

**Ex Parte Application for Pre-Authorization of Translation Expenses
that either exceed CCAP \$300 pre-authorization authority, or that now exceed a total of \$300**

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
[THIRD/FIFTH] APPELLATE DISTRICT

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

**APPELLANT'S EX PARTE REQUEST FOR PRE-AUTHORIZATION TO
INCUR INTERPRETER EXPENSES**

TO THE HONORABLE [NAME], JUDGE PRESIDING, AND TO THE HONORABLE
ASSOCIATE JUSTICES OF THE COURT OF APPEAL OF THE STATE OF
CALIFORNIA, [FIFTH/THIRD] APPELLATE DISTRICT:

Appellant [APPELLANT NAME] applies to this court for interpreter expenses
that are likely to exceed \$300, in excess of the amount that CCAP can pre-authorize
expenses under current panel-appellate-appointment expenses policies of this court.

[DESCRIBE WHY THE EXPENSE IS NECESSARY, e.g., I believe from
information in the record that my client speaks and reads Japanese and very little English.
I am not fluent in Japanese. In order for me to communicate effectively with my client, I
must employ the services of a translator for the duration of my representation of appellant

in this appeal.] The appellant required an interpreter during proceedings in the trial court.
[Cite record.]

I have called [number] translating services in [CITY]. The [NAME SERVICE] is the most economical service available and they charge [DESCRIBE AMOUNT PER WORDS/PAGE] to translate from English to Japanese and [DESCRIBE AMOUNT PER WORDS/PAGE] to translate from Japanese to English. I am informed and believe that [NAME OF SERVICE] is certified in the Japanese language in the state of California. [IF YOU REQUIRE AN INTERPRETER FOR A TELEPHONE CONVERSATION, GIVE THE DETAILS OF THE PROJECTED COST -- INCLUDE AN ESTIMATE OF THE COST OF YOUR TIME AND THE TIME TO ESTABLISH TELEPHONE COMMUNICATION.]

[OR, STATE ESTIMATED COSTS OF FURTHER TRANSLATION IF PREVIOUS APPROVED AMOUNT WILL BE EXCEEDED, e.g., On [DATE], CCAP preauthorized translation expenses for translation of letters between appellant and appellate counsel not to exceed \$300 absent further approval by this court. To date, counsel has incurred \$267.28 in translation expenses, leaving a remainder of \$32.72.]

However, [STATE THE STATUS OF THE CASE AND THE REMAINING WORK TO BE DONE THAT WOULD REQUIRE FURTHER EXPENDITURE OF INTERPRETER FEES WITHOUT REVEALING ATTORNEY/CLIENT CONFIDENCES, e.g., the opinion recently issued in this case, and counsel estimates that the necessary translation costs will now exceed the remainder that has been pre-approved. Counsel anticipates a one-page letter to appellant, which will generate a response from appellant, and then a final letter from counsel. Counsel estimates a total additional cost of \$80, part of which will be covered by the remaining \$32.72 of the pre-approval. Hence counsel requests an additional authorization in the amount of \$80.]

The translation of communication in this case appears necessary in order for counsel to effectively communicate with appellant, which in turn is necessary to providing effective representation.

I declare under penalty of perjury the foregoing is true and correct. Executed at [CITY], California on [DATE].

Dated: _____

Respectfully submitted,

[YOUR NAME]
Attorney For Appellant

DECLARATION OF [YOUR NAME]

I, [YOUR NAME], declare as follows:

1. I am appointed appellate counsel for [APPELLANT'S NAME] in [Third/Fifth] District Appeal No. _____.

2. I have reviewed the appellate record filed in this case. [DESCRIBE MOTIONS OR OTHER WORK SO FAR, e.g., On [DATE], I filed an augmentation application to add the reporter's transcript of voir dire to the appellate record in this case. That motion was made, because the appellate record showed that a *Wheeler* motion had been made to challenge the prosecutor's use of a peremptory challenge to dismiss the only Black prospective juror, who was unnamed in the clerk's minutes and reporter's transcript of the hearing on this issue. Without the disclosure of the identities of the Black prospective juror and the other jurors in connection with voir dire, I cannot obtain for appellant meaningful review of this Court's ruling on the *Wheeler* motion, an important constitutional issue. To make a complete record on this issue, I would need a reporter's transcript of voir dire showing the questioning pertaining to the juror in question and other jurors to establish that the prosecutor's reasons for excusing the juror in question were not appropriate and that the juror was excused on the basis of racial bias rather than valid, non-discriminatory reasons. I have reason to believe that a comparison of that jurors' questioning and responses, once he is identified, with those of other, non-Black jurors might tend to undermine the validity of the prosecutor's reasons for removing that unnamed juror as mentioned at [PAGE NUMBERS] of the reporter's transcript. The prosecutor stated on the record a concern with the fact that the unnamed Black juror had to work to support his family. However, that reason appears to be suspect under the case law and may turn out to be improper in light of the information revealed during voir dire about other jurors.

3. Code of Civil Procedure section 237 requires that an application be made to the trial

court in the first instance when a party seeks to unseal juror identifying information. Civil Procedure Code section 237, subdivision (b) requires that a party show good cause to unseal juror identifying information. In this case, appellant's counsel cannot present an adequate record to support a challenge to the trial court's denial of the defense *Wheeler* motion without disclosure of the jurors' identities contained in the voir transcript to enable appellant's counsel and the appellate court to determine which juror was the Black juror in question and what questions were asked of and what answers were given by other jurors. If such information is not made available, then appellant will be denied meaningful appellate review of a challenge to the denial of the defense *Wheeler* motion. I therefore respectfully request that this court file an order requiring the court reporter to identify the jurors referred to in the reporter's transcript of voir dire and to file the reporter's transcript with that information as an augmentation with the Court of Appeal.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this [DATE], at [CITY], California.

[YOUR NAME]