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**Third Chair Digital Forensics LLC**

2502 Gravel Drive

Fort Worth, Texas 76118

817-953-3385

817-554-1534 fax

Thank you for considering Third Chair Digital Forensics LLC. We stand ready to assist you and your clients.

Upon the Court approving the order, please ask the Clerk for a certified copy of the appointment order.

Please either e-mail us the order to [Orders@ThirdChair.com](mailto:Orders@ThirdChair.com) or fax the order to 817-554-1534.

Should you ever have any questions, please do not hesitate to contact us.

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| **No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** | | |
| **THE STATE OF TEXAS** | **§** | **IN THE \_\_\_\_\_ JUDICIAL** |
|  | **§** |  |
| **VS.** | **§** | **DISTRICT COURT OF** |
|  | **§** |  |
| **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** | **§** | **\_\_\_\_\_\_\_\_\_\_\_ COUNTY, TEXAS** |

DEFENDANT’S *EX PARTE* MOTION FOR APPROVAL OF FUNDS FOR DIGITAL FORENSIC ANALYSIS

**FILED UNDER SEAL**

*(The Clerk of the Court is ORDERED to seal this Motion in the file)*

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, the Defendant in the above-styled and numbered cause, by and through his attorney of record, (name of Defendant’s attorney of record), and files this Motion for Approval of Funds For Forensic Digital Analysis; and in support thereof would show this Honorable Court as follows:

I.

In the instant case, the Defendant is charged with the offense of (offense with which Defendant charged). Undersigned counsel was hired to represent the Defendant. Since that time the Defendant has become indigent for purposes of being able to hire his own digital forensic expert. Counsel has a duty to pursue the services of an independent forensic expert when forensic issues are crucial in a particular case. *Ex parte Briggs*, 187 S.W.3d 458, 468 (Tex. Crim. App. 2005). Where retained counsel is forced to make decisions based on economics rather than strategy, a defendant has not been rendered effective assistance of counsel. *Ex parte Briggs*, 187 S.W.3d at 469. Defendants with hired attorneys are entitled to the same protections under the law as defendants for whom the state appoints counsel. *Cuyler v. Sullivan*, 446 U.S. 335, 344-5, 100 S.Ct. 1708, 1716, 64 L.Ed.2d 333 (1980). If necessary, the Defendant requests that this Honorable Court hold a hearing on the issue of his indigence in order that the Court provide the funds to hire an independent digital forensics expert.

II.

Counsel’s review of the facts of the instant case reveals that it is necessary to the defense of the case to employ expert assistance in the area of digital forensics. Counsel for Defendant has investigated the matter and has identified experts in the field. Counsel requests that the Court appoint THIRD CHAIR DIGITAL FORENSICS LLC to perform digital forensic analysis in this case. Through counsel’s investigation it has been determined that digital forensic analysis in this case will be approximately $(amount of anticipated expense). Counsel therefore requests that the Court approve payment not to exceed this amount when the digital forensic analysis has been performed.

III.

A compelling need exists in this case for digital forensic analysis to address a significant issue at trial. Counsel for Defendant has determined through investigation that (set out facts stating compelling need for digital forensic analysis to address a significant issue at trial).

WHEREFORE, PREMISES CONSIDERED, the Defendant hereby requests that the Court grant an *ex parte* hearing on this Motion in the instant cause; and that subsequent to the hearing of said Motion that the Court ORDER the approval of funds for THIRD CHAIR DIGITAL FORENSICS LLC to assist the Defendant in the preparation and trial of this case.

Respectfully submitted,

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

ATTORNEY FOR DEFENDANT

FIAT

IT IS HEREBY ORDERED that the above Motion be heard on the \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 201\_\_\_\_, at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ o’clock \_\_\_m.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

JUDGE PRESIDING

CERTIFICATE OF SERVICE

I hereby certify that no copy of this Motion was delivered to the (name of county) County District Attorney’s Office, attorneys for the State of Texas, because Defense Counsel wishes to proceed *ex parte* on said Motion.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

ATTORNEY FOR DEFENDANT

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| --- | --- | --- |
| **No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** | | |
| **THE STATE OF TEXAS** | **§** | **IN THE \_\_\_\_\_ JUDICIAL** |
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O R D E R

**FILED UNDER SEAL**

The above and foregoing Defendant's *Ex Parte* Motion for Approval of Funds for Digital Forensic Analysis having been heard by the Court, and the Court having considered such Motion, the Court finds the Defendant to be indigent for purposes of hiring a digital forensics expert and it is hereby ordered that the Defendant's Motion be GRANTED and the Court hereby appoints THIRD CHAIR DIGITAL FORENSICS LLC to perform digital forensic analysis in the case.

The Court further ORDERS that funds for digital forensic analysis to assist the Defendant in the preparation and trial of the instant case be approved in the amount of $(amount approved).

The Court further ORDERS that the Defendant’s Motion and this ORDER be sealed for the record and that no access to same be allowed to any person without prior approval of the Court.

SIGNED on this the \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 201\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

JUDGE PRESIDING

**Third Chair Digital Forensics LLC**

EIN: 47-3276146

2502 Gravel Drive

Fort Worth, Texas 76118

817-953-3385

817-554-1534 fax

Orders@ThirdChair.com