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| District Court, Arapahoe County, Colorado Arapahoe County Courthouse  7325 S. Potomac St., Englewood, CO 80112 D | ATE FILED: October 3, 2017 3:46 PM ILING ID: 29C91C6351460  ASE NUMBER: 2017CR988   * COURT USE ONLY  |
| **THE PEOPLE OF THE STATE OF COLORADO**, F  Plaintiff C  v.  **ANGELA INGA**,  Defendant. |
| Katie Telfer, #41720  Deputy State Public Defender  Douglas K. Wilson, Colorado State Public Defender Arapahoe County Public Defenders  12350 E. Arapahoe Road, Suite A, Centennial, CO 80112 Phone (303) 799-9001 Fax (303) 792-0822  E-[mail: katie.telfer@coloradodefenders.us](mailto:katie.telfer@coloradodefenders.us) | Case No.: **2017CR988**  Division: **309** |
| **DEFENSE MOTION #2:**  **MOTION FOR EXPERT DISCOVERY AND DISCLOSURE** | |

Angela Inga respectfully moves this Court to direct the prosecution to disclose to the defense the following information relating to the presentation of any evidence related to purported expert witnesses, including police officers, to include:

1. All reports and written or oral statements of witnesses that the prosecution seeks to introduce as expert witnesses;
2. All documents, reports, or oral statements relating to physical or mental examinations, scientific tests, experiments, comparisons, or other procedures that the expert considered or conducted in formulating his opinion in this case;
3. The formal education, training, experience, or other factors that support the qualification of any of the officers the prosecution expects to qualify as experts in drug recognition or otherwise; and

F. Reference to all books, manuals, articles, journal, reports, studies, or other literature used or relied upon in formulating an opinion by any expert witness the prosecution seeks to introduce in this case.

Ms. Inga also requests, pursuant to Crim. P. 16 (d)(3) and the Federal and Colorado Constitutions, an order for any prosecution expert witness to provide the defense with a written report describing the witness’s “opinions and bases and reasons therefore” and the underlying facts

or data supporting the witness’s opinions. U.S. Const., amends. V, VI, XIV; Colo. Const., art. II, § 16, 25. Ms. Inga requests that such a report be made available as soon as practicable.

# LAW SUPPORTING REQUEST FOR EXPERT DISCOVERY

AS GROUNDS for this request, Ms. Inga asserts:

1. The requested discovery is authorized under Crim. P. 16(I), (a)(1)(IV), (a)(2), (d)(1). People v. District Court, 790 P.2d 332, 338 (Colo. 1990); cf. Gray v. District Court, 884 P.2d 286 (Colo. 1994) (prosecution has the right to discovery of the defendant’s psychiatric treatment that occurred before the defendant’s crime where the defense of insanity was raised at trial). In addition, under Crim. P. 16(I)(d)(3) (effective January 1, 2000), the court may order the prosecution to disclose facts or data supporting the opinion of an expert witness, including a report that describes the witnesses opinions and reasons therefore.
2. The discovery rules are intended to further the truth-seeking process. Lanari v. People, 827 P.2d 495 (Colo. 1992). “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, 827 P.2d 495; see C.R.E. 705 committee comment (under CRE 705, it is assumed that a party that cross-examines an expert will have advance knowledge essential for cross-examination). Advance knowledge of an expert’s basis of opinion is essential for effective cross-examination. Smith v. Ford Motor Co., 626 F.2d 784, 793 (10th Cir. 1980), cert. denied, 450

U.S. 918 (1981); U.S. Const., amends. V, IV, XIV; Colo. Const., art. II, § 16, 25

1. The use of discovery material for a defendant's impeachment purposes at trial implicates the due process and confrontation rights of the accused. People v. Thatcher, 638 P.2d 760, 768 (Colo. 1981); Goodwin v. District Court, 197 Colo. 6, 588 P.2d 874 (1979); U.S. Const., amends. V, VI, XIV; Colo. Const., art II, §§ 16, 25.
2. The prosecution also has a duty to provide discovery of any material that

may be meaningful to the defense, regardless of whether it is exculpatory or will relate to testimony the prosecution intends to present at trial. People v. Thatcher, 638 P.2d 760, 768 (Colo. 1981); People v. Smith, 185 Colo. 369, 524 P.2d 607 (1974).

1. To render effective assistance of counsel, defense counsel must be given a

reasonable time to investigate and prepare a case. See People v. Dillon, 739 P.2d 919 (Colo. App. 1987); U.S. Const., amends. VI; Colo. Const., art. II, § 16. As constitutional matter of due process, the defense must be given adequate time to investigate and prepare the defense to the charges in this case. U.S. Const., amends. XIV; Colo. Const., art. II, § 25.

# EXPERT ENDORSEMENTS IN THE PRESENT CASE

* 1. Additionally, Ms. Inga requests the prosecution disclose any other experts

and correlating expert testimony the prosecution plans to introduce by the motions hearing date.

* 1. Ms. Inga needs to know well in advance of trial because, if the prosecution

does seek to admit expert testimony, he would likely ask for this Court to order the prosecution to make additional discretionary disclosures pursuant to Crim. P. 16 (d)(3) and the Federal and Colorado Constitutions. Based on those disclosures, Ms. Inga may then decide to request *Shreck* hearings for proposed expert testimony.

WHEREFORE, Ms. Inga requests this Court order the prosecution to endorse any witnesses they intend to call as experts by the motions hearing date and further requests discovery of the requested information related to any such endorsed experts.

DOUGLAS K. WILSON

COLORADO STATE PUBLIC DEFENDER

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| /s/ Katie Telfer Katie Telfer, #41720  Deputy State Public Defenders Dated: October 3, 2017 | **Certificate of Service**  I hereby certify that on October 3, 2017, I served the foregoing document through ICCES to opposing counsel of record.  /s/ Katie Telfer |