

**UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT**

-
UNITED STATES OF AMERICA,

Plaintiff-Appellee,
v.

GARY L. WALKER

Defendant-Appellee.

COLORADO SPRINGS FELLOWSHIP
CHURCH,

Movant-Appellant.

No. 18-1273
(D.C. No. 09-cr-00266-CMA)
(D.C. No. 1:15-CV-02223-CMA)
(D. Colo.)

GARY L. WALKER'S ANSWER BRIEF

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
The Honorable Christine M. Arguello, District Judge
D.C. No. 09-cr-00266-CMA / 15-cv-02223-CMA

Patrice B. Collins
Gerald J. Rafferty
Collins & Collins, LLC
700 - 17th Street, Ste. 1820, Denver, CO 80202
Ph: 303.296.7700; Fax: 303.295.7160
patricec@lawcc.us grafferty@lawcc.us

ATTORNEYS FOR APPELLEE GARY L. WALKER

TABLE OF CONTENTS

TABLE OF AUTHORITIES.....iii

PRIOR OR RELATED APPEALS.....1

JURISDICTIONAL STATEMENT.....1

ISSUE.....1

STATEMENT OF FACTS AND PROCEDURAL HISTORY.....2

ARGUMENT SUMMARY.....6

LEGAL STANDARD.....7

ARGUMENT.....9

 A. WALKER MADE A SUFFICIENT SHOWING THAT RESTRICTION OF JUDICIAL RECORDS WAS NECESSARY TO PROTECT VULNERABLE WITNESSES FROM HARASSMENT AND INTIMIDATION BY PASTOR BANKS AND CSF MEMBERS AND CSF FAILED TO SHOW A COUNTERVAILING INTEREST SIGNIFICANT ENOUGH TO CAUSE THE DISTRICT COURT TO VACATE ITS SEALING ORDER.....9

 B. THE DISTRICT COURT PROPERLY CONCLUDED THAT THE PRESUMPTION OF A PUBLIC RIGHT OF ACCESS HAS BEEN OVERCOME BY THE COMPELLING INTEREST OF PREVENTING HARM TO WALKER AND TESTIFYING WITNESSES.....11

CONCLUSION.....13

ORAL ARGUMENT STATEMENT.....14

CERTIFICATE OF DIGITAL SUBMISSION.....15

CERTIFICATE OF SERVICE.....15

TABLE OF AUTHORITIES

Cases

<i>Colony Ins. Co. v. Burke</i> , 698 F.3d 1222 (10th Cir. 2012).....	7
<i>Davis v. Reynolds</i> , 890 F.2d 1105 (10th Cir. 1989).....	9
<i>Helm v. Kansas</i> , 656 F.3d 1277 (10th Cir. 2011).....	8
<i>Mann v. Boatright</i> , 477 F.3d 1140 (10th Cir. 2007).....	9,10,13
<i>Moothart v. Bell</i> , 21 F.3d 1499 (10th Cir.1994).....	9
<i>Nixon v. Warner Communications, Inc.</i> , 435 U.S. 589 (1978).....	8,9,13
<i>Press-Enterprise v. Superior Court</i> , 464 U.S. 501(1984) (<i>Press-Enterprise I</i>).....	7
<i>Press-Enterprise Co. v. Superior Court</i> , 478 U.S. 1 (1986) (<i>Press-Enterprise II</i>).	7,12
<i>SEC v. AIG</i> , 712 F.3d 1 (D.C. Cir. 2013).....	8
<i>United States v. Banks, et. al.</i> , 761 F.3d 1163 (10th Cir. 2014), <i>cert. denied</i> , 135 S.Ct. 308 (Oct. 6. 2014).....	2
<i>United States v. El-Sayegh</i> , 131 F.3d 158 (D.C. Cir. 1997).....	8
<i>United States v. Gonzales</i> , 150 F.3d 1246 (10th Cir.1998).....	7

United States v. Hickey,
767 F.2d 705 (10th Cir. 1985).8,9

United States v. McVeigh,
119 F.3d 806 (10th Cir 1997) (per curium)8

United States Nuclear Corp v. Cranford Ins. Co.,
905 f.2d 1424 (10th Cir. 1990)9

United States v. Pickard,
733 F.3d 1297 (10th Cir. 2013)8

Statutes and Rules

28 U.S.C. § 22551

28 U.S.C. § 12911

D.COLO.L.CrR 47.12,5

PRIOR OR RELATED APPEALS

This appeal was filed by the Colorado Springs Fellowship Church (“CSF”). It is related to Case No. 17-1415, *United States v. Walker*, filed by Movant-Appellant Gwendolyn Maurice Lawson (who is also counsel for CSF). In both this case and Case No. 17-1415, Appellants seek to challenge the U.S. District Court, Colorado’s (“District Court”) orders denying motions to un-restrict court records pertaining to Appellee Gary L. Walker’s (“Walker”) Motion and Memorandum of Law Filed Pursuant to 28 U.S.C. § 2255 (“§ 2255 Petition”) and an evidentiary hearing held thereon.

