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|----------------------|---|------------------------------------|
| |) | In the Circuit Court of the |
| |) | Ninth Judicial Circuit, in and for |
| |) | Orange County, Florida |
| STATE OF FLORIDA |) | |
| |) | Case No.: 48-2008-CF-13331-O |
| v. |) | Division 16 |
| |) | |
| CASEY MARIE ANTHONY, |) | Hon. Stan Strickland |
| |) | |
| Defendant. |) | |
| |) | |

MOTION FOR A JURY QUESTIONNAIRE

COMES NOW the Defendant, CASEY MARIE ANTHONY, by and through her attorneys, JOSE A. BAEZ and ANDREA D. LYON, and moves this Court to grant her request for a jury questionnaire pursuant to Article I of the Florida Constitution, as well as the Fourth, Fifth, Sixth, and Fourteenth Amendments to the United States Constitution, and respectfully moves this Court to submit the proposed, attached, jury questionnaire to prospective jurors. Miss Anthony asks that the prospective venire be brought into court, fill out the questionnaire, and be excused for the day. Miss Anthony's Defense team will make copies for the court and the prosecution, and jury selection with at least fifteen jurors can begin the next day. In support of this motion, the defendant, Miss Anthony, states the following:

1. Miss Anthony has been charged with Forgery of a bank bill, Uttering a forged instrument, Fraudulent Use of ID, and Grand Theft pursuant to Fla. Stats. 831.07; 831.09; 817.568(2); 812.014(2)(C)(1). Miss Anthony has also been charged in a separate case where the State is seeking the death penalty.

2. In order to ensure that Miss Anthony receives a fair trial by a panel of impartial and fair-minded jurors in accordance with the exacting standards demanded by the Constitution and Florida statute, it is necessary that both Miss Anthony's counsel and the prosecution have access to information concerning the potential jurors that is accurate and thorough.

3. A juror's assurances that he is equal to the task of setting aside any preconceptions cannot be dispositive of the accused's rights nor guarantee a fair trial. Due to the tendency to connect this case with Miss Anthony's pending capital case, it is necessary that a probing inquiry into the juror's beliefs and prejudices be allowed.

4. The extensive amount of biased media coverage for the prosecution in this case and the defendant's pending capital case requires extra efforts to assure Miss Anthony a fair trial with an impartial jury. The questionnaire will aid the effort to select impartial jurors unaffected by improper bias or prejudice.

a. The media in this case has mischaracterized information in a way that prejudices Miss Anthony, which has included mischaracterization of the contents of this Court's order.

b. The pretrial publicity in this case reflects a pro-prosecution bias. The media often reports in a manner that suggests it is building a case against Miss Anthony.

5. The Orlando community's involvement in this case and its hostility towards Miss Anthony create an environment in which it would be difficult for a juror to render a verdict based solely on the evidence presented at trial.

a. This case has become the most important local news story in Orlando and is featured extremely frequently on many news outlets.

b. Members of the Orlando community have a strong sense of personal attachment to this case, as evinced by the thousands of people who participated in searches for Caylee Marie Anthony, attended her memorial service, and otherwise expressed special concern for the child.

c. The Orlando community is hostile to Miss Anthony. Scores of protesters have demonstrated against Miss Anthony and her family, and online comments and media reports indicate that the community believes Miss Anthony deserves to be executed.

6. Attached to this motion is a proposed juror questionnaire, along with a proposed juror instruction to the venire, which will elicit background information that may be relevant to challenges for cause as well as the intelligent and informed exercise of peremptory challenges. This questionnaire will provide both the parties and the Court with responses that may alert them to possible relationships, associations or experiences that may be a source of bias or prejudices and would thus necessitate for cause excusals. It will also provide information necessary to ensure that no improper bias or prejudice undermines Miss Anthony's right to a fair trial as provided by the Sixth Amendment to the United States Constitution. Finally, the questionnaire will save substantial time that can be devoted in voir dire to questioning about other issues.

7. Miss Anthony requests that these questionnaires and instructions be given to the entire venire on the first day of jury selection. After the potential jurors have filled out the questionnaires, Miss Anthony and her counsel offer their services to make copies for the prosecution and this Court, as well as solve any logistical issues with administration of the questionnaire. Miss Anthony suggests that the potential jurors be told to return to court for

examination in groups of 15 starting one or two days after the questionnaires have been filled out to give the prosecution and defense time to read them, perhaps agreeing on some strikes for cause which can be presented to this Court the following day thus obviating the need for some potential jurors to appear.

