

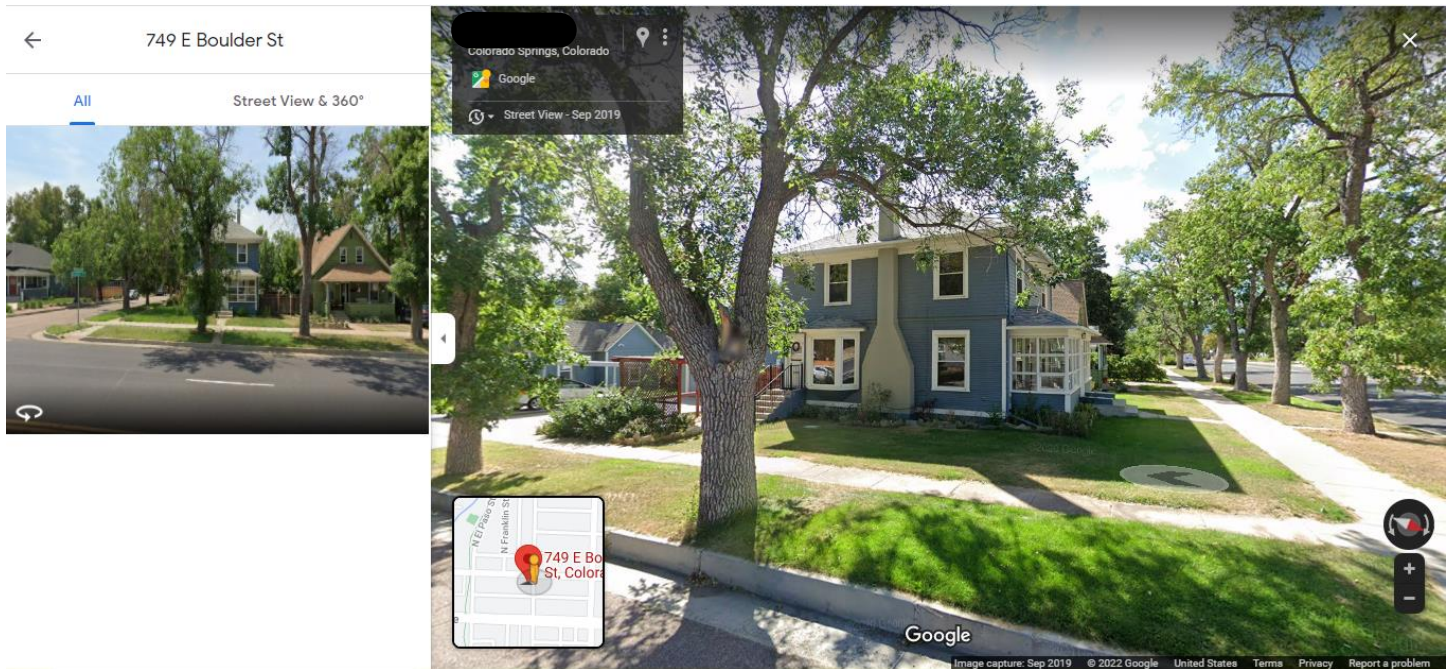
House Public & Behavioral Health & Human Services
 03/22/2022 01:30 PM
 HB22-1271 Rights Of Persons Protected By Legal Guardian
 Typed Text of Testimony Submitted

Name, Position, Representing	Typed Text of Testimony
Judi-Beth Atwood Amend Self	<p>Under 15-14-102.7</p> <p>Personal Rights of a Protective Persons. (2) Declaration - uniform law of comments:</p> <p>Add Under Federal law, “domestic terrorism” is defined as “activities that involve acts dangerous to human life that are a violation of the criminal laws of the United States or of any State; appear to be intended to intimidate or coerce a civilian population, to influence the policy of a government by intimidation or coercion, or to affect the conduct of a government by mass destruction, assassination, or kidnapping; and occur primarily within the territorial jurisdiction of the United States.”</p> <p>No court appointed guardian shall engage in domestic terrorism and if the families suspect that the guardians are acting in bad faith the State of Colorado will provide a task force to investigate under House Bill 22-12-71 and if a family suspects that a guardian of the court is engage in domestic terrorism law enforcement will respond appropriately.</p> <p>21-1271 Task Force, in association with the General Assembly Health and Human Services, shall meet monthly until the 21-1271 new procedures are established.</p> <p>https://www.whitehouse.gov/briefing-room/statements-releases/2021/06/15/fact-sheet-national-strategy-for-counterering-domestic-terrorism/#:~:text=Under%20Federal%20law%2C%20%E2%80%9Cdomestic%20terrorism,a%20government%20by%20intimidation%20or</p>
Clifford Battista For Self	<p>Good afternoon and thank you for having testimony on this important bill before us.</p> <p>Having been through court on guardianship proceedings I am uniquely qualified to pass opinion on how the system works and what its problems are.</p> <p>Guardianship under its current form is not working as originally intended and needs immediate reform or abolished altogether. To be stripped of yours rights completely is just wrong and leaves that person with little to no recourse when guardianship is forced upon them wrongfully.</p> <p>It is unconscionable that people and involved with putting someone under guardianship can outright lie and make false statements to the court with impunity. The judge simply accepts the outrageous lies being</p>

