REDACTED

DISTRICT COURT, ARAPAHOE COUNTY, STATE OF COLORADO 7325 S. Potomac St. Centennial, Colorado 80112	▲COURT USE ONLY▲
PEOPLE OF THE STATE OF COLORADO **v.** **JAMES EAGAN HOLMES,** **Defendant**	Case No. **12CR1522** Division: **202**
ORDER REGARDING DEFENDANT'S MOTION TO STRIKE REPORT OF SECOND SANITY EXAMINER, OR ALTERNATIVELY, TO LIMIT THE OPINIONS AND TESTIMONY OF SECOND SANITY EXAMINER (D-246)	

INTRODUCTION

In Motion D-246, the defendant seeks to strike the report completed by the second Court-appointed sanity examiner, Dr. William Reid. Motion at p. 1. Alternatively, the defendant asks "the Court to limit Dr. Reid's testimony to his [redacted] opinion regarding Mr. Holmes's [redacted], and to preclude all evidence and testimony of Dr. Reid's opinions and conclusions that Mr. Holmes [redacted], as well as all evidence and testimony of Dr. Reid's opinions and conclusions on issues pertaining to mitigation." *Id.* at pp. 1-2. The prosecution opposes the motion. *See generally* Response. For the reasons articulated in this

Order, without a hearing, the request to strike is denied as lacking merit and the request to preclude is granted in part and denied in part.

BACKGROUND

The defendant is charged with shooting, and killing or injuring, numerous people inside auditoriums 8 and 9 of the Century 16 Theatres in Aurora, Colorado, on July 20, 2012, during the midnight premiere of "The Dark Knight Rises." On June 4, 2013, following the defendant's plea of not guilty by reason of insanity, the Court ordered a sanity examination at the Colorado Mental Health Institute at Pueblo ("CMHIP"). Dr. Jeffrey Metzner performed the examination on behalf of CMHIP and filed his report on September 6, 2013. Thereafter, in Order P-68, over the defendant's objection, the Court granted the prosecution's request for another sanity examination because it concluded that Dr. Metzner's examination was incomplete and inadequate. *See* Order P-68 at p. 2. In Orders D-200, D-201, and D-202, the Court largely denied the defendant's requests to reconsider, clarify, and/or modify Order P-68. *See generally* Orders D-200, D-201, and D-202. The defendant petitioned the Colorado Supreme Court to review Order P-68 on May 5, 2014. Three days later, the Supreme Court denied the defendant's petition, and this Court ordered Dr. Reid to perform a second sanity examination. Dr. Reid submitted his report on October 15, 2014. The defendant seeks to strike Dr. Reid's report or to preclude some of his conclusions and opinions.

ANALYSIS

A. The Defendant's Request to Strike

In urging the Court to strike Dr. Reid's report, the defendant argues that the report itself demonstrates that Dr. Metzner's examination was not inadequate or incomplete, and that, therefore, "the second sanity examination never should have been ordered in the first place." Motion at p. 2. The defendant's "I told you so" assertion is meritless. After reviewing Dr. Reid's report, the Court stands firmly by Orders P-68, D-200, D-201, D-202, and C-94.

The defendant avers that Dr. Reid's findings and conclusions are similar to those reached by Dr. Metzner. *Id.* at pp. 2-5. According to the defendant, Dr. Reid's report establishes that none of the areas identified by the Court as deficiencies in Dr. Metzner's examination "are seriously in dispute." *Id.* at p. 2. The Court is unpersuaded. The defendant, himself, contradicts this assertion later in his motion, as he concedes what is patently obvious from Dr. Reid's report: Dr. Reid "has undercut Dr. Metzner and other experts [redacted] and "a jury may [] perceive these differences [redacted] to be significant." *Id.* at p. 5.

The disparate reactions by the defendant to the two examinations speak volumes about the differences between the two reports. After Dr. Metzner's report was filed, the defendant did not challenge it. To the contrary, he strenuously

defended it and opposed the prosecution's challenge in Motion P-68. He did so in lengthy briefs, at a four-day hearing in January 2014, and in three extensive motions to reconsider, clarify, and/or modify Order P-68. The defendant even petitioned the Colorado Supreme Court to review Order P-68. More recently, the defendant filed a motion attempting to protect Dr. Metzner's credibility at trial. *See* Motion D-250. In sharp contrast, in Motion D-246, the defendant seeks to strike or preclude Dr. Reid's conclusions and opinions. Another motion, which was denied on November 3, asked the Court to exclude the videotaped interview of the defendant conducted by Dr. Reid. *See* Motion D-249. If the two reports are as similar as the defendant would have the Court believe, he presumably would not be vigorously defending one and aggressively attacking the other.