WHEREFORE, the DEFENDANT CASEY MARIE ANTHONY respectfully requests that this Honorable Court:

(a) enter the attached order, granting Miss Anthony's motion and directing that:

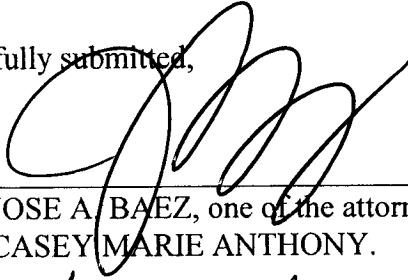
- (i) the attached, proposed juror questionnaire and instructions be given to the entire venire on the first day of jury selection who can then be excused;
- (ii) After the potential jurors have filled out the questionnaires, Miss Anthony's counsel is to make copies for both the prosecution and the Court;
- (iii) the potential jurors be told to return to court for examination in groups of 15 starting one or two days after the questionnaires have been filled;
- (iv) in the interim the prosecution and defense time should read the questionnaires and present any agreed strikes for to this Court thus obviating the need for some potential jurors to appear.

(b) allow Miss Anthony to present evidence and argument on this motion;

(c) schedule a hearing on this motion;

(d) grant such other relief as may be appropriate and warranted to protect Miss Anthony's rights.

Respectfully submitted,



JOSE A. BAEZ, one of the attorneys for
CASEY MARIE ANTHONY.



ANDREA D. LYON, one of the attorneys
for CASEY MARIE ANTHONY.

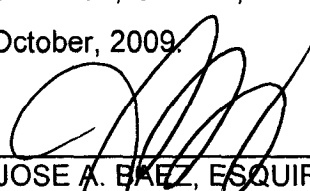
Dated: 9 of October, 2009

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the above and foregoing has been furnished to the Office of the State Attorney, 415 North Orange Avenue, Orlando, Florida 32801; via facsimile and /or U.S. Mail on this 9 day of October, 2009.



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JOSE L. GARCIA, ESQUIRE
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| CASEY MARIE ANTHONY, |) | Hon. Stan Strickland |
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| Defendant. |) | |

MEMORANDUM OF LAW IN SUPPORT OF DEFENDANT’S MOTION FOR A JURY QUESTIONNAIRE

COMES NOW the Defendant, CASEY MARIE ANTHONY, by and through her attorneys JOSE A. BAEZ and ANDREA D. LYON, and submits this Memorandum of Law in Support of her Motion for a Jury Questionnaire.

In support of her motion, Defendant states as follows:

STATEMENT OF FACTS

On July 16, 2008 Amy Huizenga filed a report with the Orange County Sheriff’s Office in reference to an alleged fraud. *See* September 3, 2008 Arrest Affidavit for Casey Anthony, herein Exhibit A. Huizenga gave a sworn statement that Defendant Casey Marie Anthony (hereafter knows as “Miss Anthony”) forged Huizenga’s personal checks totaling approximately \$662.25 from July 10-15, 2008. *See* Exhibit A. Miss Anthony was arrested by the Orange County Sheriff’s Office for allegedly uttering forged checks belonging to Huizenga on August 29, 2008. Miss Anthony was subsequently arrested and indicted for the unrelated charges of first degree murder (capital), aggravated child abuse, aggravated manslaughter of a child, and four counts of providing false information to a law enforcement officer on October 14, 2008.

Miss Anthony was incarcerated from the time of her August 29, 2008 arrest until

September 3, 2008 and again from September 15, 2008 to September 16, 2008. Miss Anthony returned to an Orange County jail after her October 14, 2008 arrest and remains in custody at this time.

The check forgery case was originally set for trial on November 17, 2008. At the request of the Defense, a continuance was granted and the trial was reset for January 5, 2009. On December 5, 2008, the State filed a waiver of the intent to seek the death penalty in Case Number 2008-CF-15606-O, Miss Anthony's capital case. *See State's Notice of Intention Not to Seek Death Penalty*, herein Exhibit B. At the second pretrial conference on December 11, 2008, a second continuance was granted to the Defense with a status hearing set for January 15, 2009. A status hearing was held on January 8, 2009 instead of January 15, 2009. On April 13, 2009, the State then reversed its prior decision to waive the death penalty and filed a Notice of Intent to Seek Death Penalty with no explanation. *See Exhibit C*. The Defense's Motion for Determination of a New Trial Date for the check forgery case was denied. *See Exhibit D*. The case is now set to be tried, most likely starting November 30, 2009.