	<p>told them by appointed people working within the system as if they would never not tell the truth.</p> <p>In far to many cases the people within the system profit off the guardians assets and that persons life's worth becomes a feeding frenzy to everyone who has a hand in securing that guardianship.</p> <p>Under current guardianship rules people can be taken from their homes without warning and no notification to family. The court will issue restraining orders against family and friends from the unwanted court appointed guardian so the ward can't tell anyone of the crime and abuse's that are taking place.</p> <p>There is little to no help a family member or friend can turn to for assistance in getting relief for a victim of guardianship abuse. The police will not help you because they take their orders from the court. Any level of law enforcement will not help because it is court appointed and they never prosecute their own. Hiring a attorney to fight a judge is suicide for a attorney wishing to ever get a fair trial with that judge ever again.</p> <p>The only option left is to change things for the better is to pass bills like this one before us. I strongly urge you to pass this bill and take that step in fixing a very broken system.</p> <p>Thank you for taking the time in reviewing my statement.</p>
--	---

COLORADO STATE VETERAN—VETERAN BUSINESS OWNER ABUSE—FRAUD CASE FOR EXPOSURE & CORRECTIONS

Mr. David A. Richeson [Major, USAF-Former] / R Concepts Incorporated—Veteran Owned, Colorado S Corporation
** Since Calendar Year 2005 **



749 East Boulder Street—Colorado Springs, Colorado—United States – DIRECTLY LOST DUE TO GROSS VETERAN CRIMINAL TORTS AND ABUSE—FRAUD

- Personal residence and veteran business property wrongfully lost in November of 2014 due to unresolved |unprosecuted criminal legal torts/actions as detailed in the Record On Appeal before the United States 10th Circuit Court of Appeals, case # 20-1429.
- Complete details of criminal/civil torts—fraud contained in the 11 March 2020 VA Federal Torts Claim Act [FTCA] claim submission, Exhibit 10 and Exhibit 13.
- Email Mr. David A. Richeson [Major, USAF-Former] at daricheson@gmail.com to get a copy of the Opening Legal Brief to the United States Court of Appeals For The 10th Circuit providing the complete rationale why this multi-year torts—fraud case should be fully corrected for the safety of the entire U.S. military veteran community and veteran business owner community.
 - United States Veteran Administration does nothing in response to VA IG complaint 2021-23470 listing years of egregious acts/actions from VA employees directly contributing to torts—fraud.
 - State of Colorado ignores criminal and civil torts--fraud towards Mr./Major Richeson as alerted to from calendar year 2013 to present via Legal Demand Letters, formal complaints-court action.
 - El Paso County Colorado allows only home and business address to be sold at public auction in November 2014 after fraudulent “protected person” decree is rendered on Mr./Major Richeson.
 - El Paso County Colorado court actions allow the criminal fraud to continue with a wrongful eviction to transpire in September 2018, continuing the torts and needless suffering of a highly decorated former USAF Major and small business owner of years. Victim of literal Colorado State sponsored criminal fraud and torts continues to reside in the Denver Rescue Mission Homeless Shelter daily as a direct result of criminal torts—fraud. Zero leadership or accountability shown to legally correct and financially redress the gross multi-year torts situation.

SEE REVERSE SIDE FOR MORE INFORMATION—WAYS TO ASSIST MR./MAJOR RICHESON & OTHER VETERANS FROM EXPERIENCING THIS SORT OF DANGEROUS AND DISTURBING ISSUES—ACTIONS

COLORADO STATE VETERAN—VETERAN BUSINESS OWNER ABUSE—FRAUD CASE FOR EXPOSURE & CORRECTIONS

Mr. David A. Richeson [Major, USAF-Former] / R Concepts Incorporated—Veteran Owned, Colorado S Corporation
**** Since Calendar Year 2005 ****

This is a story that needs to be told and fully corrected for multiple reasons. The ability to use a veterans military service to the nation in a fraudulent manner as a fundamental base to render them “incapacitated, incompetent and or an Adjunct of Mental Defect” in Colorado State is both dangerous and disgusting. Colorado State did change court procedures in 2019 to ensure any adult [18+] who is being considered to be rendered in one of these categories is in the actual court proceeding itself, therefore providing appropriate Due Process to the individual. As my individual case highlights, a combination of poor policy at a Colorado State and Federal level can, and with great regret, has allowed for a great deal of needless suffering and loss. I ask for your personal support in the following ways:

AT THE FEDERAL LEVEL:

1. **Write the Senate or House Veteran Affairs Committee and insist the current VA federal codified regulation [CFR] 38.353, subsection E be changed to ensure the veteran has been informed of ANY ruling of “incapacitated, incompetent and or ruling of Adjunct of Mental Defect” from ANY source, State or Federal level.**
 - **Reference Opening Legal Brief For The U.S. 10th Circuit Court of Appeals Case # 20-1429**
2. **Write the Senate or House Veteran Affairs Committee and insist the VA be fully accountable for ALL corrective legal actions as they relate to the VA Inspector General [IG] complaint #2021-23470.**
 - a. **Contact Both U.S. Senators For Colorado State and have their office demand the VA be accountable.**
3. Write to the Senate or House Small Business Committee and insist that stronger veteran business owner fraud protection laws be established and require the VA Inspector General’s office to assist in investigating reports of criminal fraud to any veteran’s business concern regardless of the business entity being registered with the Veteran Administration’s Center for Veteran Enterprise [CVE] office.

