

Supreme Court, State Of Colorado 2 East 14th Ave Denver, CO 80203 (720) 625-5150	<p style="text-align: center;">FILED IN THE SUPREME COURT</p> <p style="text-align: center;">MAY 28 2026</p> <p style="text-align: center;">OF THE STATE OF COLORADO Martzela Cano, Clerk</p> <p style="text-align: center;">▲ Court Use Only ▲</p>
On Certiorari To The Colorado Court Of Appeals Colorado Court Of Appeals Case No: 2025CA327	
WILLIAM MONTGOMERY Plaintiff / Petitioner-Appellant vs. BEST BUY STORES, L.P. Defendant / Respondent-Appellee	
Party Without Attorney: William Montgomery 2443 S University Blvd # 129 Denver, CO 80210 (970) 412-5463 zoinbergs@gmail.com	Colorado Supreme Court Case No: 2026SC236 Colorado Court Of Appeals Case No: 2025CA327 Jefferson County District Court Case No: 2023CV226
PETITION FOR WRIT OF CERTIORARI	

Plaintiff, proceeding *pro se*, respectfully submits to the Colorado Supreme Court the following PETITION FOR WRIT OF CERTIORARI, and in support thereof, states as follows:

CERTIFICATE OF COMPLIANCE

I hereby certify that this PETITION complies with all the requirements of C.A.R. 32 and 53, including all formatting requirements set forth in these rules.

Specifically, I certify that this PETITION contains **3,800** words, which does not exceed the 3,800 word limit allowed by the rules.

William Montgomery
William Montgomery

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ISSUES PRESENTED FOR REVIEW

1. Whether a court may impose a strict, uncodified forfeiture rule that *prohibits* a non-movant from challenging reply-only evidence on appeal without a prior motion to strike, thereby creating a direct, irreconcilable **division split** with *Amada*—which expressly *permits* such challenges.

2. Whether a court may conflate independent motions for summary judgment by treating one party's reply as a **surrogate surreply** to the opposing party's reply, in direct conflict with the separation mandates of *Morlan* and *Central Bank*.

3. Whether a court may characterize procedural challenges to the movant's burden of proof as **factual** “denials” sufficient to permit the movant's belated introduction of “rebuttal” evidence in a reply brief, thereby relieving the movant of its initial evidentiary burden under C.R.C.P. 56.

4. Whether a court may deem an issue properly “raised” when the movant vaguely discusses a **general topic** without submitting supporting evidence, thereby rewriting *Suncor's* mandate into a mere pleading standard.

OPINION FROM WHICH RELIEF IS SOUGHT

The Court Of Appeals issued an Opinion in Case No. 2025CA327 affirming the District Court's granting of Defendant's MSJ and simultaneous denying of Plaintiff's Cross-MSJ. Plaintiff filed a Petition For Rehearing, which was denied. The Court Of Appeals' Opinion and the Order denying the Petition For Rehearing are attached to this Petition For Writ Of Certiorari.

BASIS OF JURISDICTION

This Court has jurisdiction pursuant to C.R.S. § 13-4-108 and C.A.R. 49. The Court Of Appeals entered its Opinion on February 19, 2026. Plaintiff's Petition For Rehearing was denied on March 26, 2026. The deadline to file a Petition For Writ Of Certiorari was April 23, 2026. This Court granted a 35-day extension, making the deadline May 28, 2026. This Petition is timely filed.

**REFERENCE TO PENDING CASES
WITH THE SAME LEGAL ISSUES**

Plaintiff is unaware of any pending cases with the same or similar legal issues.

STATEMENT OF THE CASE

On November 25, 2022, Plaintiff visited a Westminster Best Buy. He entered, walked directly to returns, realized he brought merchandise from another store, and immediately exited without making any purchase. Three employees later surrounded and detained him outside, accusing him of theft. During the twelve-minute detention, the employees repeatedly demanded Plaintiff show what he held and empty his pockets. *Court File (“CF”) at 640*. They also claimed police had been called—yet none were, a fact undisputed by Defendant. *CF at 615, 651 ¶ 44*.

Critically, employees never identified what Plaintiff possessed. The video shows they stated: “I want what's in your pocket, too.”; “What do you even got in there?”; “Just give it to me, and you can leave.”; “You'll have zero problems if you hand me what's in your pocket, and what's in your coat.” *Plaintiff's Body Camera (“PBC”) at 0:28, 7:58, 10:22, 10:48*. Plaintiff's brother, David—an authorized user of Plaintiff's credit card—made a purchase at **2:20pm** using Plaintiff's account. *CF at 758*. Plaintiff was not inside the store at that time and made no purchase. *PBC at 0:00 (2:19pm)*.