As he did in his response to Motion P-68, the defendant takes an overly simplistic approach in his analysis of the two examinations. For example, he maintains that the two examinations are comparable because Dr. Reid [redacted] Motion at p. 2. However, whereas Dr. Metzner [redacted] Dr. Reid [redacted] Dr. Reid

[redacted]

[redacted]

[redacted]

C-143 at p. 7. To assert that the two sanity examinations are alike because both examiners found [redacted].

In any case, even assuming, for purposes of argument, that Dr. Reid's conclusions are similar to Dr. Metzner's, the defendant's request to strike nevertheless fails. The Court did not order a second examination because it disagreed with the results of Dr. Metzner's examination. Indeed, Order P-68 was not outcome-driven. Rather, the Court determined that a second examination was necessary because Dr. Metzner indiscreetly reached some findings [redacted],

failed to adequately explore many areas the Court deemed significant, and failed to properly explain why he reached important conclusions. *See generally* Orders P-68, D-200, D-201, and D-202. In short, the Court determined that Dr. Metzner's examination was unreliable.

The defendant insists, however, that Dr. Reid's report demonstrates that none of the infirmities in Dr. Metzner's examination "required further inquiry[] or were relevant to the issue of sanity." Motion at p. 2. More specifically, the defendant claims that Dr. Reid: (1) "adds very little, if anything, to Dr. Metzner's exploration" of the issues outlined in Order P-68; (2) finds some of the deficiencies identified in Order P-68 irrelevant to the issue of sanity; (3) finds [redacted], which the Court discussed in Order P-68; (4) agrees with Dr. Metzner that [redacted]; (5) finds no reasonable indication [redacted] (6) dismisses the Court's question about a discrepancy in [redacted]; and (7) defers to Dr. Metzner to provide appropriate explanations for some of the conclusions in the first sanity examination report. *Id.* at pp. 3-5. A careful review of the two examiners' reports—even under the most liberal standard of objectivity—shows that these assertions are not completely accurate and are based on the defendant's subjective reading of the reports.

Even when taken at face value, the defendant's request to strike falls woefully short. First, the defendant cites no authority in support of his request. None exists. Section 16-8-106(1), C.R.S. (2014) states that, "[f]or good cause shown, upon motion of the prosecution or defendant, or upon the court's own motion, the court may order such further or other examination as is advisable under the circumstances." The good cause standard is not "onerous," but "there must be some basis . . . for showing that the first examination was ***inadequate or unfair***." *People v. Grant*, 174 P.3d 798, 803 (Colo. App. 2007) (emphasis added) (citation omitted). However, once the Court has found good cause, ordered a second examination, and received the second examiner's report, there is nothing in Colorado's statutory law or case law that allows the Court to strike the second examiner's report merely because [redacted]. The hindsight analysis for which the defendant advocates is unsupportable under Colorado law.

Nor can the defendant be heard to complain that Dr. Reid "places importance on facts that no other expert has found significant" and reaches new opinions [redacted]. Motion at p. 5. Dr. Reid conducted a second examination pursuant to the Court's Orders. *See* Orders P-68 and C-94. While the defendant is free to disagree with

[redacted], there is no authority that supports his bid to strike Dr. Reid's report.

Second, the defendant misconstrues Orders P-68, D-200, D-201, D-202, and C-94. The Court did not ask Dr. Reid to opine about whether Dr. Metzner's examination was inadequate, much less about whether the flaws identified by the Court warranted further exploration or were relevant to the issue of sanity. By the time Dr. Reid was appointed, the Court had already made those determinations based on the extensive expert testimony presented during the January 2014 hearings. The Court tasked Dr. Reid with performing a second sanity examination that, among other things, addressed the numerous shortcomings in Dr. Metzner's examination. That is precisely what Dr. Reid did. Contrary to the defendant's suggestion, nowhere in his report does Dr. Reid opine about the adequacy of Dr. Metzner's examination or the soundness of Order P-68. *See generally* C-143. Nor would it have been appropriate for him to do so.