AT THE COLORADO STATE LEVEL:

1. Write Governor Polis and demand Colorado State legally redress the torts—fraud having transpired in El Paso County/Colorado State courtrooms as detailed in 24 November 2021 Legal Demand Letter to the Colorado State AG Office. * Can also obtain a copy of the actual Legal Demand Letter by emailing Mr./Major David A. Richeson
2. Write your Colorado State General Assembly legislative member and demand that Colorado State provide more accountability and basic legal protections for any adult citizen, veteran or non-veteran who has been declared to be an adult “protected person” in ANY county across Colorado State itself.

AT THE PERSONAL LEVEL FOR MR./MAJOR DAVID A. RICHESON:

1. Please request more information about this basic and disgusting multi-year veteran—veteran business owner torts—fraud and general abuse situation to ensure both individual corrections and assist with demanding policy perfections at a Colorado State and Federal level.
2. Utilize Mr./Major Richeson’s business R Concepts Incorporated and the unique R Concepts Incorporated UCS Audit that would have made him and his company substantial money absent the criminal—civil torts and fraud.
3. Refer the story to any individuals you might know in the general Press or media in the local, regional, or national geographic area, especially people who feature veteran—veteran business owner abuse situations.
4. Refer the story to competent legal counsel you might know personally that have previous experience with Colorado State and or Federal level torts and associated personal injury legal cases.
5. Make a cash contribution to assist with basic living needs, torts—fraud exposure and legal expenses to fight the previous and continuing personal torts—fraud to include the on-going and ignored criminal neglect observed by multiple public officials and entities without corrections or explanations for the multiple documented torts.

CONTACT MR./MAJOR DAVID A. RICHESON FOR MORE INFORMATION AT 720-761-0010
SEE REVERSE SIDE FOR MORE INFORMATION—WAYS TO ASSIST MR./MAJOR RICHESON & OTHER VETERANS FROM EXPERIENCING THIS SORT OF DANGEROUS AND DISTURBING ISSUES—ACTIONS

Public Comments in SUPPORT of Colorado HB22-1271 by CEAR

HB22-1271-Rights of Persons Protected By Legal Guardian

House Public and Behavioral Health and Human Services Committee hearing – Room 0112 Denver, CO
March 22, 2022, 1:30 pm MT

Thank you to the Committee and Rep. Kim Ransom for her commitment to vulnerable adult Coloradans and her courage to sponsor this bill. My name is Rick Black, I am the Executive Director of CEAR, a 501(c)(3). We advocate for victims of estate trafficking and fraudulent adult guardianships nationwide. We have counseled dozens of Coloradans and over 4,000 cases since we started our work in 2014. We support HB22-1271.

This bill won't solve all the problems. Too many judges legislate from the bench and ignore your statutes. Adult Guardianship has become a profit center nationwide and too often is fully controlled by predatory members of the Bar. Every attorney or guardian benefits by creating as many guardianships as they can. This legislature legislated years ago that everyone paid by the estate of the ward has an obligation to protect the ward's expressed, written, and best interests yet too often that doesn't happen. The coveted order for guardianship is often the only goal as it allows a feathorn to commence.

CEAR coined a phrase to define the modus operandi of predatory guardians and their attorneys, "isolate the ward, defame legitimate protectors, and liquidate the estate". This bill if adopted would require guardians inform the court, and the ward's loved ones, where their ward resides. Most Colorado guardianship victims are isolated and disappear and are next seen as ashes in an urn. If this bill had been in place in 2018 maybe Colorado Springs resident Sun Baldwin would have been saved before her estate documents were denied, she was removed from her home, stored somewhere in Colorado, relocated to North Carolina, relocated back to Colorado, and died in 2020. She was completely isolated from all contact with her loved ones and spent the entire time she was alive and begging for help under guardianship. There are many Coloradans who suffer a similar fate each year.

Anyone who ever sat in a guardianship hearing where aggressive and dishonest litigators exploit a vulnerable person, their estate, and their loved ones knows why EVERY effort must be made to ensure transparency and accountability on what occurs in Colorado adult guardianships. Too often wards have no rights under guardianship and no protections from the predators who leverage the dysfunction of Colorado's guardianship system to unjustly enrich themselves.

