

<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>▲ COURT USE ONLY ▲</p>
<p>JANE FISHER-BYRIALSEN, #49133 FISHER & BYRIALSEN, PLLC 4600 S. Syracuse Street, 9th Floor Denver, CO 80237 (202)256-5664 Jane@fblaw.org</p> <p>DAVID BELLER, #35767 RECHT KORNFELD, P.C. 1600 Stout Street, Suite 1400 Denver, CO 80202 (303)573-1900 Fax: (303) 446-9400 david@rklawpc.com</p>	<p>Case Number: 25 CR 128</p>
<p align="center">[D-030] MOTION TO ORDER THE JURY COMMISSIONER, CLERK, BAILIFF AND OTHER COURT PERSONNEL TO PRESERVE NOTES, EXCEL SHEETS, EMAILS, LOGS, AND OTHER MATERIAL RELATED TO HANDLING OF PROSPECTIVE JURORS' REQUESTS AND COMMUNICATIONS</p>	

Mr. Barry Morphew, by and through undersigned counsel, hereby requests this Court to enter an order compelling the Jury Commissioner, Clerk, and other court personnel to preserve and retain any records of contacts with prospective jurors and jurors regarding excusal or hardship requests and other substantive communications.

Counsel is aware that Jury Commissioners and Court Clerks already preserve such records. This motion is filed in an abundance of caution and because a court order to that effect will ensure preservation if at some later date, the records are needed by a future court or party.

1. This request is to be read in conjunction with all of Mr. Morpew's motions regarding the jury selection process and may be adjusted based upon the information learned at the requested conference with the Jury Commissioner/Clerk/Court and parties.

2. Mr. Morpew understands that, when the conference is held with the Jury Commissioner, it is quite likely that the Commissioner will inform the Court and parties that he or she already preserves these records.

3. In this motion, when Mr. Morpew uses the term "Jury Commissioner," it should be read to include all court personnel.

4. This motion does not request that the Jury Commissioner create new documents, spreadsheets, or records than those already routinely created. Rather, it seeks merely to ensure that those are not destroyed or deleted but instead are retained by the Jury Commissioner.

5. This motion does not at this time seek permission for Mr. Morpew's counsel to view these records, again, this motion merely seeks a preservation/retention order.

6. Any deficiencies in the jury selection process must be examined with great scrutiny, as Mr. Morpew is entitled to a jury drawn from a fair cross-section of the community under both the federal and state constitutions and the available jurors in the pool who could actually serve on this case is very small, increasing the pressure on every aspect of the process as well as potential scrutiny.

7. If records are not retained and preserved, it risks a situation where neither this Court, nor Mr. Morpew, nor a reviewing court could adequately reconstruct the process that was used and the systematic influences that resulted in the jury pool.

8. Mr. Morpew requests that this court issue specific orders to the jury commissioner creating a method of complete preservation of any off-the-record procedures, including requests or grants of excusals and postponements. Mr. Morpew requests notice and an opportunity to be heard on those procedures.

9. Unless a complete record is made of actions taken on prospective jurors' requests for postponements and excusals, Mr. Morpew will be deprived of his rights to litigate and be heard on these critical issues, and his right to appeal any errors made by the court or jury commissioner.

10. These are also the reasons why, in a separate motion, Mr. Morpew has requested that excusals and deferral requests (other than a juror's automatic right to one postponement

under § 13-71-116, C.R.S.) should be in on-the-record conferences where Mr. Morpew can be heard and preserve his record, in order to preserve his future right, if necessary, to have a full and fair opportunity to litigate his federal and state constitutional rights.

11. Mr. Morpew makes this motion, and all other motions and objections in this case, whether or not specifically noted at the time of making the motion or objection, as a continuing objection based upon (in addition to the above authority) the following grounds and authorities: the due process, trial by jury, right to counsel, equal protection, equal access to and administration of justice, right to defend life, cruel and unusual punishment, confrontation, compulsory process, right to remain silent, and right to appeal clauses of the federal and Colorado Constitutions, and the first, fourth, sixth, eighth, ninth, tenth, and fourteenth amendments to the United States Constitution, and article II, sections 3, 6, 7, 10, 11, 16, 18, 20, 23, 25, and 28 of the Colorado Constitution. Mr. Morpew cross-references and incorporates by reference all pleadings filed or to be filed in this case, and caselaw cited therein and at oral argument.

WHEREFORE, Mr. Morpew moves this Court to enter an order requiring the Jury Commissioner, Clerk, and other court personnel to preserve and retain any records of contacts with prospective jurors and jurors regarding excusal or hardship requests and other substantive communications.

Respectfully submitted this 13th day of April, 2026.

RECHT KORNFELD, P.C.

/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 13, 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