

<p><b>COLORADO COURT OF APPEALS</b>  2 East 14th Avenue  Denver, CO 80203</p>	<p>DATE FILED  May 22, 2026 5:56 PM  FILING ID: DEAF49CDE6862  CASE NUMBER: 2026CA174</p>
<p>Appeal from the District Court of Larimer County,  Hon. Gregory M. Lammons  Case No. 25CV31000</p>	
<p><b>Plaintiff/Crossclaim-Defendant/Appellee:</b>  RACHEL RYAN AS CUSTODIAN OF RECORDS  FOR PARK HOSPITAL DISTRICT D/B/A ESTES  PARK HEALTH,</p> <p>v.</p> <p><b>Defendants/Crossclaim-Plaintiffs/Appellants:</b>  THE ESTES VALLEY VOICE, PBC and PATTI  BROWN.</p>	<p>▲ COURT USE ONLY</p>
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<p><b>BRIEF OF <i>AMICUS CURIAE</i> COLORADO FREEDOM OF  INFORMATION COALITION IN SUPPORT OF APPELLANTS</b></p>	

## CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with all requirements of C.A.R. 28, C.A.R. 29, and C.A.R. 32, including all formatting requirements set forth in these rules. Specifically, the undersigned certifies that the brief contains 2,495 words. I acknowledge that my brief may be stricken if it fails to comply with any of the requirements of C.A.R. 29 and C.A.R. 32.

/s/ Katayoun A. Donnelly  
Katayoun A Donnelly

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## **STATEMENT OF INTEREST OF AMICUS CURIAE**

The Colorado Freedom of Information Coalition (CFOIC) is a nonpartisan alliance of groups, news organizations, and individuals dedicated to ensuring the transparency of state and local governments in Colorado. CFOIC advocates for freedom of the press, open courts, and open access to government records and meetings. CFOIC also works to help Coloradans understand and use various methods for obtaining records, including the Colorado Open Records Act (“CORA”).

CFOIC member organizations include groups like the American Civil Liberties Union of Colorado, Associated Press, BillTrack 50, Chalkbeat Colorado, Colorado Association of Libraries Intellectual Freedom Committee, Colorado Bar Association, Colorado Broadcasters Association, Colorado Common Cause, The Colorado News Collaborative, Colorado Newline, Colorado Press Association, Colorado Press Women, Colorado Public Radio, Colorado Springs Press Association, Delta County Citizen Report, 5280 Magazine, Independence Institute, League of Women Voters of Colorado, Professional Private Investigators Association of Colorado, Rocky Mountain PBS and Colorado Society of Professional Journalists. Members also include news organizations affiliated with the Colorado Press Association and broadcast stations affiliated with the Colorado Broadcasters Association.

The Colorado Open Records Act declares that it is “the public policy of this state that all public records shall be open for inspection by any person at reasonable times.” C.R.S. § 24-72-201; *see also Brubaker v. Colo. Sun & Tegna, Inc.*, 2026 CO 18, ¶ 48 (“[O]ur legislature has told us loud and clear that Colorado favors transparency, and we have therefore ‘narrowly construed’ any ‘exceptions to the broad, general policy of [CORA]’ demanding openness. Remember: Colorado is a sunlight state”) (internal citations omitted)). CFOIC and its members have a strong interest in ensuring that the government transparency enshrined in CORA is fully realized, and in preventing an erroneous construction of it from swallowing the rule.

## **ARGUMENT**

### **I. AFFIRMING THE DISTRICT COURT’S ORDER WOULD SUBSTANTIALLY HINDER GOVERNMENT TRANSPARENCY.**

This case presents a simple but monumental question for the future of government transparency in Colorado: if a portion of a public record contains confidential information, may the custodian of that record withhold the entire document rather than producing a redacted version upon request? The answer is unequivocally no.

#### **A. A rule permitting custodians to withhold entire documents based on a single piece of confidential information would gut CORA's promise of open government.**

The plain language of CORA requires disclosure of all public records, declaring that it is "the public policy of this state that all public records shall be open for inspection by any person at reasonable times, except . . . as otherwise specifically provided by law." C.R.S. §§ 24-72-200.1, 24-72-201. Exceptions to disclosure, governed by C.R.S. § 24-72-204, must therefore be narrowly construed. *Zubeck v. El Paso Cnty. Ret. Plan*, 961 P.2d 597, 600 (Colo. App. 1998). And it is the record custodian's burden to prove that an exception applies. *Shook v. Pitkin Cnty. Bd. of Cnty. Comm'rs*, 2015 COA 84, ¶ 6. Consistent with these statutory requirements, § 24-72-204 expressly limits a custodian to denying inspection of *only* the portions of a record containing exempt information while mandating that the custodian shall allow inspection of the remaining portions of the record.

