

1 [Attorney Name], SBN []
Firm Name
2 Firm Address
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Email:
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6 Attorney for Defendant
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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF [COUNTY]**

10 THE PEOPLE OF THE STATE OF
CALIFORNIA
11 Plaintiff,
12 vs.
13 [DEFENDANT'S NAME]
14 Defendant
15

CASE NO. [CASE NUMBER]
MOTION TO SUPPRESS EVIDENCE
Trial Readiness:
Current Trial Date:
Case Filed:
In Custody Since:
Dept.:

16 PLEASE TAKE NOTICE that on [DATE] at [TIME] or as soon thereafter as the matter
17 may be heard, and in the above-designated department, [NAME OF DEFENDANT]
18 (“Defendant”) will move this court for an order to exclude evidence based upon improper search
19 and seizure.

20
21 Dated: [DATE]
22

23 _____
24 [Attorney Name],
Attorney for Defendant
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1 **POINTS AND AUTHORITIES IN SUPPORT OF BAIL REDUCTION**

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3 **I. FACTUAL BACKGROUND**

4 **A. Introduction**

5 Defendant is charged with:

- 6 • Count 1: [INSERT CHARGES]

7 [INSERT FACTUAL INFORMATION]

8 **II. THE WARRANT WAS INSUFFICIENT ON ITS FACE.**

9 *Pen C* § 1538.5. (a) (1) A defendant may move for the return of property or to suppress as
10 evidence any tangible or intangible thing obtained as a result of a search or seizure on either of
11 the following grounds: (A) The search or seizure without a warrant was unreasonable or (B) The
12 search or seizure with a warrant was unreasonable because any of the following apply: (i) The
13 warrant is insufficient on its face.

14 In the present matter, the warrant was insufficient on its face as it lacked a proper
15 signature.

16 **III. THE PROSECUTION BEARS THE BURDEN OF JUSTIFYING THE**
17 **WARRANTLESS ACTIONS OF THE POLICE OFFICERS.**

18 When a person questions the lawfulness of a search or seizure, a *prima facie* case is
19 established when it is shown that the search was undertaken without a warrant, and the burden
20 then shifts to the prosecution to show justification for the search. *Badillo v. Superior Court*,
21 (1956) 46 Cal.2d 269, 272.

22 Once a person produces evidence to show the seizure was without a warrant, the
23 prosecution bears the burden of proving the justification for the warrantless seizure. *Wimberly v.*
24 *Superior Court*, (1976) 16 Cal.3d 557, 563, fn. 2; *People v. Sedillo*, (1982) 135 Cal.App.3d 616,
25 623; *Wilder v. Superior court*, (1979) 92 Cal.App.3d 90, 96. *People v. Harvey*, 156 Cal. App. 2d
26 516 (1958) and *People v. Madden*, 2 Cal. 3d 1017 (1970) require the Prosecution to bring forth
27 witnesses when necessary to establish the basis for the conduct. Here the prosecution would
28 necessarily have to justify the conduct by the Redwood City Police Department on September 9,

1 2019, as there were no other valid grounds for entry into the garage.

2 **IV. ANY AND ALL EVIDENCE OBTAINED AS FRUITS OF THE**
3 **WARRANTLESS SEARCH AND/OR SEIZURE MUST BE SUPPRESSED.**

4 If the challenged police conduct is shown to be violative of the Fourth Amendment, the
5 exclusionary rule requires that all evidence obtained as a result of such conduct be suppressed.
6 Such evidence includes not only what was seized in the course of the unlawful conduct itself – the
7 so-called ‘primary’ evidence but also what was subsequently obtained through the information
8 gained by the police in the course of such conduct – the so-called ‘derivative’ or ‘secondary’
9 evidence. Once the challenged police conduct is shown to be unlawful, the primary evidence is
10 automatically subject to suppression. Secondary evidence, by contrast, is excluded only if it is
11 ‘tainted’ by the unlawful conduct. (People v. Williams, 45 Cal.3d 1268 (1988)).

12 In the case at hand, there were warrantless detentions and searches, pursuant to the Fourth
13 Amendment, outside any recognized exception.

14 **V. CONCLUSION**

15 The Defendant respectfully asks the Court to grant the Motion for Suppress pursuant to
16 *Penal Code* Section 1538.5.

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18 Dated: [DATE]

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21 [Attorney Name],
22 Attorney for Defendant
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DECLARATION OF [ATTORNEY'S NAME]

I, [ATTORNEY'S NAME] declare:

1. I am an attorney duly licensed to practice law in the State of California. I am a Certified Criminal Law Specialist. I am the attorney for the defendant in this matter. This matter is set for trial on April 13, 2020.

2. I represent [NAME OF DEFENDANT] (“Defendant”) who is accused of

I declare the above under penalty of perjury except as to those matters based upon information and belief and as to those matters, I believe them to be true.

Executed in Pleasant Hill, CA on March 17, 2022.

[ATTORNEY'S NAME], SBN