

No. ____ - ____

IN THE
SUPREME COURT OF THE UNITED STATES

In re the matter of Derek Windell Cole Trust,

Derek W. Cole – PETITIONER (*Pro se*)

vs.

Marcie R. McMinimee, in her capacity as Trustee of the

Derek Windell Cole Trust – RESPONDENT

**MOTION, FOR “GOOD CAUSE” SHOWN,
FOR LEAVE TO PROCEED – AS A VETERAN –
PURSUANT TO RULES 40.1 AND 33.2**

1. Pursuant to Rule 40.1 [“Veterans, Seaman, and Military Cases”] and as a(n) (“honorably discharged”) “permanently [medically] disabled” veteran of the United States Navy – Petitioner (respectfully) asks for leave to proceed on papers prepared as required by Rule 33.2.
2. In support of this motion, Petitioner (respectfully) submits **PETITIONER’S EXHIBIT (1)** (with its (original) exhibits),

PETITIONER'S EXHIBIT (2) (without its (original) 65 pages of exhibits) and **PETITIONER'S EXHIBIT (3)** (without its (original) 128 pages of exhibits), as "evidence" that both Denver Probate Court Judge Elizabeth D. Leith and Respondent have (consistently) sought to ("wrongfully," "unlawfully" and "unethically") deprive Petitioner of (both) the (financial) "means" and "ability" – from his own ("lawful," "testamentary") "inheritance" – to seek: (1) "fairness"; (2) "due process"; (3) "equal protection"; (4) "justice"; and (5) "equity" in both Colorado and the United States of America.

3. Due to (continuing) "constitutional deprivations," Petitioner was "compelled" to file **PETITIONER'S EXHIBIT (1)** with the Colorado Court of Appeals on: "August 22, 2022."

4. Additionally, and due to same (continuing) "constitutional deprivations," Petitioner was "compelled" to file the following motion (**PETITIONER'S EXHIBIT (2)**) with the Denver Probate Court on "January 12, 2023":

BENEFICIARY'S ("OPPOSED") MOTION FOR A COURT ORDER
"COMPELLING" TRUSTEE TO "PROVIDE," AND/OR
"REIMBURSE," BENEFICIARY, OUT OF HIS ("LAWFUL")
"INHERITANCE," FOR (ANY AND ALL) "FILING FEES" AND/OR
"COSTS" "ASSOCIATED" WITH HIS ("FREE" AND
"LAWFUL") "EXERCISE" OF HIS ("CONSTITUTIONAL" AND
"STATUTORY") "RIGHT(S)" – TO "DUE PROCESS" AND "EQUAL
PROTECTION" – IN HIS ("LAWFUL" AND "LEGITIMATE")
"EFFORTS" TO "PROTECT" HIS ("LAWFUL" AND "LEGITIMATE")
"TESTAMENTARY INTERESTS," AS A ("LAWFUL" AND
"LEGITIMATE") "HEIR," "BENEFICIARY," AND "INTERESTED
PERSON," OF HIS FAMILY' ESTATE; MOST RECENTLY, THE
"MATTERS" BEFORE THE UNITED STATES SUPREME COURT:
"22A554"

5. In response to the (false and misleading) statements made in
Respondent's **RESPONSE** -- to Petitioner's **MOTION TO COMPEL**
(indicated, above, in **Paragraph 4**) -- Petitioner was "compelled" to file
PETITIONER'S EXHIBIT (3) with the **Denver Probate Court** on:
"February 10, 2023."

6. Finally, and as "proof" that he is a(n) ("honorably-discharged,"
"[permanently] disabled," "disability-retired") "veteran" of the United States
Navy, Petitioner (hereby) submits **PETITIONER'S EXHIBIT (4)**.

7. For all of the foregoing reasons -- and with "good cause" shown in this motion -- Petitioner (respectfully) asks for leave to proceed on papers prepared as required by Rules 40.1 and 33.2 (i.e.: no prepayment of fees, costs, or security; 40 page limit; 8-1/2 x 11" x 11" paper format; etc.).

By my signature below, I (hereby) **declare**, under penalty of perjury, that I am a(n) ("honorably-discharged," "[permanently] disabled," "disability-retired") "veteran" of the United States Navy, and everything in, and attached to, this pleading is true and accurate.

Executed on: 2-22-2023, 2023

A handwritten signature in cursive script, appearing to read "Derek W. Cole", written over a horizontal line.

(Signature)

F

**APPELLANT'S ("NO OBJECTION") MOTION – FOR "GOOD CAUSE" SHOWN –
FOR A 35-DAY TIME EXTENSION TO FILE APPELLANT'S NOTICE OF APPEAL**

Colorado Court of Appeals 2 East 14th Avenue Denver, CO 80203	FILED IN THE COURT of APPEALS STATE OF COLORADO AUG 2 2 2022 Clerk, Court of Appeals
In the Matter of the Trust: TRUST FOR DEREK WINDELL COLE	
Appellant: <u>Derek W. Cole (Pro se)</u> v. Appellee(s): <u>Marcie R. McMinimee : Attorney at Law</u> (CO Atty. Reg. #: 34674); (Assistant) County Administrator, Denver County; and (Assistant) Successor Personal Representative, and Trustee.	FOR COURT USE ONLY
(Pro se) Party Without an Attorney (Name and Address): <u>Derek W. Cole (Pro se)</u> <u>21968 East Princeton Drive</u> <u>Aurora, CO 80018</u> Phone: <u>(720) 309-0490 (Pro se)</u> E-mail: <u>attydwcole@gmail.com (Pro se)</u> FAX Number: <u>None (Pro se)</u> Atty. Reg. #: <u>14761 (Pro se)</u>	Court of Appeals Case Number: <u>22CA 1396</u> <u>Probate/District Court:</u> Denver Probate Court <u>Case Number:</u> 2019-PR-31334 <u>County:</u> City & County of Denver, CO
<u>APPELLANT'S ("NO OBJECTION") MOTION – FOR "GOOD CAUSE" SHOWN – FOR A 35-DAY TIME EXTENSION TO FILE APPELLANT'S NOTICE OF APPEAL</u>	

