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FILED

MAR 17 2017

SUPERIOR COURT OF CALIFORNIA
COUNTY OF HUMBOLDT

8 **SUPERIOR COURT OF CALIFORNIA**

9 **COUNTY OF HUMBOLDT**

10 DOES 1 through 10,

11 Petitioners,

12 v.

13 COUNTY OF HUMBOLDT;
14 HUMBOLDT COUNTY BOARD OF
15 SUPERVISORS; and DOES 1 through
16 50,

17 Respondents.

Case No. CV 170183

**DECLARATION OF GREGORY J.
ELVINE-KREIS, ESQ. ISO
PETITIONERS' MOTION TO PERMIT
SERVICE OF BUSINESS RECORD
SUBPOENA PRIOR TO 20 DAY HOLD**

DATE: March 24, 2017

TIME: 8:30 a.m.

DEPT: Six (6)

TRIAL DATE: None set.

18
19 I, Gregory J. Elvine-Kreis declare:

20 1. I have practiced criminal defense law for over fourteen (14) years. In the
21 last year, I have practiced in all the courts of California, meaning, conservatorship
22 courts, juvenile courts, superior courts of several counties and filed writs in the First
23 District Appellate Court, all appearances relating to and involving the defense of
24 indigent defendants.

25 2. After the Board appointed David Marcus to be the Chief Public Defender
26 of Humboldt County, with advice from a law enforcement hiring panel, I had the
27 opportunity to speak with him regarding his background and experience.
28

1 3. Mr. Marcus acknowledged that he did not practice law in the Courts of
2 California for the year prior to appointment.

3 4. Mr. Marcus admitted that he had not been living in California for the past
4 five years and had not practiced any criminal law during that time period.

5 5. Mr. Marcus admitted that he had not practiced in any courts in California,
6 stating that he had only provided some advice related to property law for a few civil
7 clients of a law firm which was located in California.

8 6. I chose to be a whistleblower and went before the Board of Supervisors to
9 inform them that Mr. Marcus did not meet the minimum requirements of Government
10 Code 27701. I went before the Board of Supervisors out of a commitment to the indigent
11 clients our office serves.

12 7. Mr. Marcus provided no information that he is qualified to take a capital
13 case, a lifetop case or represent clients in juvenile courts as he lacks those qualifications
14 in practice and in continuing legal education.

15 8. Mr. Marcus admitted that he has not followed the changes to California
16 criminal practice during the past five years, which have been significant, but claimed he
17 could be a fast learner.

18 9. Based upon my ethical obligations as an attorney, I am unable to let Mr.
19 Marcus represent a current client accused of murder.
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21 10. To my knowledge, Mr. Marcus is currently handling only low-level
22 misdemeanor cases. Prior Public Defenders were responsible for handling the most
23 serious murder cases and responsible for training attorneys in juvenile, conservatorship,
24 and other practice areas.

25 11. Mr. Marcus' lack of qualifications is having real effects on the effective
26 representation of the indigent clients he serves.

27 12. On information and belief, Mr. Marcus failed to inform the Court of the
28 whereabouts of a young man being represented by the Public Defender's Office and


1 failed to ask that a bench warrant be held until he got information about the client,
2 thereby resulting in the issuance of a warrant of arrest for that client. This failure by
3 Mr. Marcus resulted in a complaint being made by the client's family to the Public
4 Defender's Office regarding his representation.

5 13. On information and belief, this week Mr. Marcus negligently plead a
6 client out of two misdemeanor violations of probation while felony petitions were
7 outstanding, thereby denying the client of the ability to argue for concurrent sentences.
8 An experienced criminal defense attorney knows the importance of being aware of each
9 of his client's cases and Mr. Marcus' failure to properly negotiate the case falls well
10 below the standard of practice expected of a criminal defense attorney.

11 14. It is imperative that the court determine the issue regarding Mr. Marcus'
12 hire in an expeditious manner because of the serious risk that his appointment will lead
13 to further harm to indigent clients in Humboldt County and bolster claims of ineffective
14 assistance of counsel for all cases that he is responsible for as the Public Defender.

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

16 Executed this 17 day of March, 2017, in Eureka, California.

17
18 By: 
19 Gregory J. Elvine-Kreis, Declarant
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