CEAR estimates more than 20,000 Coloradans are wards and over \$4 billion in trust and estate assets have been intercepted by an order for guardianship. The system consumes nearly \$1 billion in new assets and 3,000 new wards each year. These are all estimates because the state doesn't track or report these numbers. Adult guardianship is big business for Colorado Bar members, and it requires more oversight. Isolation is every ward's greatest risk, and the Colorado legislature can start the journey to reduce that risk by passing HB1271.

Rick Black
Exec. Dir.-CEAR
(804) 564-5330
rick@cearjustice.org

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

DAVID ALLEN RICHESON,

Plaintiff/Petitioner - Appellant,

v.

UNITED STATES OF AMERICA,

Defendant/Respondent -
Appellee.

Case No. 20-1429

(D.C. No. 1:20-CV-O2086-LTB-GPG)
(D.Colo.)

Appellant/Petitioner's Opening
Brief

NOTICE AND INSTRUCTIONS

If you proceed on appeal pro se, the court will accept a properly completed Form A-12 in lieu of a formal brief. This form is intended to guide you in presenting your appellate issues and arguments to the court. If you need more space, additional pages may be attached. A short statement of each issue presented for review should precede your argument. Citations to legal authority may also be included. This brief should fully set forth all of the arguments that you wish the court to consider in connection with this case.

New issues raised for the first time on appeal generally will not be considered. An appeal is not a retrial but rather a review of the proceedings in the district court. A copy of the completed form must be served on all opposing counsel and on all unrepresented parties and a proper certificate of service furnished to this court. A form certificate is attached.

APPELLANT/PETITIONER’S OPENING BRIEF

1. Statement of the Case. (This should be a brief summary of the proceedings in the district court.)

Plaintiff-Appellant presented to the court a Federal Tort Claim Act [FTCA] lawsuit as initially submitted to the U.S. Department of Veteran Affairs [VA] for agency review and potential tort[s] settlement during the “administrative phase” of the legal action. To plaintiff-appellant’s knowledge, the FTCA legal action/notice was not forwarded to another federal agency—entity as directed to be done by U.S. Attorney General guidelines when the initial receiving agency determines during the course of diligent review the origin or continuation of tort[s] resides with another federal agency—entity. The VA subsequently denied the 11 March 2020 FTCA legal claim submission on June 30th, 2020 and plaintiff-appellant proceeded to the Federal Court For The District of Colorado on July 15th, 2020 with the JS-44 form and original complaint to the court. The original complaint submitted to the court was rejected and plaintiff-appellant was ordered to submit an amended complaint to the court. Plaintiff-Appellant attempted to comply with court order, however, the direct negligence and continued “bad-faith” exemplified by VA employees before and during the “administrative phase” of the FTCA legal action made presenting a cognizable—successful amended complaint a more than

difficult task. The amended complaint once more did not meet the threshold of acceptance Magistrate Judge Gordon P. Gallagher deemed needed to proceed with legal action in federal court. Magistrate Judge Gallagher directed plaintiff-appellant to file a second amended complaint for the court. Plaintiff-Appellant requested an extension of time to comply with submitting a second amended complaint as there was no foreseeable way the plaintiff-appellant could force ethical, transparent actions from the VA or any federal entity to allow for the construction of a second amended complaint passing Magistrate Judge Gallagher's threshold of acceptance. Plaintiff-Appellant still had not sent formal summons to defendant-appellee at this point, as he had no successfully submitted complaint before the court. Plaintiff-Appellant attempted to seek out competent legal counsel in the greater Denver City metro area to help him comply with the court order and was unsuccessful. Upon reviewing the gross, bad faith actions and egregious inaction of the VA, plaintiff-appellant moved for summary judgement award to the court on November 27th, 2020. The recommendation to dismiss court case was not received by plaintiff-appellant. Court denied the summary judgement award motion as moot and moved to dismiss the case and ordered judgement in favor of defendant—appellee on November 30th, 2020.

Plaintiff-Appellant submitted on December 10th, 2020, the motion to appeal court actions. Formal “notice of appeal” was filed with United States District Court For The District of Colorado on January 15th, 2021 and the legal matter is now before the U.S. Court of Appeals For the 10th Circuit for Appellate Review.

Statement of Facts Relevant to the Issues Presented for Review.

As detailed in the formal FTCA legal claim submission, Exhibit 10 [pages 38-43 in the Record On Appeal], plaintiff-appellant’s Colorado S Corporation and person became victim to multiple serious and significant criminal acts—actions as observed by credible 3rd parties and plaintiff-appellant beginning in 2011. This activity directly led to significant financial and emotional distress and ultimately resulted in the wrongful loss of plaintiff-appellant’s only residence and certified United States Small Business Administration [SBA] Historically Underutilized Business Zone [SBA HUB-Zone] business property in November of 2014. Both items are documented in the FTCA legal claim submission, Supplemental Supporting Sections 2 and 3 [pages 81-91 in the Record On Appeal]. The activity was reported as shown in Exhibit 10 to multiple FBI offices in 2013 and the matter was referred to U.S. Assistant Attorney Mr. Tim Neff. Mr. Neff, however, did not comply with plaintiff-appellant’s urgent request to obtain a copy of the

