

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 1:19-cv-00313-KMT

JULIE SLIVKA,

Plaintiff,

v.

THE YOUNG MEN'S CHRISTIAN ASSOCIATION OF THE PIKES PEAK REGION, and
CAROLS LOZANO,

Defendants.

**OBJECTION TO DEFENDANT'S MOTION TO RESTRICT PUBLIC ACCESS
TO THE PROCEEDING AND COURT RECORDS**

Colorado Public Radio and the Colorado Freedom of Information Coalition hereby object to Defendant's Unopposed Motion for Restricted Access to the Proceedings, Pursuant to D.C.COLO.LCivR 7.2(c) [ECF No. 17], on the grounds set forth in the earlier-filed objection of Professor Eugene Volokh [ECF No. 18].

Colorado Public Radio, Inc. ("CPR") is the trade name of Public Broadcasting of Colorado, Inc., a not-for-profit tax-exempt organization organized under the laws of Colorado. CPR is engaged in newsgathering and disseminating of information of public interest via broadcast radio (at 90.1 FM in the Denver metropolitan area) and online at www.cpr.org. The Colorado Freedom of Information Coalition ("CFOIC") is a nonpartisan alliance of groups, news organizations, and individuals dedicated to ensuring the transparency of state and local governments in Colorado by promoting freedom of the press, open courts, and open access to

government records and meetings.¹ Both organizations are committed to maintaining the public's presumptive right of access to judicial proceedings and to records on file in this Court for consideration by judicial officers in exercising their authority under law.

For the reasons set forth in Prof. Volokh's Objection [ECF No. 18], which are adopted wholesale and incorporated herein by reference, CPR and CFOIC object to the closure of any judicial proceeding, or the sealing of any records in this case, for which any party seeking such closure or sealing has failed to present evidence satisfying the rigorous standard set forth in D.C.COLO.LCivR 7.2(c), and by the First Amendment to the Constitution of the United States.

The subject matter of this lawsuit, and the particular allegations set forth in the Plaintiff's Complaint, are of profound public interest and concern. *See, e.g.,* Dan Boyce, *Lawsuit Alleges Colorado Springs YMCA Ignored Former Employee's Sexual Assault*, Colo. Pub. Radio, Feb. 25, 2019, <https://www.cpr.org/news/story/lawsuit-alleges-colorado-springs-ymca-ignored-sexual-assault-created-inappropriate> (attached hereto as Exhibit A). Notably, too, the publicly-filed Complaint in this case has already been posted on the internet (as housed on CPR's servers), *see* <https://www.cpr.org/sites/default/files/original-ymca-lawsuit.pdf>. Any effort to shield from public view the contents of that pleading, or to deny public access to discussions of those

¹ Coalition members include: American Civil Liberties Union of Colorado, Associated Press, BillTrack 50, Chalkbeat Colorado, Colorado Association of Libraries Intellectual Freedom Committee, Colorado Bar Association, Colorado Broadcasters Association, Colorado Common Cause, *The Colorado Independent*, Colorado Press Association, Colorado Press Women, Colorado Public Radio, Colorado Society of Private Investigators, *Colorado Springs Independent*, Colorado Springs Press Association, Colorado Student Media Association, *Delta County Citizen Report*, Independence Institute, KDNK Community Radio, League of Women Voters of Colorado, *Longmont Observer*, Professional Private Investigators Association of Colorado, Rocky Mountain PBS, and Colorado Society of Professional Journalists. The views expressed herein do not necessarily reflect those of all member organizations.

allegations in open court proceedings would quite clearly be futile. Accordingly, any party seeking closure or sealing cannot satisfy the standards of D.C.COLO.LCivR 7.2(c), and/or the First Amendment.

WHEREFORE, CPR and CFOIC respectfully ask the Court to deny the Defendant's Motion for Restricted Access to the Proceedings, Pursuant to D.C.COLO.LCivR 7.2(c).

DATED: June 25, 2019

Respectfully submitted,

BALLARD SPAHR LLP

s/ Steven D. Zansberg

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*Counsel for Colorado Public Radio and the
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CERTIFICATE OF SERVICE

I hereby certify that on June 25, 2019, I electronically filed the foregoing **OBJECTION TO DEFENDANT'S MOTION TO RESTRICT PUBLIC ACCESS TO THE PROCEEDING AND COURT RECORDS** with the Clerk of this Court using the CM/ECF system, which will electronically mail notice to the following attorneys of record:

Ryan Charles Gilman
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Colorado Springs, CO 80903
Attorney for Plaintiff Julie Slivka

Michael David Drews
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Golden, CO 80401
Attorney for Defendant YMCA of the Pikes Peak Region

No contact information for Defendant Carlos Lozano appears in the docket, or in the parties' service certificates.

s/ Steven D. Zansberg

EXHIBIT A



Lawsuit Alleges Colorado Springs YMCA Ignored Former Employee's Sexual Assault

BY DAN BOYCE | DAN.BOYCE@CPR.ORG
FEB 25, 2019



A lawsuit alleges that the YMCA of the Pikes Peak Region turned a blind eye to an employee's sexual assault.

Dan Boyce/CPR News

A former employee of the YMCA of the Pikes Peak Region is suing the organization for turning a blind eye to an alleged sexual assault by a higher up.

A year ago, Julie Slivka worked as the director of population wellness for the Colorado Springs-based YMCA association.

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- In a lawsuit filed earlier this month with the U.S. District Court, Slivka alleges Carlos Lozano, head of the Southeast branch of the organization, sexually assaulted her after the two went out for drinks.

Slivka, who is married, said in the suit that she accepted the invitation with Lozano as a friend, believing he was having a difficult time with his divorce.

According to the lawsuit, Lozano bought her multiple drinks at a restaurant in Fountain. After allegedly making repeated unwanted sexual advances, Lozano followed Slivka out to her car and tried to prevent her from leaving.

"In a panic," Slivka accidentally ran her car into a median, leading law enforcement to take her to the Fountain Police Department for DUI processing.

Slivka claims Lozano later arrived at the police station and offered to take her home, but instead took her to the Southeast & Armed Services YMCA, where he allegedly sexually assaulted her in his office.

Slivka's lawyer, Ryan Gilman, said that after Slivka reported the assault to the organization and asked to be kept from working with Lozano, the YMCA did not take the account seriously, and rather told her to "pray on it."

"They did a slipshod investigation and did nothing to protect her, or her wellbeing, from this abuser," Gilman said.

The lawsuit also alleges that the workplace culture at the YMCA created an environment where male supervisors felt safe behaving inappropriately to female colleagues.

The complaint states Slivka filed a charge with the Equal Employment Opportunity Commission, alleging sex and disability discrimination and retaliation, and was issued a right to sue letter last year.

The YMCA of the Pikes Peak Region has not formally responded to the lawsuit, but in a statement to CPR called the allegations "slanderous."

"The YMCA of the Pikes Peak Region takes all allegations of sexual assault seriously. While there is much we would like to say in response to the suit, this is not the appropriate forum," the statement said. "However, we can tell you that we deny the allegations and intend to vigorously defend the lawsuit. Furthermore, we are confident that the allegations will be proven false."

Carlos Lozano no longer works with the organization, but it is not yet clear if that's related to the alleged sexual assault. CPR was unable to contact Lozano.

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Colorado Springs sexual assault sexual harassment

About Dan Boyce

dan.boyce@cpr.org @BoyceDan

With over a decade of journalism experience, Dan joined Colorado Public Radio in 2018 as a regional reporter covering major news developments in Colorado Springs and surrounding areas.

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Stephen Beneski

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