

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF BERKELEY )  
 )

IN THE COURT OF GENERAL SESSIONS  
FOR THE NINTH JUDICIAL CIRCUIT  
INDICTMENT NUBMER: 2016-GS-08-2603  
WARRANT NUMBER: 2016A0810400692

STATE OF SOUTH CAROLINA, )  
 )  
Plaintiff, )  
 )  
-versus- )  
 )  
MICHAEL COLUCCI, )  
 )  
Defendant. )  
\_\_\_\_\_ )

**MOTION FOR DISCLOSURE OF  
STATE'S EXPERT WITNESSES**

17 MAY 23 PM 3:31  
MARY P. BROWN  
CLERK OF COURT  
BERKELEY COUNTY, S.C.

FILED

The Defendant, Michael Colucci, (Colucci), moves this Honorable Court for an Order requiring that the State make available to the defense all information in the custody, possession, control or knowledge of the State, private parties retained by the State, State Administrative Agencies, or any Law Enforcement Agency involved in the investigation of the above-captioned matter in accordance with the requirements of: Rule 5, SCRCrimP; Appellate Court Rule 407, Rules of Professional Conduct, Rule 3.8(d); Model Rule 3.8(d) of the American Bar Association's Standards for Criminal Justice; *Brady v. Maryland*, 373 U.S. 83, 83 S.Ct. 1194, 10 L.E.2nd 215 (1963); *Giglio v. United States*, 405 U.S. 150, 92 S.Ct. 763, 31 L.Ed.2d 104 (1972), *United States v. Agurs*, 427 U.S. 97, 96 S.Ct. 2392, 49 L.Ed.2d 342 (1976); *United States v. Bagley*, 473 U.S. 667, 105 S.Ct. 3375, 87 L.Ed.2d 481 (1985); *Kyles v. Whitley*, 514 U.S. 419, 115 S.Ct. 1555, 131 L.Ed.2d 490 (1995); *Strickler v. Green*, 527 U.S. 263, 119 S.Ct. 1936, 144 L.Ed.2d 286 (1999); *United States v. Acosta*, D. Nev., No. CR-S-03-0542 JCM (PAL), (2005); *Gibson v. State*, 334 S.C. 515, 514 S.E.2d 320 (1999); *In the Matter of Larry F. Grant*, 343 S.C. 528, 541 S.E.2d 540 (2001); *Leka v. Portuondo*, 257 F.3d 89 (2001); *State v. Proctor*, 348 S.C. 322, 559 S.E.2d 318 (2001), *Riddle v.*

cc: Savage

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*Ozmint*, 369 S.C. 39, 631 S.E.2d 70 (2006); *Wearry v. Cain*, 136 S.Ct. 1002, 577 U.S. \_\_\_\_, 194 L.Ed 2d 78 (2016), and their progeny.

Compliance with Brady's disclosure rule is a constitutional requirement grounded in the defendant's fundamental right to a fair trial mandated by the Due Process Clause of the Fifth and Fourteenth Amendments. See *State v. Kennerly*, 331 S.C. 442, 503 S.E.2d 214 (Ct.App. 1998), *aff'd*, 337 S.C.617, 524 S.E.2d 837 (1999). Failure to disclose relevant exculpatory information, or information that would tend to negate guilt is a violation of the Defendant's due process rights. As such, the prosecution must, prior to trial, provide the defense with any evidence in its possession that is material to the defendant's guilt or punishment. *Brady v. Maryland*, 373 U.S. 83, 83 S.Ct. 1194, 10 L.E.2nd 215 (1963).

Colucci herein specifically requests:

1. The State provide to defense counsel the identity of and qualifications for all expert witnesses expected to provide testimony of scientific, technical or other specialized knowledge to aid the trier of fact in understanding evidence or to determine a fact in issue pursuant to Rule 702, SCRE.
2. The State identify the subject matter and specific areas of expertise of which each and every expert witness is expected to testify pursuant to Rule 702, SCRE.
3. That for each and every expert, the State identify the ultimate issue the expert witness is expected to testify to and provide the corresponding opinion of each pursuant to Rule 704, SCRE.
4. That for each and every expert, the State set forth the basis for each opinion or inference in this case pursuant to Rule 703, SCRE.

5. That for each and every expert, the State set forth the specific facts and data upon which the expert relied when forming an opinion or inference in this case pursuant to Rule 703, SCRE.
6. That the State set forth the specific compensation provided to each expert for their testimony.

FURTHER, Colucci will specifically move that said Order requiring production specifically require compliance by the State within thirty (30) days as provided in Section (a)(3) of Rule 5, SCRCrimP. This production is specifically sought so that the information discoverable pursuant to Rule 5, SCRCrimP or any of the above-cited cases will be meaningful for the proper preparation of the defense of Michael Colucci.

Respectfully submitted,

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BY: 

ANDREW J. SAVAGE, III

ATTORNEY FOR DEFENDANT

Charleston, South Carolina  
May 19, 2017