investigation made by the United States Department of Justice in an effort to pursue civil legal matters and associated financial relief against the identified civilian tortfeasors as detailed in FTCA legal claim submission, Exhibit 11 [pages 44-45 in the Record On Appeal], if no criminal actions were going to be pursued. This activity was also reported to VA employee Mr. Stephen Patrick Craig with the intention of him being able to assist plaintiff-appellant with VA home loss mitigation efforts. This did not transpire. The law firm Sherman & Howard via firm attorney Mr. Richard L. Tegtmeier met with plaintiff-appellant in early January 2015, only two months after wrongfully losing his primary residence and valuable SBA HUB-Zone business property, at the Colorado Springs, Colorado law office to inquire “what would make it right”, apparently relating to the known torts at the time. Plaintiff-Appellant explained to Mr. Tegtmeier the known violations that presented to him and the related public law financial redress figures for the identified acts as precisely listed in the first page of FTCA legal claim submission, Exhibit 13 [pages 49-55] and the numbers discussed seemed unsatisfactory to Mr. Tegtmeier at the time. No further discussion of possible tort[s] financial relief and or resolution was entertained by the law firm Sherman & Howard or Mr. Richard Tegtmeier after the interaction in January 2015. The

interaction with Mr. Tegtmeier seemed to be more of a professional “fishing expedition” on his part to ascertain what torts and egregious acts plaintiff-appellant was aware of and perhaps served no more meaningful purpose than that at the time.

It appears that at some point after returning from a senior civilian support/contractor position at the Pentagon in 2007, as detailed in FTCA legal claim submission Exhibit 9 [page 37 in the Record On Appeal], plaintiff-appellant was fraudulently/incorrectly labeled in a manner that allowed his person to be determined as “incompetent, incapacitated and or an Adjunct of Mental Defect” at the federal or State of Colorado level. This action appears, upon retrospect, to have been carried out by individuals/entities that had a professional or personal “animus” towards the plaintiff-appellant personally or towards his veteran-owned business entity, R Concepts Incorporated. Individuals/entities initiating this action would benefit financially from this fraudulent act as they would receive public benefit monies along with plaintiff-appellant’s business interest—intellectual property. This most egregious, dangerous and disturbing act set in motion a horrid multi-year protracted set of dangerous criminal and civil torts/fraud from which plaintiff-appellant continues to severely suffer from as painfully detailed with the submission of the FTCA legal claim submission and exhibits contained

therein.

Mr. Stephen Patrick Craig appearing at the plaintiff-appellant's previous home residence in calendar year 2012 and "apologizing" for his part to play in the egregious acts impacting and impairing plaintiff-appellant was not made specifically clear at the time. VA employee Mr. Stephen Patrick Craig also never elaborated on the specific facts for which he apologized while plaintiff-appellant resided with him and his family for 17 months after wrongfully losing his home and SBA HUB-Zone business address, amid continuing to seek legal discovery and associated legal redress from myriad torts to his person and veteran owned business entity, R Concepts Incorporated. This "apology" from Mr. Stephen Patrick Craig as a VA employee appears to have been the first real admission of negligence at best or criminal complicit involvement at the other extreme, in relation to the title 18 USC issues listed in Exhibit 13, Exhibit 15 and the formal submittal of the FTCA legal claim submission letter. Plaintiff-Appellant being more than emotionally drained from the years of property—personal possessions loss, torts, fraud and associated lies and manipulation, submitted the formal VA Inspector General criminal complaint, FTCA legal claim submission Exhibit 13 [pages 48-55 in the Record On Appeal] to the VA via electronic means [official

email] and Mr. Stephen Patrick Craig directly responded to the complaint.

The U.S. Department of Veteran Affairs for close to four years has not responded to the VA IG complaint initiated/submitted by plaintiff-appellant. The VA further never responded to the Office of General Counsel's request to plaintiff-appellant to submit an "official statement" to aid in ascertaining and timely correcting egregious acts on the part of VA employees and or the VA itself as included in FTCA legal claim submission, Exhibit 15 [pages 58-59 in the Record On Appeal]. This also has not been responded to as of this Opening Brief. The Colorado State Attorney General's office contacted plaintiff-appellant in May 2019 regarding a legal Demand Letter directed towards Colorado State for torts liability settlement, but never followed up with plaintiff-appellant following the initial communication. Finally, when preparing the extensive FTCA legal claim submission for "good faith" settlement options, from the pathetic actions and inaction of the U.S. Department of Veteran Affairs, no meaningful attempt was made to address or correct the documented horrid treatment of the plaintiff-appellant. The years, not weeks or months of negligence, incompetence and corrupt behavior exhibited by VA employees and associated actions leave the plaintiff-appellant and other rational 3rd parties reviewing the protracted torts in a

