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SANDRA K. HARKHAM, CLERK
BY:

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF YAVAPAI

STATE OF ARIZONA, Plaintiff, vs. **STEVEN CARROLL DEMOCKER,** Defendant.	**CAUSE NO. P1300CR201001325** **STATE'S REPLY** **RE: JAMES KNAPP** Assigned to Hon. Gary Donahoe

The State of Arizona, by and through Sheila Sullivan Polk, Yavapai County Attorney, and her deputy undersigned replies to the motion in limine regarding James Knapp's ("Knapp"). This reply is supported by the following memorandum of points and authorities.

MEMORANDUM OF POINTS AND AUTHORITIES

First of all this is not a "re-tread" of previous motions involving Knapp. The only other motion this court heard concerned Knapp's suicide and that evidence, subject to relevant objections, may be admissible at trial.

In his response, the Defendant wants to throw everything into evidence, including the kitchen sink when it comes to Knapp. This is in spite of the rules on relevancy and character evidence. A trial within a trial is defenses' strategy to take the heat away from their client. Albeit, the rules of criminal procedure must be followed.

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Evidence is relevant if (a) it has any tendency to make a fact more or less probable than it would be without the evidence and; (b) the fact is of consequence in determining the action. Rule 401, Arizona Rules of Evidence.

Rule 404(b) permits other act evidence so long as it is offered for any relevant purpose but *the evidence cannot be admitted* where it is only offered to prove the character of a witness. Character evidence of Knapp is not and will never be relevant in this case no matter how you slice it.

Evidence, whether it is true or not, that Knapp was in a variety of cons to get money, lodging, transportation, lying about his cancer, business ventures and a boy friend of Carol is inadmissible evidence that is not relevant to the third party culpability defense. The only purpose the defense wants to bring out Knapp's alleged dirty laundry is to get the jury to look the other way. Knapp's character evidence is inadmissible in this case and the Court is moved to preclude it.

RESPECTFULLY SUBMITTED this 5th day of March, 2012.

Sheila Sullivan Polk
YAVAPAI COUNTY ATTORNEY

By: _____
Jeffrey G. Paupore
Deputy County Attorney

COPY of the foregoing **emailed** this 5th day of March, 2012, to:

Honorable Gary Donahoe
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