

IN THE UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

303 CREATIVE LLC, a limited
liability company, et al.,

Plaintiffs - Appellants,

v.

AUBREY ELENIS, Director of the
Colorado Civil Rights Division, in her
official capacity, et al.,

Defendants - Appellees.

No. 19-1413

On Appeal from the United States District Court
for the District of Colorado

D.C. No. 16-cv-02372-MSK-CBS

**DEFENDANTS-APPELLEES' UNOPPOSED SECOND MOTION
FOR EXTENSION OF TIME TO FILE ANSWER BRIEF**

PHILIP J. WEISER
Colorado Attorney General

Eric R. Olson*
Solicitor General

Billy Lee Seiber*
First Assistant Attorney General

Vincent E. Morscher*
Skippere S. Spear*

Attorneys for Defendants-Appellees.

Jack D. Patten, III*
Senior Assistant Attorneys
General

Colorado Department of Law
Ralph L. Carr Judicial Center
1300 Broadway, 10th Floor
Denver, Colorado 80203
(720) 508-6000

*Counsel of Record

Defendant-Appellees Aubrey Elenis, Charles Garcia, Dr. Ajay Menon, Richard Lewis, Kendra Anderson, Sergio Cordova, Dr. Miguel Rene Elias, Jessica Pocock, and Phil Weiser (collectively “Colorado”), respectfully request an additional 30 days to file their answer brief and state as follows:

1. Defendant-Appellees answer brief is currently due on March 23, 2020. If this motion is granted, the answer brief will be due on April 22, 2020.

2. Plaintiffs-Appellants consent to the requested extension.

3. This is Defendant-Appellees’ second request for an extension. The Court previously granted Defendant-Appellees’ an additional 30 days to file the answer brief.

4. As explained below, counsel will suffer a severe hardship if this motion is not granted.

5. “The attorney general of the state [of Colorado] shall be the legal counsel and advisor of each department, division, board, bureau, and agency of the state government other than the legislative branch.”

Colo. Rev. Stat. § 24-31-101(1)(a) (2019).

6. On March 10, 2020, Governor Jared Polis declared a state of emergency in Colorado due to the spread of COVID 19 (known as the coronavirus). This declaration has impacted each department, division, board, bureau, and agency of the state government that the Colorado attorney general represents. Because of the emergency declaration, members of the office of the Colorado attorney general have had to focus entirely on responding to COVID 19.

7. As example, undersigned works in the higher education unit of the office of the attorney general and represents Colorado's institutions of higher education. Over the past two-weeks, undersigned was required to focus all of his attention on the emergency closures of the University of Colorado, Colorado State University, the University of Northern Colorado, and the Colorado School of Mines.

8. In addition, as of March 14, 2020, employees of the Colorado office of the attorney general are strongly encouraged to work from home and are required to obtain permission from their supervisors before accessing the office.

9. Due to the current state of emergency, counsel for Defendants-Appellees require an extension of time to adequately

prepare the answer brief in this matter and to respond to the ongoing COVID 19 state of emergency.

Defendant-Appellees respectfully request an additional 30 days to file their answer brief, to and including April 22, 2020.

Respectfully submitted this 16th day of March, 2020.

PHILIP J. WEISER
Colorado Attorney General

s/Skip Spear

ERIC R. OLSON*
Solicitor General

BILLY LEE SEIBER*
First Assistant Attorney General

VINCENT EDWARD MORSCHER*
SKIPPERE SPEAR*
JACK D. PATTEN, III*
Senior Assistant Attorneys General

1300 Broadway, 10th floor
Denver, CO 80203
Telephone: (720) 508-6000
Fax: (720) 508-6037
E-Mail:

eric.olson@coag.gov
billy.seiber@coag.gov
vincent.morscher@coag.gov
skip.spear@coag.gov
jack.patten@coag.gov
*Counsel of Record

CERTIFICATE OF COMPLIANCE

This brief complies with the type-volume limitation of Fed. R. App. P. 32(a)(7)(B) because this brief contains 368 words, excluding the parts of the motion exempted by Fed. R. App. P. 32(a)(7)(B)(iii).

This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Microsoft Word 2010 in 14-point Century Schoolbook.

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

Paper copies are not required for this motion.

This motion has been scanned for viruses with the most recent version of a commercial virus scanning program, Crowdstrike Windows Sensor, version 5.23.10504.0 and is free of viruses according to this program.