speechless place. It places no confidence in the VA or other entities for which the defendant-appellee has jurisdictional control over and indeed constitutes a national disgrace as justice has been perverted in multiple ways by multiple entities entrusted with being stewards of the public treasury and public trust. As plaintiff-appellant attempted to make clear to The Federal District Court For The District of Colorado, being a victim to multi-year defendant-appellee negligence and neglect at best, continues to place him in a dangerous personal/professional situation only compounded by a complacent judiciary. This situation serves neither the preservation of nor the pursuit of justice. The state of affairs also runs counter to the protection of what appears to be a vulnerable veteran population/veteran business community to actors of low moral standards or complicit criminal acts that appear to be of no interest to either the U.S. Department of Justice or the U.S. Department of Veteran Affairs. This obviously detracts from the nation's overall national security when highly skilled, federal security cleared veterans become an easy target for criminal and civil fraud and or are fraudulently labeled in an incompetent court or administrative ruling process. These egregious actions serve neither their personal or professional interest as more than obvious and hinders the needs of the nation if the veteran is needed in a future time of crises. Plaintiff will

elaborate on these issues—policy aspects more in the following Statement of Issues.

3. Statement of Issues.

a. First Issue:

Federal District Court For The District Of Colorado recklessly ignored the duty and opportunity to serve the “needs and basic interest of justice” by declining to pursue the FTCA lawsuit brought before it due to less important “procedural issues” that could not be satisfied to the reviewing magistrate judge’s satisfaction or fully perfected due to continued egregious acts of the defendant-appellee and employed agents. This action continues to leave the plaintiff-appellant in a position that is both personally, and professionally dangerous. To any rational mind, this multi-year torts ordeal is also beyond exhausting to the plaintiff-appellant at this juncture. This court inaction permits the tortfeasor[s] to continue operating with limited at best accountability, thereby promoting more egregious actions knowing that there will be little chance of the egregious acts—actions and associated liability called to correction in a court venue. The basic right to protest grievances to government is not a Constitutional option, but rather remains a fundamental guarantee and it being obstructed by defendant-

appellee and its employed agent[s] action[s] is indeed a gross and dangerous perversion of justice, to both the plaintiff-appellant and the general population.

Argument and Authorities:

The purpose of any court, regardless of jurisdiction—jurisdictional control, is to aid the general population in securing justice from torts, be it criminal and or civil in nature. This is analogous to the role of first responders when called upon to mitigate damage and provide immediate support to those injured in vehicular accidents. A reasonable person does not expect after being involved in a vehicle accident to have the 911 dispatch operator demand an exact accounting of the current horror—number of dead and injured, damage to property and other perhaps tangible facts at the time of making the call. Much like the plaintiff-appellant in this appeal, the caller may be trapped in a very unfavorable situation, for this analogy a crumpled vehicle, thus, not allowing the caller to provide useful information to the 911 dispatch operator to determine the exact emergency response vehicles needed for the scene. Nonetheless, the 911 dispatch operator has the legal duty and ethical responsibility to initiate a response to correct the situation and provide the appropriate relief based on a presentation of factual information, albeit perhaps lacking in detail upon first presentation. The fact that

the caller gave the basic information in a clear, concise manner should satisfy the basic prerequisite to send help to stop the injuries and restore order to the now disorderly and dysfunctional vehicular accident scene and transit route in which it occurred. The caller in this analogy and the plaintiff-appellant in this very real legal action before Appellate Review, should not be further punished for being involved in an unwanted tort situation limiting their ability to give exacting details of the current horror. It runs counter to ethical treatment of individuals and simple logic, regardless of veteran status.

CITATIONS TO LEGAL AUTHORITY—CASE PRECEDENCE RELEVANT TO FIRST ISSUE UNDER APPELLATE REVIEW:

1. Sutton v. United States, 819F2d 1289, 1292 (5th Cir. 1987)—explaining that Congress enacted the FTCA “to afford easy and simple access to the federal courts for persons injured by the activities of government”.
2. Medina v. United States, 259 F3d 220, 225 (4th Cir. 2001)—concluding federal officials do not possess discretion to violate constitutional rights”.
3. U.S. Fid & Guar. Co. v. United States 837 F2d 116, 120 (3rd Cir. 1988); *U.S. Fid. & Guar. Co.*, 837 F2d at 120—concluding conduct cannot be discretionary if it violates the Constitution.

b. Second Issue:

Federal District Court For The District of Colorado failed to act upon the urgent and needed opportunity to address a defective and perhaps unconstitutional federal level national policy [38 Codified Federal Regulation 3.353—38 CFR 3.353, subsection (e)] that may have allowed for plaintiff-appellant needless and protracted personal and professional suffering. This policy with profound regret, may also be a fundamental catalyst for the past and current number of veteran suicides across the United States to be elaborated upon with following “argument and authorities” overview.

