

ATTACHMENT A

Property to Be Searched

1. The cellular telephone assigned call number **(303) 246-4475**, (the “Target Cell Phone”), whose wireless service provider is **Verizon Wireless**, a company headquartered at 180 Washington Valley Road, Bedminster, NJ 07921.
2. Information about the location of the Target Cell Phone that is within the possession, custody, or control of **Verizon Wireless**, including information about the location of the cellular telephone if it is subsequently assigned a different call number.

ATTACHMENT B

Particular Things to be Seized

All information about the location of the Target Cell Phone described in Attachment A for a period of thirty days, during all times of day and night. “Information about the location of the Target Cell Phone” includes all available E-911 Phase II data, GPS data, latitude-longitude data, and other precise location information, as well as all data about which “cell towers” (i.e., antenna towers covering specific geographic areas) and “sectors” (i.e., faces of the towers) received a radio signal from the cellular telephone described in Attachment A.

To the extent that the information described in the previous paragraph (hereinafter, “Location Information”) is within the possession, custody, or control of Verizon Wireless, Verizon Wireless is required to disclose the Location Information to the government. In addition, Verizon Wireless must furnish the government all information, facilities, and technical assistance necessary to accomplish the collection of the Location Information unobtrusively and with a minimum of interference with Verizon Wireless’s services, including by initiating a signal to determine the location of the Target Cell Phone on Verizon Wireless’s network or with such other reference points as may be reasonably available, and at such intervals and times directed by the government.

This warrant does not authorize the seizure of any tangible property. In approving this warrant, the Court finds reasonable necessity for the seizure of the Location Information. *See* 18 U.S.C. § 3103a(b)(2).

Pursuant to 18 U.S.C. §§ 2703(b)(1)(A) and 2705(b)(1), the Court orders Verizon Wireless not to disclose the existence of this warrant to the subscriber.

AFFIDAVIT

I, Elizabeth Shott, being first duly sworn, hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I make this affidavit in support of an application for a search warrant under Federal Rule of Criminal Procedure 41 and 18 U.S.C. §§ 2703(c)(1)(A) for information about the location of the cellular telephone assigned call number 303-246-4475, (the "Target Cell Phone"), whose service provider is Verizon Wireless, a wireless telephone service provider headquartered at 180 Washington Valley Road, Bedminster, NJ 07921. The Target Cell Phone is described herein and in Attachment A, and the location information to be seized is described herein and in Attachment B.

2. I am a Special Agent with the National Park Service, and have been since 2001. I am presently assigned to the Intermountain Region, duty stationed in Denver. I have been employed by the NPS as a Special Agent since 2001. From 1992 until 2001, I was a Law Enforcement Park Ranger with the National Park Service. I have received specialized training at the Federal Law Enforcement Training Center, completing the Criminal Investigator Training Program. I am a Computer Crimes Investigator for the National Park Service and have attended numerous computer forensic training courses to include Access Data's Forensic Toolkit Bootcamp and Guidance Software's advanced forensic training in EnCase. I am an Access Data certified examiner.

3. The facts in this affidavit come from my personal observations, my training and experience, and information obtained from other agents and witnesses. This affidavit is intended to show merely that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter.

4. Based on the facts set forth in this affidavit, there is probable cause to believe that the location information described in Attachment B will lead to evidence and fruits of a violation of Title 18, United States Code, Section 1111 (Murder) and violations of Title 18, United States Code, Section 1001 (False Statements), as well as to the identification of individuals who may be engaged in aiding and abetting those violations and related crimes.

PROBABLE CAUSE

1. On September 29, 2012, at about 5:54 PM, the Estes Park Police Department received a 911 phone call from HENTHORN from his cell phone (303) 246-4475, stating he was in Rocky Mountain National Park off the Deer Mountain Trail, and his wife Toni Henthorn had fallen off a cliff and needed Alpine Rescue. There were no other witnesses. The area where the fall occurred is a remote backcountry location within the exterior boundary of Rocky Mountain National Park in the District of Colorado. The call was transferred to the National Park Service (NPS) dispatch center.

2. Using the same cell phone, HENTHORN contacted his brother-in-law Barry Bertolet (hereinafter referred to as "Bertolet") in Mississippi at about 6:21 PM Mountain Time, telling him to, "check your phone check your phone I have a low cell battery and can't talk." A review of text messages to and from the cell phone of HENTHORN showed there was one from HENTHORN from about 6:16 PM Mountain time, telling him "Barry...Urgent...Toni is injured...in estes park...Fall from rock. Critical...requested flight for life. Emt rangers on way. Please come to Denver next flight. Low cell batt. Please return message."

3. HENTHORN continued a text dialog with Bertolet, and when Bertolet requested if he needed help, HENTHORN replied "H", which he took to mean, "yes get help." Bertolet contacted NPS dispatchers and talked with them until EMS arrived on scene

4. At about 6:13 PM, NPS dispatchers asked HENTHORN if he knew how to do CPR, to which he replied “I do I do.”

5. At about 6:25 PM HENTHORN text messaged Barry Bertolet, “Pulse 60,” “Resp 5.”

6. At about 6:39 PM, Bertolet text messaged HENTHORN and told him help is on the way and asked, “what is status” to which HENTHORN replied, “no min pulse.”

7. A review of call logs from HENTHORN’s cell phone and recordings from NPS dispatch showed at about 6:39 PM, HENTHORN called the NPS dispatch to tell them he started a fire and asked about when to start CPR. NPS dispatch requested Estes Park Police Department dispatch to do a CPR protocol with HENTHORN while on the phone.

8. At about 7:12 PM, HENTHORN text messaged Bertolet, “CPR critt.”

9. Bertolet text messaged HENTHORN, “Is ranger there?” to which HENTHORN texted back at 7:13 PM, “no.”

10. HENTHORN called NPS Dispatch at 7:17 PM, and again at 7:22 PM. The Incident Command Post picked up the calls on an unrecorded line.