The fact that after exploring some areas further Dr. Reid determined that they were not of significance does not alter the Court's findings in Orders P-68, D-200, D-201, and D-202. Likewise, Dr. Reid's conclusion that some of the numerous flaws specified in Order P-68 are not significant does not mean that the first examination must have been adequate and complete. The Court ruled that the

second sanity examination was necessary because the first examination was faulty. *See* Orders P-68, D-200, D-201, and D-202. Nothing in the second examination can change that decision.

Finally, the defendant notes that in response to a couple of queries regarding Dr. Metzner's conclusions, Dr. Reid states that "Dr. Metzner himself can best explain his opinions." Motion at pp. 4-5. Thus, asserts the defendant, Dr. Reid "echoes" what the defendant told the Court before the second sanity examination was completed—that "further inquiry or information-gathering into these topics was neither necessary nor appropriate." *Id.* at p. 4. The defendant sets up a straw man and then knocks it down. The Court specifically recognized in Order P-68 that the new examiner would not "be able to properly address Dr. Metzner's conclusory opinions and findings." Order P-68 at p. 47. Because the Court understood "that the new examiner [could not] speculate about the missing rationale for Dr. Metzner's conclusory findings and opinions," it ruled that the type of "limited supplemental examination" proposed by the defendant was inappropriate. Order D-201 at p. 6 n.7. The Court specifically communicated to Dr. Reid that he could not speculate about Dr. Metzner's conclusory findings and opinions, although those areas should be further explored. Order C-94 at p. 3 n.3. Accordingly, the comment from Dr. Reid that "Dr. Metzner himself can best explain his opinions" is hardly surprising and does not prove that the defendant

was right in opposing the second examination and the Court was wrong in ordering it.

In sum, there is no legal or factual basis to strike Dr. Reid's examination. Therefore, the defendant's request is denied.

B. The Defendant's Request to Preclude

In the alternative, the defendant urges the Court to "limit the scope of Dr. Reid's testimony to an opinion about whether Mr. Holmes suffers from a mental disease or defect and a diagnosis and prognosis of Mr. Holmes's physical and mental condition." Motion at p. 6. More specifically, the defendant moves to preclude Dr. Reid from opining: (1) [redacted], and (2) on matters that pertain solely to Mr. Holmes's moral culpability. *Id.* at pp. 6, 13. The Court addresses each of these areas in turn.

1. Legal Criteria for Insanity

The defendant seeks to prevent "Dr. Reid from offering an opinion about whether Mr. Holmes met the criteria for legal insanity on July 20, 2012." *Id.* at p. 6. "First and foremost," the defendant maintains that Dr. Reid "employ[ed] a legal standard that is flawed and incorrect," which, in turn, renders inadmissible "his opinions and conclusions about sanity." *Id.* at p. 7. In support of this assertion, the defendant relies heavily on [redacted]. The prosecution does not mention, much less discuss, [redacted], and glosses over

the defendant's contention, noting that Dr. Reid will "no doubt be subject to extensive examination by both sides at trial." Response at p. 6.

The Court agrees with the defendant that [redacted] is instructive and that it is puzzling that the prosecution chose to ignore it. Reply at p. 2. However, [redacted] does not support the defendant's request to preclude all of Dr. Reid's opinions on the issue of sanity. [redacted]

[redacted] This request is unnecessarily sweeping.

More importantly, [redacted] itself undercuts the defendant's request to preclude all of Dr. Reid's testimony on the question of sanity. As the Court explained there, [redacted]. Of course, at trial, Dr. Reid may not render any opinions about [redacted], and if Dr. Reid's report is introduced into evidence, it must be redacted in accordance with [redacted] and this Order.[1]

[1] The Court disagrees with the defendant that page 21 of Dr. Reid's report contains an inappropriate opinion and that the opinions discussed in paragraphs 36, 37, 38, 39, and 44 of the motion are inappropriate. Motion at pp. 8, 10-11. [redacted]. Furthermore, testimony by Dr. Reid repeating statements made by the defendant during the second examination is not opinion testimony [redacted]

The defendant also contends that Dr. Reid's report reflects a misunderstanding of part (b) of the insanity test. Motion at p. 9. The Court disagrees.