JURISDICTIONAL STATEMENT

On February 1, 2018, CSF filed a Motion to Unseal Court Records (“Motion to Unseal”). [Dkt. No. 1106]. On June 1, 2018, the District Court denied the relief requested in CSF’s Motion to Unseal. [Dkt. No. 1114]. On June 29, 2018, CSF filed a Notice of Appeal. On August 6, 2018, this Court *sua sponte* consolidated Case No. 17-1415 with the instant appeal and ordered oral argument. This Court’s jurisdiction arises under 28 U.S.C. § 1291.

ISSUE

Whether the District Court abused its discretion in denying CSF’s Motion to Unseal, which requested the District Court to un-restrict “all documents associated with, and introduced at, the Defendant’s 2255 hearing, along with the immediate unsealing of the transcript associated with the hearing...”. [Dkt. No. 1106, p. 9].

STATEMENT OF FACTS AND PROCEDURAL HISTORY

On October 20, 2011, Walker was convicted by a jury of conspiracy to commit mail and wire fraud. His co-defendants were convicted of conspiracy and substantive counts of mail and wire fraud. The defendants, after each firing their court-appointed counsel, represented themselves at trial. After guilty verdicts, Attorney Gwendolyn Lawson (“Lawson”) entered the case and represented Walker and four co-defendants in District Court during sentencing and for their appeal. *See, United States v. Banks, et. al.*, 761 F.3d 1163 (10th Cir. 2014), *cert. denied*, 135 S.Ct. 308 (Oct. 6. 2014). Co-defendant David Banks, who is the son of CSF Pastor Rose Banks (“Pastor Banks”), was represented by independent retained counsel for sentencing and the appeal. [Dkt. No. 814; *see also Banks*, 761 F.3d at 1169].

On October 5, 2015, Walker filed his § 2255 Petition in District Court, which made collateral attacks on both his conviction and sentence. Walker was the only defendant to file a § 2255 Petition. [Dkt. No. 902]. When filing his § 2255 Petition, Walker filed a Motion to Restrict Access to the Petition and a Brief in Support of his motion. [Dkt. Nos. 898 and 899].

Walker’s Motion to Restrict Access was made under U.S. District Court, Colorado Local Criminal Rule 47.1 (Public Access to Cases, Documents and Proceedings). Pursuant to D.C.COLO.LCrR 47.1, Walker’s Motion to Restrict was publicly filed. D.C.COLO.LCrR. 47.1 provides a three-day period for any interested person to object to the request to restrict. No objection to Walker’s Motion to Restrict Access was filed

during the applicable time period. Walker also filed Motions to Restrict Access when filing additional motions and an evidentiary hearing memorandum. Again, no objections to Walker's subsequent Motions to Restrict were ever filed.

On June 12, 15, and 16, 2017, the District Court held an evidentiary hearing on Walker's § 2255 Petition. The evidentiary hearing was listed on the District Court's calendar. At the commencement of the hearing, Walker's counsel requested to seal the hearing based on concerns expressed by former CSF members subpoenaed to testify, who had withstood past intimidation and harassment by Pastor Banks and CSF members. At that time, the Court chose not to close the hearing but said it would consider the witnesses' concerns.

During the evidentiary hearing Walker introduced evidence that Lawson was subject to a direct conflict of interest which adversely effected her representation of him due to her representation of multiple defendants who were disparately situated in a complex fraud scheme and also because of her allegiance to Pastor Banks.

Walker subpoenaed Lawson to testify at the evidentiary hearing on June 15, 2017. Within minutes of beginning her testimony, Lawson was declared a hostile witness. Lawson completed her testimony mid-afternoon on June 15th. After completing her testimony, Lawson removed an original exhibit binder from the courtroom which contained sealed exhibits, including indices of all CSF members who testified. Walker's counsel made a record that Lawson had removed original exhibits filed under seal from the courtroom. The binder was not returned until mid-afternoon the following day.

