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 6 UNITED STATES DISTRICT COURT
 7 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO BRANCH
 8

9 JAMES GODOY,
 10 Plaintiff,
 11 v.
 12 T. WADSWORTH, et al.
 13 Defendants.

Case No. C 05-2913 NJV

**APPLICATION FOR ORDER AND
 ORDER OF ISSUANCE OF & WRIT OF
 HABEAS CORPUS AND
 TESTIFICANDUM TO TRANSPORT
 INMATES**

TRIAL DATE: January 19, 2010
 TIME: 9:00 a.m.
 COURTROOM: 2, 17th Floor
 JUDGE: THE HONORABLE NANDOR J.
 VADAS

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 17 **I.**
STATEMENT OF RELEVANCE
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19 Inmate Delaney is housed at the California Men's Colony, San Luis Obispo. He was personally
 20 present during the December 21, 2004 incident at Pelican Bay State Prison when James Godoy
 21 was beaten and shot in the eye.

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 23 He has been interviewed by Special Security Unit officials, and a tape cassette of that interview
 24 was produced by Pelican Bay State Prison pursuant to a subpoena. Plaintiff's counsel has had the
 25 tape transcribed by Paul Garton, The Transcript Coop, San Francisco, and has produced a copy
 of that tape transcript to defendants' counsel.

**ORDER & WRIT OF HABEAS CORPUS AND
 TESTIFICANDUM TO TRANSPORT INMATES**

1 The information that Mr. Delaney has to testify to include the fact that he himself was shot in
2 the head. This information appears within the first 7 pages of the transcript of his interview. He
3 will also testify about what he heard and didn't hear [there was no argument etc between
4 Wadsworth and Godoy, as stated by Wadsworth].

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6 **II.**
7 **REQUEST FOR WRIT OF HABEAS CORPUS AD TESTIFICANDUM**

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9 Plaintiff accordingly requests that the Court issue a WRIT OF HABEAS CORPUS AD
10 TESTIFICANDUM requiring the Warden of California Men's Colony, San Luis Obispo, to
11 bring inmate Delaney to the *Godoy vs Wadsworth* trial during January 19, 2010.

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13 **III.**
14 **APPLICATION FOR ORDER**

15 The following inmate is a necessary and material witness in proceedings in this case beginning
16 on January 19, 2010 at 9:00 a.m., or such other times as arranged through counsel:

- 17 1. Loni Delaney CDC #T43223;

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19 He is confined at California Men's Colony. In order to secure the inmates' attendance at trial
20 scheduled for January 19, 2010 in Courtroom 2, 17th floor of the United States District Court for
21 the Northern District of California, it is necessary that a Writ of Habeas Corpus and
22 Testificandum issue commanding the Warden of California Men's Colony, custodian of the
23 above stated inmate to produce said inmate in Courtroom 2 of the United States District
24 Courthouse, 450 Golden Gate Avenue, 17th Floor, California, the Honorable Nandor J. Vadas
25 presiding, beginning on January 19, 2010 at 9:00 a.m. and the subsequent trial days beginning at
9:00 a.m.

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//s// Herman Franck
Herman Franck, Esq.
Attorney for Plaintiff James Godoy

Dated: December 21, 2009

ORDER

ACCORDINGLY, IT IS ORDERED that:

1. A Writ of Habeas Corpus and Testificandum issue under the seal of this court, commanding California Men's Colony and the California Department of Corrections and Rehabilitation to produce the following inmate:

1. Loni Delaney CDC #T43223

to testify in the United States District Court for the Northern District of California at the time and place above and from day to day until completion of court proceedings or as ordered by the Court, and thereafter to return the inmates to the above institution.

2. The custodian is ordered to notify the Court of any change in custody of this inmate and is ordered to provide the new custodian with a copy of this writ.

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WRIT OF HABEAS CORPUS AS TESTIFICANDUM

To: The Warden of California Men’s Colony
Highway 1, San Luis Obispo, California 93409

YOU ARE COMMANDED to produce the following inmates:

- 1. Loni Delaney CDC #T43223;

to testify in the United States District Court for the Northern District of California at the time and place above, from day to day until completion of court proceedings or as ordered by the Court, and thereafter to return the inmates to the above institution.

FURTHER, you have been ordered to notify the Court of any change in custody of these inmates and are ordered to provide the new custodian with a copy of this writ.

IT IS ORDERED.

DATED:

