

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT IN AND
FOR ORANGE COUNTY, FLORIDA

STATE OF FLORIDA,

Plaintiff,

vs.

CASEY MARIE ANTHONY,

Defendant.

CASE NO.: 48-08-CF-0013331-O
48-08-CF-0015606-O

DIVISION: 16

JUDGE: STAN STRICKLAND

MOTION FOR CHANGE OF VENUE

NOW COMES the Defendant, CASEY MARIE ANTHONY, by and through undersigned counsel and pursuant to Fla. R. Crim. P. 3.240, and moves this Honorable Court to enter an Order changing venue from this county to Miami-Dade County in the State of Florida in the above-styled cause. In support thereof, the defendant would assert as follows:

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FACTS

The defendant, Casey Anthony, stands accused of one count of First Degree Murder, one count of Aggravated Child Abuse, one count of Aggravated Manslaughter of a Child, and four counts of Providing False Information to a Law Enforcement Officer in regards to a Missing Person in Case 48-08-CF-0015606-O. The charges stemmed from the Defendant's report to local police that her two-year-old daughter had been missing since June 9, 2008 and the alleged subsequent false

statements by Ms. Anthony as to the events leading up to her daughter's disappearance. After her initial arrest, on July 15, 2008, for Child Neglect and Obstruction of Justice charges, the case began to receive widespread media attention. In addition to local and national publications such as "The Globe," and "People" magazine, the case has also been featured on such tabloid television news programs as "Nancy Grace" (on a daily basis from July 2008 through Present Day), "Larry King Live," "20/20," and a slew of local and national news organizations such as Fox News, CNN, and MSNBC. An assortment of such news articles is attached to this motion as Exhibit A. Local news has featured the defendant's case on a daily and nightly basis since her initial arrest.

The overwhelming majority of the media's coverage of this case has been negative for the defendant. As one local news station reported, its own reporter, Kathi Belich asked Casey Anthony, "Casey, why don't you care about Caylee? Why won't you say where your little girl is?"

<http://www.wftv.com/news/17421473/detail.html>.

Crowds of protestors have repeatedly stationed themselves outside the Anthony home during the pendency of this case, harassing and yelling at family members. See Exhibit B. All of these incidents have also been reported by the media. In a news article for the Orlando Sentinel, reporters stated that "[p]rotestors from all parts of Central Florida have been gathering outside the home since Orange deputies re-arrested Anthony on Aug. 29." "Protests, reactions fray nerves outside

home of Caylee Anthony's family," Willoughby Mariano and Walter Pacheco, Orlando Sentinel, September 12, 2008. One protestor carried a tombstone-shaped foam prop with Caylee Anthony inscribed on it. *Id.* A different group of protestors in September dressed up as demons and monsters camped outside the Anthony home. <http://www.local6.com/news/17461673/detail.html>. Local 6 news reported that [c]rowds of tourists and Central Floridians have traveled to the Orange County home of Casey Anthony and her parents daily since the woman was released from jail and allowed to return home." *Id.* Fights and violence erupted among the protestors. <http://www.local6.com/news/17406629/detail.html>. A crowd chanted, "Casey Anthony killed that baby, and she is a criminal." *Id.* A baby was even videotaped holding a "Baby Killer" sign. *Id.* Protestors said they refused to leave the area until Casey Anthony was returned to jail. Two women held large angel cut outs reading "Angel Killer." [Http://www.wftv.com/news/17421473/detail.html](http://www.wftv.com/news/17421473/detail.html). Local news reported one of the women as saying, "I just want to slap her and the parents in the face. She killed an innocent angel baby just so she could be a party girl." *Id.* The protests caused Orange County Sheriff, Kevin Beary, to ask the community to "calm down." *Id.* Law enforcement leaks of "alleged evidence" fueled the fire in a community that spiraled out of control. A newly elected Sheriff quickly warned his deputies against leaking information. See *Orlando County Sheriff Deming Warns Office Against Leaking Information, Orlando Sentinel March 15, 2009.*

All aspects of the Anthony case have been reported in local news networks

from playbacks of taped conversations between an incarcerated Anthony and her family members, to breaking news reports each time new "evidence" is disclosed.

See

<http://www.cfnews13.com/News/Local/2008/7/29/caseyanthonytogobeforejudge.html>
; <http://www.orlandosentinel.com/news/local/orange/orl-audio-caylee-marie-missing-072508,0.3311413.audiogallery>.

