



**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
OFFICE OF THE CLERK**

Alfred A. Arraj  
United States Courthouse  
901 19<sup>th</sup> Street  
Denver, Colorado 80294  
www.cod.uscourts.gov

Jeffrey P. Colwell  
Clerk

Phone: (303) 844-3433

Date: 9/28/2023

Pro Se     Retained     CJA     FPD     USA or other  
Federal Agency  
(Appeal Fee Exempt)

Case No: 22-cv-01636-RM-STV

Amended Notice of Appeal  
 Other pending appeals  
 Transferred Successive  
§2254 or §2255  
 Supplemental Record

Date Filed: 09/27/2023

Appellant: Corey McNellis

Pro Se Appellant:

IFP forms mailed/given     Motion IFP pending     Appeal fee paid  
 IFP denied     Appeal fee not paid

Retained Counsel:

Appeal fee paid     Appeal fee not paid     Motion IFP filed

The Preliminary Record on Appeal is hereby transmitted to the Tenth Circuit Court of Appeals. Please refer to the forms, procedures, and requirements for ordering transcripts, preparing docketing statements and briefs, and designations of the record that are found on the Tenth Circuit's website, [www.ca10.uscourts.gov](http://www.ca10.uscourts.gov).

If not already completed, either an appeal fee payment for filing this case or filing of a motion to proceed *in forma pauperis* will be made to this District Court.

The transcript order form must be filed in the District Court as well as the Court of Appeals within 14 days after the notice of appeal was filed with the District Court.

If you have questions, please contact this office.

Sincerely,

JEFFREY P. COLWELL, CLERK

by: s/ J. Torres  
Deputy Clerk



**U.S. District Court – District of Colorado**  
**District of Colorado (Denver)**  
**CIVIL DOCKET FOR CASE #: 1:22-cv-01636-RM-STV**

McNellis v. Douglas County School District  
Assigned to: Judge Raymond P. Moore  
Referred to: Magistrate Judge Scott T. Varholak  
Cause: 42:2000(e)(2) – (r)(1) — Job Discrimination (Religion)

Date Filed: 07/01/2022  
Date Terminated: 08/28/2023  
Jury Demand: Plaintiff  
Nature of Suit: 440 Civil Rights: Other  
Jurisdiction: Federal Question

**Plaintiff**

**Corey McNellis**

represented by **Spencer J. Kontnik**  
Kontnik Cohen LLC  
201 Steele Street  
Suite 210  
Denver, CO 80206  
720-449-8448  
Fax: 720-223-7273  
Email: [skontnik@kontnikcohen.com](mailto:skontnik@kontnikcohen.com)  
*LEAD ATTORNEY*

**Austin M. Cohen**  
Kontnik Cohen LLC  
201 Steele Street  
Suite 210  
Denver, CO 80206  
720-449-8448  
Email: [acohen@kontnikcohen.com](mailto:acohen@kontnikcohen.com)  
*ATTORNEY TO BE NOTICED*

**Matthew Louis Fenicle**  
Kontnik Cohen LLC  
201 Steele Street  
Suite 210  
Denver, CO 80206  
720-449-8448  
Email: [mfenicle@kontnikcohen.com](mailto:mfenicle@kontnikcohen.com)  
*ATTORNEY TO BE NOTICED*

**Morgan Elizabeth Hamrick**  
Kontnik Cohen LLC  
201 Steele Street  
Suite 210  
Denver, CO 80206  
720-449-8448  
Fax: 720-223-7273  
Email: [mhamrick@kontnikcohen.com](mailto:mhamrick@kontnikcohen.com)  
*TERMINATED: 05/10/2023*  
*ATTORNEY TO BE NOTICED*

V.

**Defendant**

**Douglas County School District**

represented by **Jonathan Patrick Fero**  
Semple Farrington Everall & Case, P.C.  
1120 Lincoln Street  
The Chancery Building  
Suite 1308  
Denver, CO 80203  
720-974-9731  
Email: [jfero@sempelaw.com](mailto:jfero@sempelaw.com)

ATTORNEY TO BE NOTICED

**Mary Barham Gray**  
Semple Farrington Everall & Case, P.C.  
1120 Lincoln Street  
The Chancery Building  
Suite 1308  
Denver, CO 80203  
303-595-0941  
Fax: 303-861-9608  
Email: [mgray@semplelaw.com](mailto:mgray@semplelaw.com)  
TERMINATED: 02/28/2023

**Michael Brent Case**  
Semple Farrington Everall & Case, P.C.  
1120 Lincoln Street  
The Chancery Building  
Suite 1308  
Denver, CO 80203  
303-595-0941  
Fax: 303-861-9608  
Email: [bcase@semplelaw.com](mailto:bcase@semplelaw.com)  
ATTORNEY TO BE NOTICED

**Scott Alexander Goodstein**  
Semple Farrington Everall & Case, P.C.  
1120 Lincoln Street  
The Chancery Building  
Suite 1308  
Denver, CO 80203  
303-595-0941  
Fax: 303-861-9608  
Email: [sgoodstein@semplelaw.com](mailto:sgoodstein@semplelaw.com)  
ATTORNEY TO BE NOTICED

**Defendant**

**Cathy Franklin**  
*In her Official Capacity as the Director of  
Human Resources for Douglas County  
School District*  
TERMINATED: 09/20/2022

represented by **Mary Barham Gray**  
(See above for address)  
TERMINATED: 02/28/2023

**Michael Brent Case**  
(See above for address)  
ATTORNEY TO BE NOTICED

**Scott Alexander Goodstein**  
(See above for address)  
ATTORNEY TO BE NOTICED

**Defendant**

**Cathy (I) Franklin**  
*in her individual capacity*  
TERMINATED: 09/20/2022

represented by **Mary Barham Gray**  
(See above for address)  
TERMINATED: 02/28/2023

**Michael Brent Case**  
(See above for address)  
ATTORNEY TO BE NOTICED

**Scott Alexander Goodstein**  
(See above for address)  
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
------------	---	-------------