On July 25, 2024, Defendant filed a MSJ containing **no** affidavits or business records—only **conclusory** arguments that Plaintiff “intentionally concealed merchandise,” “left the Best Buy store with merchandise,” and “took Best Buy

inventory.” *CF at 234, 236, 237.* Defendant *itself* admitted uncertainty, stating: “*If* in fact, Plaintiff purchased items at Best Buy, he could simply comply with the request to show his receipt. It is *presumed* Plaintiff had such proof, because *if* he did not have proof of purchase...” *CF at 233.*

On September 19, 2024, Plaintiff filed his Response and Cross-MSJ, supported by his affidavit, body camera footage, and police records. *CF at 640.*

On October 10, 2024—**only in its MSJ reply**—Defendant introduced for the first time: (1) business records (receipts) without a custodian affidavit, and (2) a manager's affidavit. *CF at 729, 741, 779–780.* Plaintiff was procedurally barred from filing a surreply under C.R.C.P. 121 § 1-15(1)(a).

On November 19, 2024, the District Court granted Defendant's MSJ, explicitly relying on the reply-only evidence, and falsely stating: “Defendant has submitted a Best Buy receipt . . . satisfying its initial burden as the movant.” *CF at 881.* **This statement was materially false**—Defendant submitted no such evidence.

On February 19, 2026, the Court Of Appeals affirmed, holding: (1) the District Court properly “considered all briefs and exhibits in connection with both parties' motions together”; (2) because Plaintiff filed no motion to strike or request for surreply, he forfeited objections to reply-only evidence; (3) the reply-only evidence was proper “rebuttal” to “Montgomery's various denials”; and (4) Defendant's MSJ

“put Montgomery on notice” by “specifically claiming” facts, despite Defendant submitting no evidence to substantiate those facts with.

On March 26, 2026, Plaintiff's Petition For Rehearing was denied.

SPECIAL AND IMPORTANT REASONS
FOR GRANTING THE WRIT

*All issues were **preserved** below,
and all are reviewed **de novo**.*

Certiorari is imperative for this Court to exercise its supervisory authority under C.A.R. 49 to resolve a pure diametric split within the Court of Appeals and halt the systemic erosion of summary judgment practice for civil litigants statewide.

The diametric split is only the first of four profound departures from established law. The Panel further eroded procedural fairness by (2) conflating independent cross-motions in violation of *Morlan* and *Central Bank*, (3) mischaracterizing procedural objections as factual “denials” to permit belated “rebuttal” evidence in violation of C.R.C.P. 56, and (4) allowing general topics to substitute for tangible evidence in violation of *Suncor*.

**I. THE PANEL DEPARTED FROM FUNDAMENTAL
SUMMARY JUDGMENT RULES BY CREATING
A STRICT, UNCODIFIED PROCEDURAL TRAP**

**a. The Panel Imposed A New Forfeiture Rule
In Direct, Irreconcilable Conflict With *Amada***

The Panel held that Plaintiff forfeited his right to challenge Best Buy's reply-only evidence on appeal because he “did not object to or move to strike the manager's affidavit or the receipts on the basis that they were late.” *Opinion at ¶ 34*. The Panel reasoned: “we do not review arguments raised for the first time in a motion for reconsideration.” *Id.* This uncodified forfeiture rule does not merely lack foundation in Colorado law; it places the Panel in direct, irreconcilable conflict with *Amada Family Ltd. Partnership v. Pomeroy*, 2021 COA 73.

The baseline rule is that a movant is strictly **prohibited** from introducing new arguments or evidence for the first time in a reply brief. As established in *Wallman v. Kelley*, 976 P.2d 330, 332 (Colo. App. 1999): “An issue not raised by the moving party in the motion or brief cannot serve as the basis for summary judgment because the non-moving party is not put on notice as to the need to present evidence concerning that issue.”

Under C.R.C.P. 56, a non-movant's silence is structural: they **cannot “waive”** a movant into satisfying an unmet initial burden. *See People v. Hernandez & Assocs., Inc.*, 736 P.2d 1238 (Colo. App. 1986) (holding a non-movant's silence “does not relieve the moving party of its burden”).