In the modern internet age information has become even more accessible to the public on the World Wide Web. All of the local Orlando news stations also carry web pages which post coverage of the Anthony case and even ask users to respond to poll questions concerning the case. One poll on wftv.com asked users the following question: "Do you think prosecutors should seek the death penalty for Casey Anthony on charges she killed her 2-year-old daughter?" www.wftv.com/index.html#tabbox-1774714-17756889. Eighty-four percent or 17,633 users responded "yes." *Id.*

Wftv.com's home web page has four general categories of news which users can choose from: "Local," "National," "Slideshows," and "Casey Anthony." A sampling of the "Raw Videos" they post on a given day are: "Tempers flare when George and Cindy Anthony arrived at the search scene," "Protestor confronts divers at Caylee Anthony search scene." *Id.* Other online news lines are: "Padilla said Friday that he is convinced Casey dumped Caylee's body in the river at Blanchard Park," "Casey's Attorney Inspecting her car at Sheriff's office," "Cindy talks: says

Padilla 'crossed the line'," "Padilla responds: Calls out Anthony Family," "Padilla talks: Has theory on Caylee's death." The Orlando Sentinel online posted audible interviews by law enforcement of Lee Anthony, Anthony Lazzaro and Jesse Grund. *Id.*

Recently, Local 6 News in Orlando posted a story entitled "Baby Photos of Caylee's Mom used in Request to Avoid Death Penalty." www.local6.com/news/17898874/detail.html. Media had gotten a copy of a memorandum prepared by the defense for the prosecution. Local 6 News quoted extensively from the defense memorandum, stating that, "Anthony's defense team also raises the possibility that Caylee may have been poisoned by chloroform, saying, 'Death may have occurred while the child was sedated or from an unwitting overdose of a sedative.'" *Id.*

All local news networks continue to report on all aspects of this case and public opinion continues to be heated and negative towards Casey Marie Anthony. Specifically, blog sites in which users express their opinions on the facts of the case are readily accessible to all local internet users. A sampling of some blogs are attached hereto. See Exhibit C.

In a study conducted by Cision, a leading broadcast monitoring service, between July 15, 2008 and November 18, 2008, 14,235 stories aired which

mentioned the Caylee Anthony case.¹ See Exhibit D. Of these stories, the most frequent or 46.3% aired in the Orlando-Daytona Beach-Melbourne area; 23.9% aired in the Tampa-St. Petersburg area; 7.4% in Jacksonville and 6.8% in West Palm Beach; 4% and 3.8 % in Ft. Myers-Naples and the Gainesville areas respectively. *Id.* In contrast, of the ten media markets studied, the remaining markets scored out as follows Miami-Ft. Lauderdale came in seventh in terms of exposure to the story with only a 3% exposure rate. Mobile, Alabama - Pensacola area was exposed to 2.2%; and Panama City and Tallahassee-Thomasville, Georgia areas received 1.3% each.

LOCAL NEWS ALL THE TIME "LOCAL CHANNEL ? WAS THE FIRST TO BRING YOU THE LATEST ON THE CASE AGAINST CASEY" REMEMBER TO TUNE INTO CHANNEL ? FOR THE LATEST IN THE CAYLEE ANTHONY CASE."

National news coverage of this case has been occasional and unavoidable. With the exception of the Nancy Grace tabloid show, most national coverage has generally revolved around either law enforcement leaks or the releasing of discovery. Whereas, the local coverage has been aired on a daily and nightly basis. One only has to look at each local channel's website to see the importance and dedication to the coverage of this case. WESH channel 2 has a tab on their main page under "Big

¹ Cision compiled this data using a closed-captioned feeds, hand-logged monitoring notes, and visual recognition.

Coverage" along with the economy and gas prices just in case a viewer after checking in with their finances might want their daily dose of the Casey Anthony case. WFTV channel 9 gives you the option tab of checking either local news, national news, local events, or of course the Casey Anthony case. My Fox Orlando channel 35 has a tab with a permanent picture of Caylee Anthony and a tab in the middle of its homepage should you decide to play armchair detective and review the timeline or court and law enforcement documents. Channel 13 has a prominent banner in the middle of its homepage which contains a picture of Caylee Anthony asking viewers to "Click Here For Extended Coverage." Channel 6 is the only local site that does not prominently display a tab for this case on its website, HOWEVER, channel 6 has a national template for all CBS affiliates which would make this task very difficult, AND it still has a prominent section for all Casey Anthony case news coverage.

Each broadcast every evening leads with "Channel ? is following every development in the Case against Casey," and also boasts "Channel ? was the first to tell you." A ratings war has erupted in Central Florida with aspiring local news reporters looking for the BIG breaking story, so that they can go national. There are many local journalists who are honest hardworking individuals who want to give balanced reports, yet they are out numbered by certain tabloid minded individuals who have turned this case into a Roman Holiday.