The complaining witness in this case, Miss Huizenga, was recompensed by the bank for her loss. The bank was also recompensed. *See Exhibit E*.

ARGUMENT

A jury questionnaire is necessary to ensure Miss Anthony a fair trial. The connection of her pending capital homicide case leads to the requirement for heightened scrutiny. Miss Anthony is entitled to receive a fair trial by a panel of impartial and fair minded jurors in accordance with the Constitution. *See Turner v. La.*, 379 U.S. 466, 471-72 (1965). ("In essence, the right to a jury trial guarantees to the criminally accused a fair trial by a panel of impartial, 'indifferent' jurors.) Failure to do so will violate even the minimum standards of due process.

Id. The Florida Constitution gives the accused the right to a “speedy and public trial by impartial jury.” Fla. Const. Art. I § 16. Florida statute does the same, and under Florida law the defendant has a right to a speedy and impartial criminal trial. Fla. Stat. 918.015 (1971). In order to ensure that Miss Anthony receives a fair trial according to the above-mentioned standards, her counsel and the prosecution must have access to thorough and accurate information concerning potential jurors. The Supreme Court has insisted that “no one be punished for a crime without a charge fairly made and fairly tried in a public tribunal free of prejudice, passion, excitement, and tyrannical power.” *See Chambers v. Florida*, 309 U.S. 227, 236-37 (1940).

The pervasive amount of media coverage biased toward the prosecution in Miss Anthony’s pending capital case as well as this case necessitates a jury questionnaire to uncover any predispositions or prejudices. Potential jurors will have heard about Miss Anthony’s homicide case, influencing their views. The pervasive and extensive amount of media attention and biased coverage affects a juror’s ability to be impartial, and can cause jurors to make up their mind prematurely. Here, the jury is more likely to have strong feelings about the case due to the amount of press, making it harder to obtain an untainted jury pool. *See Sheppard v. Maxwell*, 384 U.S. 333, 360 (1966) and *Irvin v. Dowd*, 366 U.S. 717, 722 (1961). The statement of a juror that he will not be influenced by news articles and will decide a case only on the record of evidence cannot be considered dispositive in this case. *See Marshall v. United States*, 360 U.S. 310, 312 (1959) and *Murphy v. Florida*, 421 U.S. 794, 800 (1975). A jury questionnaire is therefore necessary as a probing inquiry to uncover any hidden prejudice or biases.

I. A JURY QUESTIONNAIRE IS NECESSARY TO ENSURE MISS ANTHONY RECEIVES A FAIR TRIAL WITH AN IMPARTIAL JURY.

Miss Anthony is entitled under the Constitution to a trial by impartial jury. *Turner*, 375 U.S. at 471-72. *See also United States v. Walker*, 160 F.3d 1078, 1083 (6th Cir. 1998), *cert denied*, *Walker v. United States*, 119 S. Ct. 1368 (Apr. 5., 1999) (“It is a basic requirement of due process that a defendant in a criminal case receive a fair panel of impartial, indifferent jurors.”). The Florida Constitution requires a trial with impartial jury for all criminal defendants and the right is codified in Florida statute. Fla. Const. Art. I § 16; Fla. Stat. 918.015 (1971). A jury questionnaire is essential to determine whether jurors in Miss Anthony’s case are truly impartial by probing more thoroughly into jurors’ beliefs and prejudices.

This case is not a capital case, however due to the fact that jurors will have heard about Miss Anthony’s homicide charge and impending trial, they will be more likely to have strong feelings regarding Miss Anthony’s potential guilt in the check fraud case. The connection between the two cases jeopardizes Miss Anthony’s right to a trial by impartial jury. The statement of juror alone that he can render a verdict only according to the evidence, not withstanding an opinion entertained, is not enough to render him competent if it otherwise appears his formed opinion is of a nature so fixed and settled he will not yield to the evidence. *Singer v. State*, 109 So.2d 7, 22 (Fla. 1959). The questionnaire is necessary in order to discover formed opinions that jurors will not necessarily say aloud, but will write down.

It is already an established principle that the juror’s assurances alone “that he is equal to this task [of laying aside preconceptions] cannot be dispositive of the accused, in this case Miss Anthony’s, rights. *Murphy*, 421 U.S. at 800. The Florida Supreme Court has stated that jurors should if possible, “be not only impartial, but beyond even the suspicion of partiality.”

O'Connor v. State, 9 Fla. 215, 222 (1860). The test for juror competency, according to the Florida Supreme Court, is whether the juror can lay aside any bias or prejudice and render the verdict based solely on the evidence presented as well as the instructions given by the court. *See Lusk v. State*, 446 So.2d 1038, 1041 (Fla.), *cert denied*, 469 U.S. 873 (1984). In order to properly determine whether jurors meet this standard in Miss Anthony's case, a jury questionnaire is necessary.