This structural protection extends to the reply phase. Because reply-only evidence is a legal nullity under *Wallman*, there is nothing to “strike.” Thus, the

Panel's forfeiture rule demands the impossible: it requires non-movants to file discretionary motions to combat **phantom evidence** the trial court is already strictly mandated to ignore. Furthermore, because motions to strike are not codified within C.R.C.P. 56, litigants lack any structural “opportunity” to deploy them. In practice, surviving summary judgment becomes a frantic race against time—the litigant's pen against the judge's gavel—where a dispositive ruling on the late evidence could drop at any moment.

Recognizing this precise absurdity, the *Amada* panel explicitly **rejected** the uncodified forfeiture trap, holding: “We disagree. [The non-movants] had no opportunity to raise the issue because [the movant] did not make arguments... until it replied to the [non-movants'] response to its motion for summary judgment. Although we normally do not consider unpreserved issues in civil cases... here, we elect to do so.” 2021 COA 73, ¶ 42 (internal citation omitted). *Amada* therefore cemented the principle that because the rules provide no formal opportunity to strike late evidence, the failure to utilize an uncodified, extra-procedural tool cannot be weaponized as a waiver. The right to appellate review remains **absolute**.

Here, by holding that Plaintiff *forfeited* his right to challenge the reply-only evidence on appeal, the Panel issued a ruling in pure diametric conflict with *Amada*. Now, under Colorado law, a non-movant is either expressly *permitted*

to contest reply-only evidence on appeal without a prior motion to strike (*Amada*), or strictly *prohibited* from doing so (the Panel).

Inevitably, the coexistence of these mutually exclusive procedural regimes forces litigants and practitioners to defensively assume the more punitive standard will govern their case. That is, requiring motions to strike merely to preserve *appellate* review eviscerates the core of *Wallman's* automatic *trial-level* shield: uncodified defensive motions must now be frantically filed to strike phantom evidence and shift burdens back that never lawfully shifted *in the first place*. Consequently, the Panel has **extinguished** all three protections—*Wallman*, *Hernandez*, and *Amada*—statewide. To restore the structural integrity of C.R.C.P. 56, this Court must grant certiorari and reverse.

b. The Panel Departed From *Morlan* And *Central Bank* By Conflating Independent Motions

Beyond its forfeiture trap, the Panel departed from Colorado law mandating that cross-motions for summary judgment “be considered and ruled upon separately.” *Morlan v. Durland Trust Co.*, 127 Colo. 5, 252 P.2d 98 (1952). “Each motion, together with evidentiary matters tendered in support thereof, must stand on its own and cannot be aided by the motion of the opposing party.” *Central Bank & Trust Co. v. Robinson*, 137 Colo. 409, 326 P.2d 82 (1958). Under this rule, “concessions” made for a cross-motion “terminate” once that motion is overruled and cannot “carry over”

into the opposing motion, which must be “completely unsupported by anything except such as it had itself placed in the record.” *Morlan*, 252 P.2d at 101.

The Panel flatly disregarded these established principles. It held that the District Court properly “considered all briefs and exhibits in connection with both parties' motions together,” because Plaintiff “had the opportunity to respond to the affidavit and receipts when he submitted his reply in support of his cross-motion for summary judgment.” *Opinion at ¶ 36.*

This creates an impossible structural conflict. A Cross-MSJ reply asserts that *no genuine dispute of fact exists*—the very “admission of facts” *Morlan* describes that “terminate.” Yet the Panel requires this pleading to now serve a **contradictory** dual function: arguing that *no* dispute exists (for Plaintiff's Cross-MSJ) while simultaneously *creating* disputes (as a surreply to Defendant's MSJ). Structurally, a single document cannot do both.

More critically, had Plaintiff *not* filed a Cross-MSJ, Defendant's MSJ would have to “stand on its own”—exactly as *Morlan* requires. Instead, Plaintiff was **penalized** for invoking procedural rights.

Systemically, the Panel's rule allows movants to file evidence-free opening briefs, then introduce evidence only in reply, all while the court treats the non-movant's cross-motion reply as a *surrogate surreply*. This renders the

movant's initial burden **illusory** while forcing the non-movant to defend against unanticipated arguments in an incompatible procedural vehicle.

c. The Panel Permitted “Rebuttal” Evidence Based On Burden-Of-Proof Arguments, Not Actual Denials

Further nullifying the movant's burden, the Panel held that Defendant's MSJ reply-only evidence was proper “rebuttal” because it merely “responded to Montgomery's various denials—about exiting the store, having merchandise, and having a receipt.” *Opinion at ¶ 35. Plaintiff made no such factual denials.*¹

In his Response to Defendant's MSJ, Plaintiff argued that it provided no “tangible, admissible evidence” of a receipt or stolen merchandise, offering only “conclusory statements” unsupported by “actual independent evidence.” *CF at 645, 667.* These are **burden-of-proof arguments**, not factual denials. Plaintiff was pointing out that Defendant had not carried its initial burden under C.R.C.P. 56. A non-movant has no obligation to present contrary evidence until the movant satisfies that burden.