The Cision report cited in Exhibit D, shows an alarming number of advertising revenue of \$19,464,375.22. This figure only covers the months of July through November 2008. This figure will no doubt pass the \$100 million mark by the time of trial. Make no mistake about it, the Casey Anthony case is big business. These figures are a warning of what lies ahead at the time of trial. Moving this trial to a location far enough away from the local media will not end the coverage, but it will have a chilling effect on the barrage of media coverage that a local trial will bring.

ARGUMENT

An accused in a criminal case has a Sixth Amendment right to a fair and impartial trial. *Singer v. U.S.*, 380 U.S. 24, 85 (1965). The defendant must be "fairly tried in a public tribunal free of prejudice, passion, excitement, and tyrannical power," in order to guarantee this right. *Sheppard v. Maxwell*, 384 U.S. 333 (1966). In *Sheppard* the Supreme Court reversed a conviction for first degree murder because extensive pre-trial and trial publicity deprived the defendant of a fair trial. In that case the Supreme Court quoted with approval Justice Bell's opinion before the Ohio Supreme Court:

Murder and mystery, society, sex and suspense were combined in this case in such a manner as to intrigue and captivate the public fancy to a degree perhaps unparalleled in recent annals. Throughout the preindictment investigation, the subsequent legal skirmishes and the nine-week trial, circulation-conscious editors catered to the insatiable interests of the American public in the bizarre . .

In this atmosphere of a "Roman holiday" for the news media, Sam Shepard stood trial for his life."

Sheppard at 356 quoting *State v. Sheppard*, 165 Ohio St. 293, 342 (1956).

The Florida Supreme Court has stated that while the defendant bears the burden on a change of venue motion, the court is "bound to grant a motion for a change of venue when the evidence presented reflects that the community is so pervasively exposed to the circumstances of the incident that prejudice, bias, and preconceived opinions are the natural result." *Manning v. State*, 378 So.2d 274 (Fla. 1979). A judge may order the change of venue before the case has commenced or after attempting to empanel an impartial jury. *Manning*. Thus, community hostility may be established by inflammatory publicity or great difficulty in selecting a jury. *Noe v. State*, 586 So.2d 371, 379 (1st DCA, 1991)(citing *Holsworth v. State*, 522 So.2d 348, 350 (Fla. 1988)). However, prejudice from pre-trial publicity is presumed when the publicity is sufficiently prejudicial and inflammatory that it pervades the community where the trial is to be held. *Noe* at 379; *Murphy v. Florida*, 421 U.S. 794 (1975). So dangerous is the subconscious and conscious effect of pervasive pretrial publicity on a potential juror's mind that the Supreme Court has found that when the pretrial publicity in a case is so great, the court may disregard prospective jurors' assurances of impartiality. See *Irvin v. Dowd*, 366 U.S. 717 (1961).

Finally, the Florida Supreme Court has offered further guidance to courts confronted with a motion for change of venue:

We take care to make clear . . . that every trial court in considering a motion for change of venue must liberally resolve in favor of the defendant any doubt as to the ability of the state to furnish a defendant a trial by a fair and impartial jury. Every reasonable precaution should be taken to preserve to a defendant trial by such a jury and to this end if there is a reasonable basis shown for a change of venue, a motion therefore properly made should be granted.

A change of venue may sometimes inconvenience the state, yet we can see no way in which it can cause any real damage to it. On the other hand, granting a change of venue in a questionable case is certain to eliminate a possible error and to eliminate a costly re-trial if it be determined that the venue should have been changed. More important is the fact that real impairment of the right of a defendant to trial by a fair and impartial jury can result from the failure to grant change of venue.

Singer v. State, 109 So.2d 7 (Fla. 1959).

In the instant case, the defendant has shown a clear, pervasive, inflammatory and prejudicial coverage of her case by local media. The examples listed in this motion are but a very, very, small sampling of stories and bylines incessantly reported since the case's inception. It is difficult to even keep track of the amount of prejudicial and inadmissible evidence which has been aired out in the public arena. The effects of the inflammatory and negative aspect of the media coverage in this case is best witnessed in the violent and harassing protests which have dogged the defendant and her family for many months now. The amount of distracting and irrelevant information which is also reported further distorts the public's perception of this case. Making matters worse, the advent of the internet and it's potential for

interactive communication with the public has catapulted already negative and pervasive coverage to an entirely new level. In fact, few would disagree that Ms. Anthony's case may be the most publicized coverage of a criminal case in the history of our State.

The Defense believes that it has more than carried its burden and therefore wishes to avoid/reduce the risk of creating any further prejudice via the listing in this pleading of additional examples. In the event that the Court does not agree that a sufficient showing has been made, the Defendant requests leave to submit further prejudicial coverage and comments to the Court in a sealed, although not *ex parte*, manner.