11. At 7:24 PM HENTHORN text messaged Bertolet, “can’t find pulse.” Bertolet text messaged back at 7:25 “Maybe still there. Keep on with CPR.” HENTHORN replied with a text message to Bertolet at 7:25 PM, “Y.”

12. At about 7:31 PM, HENTHORN called the number 303-594-2841, belonging to Jack Barker (hereinafter referred to as “Barker”). The call lasted 2 seconds.

13. At about 7:31 PM, HENTHORN called the number 303-791-2696, also belonging to Barker. The call lasted 27 seconds.

14. At about 7:31 PM, HENTHORN called the number 303-791-2696 belonging to

Barker. This call lasted 35 seconds.

15. At about 7:33 PM, HENTHORN text messaged the number 303-594-2841, belonging to Barker, "...Urgent....Toni is injured... in estes park...Fall from rock."

16. At about 7:34 PM, HENTHORN text messaged the number 303-594-2841, belonging to Barker, "Can you get Steve t and drive to estes pk."

17. At about 7:35:02 PM, the text continued from HENTHORN to Barker, "ASAP."

18. At about 7:35:21 PM Barker text messaged HENTHORN back, "What do you need."

19. At about 7:35:44 PM, HENTHORN text messaged Barker, "Do not call others\nHaley not told."

20. At about 7:35:52 PM, HENTHORN text messaged Barker, "you."

21. At about 7:35:57 PM, HENTHORN text messaged Barker, "Prayer."

22. At about 7:36:06 PM, HENTHORN text messaged Barker, "Doing cpr."

23. At about 7:36:43 PM, HENTHORN text messaged Barker, "Call 911 when you arrive."

24. At about 7:36:53 PM, Barker texted back to HENTHORN, "911?" and then "Oh crap."

25. At about 7:37:16 PM, HENTHORN text messaged Barker, "Tell me your eta."

26. At about 7:37:41 PM Barker replied, "OK."

27. At about 7:37:47 PM HENTHORN text messaged back to Barker, "Flight for life requested," then "Y."

28. At about 7:41 PM, HENTHORN called the NPS dispatch to verify if they had his location and was transferred to the Incident Command Post.

29. At about 7:53:56, PM, Bertolet text messaged HENTHORN, "Status?"

30. At about 7:55 PM, HENTHORN called the NPS and talked for 115 seconds and asked for the status of the responding ranger. HENTHORN told the NPS dispatcher if the ranger told him where he was, HENTHORN could direct him directly to him. HENTHORN then gave his latitude and longitude coordinates and description to the dispatcher. HENTHORN then told the dispatcher his battery was low and requested the dispatcher to text him with the ETA of the ranger and hung up.

31. At about 7:55 PM, HENTHORN text messaged a reply to Bertolet, "Cpr...Help 10 min out."

32. At about 8:01 PM, HENTHORN called the NPS. The call was picked up by the Incident Command Post on an unrecorded line. The call lasted for about 90 seconds.

33. Law Enforcement Ranger and Emergency Medical Technician Mark Faherty arrived on scene at about 8:09 PM.

34. I reviewed the reports from Law Enforcement Ranger Faherty and have spoken to him during the investigation. He told me when he arrived on scene it was dark, but he saw HENTHORN was at the base of an approximately 120 foot cliff, and had a small fire going. I verified sunset was at 6:44 PM on that day.

35. Law Enforcement Ranger Faherty told me HENTHORN met him at the edge of the ledge about 10 feet from where Toni Henthorn was lying supine. HENTHORN walked over to Toni Henthorn and did some chest compressions as Law Enforcement Ranger Faherty prepared his EMS gear. At that time he asked HENTHORN to move and assessed Toni Henthorn's condition, and determined her pupils were fixed and dilated with no pulse.

36. At about 8:12 PM, Law Enforcement Ranger Faherty reported that Toni Henthorn

was dead to the Incident Command Post.

37. A review of text messages to and from HENTHORN's cell phone showed at about 8:23 PM, Steve Tokarski text messaged HENTHORN, "Harold Steve here. Jack & I r northbound 225. Where do we go. We are praying & church praying too."

38. At about 8:26 PM, HENTHORN text messaged Steve Tokarski back, "Estes," "Via Lyons."

39. I reviewed Law Enforcement Ranger Mark Faherty's report which stated HENTHORN did not want to leave his wife and was going to stay with Toni's body overnight. Law Enforcement Ranger Faherty told HENTHORN he should take care of himself and hike out. HENTHORN mildly protested but hiked out with him.

40. Law Enforcement Ranger Faherty told me the following regarding his observations and actions the night of the incident:

- a) HENTHORN only had a small keychain type flashlight.
- b) He had to loan a flashlight to HENTHORN to hike out with from the scene for safety as it was dark. It took them over 2 hours and 30 minutes to hike to the trailhead.
- c) Prior to HENTHORN's departure from the park on the early morning of September 30, Law Enforcement Ranger Faherty had arranged with HENTHORN to return to Rocky Mountain National Park at noon on October 1, 2012, for a further interview. On September 30, 2012, he received a phone call from a friend of HENTHORN's who told him HENTHORN did not want to leave his daughter and did not want her to leave the security and comfort of her

own home. It was then arranged he would meet HENTHORN at his home on October 1, for the interview.

41. Toni Henthorn's backpack was recovered with her body. I reviewed the contents of her pack and her clothing and there were no light sources located in the backpack or any indication she was prepared to hike in the dark.

42. On October 1, 2012, Law Enforcement Ranger Faherty met HENTHORN at his house at 9205 S. Sand Hill St., Highlands Ranch, CO, for a follow up interview.

