

<p><b>COLORADO COURT OF APPEALS</b>  2 E. 14th Ave., Third Floor  Denver, CO 80203  303-837-3785</p> <hr/> <p>DENVER DISTRICT COURT and ST. JOHN'S  CHURCH IN THE WILDERNESS, et.al.</p> <p style="padding-left: 40px;">Plaintiffs-Appelles.</p> <p style="padding-left: 40px;">Vs.</p> <p>KENNETH TYLER SCOTT and CLIFTON POWELL,  Pro Se,</p> <p style="padding-left: 40px;">Defendants-Appellants.</p> <hr/>	<p><b>_ COURT USE ONLY _</b></p> <hr/> <p>Case No.:</p>
<p>Appeal from the District Court, City and County of Denver, State of Colorado  Trial Court Case No.: 05CV2290 - Judge John N. McMullen, presiding  Party Initiating Appeal: Kenneth Tyler Scott (Defendant)</p>	
<p><b>SUPPLEMENTARY NOTICE OF APPEAL</b></p>	

Note: Appellants inadvertently failed to attach a copy of the orders being appealed, pursuant to C.A.R. 3(d). A copy of those orders is attached, hereto.

**I. DESCRIPTION OF NATURE OF CASE AND DISPOSITION IN TRIAL COURT:**

This case is about defendants activities of preaching upon a public sidewalk and other legal areas during a reasonable “time, place and manner” and, whether such activities constituted a private nuisance or a civil conspiracy to commit the same.

Irrespective of defendants’ acumen (or lack thereof) of defending themselves *pro se* during the trial court proceedings, if the Appeals Court affirms this decision, this case would be one of first impression in Colorado, which would circumscribe street preaching by a nuisance ordinance, when many criminal trials from past at this same location have been won or dismissed by the Denver City and County Courts.

**Judgments or Orders being Appealed:** (1) The trial court's October 10<sup>th</sup> 2006 final order, entered October 24<sup>th</sup> 2006 as judgment in favor of Plaintiff's suit for a permanent injunction and finding that defendants committed private nuisance and conspiracy to commit the same; and (2) the trial court's November 30<sup>th</sup> order, awarding \$5,583.47 to plaintiffs as costs pursuant to Section 13-16-122 (C.R.S. 2005).

**Whether the Judgment or Order Resolved All Issues Before the trial Court:** Yes

**Whether Judgment was Final in Accordance with C.R.C.P. 58(a) and 54(B):** Yes

**Date Judgment was Entered:** October 10, 2006.

**Whether any Motions for Post Trial Relief were Filed and, if so, the Relief Sought:** No Rule 59 or Rule 60 Motions have been filed to date.

**Date Motions for Post Trial Relief Were Filed:** N/A

**Date of Post Trial Motions Ruling:** N/A.

**Whether Extension of Time was Granted to File Notice of Appeal:** Neither party has moved the trial court for leave to file an untimely Notice of Appeal.

## **II. ISSUES PROPOSED TO BE RAISED ON APPEAL**

Issues on appeal should include, but are not limited to:

- 1.** Whether defendant-appellants were denied procedural due process under the Fifth and Fourteenth Amendments of the United States Constitution, because the trial court denied defendants the opportunity to develop the record and to question priests, who were plaintiffs' listed witnesses from the plaintiff-church and for whom plaintiffs' attorneys had previously accepted service.
- 2.** Whether the trial court abused its discretion in relative to the admission and suppression of evidence over defendants' timely objections; whether the trial court's finding that the Denver Police officer-witnesses were not creditable witnesses during trial is fairly supported by the record; and whether the trial court's findings of fact are supported by corroborating evidence in the record.
- 4.** Whether the trial court accorded insufficient deference to binding precedent regarding defendants' First Amendment Rights under the United States Constitution and Second Amendment Rights under the Colorado Constitution by suppressing defendants' rightful

exercise of religious speech and expression and whether the trial court's conclusions of law contravened the same.

5. Whether the trial court abused its discretion in awarding \$5,583.47 in costs for taking depositions prior to trial for ordinary purposes and for copies, faxes and other "miscellaneous" expenses that do not facially appear to have been necessary for litigation.

