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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,)	
)	MOTION TO WITHDRAW
Plaintiff,)	AS COUNSEL OF RECORD
)	AND FOR STANDBY
v.)	COUNSEL DESIGNATION
)	
NELDON JOHNSON,)	Case No. 2:15CV00828-DN
)	
Defendant.)	Hon. DAVID NUFFER

The defendant, Neldon Johnson, by and through counsel, Edwin S. Wall, moves the court to allow Mr. Wall to withdraw his representation as active counsel in this matter and requests Mr. Wall be designated standby counsel. Grounds for this motion are:

On May 16, 2019, the Court found Mr. Johnson indigent and appointed Mr. Wall as counsel. Pending before the Court is the cross-examination of the Receiver, Wayne Kline, who has already undergone direct examination during the hearing held on May 3, 2019. The transcript of Mr. Kline’s testimony is being prepared on an expedited basis. Having conferred with the parties, the United States is anticipated to close it’s case-in-chief.

On the morning of May 17, 2019, Mr. Johnson spoke with Mr. Wall by telephone. Mr. Johnson informed Mr. Wall that he no longer wished to have Mr. Wall represent him, that he

intends to go in a different direction and retain private counsel to address the case and move forward with matters presently pending before the court.

Because Mr. Johnson is presently in the process of retaining counsel, and no substitution of counsel is pending, Mr. Wall suggested that instead of merely withdrawing that the court might be willing to have Mr. Wall designated as standby counsel until such time as Mr. Johnson retains his own attorney. Mr. Johnson is agreeable with having Mr. Wall designated to be standby counsel in this matter until such time as Mr. Johnson's privately retained counsel enter their appearance and standby counsel is permitted to fully withdraw.

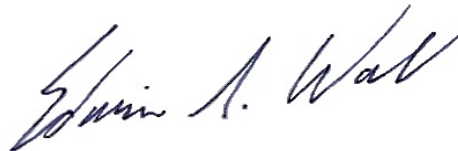
As the Court is aware and by way of assistance to the defendant, generally, if an attorney is designated to be standby counsel the attorney is to be prepared to take over and proceed with the case immediately upon the request of the defendant. As such, at whatever point the case may be, including in the middle of a hearing, argument or examination of a witness, on a moment's notice, standby counsel is to be prepared to move forward upon the defendant requesting standby counsel take over the case. Further, standby counsel do not have the roll of and do not act as a legal assistant, research assistant or legal advisor. Either the defendant addresses the case and all legal issues or, at the defendant's request to the court and the court's designation, standby counsel becomes active counsel and takes over the case. The court may, in its discretion, direct standby counsel to undertake specific tasks as standby counsel if necessary to advance the proceedings, or if the defendant makes a motion to the court that standby counsel do so.

Mr. Wall represents to the Court that if required to continue as counsel or if designated as standby counsel he will continue to diligently prepare for the pending hearing. Mr. Johnson's request for court appointed counsel arose in the midst of ongoing proceedings on an *Order to*

Show Cause. Mr. Wall is particularly qualified to assist in this matter based on his designation as a member of the Criminal Justice Act (CJA) Panel in the District of Utah, which he has maintained in excess of twenty years. Mr. Wall is also an active member of the CJA panel for the District of Wyoming and has previously been a member of the CJA panel for the Tenth Circuit Court of Appeals, although is no longer active. Mr. Wall 's background is particularly suited for the present case, albeit the case has already been tried, as he holds a B.S. in Physics, a B.S.MAT in Materials Science and Engineering, a B.A. in Political Science and a J.D. in Law. Furthermore, Mr. Wall is an active United States Patent Attorney. Mr. Wall has conducted hundreds of trials in both state and federal courts, and, has litigated and tried both civil and criminal cases, including cases designated as complex by the federal court. As such, he is particularly well qualified to engage in the present matter though his appointment is on short notice and an extremely expedited basis.

WHEREFORE at the behest of Mr. Johnson, it is respectfully requested Mr. Wall be designated standby counsel in the above-entitled matter.

Respectfully submitted May 17, 2019.

A handwritten signature in cursive script that reads "Edwin S. Wall". The signature is written in black ink and is positioned above a horizontal line.

Edwin S. Wall,
Attorney for the Defendant

CERTIFICATE OF SERVICE

I, Edwin S. Wall, hereby certify that on May 17, 2019, I served a copy of the attached *Motion to Withdraw as Counsel of Record and for Standby Counsel Designation*, upon the counsel for the Plaintiff in this matter, by CM/ECF to all designated parties.

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