

Revised

District Court, Arapahoe County, Colorado Arapahoe County Courthouse 7325 S. Potomac St., Centennial, CO 80112	<p style="text-align: center;">Filed JUL 25 2012</p> <p style="text-align: center;"><small>CLERK OF THE COMBINED COURT ARAPAHOE COUNTY, COLORADO</small></p> <p style="text-align: center;">σ COURT USE ONLY σ</p>
THE PEOPLE OF THE STATE OF COLORADO, Plaintiff v. JAMES HOLMES, Defendant	
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 408 <i>77</i>
MOTION FOR COMPLIANCE WITH ORDER LIMITING PRE-TRIAL PUBLICITY [D-010]	

James Holmes, through counsel, hereby moves this Court to issue an Order pursuant to his constitutional rights to a fair trial, a fair and impartial jury, and due process of law, requiring the government to comply with the Court's previously-issued order limiting pre-trial publicity, directing the government to refrain from disseminating information that presents a danger to the fairness of a trial in this matter, and specifically prohibiting the government from disseminating information and material that appears to possibly be privileged, or that Mr. Holmes alleges is privileged, until issues of privilege can be fully litigated. As grounds for this motion, Mr. Holmes states the following:

1. Mr. Holmes previously filed a motion to limit pre-trial publicity, *see* [D-002], and this Court issued an order limiting pre-trial publicity on July 23, 2012 instructing the parties and law enforcement to refrain from disseminating information that "will have a substantial likelihood of prejudicing a criminal proceeding."
2. As recounted in Mr. Holmes' Motion for Immediate Production of Privileged Material also filed today, *see* [D-009], the government apparently violated that order by disseminating information to the media concerning confidential and privileged communications between Mr. Holmes [REDACTED]
3. The government seemingly disseminated this information to the media despite Mr. Holmes' assertion of privilege with respect to this material, and despite this Court's protective order directing the government to maintain these documents in a sealed fashion until issues of privilege can be fully litigated.



4. The government's actions have seriously jeopardized Mr. Holmes' constitutional rights, including but not limited to the rights to a fair trial, to a fair and impartial jury, and to due process as guaranteed him under the United States Constitution and the Colorado Constitution. U.S. Const. amends. V, VI, VIII, XIV; Colo. Const. art. II, secs. 16, 18, 20, 23, 25; *see also* *People v. Botham*, 629 P.2d 589 (Colo. 1981); *Sheppard v. Maxwell*, 384 U.S. 333 (1966); *Estes v. Texas*, 381 U.S. 532 (1965).

5. The government's actions have also violated sections 3.6 and 3.8 of the Colorado Rules of Professional Conduct, and sections 8-1.1, 8-1.2, and 8-2.1, , of the American Bar Association Standards for Criminal Justice, Fair Trial and Fair Press, Third Edition.

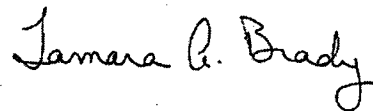
6. It is particularly critical that the parties strictly adhere to these constitutional and ethical principles given the intense amount of media scrutiny this case has received and is likely to continue to receive. Continued breaches of this nature will devastate counsel's ability to effectively represent Mr. Holmes, as well as Mr. Holmes' constitutional rights to receive a fair trial by an impartial jury and due process.

7. Therefore, Mr. Holmes respectfully requests that this Court order the government to immediately comply with its previous order limiting pre-trial publicity, direct the government to refrain from disseminating information that presents a danger to the fairness of a trial in this matter, and specifically prohibit the government from disseminating any information and material that appears to possibly be privileged, or that Mr. Holmes alleges is privileged, until issues of privilege can be fully litigated.

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

Dated: July 25, 2012

I hereby certify that on July 25, 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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AKC