FirstLine

SecondLine

AddressLine

CityCity, StateState ZipZip

PhoneNumber

FaxNumber

E-MailAddress

Attorney for ClientName

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA,

IN AND FOR THE COUNTY OF COUNTYCOUNTY

|  |  |
| --- | --- |
| People of the State of California,  Plaintiffs,  - vs -  ClientName,  Defendant | CASE NO. CASECASE  **DEFENDANT’S MOTION TO BIFURCATE GANG** |

**TO THE COURT AND THE PROSECUTION, PLEASE TAKE NOTICE** that Defendant moves the Court for a bifurcated jury trial on the issue of guilt on other allegations and the validity of gang enhancements or charges.

Date: January 9, 2022

|  |  |
| --- | --- |
|  |  |
| By | SignSign,  AttorneyFor |

**POINTS, AUTHORITIES, AND ARGUMENT**

Assembly Bill 333, effective January 1, 2022, added *§1109* to the Penal Code:

(a) If requested by the defense, a case in which a gang enhancement is charged under subdivision (b) or (d) of Section 186.22 shall be tried in separate phases as follows:

(1) The question of the defendant’s guilt of the underlying offense shall be first determined.

(2) If the defendant is found guilty of the underlying offense and there is an allegation of an enhancement under subdivision (b) or (d) of Section 186.22, there shall be further proceedings to the trier of fact on the question of the truth of the enhancement. Allegations that the underlying offense was committed for the benefit of, at the direction of, or in association with, a criminal street gang and that the underlying offense was committed with the specific intent to promote, further, or assist in criminal conduct by gang members shall be proved by direct or circumstantial evidence.

(b) If a defendant is charged with a violation of subdivision (a) of Section 186.22, this count shall be tried separately from all other counts that do not otherwise require gang evidence as an element of the crime. This charge may be tried in the same proceeding with an allegation of an enhancement under subdivision (b) or (d) of Section 186.22.

//