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| District Court, Adams County, Colorado Court Address: 1100 Judicial Center Drive  Brighton, CO, 80601 DAT | E FILED: November 5, 2017 8:45 PM NG ID: BC7C7E197AF24  SE NUMBER: 2017CR2641   * COURT USE ONLY  |
| THE PEOPLE OF THE STATE OF COLORADO, FILI  Plaintiff, CA  v.  MISHA LAMANNA,  Defendant. |
| Douglas K. Wilson, Colorado State Public Defender Reid Rowe #43612  Deputy Public Defender  Brighton Regional Public Defenders  4710 East Bromley Lane, Brighton CO 80601  Phone: (303) 659-4274 Fax: (303) 659-6935  E-m[ail: brighton.defenders@state.co.us](mailto:brighton.defenders@state.co.us) | Case No. 17CR2641  Division E |
| **MOTION TO SUPPRESS FRUITS OF AN UNLAWFUL AND UNREASONABLE SEARCH** | |

Mr. Lamanna moves to suppress any supposed evidence in this or any other proceeding any and all fruits of a warrantless search made in this case. As grounds, he asserts:

1. Law enforcement engaged in a search of a car that they claim he had occupied, without permission, without consent, and crucially, without a warrant.
2. Warrantless searches are presumptively unconstitutional. Where evidence is obtained by a warrantless search, it is the burden of the prosecution to justify the warrantless search with a narrow exception to the warrant requirement. People v. Villiard, 679 P.2d 593 (Colo. 1984).
3. The Fourth Amendment of the United States Constitution guarantees the “right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures. ”
4. Article II sect. 7 of the Colorado Constitution provides, “The people shall be secure in their persons, papers, homes and effects, from unreasonable searches and seizures.”
5. A “seizure” in the constitutional sense is the “meaningful interference with an individual’s possessory interest” in tangible or intangible property. *United States v. Jacobsen*, 104 S.Ct 1652 (1984). Or a restraint upon a person’s liberty such that a reasonable person would not have believed that he was free to leave. *Florida v. Royer*, 103 S.Ct 1319 (1983).
6. A “search” implies “a looking for or seeking out that which is otherwise concealed from view.” *People v. Carlson*, 677 P.2d 310 (Colo.1984).

Wherefore, Mr. Lamanna moves to suppress all evidence obtained from an unlawful and unreasonable search under the Fourth, Fifth, Sixth, and Fourteenth Amendments to the United States Constitution, Article II of the Colorado Constitution, the Colorado Revised Statutes, and the Colorado Rules of Criminal Procedure.

DOUGLAS K. WILSON,

COLORADO STATE PUBLIC DEFENDER

/s/Reid Rowe

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Dated: November 5, 2017

**Certificate of Service**

I hereby certify that on \_11/5/17, I served the foregoing document via ICCES on opposing counsel.

/s/Reid Rowe