Walker and his counsel became very concerned that Lawson may have divulged the content of sealed exhibits to Pastor Banks and CSF members.

On June 23, 2017, the District Court granted (in part) Walker's § 2255 Petition "for the limited purpose of the sentencing". [Dkt. No. 1807 (Re-Sentencing Hearing Transcript), 4:18-23]. The District Court upheld Walker's conspiracy conviction but found that Lawson's representation of Walker at sentencing was adversely affected by an actual conflict of interest due to: (1) her representation of multiple defendants and (2) her allegiance to Pastor Banks. [Dkt. No. 1087, 4:5-23]. Specifically, the District Court found Lawson's direct conflict of interest prevented her from making an argument against a 4-level role enhancement that the government asked be applied to Walker and David Banks. [Dkt. No. 1087, 4:5-23].

On June 28, 2017, the District Court held a re-sentencing hearing. During the re-sentencing hearing, the District Court vacated Walker's 4-level role enhancement, finding that Walker was not the leader of the conspiracy. The District Court also determined that Walker qualified for a variant sentence based on his lack of past criminal history and personal characteristics, including the genuine remorse he expressed for his participation in the fraud scheme. [Dkt. No. 1087, 6:1-8:25]. In its announcement of Walker's new sentence, the District Court reflected on the coercion Pastor Banks inflicted on Walker and former CSF members. [Dkt. No. 1807, 20:21-25:22].

During the re-sentencing hearing, counsel for Walker informed the Court that Walker would again be requesting the restriction of the evidentiary hearing transcript due

to concerns of harassment against Walker, his parents and against the former CSF members who testified on Walker's behalf at the evidentiary hearing. [Dkt. No. 1087, 2:17-22].

On June 28, 2017, pursuant to D.C.COLO.LCrR 47.1, Walker filed a Motion to Restrict Access to the evidentiary hearing transcripts and a Brief in Support of his request. [Dkt. Nos. 1080 (Walker Motion to Restrict Access) and 1081 (Walker Brief in Support of Motion to Restrict Access) *attached as* a sealed document to the United States' Answer Brief in Case No. 17-145]. No objection was filed. On July 18, 2017, the Court issued a sealed memorandum order granting Walker's request, in which it set forth, based on the three-day evidentiary hearing, the degree and nature of the potential injury to Walker and other witnesses. [Dkt. No. 1085 (Order Restricting Access to Evidentiary Hearing Transcripts), *attached as* a sealed document to the United States' Answer Brief in case no. 17-145]. The Court also issued a corresponding public docket entry. [Dkt. No. 1086].

On October 20, 2017, Lawson filed a Motion to Receive Transcript from June 15, 2017, arguing it was necessary to defend against an action initiated by Judge Arguello. [Dkt No. 1088, p. 2]. On October 31, 2017, the Court issued an Order which lifted the restriction on the transcript of Lawson's testimony, but preserved the restriction on the remainder of testimony given on June 15, 2017. [Dkt No. 1090].

On February 2, 2018 CSF filed a Motion to Unseal. [Dkt. No. 1106]. CSF's Motion to Unseal requested the District Court to "forthwith" un-restrict "all documents

associated with, and introduced at, the Defendant's 2255 hearing, along with the immediate unsealing of the transcript associated with the hearing¹". [Dkt. No. 1106, p. 9].

On June 1, 2018, the District Court issued a memorandum order denying CSF's Motion to Unseal. [Dkt. No. 1114 ("Order Denying Motion to Unseal")]. In its Order, the District Court found that a restriction on the evidentiary hearing transcript remained appropriate. [Dkt. No. 1114, p. 4]. The District Court wrote, "In considering whether to restrict the public's access the court balances the public's right against the need to protect vulnerable witnesses, including the petitioner". [Dkt. No. 1114, p. 2]. The District Court found that CSF's reasons for requesting unsealing were "insufficient to overcome the very real safety concerns present in this case". [Dkt No. 1114, 4]. In so finding, the District Court wrote "[CSF's] motion does nothing to counter or assuage this Court's concerns about its need to protect the witnesses at Mr. Walker's 2255 hearing. If anything, it heightens this Court's concerns". [Dkt. No. 1114, 5]. Notably, the District Court determined that no alternative to restricting the transcripts was available because CSF did not present the District Court with any way to limit its expansive request for unfettered access to "all documents associated with" Walker's § 2255 hearing. [Dkt. No. 1114, 6:1-25].