Petitioner's Exhibit (1)
(= 17 pgs)

**APPELLANT'S ("NO OBJECTION") MOTION – FOR "GOOD CAUSE" SHOWN –
FOR A 35-DAY TIME EXTENSION TO FILE APPELLANT'S NOTICE OF APPEAL**

CERTIFICATION(S) UNDER:

Paragraph 8 ("Duty to Confer"), Section 1-15 ("Determination of Motions"), Chapter 17A ("Practice Standards and Local Court Rules"), Rule 121 ("Local Rules - Statewide Practice Standards"), Colorado Rules of Civil Procedure ("C.R.C.P."):

1. **Appellant's Exhibit (1) "documents" Appellant's efforts to "confer," before filing this pleading, with all "counsel" and/or "Interested Parties/Persons."**
 2. **Appellant's Exhibit (1) reflects the fact that Appellee, Marcie R. McMinimee, responded that she has "No objection" to the motion(s) set forth herein.**
 3. **Finally, Appellant "certifies" that, other than what he received from Appellee, he received no responses – from any (other) attorney, and/or any (other) "interested parties/persons" – regarding the motion(s) set forth herein.**
-
4. **As "beneficiary," "heir," and/or "interested person," Appellant (hereby) – and for "good cause shown" – files the motions set forth in the "caption" for this pleading.**
 5. **The "grounds" for this pleading are set forth below, in the paragraphs which follow this paragraph 5.**
 6. **Upon "information and belief, Appellant "asserts" and (hereby) "alleges" that Judge Leith's order(s) of July 4, 2022 (Appellant's Exhibit (2)) are the "product(s)" of the (same) "abuses of discretion," "conflicts of interest," "illegalities," and "judicial/attorney misconduct" – presently under "review," pursuant to Appellant's PETITION FOR A WRIT OF CERTIORARI (Case: 2022SC259), by the Colorado Supreme Court.**
 7. **Upon (further) "information and belief," Appellant "asserts" and (hereby) "alleges" that Judge Leith's order(s) of July 4, 2022 (Appellant's Exhibit (2)) constitute(s) (additional) "evidence" of the ("concerted," "habitual," and "systematic") "efforts" – by (both) Judge Leith and Appellee – to ("jointly" and "severally") do "everything in their power(s)" to "thwart," "deter," "stonewall" and/or "chill" Appellant's ("free") "exercise" of his ("constitutionally-protected") "rights" to "due process" and "equal protection" – as well as his ("statutory") "rights," under Colorado law/statutes, to "protect" his ("lawful" and "vested") "interests" in his ("testamentary") "inheritance"; including, but not limited to, filing: (1) PETITIONS FOR WRITS OF CERTIORARI (with the Colorado Supreme Court); (2) Appeals**

**APPELLANT'S ("NO OBJECTION") MOTION -- FOR "GOOD CAUSE" SHOWN --
FOR A 35-DAY TIME EXTENSION TO FILE APPELLANT'S NOTICE OF APPEAL**

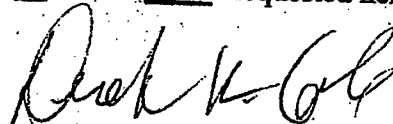
(with the Colorado Court of Appeals); and (3) (civil) lawsuit(s) (against Appellee, her law firm, and/or other ("offending") "parties/parties and/or entities."¹

8. Since, in Appellant's Exhibit (2), Judge Leith (clearly) "exposes" her ("abuse of discretion") "view" that Appellant -- in ("freely") "exercising" of his ("constitutionally-protected") "rights" to "due process" and "equal protection," as well as his ("statutory") "rights," under Colorado law/statutes, to "protect" his ("lawful" and "vested") "interests" in his ("testamentary") "inheritance"-- would be "...wasting his trust funds..." Appellant (adamantly) "asserts" that, under the "totality of the circumstances," (both) "equity" and "justice" dictate that he be "Granted" the extension of time requested herein.

9. WHEREFORE, and for the ("good cause") "grounds" set forth (above) in this motion, Appellant (Pro se), DEREK W. COLE, respectfully requests that the motion(s) set forth herein be GRANTED -- for all of the "relief" requested herein.

August 21, 2022

Date


/ s / Derek W. Cole (Pro Se)

Derek W. Cole (Atty. Reg. #: 14761) (Pro Se)

21968 Princeton Drive
Aurora, CO 80018

Mobile Phone: (720) 309-0490

E-mail: attydwcole@gmail.com

¹ (Generally) See: C.R.S., Title 15. Probate, Trusts, and Fiduciaries (§§ 15-1-101 – 15-23-122, *et seq.*); and (Specifically) See: Subsection (1), C.R.S., § 15-5-813 ["Duty to inform and report"].

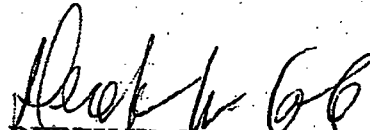
**APPELLANT'S ("NO OBJECTION") MOTION – FOR "GOOD CAUSE" SHOWN –
FOR A 35-DAY TIME EXTENSION TO FILE APPELLANT'S NOTICE OF APPEAL**

CERTIFICATE OF SERVICE

The under-signed (hereby) certifies that on August 22, 2022, and due to the fact, that, presently, Appellant **does not** have the "**funds**" to mail copies via "First-Class [U.S.] Mail," copies of this pleading were "**served**" – via **e-mail ONLY** – on each of the following:

<u>Recipient</u>	<u>Relationship to Decedent</u>	<u>Address</u>	<u>Type of Service*</u>
Marsha L. Mares	Daughter, Heir, and Devisee	2600 Faulkner Drive Midland, TX 79705 Email: <u>jmism4184@yahoo.com</u>	E-mail
Cindy R. Threet, Esq.	Daughter, Heir, Devisee, and (Former) PR	Email: <u>crthreet@gmail.com</u>	E-mail
Carolyn-Jeanette M. Cole	Granddaughter and Devisee	Email: <u>cmcole09@gmail.com</u>	E-mail
Derek-James M. Cole	Grandson and Devisee	Email: <u>derekjamescole@gmail.com</u>	E-mail
Kaito N. Cole Kaito N. Cole	Grandson(s) and Devisee(s)	Email: <u>kentacole@yahoo.com</u> Email: <u>kncole8@yahoo.com</u>	E-mail
Marcie R. McMinimee	Appellee	<u>mmcminimee@steenrodlaw.com</u>	E-mail