The Panel itself conceded that Plaintiff made no factual denials, stating: “Montgomery ‘does not deny having a receipt at the time of the incident.’”; “Montgomery provided no contrary evidence about his actions inside the store.” *Opinion at ¶¶ 14, 15.* The Panel cannot have it both ways: either Plaintiff provided

¹ Plaintiff made no such factual affirmances, either.

“no contrary evidence” and made “no denials”—in which case Defendant's reply-only evidence was not rebuttal, *but a belated attempt to satisfy its initial burden*—or Plaintiff made denials. But if the latter were true, those denials would *themselves* have created a genuine dispute of material fact, satisfying Plaintiff's burden as the non-movant and precluding summary judgment. The Panel's own words thus lead inescapably to the same conclusion either way: **Defendant's MSJ should have been denied.**

By permitting Defendant to introduce foundational evidence for the first time in reply, then classifying it “rebuttal,” the Panel **nullified** the movant's initial burden. Under this rule, movants may bootstrap their way past *Wallman* by making unsupported factual assertions in their opening briefs, characterizing the non-movant's procedural objections as factual “denials,” and then submitting the missing evidence in reply under the guise of “rebuttal.” This inverts C.R.C.P. 56's burden structure and rewards strategic sandbagging.

d. The Panel Redefined “Raising An Issue” To Mean *Topic Discussion Without Evidence*

Finally, the Panel held that Defendant's MSJ “put Montgomery on notice” because it “raised the shopkeeper's privilege and specifically claimed that he exited the store with merchandise, refused to show a receipt, and was suspected of theft.” *Opinion at ¶ 35.* This holding directly contravenes the established principle that “a conclusory statement made without supporting documentation or testimony is

insufficient to create an issue of material fact.” *Suncor Energy (USA), Inc. v. Aspen Petroleum Prods., Inc.*, 178 P.3d 1263 (Colo. App. 2008).

Defendant's MSJ contained **no** affidavits or business records—only **bare** assertions. Indeed, Defendant offered only *speculation*, stating “It is *presumed* Plaintiff had such proof [of purchase], because *if* he did not...” *CF at 233*.

Suncor holds that no matter how “specifically claimed” a statement is, it is legally insufficient to “raise” an issue **without supporting evidence**. *Id. at 1269*. The Panel's rule eviscerates this protection: if *general topics* in opening briefs can serve as *placeholder allegations*, movants may file skeletal opening briefs that act as *mere drafts*, finalizing them with evidence in reply by using the non-movant's response as a roadmap to cure their own deficiencies. This renders the initial burden **meaningless**, collapsing summary judgment from a traditionally front-loaded procedure into a back-and-forth discovery process where the movant gets to belatedly satisfy its burden of production.

II. THE PROCEDURAL DEVIATIONS WERE OUTCOME-DETERMINATIVE

Excluding the improper reply-only exhibits leaves Best Buy's opening motion entirely **devoid** of admissible evidence. Alternatively, even if considered, the late evidence is so inconsistent and blatantly contradicted by the record that it **cannot** support summary judgment as a matter of law.

a. The Panel Did Not Address The Contradiction Between The Affidavit And The Receipt

The manager's affidavit claims he “observed [Plaintiff] remove two boxes of JLab headphones/earbuds from the shelf, place them in his pocket and **immediately leave** the Best Buy Store.” *CF at 780 ¶ 4*. Yet, Defendant's proffered receipt purportedly shows Plaintiff making a purchase at **2:20pm**—one minute *after* his **2:19pm** detention shown on body camera. *CF at 758; PBC at 0:00*. As Plaintiff argued, factual reality resolves this contradiction: “Plaintiff *didn't* steal, and *his brother* made the associated purchase that day.” *Opening Brief at 16, footnote 4*.