II. A JURY QUESTIONNAIRE IS NECESSARY DUE TO THE EXTENSIVE AMOUNT OF MEDIA COVERAGE OF MISS ANTHONY'S CASES.

Miss Anthony is entitled to be tried in an impartial court. The high level of media coverage both her homicide case and this case undoubtedly has influenced and tainted the jury pool. As stated in the Motion accompanying this document, the endless media coverage biased toward the prosecution around the Orlando area is so extensive that it will be difficult for any juror to render a verdict based solely on the evidence presented at trial. A jury questionnaire is necessary to prevent a due process violation and discover any and all biases created by the massive amount of prejudiced media coverage. This prejudicial coverage that has saturated the Orlando community greatly affects the fairness of Miss Anthony's trial and could lead to a partial jury pool, a due process violation. *See Sheppard*, 384 U.S. at 360 and *Irvin*, 366 U.S. at 722. A jury questionnaire is necessary to ensure Miss Anthony is judged by an untainted and impartial jury pool.

Jurors are more likely in this case to feel they have made up their minds before they enter the courtroom due to the high level of publicity surrounding Miss Anthony's homicide case. Though it is a separate, unrelated case, it cannot be severed from the check fraud case in terms of publicity. Therefore, this case should be treated as carefully as a capital case would be treated in

these circumstances in terms of jury selection. Miss Anthony faces an exceptional situation where potential jurors are more likely to have strong and prejudiced feelings toward Miss Anthony. A juror questionnaire is needed in order to determine which jurors have been so influenced by the media that they are unable to render a verdict based solely of the evidence before them. It is the duty of this Court to protect Miss Anthony from a due process violation following from the inherently prejudicial publicity that has saturated the Orlando community. *See Sheppard*, 384 U.S. at 363.

The exceptional circumstances surrounding Miss Anthony's case require extra measures to ensure her a fair trial with an impartial jury. One of these measures is a jury questionnaire. The amount of media coverage is extreme that normal voir dire questioning is not sufficient. A questionnaire is necessary to uncover any hidden biases or prejudices that will result in Miss Anthony being deprived her right to a fair and impartial trial.

CONCLUSION

Miss Anthony is entitled to a fair trial by impartial, fair-minded jurors in accordance with the exacting standards of the Constitution, as well as the Florida Constitution and statute. Due process requires that Miss Anthony receive a fair trial by impartial jurors. Due to the exceptional circumstances surrounding Miss Anthony's case, namely the high level of publicity that has surrounded the case since its inception, special measures are necessary to ensure Miss Anthony a fair trial. One of these necessary measures is a jury questionnaire, to allow a probing inquiry into the juror's beliefs and prejudices. These prejudices can deprive Miss Anthony of the basic due process requirement of a fair trial. The court cannot rely on juror's assurances of impartiality alone, and jurors are more likely to have strong feelings and to have made up their mind due to the high level of publicity surrounding the homicide case. A juror questionnaire is

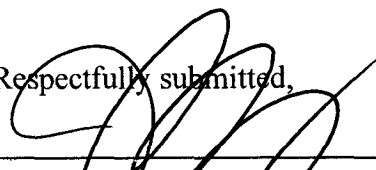
necessary to allow Miss Anthony's counsel and the prosecution to have access to information concerning potential jurors that is accurate and thorough.

WHEREFORE, for the above reasons, the Defendant CASEY MARIE ANTHONY respectfully requests that this Honorable Court:

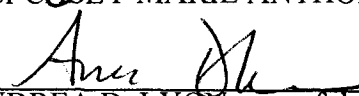
- (a) enter the attached order, granting Miss Anthony's motion and directing that:
 - (i) the attached, proposed juror questionnaire and instructions be given to the entire venire on the first day of jury selection who can then be excused;
 - (ii) After the potential jurors have filled out the questionnaires, Miss Anthony's counsel is to make copies for both the prosecution and the Court;
 - (iii) the potential jurors be told to return to court for examination in groups of 15 starting one or two days after the questionnaires have been filled;
 - (iv) in the interim the prosecution and defense time should read the questionnaires and present any agreed strikes for to this Court thus obviating the need for some potential jurors to appear.