**APPELLANT'S ("NO OBJECTION") MOTION -- FOR "GOOD CAUSE" SHOWN --
FOR A 35-DAY TIME EXTENSION TO FILE APPELLANT'S NOTICE OF APPEAL**


DEREK W. COLE (*Pro Se*)

Date: August 22, 2022

(Plaintiff's Original Signature)

21968 East Princeton Drive

(Street Address)

Aurora, CO 80018

(City, State, ZIP)

(720) 309-0490

(Telephone Number)

8/22/22, 7:05 AM

Gmail - RE: REQUEST TO CONFER



Derek W. Cole <attydwcole@gmail.com>

RE: REQUEST TO CONFER

Marcie R. McMinimee <mmcmimine@schwarzattomeys.com>
To: "Derek W. Cole" <attydwcole@gmail.com>

Mon, Aug 15, 2022 at 10:00 AM

No objection -

Marcie R. McMinimee



**Schwartz,
McMinimee &
Andrew, LLC**
ATTORNEYS AT LAW

[f/k/a Steenrod, Schwartz & McMinimee, LLP]

3773 Cherry Creek N. Drive, Suite 775

Denver, CO 80209-3811

Office: (303) 534-5100

Fax: (303) 534-5186

mmcmimine@schwarzattomeys.com

<https://link.edgepilot.com/s/50a491ed/wacC3ewwG0u13zz-OSb75g?u=https://www.schwarzattomeys.com/>

CONFIDENTIALITY NOTICE: This message is confidential and may be privileged. Metadata contained in any attachments hereto are also confidential and privileged. You are not authorized to reveal metadata. If you believe that this e-mail has been sent to you in error, please reply to the sender that you received the message in error; then please delete this e-mail. Thank you. —

CONFIDENTIALITY NOTICE: This message is confidential and may be privileged. Metadata contained in any attachments hereto are also confidential and privileged. You are not authorized to reveal metadata. If you believe that this e-mail has been sent to you in error, please reply to the sender that you received the message in error; then please delete this e-mail. Thank you. —

From: Derek W. Cole <attydwcole@gmail.com>

Sent: Monday, August 15, 2022 6:32 AM

To: Melissa Schwartz <mschwartz@Schwarzattomeys.com>; Melissa Schwartz <mschwartz@Schwarzattomeys.com>; Marcie R. McMinimee <mmcmimine@Schwarzattomeys.com>; Marcie R. McMinimee <mmcmimine@Schwarzattomeys.com>; Lindsay Andrew <landrew@Schwarzattomeys.com>

Cc: Joe Hartwig <jhartwig@Schwarzattomeys.com>; Shelby Martin <smartin@Schwarzattomeys.com>; Brandon Maggiore <bmaggiore@steenrodslaw.com>; Emily McDaniel <emcdaniel@Schwarzattomeys.com>; Amber J. Marchlowska <amarchlowska@schwarzattomeys.com>; Bob Steenrod <bsteenrod@steenrodslaw.com>; Freeha Ayala <fayala@Schwarzattomeys.com>; Jeffery Sharp <jsharp@Schwarzattomeys.com>; Jeffrey Pope <jpope@Schwarzattomeys.com>; Joshua Lowenguth <jlowenguth@Schwarzattomeys.com>; Cindy Brown <cbrown@Schwarzattomeys.com>; dcannon@steenrodslaw.com; Terry Cummings <tcummings@Schwarzattomeys.com>; arodriguez@steenrodslaw.com; Glo Aragon <garagon@Schwarzattomeys.com>; Zack Schlichting <zschlichting@steenrodslaw.com>; David Imbler <dimbler@steenrodslaw.com>; Pam Strong <pamstrong@steenrodslaw.com>; Marsha Mares <jm4184@yahoo.com>; Carolyn M. <cmcole09@gmail.com>; kentacole@yahoo.com; Kaito Cole <kncole8@yahoo.com>; eric@solemlaw.com; peter@solemlaw.com; Zachary Woodward <Zach@solemlaw.com>; jwade@villiers@wadeash.com; zschlichting@wadeash.com; Bridgett LaCombe <lusery@goodspeedmerrill.com>; RonServis@aol.com; Ronnie Fischer <ronnie@jyates@csc.state.co.us>; a.mcmurray@csc.state.co.us; e.j.wilder@csc.state.co.us; Margaret Funk <m.funk@csc.state.co.us>; Kim Pask <k.pask@csc.state.co.us>

Appellant's Exhibit ()

= 3 page(s)

8/22/22, 7:05 AM

Gmail - RE: REQUEST TO CONFER

<amy.michaud@actec.org>; Chris Richards <chris.richards@actec.org>; Valerie Smith <vsmith@bestlawyers.com>; ratings@martindale.com; david.migoya@gazette.com; newstips@cbs4denver.com; Contact7@thedenverchannel.com; tips@kdv.com; chris.osher@gazette.com; Jonathan Singer <jonathan.singer@gmail.com>; Caroline Cammack <ccammack773@hotmail.com>; Tony.Kovaleski@thedenverchannel.com; Kovaleski, Jennifer <Jennifer.Kovaleski@thedenverchannel.com>; sbradbury@denverpost.com; eschmelzer@denverpost.com; michael.karlik@coloradopolitics.com
Subject: Re: REQUEST TO CONFER

****EXTERNAL EMAIL**** DO NOT CLICK links or OPEN attachments unless you recognize the sender and know the content is safe

NOTICE: This RPC 8.3(a) REPORT OF PROFESSIONAL MISCONDUCT was drafted – and is being forwarded – in accordance with the "plain language" and "Comments" of Rule 4.5 ("Threatening Prosecution"), as well as the ("ethics requirements" of Rule 8.3 ("Reporting Professional Misconduct"), Rules of Professional Conduct (RPC); which states (respectively, and *verbatim*):

Rule 4.5. Threatening Prosecution:

(a) A lawyer shall not threaten criminal, administrative or disciplinary charges to obtain an advantage in a civil matter nor shall a lawyer present or participate in presenting criminal, administrative or disciplinary charges solely to obtain an advantage in a civil matter.