43. I reviewed Law Enforcement Ranger Faherty's report of his interview with HENTHORN and spoke to him several times during the investigation and learned in part the following:

- a. When he walked into the house HENTHORN excused himself and turned on a slide show on a computer next to him, complete with music, that featured photos of himself, Toni and their daughter Haley Henthorn.
- b. HENTHORN appeared to be grieving but did not cry or show as much emotion as he did immediately following the fall.
- c. HENTHORN stated he was at Rocky Mountain National Park (RMNP) after surprising his wife for their 12th anniversary with a trip to Estes Park, staying at the Stanley Hotel in Estes Park.
- d. HENTHORN told him he had been on the Deer Mountain trail before and the last time was 2 to 3 months prior on a "scouting trip" to locate the best trail to take Toni on the anniversary trip. HENTHORN said he used a topographical map, not a park map, to plan the hikes.

- e. HENTHORN told him their original plan on September 29 was to hike in the Bear Lake area, but they changed their plan to hike up Deer Mountain Trail because it was very busy in the park.
- f. HENTHORN stated they started the hike around 1:30 to 1:45 PM and at a point where the trail leveled off, they reached a “use trail” leading north from the Deer Mountain trail. HENTHORN said they wanted to find a romantic spot for views, and to be alone. They reached a rocky knob on the top of the ridge where they arrived at about 3:30 PM and had lunch.
- g. HENTHORN stated they were going to leave at about 4:45 PM when Toni saw what she thought were turkeys and deer through some binoculars, and they hiked down to the second knob to take pictures and for “romantic time,” because the first knob did not offer much privacy.
- h. HENTHORN told him Toni Henthorn was taking pictures and they were passing the camera back and forth. Toni was telling him where she wanted him to stand when he received a text message from his daughter Haley’s babysitter Katy Carvill, which told him his daughter’s soccer team had won 5 to 1. HENTHORN then saw a blur and realized Toni was gone.
- i. HENTHORN told him it took him about 45 minutes to hike to the bottom of the cliff where he found his wife unconscious but alive. He had to drag her body from a rocky location to a flatter area. HENTHORN told him as he dragged her, her head and shoulders bounced on the rock. He then called 911 at about 5:54 PM.
- j. HENTHORN told him he had a dinner reservations at “Nicki’s Steakhouse” in

Estes Park at about 8:00 PM for September 29, 2012.

44. Law Enforcement Ranger Faherty later contacted Nicki's Steakhouse and was told there was an anniversary dinner reservation for 7:00 PM for a party of 2 under the name "Henchorn" but nothing for 8:00 PM for HENTHORN.

45. On October 29, 2012, a friend of HENTHORN's, Rebecca Roberts, told me right after Toni Henthorn died, HENTHORN told her he had taken six different hikes at Rocky Mountain National Park, about two weeks before, trying to find the hike to take Toni on their anniversary weekend. HENTHORN told her he planned every minute of their trip.

46. On December 21, 2012, FBI Special Agent Chris Calarco and I interviewed Katy Carvill, the Henthorn's babysitter, who was taking care of Haley on September 29, 2012. Carvill told us the soccer game the Henthorns' daughter played in on September 29, 2012, ended at about 3:00 PM, and she sent a text message to HENTHORN's cell phone around 3:00 PM with a picture of her with their daughter Haley telling him they won the game. She did not receive a reply text. A review of text records from Verizon showed the message delivered time to HENTHORN's phone was 5:54 PM, which was far later than the time HENTHORN said he received the message.

47. During the incident, Jack Barker and Steve Tokarski contacted the National Park Service and met Law Enforcement Ranger Tim Phillips at the Incident Command Post where they waited for HENTHORN and eventually drove HENTHORN home.

48. HENTHORN left a green 1998 Jeep Grand Cherokee Laredo with Colorado license #RDR478 at the Deer Mountain trail head and left the keys with the National Park Service Rangers so they could secure his vehicle in a safe location.

49. On September 30, 2012, the vehicle was impounded by Rocky Mountain National

Park Rangers, and as per the park's standard operating procedures, an inventory of the contents was performed by Law Enforcement Ranger Carmen Selent and the vehicle was secured in a garage bay within Rocky Mountain National Park.

50. I reviewed the report by Law Enforcement Ranger Selent and spoke to her during the investigation and learned in part, the following:

- a. During the inventory of contents, a National Park Service map of Rocky Mountain National Park was located by her which had the Deer Mountain trail highlighted in pink highlighter, and an "X" marked near the location where Toni Henthorn fell to her death, and the word "Hike" written next to the highlighted trail.
- b. This map was given to Law Enforcement Ranger Faherty by Law Enforcement Ranger Selent on September 30, 2012.

51. A review of Law Enforcement Ranger Faherty's report showed when he asked HENTHORN about the map, HENTHORN appeared at a loss for words and told him it was his map but it was not from the September 29, 2012, trip. HENTHORN could not explain why there was an x on the map near the site of the fall.

52. I spoke with Barry Bertolet who told me on or around October 19, 2012, HENTHORN told him Ranger Faherty asked about the map. HENTHORN told Bertolet the following:

- a. HENTHORN had scoped the trail out a couple days before taking Toni out there.
- b. He had no idea about the map or that the map was in his car.
- c. HENTHORN didn't remember making the map or why and said it may have been a map he made for his "nephew" Daniel Jarvis, who stayed with them a couple

years ago.

53. During the October 1, 2012 interview, Law Enforcement Ranger Faherty asked HENTHORN if he had been married before. HENTHORN told him he had been, but she had died. When he asked HENTHORN how she died, HENTHORN appeared reluctant to talk about it. HENTHORN did tell Law Enforcement Ranger Faherty his previous wife, Lynn Henthorn, had been killed in May 1995. They were driving and had broken down near Sedalia, Colorado, in Douglas County. HENTHORN was changing a flat tire and Lynn Henthorn was reaching under the vehicle for a lug nut when the jack slipped and Lynn Henthorn was crushed by the jeep. The death had been ruled accidental. HENTHORN had been the only one present when the accident occurred.