III. **TRANSCRIPT INFORMATION**

**WHETHER A TRANSCRIPT OF EVIDENCE IS NECESSARY:** Yes; a transcript record of the hearing and trial transcriptions will be necessary.

**NAME OF THE COURT REPORTER:** \_\_\_\_\_

IV. **PREARGUMENT CONFERENCE:** Not requested; Oral argument, however is requested.

V. **ATTORNEY INFORMATION**

**Attorney for Appellants:** None as of the time of this Notice

**Attorney for Appellees:**

Donald L. Samuels, Esq.  
David R. Ball, Esq.  
Gillian M. Bidgood, Esq.  
Jason R. Prussman, Esq.  
Holme Roberts & Owen LLP  
1700 Lincoln Street, Suite 4100  
Denver, CO 80203-4541

Please prepare and certify with all convenient speed.

Appeal Bond deposited in the amount of \$ \_\_\_\_\_

Fine amount \$ none

Costs \$ \_\_\_\_\_

Amount deposited for transcript \$ See Forma Pauperis Applications of Clifton Powell

Dated: December \_\_\_\_, 2006.

Respectfully Submitted and God Bless!!!

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KENNETH TYLER SCOTT



and

Respectfully Submitted and God Bless!!!

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CLIFTON POWELL



Continuation of Notice of Appeal: From Clifton Powell in Case from,  
CITY OF DENVER, COUNTY OF DENVER, STATE OF COLORADO  
Denver District Court and St. John's Church in the Wilderness, et.al.  
Colorado Court of Appeals No.  
District Court Case No. 05-CV-2290

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**DESIGNATION OF RECORD and in the FORMA IN PAUPERIS**

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DENVER DISTRICT COURT and ST. JOHN'S CHURCH IN THE WILDERNESS,  
et.al.

Plaintiffs-Appelles.

vs.

KENNETH TYLER SCOTT and CLIFTON POWELL,  
Defendants-Appellants.

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To: The Colorado Court of Appeals,  
State of Colorado.

Defendant-Appellant Clifton Powell Requests and designates the following of Appeal.

(X) All original Process and Pleadings on file in the trial court.

(X) All Exhibits.

(X) Judgments and Orders of the Court.

(X) All Records of Trial Tapes.

(X) All pre-trial Motion Hearings.

Please prepare and certify with all convenient speed.

Date filed with Court: November \_\_\_\_, 2006.

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CLIFTON POWELL



Continuation of Notice of Appeal: From Kenneth Tyler Scott in Case from,  
CITY OF DENVER, COUNTY OF DENVER, STATE OF COLORADO  
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DENVER DISTRICT COURT and ST. JOHN'S CHURCH IN THE WILDERNESS,  
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KENNETH TYLER SCOTT and CLIFTON POWELL,  
Defendants-Appellants.

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To: The Colorado Court of Appeals,  
State of Colorado.

Defendant-Appellant Kenneth Tyler Scott Requests and designates the following of  
Appeal.

- (X) Defendant's have already Ordered Judges final ruling, to be included.
- (X) Testimony of Denver Corporal Bryan Stringham.
- (X) Testimony of Denver Detective Scott Olin
- (X) Testimony Priest and Dean Peter Eaton of St. John's Episcopal Church.
- (X) All Motions, pleadings and Orders from the pre-trial, trial and post-trial proceedings  
below.

Certificate of Delivery

- a. Copy Hand Delivered to COLORADO COURT OF APPEALS  
2 E. 14th Ave., Third Floor, Denver, CO 80203
  
- b. Copy Hand Delivered to Clerk of the DISTRICT COURT  
CITY AND COUNTY OF DENVER, STATE OF COLORADO, Denver City & County  
Building 1437 Bannock Street, Denver, CO 80202
  
- c. Copy sent by U.S. Post Services on December \_\_\_\_\_. 2006 to:  
Donald L. Samuels, Esq.  
David R. Ball, Esq.  
Gillian M. Bidgood, Esq.  
Jason R. Prussman, Esq.  
Holme Roberts & Owen LLP  
1700 Lincoln Street, Suite 4100  
Denver, CO 80203-4541