(b) *It shall not be a violation of Rule 4.5 for a lawyer to notify another person in a civil matter that the lawyer reasonably believes that the other's conduct may violate criminal, administrative or disciplinary rules or statutes. [Emphasis added.]*

Rule 8.3. Reporting Professional Misconduct:

(a) *A lawyer who knows that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer in other respects, shall inform the appropriate professional authority. [Emphasis added.]*

(b) *A lawyer who knows that a judge has committed a violation of applicable rules of judicial conduct that raises a substantial question as to the judge's fitness for office shall inform the appropriate authority. [Emphasis added.]*

(c) This Rule does not require disclosure of information otherwise protected by Rule 1.6 or information gained by a lawyer or judge while serving as a member of a lawyers' peer assistance program that has been approved by the Colorado Supreme Court initially or upon renewal, to the extent that such information would be confidential if it were communicated subject to the attorney-client privilege.

(Source: <https://link.edgepilot.com/s/cf1ff27e/iu4Ddx6gL0i-UAWPT77Khg?u=http://www.cobar.org/For-Members/Opinions-Rules-Statutes/Rules-of-Professional-Conduct>, at 0630 Hrs, Monday, August 15, 2022.)

Attorneys McMinimee, Schwartz, and Andrew:

1. Since (and "inferring,, from the (attached) Denver Probate Court Order of July 4, 2022 (?) it is still (abundantly) clear that you, your law firm, and Judge Leith will stop at nothing to "thwart,, (all) my "efforts,, to "invoke,, and/or "exercise,, my ("constitutional and "statutory,,) "rights,, to protect my ("vested,,) "interests,, in my ("testamentary,,) "inheritance,, please accept this "Request to Confer" –under Paragraph 8 ("Duty to Confer"), Section 1-15 ("Determination of Motions"), Chapter 17A ("Practice Standards and Local Court Rules"), Rule 121 ("Local Rules - Statewide Practice Standards"), Colorado Rules of Civil Procedure (C.R.C.P.) – before I file the following motion(s) with the Colorado Court of Appeals:

APPELLANT'S/TRUST BENEFICIARY'S MOTION - FOR "GOOD CAUSE" SHOWN -- FOR A 35-DAY EXTENSION OF TIME TO FILE APPELLANT'S/TRUST BENEFICIARY'S NOTICE OF APPEAL

2. As "partners" who are (both) "liable" and "responsible" for your law firm's "actions" -- and for ("Local Rules") "certification" purposes -- please provide me, ASAP, with your (respective) "positions" to the foregoing (proposed) motion(s).

Regards,

8/22/22, 7:05 AM

Gmail - RE: REQUEST TO CONFER

Derek W. Cole, Esq. (*Pro se*)

B.A. (1980 - English - University of Washington, Seattle, WA)

J.D. (1984 - University of Denver College of Law, Denver, CO)

M.A. (1996 - "National Security & Strategic Studies" - U.S. Naval War College, Newport, RI)

Lieutenant Commander (LCDR)

Judge Advocate General's Corps (JAGC)

United States Navy (USN)

(("Permanent") Navy/VA (Medical) "Disability Retired")

Home Address: 21968 E. Princeton Drive
Aurora, CO 80010

Office: None

Cell Phone: (720) 309-0490

E-mail: attydwcole@gmail.com

"I have not yet begun to fight!" ~ John Paul Jones (1779)

"Cry 'Havoc!,' and let slip the dogs of war." [As spoken by Mark Antony in Shakespeare's *Julius Caesar*, Act 3, Scene 1, line 273)]

"The most dangerous creation of any society is the man who has nothing to lose." - James Baldwin

On Mon, Jul 11, 2022 at 6:54 AM Derek W. Cole <attydwcole@gmail.com> wrote:

NOTICE: This RPC 8.3(a) REPORT OF PROFESSIONAL MISCONDUCT was drafted -- and is being forwarded -- in accordance with the "plain language" and "Comments" of Rule 4.5 ("Threatening Prosecution"), as well as the ("ethics") "requirements" of Rule 8.3 ("Reporting Professional Misconduct"), Rules of Professional Conduct (RPC); which states (respectively, and *verbatim*):

Rule 4.5. Threatening Prosecution:

(a) A lawyer shall not threaten criminal, administrative or disciplinary charges to obtain an advantage in a civil matter nor shall a lawyer present or participate in presenting criminal, administrative or disciplinary charges solely to obtain an advantage in a civil matter.

(b) *It shall not be a violation of Rule 4.5 for a lawyer to notify another person in a civil matter that the lawyer reasonably believes that the other's conduct may violate criminal, administrative or disciplinary rules or statutes. [Emphasis added.]*

Rule 8.3. Reporting Professional Misconduct:

Denver Probate Court Court
1437 Bannock Street, Room 230
Denver CO 80202 United States

DEREK WINDELL COLE
21968 E. PRINCETON DRIVE
AURORA CO 80018

1-45-1001

RECEIVED JUL 12 2022
RECEIVED JUL 12 2022
7-12-2022

To: Derek Windell Cole

Subject: Service of documents in 2019PR31334.

You are being served with documents filed electronically through the Colorado Courts E-Filing system. Please review the following details concerning this service.

- Court Location: Denver County - Probate
- Case Number: 2019PR31334
- Filing ID: N/A
- Filed Document Title(s):
 - ORDER
- Submitted on Date/Time: Mon Jul 04 18:30:08 MDT 2022
- Submitted by Authorizing Organization:
- Submitted by Authorizing Attorney: Denver Probate Court Court

If you have a question about the above listed case, please contact the court.
Information for all Colorado court locations is listed on the Colorado Judicial Branch website <http://www.courts.state.co.us/Index.cfm>.

