

District Court, Arapahoe County, Colorado Arapahoe County Courthouse 7325 S. Potomac St., Centennial, CO 80112	2013 MAR 29 5:14:31 σ COURT USE ONLY σ
THE PEOPLE OF THE STATE OF COLORADO, Plaintiff v. JAMES HOLMES, Defendant	Case No. 12 CR1522 Division 22
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MOTION FOR PROTECTIVE ORDER AND TO QUASH SUBPOENA DUCES TECUM AND AD TESTIFICANDUM	

Jana Winter, by and through her undersigned attorneys, files this Motion for Protective Order and to Quash Subpoena Duces Tecum Ad Testificandum and states as follows:

Winter is an interested person in the above-captioned case because on March 7, 2013 she was deemed served with a subpoena duces tecum and ad testificandum (the "Subpoena"), ordering her to produce documents and testify as a non-party witness in the above matter on April 1, 2013. Ms. Winter is requesting, pursuant to C.R.C.P. 47 and the Colorado Shield Law, codified at § 13-90-119, C.R.S. (the "Shield Law"), that this Court issue a protective order and an order quashing the Subpoena to preclude any testimony or production of documents from her in this case. Winter further respectfully requests that (1) this Court issue an interim order providing that Winter need not travel to Colorado to testify until such time as the Court rules on this motion; and (2) she be given the chance to present oral argument.

Winter respectfully requests this relief because the testimony and documents sought in the Subpoena concern confidential newsgathering information that is privileged from disclosure under the Colorado Shield Law. The Shield Law requires a court to make a determination, based on weighing evidence submitted by both the requesting party and the subpoenaed party, of whether the requesting party can show by a preponderance of the evidence that: (1) the identities of Winter's sources are "*directly* relevant to a *substantial* issue" in the case; (2) the identities of Winter's sources "cannot be obtained by *any* other reasonable means"; and (3) a "*strong* interest" of the requesting party "*outweighs* the interests under the [F]irst [A]mendment to the United States [C]onstitution" of both Winter and "of the general public in receiving news information." § 13-90-119, C.R.S. (emphasis added).

Although this Court has heard some testimony in connection with defendant James Holmes' Motion for Sanctions for Violating the Court's Order Limiting Pretrial Publicity by Leaking Privileged and Confidential Information to the Media and Request for Evidentiary Hearing (D-017), the Court has not heard any argument or been presented with all evidence relevant to a determination of whether Holmes can meet his burden under the Shield Law.

For the reasons set forth in the accompanying Brief in support of Winter's motion, Winter submits that, on consideration of a full record, Holmes has not and cannot make these showings, and thus Winter's request to quash the Subpoena should be granted.

DATED this 28th day of March, 2013.

Respectfully submitted,



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