

<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 10:47 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-032] REQUEST FOR ADDITIONAL PEREMPTORY CHALLENGES</b></p>	

Barry Morphew, by and through undersigned counsel, requests additional peremptory challenges for trial. Mr. Morphew requests that the defense be given 15 peremptory challenges and the prosecution remain at 10 peremptory challenges.

1. This Court has authority to expand the number of peremptory challenges. Crim. P. Rule 24(d)(3): “For good cause shown, the court at any time may add peremptory challenges to either or both sides.”

2. If the unique circumstances of this case and the extraordinary level of pretrial publicity do not warrant providing extra peremptory challenges, it is hard to imagine in what case they would.

3. This Court does not have to give both sides the same number. *Ibid.* (“...to *either* or both sides.”)(emphasis added).

4. There are special, specific concerns with the pretrial publicity and exposure in this case.

5. There is an extraordinary level of resident awareness about various things that have appeared in the press, TV news, internet sources, YouTube videos, Instagram, Facebook, and a myriad of other local, state, national, and even international coverage of this case. This exceptional amount of publicity, the proximity to the locality where Suzanne Morphew's remains were found, and the extreme emotional reactions all caution towards permitting substantial time for individual private questioning about publicity and to providing additional peremptory challenges to the defense.

6. Indeed, the People released a 10-page "speaking indictment" that presents a one-sided narrative of what they believe the evidence shows. This follows years of negative press statements before and during Mr. Morphew's original prosecution by a different District Attorney's Office. See *People v. Stanley*, 23PDJ041, disbaring Linda Stanley, in part, due to extrajudicial statements in violation of C.R.Prof.Cond. 3.6. The indictment has been the subject of hundreds of thousands of press stories, national television shows, podcasts, blog posts, and online videos.

7. As reflected in this Court's Orders on June 20, 2025 [Order Limiting Pretrial Publicity], the number of motions by the media for expanded media coverage (see, Orders July 1, 2025), October 27, 2025 Order to Cease Livestream, October 28, 2025 Amended Orders on Expanded Media Coverage, Amended Standing Order on Decorum: Defense Motion [D-02] Objecting to Expanded Media Coverage, Motion for Authorization to Wear Civilian Clothing, [D-08] Motion to Limit Public Access to Motion to Reduce Bond, [D-09] Motion to Cease Unmonitored Livestream, amongst others, it is apparent that the animosity and widespread familiarity with media/social media coverage in this case does not present a risk of any unfair acquittal but rather, presents a tremendous risk of an unfair conviction tainted by exposure to external information. For this reason, it makes sense to try to level the field by providing the defense more peremptory challenges than the prosecution.

8. Peremptory challenges occupy "an important position in our trial procedures" by providing an additional tool for obtaining a fair and impartial jury. *Batson v. Kentucky*, 476 U.S. 79, 98 (1986). This Court should find good cause for expanding the number of peremptory challenges provided to the defense.

9. Mr. Morphew 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, Crim. P. 16, and RPC 3.8. Mr. Morphew cross-references and incorporates by reference all pleadings filed or to be filed in this case, and case law cited therein and at oral argument.

WHEREFORE, Barry Morphew, by and through undersigned counsel, requests additional peremptory challenges for trial. Mr. Morphew requests that the defense be given 15 peremptory challenges and the prosecution remain at 10 peremptory challenges.

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