Appellant's Exhibit (2)

= 3 page(s)

RECEIVED JUL 12 2022

RECEIVED 7-12-2022

DISTRICT COURT, DENVER (PROBATE) COUNTY, COLORADO
Court Address:
1437 BANNOCK STREET, ROOM 230, DENVER, CO, 80202

RECEIVED JUL 12 2022

DATE FILED: July 4, 2022

In the Matter of the Trust: TRUST FOR DEREK WINDELL COLE

△ COURT USE ONLY △

Case Number: 2019PR31334

Division: 1

Courtroom:

ORDER

THIS MATTER is before the Court for consideration of the Beneficiary's Motion for Sanctions Against Trustee and Opposed Motion for a Court Order Compelling Trustee to Reimburse Trust Beneficiary for the Costs of Filing Fees and Transcript Fees to the Court of Appeals. The Court has reviewed these Motions, the Trustee's Responses, the record and relevant authority. Mr. Cole has not filed any replies.

The Trustee has responded, stating that Mr. Cole has been provided with annual accountings and the fee statements he has demanded. The Court finds with respect to the reimbursement request, that the Trustee has provided Mr. Cole with funds on a True Link Card which are sufficient to pay for the known filing fees and transcripts. The Court notes the purpose of requiring Mr. Cole to retain counsel to advise him regarding the merits of an appeal was to avoid wasting his trust funds.

The Court finds neither of the Motions have merit and both are denied.

Issue Date: 7/4/2022

Elizabeth D. Leith

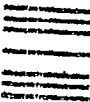
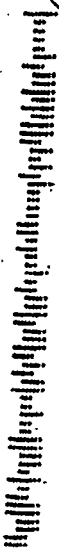
ELIZABETH DEMBERG LEITH
District Court Judge

RECEIVED JUL 12 2022

RECEIVED 7-12-2022

RECEIVED JUL 12 2022

8001863121 F013



US POSTAGE \$00.53⁰
ZIP CODE 00001
0001 1053078

RECEIVED JUL 12 2022

RECEIVED JUL 12 2022

17-12-2022

Probate Court City & County of Denver State of Colorado City & County Building 1437 Bannock Street Room 230 Denver, CO 80202	<p style="text-align: center;">FILED IN PROBATE COURT CITY & COUNTY OF DENVER, CO</p> <p style="text-align: center;">JAN 12 2023</p>
<p>In the Matter of the:</p> <p>Trust for Derek Windell Cole</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p>(Pro se) Party Without an Attorney (Name and Address):</p> <p><u>Derek W. Cole (Pro se)</u> <u>21968 East Princeton Drive</u> <u>Aurora, CO 80018</u></p> <p>Phone: <u>(720) 309-0490 (Pro se)</u> E-mail: <u>attydwcole@gmail.com (Pro se)</u> FAX Number: <u>None (Pro se)</u> Atty. Reg. #: <u>14761 (Pro se)</u></p>	<p>Case Number:</p> <p style="text-align: center;">2019-PR-31334</p> <p>Division Courtroom</p>
<p style="text-align: center;"><u>BENEFICIARY'S ("OPPOSED") MOTION FOR A COURT ORDER</u> <u>"COMPELLING" TRUSTEE TO "PROVIDE," AND/OR "REIMBURSE,"</u> <u>BENEFICIARY, OUT OF HIS ("LAWFUL") "INHERITANCE," FOR (ANY AND</u> <u>ALL) "FILING FEES" AND/OR "COSTS" "ASSOCIATED" WITH HIS ("FREE"</u> <u>AND "LAWFUL") "EXERCISE" OF HIS ("CONSTITUTIONAL" AND</u> <u>"STATUTORY") "RIGHT(S)" -- TO "DUE PROCESS" AND "EQUAL</u> <u>PROTECTION" -- IN HIS ("LAWFUL" AND "LEGITIMATE") "EFFORTS" TO</u> <u>"PROTECT" HIS ("LAWFUL" AND "LEGITIMATE") "TESTAMENTARY</u> <u>INTERESTS," AS A ("LAWFUL" AND "LEGITIMATE") "HEIR,"</u> <u>"BENEFICIARY," AND "INTERESTED PERSON," OF HIS FAMILY' ESTATE;</u> <u>MOST RECENTLY, THE "MATTERS" BEFORE THE UNITED STATES SUPREME</u> <u>COURT: "22A554"</u></p>	

CERTIFICATION(S) UNDER:

Paragraph 8 ("Duty to Confer"),
Section 1-15 ("Determination of Motions"),
Chapter 17A ("Practice Standards and Local Court Rules"),
Rule 121 ("Local Rules – Statewide Practice Standards"),
Colorado Rules of Civil Procedure ("C.R.C.P.")

1. BENEFICIARY'S EXHIBIT (1) documents the fact that, before filing this pleading, "Trust Beneficiary," Derek W. Cole (hereafter: "BENEFICIARY COLE"), sought to "confer" with (1) all counsel, (2) all "Interested Parties," and/or (3) all "Interested Persons/ Entities."
2. BENEFICIARY'S EXHIBIT (1), also documents the (continuing, unlawful, "unethical," and "conflicts of interest") "breaches" of her "fiduciary duties" – towards BENEFICIARY COLE -- "Trustee," Marcie R. McMinimee (hereafter: "TRUSTEE MCMINIMEE") in her response (below, with *emphasis* added):

"My position remains unchanged."

3. Finally, BENEFICIARY COLE (hereby) "certifies" that, before filing this pleading, he received no response(s) – from any (other) attorney, nor from any (other) "interested parties/ persons/ entities" – to the motion(s) set forth herein.