54. On October 2, 2012, the NPS and the Larimer County Coroner's Office received anonymous letters stating HENTHORN's wife from 17 years ago died in a suspicious accident where HENTHORN was the only witness and to, "Please thoroughly investigate the death of Dr. Toni Henthorn...Sadly there are many similarities to these two accidents."

55. Subsequently the National Park Service, Estes Park Police Department, Larimer County Sheriff's Office and Coroner's Office and the Department of Homeland Security received a total of 16 calls and letters between October 1, 2012 and October 24, 2012, requesting the death of Toni Henthorn be investigated or to express concerns about Toni Henthorn's death.

56. Review of the Douglas County Police Report of the May 6, 1995, death of HENTHORN's previous wife, Lynn Henthorn, indicated that while on a mountain road HENTHORN was changing a tire on his car when the car came off the jack, crushing his wife, who was under the car. On February 21, 1995, a life insurance policy of \$300,000 was approved

on Lynn Henthorn and another one on Harold Henthorn with CNA. No criminal charges were filed at that time and the case was recently re-opened.

57. In the report it stated HENTHORN told the investigating officer he and his wife were previously unable to have children. Lynn had had some cysts removed and they found out she may be able to get pregnant. Because of that fact, they took out the life insurance policy.

58. On October 23, 2012, Law Enforcement Ranger Faherty and I hiked the Deer Mountain Trail in the area described by HENTHORN and could not find the "use trail," described by HENTHORN. There were several areas where the soil had drained into the trail. We followed those drainages until they disappeared. None led directly to the upper rock "knob" described by HENTHORN.

59. We hiked to the first knob area described by HENTHORN. From this vantage point I observed a steep talus slope leading down from the rock outcropping. The area is very secluded and the upper rock outcropping is not visible from the trail. To reach the upper rock outcropping we had to hike through lodge pole pines and mixed conifer woods, which held downed trees and other natural obstacles. The location is about .24 miles from the trail.

60. I observed the steep talus slope leading down to the second "knob" described by HENTHORN, where Toni Henthorn's body was recovered below. The rocky slope was steep and required careful navigation. The area where Toni Henthorn fell from was an uneven rocky area with a small pine tree growing from the edge and small upthrust rocks at the edge of the cliff. The top of the second knob had room to move about freely and easily accommodated Law Enforcement Ranger Faherty and myself and our gear.

61. After reaching the top of the second "knob," I identified the small pine tree on the

cliff above where Toni Henthorn's body was recovered and compared it to the one as seen in the picture of HENTHORN from the camera recovered with Toni Henthorn's body. The tree appeared to be the same tree in the pictures.

62. I hiked down the steep slope to the area where Toni Henthorn's body was recovered. The slope had to be navigated carefully due to the steep terrain and natural obstacles. I timed the hike back up to the top of the cliff where Toni Henthorn fell, which took less than 10 minutes.

63. I hiked out in good lighting from the incident location and back to the trailhead in about 1 hour and 30 minutes.

64. Toni Henthorn's parents told me Toni had bad knees and had several surgeries. Toni would not ski due to her bad knees.

65. Tammi Abruscato, Toni Henthorn's Office Manager at Associates in Eyecare, told me Toni had bad knees. She said Toni would go on walks, not climbs. She also told me Toni is a very cautious person with "humongous" responsibilities.

66. A review of Law Enforcement Ranger Faherty's report showed during the October 1, 2012 interview with HENTHORN, HENTHORN told him there was a \$1.5 million Life Insurance Trust in Toni Henthorn's name, and that Tom Scheffel was the attorney for the trust and HENTHORN was the trustee. The trust was for their daughter, Haley Henthorn.

67. I contacted Tom Scheffel, who confirmed there is a Life Insurance Trust for \$1.5 million with Harold HENTHORN as a trustee and the trust to go to their daughter, Haley Henthorn. Neal Creswell was the agent who brokered the policy. Neal Creswell confirmed the policy was with ING-Reliastar.

68. After researching insurance policies owned by HENTHORN, I discovered the following:

- a. There is a \$1.5 million life insurance policy with American General Life Insurance on Toni Henthorn with Harold HENTHORN as the beneficiary taken out in 2001, shortly after they were married.
- b. There are no insurance policies on Harold HENTHORN with American General Life Insurance.
- c. There is another life insurance policy on Toni Henthorn with Genworth Financial for \$1.5 million, which was created in 2005.
- d. On May 11, 2011, the beneficiary for the Genworth Financial life insurance policy was changed from Harold HENTHORN to the “Harold A. Henthorn & Toni B. Henthorn Trust.”
- e. There are no current insurance policies on Harold HENTHORN with Genworth Financial.
- f. There is one \$1 million life insurance policy on HENTHORN with ING-Reliastar.
- g. All policies are owned by Harold Henthorn. A review of Law Enforcement Ranger Faherty’s report from his October 1, 2012 interview showed HENTHORN stated there was a life insurance trust only, and did not tell them about the other life insurance policies.
- h. HENTHORN owns a life insurance policy with ING-Reliastar on Grace Rishell, created in 2009. Grace Rishell is the ex-wife of HENTHORN’s deceased wife Lynn Henthorn’s brother. The policy amount is for \$400,000 with Harold HENTHORN as the primary beneficiary. The policy was still valid as of

12/15/2012. Grace Rishell lives in Texas and has children.

- i. The address for the ING-Reliastar policy for Toni Henthorn is located at 9205 South Sand Hill Street, Highlands Ranch, Colorado. The address for the ING-Reliastar policy owned by HENTHORN on Grace Rishell is 9457 South University Boulevard, Suite 258, Littleton, Colorado, 80126. The application paperwork for the policy had the owner name Harold HENTHORN with a residence address of 9457 South University Boulevard, Suite 258, Littleton, Colorado, 80126 and the billing address as the same, and lists him as “Bro-In Law.”
- j. 9457 South University Boulevard, Suite 258, Littleton, Colorado is the business, “The UPS Store.” I confirmed it did not have suites but did have a mail box # 258.

