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Attorney For Appellant

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT

THE PEOPLE OF THE STATE OF CALIFORNIA,)
)
Plaintiff and Respondent,) [3/5] DCA No. _____
) [COUNTY] No. _____
)
vs.)
)
[APPELLANT'S NAME],)
)
Defendant and Appellant.)
_____ /

**APPLICATION TO EXPAND SCOPE OF APPOINTMENT OF
COUNSEL ON APPEAL**

TO THE HONORABLE PRESIDING JUSTICE AND ASSOCIATE JUSTICES OF
THE CALIFORNIA COURT OF APPEAL, THIRD APPELLATE DISTRICT:

Appointed appellate counsel for appellant [APPELLANT'S NAME] applies to
this court to expand the scope of her appointment to extend to cover the expenses of court
appearances in [COUNTY] County made necessary by Code of Civil Procedure section
237 [and this court's order of [DATE]], pursuant to that statute deleting all information
identifying the jurors from the reporter's transcript of voir dire.

Good cause exists for this application as set forth here and in the attached copy of

appellant's petition pursuant to Code of Civil Procedure 237, Exhibit "A," which is on this date being sent to [COUNTY] County. The requested augmented reporter's transcript of jury selection, which was ordered sealed by this court pursuant to Code of Civil Procedure section 237, is essential to an appellate determination of a challenge to the trial court's denial of a challenge to the trial prosecutor's use of a peremptory challenge to eliminate the only Black prospective juror. When a *Wheeler* (*People v. Wheeler* (1978) 22 Cal.3d 258) challenge is raised on appeal, the propriety of the trial court's denial of such a motion is determined by reviewing the questioning of that juror and other jurors to determine whether the trial judge fulfilled his duty to scrutinize the prosecutor's proffered reasons for the exercise of the peremptory challenge and to determine the good faith of those reasons in light of the questioning and responses of other jurors and prospective jurors. (See, e.g., *People v. Crittenden* (1994) 9 Cal.4th 83, 115; *People v. Fuentes* (1991) 54 Cal.3d 707, 718; *People v. Hall* (1983) 35 Cal.3d 161, 167-168; *People v. Avit* (1995) 35 Cal.App.4th 94, 105, 108; *People v. Tapia* (1994) 25 Cal.App.4th 984; *People v. Gonzales* (1989) 211 Cal.App.3d 1186, 1193.)

Appellant's counsel anticipates that the superior court will set a hearing on appellant's petition to unseal the reporter's transcript of voir dire. Each court appearance to litigate that matter will entail [LIST POSSIBLE RELATED EXPENSES, e.g., mileage, airfare, rental car, hotel expenses, bridge fare, parking fees, etc.].

[PRE-AUTHORIZATION FOR TRAVEL EXPENSES. For the Third District, travel expenses totaling less than \$600, may be submitted for pre-authorization to CCAP once this motion is granted. (E.g., Counsel estimates that the travel expenses for this

motion will be less than \$600, and will seek pre-authorization for those travel expenses from CCAP upon this court's granting of this motion.) If more than \$600 in the Third and for the Fifth District, detail your estimated expenses here and request pre-authorization directly from the court as a part of this motion.]

Appellant's counsel believes these expenses would be reasonable and necessary, because the obligation to defend appellant effectively on appeal requires that counsel litigate this issue necessitated by this court's denial of her application to unseal the augmented reporter's transcript of voir dire.

For all the foregoing reasons, appellant respectfully requests that this court grant counsel's application to expand her appointment to permit her to litigate the Code of Civil Procedure section 237 petition in [COUNTY] County in this case.

Dated: _____

Respectfully submitted,

[YOUR NAME]
Attorney For Appellant