

District Court, Larimer County, Colorado 201 LaPorte Avenue, Suite 100 Fort Collins, CO 80521 (970) 494-3500	DATE FILED January 21, 2026 7:39 AM CASE NUMBER: 2025CV31000
<b>Plaintiff:</b> Rachel Ryan  v.  <b>Defendant:</b> The Estes Valley Voice and Patti Brown	▲ FOR COURT USE ▲  <hr/> Case No.: 25CV31000 Courtroom: 5B
<p align="center"><b>ORDER REGARDING PLAINTIFF’S APPLICATION FOR ORDER PERMITTING          NONDISCLOSURE OF BILLING RECORDS AND DEFENDANT’S          COUNTERCLAIM APPLICATION FOR AN ORDER TO SHOW CAUSE</b></p>	

On October 29, 2025, Plaintiff Rachel Ryan, in her official capacity as the Records Custodian of Park Hospital District d/b/a/ Estes Park Health (“EPH”), filed an Application for Order Permitting Nondisclosure of Billing Records.

On October 30, 2025, Defendants The Estes Valley Voice, PBS (“EVV”), and Patti Brown, its editor, filed a Response and Counterclaim Application for an Order to Show Cause Pursuant to C.R.S. § 24-72-204(5).

On December 22, 2025, the Court heard oral arguments from both parties.

The Court has considered the Applications submitted by both parties, the hearing briefs, and oral arguments.

The parties dispute whether the Colorado Open Records Act (“CORA”) requires record custodians to redact exempted records so they can be produced.

### **Applicable Law**

CORA provides “that all public records shall be open for inspection by any person at reasonable times, except as ... provided by law.” C.R.S. § 24-72-201. The statute creates “a strong presumption in favor of disclosing records.” *Jefferson Cnty. Educ. Ass’n v. Jefferson Cnty. Sch. Dist. R-1*, 378 P.3d 835, 838 (Colo. App. 2016).

“The custodian of any public records shall allow any person the right of inspection of such records or any portion thereof except ... as provided in subsection (2) or (3) of this section.” C.R.S. § 24-72-204(1). One exception to this rule is that a custodian of public records must deny public inspection of “privileged information.” C.R.S. §24-72-204(3)(a)(IV).

“Public records” means and includes all writings made, maintained, or kept....” C.R.S. §24-72-202(6)(a)(I).

“‘Writings’ means and includes all books, papers, maps, photographs, cards, tapes, recordings, or other documentary materials, regardless of physical form or characteristics. ‘Writings’ includes digitally stored data, including without limitation electronic mail messages, but does not include computer software.” C.R.S. §24-72-202(7).

Colorado codified the attorney-client privilege in C.R.S. § 13-90-107(1)(b). A particular communication warrants protection under the attorney-client privilege when the “communication concerns or contains confidential matters communicated by or to the client in the course of obtaining counsel, advice, or direction.” *DCP Midstream, LP v. Anadarko Petroleum Corporation*, 303 P.3d 1187, 1199 (Colo. 2013).

## **Application of Law**

This case arises from EVV’s CORA request on October 1, 2025 for EPH’s attorney invoices from October 1, 2024 through September 25, 2025. Plaintiff’s Application, ¶ 11.

EPH denied this request on the grounds that the invoices contain information that is subject to attorney-client privilege; therefore, EPH is not obligated to disclose the records under C.R.S. § 24-72-204(3)(a)(IV).

It is undisputed that the attorney billing records maintained or kept by EPH are public records generally subject to disclosure. Further, it is undisputed that at least some of the requested records contain privileged information.

EVV argues that EPH has a duty under CORA to redact the privileged information from the billing records to produce the non-privileged portions.

However, the statute does not contain a duty to redact. The statute states the custodian of public records “shall allow any person the right of inspection of such records or any portion thereof *except* ... [t]he custodian shall deny the right of inspection of ... privileged information.” C.R.S. § 24-72-204(1), (3)(a)(IV) (emphasis added).

The legislature failed to set forth a procedure for cases where public records contain both privileged and unprivileged material.

Although EVV asked the Court to find an implied duty to redact, the Colorado Supreme Court has rejected the existence of an implied duty.

In reversing the Court of Appeals, the Supreme Court found that CORA does not create an implied duty to alter records that contain both exempt and non-exempt information. *Sargent Sch. Dist. No. RE-33J v. W. Servs., Inc.*, 751 P.2d 56, 60 (Colo. 1988). This Court is bound by that holding.

The legislature can amend the statute and impose a duty of redaction if it chooses to do so.

The Court notes that EPH has a duty to review each record separately for privileged material. EPH may not agglomerate several records and treat them as one. Given that the requested records are a “year’s worth of attorney invoices,” there are several different records within the group. Brief, pg. 1. Any records that do not contain privileged information contained within them must be disclosed.

Therefore, the Court finds that EPH is not required to produce attorney invoices containing privileged information that EVV identified in its October 1, 2025 CORA request.

Dated: January 21, 2026.

BY THE COURT:



Gregory M. Lammons  
District Court Judge