



1 matter and the appearance of said witness will not cause him undue hardship.

2 ANTHONY J. PIRONE is necessary and material based on the following facts:

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4 a. Defendant Johannes Mehserle is charged with one count of murder with a  
5 firearm, based on his January 1, 2009, shooting of Oscar Grant (murder  
6 victim). (Cal. Pen. Code, sections: 187(a), 12022.53(d).)

7 b. On January 1, 2009 at approximately 2:00 a.m. Oscar Grant and several of his  
8 friends were on BART coming from San Francisco headed back to the east  
9 bay. Prior to reaching the Fruitvale station, Mr. Grant became involved in a  
10 scuffle with a man on the train named David Horowitch. The train was  
11 extremely crowded and as such the scuffle amounted to mostly pushing and  
12 shoving. When the train pulled into the Fruitvale station, Mr. Grant and his  
13 friends got off the train. BART Officer Anthony Pirone was notified via his  
14 radio that there had been a fight on the train that was currently holding on the  
15 Fruitvale platform. Officer Pirone was already at the Fruitvale station when  
16 he received the radio call. He proceeded upstairs to the platform where he  
17 detained three of Mr. Grant's friends while two others (including Mr. Grant)  
18 got back on the train. He then waited two or three minutes for his partner  
19 Officer Marisol Domenici to arrive. While Officer Domenici watched the  
20 three detainees, Officer Pirone went to detain the two who had gotten back  
21 on the train. First, he ordered Mr. Grant off the train and escorted him to the  
22 wall where the others were. Then Officer Pirone boarded the train and  
23 physically removed Michael Greer and threw him to the ground and cuffed  
24 him where the others were being detained. This action drew a response from  
25 both the people on the train and by those being detained. Officer Pirone  
26 forced Mr. Grant to the ground. Officer Woffinden and defendant arrived on  
27 scene and watched the detainees while Officer Pirone walked to the train  
28 operator to see if he could get any further information. Officer Jonathan  
Guerra arrived and assisted in watching those being detained. Officer Pirone  
returned from the train operator and instructed his fellow officers to arrest  
Mr. Grant and one of the other detainees for 148 PC. Defendant forced the  
other detainee to the ground and placed him in handcuffs. Defendant then  
forced Mr. Grant to the ground and attempted to place handcuffs on him.  
While doing so he pulled his firearm and shot Mr. Grant in the back killing  
him. After the shot, defendant said repeatedly that he believed Mr. Grant was  
"going for a gun."

c. The Alameda County District Attorney's Office has formally charged  
defendant Johannes Mehserle with one count of murder in docket#161210.  
Former BART Officer Anthony J. Pirone is a critical witness for both the  
prosecution and defense teams. The criminal case was transferred from  
Alameda County to Los Angeles County because of the pretrial publicity and  
public demonstrations that occurred at virtually every court hearing in this  
matter that was held in Alameda County.

4. The laws of this state and of any other through which this witness may be required  
to pass by ordinary course of travel will give ANTHONY J. PIRONE protection

1 from arrest, and the service of civil or criminal process.

- 2
- 3 5. The State of California protects out-of-state witnesses from civil and criminal process
- 4 pursuant to Penal Code section 1334.4, and adopts the Uniform Act, pursuant to
- 5 Penal Code section 1334 et seq. to serve the attendance of witnesses from without the
- 6 state in criminal prosecution.
- 7 6. The State of California will provide transportation, lodging and per diem expenses
- 8 for ANTHONY J. PIRONE during the time he is needed as a witness in this case.
- 9
- 10 7. Because of ANTHONY J. PIRONE'S hostility towards the prosecution in this case,
- 11 we are requesting that an attendance hearing be conducted in the North Carolina
- 12 court. If necessary, the People of the State of California will extradite ANTHONY
- 13 J. PIRONE in the event that he fails to appear.

14 I declare under penalty of perjury that the foregoing is true and correct to the best of my

15 knowledge. Executed this 4<sup>th</sup> day of May, 2010, in Oakland, California.

16

17 NANCY E. O'MALLEY  
18 District Attorney

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21 By: Scott Jackson  
22 Deputy District Attorney

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