4. As "beneficiary," "heir," and "interested person," BENEFICIARY COLE, hereby – and for "good cause shown" – files the motion(s) set forth in the "caption" of this pleading.
5. The "ground(s)" for filing this pleading are set forth (below):
 - a. As demonstrated in BENEFICIARY'S EXHIBITS (2) – (8), both the United States Supreme Court and the Colorado Court of Appeals are expecting BENEFICIARY COLE to file the (necessary and approved) "WRITS" and "BRIEFS" in those ("superior") courts;
 - b. BENEFICIARY COLE asserts -- "on information and belief" – that this court, TRUSTEE MCMINIMEE, and the State of Colorado have "violated" his "rights" under both the United States Constitution and Colorado Constitution;
 - c. Further, BENEFICIARY COLE asserts -- "on information and belief" – that this court, TRUSTEE MCMINIMEE, and the State of Colorado have "violated" his "rights" under the following federal Acts and U.S. Code sections:
 - 1) The Civil Rights Act of 1866;
 - 2) 18 U.S.C. 242 ["Deprivation of rights under color of law"];;
 - 3) 42 U.S.C. 1983 ["Civil action for deprivation of rights"];;
 - d. Also, BENEFICIARY COLE asserts that, at a minimum, for this court and TRUSTEE MCMINIMEE to continue to ("wrongfully," "unlawfully" and "unethically") deprive BENEFICIARY COLE of (both) the (financial) "means" and "ability" from his own ("lawful," "testamentary") "inheritance" – to seek: (1)

"fairness"; (2) "due process"; (3) "equal protection"; (4) "justice"; and (5) "equity" in both Colorado and the United States of America -- creates an ("unlawful" and "unethical") "impediment" and/or "stone wall", designed to "chill" BENEFICIARY COLE'S "free exercise" of his ("constitutional," "statutory," and "common law") "rights";

6. Finally, BENEFICIARY COLE "certifies" that he has not been able find any ("legal" and/or "ethical") "bases" -- other than (further) "errors" and/or "abuses of discretion" (by (both) Judge Elizabeth D. Leith, Denver Probate Court, and TRUSTEE MCMINIMEE towards BENEFICIARY COLE) -- which would "support" this Court's "denial" of the ("lawful") "relief" sought in this pleading.
7. WHEREFORE, BENEFICIARY COLE (respectfully) requests this court "issue" an Order "compelling" TRUSTEE MCMINIMEE to do the following:

"PROVIDE," AND/OR "REIMBURSE," BENEFICIARY, OUT OF HIS ("LAWFUL") "INHERITANCE," FOR (ANY AND ALL) "FILING FEES" AND/OR "COSTS" "ASSOCIATED" WITH HIS ("FREE" AND "LAWFUL") "EXERCISE" OF HIS ("CONSTITUTIONAL" AND "STATUTORY") "RIGHT(S)" -- TO "DUE PROCESS" AND "EQUAL PROTECTION" -- IN HIS ("LAWFUL" AND "LEGITIMATE") "EFFORTS" TO "PROTECT" HIS ("LAWFUL" AND "LEGITIMATE") "TESTAMENTARY INTERESTS," AS A ("LAWFUL" AND "LEGITIMATE") "HEIR," "BENEFICIARY," AND "INTERESTED PERSON," OF HIS FAMILY' ESTATE; MOST RECENTLY, THE "MATTERS" BEFORE THE UNITED STATES SUPREME COURT: "22A554"

Date: January 12, 2023


DEREK W. COLE (Pro Se)

(Plaintiff's Original Signature)

21968 East Princeton Drive

(Street Address)

Aurora, CO 80018

(City, State, ZIP)

(720) 309-0490

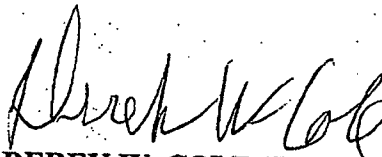
(Telephone Number)

CERTIFICATE OF SERVICE

The under-signed (hereby) certifies that on January 12, 2023, and due to the fact that, presently, Appellant does not have the "funds" to mail copies via "First-Class [U.S.] Mail," copies of this pleading were "served" -- via e-mail ONLY -- on each of the following:

Recipient	Relationship to Decedent	Address	Type of Service
Marsha L. Mares	Daughter, Heir, and Devisee	2600 Faulkner Drive Midland, TX 79705 Email: imjsm4184@yahoo.com	E-mail
Cindy R. Threet, Esq.	Daughter, Heir, Devisee, and (Former) PR	Address: Unknown Email: crthreet@gmail.com	E-mail
Carolyn-Jeanette M. Cole	Granddaughter and Devisee	Address: Unknown Email: cmcole09@gmail.com	E-mail
Derek-James M. Cole	Grandson and Devisee	Address: Unknown Email: derekjamescole@gmail.com	E-mail
Kaito N. Cole Kaito N. Cole	Grandson(s) and Devisee(s)	21968 East Princeton Drive Aurora, CO 80018 Email: kentacole@yahoo.com Email: kncole8@yahoo.com	E-mail
Marcie R. McMinimee	<u>Respondent /Trustee</u>	3773 Cherry Creek N. Drive Suite 775 Denver, CO 80209-3811 Office: (303) 534-5100 Fax: (303) 534-5186 mmcminimee@steenrodla.com ; mmcminimee@schwartzatlorneys.com	E-mail

Date: January 12, 2023


DEREK W. COLE (Pro Se)

(Plaintiff's Original Signature)

21968 East Princeton Drive

(Street Address)

Aurora, CO 80018

(City, State, ZIP)

(720) 309-0490

(Telephone Number)

**(BENEFICIARY'S) REPLY TO TRUSTEE'S "RESPONSE TO
BENEFICIARIARY'S ('OPPOSED') MOTION FOR A COURT ORDER
COMPELLING' TRUSTEE..."**

Probate Court City & County of Denver State of Colorado City & County Building 1437 Bannock Street Room 230 Denver, CO 80202	FILED IN PROBATE COURT CITY & COUNTY OF DENVER, CO FEB 10 2023
In the Matter of the: Trust for Derek Windell Cole	▲ COURT USE ONLY ▲
(Pro se) Party Without an Attorney (Name and Address): <u>Derek W. Cole (Pro se)</u> <u>21968 East Princeton Drive</u> <u>Aurora, CO 80018</u> Phone: <u>(720) 309-0490 (Pro se)</u> E-mail: <u>attydwcole@gmail.com (Pro se)</u> FAX Number: <u>None (Pro se)</u> Atty. Reg. #: <u>14761 (Pro se)</u>	Case Number: <u>2019-PR-31334</u> Division Courtroom
<u>(BENEFICIARY'S) REPLY TO TRUSTEE'S "RESPONSE TO BENEFICIARIARY'S ('OPPOSED') MOTION FOR A COURT ORDER COMPELLING' TRUSTEE..."</u>	