The applicable test for insanity in Colorado is:

> (a) A person who is so diseased or defective in mind at the time of the commission of the act as to be incapable of distinguishing right from wrong with respect to that act is not accountable; except that care should be taken not to confuse such mental disease or defect with moral obliquity, mental depravity, or passion growing out of anger, revenge, hatred, or other motives and kindred evil conditions, for, when the act is induced by any of these causes, the person is accountable to the law; or
>
> (b) A person who suffered from a condition of mind caused by mental disease or defect that prevented the person from forming a culpable mental state that is an essential element of a crime charged, but care should be taken not to confuse such mental disease or defect with moral obliquity, mental depravity, or passion growing out of anger, revenge, hatred, or other motives and kindred evil conditions because, when the act is induced by any of these causes the person is accountable to the law.

§ 16-8-101.5(1), C.R.S. (2014). "Diseased or defective in mind" does not mean "an abnormality manifested only by repeated criminal or otherwise antisocial conduct." § 16-8-101.5(2)(a). Further, "mental disease or defect" refers to "only those severely abnormal mental conditions that grossly and demonstrably impair a person's perception or understanding of reality." § 16-8-101.5(2)(b).

[redacted]. Similarly, the opinions in paragraphs 36 to 39 and 44 [redacted]. *See* Motion at pp. 10-11. [redacted].

In his report, Dr. Metzner [redacted] C-58 at p. 57. In Order P-68, the Court concluded that Dr. Metzner [redacted]. Order P-68 at p. 25. Dr. Reid prefaces his discussion of this issue by indicating that "Dr. Metzner himself can best explain his opinions regarding the issue of sanity." C-143 at p. 20. Dr. Reid then states:

[redacted]

Id. (emphasis omitted).

The defendant's criticism focuses on one phrase, "ability to form the requisite 'culpable mental state,'" and Dr. Reid's understanding of it as "knowing and appreciating legal, social, and moral aspects of [one's] acts." *Id.* (emphasis omitted). The defendant maintains that Dr. Reid's understanding has no basis in

Colorado law because "the standard under subsection (a)" of the test for insanity "requires a determination of whether a defendant possessed the cognitive inability to distinguish right from wrong under societal standards of morality." Motion at p. 9 (quotation omitted). The defendant acknowledges that Dr. Reid's report refers to the concept of moral wrongfulness, but argues that references to legal and social wrongfulness are "irrelevant to a sanity evaluation under Colorado law." *Id.* at p. 10.

At the outset, the Court notes that when the motion was filed, the defendant had not yet had an opportunity to ask Dr. Reid to elaborate on the phrase in question or what he relied on for his understanding of Colorado law. Dr. Reid would be in the best position to resolve any ambiguities that may exist in his report.

Furthermore, the defendant discusses the phrase under challenge in the context of ability to distinguish right from wrong, not in the context of ability to form the required culpable mental state, because he speculates that Dr. Reid conflated subsections (a) and (b) of the insanity test. *See id.* at p. 9. However, in the phrase at issue, Dr. Reid referred to the ability to form the requisite culpable mental state, which is addressed in subsection (b), not to the ability to distinguish right from wrong, which is addressed in subsection (a). Nowhere does Colorado jurisprudence place the limitation proposed by the defendant on a psychiatrist's

opinion about a defendant's capacity to form the culpable mental state. Indeed, the defendant cites no authority for the proposition that an opinion about capacity to form a particular culpable mental state may not include knowledge and appreciation of the legal, moral, and social aspects of one's act.

The decision in *Hendershott v. People* appears to undermine the defendant's position. 653 P.2d 385 (Colo. 1982). There, the prosecution "point[ed] to the problems of proof which arise when psychiatric testimony is admissible" based "primarily [on] the inexact and tentative nature of psychiatry." *Id.* at 395. The prosecution asserted that the situation would be "exacerbated by the admission of mental impairment evidence to negate such culpable mental states as 'knowingly' or 'recklessly.'" *Id.*[2] The Court rejected the argument, explaining that it "overlook[ed] the essentially subjective character of the issues relating to criminal culpability," which "involve ***moral, legal and medical components***" and which will "rarely, if ever, [] be resolved on the basis of objective scientific evidence." *Id.* (emphasis added) (citation omitted).