ARGUMENT SUMMARY

The District Court was within its discretion to deny CSF's Motion to Unseal. During the re-sentencing hearing, the District Court made findings on the record

¹ In its Opening Brief, CSF appears to limit its document request to "judicial records", in effect conceding that its initial request for "all documents associated with, and introduced at, [Walker's] 2255 hearing" was overbroad.

regarding the potential harm to Walker, his parents and former CSF members who testified under subpoena. [Dkt. No. 1087, 2:17-22]. The District Court recognized the presumption of public access, but determined that Walker had overcome the presumption by showing a significant interest in protecting witnesses from retaliation and harassment by a non-party. [Dkt. No. 1114, p. 5]. CSF's Motion to Unseal failed to address why the District Court's conclusion that it needed to protect witnesses was outweighed by CSF's right of access. [Dkt. No. 1114, p. 5]. Accordingly, the District Court weighed the potential harm to Walker and other testifying witnesses against CSF's requests for disclosure and correctly found that the public benefit did not outweigh the need to protect vulnerable witnesses. [Dkt. No. 1114, p. 5].

LEGAL STANDARD

The Supreme Court has held that the public has a qualified First Amendment right of access to judicial proceedings. *Press-Enterprise Co. v. Superior Court*, 478 U.S. 1, 9 (1986) (*Press-Enterprise II*). The constitutional presumption of access may be overcome upon a finding that closure is necessary to preserve higher values and is narrowly tailored to preserve that interest. *Id.* at 10 quoting *Press-Enterprise v. Superior Court*, 464 U.S. 501, 510 (1984) (*Press-Enterprise I*). The Supreme Court has not ruled on whether there is a constitutional right of access to court documents, and if so, the scope of such a right. *Colony Ins. Co. v. Burke*, 698 F.3d 1222, 1247 n. 27 (10th Cir. 2012) citing *United States v. Gonzales*, 150 F.3d 1246, 1256 (10th Cir.1998).

This Court recognizes a common law right to inspect judicial records. *United States v. Pickard*, 733 F.3d 1297, 1303 (10th Cir. 2013). A “judicial record” is a document which plays some role in the judicial decision at hand. *SEC v. AIG*, 712 F.3d 1, 3 (D.C. Cir. 2013) quoting *United States v. El-Sayegh*, 131 F.3d 158, 163 (D.C. Cir. 1997). Merely filing a document with a court does not automatically transform it into a judicial record. *Id.* at 3-4. “It is uncontested...that the right to inspect and copy judicial records is not absolute”. *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 598 (1978). Judicial records that are presumptively available to the public may be sealed “if the right of access is outweighed by the interests favoring non-disclosure”. *United States v. McVeigh*, 119 F.3d 806, 811 (10th Cir. 1997) (per curiam).

Accordingly, a court, "in its discretion, may seal documents if the public's right of access is outweighed by competing interests." *United States v. Hickey*, 767 F.2d 705, 708 (10th Cir. 1985). Access [to judicial records] has been denied where the court files might become a vehicle for improper purposes. *Nixon*, 435 U.S. at 598.

The party requesting the sealing of records must make a showing that a significant interest outweighs the presumption of public access. *Helm v. Kansas*, 656 F.3d 1277, 1292 (10th Cir. 2011). Once a showing is made, the party seeking access must show a countervailing interest sufficient to overcome the concern. *Hickey*, 767 F. 2d at 708.

A District Court has inherent supervisory authority over its files and records, which includes the authority to seal court files. *Nixon*, 435 U.S. at 598. In considering whether to restrict access to judicial records, this Court has held that a court should

balance the public's presumptive right of access against protection of vulnerable witnesses. *Davis v. Reynolds*, 890 F.2d 1105, 1009 (10th Cir. 1989) (“An accused’s right under the Sixth Amendment must be carefully balanced against the government’s competing interest in protecting vulnerable witnesses from embarrassment and harm.”). Once a court orders its records sealed, it continues to have authority to enforce the seal even after the case has ended. *United States Nuclear Corp v. Cranford Ins. Co.*, 905 F.2d 1424, 1427 (10th Cir. 1990).