Appellate Case: 23-1306 Document: 010110928389 Date Filed: 09/28/2023 Page: 5

09/27/2023	<u>56</u>	NOTICE OF APPEAL as to <u>53</u> Order on Motion to Dismiss, <u>54</u> Judgment by Plaintiff Corey McNellis (Filing fee \$ 505, Receipt Number ACODC-9315681) (Kontnik, Spencer) (Entered: 09/27/2023)
09/11/2023	<u>55</u>	Proposed Bill of Costs by Defendant Douglas County School District. (Attachments: # <u>1</u> Continuation of Main Document Itemization of Costs & backup, # <u>2</u> Continuation of Main Document Statement Re: Defendant's Proposed Bill of Costs)(Fero, Jonathan) (Entered: 09/11/2023)
08/28/2023	<u>54</u>	FINAL JUDGMENT: <u>34</u> Motion to Dismiss is granted; case is closed. By Clerk on 8/28/23. (jdyne) (Entered: 08/28/2023)
08/28/2023	<u>53</u>	ORDER granting <u>34</u> Motion to Dismiss by Judge Raymond P. Moore on 8/28/23.(jdyne) (Entered: 08/28/2023)
06/07/2023	<u>52</u>	ORDER granting the parties' <u>50</u> Joint Motion to Amend Scheduling Order. For good cause shown, certain deadlines are EXTENDED as follows: Written Discovery Deadline: July 17, 2023; Discovery Cutoff: August 7, 2023; Dispositive Motion Deadline: September 11, 2023. SO ORDERED, by Magistrate Judge Scott T. Varholak on 6/7/23. Text Only Entry(stvlc3, Andrew) (Entered: 06/07/2023)
06/07/2023	<u>51</u>	MEMORANDUM regarding <u>50</u> Joint MOTION to Amend/Correct/Modify <u>36</u> Scheduling Order filed by Corey McNellis. Motion referred to Magistrate Judge Scott T. Varholak. By Judge Raymond P. Moore on 6/7/2023. (Text Only Entry) (rmsec) (Entered: 06/07/2023)
06/06/2023	<u>50</u>	Joint MOTION to Amend/Correct/Modify <u>36</u> Scheduling Order by Plaintiff Corey McNellis. (Kontnik, Spencer) (Entered: 06/06/2023)
05/10/2023	<u>49</u>	ORDER granting <u>48</u> Motion to Withdraw as Attorney. Attorney Morgan Elizabeth Hamrick terminated. SO ORDERED by Judge Raymond P. Moore on 5/10/2023. (Text Only Entry)(rmsec) Modified on 5/10/2023 to terminate correct attorney (sdunb, ). (Entered: 05/10/2023)
05/09/2023	<u>48</u>	MOTION to Withdraw as Attorney of Record of Morgan E. Hamrick by Plaintiff Corey McNellis. (Kontnik, Spencer) (Entered: 05/09/2023)
03/31/2023	<u>47</u>	ORDER granting <u>45</u> Plaintiff's Unopposed Motion for Extension. For good cause shown, certain deadlines in this case are EXTENDED as follows: affirmative expert designations are now due April 25, 2023; rebuttal expert designations are now due June 5, 2023. SO ORDERED, by Magistrate Judge Scott T. Varholak on 3/31/23. Text Only Entry(stvlc3, Andrew) (Entered: 03/31/2023)
03/31/2023	<u>46</u>	MEMORANDUM regarding <u>45</u> Unopposed MOTION for Extension of Time to <i>Affirmative Expert Deadline</i> filed by Corey McNellis. Motion referred to Magistrate Judge Scott T. Varholak. By Judge Raymond P. Moore on 3/31/2023. (Text Only Entry) (rmsec) (Entered: 03/31/2023)
03/31/2023	<u>45</u>	Unopposed MOTION for Extension of Time to <i>Affirmative Expert Deadline</i> by Plaintiff Corey McNellis. (Kontnik, Spencer) (Entered: 03/31/2023)
03/15/2023	<u>44</u>	NOTICE of Entry of Appearance by Austin M. Cohen on behalf of Corey McNellis (Cohen, Austin) (Entered: 03/15/2023)
03/13/2023	<u>43</u>	ADVISORY NOTICE TO ATTORNEY AND COURT: Austin Murray Cohen failed to pay the 2022 Biennial Fee. Under D.C.COLO.LAttyR 3(a) and District Court General Order 2022-7, counsel was administratively removed from the Court's attorney roll. Counsel must submit another bar application through PACER, pay the application fee, and, upon reinstatement, file a Notice of Entry of Appearance to continue as counsel of record in this case. Please visit and fully review the Attorney Admission page for instructions on readmission ( <a href="http://www.cod.uscourts.gov/Attorney%20Information/AttorneyAdmissionInformation.aspx">http://www.cod.uscourts.gov/Attorney Information/AttorneyAdmissionInformation.aspx</a> ) before contacting the Court for assistance. (Text Only Entry) (jdyne) (Entered: 03/13/2023)
02/28/2023	<u>42</u>	ORDER granting <u>40</u> Motion for Withdrawal by Mary b. Gray, Esq., Counsel for Defendants. Attorney Mary B. Gray is relieved of any further representation of Defendants. The Clerk of Court is instructed to terminate Attorney Gray as counsel of record, and to remove their name from the electronic certificate of mailing. Defendants shall continue to be represented by Attorneys Fero, Case, and Goodstein of Semple, Farrington, Everall and Case, P.C. SO ORDERED, by Magistrate Judge Scott T. Varholak on 2/28/23. Text Only Entry(stvlc3, Andrew) (Entered: 02/28/2023)
02/28/2023	<u>41</u>	MEMORANDUM regarding <u>40</u> Unopposed MOTION to Withdraw as Attorney filed by Douglas County School District. Motion referred to Magistrate Judge Scott T. Varholak. By Judge

