

<p>DISTRICT COURT, ALAMOSA COUNTY, COLORADO, 8955 Independence Way Alamosa, CO 81101</p> <hr/> <p>THE PEOPLE OF THE STATE OF COLORADO Plaintiff,</p> <p>v.</p> <p>BARRY LEE MORPHEW, Defendant.</p>	<p>DATE FILED April 13, 2026 8:48 PM</p> <p>▲ COURT USE ONLY ▲</p>
<p>JANE FISHER-BYRIALSEN, #49133 FISHER &amp; BYRIALSEN, PLLC 4600 S. Syracuse Street, 9<sup>th</sup> Floor Denver, CO 80237 (202)256-5664 <a href="mailto:Jane@fblaw.org">Jane@fblaw.org</a></p> <p>DAVID BELLER, #35767 RECHT KORNFELD, P.C. 1600 Stout Street, Suite 1400 Denver, CO 80202 (303)573-1900 Fax: (303) 446-9400 <a href="mailto:david@rklawpc.com">david@rklawpc.com</a></p>	<p>Case Number: 25 CR 128</p>
<p align="center"><b>[D-018] REQUEST FOR IN-PERSON TRIAL TESTIMONY OF LABORATORY EMPLOYEES AND TECHNICIANS PURSUANT TO C.R.S. § 16-3-309(5)</b></p>	

Defendant Barry Morpew provides this written notice pursuant to section 16-3-309(5), C.R.S. asserting his constitutional and statutory rights to confrontation. Mr. Morpew will object to the admission of any laboratory test results or information through the use of testimonial hearsay evidence, including but not limited to laboratory reports and surrogate witnesses who did not participate in the testing. U.S. Const. amends. VI, XIV; Colo. Const. art. 2, § 16; *Bullcoming v. New Mexico*, 564 U.S. 647, 660-61 (2011); *Melendez-Diaz v. Massachusetts*, 557 U.S. 305, 311 (2009); *Hinojos-Mendoza v. People*, 169 P.3d 662, 666-67 (Colo. 2007).<sup>1</sup>

<sup>1</sup> *Hinojos-Mendoza* is often cited as having been abrogated on other grounds by *Phillips v. People*, 2019 CO 72, 32-33, but that abrogation is not pertinent to this notice. In *Hinojos-Mendoza*, the defendant did not file the notice that Mr. Morpew is filing here. The *Hinojos-Mendoza* Court found the failure to be a waiver of the issue for appellate purposes. *Phillips* acknowledged that *Hinojos-Mendoza*'s waiver analysis was overruled by *People v. Rediger*, 2018 CO 32, 416 P.3d 893. In *Rediger*, the Court ruled that counsel does not automatically waive constitutional or statutory rights by failing to file the notice that is filed herein. *Rediger*, ¶¶ 41-44, 416 P.3d at 902-03.

WHEREFORE, Mr. Morpew requests that the prosecution produce for in-person trial testimony the employee or technician who personally accomplished or produced any analysis, comparison, identification, or any other criminalistics or scientific laboratory result the prosecution seeks to introduce at any hearing or trial.

Respectfully submitted this 13th day of April, 2026.

**RECHT KORNFELD PC**

*s/ David Beller*  
David Beller, #35767

**FISHER & BYRIALSEN, PLLC**

*/s/ Jane Fisher-Byrialsen*  
Jane Fisher-Byrialsen, #49133

**Certificate of Service**

I hereby certify that on April 13th, 2026, I caused the foregoing to be filed with the Alamosa County District Court and a copy of the same to be served on the Alamosa County District Attorney's office via CCE-File Service.

*/s/ Abby Clement*  
Paralegal at Fisher & Byrialsen PLLC