District Court, Arapahoe County, Colorado Arapahoe County Courthouse 7325 S. Potomac St., Centennial, CO 80112	**Filed** OCT 16 2012 CLERK OF THE COMBINED COURT ARAPAHOE COUNTY, COLORADO
THE PEOPLE OF THE STATE OF COLORADO, Plaintiff v. **JAMES HOLMES,** Defendant	σ COURT USE ONLY σ
DOUGLAS K. WILSON, Colorado State Public Defender Daniel King (No. 26129) Tamara A. Brady (No. 20728) Chief Trial Deputy State Public Defenders 1290 Broadway, Suite 900 Denver, Colorado 80203 Phone (303) 764-1400 Fax (303) 764-1478 E-mail: state.pubdef@coloradodefenders.us	Case No. **12CR1522** Division 22

MOTION TO CONTINUE OCTOBER 25, 2012 HEARING [D-019]

James Holmes, through counsel, respectfully moves this Court to continue the hearing in this case presently scheduled for October 25, 2012. In support of this request, the defense states the following:

1. On Friday, October 12, 2012, this Court issued an Order Allowing Opportunity to Submit Additional Documents Re: Motion to Unseal Redacted Information [C-13]. In this order, the Court indicated that it desires additional information from the parties by October 22, 2012, before ruling on the media's request to unseal the victims' names in this case.

2. As noted in its Response to C-13 filed on October 9, 2012, the amount of time, effort, and resources the defense is devoting to responding to the media's demands for information are beginning to interfere with the defense's ability to perform its obligation to provide constitutionally effective representation to Mr. Holmes. *Strickland v. Washington*, 466 U.S. 668 (1984); *People v. Rodriguez*, 914 P.2d 230, 294 (Colo. 1996).

3. Because the defense strongly believes that unredacting the victims' identities per the media's request will be detrimental to Mr. Holmes' constitutional rights to a fair trial and to investigate and prepare his defense, *see Holmes v. South Carolina*, 547 U.S. 319, 324 (2006); *Sheppard v. Maxwell*, 384 U.S. 333, 350-51 (1966), and because the Court has indicated that additional filings on this issue will inform its ability to best apply the law, the defense intends to submit additional *ex parte* filings illustrating the harm to the fairness of the trial and to the victims' and witnesses' privacy and safety if these names are released to the public .

4. However, counsel is simultaneously in the process of conducting important investigation, attempting to read and digest over 18,000 pages of discovery, researching and preparing to litigate upcoming legal issues, and responding to pleadings filed by additional third parties outside of this case due next week. Because of all of these other responsibilities and the

short time frame the Court has provided to file these additional pleadings on the issue of media access, the defense will be unable to also effectively ready itself for the issues scheduled to be addressed on October 25, 2012, which not only include an evidentiary hearing on D-017 but the status of CORA requests made by the media to the University of Colorado.

5. Therefore, the defense respectfully requests a continuance of the October 25, 2012 hearing date so that it may provide Mr. Holmes with the effective representation to which he is constitutionally entitled.

Mr. Holmes files this motion, and makes all other motions and objections in this case, whether or not specifically noted at the time of making the motion or objection, on the following grounds and authorities: the Due Process Clause, the Right to a Fair Trial by an Impartial Jury, the Rights to Counsel, Equal Protection, Confrontation, and Compulsory Process, the Rights to Remain Silent and to Appeal, and the Right to be Free from Cruel and Unusual Punishment, pursuant to the Federal and Colorado Constitutions generally, and specifically, the First, Fourth, Fifth, Sixth, Eighth, Ninth, Tenth, and Fourteenth Amendments to the United States Constitutions, and Article II, sections 3, 6, 7, 10, 11, 16, 18, 20, 23, 25 and 28 of the Colorado Constitution.

Daniel King (No. 26129)
Chief Trial Deputy State Public Defender

Tamara A. Brady (No. 20728)
Chief Trial Deputy State Public Defender

Kristen M. Nelson (No. 44247)
Deputy State Public Defender

Dated: October 16, 2012

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THE PEOPLE OF THE STATE OF COLORADO, Plaintiff v. **JAMES HOLMES,** Defendant	σ COURT USE ONLY σ
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ORDER RE: MOTION TO CONTINUE OCTOBER 25, 2012 HEARING [D-019]	

Defendant's motion is hereby GRANTED _____ DENIED _____.

BY THE COURT:

_____ _____

JUDGE Dated

I hereby certify that on October 16, 2012, I

____ mailed, via the United States Mail,
____ faxed, or
__✓__ hand-delivered

a true and correct copy of the above and foregoing document to:

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Rich Orman
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Centennial, Colorado 80111
Fax: 720-874-8501