

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

Plaintiff, proceeding *pro se*, hereby submits to the Colorado Supreme Court the following MOTION FOR EXTENSION OF TIME TO FILE A PETITION FOR WRIT OF CERTIORARI, so as to allow him **thirty-five (35) additional days** to file it within, and in support thereof, states as follows:

## **C.R.C.P. RULE 121 § 1-15(8) CERTIFICATION**

Plaintiff certifies that he has conferred in good faith with counsel for Defendant concerning this motion. Defendant states that it **DOES NOT TAKE A POSITION** with regard to the relief sought herein.

## **PROCEDURAL HISTORY AND DEADLINE**

1. On February 19, 2026, the Court Of Appeals issued its Opinion in 2025CA327 affirming the District Court's grant of summary judgment to Defendant.

2. On March 26, 2026, the Court Of Appeals denied Plaintiff's Petition For Rehearing without explanation.

3. Under C.A.R. Rule 52(a)(1), Plaintiff has twenty-eight (28) days from the Denial Of Rehearing—until April 23, 2026—to file a Petition For Writ Of Certiorari.

4. Plaintiff respectfully requests a **thirty-five (35) day** extension, to May 28, 2026, to file it.

## **GROUND FOR EXTENSION**

### **a. Plaintiff Suffers From A Severe Disabling Medical Condition**

Plaintiff suffers from **Abdomino Phrenic Dyssynergia (APD)**, a severe and disabling neuromuscular disorder that affects coordination between the diaphragm

and abdominal muscles. This condition substantially impairs Plaintiff's ability to perform physical and cognitive tasks at a normal pace. Plaintiff's APD has reduced his working capacity to approximately **33% of what a healthy individual can accomplish**—meaning tasks that would take a healthy person one hour require Plaintiff approximately three hours to complete.

The cognitive and physical toll of APD is compounded by:

- **Chronic fatigue** requiring frequent rest breaks
- **Malnutrition** impairing sustained concentration and legal analysis
- **Physical discomfort** limiting Plaintiff's ability to sit, type, and research for extended periods
- **Sleep disruption** due to respiratory irregularities, further diminishing daytime productivity

These limitations are not temporary inconveniences—they are permanent disabilities that Plaintiff must navigate daily while representing himself *pro se* in multiple complex civil rights cases. Because Plaintiff cannot afford counsel and must act as his own advocate, these medical impairments directly impact his ability to meet strict filing deadlines without sacrificing the quality and thoroughness required for appellate practice.

**b. Plaintiff Has Been Required To Prepare And File Four Major Briefs In Other Active Cases During The Same Period**

Between March 30, 2026, and April 20, 2026—the exact period within which Plaintiff was simultaneously tasked with preparing his Petition For Writ Of Certiorari—he was required to research, draft, and file **four separate major legal briefs** in four other active federal and state court cases:

- On March 30, 2026, Plaintiff had a Reply In Support Of His Objection To The Magistrate Judge's Report & Recommendation due in *Montgomery v. Lore*, District Civil No. 1:21-cv-02553-PAB-CYC.

- On April 13, 2026, Plaintiff had a Response To Defendant's MTD due in *Montgomery v. Wu et al*, District Civil No. 1:25-cv-03728-PAB-CYC.

- On April 17, 2026, Plaintiff had an Appeal Opening Brief due in *Montgomery v. Best Buy*, Court Of Appeals Case No. 2025CA2317.

- On April 20, 2026, Plaintiff has a Response To Defendant's MTD due in *Montgomery v. Taylor et al*, District Civil No. 1:25-cv-04047-PAB-CYC.

Each of these briefs required:

- Comprehensive legal research into distinct bodies of federal and state law
- Detailed factual record review and citation to voluminous case files
- Precise compliance with separate procedural rules (Federal Rules Of Civil

Procedure, Federal Rules Of Appellate Procedure, and Colorado Appellate Rules)

- Substantial time investment in drafting, editing, and cite-checking

Plaintiff was not filing routine status updates or procedural motions—these were **substantive dispositive and appellate filings** that could result in outright dismissal or adverse judgments if not prepared with care and diligence. The cumulative burden of preparing these four briefs simultaneously, while managing APD's debilitating effects, has made it **physically and cognitively impossible** for Plaintiff to also complete a thorough and competent Petition For Writ Of Certiorari by the April 23, 2026 deadline.

**c. This Case Involves Complex And Novel Issues Of Statewide Importance**

The issues Plaintiff seeks to present to this Supreme Court are not routine or straightforward. They involve:

- **Fundamental conflicts with controlling Colorado Supreme Court precedent** (*Morlan v. Durland Trust Co.*, 127 Colo. 5, 252 P.2d 98 (1952); *Central Bank & Trust Co. v. Robinson*, 137 Colo. 409, 326 P.2d 82 (1958)) regarding the separate consideration of cross-motions for summary judgment.
- **Creation of a new procedural forfeiture rule** unsupported by *Wallman v. Kelley*, 976 P.2d 330 (Colo. App. 1999), requiring motions to strike or surreply

requests to preserve evidentiary objections.