		Raymond P. Moore on 2/28/2023. (Text Only Entry) (rmsec) (Entered: 02/28/2023)
02/28/2023	<u>40</u>	Unopposed MOTION to Withdraw as Attorney by Defendant Douglas County School District. (Gray, Mary) (Entered: 02/28/2023)
02/13/2023	<u>39</u>	NOTICE of Entry of Appearance by Jonathan Patrick Fero on behalf of Douglas County School District Attorney Jonathan Patrick Fero added to party Douglas County School District(pty:dft) (Fero, Jonathan) (Entered: 02/13/2023)
11/15/2022	<u>38</u>	REPLY to Response to <u>34</u> MOTION to Dismiss <i>First Amended Complaint in Support of Motion to Dismiss First Amended Complaint</i> filed by Defendant Douglas County School District. (Gray, Mary) (Entered: 11/15/2022)
11/01/2022	<u>37</u>	RESPONSE to <u>34</u> MOTION to Dismiss <i>First Amended Complaint</i> filed by Plaintiff Corey McNellis. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3)(Kontnik, Spencer) (Entered: 11/01/2022)
10/12/2022	<u>36</u>	SCHEDULING ORDER: by Magistrate Judge Scott T. Varholak on 10/12/2022. (morti, ) (Entered: 10/12/2022)
10/12/2022	<u>35</u>	MINUTE ENTRY for Scheduling Conference held before Magistrate Judge Scott T. Varholak on 10/12/2022. Discovery due by 5/12/2023. Dispositive Motions due by 6/12/2023. Final Pretrial Conference set for 9/27/2023 09:15 AM in Courtroom A 402 before Magistrate Judge Scott T. Varholak. FTR: A402. (morti, ) (Entered: 10/12/2022)
10/11/2022	<u>34</u>	MOTION to Dismiss <i>First Amended Complaint</i> by Defendant Douglas County School District. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D)(Gray, Mary) (Entered: 10/11/2022)
10/06/2022	<u>33</u>	Proposed Scheduling Order by Plaintiff Corey McNellis. (Fenicle, Matthew) (Entered: 10/06/2022)
10/03/2022	<u>32</u>	ORDER granting <u>30</u> Defendants' Unopposed Motion for Extension. For good cause shown, Defendants shall respond to Plaintiff's First Amended Complaint not later than 10/11/2022. SO ORDERED, by Magistrate Judge Scott T. Varholak on 10/3/22. Text Only Entry(stvlc3, Andrew) (Entered: 10/03/2022)
10/03/2022	<u>31</u>	MEMORANDUM regarding <u>30</u> Unopposed MOTION for Extension of Time to File Answer or Otherwise Respond re <u>24</u> Amended Complaint filed by Cathy Franklin, Douglas County School District, Cathy (I) Franklin. Motion referred to Magistrate Judge Scott T. Varholak. By Judge Raymond P. Moore on 10/3/2022. (Text Only Entry) (rmsec ) (Entered: 10/03/2022)
10/03/2022	<u>30</u>	Unopposed MOTION for Extension of Time to File Answer or Otherwise Respond re <u>24</u> Amended Complaint by Defendants Douglas County School District, Cathy Franklin, Cathy (I) Franklin. (Gray, Mary) (Entered: 10/03/2022)
09/23/2022	<u>29</u>	ORDER granting <u>27</u> Defendant's Unopposed Motion to Withdraw Motion. Accordingly, <u>20</u> Defendant's Motion to Stay Discovery is WITHDRAWN. It is FURTHER ORDERED that the Motion Hearing set for 10/12/22 at 11:00 AM is CONVERTED into a Scheduling Conference at the same date and time in Courtroom A 402 before Magistrate Judge Scott T. Varholak. The Proposed Scheduling Order is due 10/5/2022. SO ORDERED, by Magistrate Judge Scott T. Varholak on 9/23/22. Text Only Entry(stvlc3, Andrew) (Entered: 09/23/2022)
09/23/2022	<u>28</u>	MEMORANDUM regarding <u>27</u> Unopposed MOTION to Withdraw <u>20</u> MOTION to Stay <i>Discovery and Convert October 12, 2022 Hearing to a Scheduling Conference</i> filed by Cathy Franklin, Douglas County School District, Cathy (I) Franklin. Motion referred to Magistrate Judge Scott T. Varholak. By Judge Raymond P. Moore on 9/23/2022. (Text Only Entry) (rmsec ) (Entered: 09/23/2022)
09/23/2022	<u>27</u>	Unopposed MOTION to Withdraw <u>20</u> MOTION to Stay <i>Discovery and Convert October 12, 2022 Hearing to a Scheduling Conference</i> by Defendants Douglas County School District, Cathy Franklin, Cathy (I) Franklin. (Case, Michael) (Entered: 09/23/2022)
09/21/2022	<u>26</u>	Upon Plaintiff's <u>23</u> Notice of Filing Amended Complaint, Defendant's <u>19</u> Motion to Dismiss is found to be MOOT. <i>See, e.g., Gilles v. United States</i> , 906 F.2d 1386, 1389 (10th Cir. 1990) ("a pleading that has been amended under Rule 15(a) supersedes the pleading it modifies") (internal quotation marks omitted). SO ORDERED, by Magistrate Judge Scott T. Varholak on 9/21/22. Text Only Entry(stvlc3, Andrew) (Entered: 09/21/2022)