CORA delineates several types of confidential information that “may” or “shall” not be provided to the public for inspection. *See* C.R.S. § 24-72-204(2)(a) (listing types of information that “may” be withheld, such as records of investigations for law enforcement purposes; examination data pertaining to licensing or employment; or details of bona fide research projects being conducted by a state institution); C.R.S. § 24-72-204(3)(a) (listing types of information that “shall” be withheld, such as records of medical, mental health, sociological, and scholastic achievement data of individual persons; personnel files (with exceptions);

social security numbers; and trade secrets). However, CORA also makes clear that the custodian “shall allow any person the right of inspection of such records **or any portion thereof**” except under the provisions limiting disclosure. C.R.S. § 24-72-204(1) (emphasis added).

Complying with these statutory instructions, record custodians in Colorado have for decades properly construed exceptions to disclosure narrowly and produced public records with confidential portions redacted. As demonstrated below, the system has not collapsed under the weight of this obligation. This has simply been one part of a record custodian’s defined duties under CORA to balance privacy interests with the public’s interest in government transparency. And importantly, the public has been able to review partially redacted records with crucially important information that it otherwise would never know.

The proof appears with regularity in the news. Investigative reporters *routinely* obtain partially redacted public records revealing government misconduct, waste, abuse of power, incompetence, and other action or inaction affecting the public—information that would have remained entirely hidden had custodians been permitted to withhold the entire document rather than produce a redacted version.

Because confidential information is often scattered throughout government records (i.e., a private email address or phone number), authorizing withholding of

entire records based on the inclusion of any confidential information would dramatically reduce the production of records in response to a CORA request. This would substantially weaken the watchdog function of the public and the press and would create perverse incentives to hide government misdeeds or controversial actions behind a single personal phone number or line of attorney advice.

If this Court upholds the lower court’s interpretation that custodians may withhold entire documents based on a single snippet of confidential information, the public will be routinely kept in the dark about government conduct of legitimate public concern. Under this new rule, government actors would be incentivized to include one piece of confidential information in every record they prefer to keep hidden from public view. The temptation to do so would be considerable, the mechanism simple, and the result—total suppression of the record—guaranteed. As demonstrated below, the lower court’s ruling would have prevented major stories of significant matters of public concern from ever coming to light, effectively blocking the sunlight CORA was enacted to let in.

**B. Numerous major news stories would never have come to light if records custodians had withheld entire records pursuant to the District Court’s rule.**

If the governing rule was that custodians have no “duty to redact” under CORA, the public would have been deprived of numerous major news stories that only came to light via partially redacted records requests. A review of a few

examples of these stories, and recognition of their importance to public awareness and government accountability, reveals both the value of the redact-and-release obligation to government transparency and the consequences of abandoning it. Under the District Court's rule, each of these stories would almost certainly have been hidden behind the cloak of confidentiality.

On March 9, 2026, the local education news organization Chalkbeat Colorado reported that Riverstone Academy, a controversial "public Christian school" in Pueblo County, had settled a special education complaint filed by parents of a student for \$20,000. Although much of the settlement agreement and details of the family's complaint were redacted in documents requested under CORA by reporter Ann Schimke, she was still able to report on the dollar amount of the settlement, how the settlement would be used, and the requirement that specialized training be given to school staff as part of the settlement. This information is of major public concern to the taxpayers in Pueblo County, who have a right to know how much money was paid to the parents of the student, as well as the other conditions agreed to in consideration for settlement of the case. Under the District Court's rule, it could have been withheld from public scrutiny in its entirety. Ann Schimke, "Authorizer of Colorado's 'first public Christian school' settles with family for \$20,000," Chalkbeat Colorado, March 9, 2026

(<https://www.chalkbeat.org/colorado/2026/03/09/riverstone-academy-public->

[christian-school-authorizer-pays-settlement/](#)) (last visited May 22, 2026).

On March 26, 2026, Denver7 Investigates learned that 14 employment contracts, totaling hundreds of thousands of dollars, were signed improperly in the Cherry Creek School District. The revelation came after one parent and district alum filed an open records request to see an interim superintendent's contract. The investigative producer, Joe Vaccarelli, was able to obtain the contract, which redacted the administrator's ID number and a copy of a teacher's contract, with all personal information redacted. *See* Joe Vaccarelli, "Denver7 Investigates finds 14 employment contracts improperly signed in Cherry Creek School District," Denver7 Investigates, March 26, 2026

(<https://www.denver7.com/news/investigations/denver7-investigates-finds-14-employment-contracts-improperly-signed-in-cherry-creek-school-district>) (last visited May 22, 2026).