1. **COMES NOW, Derek W. Cole, the ("lawful") "Beneficiary" of the "Trust for Derek Windell Cole," and hereby files this REPLY to TRUSTEE'S "RESPONSE TO BENEFICIARIARY'S ('OPPOSED') MOTION FOR A COURT ORDER COMPELLING' TRUSTEE..."**

2. On **"information and belief"** – and as **"evidenced" in Demandant's Exhibits (1) through (9) – Trustee McMinimee's "RESPONSE TO**

**(BENEFICIARY'S) REPLY TO TRUSTEE'S "RESPONSE TO
BENEFICIARY'S ('OPPOSED') MOTION FOR A COURT ORDER
COMPELLING' TRUSTEE..."**

BENEFICIARY'S ('OPPOSED') MOTION FOR A COURT ORDER

**COMPELLING' TRUSTEE..." violates" Colorado law and the following Rules of the
Colorado Rules of Professional Conduct:**

"Rule 3.3 Candor Toward the Tribunal";

"Rule 3.4 Fairness to Opposing Party and Counsel," and

"Rule 3.5 Impartiality and Decorum of the Tribunal," amended 2022).

3. In Demandant's Exhibit (6), Beneficiary Cole (specifically) "warned" Trustee McMinimee about all of the following [verbatim, with emphasis added]:

1. This morning, I (again) spoke with the folks at True Link Financial and discovered that you (knowingly and willfully) "misrepresented" -- in the RESPONSE you filed in the Denver Probate Court on January, 24, 2022 (attached) -- that I have funds "... in excess of \$30,000.00 on a True Link Card ...".

2. Specifically, I was informed that the afore-mentioned ("unlawful" and "unethical") misrepresentation(s) are (both) a ("factual" and "legal") "impossibility" -- for the following reason(s):

a. Because the True Link card you ordered for me (and to which have never "consented" -- under True Link Financial's Master Services Agreement) has never been "activated" -- presently, there is no money ("0") on the card (much less, there being "... in excess of \$30,000.00 on a True Link Card ..."); and

b. Due to the (attached) "Limitations on Card Usage," the "Maximum Card Account balance" is "\$20,000.00 total for all Cards" (not "... in excess of \$30,000.00 on a True Link Card ...").

3. Based upon the recommendation(s) given to me by the folks at True Link Financial -- and also pursuant to C.R.S., § 15-5-813 ["Duty to inform and

**(BENEFICIARY'S) REPLY TO TRUSTEE'S "RESPONSE TO
BENEFICIARY'S ('OPPOSED') MOTION FOR A COURT ORDER
COMPELLING' TRUSTEE..."**

report"] -- I (hereby) "demand" copies of all records you, and your law firm, have pertaining to the True Link card you "represented" -- in the RESPONSE you filed in the Denver Probate Court on January, 24, 2022 (attached) -- (presently) has "... in excess of \$30,000.00 on a True Link Card ...".

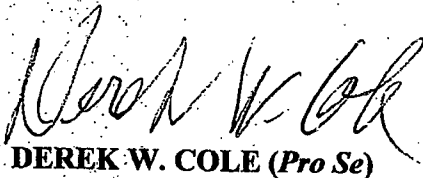
4. In Demandant's Exhibits (8) and (9), Beneficiary Cole (specifically) "demand" the following information from Trustee McMinimee [verbatim, with emphasis added]:
1. Consistent with "Rule 3.3 Candor Toward the Tribunal," "Rule 3.4 Fairness to Opposing Party and Counsel," and "Rule 3.5 Impartiality and Decorum of the Tribunal," Colorado Rules of Professional Conduct (as amended, 2022), when will you be filing the necessary paperwork, required by Colorado law and Rule 3.3(a)(3), Colorado Rules of Professional Conduct, to ("fully" and "accurately") "correct" the ("knowing" and "willful") "misrepresentations" and/or "omissions" you made in the RESPONSE you filed in the Denver Probate Court on January, 24, 2023 (attached)?
 2. Please advise -- ASAP -- so that I can take the (appropriate and required) "actions," if you "fail" and/or "refuse" to do so yourself, to ensure the Denver Probate Court is (FULLY) "apprised" of your continued ("unlawful" and "unethical") "attorney misconduct."
5. WHEREFORE, and due to the "fact" that Trustee McMinimee continues to "violate" Colorado law and the Colorado Rules of Professional Conduct -- all to the (continuing) "detriment" of Beneficiary Cole -- Beneficiary Cole (respectfully) requests this court "GRANT" the following motion(s):

**BENEFICIARY'S ("OPPOSED") MOTION FOR A COURT ORDER
"COMPELLING" TRUSTEE TO "PROVIDE," AND/OR "REIMBURSE,"**

**(BENEFICIARY'S) REPLY TO TRUSTEE'S "RESPONSE TO
BENEFICIARY'S ('OPPOSED') MOTION FOR A COURT ORDER
COMPELLING' TRUSTEE..."**

BENEFICIARY, OUT OF HIS ("**LAWFUL**") "**INHERITANCE**," FOR (ANY AND ALL) "**FILING FEES**" AND/OR "**COSTS**" "**ASSOCIATED**" WITH HIS ("**FREE**" AND "**LAWFUL**") "**EXERCISE**" OF HIS ("**CONSTITUTIONAL**" AND "**STATUTORY**") "**RIGHT(S)**" -- TO "**DUE PROCESS**" AND "**EQUAL PROTECTION**" -- IN HIS ("**LAWFUL**" AND "**LEGITIMATE**") "**EFFORTS**" TO "**PROTECT**" HIS ("**LAWFUL**" AND "**LEGITIMATE**") "**TESTAMENTARY INTERESTS**," AS A ("**LAWFUL**" AND "**LEGITIMATE**") "**HEIR**," "**BENEFICIARY**," AND "**INTERESTED PERSON**," OF HIS FAMILY' ESTATE; MOST RECENTLY, THE "**MATTERS**" BEFORE THE **UNITED STATES SUPREME COURT**: "**22A554**"

