

DISTRICT COURT, El Paso County, Colorado Court Address: 270 South Tejon Street Colorado Springs, Colorado 80903	DATE FILED: November 28, 2022 DATE FILED: November 28, 2022
People of the State of Colorado vs. Defendant: Anderson Lee Aldrich	▲ COURT USE ONLY ▲ Case #: 2022CR6008
District Attorney: Michael J. Allen, #42955 Chief Deputy District Attorney: Reginald Short #35656 Chief Deputy District Attorney: Jennifer Viehman, #33163 105 E. Vermijo Colorado Springs, CO 80903 Phone Number: 719-520-6000	Division #: 21 Courtroom #: W450
<p style="text-align: center;">[D-3]</p> <p style="text-align: center;">PEOPLE'S RESPONSE TO DEFENDANT'S MOTION TO LIMIT PRETRIAL PUBLIC COMMENT BY THE PARTIES TO THE LITIGATION, INCLUDING LAW ENFORCEMENT AGENTS AND STAFF OF THE JUDICIAL DISTRICT</p>	

Comes now, Michael J. Allen, District Attorney for the Fourth Judicial District, and his duly appointed Chief Deputies, respectfully submits the following, [D-3] People's Response to Defendant's Motion to Limit Pretrial Public Comment by the Parties to the Litigation, Including Law Enforcement Agents and Staff of the Judicial District. In support thereof, the People state:

1. The dictates of the Colorado Rules of Professional Conduct are effectively self-executing and require no additional Court order to become binding on the litigants to the present case. To state the obvious, by virtue of their appearance on the case, the People agree to those Rules governing the course of conduct as to public out-of-court statements. The literal language requires that :
 - a. A lawyer who is participating or has participated in the investigation or litigation of a matter shall not make an extrajudicial statement that the lawyer knows or reasonably should know will be disseminated by means of public communication and will have a substantial likelihood of materially prejudicing an adjudicative proceeding in the matter.
 - b. Notwithstanding paragraph (a) and Rule 3.8(f), a lawyer may state:
 - (1) the claim, offense or defense involved and, except when prohibited by law, the identity of the persons involved;
 - (2) information contained in a public record;
 - (3) that an investigation of a matter is in progress;
 - (4) the scheduling or result of any step in litigation;
 - (5) a request for assistance in obtaining evidence and information necessary thereto;

- (6) a warning of danger concerning the behavior of a person involved, when there is reason to believe that there exists the likelihood of substantial harm to an individual or to the public interest; and
- (7) in a criminal case, in addition to subparagraphs (1) through (6):
 - (i) the identity, residence, occupation and family status of the accused;
 - (ii) if the accused has not been apprehended, information necessary to aid in apprehension of that person;
 - (iii) the fact, time and place of arrest; and
 - (iv) the identity of investigating and arresting officers or agencies and the length of the investigation.
- c. Notwithstanding paragraph (a) and Rule 3.8(f), a lawyer may make a statement that a reasonable lawyer would believe is required to protect a client from the substantial undue prejudicial effect of recent publicity not initiated by the lawyer or the lawyer's client. A statement made pursuant to this paragraph shall be limited to such information as is necessary to mitigate the recent adverse publicity.
- d. No lawyer associated in a firm or government agency with a lawyer subject to paragraph (a) shall make a statement prohibited by paragraph (a).

Colorado Rules of Professional Conduct rule. 3.6.

- 2. Colorado Rule of Professional Conduct 3.8 defines the special responsibilities of a prosecutor, and provides amplifying language as to public communication that states:
 - i. (f) except for statements that are necessary to inform the public of the nature and extent of the prosecutor's action and that serve a legitimate law enforcement purpose, refrain from making extrajudicial comments that have a substantial likelihood of heightening public condemnation of the accused unless such comments are permitted under Rule 3.6(b) or 3.6(c), and exercise reasonable care to prevent investigators, law enforcement personnel, employees or other persons assisting or associated with the prosecutor in a criminal case from making an extrajudicial statement that the prosecutor would be prohibited from making under Rule 3.6 or this Rule.
- 3. The Defendant's motion seeks to move beyond the literal language of the rule, and to that extent, the People would object to additional restrictions. The Rules of Professional Conduct have governed countless other homicide events in our state while accommodating due process and fundamental fairness considerations for the accused. These rules should continue to be the standard that AEL attorneys involved in the proceeding must abide by (the Defendant's Proposed Order by its plain language excludes application to defense counsel).

Wherefore, the People respectfully request this Court to grant the Defendant's motion in as much as it accords the dictates of the Colorado Rules of Professional Conduct and deny it as to any provision that exceeds the language of these Rules.

Respectfully submitted this 28th day of November 2022.

MICHAEL J. ALLEN, #42955
DISTRICT ATTORNEY

By: /s/ Michael J. Allen
Michael J. Allen, #42955
District Attorney

/s/ Reginald Short
Reginald Short, #35656
Chief Deputy District Attorney

/s/ Jennifer Viehman
Jennifer A. Viehman, # 33163
Chief Deputy District Attorney

CERTIFICATE OF SERVICE

I certify on the 28th day of November 2022, a true and correct copy of [D-3] People's Response to Defendant's Motion to Limit Pretrial Public Comment by the Parties to the Litigation, Including Law Enforcement Agents and Staff of the Judicial District, was served via Colorado Courts E-Filing on all parties who appear of record and have entered their appearances according to Colorado Court's E-Filing.

/s/
Kim Daniluk, Paralegal