Appellate Case: 23-1306 Document: 010110928389 Date Filed: 09/28/2023 Page: 7

09/20/2022	<u>25</u>	RESPONSE to <u>20</u> MOTION to Stay <i>Discovery</i> filed by Plaintiff Corey McNellis. (Kontnik, Spencer) (Entered: 09/20/2022)
09/20/2022	<u>24</u>	AMENDED COMPLAINT against Douglas County School District, filed by Corey McNellis.(Kontnik, Spencer) (Entered: 09/20/2022)
09/20/2022	<u>23</u>	NOTICE of Filing Amended Pleading <i>First Amended Complaint</i> by Plaintiff Corey McNellis (Attachments: # <u>1</u> Exhibit 1 – Redlined Amended Complaint)(Kontnik, Spencer) (Entered: 09/20/2022)
09/09/2022	<u>22</u>	MINUTE ORDER This matter is before the Court on <u>20</u> Defendants' Motion to Stay Discovery (the "Motion"). The Motion is set for a Hearing on 10/12/22 at 11:00 AM in Courtroom A 402 before Magistrate Judge Scott T. Varholak. It is FURTHER ORDERED that the Scheduling Conference set for 9/13/2022 10:30 AM is VACATED. SO ORDERED, by Magistrate Judge Scott T. Varholak on 9/9/22. Text Only Entry (stvlc3, Andrew) (Entered: 09/09/2022)
08/31/2022	<u>21</u>	MEMORANDUM regarding <u>20</u> MOTION to Stay <i>Discovery</i> filed by Cathy Franklin, Douglas County School District, Cathy (I) Franklin, <u>19</u> MOTION to Dismiss filed by Cathy Franklin, Douglas County School District, Cathy (I) Franklin. Motions referred to Magistrate Judge Scott T. Varholak. By Judge Raymond P. Moore on 8/31/2022. (Text Only Entry) (rmsec ) (Entered: 08/31/2022)
08/30/2022	<u>20</u>	MOTION to Stay <i>Discovery</i> by Defendants Douglas County School District, Cathy Franklin, Cathy (I) Franklin. (Gray, Mary) (Entered: 08/30/2022)
08/30/2022	<u>19</u>	MOTION to Dismiss by Defendants Douglas County School District, Cathy Franklin, Cathy (I) Franklin. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C)(Case, Michael) (Entered: 08/30/2022)
08/29/2022	<u>18</u>	NOTICE of Entry of Appearance of <i>Michael Brent Case</i> by Michael Brent Case on behalf of All Defendants Attorney Michael Brent Case added to party Douglas County School District(pty:dft), Attorney Michael Brent Case added to party Cathy Franklin(pty:dft), Attorney Michael Brent Case added to party Cathy (I) Franklin(pty:dft) (Case, Michael) (Entered: 08/29/2022)
08/23/2022	<u>17</u>	Proposed Scheduling Order by Plaintiff Corey McNellis. (Kontnik, Spencer) (Entered: 08/23/2022)
08/02/2022	<u>16</u>	MINUTE ORDER: With the assignment of this matter, the parties are advised that throughout this case they are expected to be familiar and comply with not only the Local Rules of this District, but also Judge Raymond P. Moore's Civil Practice Standards, which may be found at: <a href="http://www.cod.uscourts.gov/JudicialOfficers/ActiveArticleIIIJudges/HonRaymondPMoore.aspx">http://www.cod.uscourts.gov/JudicialOfficers/ActiveArticleIIIJudges/HonRaymondPMoore.aspx</a> . SO ORDERED by Judge Raymond P. Moore on 8/2/2022. (Text Only Entry) (rmsec ) (Entered: 08/02/2022)
08/02/2022	<u>15</u>	ORDER REFERRING CASE to Magistrate Judge Scott T. Varholak. Pursuant to 28 U.S.C. § 636(b)(1)(A) and (B) and Fed. R. Civ. P. 72(a) and (b), this case is referred to the assigned United States Magistrate Judge to (1) convene a scheduling conference under Fed. R. Civ. P. 16(b) and enter a scheduling order meeting the requirements of D.C.COLO.LCivR 16.2, (2) conduct such status conferences and issue such orders necessary for compliance with the scheduling order, including amendments or modifications of the scheduling order upon a showing of good cause, (3) hear and determine pretrial matters, including discovery and other non-dispositive motions, (4) conduct a pretrial conference and enter a pretrial order, and (5) conduct hearings, including evidentiary hearings, and submit proposed findings of fact and recommendations for rulings on dispositive motions. Court sponsored alternative dispute resolution is governed by D.C.COLO.LCivR 16.6. On the recommendation or informal request of the magistrate judge or on the request of the parties by motion, this court may direct the parties to engage in an early neutral evaluation, a settlement conference, or another alternative dispute resolution proceeding. By Judge Raymond P. Moore on 8/2/2022. (Text Only Entry) (rmsec ) (Entered: 08/02/2022)
08/01/2022	<u>14</u>	CASE REASSIGNED pursuant to <u>13</u> Consent to Jurisdiction of Magistrate Judge. All parties do not consent. This case is randomly reassigned to Judge Raymond P. Moore and drawn to Scott T. Varholak. All future pleadings should be designated as 22-cv-01636-RM. (Text Only Entry) (csarr, ) (Entered: 08/01/2022)
07/29/2022	<u>13</u>	CONSENT to Jurisdiction of Magistrate Judge by Defendants Douglas County School District, Cathy Franklin, Cathy (I) Franklin All parties do not consent.. (Gray, Mary) (Entered: 07/29/2022)

Appellate Case: 23-1306 Document: 010110928389 Date Filed: 09/28/2023 Page: 8

07/12/2022	<u>12</u>	NOTICE of Entry of Appearance by Morgan Elizabeth Hamrick on behalf of Corey McNellisAttorney Morgan Elizabeth Hamrick added to party Corey McNellis(pty:pla) (Hamrick, Morgan) (Entered: 07/12/2022)
07/12/2022	<u>11</u>	NOTICE of Entry of Appearance by Matthew Louis Fenicle on behalf of Corey McNellisAttorney Matthew Louis Fenicle added to party Corey McNellis(pty:pla) (Fenicle, Matthew) (Entered: 07/12/2022)
07/07/2022	<u>10</u>	NOTICE of Entry of Appearance by Austin Murray Cohen on behalf of Corey McNellisAttorney Austin Murray Cohen added to party Corey McNellis(pty:pla) (Cohen, Austin) (Entered: 07/07/2022)
07/06/2022	<u>9</u>	NOTICE of Entry of Appearance by Scott Alexander Goodstein on behalf of All Defendants Attorney Scott Alexander Goodstein added to party Douglas County School District(pty:dft), Attorney Scott Alexander Goodstein added to party Cathy Franklin(pty:dft), Attorney Scott Alexander Goodstein added to party Cathy (I) Franklin(pty:dft) (Goodstein, Scott) (Entered: 07/06/2022)
07/06/2022	<u>8</u>	WAIVER OF SERVICE Returned Executed by Douglas County School District, Cathy (I) Franklin, Cathy Franklin. All Defendants. (Gray, Mary) (Entered: 07/06/2022)
07/06/2022	<u>7</u>	NOTICE of Entry of Appearance by Mary Barham Gray on behalf of All Defendants Attorney Mary Barham Gray added to party Douglas County School District(pty:dft), Attorney Mary Barham Gray added to party Cathy Franklin(pty:dft), Attorney Mary Barham Gray added to party Cathy (I) Franklin(pty:dft) (Gray, Mary) (Entered: 07/06/2022)
07/06/2022	<u>6</u>	ORDER SETTING DEADLINE FOR FILING ELECTION CONCERNING CONSENT/NON-CONSENT TO MAGISTRATE JURISDICTION FORM AND SETTING SCHEDULING CONFERENCE by Magistrate Judge Scott T. Varholak on 6 July 2022. Consent Form due by 8/30/2022. Proposed Scheduling Order due 9/6/2022. Scheduling Conference set for 9/13/2022 10:30 AM in Courtroom A 402 before Magistrate Judge Scott T. Varholak. (cmadr, ) (Entered: 07/06/2022)
07/06/2022	<u>5</u>	Magistrate Judge consent form issued pursuant to D.C.COLO.LCivR 40.1, direct assignment of civil actions to full time magistrate judges. (athom, ) (Entered: 07/06/2022)
07/06/2022	<u>4</u>	MEMORANDUM RETURNING CASE by Senior Judge Blackburn. This case is randomly reassigned to Magistrate Judge Scott T. Varholak. All future pleadings should be designated as 22-cv-01636-STV. (athom, ) (Entered: 07/06/2022)
07/01/2022	<u>3</u>	Magistrate Judge consent form issued pursuant to 28 U.S.C. 636(c). No Summons Issued. (norlin, ) (Entered: 07/01/2022)
07/01/2022	<u>2</u>	Case assigned to Judge Robert E. Blackburn and drawn to Magistrate Judge S. Kato Crews. Text Only Entry (norlin, ) (Entered: 07/01/2022)
07/01/2022	<u>1</u>	COMPLAINT against Douglas County School District, Cathy Franklin (Filing fee \$ 402,Receipt Number ACODC-8534760)Attorney Spencer J. Kontnik added to party COREY MCNELLIS(pty:pla), filed by COREY MCNELLIS. (Attachments: # <u>1</u> Civil Cover Sheet)(Kontnik, Spencer) (Entered: 07/01/2022)