- (b) Order the Prosecution to file a response motion and memorandum of law;
- (c) allow Miss Anthony to present evidence and argument on this motion;
- (d) schedule a hearing on this motion;
- (e) grant such other relief as may be appropriate and warranted to protect Miss Anthony's rights.

Respectfully submitted,



JOSE A. BAEZ, one of the attorneys
for CASEY MARIE ANTHONY.



ANDREA D. LYON, one of the attorneys
for CASEY MARIE ANTHONY.

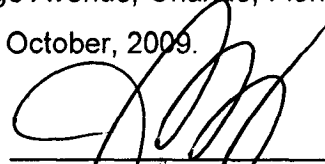
Dated: 10/9, 2009

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the above and foregoing has been furnished to the Office of the State Attorney, 415 North Orange Avenue, Orlando, Florida 32801; via facsimile and /or U.S. Mail on this 9 day of October, 2009.



JOSE A. BAEZ, ESQUIRE
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JOSE L. GARCIA, ESQUIRE
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Exhibit A

Orange County

ICJIS Arrest Affidavit

Division #:

Document #: 123752

Court Case #:

Arrested At-Large JRA

Document Date: 9/3/2008

Location of Defendant Vehicle: NONE Date-Time Booked: 09/03/2008 11:51 Agency Case Number: 08-85031

ORI: FL0480000 Agency Name: ORANGE COUNTY SHERIFF'S OFFICE FCIC/NCIC Checks: Date-Time of Arrest: 09/03/2008 09:00

Address of Arrest:

DEFENDANT Adult Juvenile Name Key: Jacket Number: Inmate Number: 08042346 Language: ENGLISH

NAME (L,F,M): ANTHONY, CASEY M A.K.A.: Race: W Sex: F DOB: 3/19/1986 Age: 22

Height: 5'02" Weight: 105 Hair: BLK Eyes: BLU POB: UNKNOWN POB State: OH POB Country: UNITED STATES

RES Street #: 4937 HOPESPRING DR City: ORLANDO State: FL Zip: 32829 Home Phone: (407)281-0646 Other Phone:

Scars/Tattoos: Ethnicity: NOT HISPANIC OR LATINO

Driver's License/ State ID No: A535-113-86-599-0 State: FL Year Expires: SSN #:

Next of Kin Name: Address: Phone:

Business and Occupation:

Bus Street #: City: State: Zip: Bus Phone:

AGGRAVATORS: Firearm Weapon Mask Vest Convicted Sex Offender Hate Crime Special Victim Domestic Violence? N

OFFENSES Felony Misd. ORD. Traffic Court Location: CIRCUIT

| # | GOV Code | Description | Bond Amt. \$ | FSS/ORD | FDLE Rec# | Drug Name | Citation Number |
|-----------------|----------|--|---------------|----------|------------|-----------|-----------------|
| 1 | | UTTERING A FORGED CHECK | 831.09-1 | 1,000.00 | 831.09 | 3058 | |
| 2 | | FRAUD USE OF PERSONAL IDENTITY INFORMATION | 817.568(2) | 150.00 | 817.568.2a | 3981 | |
| 3 | | PETTY THEFT OF \$100 OR MORE | 812.014(2)(E) | 100.00 | 812.014.2a | 2797 | |
| AIO FDL-DUML | | | | | | | |

CHECK HERE IF OFFENSES ARE CONTINUED

| CODEFENDANT | #1 | NAME (L,F,M): | Arrest | Juv. | Fel | Misd. | ORD | Traff | NTA | Race: | Sex: | Age: | DOB: |
|-------------|----|---------------|--------|------|-----|-------|-----|-------|-----|-------|------|------|------|
| | #2 | NAME (L,F,M): | Arrest | Juv. | Fel | Misd. | ORD | Traff | NTA | Race: | Sex: | Age: | DOB: |
| | #3 | NAME (L,F,M): | Arrest | Juv. | Fel | Misd. | ORD | Traff | NTA | Race: | Sex: | Age: | DOB: |
| | #4 | NAME (L,F,M): | Arrest | Juv. | Fel | Misd. | ORD | Traff | NTA | Race: | Sex: | Age: | DOB: |

DCP Notified? N By Whom? On Probation? N Miranda Waiving N By Whom? Invoked? N

Sworn to and subscribed before me, this 3rd day of Sept year 08
 Notary Public Law Enforcement or Corrections Personally Known Produced Identification
 Type of Identification: Signature: *[Signature]*
 I swear or affirm the above statements are correct and true.
 Officer's Signature: *[Signature]* Officer's Name/ID: ANDERSON, JOHAN / 2643 Booking/Receiving Signature: *[Signature]*