Argument and Authorities:

As a man who has had the honor and the privilege of writing national level policy, and having had a hand in forming national level policy, as detailed in the FTCA legal claim submission Exhibits 3-9 [pages 31-37 in the Record On Appeal], the defective and dangerous policy in place with VA 38 CFR 3.353, subsection (e) is both personally and professionally offensive to the senses. The fact that the VA “assumes” Due Process in a matter as important as adult competency has been completely afforded to a veteran as initiated by another entity, or considered internally, goes way beyond bad policy. Any federal agency dealing with matters

as serious and life altering as basic adult competency has a duty to ensure Due Process has been afforded to legal citizens let alone U.S. military veterans. The ability to have an incorrectly and or fraudulently made competency ruling rendered on a veteran by any 3rd party, be it a county, state or other authorized entity across the nation by itself makes this “assumption” on the part of the VA via this current policy a staggering liability at best and at worst it embodies a culture of uncaring that has disgracefully been reported with public media accounts for the past several decades relating to the VA. There simply is no “good cause” reason to deny this information to the veteran. Ensuring this information is disclosed to the veteran should allow and afford the veteran the opportunity to “fact check” and legally correct such a life altering decree/decision. Plaintiff-Appellant can think of no parallel policy issue needing more constitutional analysis and immediate corrective review—action from a federal court to take on at present given the national implications to the overall veteran community. Plaintiff-Appellant in this legal action hopes the U.S. Court of Appeals—U.S. Court of Appeals For The 10th Circuit will answer this call. The plaintiff-appellant would indeed be brought closer to being “made whole” under the law if his initiated legal actions resulted in federal court ordered policy corrections bringing vital assurances to the overall

national veteran community. As plaintiff-appellant’s case painfully brings to light, a great deal of potential fraud and needless infliction of emotional distress can be avoided by having sound federal policy in place.

CITATIONS TO LEGAL AUTHORITY—CASE PRECEDENCE RELEVANT TO SECOND ISSUE UNDER APPELLATE REVIEW:

1. *Limone v. United States*, 579 F.3d 79, 101 (1st Cir. 2009) (“[T]he discretionary Function exception does not...shield conduct that transgresses the Constitution.”)
2. *Levin v. United States—Levin*, 568 U.S. at 507 n.1 *See Also* Fuller, *supra* note 17, at 379-80 (observing “that the label ‘intentional tort exception’ is something of a misnomer” because § 2680(h) not only (1) “excludes some torts that courts have held need not always be intentional;” but also (2) “fails to include all intentional torts in the list of excluded causes of action”); Sisk, *supra* note 17, at 304 (“This exception...includes most intentional torts (but perhaps not all, as trespass, conversion, invasion of privacy, and intentional infliction of emotional distress are not listed).”).
3. *U.S. Fid & Guar. Co. v. United States* 837 F2d 116, 120 (3rd Cir. 1988); *U.S. Fid. & Guar. Co.*, 837 F2d at 120—concluding conduct cannot be discretionary if it violates the Constitution.

c. Third Issue:

Federal District Court For The District of Colorado failed to ensure justice was not only secured for plaintiff-appellant, but perhaps multiple other parties given the fact that plaintiff-appellant's veteran owned business concern, R Concepts Incorporated, could have been and may still be being used in a deceitful, fraudulent manner due to criminal and or incompetent actions of entities as detailed in the formal FTCA legal claim submission. This is another important factor deserving judicial review/action via a real, transparent federal court proceeding for what should have been more than obvious reasons versus the whole legal matter/claim being turned away by a complacent judiciary.

Argument and Authorities:

In multiple states, Colorado being one of them, if an adult [correctly or incorrectly] is deemed to be "incompetent, incapacitated and or an Adjunct of Mental Defect", their assets to include business concerns may be subject to 3rd party control. If the action of declaring the adult, veteran or not, one of the beforementioned person-status labels is done with the only real intention being that of gaining control of their assets and business concerns, along of course with associated intellectual property, serious criminal torts are thereby committed . Plaintiff has pointed this

fact of law out multiple times and also formally listed this as one part of the FTCA legal claim submission. Continued negligence to correctly deal with and correct this serious tort as elaborated in Statement of Issues—First Issue, is not a fault of the plaintiff-appellant. As plaintiff discussed in the beginning of this Opening Brief to the court, this may in fact have transpired in relation to plaintiff-appellant and this may have been aided in part by the current policy “defect” discussed with VA 38 CFR 3.353|38 CFR 3.353., subsection (e) and again cannot be completely ascertained in absence of competent, transparent federal court actions versus complacency regarding such serious tort issues relating to plaintiff-appellant. The issue of veteran business ownership abuse[s] should have also compelled the Federal District Court For The District of Colorado to take up the legal claim given the wider concerns the action brings to the table regarding the national veteran owned business community and this alone is concerning.

CITATIONS TO LEGAL AUTHORITY—CASE PRECEDENCE RELEVANT TO THIRD ISSUE UNDER APPELLATE REVIEW:

1. *Coulthurst v. United States*, 214 F.3d 106, 111 (2d Cir. 2000)—explaining that decisions motivated solely by laziness or careless inattention “do not reflect the kind of considered judgement ‘grounded in social, economic, and political policy”

that the discretionary function exception is intended to shield federal employees from and judicial second-guessing.