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

Civil Action No. 1:22-cv-1636-RM-STV

COREY MCNELLIS,

Plaintiff,

v.

DOUGLAS COUNTY SCHOOL DISTRICT,

Defendant.

---

**NOTICE OF APPEAL**

---

Notice is hereby given that Plaintiff, Corey McNellis, in the above captioned case, hereby appeals to the United States Court of Appeals for the Tenth Circuit from the August 28, 2023 Order on the Motion to Dismiss granting Defendant's Motion to Dismiss and entering a final judgment in favor of the Defendant. *See* ECF 53-54.

Respectfully submitted on September 27, 2023.

KONTNIK | COHEN, LLC

*s/ Spencer J. Kontnik* \_\_\_\_\_

Spencer J. Kontnik

Austin M. Cohen

Matthew L. Fenicle

KONTNIK | COHEN, LLC

201 Steele Street, Suite 210

Denver, Colorado 80206

Telephone: (720) 449-8448

E-Mail: skontnik@kontnikcohen.com

E-Mail: acohen@kontnikcohen.com

E-Mail: mfenicle@kontnikcohen.com

*Attorneys for Plaintiff*

**CERTIFICATE OF SERVICE**

I hereby certify that on September 27, 2023, a true and correct copy of the foregoing was filed using the Court's CM/ECF System which will automatically serve a copy on all counsel of record.

s/ Kylee R. Dickinson  
Kylee R. Dickinson

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

Civil Action No. 22-cv-01636-RM-STV

COREY MCNELLIS,

Plaintiff,

v.

DOUGLAS COUNTY SCHOOL DISTRICT,

Defendant.

---

**FINAL JUDGMENT**

---

In accordance with the orders filed during the pendency of this case, and pursuant to Fed. R. Civ. P. 58(a), the following Final Judgment is hereby entered.

Pursuant to the Order (Doc. 53) by Judge Raymond P. Moore, entered August 28, 2023, it is

ORDERED that Defendant's Motion to Dismiss (Doc. 34) is GRANTED. It is FURTHER ORDERED that this case is closed.

Dated this 28<sup>th</sup> day of August, 2023.

FOR THE COURT:  
JEFFREY P. COLWELL

By: s/J. Dynes, Deputy Clerk

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Judge Raymond P. Moore**

Civil Action No. 22-cv-01636-RM-STV

COREY MCNELLIS,

Plaintiff,

v.

DOUGLAS COUNTY SCHOOL DISTRICT,

Defendant.

---

**ORDER**

---

This employment dispute is before the Court on Defendant’s Motion to Dismiss (ECF No. 34), which has been fully briefed (ECF Nos. 37, 38). For the reasons below, the Motion is granted.

**I. LEGAL STANDARD**

To defeat a motion to dismiss, the complaint must allege a “plausible” right to relief. *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 569 n.14 (2007). The plaintiff’s “[f]actual allegations must be enough to raise a right to relief above the speculative level.” *Id.* at 555. “A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). In evaluating a motion to dismiss under Fed. R. Civ. P. 12(b)(6), a court must accept as true all well-pleaded factual allegations in the complaint, view those allegations in the light most favorable to the plaintiff, and draw all reasonable inferences in the plaintiff’s favor.

*Brokers' Choice of Am., Inc. v. NBC Universal, Inc.*, 757 F.3d 1125, 1136 (10th Cir. 2014); *Mink v. Knox*, 613 F.3d 995, 1000 (10th Cir. 2010). However, conclusory allegations are insufficient, *Cory v. Allstate Ins.*, 583 F.3d 1240, 1244 (10th Cir. 2009), and courts “are not bound to accept as true a legal conclusion couched as a factual allegation,” *Twombly*, 550 U.S. at 555 (quotation omitted).

## II. BACKGROUND

Plaintiff worked at Ponderosa High School, a public school overseen and operated by Defendant, for fourteen years. (ECF No. 24, ¶¶ 7, 17.) At the time he was terminated in October 2020, he had been promoted to the positions of Athletic Director and Assistant Principal, and his child was attending the school. (*Id.* at ¶¶ 39, 47.) In his capacity as Assistant Principal, Plaintiff was part of the Administrative Team—comprised of the Principal, Tim Ottmann, and other Assistant Principals—which met weekly to discuss issues regarding extracurricular activities. (*Id.* at ¶¶ 41, 42.)

On October 2, 2020, Ponderosa’s Theatre Director, Kayla Diaz, sent an email to Ponderosa staff about an upcoming school play, *The Laramie Project*. (*Id.* at ¶¶ 50, 53.) The email<sup>1</sup> explained: “*The Laramie Project* is the true story of the impact of a hate crime in a small town, told through interviews with community members and translated into a script.” (ECF No. 19-2 at 1.) It further stated: “In 1998, Matthew Shepard, a gay college student, was murdered on the outskirts of Laramie, Wyoming. His death sparked outrage throughout the nation, as well as controversy. There were many contesting opinions and arguments, but in the end, what matters

---

<sup>1</sup> On a motion to dismiss, “[c]ourts are permitted to review documents referred to in the complaint if the documents are central to the plaintiff’s claim and the parties do not dispute the documents’ authenticity.” *Toone v. Wells Fargo Bank, N.A.*, 716 F.3d 516, 521 (10th Cir. 2013) (quotation omitted). Thus, the Court may consider the email exchange prompted by Diaz’s email without converting the Motion into a motion for summary judgment.

to our show is how it affected the Laramie community.” (*Id.*) And it included this disclaimer: “Due to language and the content discussed in the show (there is no violence shown, only discussed) this is not a family-friendly show. We are advertising ‘For mature audiences’ and I would generally recommend high school age and up.” (*Id.* at 2.) Due to the COVID pandemic, the show was to be live-streamed. (*Id.* at 1.) The email was sent on a Friday afternoon. (*Id.* at 1.)