If Plaintiff stole and “immediately” left, there was no time for a purchase. If he made a purchase and “immediately” left, the theft observation is impossible. **Both cannot be true simultaneously.** The Panel did not address this contradiction. Under *Scott v. Harris*, 550 U.S. 372, 380 (2007), courts cannot adopt a factual version that is “blatantly contradicted by the record.” Here, Defendant's *own* two pieces of evidence irreconcilably contradict *each other*—and Plaintiff's body camera footage—yet the Panel concurrently adopted *both* as true, instead of denying Defendant's MSJ.

b. The Panel Concluded That The Receipt Was Admissible For Its “Effect On The Listener”

The Panel held that the receipt was admissible for its “effect on the listener” rather than the truth of its contents. *Opinion at ¶ 26*. This rationale fails because the District Court explicitly used the receipt to prove the *substantive* truth of **three specific assertions**: (1) *Plaintiff* made a particular purchase, (2) that purchase *was a Chromecast with Google TV*, and (3) Plaintiff therefore could have shown *the associated receipt* to end his detention. *CF at 878, 881, 882*. Using a receipt to prove that a *specific* transaction occurred implicates hearsay rules. As *United States v. Watkins*, 519 F.2d 294, 296 (D.C. Cir. 1975) held, “it is a matter of horn-book law that receipts are hearsay as independent evidence of the making of payment.”

**c. The Panel Misapplied Evidentiary Rules
By Shifting The Foundation Burden**

The Panel held that Plaintiff “failed to show that the receipt was not generated automatically by a computer without human input,” thus failing to establish it was hearsay. *Opinion at ¶ 29*. This impermissibly shifts the evidentiary burden.

Under *People v. Hamilton*, 2019 COA 101, 452 P.3d 184 (Colo. App. 2019), “[a] computer-generated record constitutes hearsay, however, when its creation involves human input or interpretation.” Furthermore, the *proponent* “must lay a sufficient foundation to establish that the machine's results are valid and reliable.”

Therefore, *Defendant* bore the burden to establish *both* that the receipt lacked human input, *and* that the system was reliable. **It established neither.**

Here, an employee scanned items, entered account information, and processed payment—classic human input rendering the receipt hearsay. *See United States v. Cestnik*, 36 F.3d 904, 907 (10th Cir. 1994).

By assuming computer-printed receipts are inherently reliable and non-hearsay, while forcing Plaintiff to prove the **negative**, the Panel created an unworkable rule allowing parties to bypass foundational evidentiary requirements statewide.

d. The Panel Accepted The Inference That *Plaintiff* Made The Purchase

The Panel held that the receipt constituted “proof” that *Plaintiff* made the purchase. *Opinion at ¶ 14*. However, a receipt reflects **only** that *a linked Best Buy account* is charged, regardless of who presents the card. *CF at 831 ¶ 3*. Here, Plaintiff’s *brother*—an authorized user—made the purchase. As Plaintiff argued, a receipt tied to an account “only establishes that *some* person made that purchase, not actually *who* made it.” *CF at 801*.

Without direct evidence identifying the physical purchaser, the Panel’s cardholder-equals-purchaser assumption is “[m]erely colorable” and insufficient to support, let alone preclude, summary judgment. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 249 (1986).

e. The Panel Dismissed Sworn Testimony And Video As Self-Serving Speculation

The Panel dismissed Plaintiff's sworn affidavit—that he never concealed anything, used pockets, or met employees inside—as “self-serving” “speculation.” *Opinion at ¶¶ 41, 45*. But a party's sworn testimony about personal actions is competent evidence. Their inherent “self-serving” nature neither renders affidavits inadmissible nor diminishes their weight at summary judgment.

Furthermore, Plaintiff's body camera footage—capturing the manager's contradictions, focus on *hands over pockets* (31 mentions vs. 3), and failure to claim personal observation of theft—is also **objective** evidence. Courts must credit video that contradicts party accounts. *Scott v. Harris*, 550 U.S. at 380-81. By failing to do so, the Panel weighed evidence, assessed credibility, and resolved facts in Defendant's favor—all **impermissible** at summary judgment.

III. GRAVE CONSEQUENCES NECESSITATE SUPREME COURT REVIEW

a. Plaintiff Faces Financial Ruin And Loss Of Court Access

Following affirmance, Defendant may be awarded **\$36,124.50** in attorney fees (Appeal No. 2025CA1351). Plaintiff—an RV-bound SNAP recipient due to severe, disabling medical conditions—cannot possibly pay this sum.