2. *Sutton v. United States*, 819F.2d 1289, 1292 (5th Cir. 1987)—explaining that Congress enacted the FTCA “to afford easy and simple access to the federal courts for persons injured by the activities of government”.

4. Do you think the district court applied the wrong law? If so, what law do you want applied?

Yes, the court did not correctly apply the FTCA legal statutes allowing for persons injured by activities of the U.S. government and its employed agents to proceed with tort[s] legal redress in federal court as urgently needed. This is elaborated with the Statement of Issues contained herein with the plaintiff-appellant’s Opening Brief to the court.

5. Did the district court incorrectly decide the facts? If so, what facts?

Yes, the district court did not accept the facts as presented with the original 11 March 2020 FTCA legal claim submission itself. Far from being as Magistrate Judge Gallagher referenced in his recommendation on the case, a “hunting exercise for judges to dig for truffles”—in place of torts”, plaintiff-appellant in this legal matter has presented a “torts buffet where empathy is given by plaintiff-appellant as to which tort entrée the judiciary—judges should rightly take up for

initial digestion”. Nonetheless, the position of Magistrate Judge Gallagher that the plaintiff-appellant did not present tort facts and related egregious acts with detail in the FTCA legal claim submission and exhibits seem unfounded.

6. Did the district court fail to consider important grounds for relief? If so, what grounds?

Yes, the plaintiff-appellant moved for Summary Judgement award as the level of neglect and “bad faith” exemplified by the U.S. Department of Veteran Affairs and its employed agents for years, not months or weeks, provided sufficient grounds to award the requested legal remedy—financial restitution to plaintiff-appellant in this protracted and disgraceful legal matter.

7. Do you feel that there are any other reasons why the district court’s judgment was wrong? If so, what?

The major and pertinent points are contained in the Statement of Issues and out of respect for Federal District Court For The District of Colorado, plaintiff-appellant adds nothing more in relation to this question.

8. What action do you want this court to take in your case?

1. Reverse order of dismissal and judgement in favor of defendant-appellee from The Federal District For The District of Colorado in relation to this legal matter.
2. Order award of Summary Judgement to plaintiff-appellant with revised Sum

Certain Demand to reflect the additional infliction of damages to his person and veteran owned business entity, R Concepts Incorporated, as court discovery warrants in matter.

3. Immediately compel—order the U.S. Veteran Administration to cure “policy defect” with the current 38 CFR 3.353 subsection (e) to guarantee veterans are made aware of ANY ruling of “Incapacitation, Incompetency and or decree of Adjunct of Mental Defect” on their person, regardless of source. Ensure the VA declares in transparent terms to the veteran where any and all monthly compensation, special monthly compensation [VA-SMC] and or other VA allocated public monies related to such a ruling on the veteran is going and inform the veteran of what remedies or courses of action may be pursued to reverse the declared veteran person status ruling or decree.

4. Immediately compel—order the U.S. Veteran Administration to provide plaintiff-appellant housing in a hotel with kitchenette [suitable for federal employees on an extended stay assignment], free from other adults with severe mental and physical disabilities and or drug addictions—in part to immediately stop the intentional infliction of emotional distress carried out and continued by VA employee Mr. Stephen Patrick Craig, until award of Summary Judgement to

plaintiff-appellant is completely transacted.

5. Immediately compel—order the State of Colorado to complete torts corrections as it initiated in May of 2019 as related to plaintiff-appellant, to include civil and Constitutional rights violated by State of Colorado actions and its employed agents, as part of the legal relief needed in this matter to make plaintiff-appellant legally whole from the protracted torts.

9. Do you think the court should hear oral argument in this case? If so, why?

Yes, the written prose has its place to introduce ideas, principles or themes but indeed has limits. The most important matters of life and law demand oral presentation. One does not conclude a wedding ceremony by writing the words “I Do” on paper. In law, words have no real force or affect until swearing orally under oath. Given the length and severity of torts endured by plaintiff-appellant as brought before multiple previous courts, plaintiff-appellant can think of no more powerful and appropriate event than to present the numerous torts, unethical actions and continued manipulation in oral format before the panel of circuit court judges.

Date

Signature

CERTIFICATE OF SERVICE

I hereby certify that on February 1st, 2021, I sent a copy of
the Appellant/Petitioner’s Opening Brief to United States Attorney General
Monty Wilkinson, at
950 Pennsylvania Avenue, NW
Washington, DC 20530, the last known address/email
address, by United States 1st Class Certified Mail
(state method of service)

February 1st, 2021
Date

Signature

CERTIFICATE OF COMPLIANCE

I certify that the total number of pages I am submitting as my Appellant/
Petitioner’s Opening Brief is 30 pages or less [21 pages] or alternatively, if the total
number of pages exceeds 30, I certify that I have counted the number of words and
the total is [4,367 words], which is less than 13,000. I understand that if my
Appellant/Petitioner’s Opening Brief exceeds 13,000 words, my brief may be
stricken and the appeal dismissed.

Date

Signature