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8 *Attorney for Defendant*

9 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

10 **IN AND FOR THE COUNTY OF YAVAPAI**

11 STATE OF ARIZONA, ) CASE NO. P1300CR201600476  
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14 ) **DEFENDANT’S MOTION IN LIMINE**  
15 ANTHONY RICHARDS, )  
16 ) (Oral Argument Requested)  
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29 COMES NOW, Defendant Anthony Richards, by and through attorney  
30 undersigned, hereby moves to preclude this use by the State of credit card receipts. The  
31 State has marked these exhibits 110-114. The State has informed the Defendant that it  
32 cannot lay foundation to admit these documents. However, the State intends to mark  
33 these documents as exhibits and have witnesses discussed the content of the exhibits.  
34 (AutoZone Receipt, Gun World receipt and Letter, Rock Auto receipt, Office Max receipts).  
35 Defendant adamantly object to this request for several reasons.

36 First, the State would be admitting hearsay without laying proper foundation to  
37 admit the document under any exceptions to the hearsay rule. i.e. business records  
38

1 exception. Thus, raising the issue as to the reliability of the document and defense ability  
2 to challenge these documents.

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4 Second, allowing the exhibits to be discussed by a witness who does not have  
5 personal knowledge of the exhibits would be in violation of the best evidence rule. To  
6 prove the content of the writing, recording, or photograph, the original writing, recording  
7 or photograph is required. Ariz. R. Evid. 1002. No evidentiary rule prohibits a witness  
8 from testify to a fact simply because the fact can be supported by a written document. R  
9 & R Associates, Inc. v. Visual Scene, Inc., 726 F.2d 36, 38 (1<sup>st</sup> Cir. 1984). However, if  
10 the witness lacks independent knowledge, but derives his knowledge from the written  
11 records, then his testimony in lieu of the records would violate the rule. D'Angelo v.  
12 United States, 456 F.Supp. 127, 131 (D.Del.1978), aff'd, 605 F2d. 1194 (3<sup>rd</sup> Cir 1979).  
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15 In the case at bar, Defendant Anthony Richards has a constitutional right to  
16 confront, compel and cross exam all evidence the State intends to offer at trial. In fact,  
17 this right of confrontation is especially crucial in a case such as this one, where the State  
18 intends to introduce Defendant's statements regarding the receipts.  
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20 To that end, there are important factors impacting the reliability of such evidence  
21 being introduced. Consequently, the Defendant moves to preclude the use of exhibits  
22 110-114 at trial including but not limited to witnesses testifying to them.  
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24 **RESPECTFULLY SUBMITTED** this 9<sup>th</sup> day of February, 2022.  
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26 /s/ Tyrone Mitchell  
27 Tyrone Mitchell  
28 Attorney for Defendant

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**CERTIFICATE OF SERVICE**

Original of the foregoing electronically filed this 9<sup>th</sup> day of February 2022, to:

**Clerk of Justice Court**  
Yavapai County Superior Court  
120 S. Cortez Street  
Prescott, AZ 86313

/s/ T.M.