Moreover, such prejudice now extends beyond this single action. Plaintiff's action in Case No. 2024CV242 (Appeal No. 2025CA2317) was dismissed because

of the judgment entered in this case, and Plaintiff's IFP status was likewise revoked in Case No. 2024CV132, requiring payment of filing fees despite severe hardship. Now, in Case No. 2024CV241, another defendant is weaponizing the Panel's ruling to demand dismissal, openly asserting: “the Colorado Supreme Court has refused to take up any of his claims.”

Denying certiorari would therefore cement **financial ruin** and continuing collateral consequences that impair Plaintiff's access to the courts.

b. The Panel's Precedent Threatens Access To Courts For All *Pro Se* Litigants

Pro se litigants—the majority of civil plaintiffs—are particularly vulnerable to the Panel's rules. They lack legal training to **anticipate** uncodified forfeiture traps requiring protective motions, or resources to preemptively **refute** every conceivable claim a movant might later support, or procedural sophistication to **navigate** a system where filing a cross-motion is *weaponized* against them as a *backdoor surreply*.

Left standing, well-resourced defendants will adopt this playbook for a **judicially sanctioned ambush**: file evidence-free opening briefs, review the plaintiff's arguments, introduce evidence only in reply, then claim “raised,” “surreply,” “rebuttal,” and “forfeiture” to any later objection. *Pro se* plaintiffs will lose not because their claims lack merit, but because they cannot navigate this procedural labyrinth—a result antithetical to deciding cases on their merits.

**c. These Deviations Warrant
Review Under C.A.R. 49**

Review is warranted under C.A.R. 49 because the Panel's decision creates a diametric split with *Amada*, flatly contradicts *Morlan* and *Suncor*, and so far departs from the accepted and usual course of judicial proceedings as to call for the exercise of this Court's power of supervision.

First, the magnitude and systemic nature of the Panel's departures from fundamental summary judgment principles require correction despite the Opinion's unpublished status.

Second, the judgment has already been weaponized against Plaintiff by sister District Courts, creating a *de facto* precedent threatening his access to justice.

Third, because this case involves core C.R.C.P. 56 mechanics that have procedurally drifted statewide, it provides a clean vehicle for this Court to correct that drift by reaffirming and modernizing foundational pillars (*Morlan*, *Suncor*) while elevating appellate precedents (*Wallman*, *Amada*), thereby equipping every district judge with concise, contemporary guidance—all without needing to invent new law.

Finally, the Panel wholly subverted the bedrock standard that **only if** “the moving party has met [its] initial burden of production, [does] the burden shift[] to the nonmoving party.” *Cont'l Air Lines, Inc. v. Keenan*, 731 P.2d 708, 713 (Colo. 1987).

CONCLUSION

The Court Of Appeals' decision fundamentally departs from established Colorado summary judgment law. It conflicts with multiple controlling precedents, creates procedural requirements unsupported by authority, vitiates the movant's initial burden, and redefines what it means to "raise" an issue. By bypassing these structural guardrails, the lower courts committed outcome-determinative errors that improperly shielded a facially deficient motion from mandatory denial. These deviations carry immediate, irreparable consequences for Plaintiff, and threaten fundamental procedural protections for every civil litigant in Colorado.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court **GRANT** this Petition For Writ Of Certiorari, **REVERSE** the Court Of Appeals' decision, and **REMAND** with instructions to **DENY** Defendant's MSJ and **GRANT** Plaintiff's Cross-MSJ, or, alternatively, **REMAND** for trial.

Respectfully submitted on this, the 28th day of May, 2026.


William Montgomery
2443 S University Blvd # 129
Denver, CO 80210
(970) 412-5463
zoinbergs@gmail.com

CERTIFICATE OF SERVICE

I hereby certify that on this, the 28th day of May, 2026, the foregoing **PETITION FOR WRIT OF CERTIORARI** was filed with the Court, and a true and correct copy of it was electronically sent to the following people:

Lori K. Bell
Sarah K. Vogel
Montgomery | Amatuzio
720 S Colorado Blvd, Suite 1200-N
Denver, CO 80246
T: (303) 592-6600
F: (303) 592-6666
lbell@mac-legal.com
svogel@mac-legal.com

Attorneys for Defendant


William Montgomery

APPENDIX

The **February 19, 2026 Opinion** issued by the Colorado Court Of Appeals in Case No. 2025CA327 and the **March 26, 2026 Order** denying Plaintiff's Petition For Rehearing in the case are filed as an attachment to this pleading.