Dated March 16, 2020

/s Skip Spear

Skippere S. Spear

Senior Assistant Attorney General

CERTIFICATE OF SERVICE

This is to certify that I have duly served the within
**DEFENDANTS-APPELLEES' UNOPPOSED SECOND MOTION
FOR EXTENSION OF TIME TO FILE ANSWER BRIEF** upon all
parties herein this 16th day of March, 2020, by using the CM/EFC
system which will send notification of such filing to the following:

SEE ATTACHED CERTIFICATE OF SERVICE

s/ Sally Ott

CERTIFICATE OF SERVICE

303 Creative LLC and Lorie Smith, Plaintiffs-Appellants

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

David A. Corman
John J. Bursch
Alliance Defending Freedom
440 First Street NW, Suite 600
Washington, DC 20001
dcortman@ADFlegal.org
jbursch@ADFlegal.org

INTERESTED PARTIES

Catholicvote.Org Education Fund
Scott W. Gaylord
Professor of Law
Elon Law Constitutional Appellate Clinic
201 North Greene Street
Greensboro, NC 27401
sgaylord@elon.edu

Center for Religious Expression
Nathan W. Kellum
Center for Religious Expression
699 Oakleaf Office Lane, Suite 107
Memphis, TN 38170
nkellum@crelaw.org

Tyler House Publishers, et al.
Wesley R. Butler
Holly R. Iaccarino
BARNETT BENVENUTI & BUTLER PLLC
3801 E. Florida Ave., Ste. 830
Lexington, KY 40507
wes.butler@bbb-law.com;
holly.iaccarino@bbb-law.com
Counsel for Tyndale House Publishers

Barry K. Arrington
ARRINGTON LAW FIRM
489 East Main Street, Suite 300
Denver, CO 80210
barry@arringtonpc.com
*Counsel for Catholic Creatives;
Christian Professional Photographers;
& The Briner Institute*

Law and Economics Scholars
Theresa Lynn Sidebotham
TELIOS LAW PLLC
19925 Monument Hill Road
Monument, CO 80132
tls@telioslaw.com

Ilya Shapiro
Cato Institute
1000 Mass. Ave. N.W
Washington, DC 20001
ishapiro@cato.org

Cato Institute
Eugene Volokh
UCLA SCHOOL OF LAW
450 Hilgard Ave.
Los Angeles, CA 90095
volokh@law.ucla.edu

Professor Robert P. George
Scott D. Goodwin
Gene C. Schaerr
1717 K Street NW, Suite 900
Washington, DC 20006
sgoodwin@schaerr-jaffe.com
gschaerr@schaerr-duncan.com

Foundation for Moral Law

John Allen Eidsmoe
1 Dexter Ave.
Montgomery, AL 36104
eidsmoeja@juno.com

The States of Arizona, et al.

Mark Brnovich
Attorney General
Oramel H (O.H.) Skinner
Solicitor General
Rusty D. Crandell
Deputy Solicitor General
Office of the Arizona Attorney General
2005 N. Central Ave.
Phoenix, AZ 85004
Rusty.Crandell@azag.gov

Timothy C. Fox
Attorney General of Montana
215 North Sanders Street
Helena, MT 59601
timfox@mt.gov

Douglas J. Peterson
Attorney General of Nebraska
2115 State Capitol
Lincoln, NE 68509
djp1977@nebraska.gov

Served by U.S. Mail

Mark Brnovich
Office of the Attorney General
for the State of Arizona
2005 North Central Avenue
Phoenix, AZ 85004

Jeff Landry
Office of the Attorney General
for the State of Louisiana
P.O. Box 94005
1885 North Third Street
Baton Rouge, LA 70804

Daniel Cameron
Office of the Attorney General
for the State of Kentucky
700 Capital Avenue
Suite 118
Frankfort, KY 40601

Steve Marshall
Office of the Attorney General
for the State of Alabama
501 Washington Avenue
Montgomery, AL 36130

Mr. Kevin G. Clarkson
Brena, Bell & Clarkson
310 K St., Suite 601
Anchorage, AK 99501-0000

Patrick Morrissey
Office of the Attorney General
for the State of West Virginia
State Capitol Complex, Building 1, Room E-26
Charleston, WV 25305

Mr. Mike Hunter
Office of the Attorney General
for the State of Oklahoma
Litigation Department
313 NE 21st Street
Oklahoma City, OK 73105

Ken Paxton
Office of the Attorney General
for the State of Texas
300 West 15th Street
Austin, TX 78711-2548

Leslie Rutledge
Office of the Attorney General
for the State of Arkansas
323 Center Street, Suite 200
Little Rock, AR 72201

Eric S. Schmitt
Office of the Attorney General
for the State of Missouri
207 West High Street
P.O. Box 899
Jefferson City, MO 65102

Oramel H. Skinner
Office of the Attorney General
for the State of Arizona
2005 North Central Avenue
Phoenix, AZ 85004

Herbert Slatery, III
Office of the Attorney General
for the State of Tennessee
P.O. Box 20207
Nashville, TN 37202-0207

Mr. Alan Wilson
Office of the Attorney General
for the State of South Carolina
1000 Assembly Street, Room 519
P.O. Box 11549
Columbia, SC 29211