69. Yvonne Bertolet, Toni Henthorn’s mother, told me that on Memorial weekend 2011, while working at their cabin at Grand Lake, Colorado, a 20 foot beam fell on Toni Henthorn , cracking her vertebrae. Toni Henthorn told Yvonne Bertolet she was called outside by HENTHORN from where she was inside. When she came outside she saw something on the ground and bent over. At that time the beam hit her. She told her mother if she hadn’t bent over when she did the beam would have killed her. The only witness to the accident was HENTHORN. (When she first spoke with law enforcement, Yvonne Bertolet recalled that this incident occurred in approximately August or September 2011, not May 2011.)

70. Transcripts received from Swedish Hospital in Denver, the hospital where Toni Henthorn was transferred to and treated, stated the following:

- a. Toni Henthorn told the doctor on May 28, 2011, a light bulb blew from a spotlight. She was outside with her husband cleaning up. She was under the deck bending over to pick up glass. Her husband was on the deck. A 20 foot 2x4 fell off the deck about 10 feet, striking her on her shoulder blades.
- b. After she was struck she got instant severe numbness over her entire body and does not recall how she ended up lying on the ground. Records indicate HENTHORN told the doctor he assisted Toni to the ground.

71. As a result of the accident, Toni Henthorn sustained paresthesia to her left index finger.

72. On October 12, 2012, I interviewed both of Toni Henthorn's parents and her mother, Yvonne Bertolet told me, in part, the following:

- a. Toni was the "breadwinner" of the family and received large sums of money from oil and gas investments as well as from them annually.
- b. Yvonne Bertolet did the books for Toni's ophthalmology business when she lived in Mississippi as well as after she married and moved to Denver, and she did not believe HENTHORN provided much income.
- c. She once heard HENTHORN tell Toni, "If you tell your parents, I'll divorce you." She did not know what he was alluding to. Toni's father, Robert Bertolet, was going to confront HENTHORN when he heard it but Toni told them, "You can do things like that, but I'm going to pay the price." They did not confront HENTHORN.
- d. HENTHORN once refused to take Toni to her physical therapy for her knee after a surgery when they lived in Mississippi. When Yvonne Bertolet told Toni she

would come and pick her up to take her, Toni called back “panicked” and told her not to come. She felt it was another incident where Toni would pay the price, and HENTHORN would argue with Toni about it.

- e. After the beam incident she feared for Toni’s safety. She did not think HENTHORN would kill her but did fear he would hurt her.
- f. HENTHORN was controlling of Toni and would not allow her to have long distance minutes on her cell phone to call them.
- g. HENTHORN would not let them speak alone on the phone and whenever they would call Toni, HENTHORN would return the call, and if Toni was on the call it was usually on speakerphone with her in the background.

73. Robert Bertolet, Toni’s father, told me the following:

- a. Toni had a 4% interest in a family oil business which paid out monthly dividends to the amount of \$2,000 to \$24,000.
- b. They gave her money annually as they were successful entrepreneurs in the oil business. About one and a half years ago, Toni Henthorn received about \$320,000 from a lawsuit they won involving their oil wells.

74. Toni Henthorn bought into a partnership, Associates in Eyecare, in Denver about one year prior to her death. According to Dr. Stewart Frankel, one of the partners of the business, they would be paying back about \$186,000 to HENTHORN because Toni never signed the life insurance paperwork for the business.

75. Toni Henthorn’s monthly salary was about \$9,800, according to Dr. Frankel.

76. Toni Henthorn’s 2011 tax return showed she made \$114,236 in wages from Associates in Eyecare.

77. HENTHORN told Law Enforcement Ranger Faherty he was a fundraiser for nonprofits. On December 21, 2012, I was given a photo of a business card of his by one of HENTHORN's friends, Cathy Lynch, which stated "Development Services, Inc. Not for profit Fund Raising." The card listed an address of 9205 S. Sand Hill Street, Suite 200, Littleton, CO as the address and an email of HHRDSDEN@AOL.COM as the business email. Next to Harold HENTHORN's name on the card was "CFRE."

78. Barry Bertolet told me HENTHORN travelled a lot for his work but could not tell me the name of his business or who his clients were. During Toni Henthorn's memorial in Colorado, none of her family met any co-workers or clients of HENTHORN's and don't believe anyone related to his work came to the service.

79. On December 21, 2012, FBI Special Agent Chris Calarco and I interviewed the Henthorns' babysitter, Katy Carvill, who told us the following;

- a. HENTHORN would leave on Thursdays for business trips during the time she took care of Haley. This occurred almost every Thursday and he would return the next day.
- b. HENTHORN told her he was travelling to Grand Junction and other locations but he never had any luggage with him when he left the house.
- c. HENTHORN on more than one occasion told Carvill he had to catch a flight at a certain time and would leave the house well after the time he said the flight was scheduled for.
- d. She thought his travel behavior was strange and wondered if HENTHORN was having an affair.
- e. Toni and HENTHORN slept in separate bedrooms. Carvill was told by Haley

they had separate bedrooms, and one morning Carvill observed Haley go to a room different from the master bedroom where Toni slept to wake up HENTHORN.

80. A review of tax returns from 2005 through 2011 showed HENTHORN did not claim any income, nor did he claim any loss of income, from his business "Development Services, Inc." There were no references to "Development Services, Inc." on any of the tax returns, nor any businesses affiliated with HENTHORN. All wages listed were Toni Henthorn's.

81. Investigators were unable to find any documentation of the Incorporation in the State of Colorado for "Development Services, Inc," with HENTHORN as the registered agent, nor find any business with HENTHORN as the owner.