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[2] *Hendershott* dealt with the former affirmative defense of impaired mental condition, which has now been incorporated into subsection (b) of the test for insanity. *See* § 16-8-101.3, C.R.S. (2014) (explaining that the legislative intent in creating section 16-8-101.5 "was to combine the defense of not guilty by reason of insanity and the affirmative defense of impaired mental condition into the affirmative defense of not guilty by reason of insanity and to create a unitary process for hearing issues raised by said affirmative defense to apply to offenses committed on or after July 1, 1995"). "Impaired mental condition" was defined as: "a condition of mind, caused by mental disease or defect, which does not constitute insanity but, nevertheless, prevents the person from forming a culpable mental state which is an essential element of a crime charged." *Cordova v. People*, 817 P.2d 66, 70 (Colo. 1991) (quotation omitted).

In any case, the defendant's position is untenable even under subsection (a) of the insanity test. It is true that in *People v. Serravo* the Colorado Supreme Court held that the phrase "incapable of distinguishing right from wrong . . . should be measured by existing societal standards of morality." 823 P.2d 128, 138 (Colo. 1992) (citations omitted). However, contrary to the defendant's contention, the Court did not conclude that whether the defendant can distinguish between legal right and legal wrong is irrelevant. The Court actually appeared to acknowledge that such determination may be relevant:

> ***Although in most instances the very same forms of criminal conduct classified as felonies would also be considered violative of basic ethical norms, we are of the view that limiting the definition of "wrong" to "legal wrong" results in stripping legal insanity of a significant part of its psychological components.*** Various forms of mental diseases or defects can impair a person's cognitive ability to distinguish moral right from moral wrong and yet have no effect whatever on the person's rather sterile awareness that a certain act is contrary to law. ***To be sure, a person should not be judged legally insane merely because that person has personal views of right or wrong at variance with those which find expression in the law. It is quite another matter, however, to say that a mentally ill person suffering from an insane delusion that overbears the mental capacity to distinguish right from wrong should nonetheless be held criminally responsible for conduct solely because the person was aware that the act charged in the criminal prosecution was contrary to law.*** Such a result, in our view, proceeds from a narrowly legalistic interpretation that accords little weight to the baneful effects of various forms of mental illness on the cognitive capacity of the human mind.

Id. at 136-37 (emphasis added).

The Court of Appeals in *People v. Galimanis* read the decision in *Serravo* similarly. 944 P.2d 626 (Colo. App. 1997). The Court in *Galimanis* construed the decision in *Serravo* as having "clarified that the 'wrong' referred to in the legal definition of insanity is moral wrong, ***not simply*** legal wrong." *Id.* at 630 (emphasis added). Thus, the "wrong" to which section (a) of the insanity test refers is "moral wrong," which may include "legal wrong," but which may not be only "legal wrong."

Dr. Reid's reference to "social" aspects of one's act is not incorrect either. After all, *Serravo* made clear that "moral wrong refers not to a wrong according to personal or subjective standards, but to a wrongful act measured by ***societal standards*** of morality." *Id.* (emphasis added). In this regard, the Supreme Court "rejected the concept that a person could be adjudicated insane even if he knew the act in question was both forbidden by law and ***condemned by society***, but nevertheless harbored a personal belief that the conduct was right." *Id.* (emphasis added).[3]

[3] Although *Serravo* addressed only subsection (a) of the insanity test, the Supreme Court's analysis logically extends to subsection (b) of the insanity test. After all, the predecessor to subsection (b), the affirmative defense of impaired mental condition, was premised on the proposition that a defendant could suffer from a "mental disease or defect which, although not constituting legal insanity"—i.e., the inability to distinguish right from wrong—"nevertheless prevented him from forming the requisite culpable mental state for the crimes charged against him." *Cordova*, 817 P.2d at 67. *Hendershott* appears to corroborate this point. 653 P.2d at 395 (issues relating to criminal liability are essentially subjective and "involve moral, legal and medical components").

The defendant next urges that "Dr. Reid's entire sanity analysis is flawed" based on the organization of its contents. Motion at p. 11. The defendant cites no authority in support of this proposition, and none exists. To agree with the defendant would be to place form over substance. Nor is it accurate to suggest, as the defendant does, that as a result of the organization of his report, Dr. Reid failed to "evaluate what bearing, if any, [redacted] *Id.* Even a cursory review of the report reveals that the defendant is mistaken. *See generally* C-143. Of course, at trial, the defendant will have ample opportunity to cross-examine Dr. Reid.

