it conventionally in the district court and request that this Court allow them to do the same here, including a placeholder for the compact disc in the electronic appendix, while conventionally filing it when they submit the required hard copies of their appendix consistent with 10th Cir. R. 30.1(A)(2).

Per 10th Cir. R. 27.1, Plaintiffs-Appellants' counsel has conferred with Defendants-Appellees' counsel, who indicated to them that Defendants-Appellees do not oppose the relief sought in this motion.

Dated: January 21, 2020

Respectfully submitted,

s/ Jonathan A. Scruggs

Kristen K. Waggoner
Jonathan A. Scruggs
Katherine L. Anderson
Alliance Defending Freedom
15100 N. 90th Street
Scottsdale, AZ 85260
(480) 444-0020
kwaggoner@ADFlegal.org
jscruggs@ADFlegal.org
kanderson@ADFlegal.org

David A. Cortman
John J. Bursch
Alliance Defending Freedom
440 First Street NW, Suite 600
Washington, DC 20001
(202) 393-8690
dcortman@ADFlegal.org
jbursch@ADFlegal.org

Attorneys for 303 Creative LLC and Lorie Smith

**CERTIFICATE OF COMPLIANCE AND
DIGITAL SUBMISSION**

1. This motion complies with the type-volume limitation of Fed. R. App. P. 27(d)(2) because this motion contains 211 words, excluding the parts exempted under Fed. R. App. P. 32(f).

2. This motion complies with the typeface and type-style requirements of Fed. R. App. P. 27(d)(1)(E), 32(a)(5), and 32(a)(6) because it has been prepared in a 14-point proportionally spaced Century Schoolbook typeface using Microsoft Office 365.

3. All required privacy redactions have been made pursuant to 10th Cir. R. 25.5.

4. Paper copies are not required for this motion.

5. This motion has been scanned for viruses with the most recent version of a commercial virus scanning program, Traps version 4.2.6, and is free of viruses according to this program.

Date: January 21, 2020

s/ Jonathan A. Scruggs

Jonathan A. Scruggs

CERTIFICATE OF SERVICE

I hereby certify that on January 21, 2020, a true and accurate copy of the foregoing document was electronically filed with the Court using the CM/ECF system, which will send notification of such filing to the following:

Vincent E. Morscher
vincent.morscher@coag.gov

Skippere Spear
skip.spear@coag.gov

Jack D. Patten, III
jack.patten@coag.gov

Billy Lee Seiber
billy.seiber@coag.gov

Attorneys for Defendants-Appellees

Date: January 21, 2020

s/ Jonathan A. Scruggs

Jonathan A. Scruggs