

COUNTY COURT, WELD COUNTY, COLORADO P.O. BOX 2038 901 9 TH AVENUE GREELEY, COLORADO 80631 (970) 351-7300	<input type="checkbox"/> COURT USE ONLY <input type="checkbox"/>
<p>THE PEOPLE OF THE STATE OF COLORADO, PLAINTIFF,</p> <p>vs.</p> <p>CRAIG BUCKLEY, DEFENDANT.</p>	
Sarah Bousman, 42505 DEPUTY DISTRICT ATTORNEY Weld County District Attorney's Office P.O. BOX 1167, Greeley, Colorado 80632 Phone Number: 970-356-4010 Fax: 970-352-8023	Case Number: 11M578 Division: 8
MOTION TO QUASH SUBPOENA DUCES TECUM OF IDA MURPHY	

COMES NOW the PEOPLE OF THE STATE OF COLORADO, through KENNETH R. BUCK, District Attorney for the Nineteenth Judicial District of the State of Colorado, by his undersigned Deputy District Attorney, and hereby moves this Court for an order to quash the Subpoena of Ida Murphy to produce Craig Buckley's employee time cards from December 2007.

AS GROUNDS for this motion, the People state the following:

- I. The People have standing to file a motion to quash on behalf of Ida Murphy.
 - 1. The Colorado Supreme Court has found that the State, as a party to a case, has standing to quash a defendant's third party subpoena. In *Spykstra*, the court found the "state had standing to move to quash criminal defendant's subpoenas duces tecum that were filed on parents of alleged victim in child sexual assault case, under rule permitting motions to quash or modify subpoenas and requiring that notice be given to district attorneys upon issuance of third-party subpoena; as prosecuting party, State had interest in case management and in preventing witness harassment through improper discovery requests." *People v. Spykstra*, 234 P.3d 662, 669 (Colo. 2010).

- II. The Subpoena should be quashed because the Defendant cannot satisfy the *Spykstra* Test.
 - 2. In *Spykstra*, the Colorado Supreme Court held that the subpoenaing party must demonstrate: (1) a reasonable likelihood that the subpoenaed materials exist by setting forth a specific factual basis; (2) the materials are evidentiary and relevant; (3) the

materials are not otherwise procurable reasonably in advance of trial by exercising due diligence; (4) the party cannot properly prepare for trial without [the materials] and the failure to obtain inspection may tend to unreasonably delay trial; and (5) the application is made in good faith and is not intended as a general fishing expedition. Id.

3. The Defendant's Subpoena fails because the Defendant's time cards from 2007 are not relevant to the charged conduct. A four year old time card does not make any fact of consequence to the charge of harassment more or less likely.

4. The Subpoenaed materials are otherwise procurable. The Defendant, in his Subpoena, failed to Subpoena the proper party. The timecards are not Ida Murphy's personal property, but the property of Dreamstone.

5. The Defendant does not need the time cards to prepare for trial.

6. The Defendant has failed to state a reasonable basis for the need for the timecards. The Subpoenas Duces Tecum serves only as an impermissible fishing expedition into the business records of Dreamstone.

7. The trial date was vacated because the Defendant failed to appear October 13, 2011 for his pretrial readiness conference.

WHEREFORE, the People move the Court for an order quashing Defendant's Subpoena to Ida Murphy to produce Craig Buckley's employee time cards from December 2007.

Dated: October 18, 2011

Respectfully submitted,

KENNETH R. BUCK
DISTRICT ATTORNEY

By: /s/Sarah Bousman
Sarah Bousman, #42505
DEPUTY DISTRICT ATTORNEY

**E-FILED- DULY SIGNED COPY ON FILE AT THE OFFICE OF WELD COUNTY
DISTRICT ATTORNEY**

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THE PEOPLE OF THE STATE OF COLORADO, PLAINTIFF, vs. CRAIG BUCKLEY, DEFENDANT.	
	Case Number: 11M578 Division: 8
ORDER	

Upon Motion of the PEOPLE OF THE STATE OF COLORADO, through KENNETH R. BUCK., District Attorney for the Nineteenth Judicial District of the State of Colorado, by his Deputy District Attorney, and good cause appearing, it is hereby ORDERED that this Motion be granted.

Dated this _____ day of _____, 20_____.

BY THE COURT:

 COUNTY COURT JUDGE

CERTIFICATE OF MAILING

This is to certify that a true and correct copy of the motion TO QUASH SUBPOENA DUCES
TECUM has been mailed to:

Craig Buckley
[REDACTED]
Longmont, CO 80501

Dated: 10/18/11

/s/Shannon Weigel
SECRETARY