Finally, the defense requests that this case be transferred specifically to Miami-Dade County. There are several reasons for this specific request. First, the publicity given the defendant's case has had pervasive effects not only in the immediate community of Orlando and Orange County but also in the surrounding areas as well. See Exhibit D. The Defense feels confident in expressing to this court that the same concerns expressed herein as to Ms. Anthony's ability to receive a fair trial in this county are also true of all counties in Central Florida. Second, the Miami-Dade County is sufficiently removed geographically to have a real effect on the defendant's ability to obtain an impartial jury. Local coverage there has not been anywhere near what it has been in Central Florida. See Exhibit D. In fact, relative to its size, Miami-Dade County area was exposed to only a small percentage of all

stories run from July 15 to November 18 of this year. Finally, due to its population, Miami-Dade County offers a large and diverse enough jury pool to facilitate the empaneling of a fair and impartial jury in this case. Moreover, Miami-Dade County area would be better able to absorb and deal with intense media attention during the pendency of a trial than much smaller communities such as those not requested.

CONVENIENCE

Another concern that the court should consider is convenience. Miami-Dade County has a large population in the State of Florida, as such it can handle a case of this magnitude. This will eliminate any logistical issues which would include lodging, travel and the court infrastructure for all parties involved.

One of the factors that the Court must consider is the significant media attention that this trial will garner. This raises several issues and potential problems for the Court and all parties involved. A larger city will provide more opportunities for sequestration of jurors and lower the probability of improper contact or media interference.

Miami-Dade County also has significant flight activity, which offers an abundant amount of flights and ease of access to not only those situated in Central Florida, but also those witnesses who may be called to testify from out of state.

Additionally, Court logistics play a role. This must be considered when selecting a Change of Venue site. Miami-Dade County is no stranger to high profile cases and is fully equipped to handle such a case.

Also reciprocity should be considered. Miami-Dade County has relocated several high profile cases to Orange County and such cases can be provided to the court and State of Florida under seal. These two jurisdictions have a proven track record of being able to sit a jury panel after significant pre-trial publicity has tainted their respective jury pools.

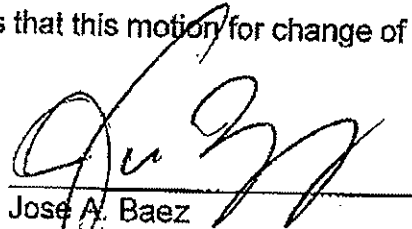
In the alternative, Miami-Dade County is close to another county that is far enough geographically and still has many of the same options as the first. (Broward County). While Miami-Dade County is preferred by the Defense because of it's size and logistical capabilities, Broward County serves as a viable back up.

CONCLUSION

For the foregoing reasons, the Defendant respectfully requests that this Honorable Court will enter an Order changing venue in the above styled cause. Given the unique situation presented by the Defendant's case, if it remains in Orange County, her Sixth Amendment right to a trial by a fair and impartial jury will undoubtedly be violated. For all the reasons espoused *supra* this Court should transfer venue to Miami-Dade County, or in the alternative, to Broward County.

CERTIFICATE OF GOOD FAITH

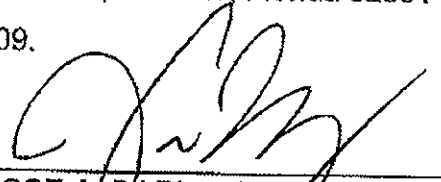
Undersigned counsel hereby certifies that this motion for change of venue is made in good faith on the part of counsel.



Jose A. Baez
Fl. Bar No. 0013232
Counsel for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished to the Office of the State Attorney, 415 North Orange Avenue, Orlando, Florida 32801 by facsimile delivery on this 4 day of May, 2009.



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DIVISION: 16

JUDGE: STAN STRICKLAND

AFFIDAVIT

COUNTY OF Orange
STATE OF FLORIDA

On today's date, the undersigned personally appeared before me, a duly authorized notary pursuant to the laws of Florida, and having been placed under oath deposes and states:

I, Casey Anthony, do hereby state that the following facts are true and correct.

1. The media has extensively covered my case from the moment of my initial arrest on July 16, 2008.
2. Media coverage in print and television has been negative and inflammatory. Upon my first release from jail in August reporters harassed me and members of my family continually asking me if I had killed my daughter and why I did not care about her.
3. Protestors have staged protests outside of my family's home while I was staying there in September. The protestors were violent and insulting to me and my family to the point that I was concerned for my own safety and that of my family members.

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NOTARY PUBLIC
STATE OF FLORIDA

- 4. I am afraid that there is no way for me to receive a fair trial in Orange County or any of the surrounding area due to these facts and fully support my attorney in his efforts to relocate this proceeding to Miami-Dade County.

Galina Ad
Signature of Notary

12/10/08
Date:



[Signature]
Casey Anthony