1	NANCY E. O'MALLEY	FILED
2	District Attorney	ALAMEDA COUNTY
2	County of Alameda 900 Courthouse	/ 1 bm/ 13 V/ bm 60 / 1 C C C C C C
3		MAY 0 4 2010
	Oakland, CA 94612	TOTAL TRANSPORT COLUMN
4	(510) 272-6222	CLERK OF THE SUPERIOR COURT
5	Scott Jackson	Ely
3	Deputy District Attorney	
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7	SUBEDIOD COURT OF THE STATE OF CALLEODALA	
8	SUPERIOR COURT OF THE STATE OF CALIFORNIA	
O	COUNTY OF ALAMEDA	
9		
10	THE PEOPLE OF THE STATE OF CALIFOR	RNIA,)
10	Plaintiff,)) AOC # 1009606-10
11) ACC # 1009000-10) ALCO #161210
•-	v.)
12)
12	TOTTANDERS VEHICED LE) PROCEEDING TO COMPEL
13	JOHANNES MEHSERLE) THE ATTENDANCE OF AN OUT OF STATE WITNESS
14	Defendan	
)
15)
16		
10	DECLARATION OF PROSECUTING ATTORNEY	
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*.0	The People of the State of California, represented by Scott Jackson, Deputy District	
18	Attorney for the County of Alameda, pursuant to Penal Code section 1334.3, move this Honorable	
19	Attorney for the country of Atameda, pursuant to 1 char code section 1334.3, move this frontiable	
	Court to issue its Certificate for the Interstate Rendition of ANTHONY J. PIRONE, who is a	
20		
21	material witness in the above- entitled case, for the reason that:	
21	1. The above criminal action, filed	in the Alameda County Superior Court as Alameda
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	County Information Number 161210, is now pending in Department 104 of the Los Angeles County Superior Court. The jury trial will commence on June 1, 2010.	
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24		. The jury trial will commence on June 1, 2010.
2 (II .	resides out-of-state, is a material witness in said
25		
Office of the	prosecution and his presence will be required from the 7th day of June, 2010, until the	
District 26	25 th day of June, 2010, unless the court determines more or less time is needed.	
Attorney Alameda County 27	25 day of saile, 2010, amoss the court determines more of less time is needed.	
California		essary and material for the prosecution of the above
28		-

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

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

- a. Defendant Johannes Mehserle is charged with one count of murder with a firearm, based on his January 1, 2009, shooting of Oscar Grant (murder victim). (Cal. Pen. Code, sections: 187(a), 12022.53(d).)
- b. On January 1, 2009 at approximately 2:00 a.m. Oscar Grant and several of his friends were on BART coming from San Francisco headed back to the east bay. Prior to reaching the Fruitvale station, Mr. Grant became involved in a scuffle with a man on the train named David Horowitch. The train was extremely crowded an as such the scuffle amounted to mostly pushing and shoving. When the train pulled into the Fruitvale station, Mr. Grant and his friends got off the train. BART Officer Anthony Pirone was notified via his radio that there had been a fight on the train that was currently holding on the Fruitvale platform. Officer Pirone was already at the Fruitvale station when he received the radio call. He proceeded upstairs to the platform where he detained three of Mr. Grant's friends while two others (including Mr. Grant) got back on the train. He then waited two or three minutes for his partner Officer Marisol Domenici to arrive. While Officer Domenici watched the three detainees, Officer Pirone went to detain the two who had gotten back on the train. First, he ordered Mr. Grant off the train and escorted him to the wall where the others were. Then Officer Pirone boarded the train and physically removed Michael Greer and threw him to the ground and cuffed him where the others were being detained. This action drew a response from both the people on the train and by those being detained. Officer Pirone forced Mr. Grant to the ground. Officer Woffinden and defendant arrived on scene and watched the detainees while Officer Pirone walked to the train 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

Office of the

District

Attorney
Alameda County 27
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California

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

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

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge. Executed this 4th day of May, 2010, in Oakland, California.

> NANCY E. O'MALLEY District Attorney

By:

Scott Jackson

Deputy District Attorney