A court’s decision to seal court records is reviewed under an abuse of discretion standard. “Because the analysis of limiting access is necessarily fact-bound, there can be no comprehensive formula for decision making”. *Hickey*, 767 F.2d at 708, citing *Nixon*, 435 U.S. at 599. Instead, the court must consider “the relevant facts and circumstance of the particular case and weigh the relative interests of the parties”. *Id.* In the Tenth Circuit, a district court’s decision whether or not to restrict judicial records will not be disturbed absent a “definite and firm conviction that the [district court] made a clear error of judgment or exceeded the bounds of permissible choice in the circumstances”. *Mann v. Boatright*, 477 F.3d 1140, 1149 (10th Cir. 2007) (affirming order denying motion to seal) quoting *Moothart v. Bell*, 21 F.3d 1499, 1504 (10th Cir. 1994).

ARGUMENT

A. Walker made a sufficient showing that restriction of judicial records is necessary to protect vulnerable witnesses from harassment and intimidation by Pastor Banks and CSF members and CSF failed to show a countervailing interest significant enough to cause the District Court to vacate its sealing order.

From the inception of this case, when Walker sought to have his § 2255 Petition restricted, he has argued that he fears intimidation and harassment by Pastor Banks and CSF members. [Dkt. No. 947²]. He made a record prior to the commencement of the evidentiary hearing that subpoenaed witnesses (former CSF members) were also concerned about being subjected to retaliatory harassment from CSF. Walker and the testifying witnesses' concerns were based upon past experience with CSF. The District Court considered the concerns of Walker and the witnesses but denied Walker's request to seal.

Walker again made a record regarding fears of harassment during the resentencing hearing. [Dkt. No. 1087, 2:17-22]. Walker continued to argue that restriction was necessary when he requested that the evidentiary hearing transcript be sealed. [See Dkt. No. 1081]. He reiterated the need for restriction in his Objection to Lawson's Motions to Receive Transcript from June 15, 2017. [Dkt. No. 1089]. Notably, after hearing the testimony of Walker and the other former CSF members and witnessing Lawson's removal of the Court's binder containing sealed exhibits, the District Court granted the unopposed Motion to Restrict and subsequently denied Lawson's motion to lift the restriction. [Dkt. No. 1080].

In its Motion to Unseal and in its Opening Brief, CSF failed to address why its need for "all documents" associated with Walker's § 2255 hearing outweighed Walker and testifying witnesses countervailing safety interests. Similar to Lawson's Principal

² Brief in Support of Motion to Restrict Access to § 2255 Petition, filed under restriction.

Brief filed in case no. 17-1415, in its Opening Brief, CSF failed to address how the District Court “... made a clear error of judgment...” in determining that CSF’s access is not outweighed by the need to protect Walker and other vulnerable witnesses. *See Mann*, 477 F.3d. at 1149. Rather, CSF argues there is no support for Walker’s fear of threats and harassment against him and other witnesses. CSF wholly ignores the District Court’s detailed findings, made on the record at the re-sentencing hearing, of the threats and harassment inflicted upon Walker and his parents by Pastor Banks and CSF members. [Dkt. No. 1807, 20:1-22:25].

The crux of CSF’s argument is based in a multi-page religious polemic, wherein CSF admits that Pastor Banks wrote abusive communications to Walker because he was leaving the church. CSF contends that it is Pastor Bank’s right, as the spiritual leader of CSF, to prophesize disease against Walker and his parents. (CSF Opening Brief, pp. 33-34). While it may be Pastor Banks’ right to wish harm to a former congregant, the more salient point is that it was an obvious effort to harass and intimidate. In addition, CSF focuses on the testimony of a young former CSF member and, surmising that she spoke against Pastor Banks, argues this is a sufficient interest to warrant vacating the sealing order. (CSF Opening Brief, p. 39). It is obvious that CSF’s only concern is to vilify former CSF members who testified at Walker’s evidentiary hearing.

B. The District Court properly concluded that the presumption of a public right of access has been overcome by the compelling interest of preventing harm to Walker and testifying witnesses.

Where a constitutional presumption of access applies, the court may close proceedings after making findings: (1) that closure is necessary to further higher values; (2) the closure order is narrowly tailored to serve that interest; and (3) that no less restrictive means are available to adequately protect that interest. *Press-Enterprise II*, 478 U.S. at 13-14.

Here, prior to restricting access to the evidentiary hearing transcript, the District Court made findings on the record about actions taken against Walker by Pastor Banks and other CSF members after he renounced his allegiance to her and her church. [Dkt. No. 1807, pp. 20:1-22:25].

