

STATE OF MINNESOTA  
COUNTY OF HENNEPIN

DISTRICT COURT  
FOURTH JUDICIAL DISTRICT

STATE OF MINNESOTA,

PLAINTIFF,

V.

TOU THAO,

DEFENDANT.

**NOTICE OF MOTION  
AND MOTION TO VIEW  
VOIR DIRE**

COURT FILE NO. 27-CR-20-12949

TO: THE HONORABLE PETER A. CAHILL, JUDGE OF DISTRICT COURT, AND  
MR. MATTHEW G. FRANK, ASSISTANT ATTORNEY GENERAL

**NOTICE OF MOTION**

Please take notice, that on March 5, 2021, or as soon thereafter as counsel may be heard, Tou Thao (“Mr. Thao” herein) will move the Court as follows.

**MOTION**

Mr. Thao respectfully moves that he be able to have one of his attorneys – Robert Paule or Natalie R. Paule – present in the courtroom for the voir dire process in the case of *State v. Chauvin*. Both the Sixth Amendment of the United States Constitution and the Minnesota Constitution guarantee the right to a public trial. U.S. Const. and. VI; Minn. Const. at. I, §6. There is a constitutional presumption of access to criminal trials, although such access is not an absolute right. See *Austin Daily Herald v. Mork*, 507 N.W.2d 854 (Minn. App. 1993). The right to a public

trial has been extended to protect voir dire proceedings. *Presley v. Georgia*, 558 U.S. 209, 213 (2010); *State v. Brown*, 815 N.W.2d 609, 617 (Minn. 2012).

“Public scrutiny of a criminal trial enhances the quality and safeguards the integrity of the factfinding process, with benefits to both the defendant and to society as a whole. Moreover, public access to the criminal trial fosters an appearance of fairness, thereby heightening public respect for the judicial process.” *State v. Fageroos*, 531 N.W. 2d 199 (Min. 1995). Any closure of a portion of the trial must be no broader than necessary to protect an overriding interest. *Id.* at 201

Mr. Thao’s case was joined with Mr. Chauvin’s case by this Court through its November 4, 2020 Order and Memorandum Opinion Granting State’s Motions for Trial Joinder. On January 11, 2021, this Court sua sponte severed the cases due to social distancing concerns in light of the COVID-19 pandemic. *See* Order Regarding Discovery, Expert Witness Deadlines, and Trial Continuance. Specifically, this Court cited to an email by Chief Judge Barnette asking that this Court sever at least one defendant off because the courtroom set for trial would not be able to accommodate all four defendants and their defense teams. *Id.*

As the severance and removal of Mr. Thao’s case from the March 8, 2021 date was due to COVID-19 concerns, Mr. Thao requests that he be able to have an attorney present in the voir dire proceedings and actual trial to observe proceedings. Mr. Thao respectfully requests this because his case will rely on many of the same expert witnesses, and the State is expected to present the same case against him later this year. While Mr. Thao understands that the trial will be publicly broadcasted, it is imperative to have an attorney present for the voir dire proceedings. The jurors will not be subject to any loosening of privacy or security by having an attorney-representative present as the defense counsel for Mr. Thao has already been given access to the jury questionnaires for *State v. Chauvin* by this Court.

Respectfully submitted,

Dated: This 8<sup>th</sup> day of February, 2021

/s/ Robert M. Paule  
Robert M. Paule (#203877)  
Robert M. Paule, P.A.  
920 Second Avenue South, Suite 975  
Minneapolis, MN 55402  
T: (612) 332-1733  
F: (612) 332-9951

Natalie R. Paule (#0401590)  
Paule Law P.L.L.C.  
5100 West 36<sup>th</sup> Street  
P.O. Box 16589  
Minneapolis, MN 55416  
nrp@paulelaw.com