Finally, the defendant claims that "Dr. Reid's testimony should be limited to [redacted] given that the sole purpose of the second sanity examination was to provide a second opinion regarding Dr. Metzner's conclusion [redacted] Motion at pp. 11-12. This assertion is belied by Orders P-68, D-200, D-201, D-202, and C-94, as well as Dr. Reid's report, C-143. No further discussion is warranted.

2. Moral Culpability

The defendant asks the Court to preclude Dr. Reid from offering opinions on matters that pertain solely to moral culpability because moral culpability is only relevant to sentencing, and Order P-68 expressly stated that Dr. Reid "shall not

consider . . . how any mental disease or defect or the condition of mind caused by a mental disease or defect affects any mitigating factor identified in the death penalty statutes." *Id.* at p. 13 (emphasis omitted). Although the defendant correctly quotes Order P-68, it does not support his request.

The defendant's assertion is directly contradicted by Motion D-248, which he filed simultaneously with Motion D-246. In Motion D-248, the defendant admitted that Dr. Reid's examination "was not designed to assess [] mitigation." Motion D-248 at p. 4. The defendant added that "the purpose of Dr. Reid's examination was limited exclusively to sanity, and [Dr. Reid] was (ostensibly) forbidden from assessing for, or opining about, mitigating factors." *Id.* These statements in Motion D-248 are substantiated by Dr. Reid's report; the incongruous assertion in Motion D-246 is not. Notably, Dr. Reid specifically acknowledged in his report that he understood that he "was ordered to opine specifically on Mr. Holmes's sanity . . . and to refrain from offering opinions on mitigation." C-143 at p. 1.

The defendant insists, however, that "Dr. Reid's entire report impacts mitigation, because [redacted] (as it pertains to sanity) and mitigation are inextricably interrelated in this case." Motion at p. 13. Interestingly, the defendant took the opposite position in defending Dr. Metzner's examination. In Motion D-200, he maintained that "Dr. Metzner's opinion that [redacted]

[redacted] [was] not relevant" to the issue of sanity because "[t]his finding of Dr. Metzner's specifically concern[ed] mitigation, not sanity." Motion D-200 at p. 19. There, the defendant placed great emphasis on the fact that Dr. Metzner "identif[ied]" the finding in question [redacted] and included it in the mitigation section of his report. *Id.*

In the alternative, the defendant contends that two specific opinions from Dr. Reid should be "stricken" because they "bear[] exclusively on Mr. Holmes's moral culpability for sentencing, as opposed to any issue related to sanity." Motion at p. 14. First, the defendant objects to Dr. Reid's "opinion about [redacted] *Id.* (quotations omitted). Second, the defendant opposes Dr. Reid's "opinion about [redacted] *Id.* (quotations omitted).

Both objections are overruled because the Court agrees with the defendant's earlier statement that "[redacted] (as it pertains to sanity) and mitigation are inextricably interrelated in this case." *Id.* at p. 13. Thus, the challenged opinions do not relate exclusively to mitigation. That the opinions may be relevant to mitigation does not render them irrelevant on the issue of sanity. The Court

concludes that both opinions are at the heart of the question of sanity and are admissible during the guilt phase of the trial.

Of course, in Orders D-248 and D-248-A, the Court made it clear that "Dr. Reid was not asked to assess how any mental disease or defect, or a condition of mind caused by a mental disease or defect, affects any mitigating factor." Order D-248-A at p. 2. Consequently, while [redacted] may impact both sanity and mitigation, Dr. Reid "may not offer any opinions about [] mitigating factor[s] during the sentencing hearing." *Id.*

CONCLUSION

For all the foregoing reasons, the Court concludes that the defendant's request to strike is meritless, but the defendant's request to preclude has some merit. Accordingly, without a hearing, the request to strike is denied in its entirety, and the request to preclude is granted in part and denied in part.

Dated this 20th day of November of 2014.

BY THE COURT:

Carlos A. Samour, Jr.
District Court Judge

CERTIFICATE OF SERVICE

I hereby certify that on November 20, 2014, a true and correct copy of the Court's **Order Regarding Defendant's Motion to Strike Report of Second Sanity Examiner, or Alternatively, to Limit the Opinions and Testimony of Second Sanity Examiner (D-246)** was served upon the following parties of record:

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