In its Order denying CSF's Motion to Unseal, the District Court appropriately balanced the need to protect Walker and other vulnerable witnesses against the public's right of access. [Dkt. No. 1114, p. 3]. In doing so, the District Court properly made detailed findings necessary to close public access to judicial records. [Dkt. Nos. 1085 and 1114]. Specifically, the District Court found that evidence submitted at the evidentiary hearing showed that Walker's and former CSF members' fears of retaliatory harassment were valid. [*See generally* Dkt. No. 1085; *see also* Dkt. No. 1114 p. 2]. The District Court also found that CSF continued to make threats by emails and phone calls, to the Court's staff. [Dkt. No. 1114, p. 3]. The District Court then determined that "no alternative to sealing the transcripts is practical" due to the need to protect Walker and the former CSF members. [Dkt. No. 1114, p. 5]. Additionally, the District Court noted that CSF failed to provide the Court with any less intrusive alternatives to un-restrict

records but instead requested “complete and unfettered access to ‘all documents associated with and introduced at the hearing, along with the immediate unsealing of the transcript associated with the proceeding’”. [Dkt. No. 1114, p.6].

CONCLUSION

CSF spends much of its Opening Brief providing a litany of case citations which it argues stand for the proposition that it is entitled to review the transcript of Walker’s evidentiary hearing and all documents associated therewith. (*See generally* CSF Opening Brief, pp. 17-27). Yet it provides very little analysis of the unique facts of this case and does not provide a countervailing argument sufficient to overcome Walker and testifying witnesses’ concerns about retaliatory harassment. Nor does CSF explain how the District Court should have balanced harms to witnesses and Walker against CSF’s overbroad demand for the forthwith receipt of “all documents associated with” Walker’s § 2255 hearing. It is worth noting again that CSF did not offer any suggested alternatives to its overbroad request for “all documents” related to Walker’s § 2255 hearing.

Walker recognizes the well-settled proposition that the constitution and common law presume a qualified right of public access to court records. However, in this case, the District Court properly concluded that the presumption of public access had been overcome by the compelling interest to protect Walker and witnesses who testified under subpoena from intimidation and harassment by CSF. Correspondingly, the District Court also properly denied CSF access to judicial records after determining that the court records would “become a vehicle for improper purposes”. *Nixon*, 435 U.S. at 598. In

short, CSF failed to establish that the District Court’s determinations were “...a clear error of judgment or exceeded the bounds of permissible choice in the circumstances.”

Mann, 477 F. 3d at 1149.

ORAL ARGUMENT STATEMENT

On August 6, 2018, this Court *sua sponte* consolidated Case No. 17-1415 with the instant appeal and ordered oral argument.

Respectfully submitted,
/s/ Patrice B. Collins

Patrice B. Collins
Gerald J. Rafferty
Collins & Collins, LLC
700 - 17th Street, Ste. 1820
Denver, CO 80202
Ph: 303.296.7700
patricec@lawcc.us
grafferty@lawcc.us

CERTIFICATE OF DIGITAL SUBMISSION

I hereby certify that with respect to the foregoing:

- (1) all required privacy redactions have been made;
- (2) if required to file additional hard copies, that the ECF submission is an exact copy of those documents;
- (3) The digital submissions have been scanned for viruses with the most recent version of a commercial virus scanning program, CC Cleaner, and according to the program are free of viruses.

I certify that the information on this form is true and correct to the best of my knowledge and belief formed after responsible inquiry.

/s/ Patrice B. Collins

CERTIFICATE OF SERVICE

I hereby certify that on August 30, 2018, I electronically filed the foregoing using the court's CM/ECF system which will send notification of such filing to the following:

Gwendolyn M. Lawson, Counsel for CSF	<input type="checkbox"/> U.S. Mail, Postage Prepaid
3472 Research Pkwy 104 442	<input checked="" type="checkbox"/> CM ECF Service
Colorado Springs, CO 80920	<input type="checkbox"/> Overnight Mail
	<input type="checkbox"/> Facsimile

James C. Murphy	<input type="checkbox"/> U.S. Mail, Postage Prepaid
Assistant United States Attorney	<input checked="" type="checkbox"/> CM ECF Service
1801 California St, Ste. 1600	<input type="checkbox"/> Overnight Mail
Denver, CO 80202	<input type="checkbox"/> Facsimile

/s/ Patrice B. Collins