82. On October 22, 2012, I interviewed Allison Talley and learned in part, the following:

- a. Talley was a friend of Toni's from Mississippi and remained friends after Toni and HENTHORN moved to Colorado. Talley told me HENTHORN called her on September 24, 2012. She found the call strange and made notes from it. Talley told me the following regarding the call:
- b. HENTHORN told her he was planning the surprise trip to Estes Park for the next weekend.
- b. He told her he was pursuing an account in Albuquerque, New Mexico, but did not tell her who the account was with.
- c. HENTHORN told her Toni wasn't making any money, and no doctor in Colorado makes more than \$50,000. He told her he wanted Toni to quit.
- d. She thought Toni was making good money and did not know why HENTHORN

said that.

- e. HENTHORN also lied to her about Toni's family not calling Toni on her 50th birthday. She knew they called her but again did not know why he lied.
- f. At the end of the call, she had an intuition Toni was going to take Haley and leave HENTHORN.

83. On October 3, 2012, I interviewed Linda Rankin who told me, in part, the following:

- a. Rankin has known HENTHORN for about 35 years.
- b. On September 27, 2012, she spoke to HENTHORN who told her he was unhappy Toni was going to have to pay into "Obamacare" and was basically going to have to work for free.
- b. HENTHORN told her during the same conversation that he was currently in Las Vegas bidding for a job.
- c. HENTHORN was always "flying around" for work, fundraising for hospitals and churches, and did quite well.
- d. HENTHORN told her he was unhappy Toni had a business so far away from home and wanted her to work closer.

84. On October 17, 2012, I interviewed Ginger Wilson, who worked for Toni Henthorn in Mississippi. Wilson told me that before Toni married him, HENTHORN had told her he had created financial profiles of three women and after asking some of his friends which one he should marry, decided on Toni.

85. Between October 10, 2012 and January 11, 2013, I spoke several times with Barry

Bertolet. Bertolet is the brother of Toni Henthorn and lives in Mississippi. During the incident, HENTHORN was texting him about Toni's condition. Bertolet, in part, told me the following:

- a. After the incident, HENTHORN told Bertolet regarding the incident that cell coverage was poor and he had to move away from the area up and down the rocks to text him.
- b. Bertolet was surprised when he learned Toni had died from shock and had been bleeding profusely. As a doctor, he knew that as someone becomes hypovolemic, they become tachycardic and respirations increase, not decrease, which is what HENTHORN told him happened. He got from HENTHORN's text message that Toni was actually not doing that bad since her pulse and respirations were not that far from normal.
- c. Bertolet told me that on or around October 19, 2012, he spoke with HENTHORN who changed his story and told him Toni had a high heart rate of 110 to 115 and respirations of 5 to 11 after she fell, but never mentioned she was bleeding.
- d. HENTHORN initially told him during the incident, he received a text about his daughter Haley winning a soccer match when he saw a blur, looked up and saw Toni was gone and had fallen from a 24 foot cliff.
- e. HENTHORN called him on October 11, 2012, and changed his story to he was looking for a text message about his daughter Haley getting to the babysitter's house.
- f. HENTHORN told other family members the same thing about looking for a text about Haley winning a soccer game, and then later changed his story that he was looking for a text that Haley got to the babysitter's house.

86. During the weekend of October 20, and 21, 2012, while HENTHORN was in Mississippi for Toni Henthorn's memorial service, he asked to meet with Barry and Todd Bertolet. I spoke with both Barry and Todd Bertolet on October 22, 2012, via speakerphone and they provided me, in part, the following information:

- a. HENTHORN told them Ranger Faherty was, "irritated" about his statement about looking at a text which came when Toni fell. Ranger Faherty told HENTHORN, "no you weren't, the text came in 30 minutes after your call to rescuers."
- b. HENTHORN told the Bertolets he misspoke and he was looking for texts from Toni's hospital as she was on call. HENTHORN went "on and on" about the hospital text messages to Barry and Todd Bertolet and how Toni had traded "on call" with someone else.
- c. HENTHORN told their parents while he was in Mississippi for Toni Henthorn's service, on or around October 19, 2012, he was indicted in Colorado and was expecting to be arrested when he returned home. HENTHORN told their parents he expected to be in jail for 2 weeks waiting for a bail hearing, and he had found someone to take care of Haley.
- d. During the meeting with HENTHORN, during the weekend of October 20 and 21, 2012, he also told them he was being investigated and told them Ranger Faherty had a "vendetta" against him.
- e. HENTHORN told them Ranger Faherty asked him about the park map. He told the Bertolet brothers he had scoped out the trail before taking Toni out to it but had no idea about the map or that the map was in his car. He may have made the map for his "nephew" Daniel Jarvis.

- f. HENTHORN told them he thinks he is in trouble based on the “rogue ranger” who has a vendetta against him.
- g. HENTHORN asked them about the oil interests in Toni’s name and if they were coming to him as, “it would look bad for him,” if he got that money. They asked him twice if there was a will to which he would not reply. HENTHORN never let them know about Toni’s will but later told them the money from the will was all going to Haley and charity. They never saw the will.

87. Toni Henthorn’s cell phone was left at her office during the weekend of September 29, 2012 and was later retrieved on October 1, 2012 by a friend. I reviewed the calls for Toni Henthorn from Contact One Call Center, her answering service for work. There were no calls made to Harold HENTHORN’s cell number nor were there any text messages sent to either her phone or his cell phone.

88. The call center left messages on Toni Henthorn’s cell phone, which was not in her possession, and on their home phone.

89. A review of phone logs from HENTHORN’s cell phone showed he did not receive any calls on September 29, 2012 from Contact One Call Center.

90. A camera was recovered with Toni Henthorn’s body. The camera was smashed but the SD card was removed from the camera and the pictures were reviewed by Law Enforcement Ranger Faherty, who later gave copies of the pictures to HENTHORN on October 1, 2012.

