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**FILED**  
UCI 13 2016

DAVID H. YAMASAKI  
Chief Executive Officer/Clerk  
Superior Court of CA County of Santa Clara  
BY \_\_\_\_\_ DEPUTY

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10 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
11 **IN AND FOR THE COUNTY OF SANTA CLARA**

12 PEOPLE OF THE STATE OF CALIFORNIA, NO. 213515  
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14 Plaintiff, Trial Motion No.11  
15 vs. OPPOSITION TO MOTION TO  
16 ANTOLIN GARCIA-TORRES, EXCLUDE C.A.R.  
17 Defendant.

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19 TO THE CLERK OF THE ABOVE-ENTITLED COURT AND THE DISTRICT ATTORNEY  
OF SANTA CLARA COUNTY:

20 The Government has requested that this Court exclude two Corrective Action Requests,  
21 (CAR), by the Santa Clara County crime labs, which were essentially reports of lab error. Mr.  
22 Garcia-Torres plans to vigorously and aggressively attack the lab work in this case including  
23 the review of said work. Although the government has moved to exclude two CAR reports, the  
24 defense plans to present others as well. Because the defense has declared not ready for trial, we  
25 have not prepared cross-examination of the crime lab experts. Nevertheless, the defense plans  
26 to use the 2005 and 2011 CAR reports in its cross-examination of government expert witnesses.  
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1 Cross examination of experts is much different than impeachment of witnesses as the  
2 former deals with the reliability of the expert. The CAR reports are necessary to prove that the  
3 Santa Clara County crime lab makes mistakes despite the review process that they will discuss.  
4 In the 2011 CAR, the SCCCL DNA expert wrote a report claiming that a suspect was the major  
5 contributor of DNA on evidence in the case. That report was false because the suspect's DNA  
6 profile was excluded from that very evidence. In the 2005 CAR, it was discovered that a  
7 SCCCL DNA expert who will testify in this case contaminated DNA samples during the  
8 extraction process by transferring foreign DNA to the sample. In both CAR reports, the cause  
9 of the lab error was a combination of factors including working under a lot of pressure, a short  
10 turn around or rush request, and lack of adequate review.  
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13 In this case, due to the alleged exigent circumstances of this case, the SCCCL was under  
14 tremendous pressure to produce results of a possible suspect DNA profile. The pressure  
15 included obtaining the profile with a short turn given the necessity to find the missing girl  
16 sooner rather than later. Lastly, the SCCCL tested a vast amount DNA on suspected evidence  
17 and was highly overworked. The explanations for the lab errors in the CAR reports strike a  
18 similarity to the conditions the lab was under in this case. Despite having uncovered errors in  
19 the past, when it came to this case their corrective actions were ignored due to the pressures and  
20 caseload presented by this case.  
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23 The defense requests that this Court not limit nor interfere with Mr. Garcia-Torres' right  
24 to effective cross-examination of government witnesses. Not allowing him to produce evidence  
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1 that will undermine and discredit the government's case will violate his due process rights  
2 under the state and federal constitutions and California statutory laws.

3 Dated: October 13, 2016.

4 Respectfully submitted,

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6 Alfonso O. Lopez  
7 Deputy Alternate Defender