Date: February 10, 2023


DEREK W. COLE (*Pro Se*)

(Plaintiff's Original Signature)

21968 East Princeton Drive

(Street Address)

Aurora, CO 80018

(City, State, ZIP)

(720) 309-0490

(Telephone Number)

CERTIFICATE OF SERVICE

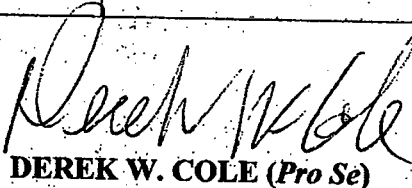
The under-signed (hereby) certifies that on **February 10, 2023**, and due to the fact that, presently, Appellant **does not** have the "**funds**" to mail copies via "First-Class [U.S.] Mail," copies of this pleading were "**served**" -- via **e-mail ONLY** -- on each of the following:

<u>Recipient</u>	<u>Relationship to Decedent</u>	<u>Address</u>	<u>Type of Service</u>
Marsha L. Mares	Daughter, Heir, and Devisee	2600 Faulkner Drive Midland, TX 79705 Email: <u>jmism4184@yahoo.com</u>	E-mail
Cindy R. Threet, Esq.	Daughter, Heir, Devisee, and <u>(Former)</u> PR	Address: <u>Unknown</u> Email: <u>crthreet@gmail.com</u>	E-mail

**(BENEFICIARY'S) REPLY TO TRUSTEE'S "RESPONSE TO
BENEFICIARY'S ('OPPOSED') MOTION FOR A COURT ORDER
COMPELLING' TRUSTEE..."**

Carolyn- Jeanette M. Cole	Granddaughter and Devisee	Address: <u>Unknown</u> Email: <u>cmcole09@gmail.com</u>	E- mail
Derek-James M. Cole	Grandson and Devisee	Address: <u>Unknown</u> Email: <u>derekjamescole@gmail.co m</u>	E- mail
Kaito N. Cole Kaito N. Cole	Grandson(s) and Devisee(s)	21968 East Princeton Drive Aurora, CO 80018 Email: <u>kentacole@yahoo.com</u> Email: <u>kncole8@yahoo.com</u>	E- mail
Marcie R. McMinimee	<u>Respondent /Trustee</u>	3773 Cherry Creek N. Drive Suite 775 Denver, CO 80209-3811 Office: (303) 534-5100 Fax: (303) 534-5186 <u>mmcminimee@steenrodla w.com</u>	E- mail

Date: February 10, 2023


DEREK W. COLE (Pro Se)

(Plaintiff's Original Signature)

21968 East Princeton Drive

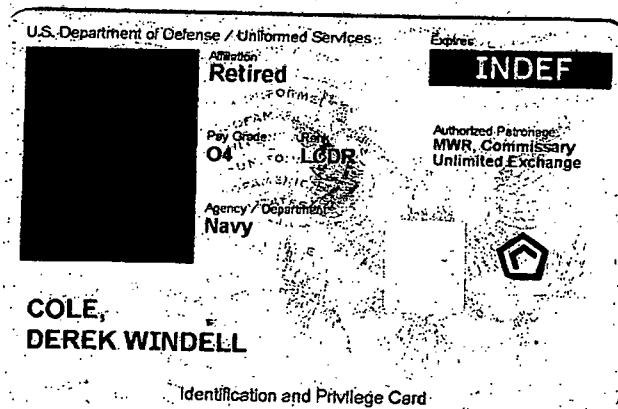
(Street Address)

Aurora, CO 80018

(City, State, ZIP)

(720) 309-0490

(Telephone Number)



Petitioner's Exhibit (4)
(= 5 pgs)

G+D Mifare Classic EV1 1K

049153A2C87180

00009433



Medical
Verify Eligibility

1957DEG20

DoD ID Number
1154972702

Benefits Number
006027938-00

Effective Date
2023JAN31



CVN 1939

Property of U.S. Government

DDUSID576001514



76637C002

For Questions Concerning Medical Benefits:

1-877-222-VETS (8387)

www.myhealth.va.gov



If found, drop in nearest
U.S. mail box.

POSTMASTER—RETURN TO:
Health Eligibility Center
2957 Clairmont Road, Suite 200
Atlanta, GA 30329

This card is not a credit card or an insurance card

Form **1095-B**Department of the Treasury
Internal Revenue Service**Health Coverage**Do not attach to your tax return. Keep for your records.
Go to www.irs.gov/Form1095B for instructions and the latest information.☐ VOID

OMB No. 1545-2252

☐ CORRECTED**2022****Part I Responsible Individual**

1 Name of responsible individual—First name, middle name, last name DEREK		2 Social security number (SSN) or other TIN 9		3 Date of birth (if SSN or other TIN is not available)	
4 Street address (including apartment no.) 21968 E PRINCETON DR		5 City or town AURORA		6 State or province CO	
8 Enter letter identifying Origin of the Health Coverage (see instructions for codes): C		7 Country and ZIP or foreign postal code 80018-3121			

Part II Information About Certain Employer-Sponsored Coverage (see instructions)

10 Employer name			11 Employer identification number (EIN)		
12 Street address (including room or suite no.)		13 City or town		14 State or province	
15 Country and ZIP or foreign postal code					

Part III Issuer or Other Coverage Provider (see instructions)

16 Name US Department of Veterans Affairs		17 Employer identification number (EIN) 74-1612229		18 Contact telephone number 877-222-8387	
19 Street address (including room or suite no.) P.O. BOX 149975		20 City or town AUSTIN		21 State or province TX	
22 Country and ZIP or foreign postal code 78714-8975					

Part IV Covered Individuals (Enter the information for each covered individual.)

	(a) Name of covered individual(s) First name, middle initial, last name	(b) SSN or other TIN	(c) DOB (if SSN or other TIN is not available)	(d) Covered all 12 months	(e) Months of coverage											
					Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
23	DEREK	COLE	4979	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
24				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
25				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
26				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
27				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
28				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

For Privacy Act and Paperwork Reduction Act Notice, see separate instructions.

Cat. No. 60704B

Form **1095-B** (2022)