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5  
6 IN THE UNITED STATES DISTRICT COURT  
7 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
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9 UNITED STATES OF AMERICA,	)	<b>Case No. CR-04-0111-XYZ</b>
10 Plaintiff,	)	
11 v.	)	<b>NUNC PRO TUNC APPLICATION</b>
12 MARGE SIMPSON, et al,	)	<b>AND DECLARATION OF LIONEL</b>
13 Defendants.	)	<b>HUTZ IN SUPPORT OF MARGE</b>
14	)	<b>SIMPSON'S FOURTH REQUEST</b>
15	)	<b>FOR AUTHORIZATION OF COSTS</b>
16	)	<b>FOR NECESSARY DEFENSE</b>
	)	<b>EXPENDITURES,</b>
	)	<b>18 U.S.C. § 3006A</b>
	)	<b>FILE IN CJA CONFIDENTIAL FILE</b>

17 Pursuant to the Criminal Justice Act, Marge Simpson hereby applies *nunc pro tunc*  
18 for authorization of costs for necessary defense expenditures. In support of this  
19 application, Mrs. Simpson submits the declaration of her counsel, Lionel Hutz, which is  
20 attached hereto and incorporated herewith.

21 I, LIONEL HUTZ, make the following declaration under penalty of perjury:

22 1. I am an attorney at law duly admitted to practice in the State of California  
23 and admitted to the bar of this Court. By appointment under the Criminal Justice Act, I  
24 represent defendant Marge Simpson in the above-captioned matter. Unless otherwise  
25 noted, I make this declaration of my own personal knowledge, and if called as a witness, I  
26 could and would testify competently to the contents hereof.

27 2. Mrs. Simpson is charged with conspiracy to kidnap in violation of Title 18,  
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1 U.S.C. § 1201(c) and with the substantive offense of kidnapping, in violation of Title 18  
2 U.S.C. § 1201(a). Mrs. Simpson faces a possible life sentence in this case. In specific, if  
3 convicted after trial, the United States Sentencing Guidelines provide that Mrs. Simpson's  
4 base offense level is level 32. In addition, the indictment alleges enhancements that, if  
5 proved at trial, add an additional four levels (two levels if the victim was not released  
6 before thirty days had elapsed – U.S.S.G. § 2A4.1(b)(4)(a), and two levels if the defendant  
7 knew or should have known that the victim was a vulnerable victim --U.S.S.G. §  
8 3A1.1(b)(1)), for a total adjusted offense level of 36. Mrs. Simpson's criminal history  
9 category appears to Category V. Accordingly, if convicted of the charged offenses plus  
10 enhancements, Mrs. Simpson faces a sentencing range of 292 to 365 months (24.33 to 30.4  
11 years), or what is essentially a life sentence. Mrs. Simpson is 55 years old.

12 3. Mrs. Simpson is charged with co-defendant Abe Simpson in this case. It is  
13 the government's theory that Mr. Simpson and Mrs. Simpson conspired to and did, kidnap  
14 Mr. Simpson's mother, Pauline Simpson. The government alleges that Mr. Simpson  
15 transported Mrs. Pauline Simpson to Mexico, and that Mrs. Simpson maintained control  
16 over her in Mexico.

17 4. The bulk of the government's case against Mrs. Simpson concerns his  
18 actions while in Mexico (Mr. Simpson also is affected by Mrs. Simpson's Mexico actions  
19 because of the conspiracy charge, but discovery indicates that Mr. Simpson spent little  
20 time in Mexico himself). Accordingly, effective assistance of counsel required a thorough  
21 investigation of the circumstances of Mrs. Pauline Simpson's stay in Mexico, including  
22 interviews of persons who took care of Mrs. Pauline Simpson there, persons who  
23 interacted with her and with Mrs. Simpson and persons who witnessed the events  
24 surrounding Mrs. Pauline Simpson's departure from Mexico.

25 5. Undersigned counsel, with the approval of this Court, retained the services  
26 of private investigator Kirk Van Houten to assist in this case. Mr. Van Houten is a lawyer  
27 by training (a graduate of Harvard Law School) and a fluent Spanish speaker. I have  
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1 personally worked with Mr. Van Houten on previous occasions and know him to be an  
2 excellent investigator with highly developed case preparation skills. Before he founded  
3 his own firm, he worked as an investigator at the Office of the Federal Public Defender in  
4 Oakland, where he was very highly regarded. The Court was previously provided with a  
5 copy of Mr. Van Houten's curriculum vitae.

6           6.       Mr. Van Houten went to Mexico in October of 2004 to interview various  
7 witnesses and conduct other investigative tasks. Since his return, Mr. Van Houten has  
8 corresponded with our office as well as the Federal Public Defender's office to  
9 communicate his knowledge about the case. He has also worked closely with our court-  
10 approved translator, Brandine Spuckler, to help her efficiently provide transcripts and  
11 translations of the witness interviews he recorded on video while in Mexico. His  
12 continued assistance in the case since his return from Mexico has been critical in helping  
13 the defense counsel to understand the universe of facts surrounding our case in Mexico.  
14 Please find attached a copy of Mr. Van Houten's detailed invoice recently submitted to our  
15 office.

16           7.       Mr. Van Houten's work in this case is now complete, and barring a return  
17 trip to Mexico in anticipation of a trial, I do not foresee that this case will require his  
18 services at a later date.

19           8.       I am aware that the CJA standard hourly rate for investigators is \$55 an hour,  
20 but that for investigators who speak a foreign language, it is \$65 an hour. I hereby request  
21 the rate of \$65 an hour in Mr. Van Houten's case due to his fluency in the Spanish  
22 language (which was required for him to understand the interviews) and his legal training  
23 (which assisted in his ability to discern what content of the interviews should be  
24 transcribed and translated for evidentiary purposes).

25           11.       For the foregoing reasons, I respectfully request the following orders:

- 26                   (a)       authorization for the amount of \$884.00, at the rate of \$65 an hour,  
27                               for the services of Kirk Van Houten as an investigator for Mrs.

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- Simpson to perform investigation in Mexico;
- (b) authorization for the amount of \$45.70 for expenses incurred, such as the cost of phone calls, mileage, parking, toll fares, postage, etc.;
- (c) the filing in the CJA Confidential File of this Ex Parte Application and Declaration of Lionel Hutz in Support of Marge Simpson's Fourth Request for Authorization of Costs for Necessary Defense Expenditures, 18 U.S.C. § 3006a, and the [Proposed] Fourth Order Authorizing Costs for Necessary Defense Expenditures for Marge Simpson, 18 U.S.C. § 3006a.

Executed under penalty of perjury of the laws of the United States, at San Francisco, California, this 4<sup>th</sup> day of March 2005.

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Lionel Hutz  
Attorney for MARGE SIMPSON