- **Redefinition of the movant's initial burden under C.R.C.P. Rule 56**, allowing conclusory statements without supporting evidence to “raise” issues sufficient to shift the burden to the non-movant.

- **Systematic denial of due process** to *pro se* litigants who cannot anticipate that cross-motion replies can be conflated with opposing-party motion surreplies.

These are issues of first impression with **statewide ramifications** for every summary judgment motion filed in Colorado courts. Plaintiff's Petition must carefully and thoroughly develop these issues with precision, supported by comprehensive legal research and citation to controlling authority. Rushing such a filing risks presenting an inadequate petition unworthy of this Court's consideration—thereby forfeiting Plaintiff's only opportunity to seek review of errors that have already resulted in a **\$36,124.50 attorney fee award** he cannot pay and **dismissals and fee denials in two other unrelated cases** based on the erroneous Court Of Appeals decision at issue here.

**d. Plaintiff Is *Pro Se* And Faces Substantial Prejudice Without Extension**

Plaintiff proceeds *pro se* not by choice, but by necessity. He cannot afford counsel. He receives **SNAP benefits** (food assistance) and resides in an **RV due to his disabling medical conditions**. He has no legal training beyond what he has

taught himself through years of self-representation.

The legal system's procedural complexity—particularly at the appellate and certiorari stages—is daunting even for experienced attorneys. For a *pro se* litigant with severe disabilities and competing deadlines, it is nearly insurmountable.

Plaintiff does not have:

- Law clerks to assist with research
- Paralegals to cite-check and format briefs
- Colleagues to review drafts and provide feedback
- Financial resources to hire consultants or legal writing services

He has only himself—and himself operating at 33% capacity due to APD, while simultaneously defending against motions to dismiss in two federal cases, objecting to a magistrate judge's recommendation in a third federal case, and preparing an appellate opening brief in a fourth state case.

**Without this extension, Plaintiff faces a Hobson's choice:** file a rushed, inadequate Petition For Writ Of Certiorari that fails to present his issues competently, or forfeit his right to seek this Court's review entirely. Neither option serves justice. The thirty-five day extension Plaintiff seeks will allow him to:

- Recover physically and cognitively from the intensive briefing schedule of March and April

- Conduct thorough research and prepare a competent Petition For Writ Of Certiorari worthy of this Court's consideration

**e. Defendant Will Not Be Prejudiced By A Thirty-Five Day Extension**

A thirty-five day extension will not prejudice Defendant in any way.

Defendant has already obtained:

- Summary judgment in the District Court
- Affirmance by the Court Of Appeals
- Denial of Plaintiff's Petition For Rehearing
- A \$36,124.50 attorney fee award against Plaintiff

Defendant stands to gain **nothing** from forcing Plaintiff to file a rushed, inadequate petition by April 23, 2026, and stands to lose nothing if Plaintiff is granted until May 28, 2026 to prepare a thorough filing. The only effect of the extension is to ensure that **if this Court ultimately grants certiorari**, it will review a petition that fully and competently presents the issues—thereby allowing the Court to make its decision based on the merits, not on the happenstance of an overwhelmed *pro se* litigant's inability to meet an aggressive deadline while managing severe disabilities and competing litigation deadlines.

**f. Good Cause Exists Under C.A.R. Rule 52(b)**

C.A.R. Rule 52(b) provides: “The supreme court, for good cause, may

extend the time for filing a petition for rehearing or a petition for writ of certiorari.” “Good cause” has been established through:

- **Severe disabling medical condition** (APD) reducing Plaintiff's working capacity to 33% of normal
- **Unavoidable competing deadlines** requiring four major briefs in four other cases during the exact period when the Petition was due
- **Complexity and importance of the issues** requiring careful, thorough presentation to this Court
- **Pro se status** and lack of resources, requiring Plaintiff to perform all legal work himself without assistance
- **Absence of prejudice to Defendant**, who has already prevailed at every stage and will suffer no harm from a thirty-five day extension
- **Substantial prejudice to Plaintiff** if forced to choose between an inadequate filing and forfeiture of his right to seek certiorari

These factors, individually and cumulatively, constitute good cause for a thirty-five day extension.

### **CONCLUSION**

WHEREFORE, for the forgoing reasons, Plaintiff respectfully requests that this Supreme Court **GRANT** a thirty-five (35) day extension of time—from April

23, 2026, to May 28, 2026—to file his Petition For Writ Of Certiorari.

This modest extension will allow Plaintiff, a disabled *pro se* litigant facing severe medical challenges and unavoidable competing litigation deadlines, to prepare and file a thorough and competent petition presenting issues of statewide importance worthy of this Court's review.

Respectfully submitted on this, the 17th day of April, 2026.

  
**William Montgomery**

**CERTIFICATE OF SERVICE**

I hereby certify that on this, the 17th day of April, 2026, the foregoing **MOTION FOR EXTENSION OF TIME TO FILE A 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**