Several staff members responded to the email Friday evening and Saturday morning. The responses were generally supportive, and some suggested that the show would complement Ponderosa’s anti-bullying program. For example, one recipient responded, “Thank you so much for deciding to do a show that so closely connects to Ponderosa High School’s core values of kindness, empathy, and respect.” (*Id.* at 2.) Another responded, “As a history teacher I’m glad to hear that our students are engaging with important historical events across subject areas.” (*Id.* at 3.)

Plaintiff responded by sending three emails on Friday evening and another one on Saturday morning, stating as follows:

Thanks Kayla, I appreciate the email and I really do admire the hard work that you do. As a Dad of a student here and also as an employee in the school, what is my recourse if I disagree with the production? Was this a heads up to see if everyone is cool?

\* \* \*

As a christian I would love to collaborate with your project. Please let me know if the love that Jesus can provide will help your play.

\* \* \*

For the record, all of administration does not agree with me on this. I am totally solo. Good night Mustangs!

\* \* \*

I understand people support this. Forgive me for having a different viewpoint and the audacity to publicly share it.

(*Id.* at 2, 4, 5, 7.) The emails had the same signature block:

Corey McNellis  
Athletic Director/Assistant Principal  
Ponderosa High School  
303-387-4100

(*Id.*)

The emails were shared with Defendant’s Human Resources Director, Cathy Franklin; the Director of Schools, Daniel Winsor; and Mr. Ottmann. (ECF No. 24, ¶ 66.) On Saturday, Mr. Winsor called Plaintiff and told him he needed to stay home on Monday because of his “religious comments.” (*Id.* at ¶¶ 67, 70.)

The following Monday, Ms. Franklin, Mr. Winsor, and Mr. Ottmann called Plaintiff for a virtual meeting. (*Id.* at ¶ 77.) Plaintiff was informed that he was being placed on leave and investigated due to his religious comments. (*Id.* at ¶¶ 80, 81.) While on leave, Plaintiff complained to Mr. Ottmann and several coworkers that he was being investigated based on his Christian beliefs. (*Id.* at ¶¶ 95, 96.) As part of its investigation, Defendant received a complaint from a teacher claiming Plaintiff was part of a “good ole boys club” that included other male teachers and administrators, including Mr. Ottmann. (*Id.* at ¶ 101.) Defendant also uncovered an email indicating Plaintiff had complained “as a parent” about Ponderosa’s communications regarding its COVID safety protocols. (*Id.* at ¶ 106.)

On October 29, 2020, Defendant terminated Plaintiff’s employment, citing his emails regarding *The Laramie Project* as the reason for his termination. (*Id.* at ¶¶ 113, 114.)

In his Amended Complaint, Plaintiff alleges that he was discriminated and retaliated against because he is a Christian and that he was fired in retaliation for exercising his First Amendment rights. He asserts claims for (1) discrimination in violation of Title VII; (2) retaliation in violation of Title VII; (3) discrimination in violation of the Colorado Anti-Discrimination Act (“CADA”); (4) retaliation in violation of CADA; and (5) retaliation under 42 U.S.C. § 1983 for exercising his right to free speech under the First Amendment.

### III. ANALYSIS

Defendant has moved to dismiss each of Plaintiff’s claims.

#### A. First Amendment Retaliation Claim

A public employee’s First Amendment claim is assessed using the five-prong *Garcetti/Pickering* test. *Roberts v. Winder*, 16 F.4th 1367, 1381 (10th Cir. 2021) (citing *Garcetti v. Ceballos*, 547 U.S. 410, 417 (2006); *Pickering v. Bd. of Educ.*, 391 U.S. 563 (1968)). That test requires the Court to determine whether

(1) the speech was made pursuant to the employee’s official duties, (2) the speech was made on a matter of public concern, (3) the government’s interests as an employer in promoting efficient public service outweigh a plaintiff’s free speech interests, (4) the speech was a motivating factor in the adverse employment action, and (5) the same employment decision would have been made without the protected speech.

*Id.* The first three prongs are issues of law to be resolved by the Court, while the last two are ordinarily for the trier of fact. *Rohrbough v. Univ. of Colo. Hosp. Auth.*, 596 F.3d 741, 745 (10th Cir. 2010).

Defendant contends that Plaintiff failed to plead sufficient facts to establish the first, second, and fourth prongs of the test, and the Court agrees.

1. Speech Made Pursuant to the Employee’s Official Duties

“The Tenth Circuit’s decisions addressing the first step of the *Garcetti/Pickering* analysis have taken a broad view of the meaning of speech that is pursuant to an employee’s official duties.” *Id.* at 746 (quotation omitted). “[I]f an employee engages in speech during the course of performing an official duty and the speech reasonably contributes to or facilitates the employee’s performance of the official duty, the speech is made pursuant to the employee’s official duties.” *Brammer-Hoelter v. Twin Peaks Charter Acad.*, 492 F.3d 1192, 1203 (10th Cir. 2007). Included in this category is speech relating to tasks within an employee’s employment responsibilities as well as speech that is generally consistent with the type of activities the employee was paid to do. *See id.* However, “[t]he ultimate question is whether the employee speaks as a citizen or instead as a government employee—an individual acting in his or her professional capacity.” *Id.* (quotation omitted). Thus, not all speech about an employee’s work or that occurs at work is made pursuant to the employee’s official duties. *Id.* at 1204. Courts “must take a practical view of all the facts and circumstances surrounding the speech and the employment relationship.” *Id.*

Here, Plaintiff expressed his concerns about *The Laramie Project* “as an employee” in emails that were responses to a staff email sent by Ms. Diaz. (ECF No. 19-2 at 2.) The Complaint does not contain allegations demonstrating or suggesting that Plaintiff would have been aware of the show—at least at the time of the speech at issue—were it not for his status as a Ponderosa staff member. Plaintiff’s emails were sent from his district email address and listed his positions of Athletic Director and Assistant Principal in the signature portion, and Plaintiff does not allege that anyone besides Ponderosa staff were the intended recipients of his emails. Thus, this is not a case involving speech in the form of social media posts or statements to news

outlets. *Cf. Cowden v. Bd. of Governors*, 622 F. Supp. 3d 1019, 1031-33 (D. Colo. 2022). The circumstances suggest that commenting on issues related to the show with other Ponderosa staff members is generally consistent with the types of activities Plaintiff was paid to do, particularly as a member of the Administrative Team. These factors all weigh in favor of finding Plaintiff's emails were made pursuant to his official duties.