91. Using a SD card write blocker, I reviewed the SD card recovered from Toni Henthorn’s camera. Recovered data with the photos showed a date and time stamp of the last

photo to be September 29, 2012 at 5:00:30 PM and was a picture of HENTHORN standing on the edge of a cliff next to a small pine tree. There were no pictures of Toni Henthorn at the lower “knob” location where she fell.

92. On December 21, 2012, FBI Special Agent Chris Calarco and I interviewed Katy Carvill who told us, in part, the following:

- a. Haley, the Henthorns’ 7 year old daughter, was the focus of HENTHORN’S attentions and he appeared to be more involved with Haley than Toni.
- b. HENTHORN was in control of Haley and made all decisions for her.
- c. HENTHORN was controlling of Toni. Carvill would occasionally go to dinner with the Henthorns on Fridays after babysitting. HENTHORN would control the conversation and would cut Toni off, not giving her a chance to voice her opinion.
- d. HENTHORN acted like he was superior to Toni.

93. On November 20, 2012, FBI SA Calarco and I interviewed Mike Whitener. Whitener was friends with HENTHORN from when he married his wife, Myra, who knew HENTHORN from grade school. Whitener told us, in part, the following:

- a. He and his wife would spend extended vacation times with the Henthorns, but he never saw a lot of openness between Toni and HENTHORN during their marriage.
- b. During the reception after the service for Toni Henthorn in Mississippi on October 19, 2012, HENTHORN went into a “litany” about how he was in a bind and he was in a legal situation which was a tangle for him.
- c. HENTHORN told him he was being investigated for the death of Toni and the

people investigating him were being too “zealous” and he had to get an attorney.

It was obvious that it occupied HENTHORN’s mind and time. He looked “distraught and under pressure.”

- d. HENTHORN told him he was being investigated for killing Toni, however he never said he didn’t kill Toni during their conversation. It “tormented” Whitener that HENTHORN did not deny killing Toni.
- e. HENTHORN told him he was being investigated because the ranger was overzealous.
- f. HENTHORN brought up Lynn’s death and said the “same ranger asked him about her death.” HENTHORN told him he refused to tell the ranger about Lynn’s death.
- g. It struck him at that time, it was “kind of spooky” both deaths happened on special occasions.
- h. HENTHORN appeared more distraught he was being investigated than over the death of his wife. It troubled him HENTHORN didn’t say anything about losing his wife or show remorse over her death. He didn’t cry or seem to be in mourning.
- i. It wasn’t a democracy, it was more like a dictatorship with HENTHORN. HENTHORN would tell Toni to “do this, or get my stuff for me.” Toni would rarely challenge HENTHORN. When she did, HENTHORN would overrule her. He didn’t see HENTHORN having a lot of concern for Toni to have a say in things.

94. On November 20, 2012, FBI SA Calarco and I interviewed Myra Whitener. She

knew HENTHORN from grade school and would vacation with the Henthorns. Myra told us, in part, the following:

- a. HENTHORN was “very stoic” at the service. He appeared “non-emotional” and “distant.” HENTHORN did not cry at the service. He did not have any expressions of love towards Toni during the service. The only emotion she saw from him was when a picture of Haley and Toni came up on screen, he hugged Haley and said “there you are with your mama,” but made no other comments.
- b. He told her on October 23, 2012, during a phone call, “I miss my best friend, I have to do the laundry and I have to do the grocery shopping,” but made no other endearing comments about Toni.
- c. Around September, 2011, when they were at the beach on vacation, Toni confided in her, “I just want to be able to read stories to my daughter and sing to her at night, not just when Harold is gone, but when we’re home together.”
- d. HENTHORN is in charge of Haley’s “everything” from picking out Haley’s clothing to everything else.

95. On October 24, 2012, I spoke with Cathy Lynch who has a child who attends Cherry Hills Christian School, the same school Haley Henthorn attends. Lynch told me, in part, the following:

- a. HENTHORN is very involved in Haley’s school and after school activities.
- b. HENTHORN is very controlling and would control conversations.
- c. He would not give out Toni’s cell phone number and to coordinate events with the kids, they would have to go through HENTHORN to coordinate with Toni.

96. On December 11, 2012, FBI SA Calarco and I spoke with Kathy Burr, a friend of

the Henthorns. She has children who also go to Cherry Hills Christian School. Burr told us, in part, the following:

- a. HENTHORN was one of the most controlling people she ever met.
- b. She thought that Toni was a third wheel in the family and it was all about Haley with HENTHORN.
- c. During a conversation with Toni not too long before she died, Toni told her she wanted to get Haley baptized soon, but HENTHORN interjected and said he already decided when Haley would be baptized, cutting off Toni. The conversation ended there.

97. On January 8, 2013, FBI Intel Analyst Elizabeth Dawson found an advertisement by HENTHORN on the Denver Seminary website, posted 12/12/2012, for a nanny to take care of his 7 year old daughter. The advertisement stated the position was needed for Wednesday, Thursday and Friday afternoons now with, “Substantial hours available in the summer, especially on W .Th. & Fri.”

98. HENTHORN told his babysitter Katy Carvill he was travelling for work on Thursdays and Fridays for his business and would leave the house but would leave without luggage and at odd times, causing her to think he may be having an affair.

99. HENTHORN told friends and family he traveled for his business yet no one I interviewed could tell me names of clients.

100. Based on the review of tax records from 2005 through 2011, HENTHORN did not claim any income for “Development Services, Inc”, nor is there any record of an Incorporation named “Development Services, Inc,” with HENTHORN as a registered agent in the state of Colorado.

