

COLORADO COURT OF APPEALS

2 E. 14th Ave., Third Floor
Denver, CO 80203
303-837-3785

St. John's Church in the Wilderness, a Colorado
nonprofit corporation, Charles I. Thompas, and
Charles W. Berberich

Plaintiffs-Appellees

v.

Ken Scott and Cliff Powell,

Defendants-Appellants

Δ COURT USE ONLY Δ

Case No.: 06CA2421

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

APPELLANT SCOTT'S MOTION TO BIFURCATE APPELLANTS ON APPEAL

1. Appellants Scott and Powell each filed a joint Notice of Appeal in this case on December 12, 2006 and, shortly thereafter, a supplementary notice of appeal.
2. Appellant Scott paid a docket fee and did not move to proceed *in forma pauperis*, whereas Appellant Powell moved the trial court for leave to proceed *in forma pauperis*, which motion was granted.
3. Upon information and belief, the trial court now appears to have revoked the order that it had granted to appellant Powell to proceed *in forma pauperis*, at least with respect to the preparation and provision of the necessary transcripts. This unforeseen change of circumstances has created hardship for appellants, to wit: Appellant Scott has paid for and is now awaiting those limited transcripts necessary to prepare his particular arguments on appeal. Appellant Powell, however, has no such arrangements yet in place to acquire the balance of the transcripts as necessary for the particular issues that he intends to brief the Court.

4. Appellant Scott subsists on a very modest income. Scott is, not only without sufficient resources to pay the **thousands** of dollars estimated for the transcripts necessary to support Powell's particular arguments, but also intends to argue certain issues that are separate from Powell's.

5. Appellant Scott now moves the Court, pursuant to C.A.R. 3(c), to bifurcate the parties and issues, with Scott proceeding with his docket fee already paid and the necessary transcripts on order and Powell proceeding separately, relative to his ongoing efforts to proceed *in forma pauperis*. In support hereof, Scott has attached hereto an Amended Notice of Appeal and Designation of Record, incorporated by reference herein as Exhibit 1.

6. Additionally, Appellant Scott moves the Court for a modest enlargement of up to and including March 23, 2007, as necessary for CTS West to complete the necessary transcripts required by Appellant Scott. In support thereof, the Affidavit of Transcriber is attached hereto and incorporated by reference herein as Exhibit 2.

WHEREFORE, Appellant Scott prays for an Order bifurcating the appeals and parties into two separate appeals and for an alias briefing schedule.

Respectfully submitted this ___th day of February, 2007.

KENNETH TYLER SCOTT