On the other hand, Plaintiff points out that he also expressed his concerns “[a]s a Dad of a student here.” (ECF No. 19-2 at 2.) However, there is no allegation that other parents of Ponderosa students were included as recipients of Ms. Diaz's email, which included a letter addressed, “Dear Staff.” (*Id.* at 1.) In the absence of allegations showing that he would have been included in the initial email or had access to this specific email exchange but for his role as an employee, the Court is not persuaded that Plaintiff's reference to his parental status suffices to establish that he was speaking as a private citizen rather than a public employee.

*See Rohrbough*, 596 F.3d at 747 (noting that “the employee's chosen audience” and “chosen method of disseminating speech” are appropriately considered when assessing whether speech falls within the scope of the employee's official duties).

Nor does Plaintiff's additional comment that “all of administration does not agree with me on this. I am totally solo” mean that his emails were not made pursuant to his official duties. (ECF No. 19-2 at 5.) Indeed, it could reasonably be interpreted to mean that he was speaking as an administrator, albeit one without the full backing of the Administrative Team. While the comment might also suggest that other Ponderosa employees did not necessarily agree with Plaintiff's viewpoint on presenting *The Laramie Project* at the school, in the context of the ongoing exchange of emails among Ponderosa staff members, it does not demonstrate that

Plaintiff was speaking solely as a private citizen.

Finally, the fact that the emails were sent “after hours” does not move the needle here. *Cf. Brammer-Hoelter*, 492 F.3d at 1205 (concluding that speech that occurred outside the school, after hours, and with ordinary citizens and parents was not within the scope of the plaintiffs’ official duties as teachers). Employees commonly read and send work-related emails outside of work hours, and Plaintiff has not alleged that it was remarkable or unusual that Ponderosa employees responded to Ms. Diaz’s email “after hours” or that Ponderosa staff members—members of the Administrative Team included—did not regularly discuss work issues via email. And again, the absence of any indication that other parents or other members of the public were included in the email exchange reinforces the notion that the initial email and staff members’ responses to it were sent pursuant to the employees’ official duties.

Therefore, the Court finds Plaintiff has not alleged facts that would satisfy the first prong of the *Garcetti/Pickering* test.

2. Speech Was Made on a Matter of Public Concern

Regarding the second prong of the test, “[m]atters of concern are those of interest to the community, whether for social, political, or other reasons.” *Id.* (quotation omitted). “In determining whether speech pertains to a matter of public concern, the court may consider the motive of the speaker and whether the speech is calculated to disclose misconduct or merely deals with personal disputes and grievances unrelated to the public’s interest.” *Id.* (quotation omitted).

The fact that *The Laramie Project* itself gives rise to controversy and certainly addresses matters of public concern does not mean Plaintiff’s emails about it necessarily rise to the same

level. *See, e.g., Boring v. Buncombe Cnty. Bd. of Educ.*, 136 F.3d 364, 368 (4th Cir. 1998) (finding high school drama teacher’s selection of play did not present a matter of public concern). Plaintiff’s professed disagreement with the play, both as a parent and as a Christian, is a matter of personal, rather than public concern. Similarly, Plaintiff’s professed interest in collaborating with the show is not akin to matters such as elections, illegal conduct by government officials, or restrictions on freedom that have been held to be matters of public concern. *See id.* at 1206. Rather, it is a matter that “does not directly affect the community at large” and may aptly be considered “internal in scope and personal in nature.” *Bunger v. Univ. of Okla.*, 95 F.3d 987, 992 (10th Cir. 1996). As a result, the Court finds that Plaintiff’s emails do not address a matter of public concern.

3. Speech Was a Motivating Factor in the Adverse Employment Action

Regarding the fourth prong of the *Garcetti/Pickering* test, the Complaint lacks factual allegations that would establish that Plaintiff’s emails were a motivating factor in his firing. Although Plaintiff makes the conclusory assertion that “Defendant directly cited [his] emails regarding The Laramie Project as the reason for his termination” (ECF No. 24, ¶ 114), there are no specific allegations as to how the decision was made, or even by whom it was made. Conclusory allegations are insufficient to survive dismissal. *Cory*, 583 F.3d at 1244. Plaintiff’s allegations, taken as true, establish that his emails about *The Laramie Project* prompted Defendant to suspend Plaintiff and begin an investigation into his conduct at Ponderosa. And they establish that Mr. Ottmann, Ms. Franklin, and Mr. Winsor were primarily responsible for the decision to fire him. But it does not follow that simply because these individuals knew about the emails, his firing was “substantially motivated by” the emails as opposed to other

information that might have been gleaned from the investigation. Although the Complaint neglects to recite or describe Defendant’s stated reasons for firing him, that does not mean the Court is required to accept Plaintiff’s conclusory assertion as to the basis for his termination. Therefore, the Court finds the absence of factual allegations that would establish the fourth prong of the *Garcetti/Pickering* test provides another reason for dismissing Plaintiff’s First Amendment retaliation claim.

To the extent Plaintiff contends that the investigation itself was retaliatory, he has not cited any authority for the proposition that a mere investigation can amount to an adverse employment action for the purpose of stating a retaliation claim. Nor does the Complaint contain allegations showing that the investigation amounted to “substantial harassment and abuse” that would support such a claim. *Brammer-Hoelter*, 492 F.3d at 1208.

Accordingly, the Complaint fails to state a First Amendment retaliation claim.

**B. Title VII and CADA Discrimination Claims**

Because Colorado and federal law apply the same standards to discrimination claims, Plaintiff’s Title VII and CADA claims rise or fall together. *See Johnson v. Weld Cnty.*, 594 F.3d 1202, 1219 n.11 (10th Cir. 2010). A plaintiff proves such a claim either by direct evidence of discrimination or by following the burden-shifting framework of *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973). *Khalik v. United Air Lines*, 671 F.3d 1188, 1192 (10th Cir. 2012). To set forth a prima facie case of discrimination, Plaintiff must establish that (1) he is a member of a protected class, (2) he suffered an adverse employment action, (3) he qualified for the position at issue, and (4) he was treated less favorably than others not in the protected class. *See id.* If the plaintiff establishes a prima facie case of discrimination, then the burden shifts to the

defendant to produce a legitimate, non-discriminatory reason for the adverse employment action. *Id.* Once the defendant does so, the burden shifts back to the plaintiff to show that the plaintiff's protected status was a determinative factor in the employment decision or that the employer's explanation is a pretext for discrimination. *Id.* The Court finds Plaintiff has failed to plead a prima facie case, so the rest of the burden-shifting framework does not come into play.

