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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF KERN, METROPOLITAN DIVISION**

**PEOPLE OF THE STATE OF
CALIFORNIA,**

Plaintiff,

vs.

VINCENT EDWARD BROTHERS,

Defendant.

Case No. BF106161A

ORDER TO SHOW CAUSE


IN RE CONTEMPT-MICHAEL GARDINA

To: Michael Gardina

YOU ARE HEREBY ORDERED TO appear in Department 8 of the Kern County Superior Court, located at 1415 Truxtun Ave, Bakersfield, California, Judge Michael Bush Presiding, on a date and time to be determined, to show cause, if any you have, why you should not be adjudged guilty of contempt of court, and punished accordingly, pursuant to Code of Civil Procedure Sections 1209-1222, for the acts of willful disobedience of a lawful court order, for abuse of process of the court, for presenting evidence that you knew, or reasonable should have known, was false or misleading, and for written statements charging judicial dishonesty and impugning the court's

1 integrity, as more fully described in the attached statement of Judge Michael Bush. The
2 statement is attached and by this reference incorporated as though fully set forth, and a
3 copy of the declaration shall be served on you with a copy of this order.
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5 DATED: September 27, 2007

6 
7 MICHAEL G. BUSH
8 JUDGE OF THE SUPERIOR COURT
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10 MGB/wmb
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1 Prior to the testimony of Dr. Kenneth Solomon a hearing pursuant to Evidence
2 Code Section 402 was held. During that hearing the court ruled that while the defense
3 could ask hypothetical questions regarding how fast someone would have to drive to
4 travel certain distances in certain amounts of time, the court ruled the defense could not
5 ask hypothetical referencing other witnesses' testimony. See Reporter's Transcript
6 April 26, 2007, Vol. 112, pages 15178-15182, which is incorporated by reference as
7 though fully set forth. Mr. Gardina then asked a hypothetical question that referenced
8 other witnesses' testimony. See Reporter's Transcript April 26, 2007, Vol. 112, page
9 15325, line 17 through page 15326, line 18, which is incorporated by reference as
10 though fully set forth.
11

12 On September 12, 2007, the defense filed a motion entitled "NOTICE OF
13 MOTION AND MOTION FOR NEW TRIAL AND POINTS AND AUTHORITIES". At
14 page 65, lines 20-25, and page 66, lines 1-2, which is incorporated by reference as
15 though fully set forth, the defense made reference to reasons for some of the court's
16 rulings.

17 On September 26, 2007, the defense filed a motion entitled "REPLY TO
18 PLAINTIFF'S OPPOSITION TO MOTION FOR NEW TRIAL AND POINTS AND
19 AUTHORITIES". At page 12, lines 11-17, which is incorporated by reference as though
20 fully set forth, the defense made reference to reasons for some of the court's rulings.
21

22 ORDER TO SHOW CAUSE

23 At the hearing to show cause, the court will specifically be addressing the below
24 listed acts of contempt:
25

1 1) Did the defense abuse the process of the court by filing a discovery motion on
2 August 25, 2006 regarding the accident? Specifically, did the defense file the motion in
3 good faith or did they file it simply to determine if the People were aware of the report
4 (that the defense already had) and/or to determine if the People would locate the
5 report?

6 2) Did the defense abuse the process of the court by filing the motion entitled "MOTION
7 IN LIMINE FOR TO DISMISS FOR FAILURE TO COMPLY WITH PRETRIAL
8 DISCOVERY" on April 17, 2007? Specifically, did the defense file the motion in good
9 faith or did the defense file the motion to determine if the People ever located the
10 report?
11

12 3) Was the defense obligated to and did the defense fail to provide discovery of the
13 accident report, People's Exhibit 255?

14 4) Did the defense call as witnesses Brien Adkins and/or Madira Dowell knowing, or
15 should they have reasonable known, that their testimony could mislead the court and
16 the jury as to the actual facts of what happened at the accident and who was involved?

17 5) Did the defense accuse the court of dishonesty or misconduct, and/or did the
18 defense impugn the court's integrity by its written comments in its "NOTICE OF
19 MOTION AND MOTION FOR NEW TRIAL AND POINTS AND AUTHORITIES" filed
20 September 12, 2007 at page 65, lines 20-25, and page 66, lines 1-2?

21 6) Did the defense accuse the court of dishonesty or misconduct, and/or did the
22 defense impugn the court's integrity by its written comments in its "REPLY TO
23 PLAINTIFF'S OPPOSITION TO MOTION FOR NEW TRIAL AND POINTS AND
24 AUTHORITIES" filed September 26, 2007 at page 12, lines 11-17?
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1 7) Did Mr. Gardina willfully violate a lawful court order by his question of Dr. Solomon
2 as referenced above?
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