On December 16, 2025, CPR News obtained a root cause analysis and a heavily redacted investigative report commissioned by Colorado Department of Public Health and Environment that illustrated for the first time the conditions at the state lab. The reports showed that the lab was beset by equipment malfunctions on aging instruments, a lack of stable management, and pressure to shorten test turnaround times—all while the lab struggled with severely limited resources. *See* Ben Markus, "'A culture of fear,' outdated equipment and data manipulation. How

the Colorado public health lab unraveled," Colorado Public Radio, December 16, 2025 (<https://www.cpr.org/2025/12/16/colorado-public-health-lab-unravels/>) (including an image of redactions) (last visited May 22, 2026).

In September of 2021, Denver Public Schools released a partially redacted 96-page investigation report into serious sexual misconduct allegations against Denver school board member Auon'tai Anderson (known publicly as Tay Anderson). The report was redacted in part based on an assertion of Mr. Anderson's privacy interests, but the unredacted portions provided substantial information about the evidence against Mr. Anderson and the basis for the report's ultimate finding that while the most serious claims of sexual assault were unsubstantiated, allegations of unwelcome sexual comments and advances were substantiated. Release of the report led to a formal censure against Mr. Anderson by the school board, resulting in transparency and accountability for an elected official's misdeeds. Had the District Court's rule been in effect at the time, Denver Public Schools could have hidden behind an argument that they have no "duty to redact" and could have withheld the entire document based on confidential portions. *See* Melanie Asmar, "Report: Most serious sexual allegations against Tay Anderson unsubstantiated," *Chalkbeat Colorado*, September 15, 2021 (<https://www.chalkbeat.org/colorado/2021/9/15/22674564/tay-anderson-colorado-investigation-results-released/>) (relying on the redacted Denver Public Schools released report) (last visited May 22, 2026).

In July 2025, 9News reporter Steve Staeger of “Steve On Your Side” discovered that QR code stickers plastered on parking meters in the Golden Triangle area were fraudulently directing drivers to pay for parking on a fake website. But Mr. Staeger also discovered via a CORA request that Denver had already been alerted to the problem via its 311 portal and had failed to quickly respond to the issue. Because of 9News’s reporting, the city agreed to prioritize complaints about suspicious QR codes and to train staff to look for them when out doing normal city business. Mr. Staeger obtained public records supporting his story with redacted phone numbers, addresses, and email addresses, with citation to C.R.S. § 24-72-702(2)(a)(VII) as the basis for redaction. Under the District Court’s rule, the city could have denied his CORA request altogether, depriving the public of information about the city’s slow response to this issue and preventing the city’s ultimate prioritization of the issue. *See* Steve Staeger and Anna Hewson, "More fake QR codes on Denver meters after Steve on Your Side story," *9News*, July 24, 2025 (<https://www.9news.com/article/money/consumer/steve-on-your-side/shady-qr-codes-denver-parking-meters/73-49b444b5-4ba1-4677-b755-c77bb0879831>) (last visited May 22, 2026).

In February and March of 2024, the Office of the Colorado State Public Defender suffered a ransomware attack that crippled the statewide agency and exposed large amounts of personal data to theft. The Denver Post obtained heavily

redacted emails and text messages from the Governor’s Office of Information Technology in response to a CORA request, which revealed that the law firm of Mullen Coughlin had been retained to assist with the crisis. The redactions to the documents were based on the attorney-client privilege, deliberative process, security arrangements, and law enforcement investigations – all of which would allow the office to withhold the documents entirely under the District Court’s rule. But because the documents were produced with partial redactions, the public was informed of the use of taxpayer money to retain a private law firm—invariably at considerable expense—to assist with the response, a fact that the public is entitled to know. *See Shelly Bradbury, "Colorado public defender ransomware attack may have exposed Social Security numbers, personal data," The Denver Post, March 20, 2024* (<https://www.denverpost.com/2024/03/20/colorado-public-defender-ransomware-personal-data-exposed/>) (last visited May 22, 2026).

