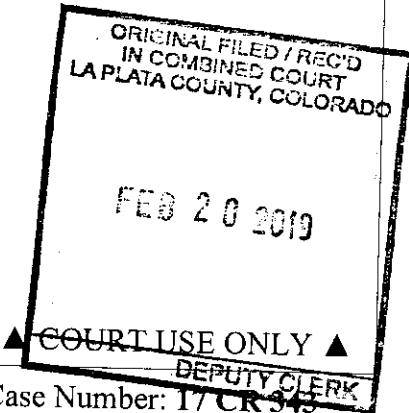


<b>DISTRICT COURT, LA PLATA COUNTY, COLORADO</b> Court Address: 1060 E. Second Ave., Durango, CO 81301 Phone Number: (970) 247-2304	
<b>Plaintiff: PEOPLE OF THE STATE OF COLORADO</b> v. <b>Defendant: MARK ALLEN REDWINE</b>	
Christian Champagne - District Attorney, #36833 Matthew Durkin, Special Deputy District Attorney, #28615 Fred Johnson, Special Deputy District Attorney, #42479 P.O. Drawer 3455, Durango, Colorado 81302 Phone Number: (970) 247-8850 Fax Number: (970) 259-0200	
<b>URGENT MOTION FOR DISCLOSURE OF DEFENSE WITNESSES AND ATTENDANT DISCOVERY RELATING TO THE MARCH 11, 2019 MOTIONS HEARING (P-16) [PUBLIC ACCESS]</b>	

COME NOW the People, by and through Christian Champagne, District Attorney in and for the Sixth Judicial District of the State of Colorado, and moves this Honorable Court for an Order directing the defendant and the defendant's attorney to disclose any witnesses they intend to present at the March 11, 2019 motions hearing and to produce the attendant discovery contemplated under C.R. Crim. P Rule 16. As grounds, the People state as follows:

1. The People seek an order from the Court requiring the defense to provide a good faith witness list and exhibit list regarding any witnesses they intend to present at the upcoming motions hearings, scheduled for March 11, 2019.
2. The March 11, 2019 hearing is expected to address issues regarding the admissibility of key prosecution evidence. It is expected that the defense will attempt to mount a vigorous attack on this evidence, including the possibility that the defense will call lay and/or expert witnesses and present exhibits on the various topics at issue.
3. In order for the prosecution to be able to meet and counter such evidence, and in order to further the truth-seeking process, the People must be given advance notice of the witnesses and exhibits the defense intends to present. Anything less is "litigation-by-ambush."
4. Colorado has adopted liberal discovery procedures, and as a result, "[t]he cloak of secrecy has been removed from the criminal justice process by the adoption of Crim.P. 16.... Trial by ambush, or the old fox-and-hounds approach to litigation, does not promote accuracy or

efficiency in the search for truth.” People v District Court, 531 P.2d 626, 628-29 (Colo. 1975).

5. “The discovery rules in criminal proceedings are designed to further the truth-seeking process. By permitting the prosecution and defense to obtain relevant information prior to trial, the rules also promote fairness in the criminal process by reducing the risk of trial by ambush.” Lanari v People, 827 P.2d 495, 499 (Colo 1992); People v. District Court, 793 P.2d 163, 168 (Colo. 1990) (holding that the purpose of discovery is to advance the search for truth); People v. Small, 631 P.2d 148 (Colo.1981); People v. District Court, 187 Colo. 333, 531 P.2d 626 (1975); People v District Court, 531 P.2d 626 (Colo. 1975).
6. At the motions hearing held in December 2018, the People raised this issue (sufficient notice to prepare prior to the motions hearing), noting that although the Court granted the People’s Motion for Discovery (P-6), the timeframe of disclosure (10 days prior to the hearing) is insufficient to prepare in a case of this magnitude and complexity. The People anticipated that the Court would address the issue in its recent rulings, however, upon receiving the Court’s ruling entitled “D-35 Order Regarding the Request for a Good Faith Witness List,” it appears that the order is focused on the trial, and does not includes language addressing defense disclosures prior to the motions hearing.
7. The People have long since disclosed their expert witnesses and the attendant discovery, including the discretionary disclosures contemplated under Crim. P. Rule 16. The defense has been given ample time to prepare for said experts. The People are simply requesting a reciprocal order requiring the defense to do the same with enough time for the People to be prepared for the upcoming hearing. Specifically, the People request:
  - a. The names and addresses of persons whom the defendant intends to call as witnesses at the motions hearing, including any and all expert witnesses and their field or area of their expertise. *See* C.R.Cr.P. Rule 16, Part II(c).
  - b. Any reports or statements of experts made in connection with this matter, including but not necessarily limited to, results of physical or mental examinations and of scientific tests, experiments, or comparisons. Further, the prosecution requests that it be permitted to inspect and copy or photograph any of the above stated reports or statements. C.R.Cr.P. rule 16, Part II(b)(1).
  - c. If a report has not been prepared by an expert, the People request that defendant be ordered to provide a written summary of the testimony to be provided by the expert witness describing the witness’ opinions and the bases and reasons therefore, including the results of physical or mental examinations and of scientific tests, experiments, or comparisons. C.R.Cr.P. rule 16, Part II(b)(2).
  - d. If the defendant discovers additional witnesses or exhibits they intend to use at the motions hearing, the defendant shall be under a continuing duty to notify the prosecution of the existence of such matters and shall disclose such materials promptly to the prosecution. C.R.Cr.P. Rule 16, Part III(b).

WHEREFORE, the People respectfully petition this honorable court to order the defendant to disclose and provide the above-requested materials no later than February 25, 2019 allowing the People a full 14 days to prepare for the motions hearing.

Respectfully submitted this February 20, 2019.

CHRISTIAN CHAMPAGNE  
DISTRICT ATTORNEY

/s/Christian Champagne  
Christian B. Champagne, #36833  
District Attorney

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that on February 20, 2019, I provided a copy of the foregoing to the attorney of record via e-service.

/s/Christian Champagne  
Undersigned