Plaintiff's discrimination claims are premised on his protected status as a Christian; therefore, to establish the fourth prong of his prima facie case he needed to plead that he was treated less favorably than non-Christians at Ponderosa or in the school district. Though he alleges in a conclusory fashion that other faculty and administrators engaged in conduct similar to his—such as being part of a “good ole boys club” and complaining about COVID safety protocols—without being investigated, placed on leave, or disciplined, nowhere does he allege that these individuals were non-Christians. Indeed, he fails to plead any facts about the religious beliefs of anyone associated with this case besides himself. Nor does he allege that the conduct of employees that he considers were similarly situated to him was more egregious or even as egregious as his. Although Plaintiff alleges that Mr. Ottmann, Ms. Franklin, and Mr. Winsor were the ones primarily responsible for firing him and that they knew about his emails concerning *The Laramie Project*, that does not amount to proof of religious discrimination. Plaintiff's argument to the contrary ignores the possibility that—consistent with the allegations in the Complaint—these individuals could also be Christians who might even have disagreed with Ms. Diaz's decision to perform *The Laramie Project* themselves while also believing that Plaintiff's comments were unprofessional and that, coupled with other conduct gleaned from the investigation, his termination was warranted. In any event, the allegations fall well short of

establishing the Plaintiff was treated less favorably than non-Christians.

In short, the Court finds Plaintiff's allegations have not nudged his discrimination claims across the line from conceivable to plausible, and therefore they must be dismissed.

*See Twombly*, 550 U.S. at 570.

### C. Title VII and CADA Retaliation Claims

To state a prima facie Title VII or CADA retaliation claim, Plaintiff must show that (1) he engaged in protected opposition to discrimination, (2) a reasonable employee would have found the challenged action materially adverse, and (3) a causal connection existed between the protected activity and the materially adverse action. *See Bekkem v. Wilkie*, 915 F.3d 1258, 1267 (10th Cir. 2019). Again, the Court finds Plaintiff has failed to set forth allegations establishing a prima facie case.

First, Plaintiff's emails about *The Laramie Project* cannot be considered protected opposition to discrimination for purposes of stating a retaliation claim. Plaintiff does not argue otherwise. Second, while his complaints to Mr. Ottmann and other coworkers about the investigation and his suspension might be considered protected opposition to discrimination, there are no allegations showing a causal connection between those complaints and Plaintiff's firing. Plaintiff's conclusory allegations to the contrary are devoid of factual support.

Finally, Plaintiff's reliance on the letter<sup>2</sup> from Mr. Ottmann written after he retired as principal is misplaced. While the letter explains that Plaintiff's emails were the "catalyst" for his firing, nowhere does it state or imply that Plaintiff's firing was causally related to his opposition

---

<sup>2</sup> The letter is referred to in the Complaint, and Defendant does not dispute its authenticity; therefore, the Court considers it here. *See Toone*, 716 F.3d at 521.

to discrimination. (ECF No. 34-4 at 2.) Moreover, regardless of Mr. Ottmann’s opinions about Plaintiff’s termination, the letter also states that “it wasn’t [Mr. Ottmann’s] decision to make.” (*Id.*) Under the circumstances, it does not support the theory that Mr. Ottmann or anyone else retaliated against Plaintiff for his protected activity.

Accordingly, the Court finds Plaintiff’s allegations fail to state a retaliation claim.

#### **IV. CONCLUSION**

Therefore, the Motion to Dismiss (ECF No. 34) is GRANTED, and the Clerk is directed to CLOSE this case.

DATED this 28th day of August, 2023.

BY THE COURT:



---

RAYMOND P. MOORE  
Senior United States District Judge

UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

Byron White United States Courthouse  
1823 Stout Street  
Denver, Colorado 80257  
(303) 844-3157  
Clerk@ca10.uscourts.gov

Christopher M. Wolpert  
Clerk of Court

Jane K. Castro  
Chief Deputy Clerk

September 28, 2023

Mr. Austin M Cohen  
Mr. Matthew Fenicle  
Mr. Spencer J Kontnik  
Kontnik Cohen  
201 Steele Street, Suite 210  
Denver, CO 80206

**RE: 23-1306, McNellis v. Douglas County School District**  
Dist/Ag docket: 1:22-CV-01636-RM-STV

Dear Counsel:

Your appeal has been docketed, and the appeal number is above.

**Within 14 days** from the date of this letter, Appellant's counsel must electronically file:

- **An entry of appearance and certificate of interested parties** per 10th Cir. R. 46.1(A) and (D).
- **A docketing statement** per 10th Cir. R. 3.4.
- **A transcript order form or notice that no transcript is necessary** per 10th Cir. R. 10.2. This form must be filed in **both** the district court and this court.

**In addition, all counselled entities** that are required to file a Federal Rule of Appellate Procedure 26.1 disclosure statement must do so **within 14 days of the date of this letter**. All parties must refer to Federal Rule of Appellate Procedure 26.1 and Tenth Circuit Rule 26.1 for applicable disclosure requirements. All parties required to file a disclosure statement must do so even if there is nothing to disclose. Rule 26.1 disclosure statements must be promptly updated as necessary to keep them current.

**Also within 14 days**, Appellee's counsel must electronically file an entry of appearance and certificate of interested parties. **Attorneys that do not enter an appearance within the specified time frame will be removed from the service list.**

The [Federal Rules of Appellate Procedure](#), the [Tenth Circuit Rules](#), and [forms](#) for the aforementioned filings are on the court's [website](#). The Clerk's Office has also created a

set of [quick reference guides](#) and [checklists](#) that highlight procedural requirements for appeals filed in this court.

Please contact this office if you have questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Chris Wolpert', with a long horizontal flourish extending to the right.

Christopher M. Wolpert  
Clerk of Court

cc: Michael Brent Case  
Scott Alexander Goodstein

CMW/lg