In September 2024, 9News obtained emails via a CORA request between Colorado’s First Gentleman Marlon Reis and a group that included the governor’s wildlife adviser. Mr. Reis indicated to the group that he wanted to meet to “craft legislation” related to wolves. The adviser committed to Reis that the group would not meet without him. Grand County Commissioner Merrit Linke was frustrated to learn that the First Gentleman was involved in these conversations, stating that he thought it was inappropriate for the First Gentleman to be involved in strategizing

new laws on the issue. The emails were partially redacted based on a claim of a work product privilege. Under the District Court's rule, the emails could have been completely withheld, and the public would never know of the First Gentleman's involvement in crafting legislation relating to wolves in Colorado. *See* Aaron Adelson, "Emails show Colorado first gentleman pursuing wolf-related laws," *9News*, September 20, 2024 (<https://www.9news.com/article/news/local/colorado-wolves/colorado-first-gentleman-wolf-laws-emails/73-d72121fb-ad4b-4d1e-a01c-a7ef1938653d>) (last visited May 22, 2026).

On May 2, 2019, 9Wants to Know through a CORA request obtained part of a report provided to the Denver School Board, which showed that from 2017 to 2019, 58 students had been handcuffed by Denver Public School safety employees. *See* Zack Newman, Sonia Gutierrez, Anna Hewson, "'There's never a reason for a 7-year-old to be placed in handcuffs': Father calls for change after incident at Denver school," *9News*, May 2, 2019 (<https://www.9news.com/article/news/education/they-were-grabbing-and-pulling-him-parent-of-handcuffed-7-year-old-speaks-out/73-47e1f7e6-c357-43e4-bb0c-347aeb593abf>) (last visited May 22, 2026). In a follow-up article published on August 8, 2019, relying on redacted Denver Public Schools data, 9NEWS reported that "the number of students handcuffed by Denver Public Schools Department of Safety staff was close to triple what was initially reported by the district." *See* Sonia Gutierrez, Zack Newman, "More handcuffed cases than initially

reported by Denver Public Schools," *9News*, August 8, 2019

(<https://www.9news.com/article/news/investigations/more-handcuffed-cases-than-initially-reported-by-denver-public-schools/73-30e82608-7936-498d-8a9c-9da8235f7d62>) (last visited May 22, 2026).

The stakes are equally high for ordinary Coloradans. While the news media routinely publish stories based on CORA requests that have been produced with partial redactions, it bears emphasizing that other Coloradans who are not professional journalists daily request records under CORA and have just as much to lose if the District Court's rule is upheld. In March 2011, Ephraim and Donna Starr enrolled their child with multiple disabilities at a school in the Poudre School District. They had asked the school district to implement elements of their child's existing Individualized Education Plan ("IEP") from his previous school in California. When they noticed their child regressing and struggling in school, they first emailed a request and then submitted a formal CORA request for their child's education records. While the district withheld some documents, the Starrs were able to obtain partially redacted documents that revealed district officials had told each other to destroy emails and other public records sought by the Starr family. Madeline Novey, "PSD says email policy follows state law," *Coloradoan*, March 27, 2014 (<https://www.coloradoan.com/story/news/local/2014/03/27/psd-says-email-policy-follows-state-law/6986803/>) (last visited May 22, 2026). The Starrs had a powerful

interest in obtaining this information from the district, and CORA gave them that right. Under the District Court’s rule, they might never have learned that the school district was deliberately destroying its communications about the family.

These examples span school districts, state agencies, municipal government, and elected officials—illustrating that the redact-and-release obligation operates across every level of Colorado government and serves the public interest at each. In each of these examples, which constitute only a small sampling, it is evident that under the status quo there is a “duty to redact” expressly within CORA (and expressly understood by the courts in the caselaw cited by Appellants), and records custodians do not appear to be suffering unduly as a result of that duty. It is also evident that without a rule requiring redaction of exempt information from a single public record, the public would be deprived of vast amounts of information to which it is entitled, to the great detriment of society.

## **CONCLUSION**

In the interest of preserving government transparency and the public's right to know, this Court should firmly reject the district court's holding. A rule permitting custodians to withhold entire documents based on a single piece of confidential information would gut CORA's promise of open government, create perverse incentives for concealment, and deprive the public of information it is entitled to receive. This Court should reverse the district court and hold that CORA requires

custodians to redact confidential information and produce the remainder of any requested record.

Respectfully submitted this 22<sup>nd</sup> day of May 2026.

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**CERTIFICATE OF SERVICE**

I hereby certify that on May 22, 2026, a true and correct copy of the foregoing **BRIEF OF *AMICUS CURIAE* COLORADO FREEDOM OF INFORMATION COALITION IN SUPPORT OF APPELLANTS** was electronically filed and served via Colorado Courts E-Filing on the following counsel of record:

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