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2 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
3 **FOR THE COUNTY OF [YOLO]**
4

5 PEOPLE OF THE STATE OF
6 CALIFORNIA,

7 Plaintiff,

8 vs.

9 **JOHN SMITH,**

10 Defendant

Case No.: **00-000**
Related Appeal No. C0____

**STIPULATION TO SETTLED
STATEMENT**

11
12 **TO THE HONORABLE _____, JUDGE OF THE SUPERIOR COURT:**

13 Pursuant to rules 8.137 and 8.346, California Rules of Court, the undersigned
14 counsel of record for the parties herein hereby stipulate that the following statement as
15 prepared is correct and constitutes the missing portion of the reporter's transcript and
16 clerk's transcript for March 14, 2007 and March 15, 2007, based on the settled statement
17 hearing:
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19 The Honorable _____ presided over the trial in People v. Smith, Yolo County
20 Superior Court No. 00-0000. The court had no independent recollection of the events
21 regarding the four questions from the jury and the written responses contained in the
22 clerk's transcript on appeal. The court's procedure in all felony trials when it receives a
23 jury note is to call the attorneys in to talk about the note or, occasionally, to have a
24 telephone conference. If there is an agreement as to the answer, the court sends a written
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2 response to the jury on a note which is signed by the court. Sometimes, but not always,
3 the court indicates the time and date of the response. The only time the court goes on the
4 record is if one of the attorneys disagrees with what the court is going to do, at which
5 time the attorneys come into open court and have a hearing, with each party arguing what
6 they want to argue and the court telling them what it is going to do. If there is no
7 disagreement, they do not do that. The only thing that is given to the jury in response to
8 their question is the written answer that had been agreed upon after consultation with the
9 attorneys. When the jury asks a question, it is told to keep deliberating until the court can
10 get back to it with the answer. The court recalled that, in the instant case, another deputy
11 sometimes appeared in lieu of the deputy district attorney when he was gone.
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15 Mr. X, the deputy who represented the Yolo County District Attorney in case
16 number 00-0000, is no longer with the District Attorney's Office.¹ Mr. X did not recall
17 much about the proceedings. His notes reflected the March 14, 2020 meeting regarding
18 the jury questions with defense counsel and Judge [xxx] but no further notes regarding
19 jury questions. Mr. X was not present on March 15, 2020 when the questions were
20 answered or when the verdict was given. He believed that there was an agreement among
21 the court, defense counsel, and himself as to what the answers should have been. Mr. X's
22 normal practice, if he or defense counsel had an objection, was to put it on the record.
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¹Deputy Y represented the District Attorney's Office, communicated with Mr. X (and deputy Z), and provided their recollections at the settlement hearing.

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Deputy Y, the deputy District Attorney who stood in for Mr. X at the taking of the verdicts on March 15, 2007, had no independent recollection of any jury questions in the case.

Defense counsel, who represented defendant John Smith at trial, recalled that the court and the parties did discuss the notes in chambers to determine what the jury was asking and to consider what the proposed answer would be. He recalled that one response to one note by the court was a simple no, with nothing to discuss. Regarding the March 14, 2020 question having to do with what occurred in Oregon, defense counsel had objected to any Oregon conduct being introduced since day one of the proceedings. As to the answer to be given the jury on that question, defense counsel, the prosecutor, and the court all agreed on what the answer would be.

Dated: _____

Name
Yolo County District Attorney
301 Second Street
Woodland CA 95695

Dated: _____

Name
Attorney at Law
Address
[Trial Attorney for Defendant John Smith]