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CLERK OF DISTRICT COURT
2010 DEC 13 AM 11:28
FILED
BY _____ DEPUTY

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9 *Attorneys for State of Montana*

10 **MONTANA ELEVENTH JUDICIAL DISTRICT COURT, FLATHEAD COUNTY**

11 STATE OF MONTANA,)
12)
13 Plaintiff,)
14)
15 vs.)
16)
17 TIMOTHY SHAWN PERRY,)
18)
19 Defendant.)

Cause No. DC-10-456C

STEWART E STADLER

**MOTION AND AFFIDAVIT FOR ORDER
GRANTING LEAVE TO FILE
INFORMATION DIRECTLY
IN DISTRICT COURT**

20 =====
21 STATE OF MONTANA)
22 :ss.
23 County of Lewis and Clark)

24 MIKE WINSOR, being first duly sworn, upon oath, deposes and says:

25 1. That he is the duly appointed, qualified, and acting Special Deputy County Attorney in
26 and for the county of Flathead and the state of Montana herein and acting in this capacity he is
27 familiar with the investigation relating to the above-named defendant.

28 2. That the defendant has committed an offense in Flathead County, as hereinafter set forth
and, based upon information developed through an investigation conducted by a criminal justice
investigator, this Court should grant leave to file an Information directly in District Court pursuant to
Mont. Code Ann. § 46-11-201, charging the defendant with the offense of:

1 COUNT I: INSURANCE FRAUD/THEFT, a FELONY, in violation of Mont. Code Ann. §§ 33-
2 1-1202 and 45-6-301(6)(a).

3 3. That venue is proper in Flathead County pursuant to Mont. Code Ann. § 46-3-110(1),
4 because the offenses were committed in Flathead County.
5

6 4. That a criminal justice investigator has made a full and careful investigation of all the
7 facts and circumstances surrounding the commission of said offense, so far as they are known or
8 ascertainable, and Affiant believes it a proper case for the filing of an Information and for this
9 reason, and none other, the foregoing motion is made.
10

11 5. That the following information is submitted to establish probable cause for the filing of
12 the foregoing charge:

13 a. On or about July 9, 2009, the defendant, Timothy Shawn Perry ("Perry"), was
14 involved in an automobile accident in which Matthew Patrick Gillespie ("Gillespie), in his
15 vehicle, hit the defendant.
16

17 b. At the scene of the accident, Gillespie gave Perry insurance information
18 relating to his Geico Indemnity Company ("Geico") automobile liability policy.

19 c. Several months prior to the accident, on March 14, 2009, Gillespie's Geico
20 policy had been terminated for non-payment.
21

22 d. On Friday, July 9, 2009, Perry reported the accident to Geico claiming
23 property damage and personal injury and that the accident occurred on July 9, 2009.

24 e. Perry subsequently made several calls to Gillespie and Geico about the claim.

25 f. On Saturday, July, 10, 2009, Perry was advised by Geico that it did not appear
26 that Gillespie had coverage.
27
28

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2 g. On Monday, July 13, 2009, Perry was again advised by Geico that there did
3 not appear to be coverage for the accident.
4

5 h. Also, on Monday, July 13, 2009, Gillespie called Safeco Insurance Company
6 ("Safeco") and caused the vehicle involved in the accident to be added to an automobile
7 liability policy in his wife's name.

8 i. On or before July 14, 2009, Gillespie and Perry, with the purpose of
9 committing insurance fraud, agreed with one another that Gillespie and Perry would both
10 report the date of the accident to Safeco as occurring on July 14, 2009, so that Perry could
11 obtain coverage from Safeco for the accident which occurred on or about July 9, 2009.
12

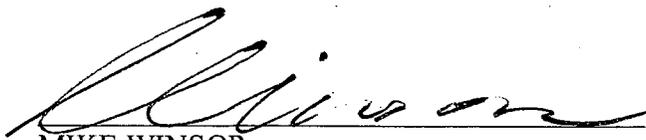
13 j. The following day, Tuesday, July 14, 2009, Gillespie called Safeco and
14 reported that the accident at issue occurred on July 14, 2009.
15

16 k. In a recorded interview dated August 17, 2009, Perry represented to Safeco
17 that the accident at issue occurred on July 14, 2009, despite having represented to Geico that
18 the accident occurred on July 9, 2009.

19 l. Although it deemed the claim suspicious because the purported accident was
20 one day after Gillespie acquired coverage from Safeco, Safeco paid Perry \$7,964.31 for the
21 damage to his vehicle.
22

23 WHEREFORE, the undersigned moves this Court for an Order granting leave to file an
24 Information directly in District Court charging the above-named defendant with the felony offense
25 of INSURANCE FRAUD/THEFT by presenting to an insurer a written or oral statement containing
26 false, incomplete or misleading information concerning facts in support of a claim for payment or
27 other benefit pursuant to an insurance policy as more particularly set forth herein.
28

1 DATED this 9th day of December, 2010.

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4 MIKE WINSOR
5 Special Deputy Flathead County Attorney
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7
8 SUBSCRIBED and SWORN to before me this 10 day of December, 2010.

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