101. I am unable to account for where HENTHORN is travelling to on Thursdays and Fridays.

102. I determined HENTHORN used an address at “The UPS Store” to which he had sent life insurance policy information on a woman other than his wife which he purchased in 2009 and owned as of 12/15/2012. Other life insurance policy information on his wife through the same company shows he received the correspondence mail at his residence at 9205 South Sand Hill Street, Highlands Ranch, Colorado. I am unable to determine at this time why HENTHORN would send mail to “The UPS Store,” as opposed to his home address, which he has owned since 2000.

103. On October 10, 2012, HENTHORN purchased a red 2013 Jeep Grand Cherokee from Faricy Boys in Colorado Springs.

104. HENTHORN told Law Enforcement Ranger Faherty he bought a new Jeep for Toni, however he actually purchased the vehicle after her death on October 10, 2012.

105. In my training and experience, I have learned that Verizon Wireless is a company that provides cellular telephone access to the general public. I also know that providers of cellular telephone service have technical capabilities that allow them to collect and generate at least two kinds of information about the locations of the cellular telephones to which they provide service: (1) E-911 Phase II data, also known as GPS data or latitude-longitude data, and (2) cell-site data, also known as “tower/face information” or cell tower/sector records. E-911 Phase II data provides relatively precise location information about the cellular telephone itself, either via GPS tracking technology built into the phone or by triangulating on the device’s signal using data from several of the provider’s cell towers. Cell-site data identifies the “cell towers” (i.e., antenna towers covering specific geographic areas) that received a radio signal from the

cellular telephone and, in some cases, the “sector” (i.e., faces of the towers) to which the telephone connected. These towers are often a half-mile or more apart, even in urban areas, and can be 10 or more miles apart in rural areas. Furthermore, the tower closest to a wireless device does not necessarily serve every call made to or from that device. Accordingly, cell-site data is typically less precise than E-911 Phase II data.

106. Based on my training and experience, I know that Verizon Wireless can collect E-911 Phase II data about the location of the Target Cell Phone, including by initiating a signal to determine the location of the Target Cell Phone on Verizon Wireless’s network or with such other reference points as may be reasonably available.

107. Based on my training and experience, I know that Verizon Wireless can collect cell-site data about the Target Cell Phone.

AUTHORIZATION REQUEST

108. Based on the foregoing, I request that the Court issue the proposed search warrant, pursuant to Federal Rule of Criminal Procedure 41 and 18 U.S.C. § 2703(c).

109. I further request, pursuant to 18 U.S.C. § 3103a(b) and Federal Rule of Criminal Procedure 41(f)(3), that the Court authorize the officer executing the warrant to delay notice until 30 days after the collection authorized by the warrant has been completed. There is reasonable cause to believe that providing immediate notification of the warrant may have an adverse result, as defined in 18 U.S.C. § 2705. Providing immediate notice to the subscriber or user of the Target Cell Phone would seriously jeopardize the ongoing investigation, as such a disclosure would give that person an opportunity to destroy evidence, change patterns of behavior, notify confederates, and flee from prosecution. *See* 18 U.S.C. § 3103a(b)(1). As further specified in Attachment B, which is incorporated into the warrant, the proposed search warrant does not

authorize the seizure of any tangible property. *See* 18 U.S.C. § 3103a(b)(2). Moreover, to the extent that the warrant authorizes the seizure of any wire or electronic communication (as defined in 18 U.S.C. § 2510) or any stored wire or electronic information, there is reasonable necessity for the seizure for the reasons set forth above. *See* 18 U.S.C. § 3103a(b)(2).

110. I further request that the Court direct Verizon Wireless to disclose to the government any information described in Attachment B that is within the possession, custody, or control of Verizon Wireless. I also request that the Court direct Verizon Wireless to furnish the government all information, facilities, and technical assistance necessary to accomplish the collection of the information described in Attachment B unobtrusively and with a minimum of interference with Verizon Wireless's services, including by initiating a signal to determine the location of the Target Cell Phone on Verizon Wireless's network or with such other reference points as may be reasonably available, and at such intervals and times directed by the government.

111. I further request that this Court order the Verizon Wireless not to notify the subscriber of the existence of the warrant because there is reason to believe that notification of the existence of the warrant will result in flight from prosecution, destruction of evidence, intimidation of potential witnesses, or otherwise seriously jeopardizing an investigation. See 18 U.S.C. § 2705(b)(2), (3), (4), (5).

112. I further request that the Court authorize execution of the warrant at any time of day or night, owing to the potential need to locate the Target Cell Phone outside of daytime hours.

Respectfully Submitted,


s/ Elizabeth Shott
Elizabeth Shott
Special Agent, National Park Service

Application for search warrant was reviewed and is submitted by Ryan Bergsieker, Assistant United States Attorney.

Subscribed and sworn to before me on January ²³~~22~~, 2013.

Michael E. Hegarty
UNITED STATES MAGISTRATE JUDGE

AO 93 (Rev. 12/09) Search and Seizure Warrant (Page 2)

Return		
Case No.:	Date and time warrant executed:	Copy of warrant and inventory left with:
1:13-sw-05063-MEH	JANUARY 24, 2013 12:00p	VERIZON WIRELESS
Inventory made in the presence of:		SPECIAL AGENT BETH SHOTT
Inventory of the property taken and name of any person(s) seized:		
EXCEL FILES RECEIVED FROM VERIZON WIRELESS WHICH CONTAINED CELL TOWER LOCATION DATA (RTT DATA) BETWEEN JANUARY 24, 2013 AND APRIL 18, 2013.		
<p>FILED UNITED STATES DISTRICT COURT DENVER, COLORADO 3:37 pm, May 16, 2013 JEFFREY P. COLWELL, CLERK</p>		
Certification		
I declare under penalty of perjury that this inventory is correct and was returned along with the original warrant to the designated judge.		
Date:		
May 15, 2013	Executing officer's signature	
	ELIZABETH SHOTT, SPECIAL AGENT	
	Printed name and title	