Michael D. Schwartz, Esq.
Kasey A. Castillo, Esq.
LACKIE DAMMEIER McGILL & ETHIR, APC
367 N. Second Ave.
Upland, CA 91786
Telephone: 909-985-4003
Fax: 909-985-3299
Attorney for Defendant Jay Cicinelli

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER
JAN 18 2013
ALAN CARLSON, Clerk of the Court
BY L. HOYLE, DEPUTY

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE

PEOPLE OF THE STATE OF CALIFORNIA

Plaintiff,

vs.

MANUEL RAMOS & JAY CICINELLI

Defendants.

CASE NO. **11CF2575**

DISCOVERY REQUEST

DATE: January 18, 2013
TIME: 8:30 A.M.
DEPT: C-40

TO THE COURT AND ASSIGNED DEPUTY DISTRICT ATTORNEY:

Pursuant to Penal Code section 1054.5(b), I hereby request that on or before the date of the next court appearance, or if possible, prior to, you provide me with copies of the following information, or provide me with the opportunity to review all of the following information:

1. The names, current addresses, and telephone numbers of all witnesses to be called to testify against the defendant at trial and of all percipient witnesses and potential witnesses, whether or not the prosecution intends to call the witness to testify against the defendant at trial. (See Penal Code sections 1054.1(a), 1054(e); *Brady v Maryland* (1963) 373 US 83, 10 L Ed 2d 215, 83 S Ct 1194. See also *In re Littlefield* (1993) 5 C4th 122, 19 CR2d 248.)

2. All statements or utterances by the defendant oral or written, however recorded or preserved, whether or not signed or acknowledged by the defendant in the possession of the District Attorney. (Penal Code section 1054.1(b), (e); *Brady v Maryland, supra.*)

3. All physical evidence obtained in the investigation of the case against the defendant. (Penal Code section 1054.1(c), (e).)

4. All photographs, transparencies, slides, diagrams, motion pictures and videotapes of the scene of the alleged offense. (Penal Code section 1054.1(c), (e).)

5. Any exculpatory evidence, information, documents, and other materials in the possession of, or that have come to the attention of, the District Attorney or of any police department involved in the investigation of the case against the defendant. (Penal Code sections 1054.1(e), 1054(e). See *Giglio v U.S.* (1972) 405 US 150, 31 L Ed 2d 104, 92 S Ct 763; *Brady v Maryland* (1963) 373 US 83, 10 L Ed 2d 215, 83 S Ct 1194.)

6. Any record of criminal arrests or convictions (whether for felonies or misdemeanors) of any witness to be called to testify against the defendant. (Penal Code sections 1054.1(e), 1054(e); *People v Lang* (1989) 49 C3d 991, 264 CR 386; *People v Harris* (1989) 47 C3d 1047, 255 CR 352. See *People v Pensinger* (1991) 52 C3d 1210, 1271, 278 CR 640; *People v Santos* (1994) 30 CA4th 169, 35 CR2d 719.)

7. Any promises and/or inducements of any kind made by the prosecution to induce or encourage a witness to assist the prosecution in its investigation of the above-entitled case, or to induce a witness to testify for the prosecution in the above-entitled case. (See Penal Code section 1054.1(e); *Brady v Maryland* (1963) 373 US 83, 10 L Ed 2d 215, 83 S Ct 1194.)

8. Any information relevant to impeachment of any witness that the prosecution intends to call at the trial, including any threats, promises, inducements, offers of reward or immunity, affirmative representations made or implied, and any record of convictions, or of pending charges, probation, or parole. (Penal Code sections 1054.1(e), 1054(e). See *Davis v Alaska* (1974) 415 US 308, 39 L Ed 2d 347, 94 S Ct 1105.)

9. All records concerning the arrest of the alleged victim, complaints filed against the victim, or information concerning incidents of specific acts of aggression by the alleged victim, as well as the names, addresses, and phone numbers of witnesses to such acts. There is good cause to request such records because such records will show that alleged victim is prone to violence .(Penal Code section 1054.1(e). See *Hill v Superior Court* (1974) 10 C3d 812, 817, 112 CR

257 (upon showing of good cause, trial court has discretion to allow defendant to discover "rap sheet" of prosecution witness).)

10. All written or recorded statements of witnesses who will testify at trial. (Penal Code section 1054.1(e)-(f).)

11. All written or recorded statements of percipient witnesses, whether or not they will be called to testify. (Penal Code sections 1054.1(e), 1054(e).)

12. All photographs, videotapes, audiotapes, and movies concerning this case. (See Penal Code section 1054.1(e).)

13. All reports of experts made in conjunction with this case, involving the results of physical or mental examinations, scientific tests, experiments, or comparisons that the prosecutor intends to offer in evidence at the preliminary hearing or at trial, and all reports of experts who reviewed the work of a prosecution expert who will testify at the preliminary hearing or at trial. (Penal Code section 1054.1(e)-(f).)

14. All notes and reports of police officers and investigators concerning the offense charged. This includes reports concerning all aspects of the case, *e.g.,* the crime, law enforcement activities and observations, and conversations with witnesses and potential witnesses. (Penal Code section 1054.1(e)-(f).)

15. All reports and notes of any law enforcement officer or investigator concerning the defendant and/or the above-entitled case that are maintained separately from the official file, *e.g.,* as "current investigation files," "field identification notes," or "street files."

16. Any evidence to be used in rebuttal of the defense case. (*Maldonado v Superior Court* (2012) 53 C4th 1112, 140 CR3d 113.)

Defendant asks that this document be treated as a continuing request through the completion of trial.

Date: 1/18/13

Kasey A. Castillo, Esq.
Attorney for JAY CICINELLI

PROOF OF SERVICE

I declare that I am over the age of eighteen (18) and not a party to this action. My business address is 367 North Second Ave., Upland, California 91786.

On **January 18, 2013,** I served the following document described as **DISCOVERY REQUEST** on the interested parties in this action by placing a true and correct copy of each document thereof, enclosed in a sealed envelope addressed as follows:

Tony Rackauckas, District Attorney **Keith Bogardus, Deputy District Attorney** Orange County District Attorney's Office 401 Civic Center Drive West Santa Ana, California 92701	

[ ] I am readily familiar with the business practice for collection and processing of correspondence for mailing with the United States Postal Service. I know that the correspondence was deposited with the United States Postal Service on the same day this declaration was executed in the ordinary course of business. I know that the envelope was sealed and, with postage thereon fully prepaid, placed for collection and mailing on this date in the United States mail at Upland, California.

[X] By Personal Service, I caused such envelope to be delivered by hand to the above addressee(s).

[ ] By overnight courier, I caused the above-referenced document(s) to be delivered to an overnight courier service (UPS), for delivery to the above addressee(s).

[ ] By facsimile machine, I caused the above-referenced document(s) to be transmitted to the above-named persons(s)

[ ] Certified Mail:

Executed on January 18, 2013 at Upland, California.

[X] (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

KASEY A. CASTILLO