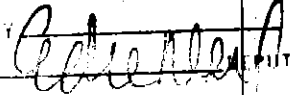


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15 SEP 10 PM 1:58

CLERK OF THE SUPERIOR COURT
COUNTY OF STANISLAUS

BY 

1 RYAN ROTH
2 ATTORNEY AT LAW
3 State Bar No. 291844
4 1120 14th St, Suite 5
5 Modesto, CA 95354
6 (209)557-2592/ (209)579-2211 Fax

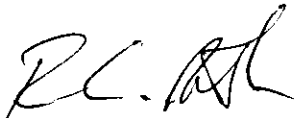
5 Attorney for Defendant
6 CHRISTINA DEFILIPPO

7 IN THE SUPERIOR COURT OF CALIFORNIA
8 COUNTY OF STANISLAUS

10 PEOPLE OF THE STATE OF CALIFORNIA,) CASE NO. 1490969
11 Plaintiff,)
12 vs.)
13 CHRISTINA DEFILIPPO,) PEREMPTORY CHALLENGE
14 Defendant.) C.C.P. 170.6
15) Date: SEPTEMBER 14, 2015
16) Time: 1:30 p.m.
17) Dept. 26

18 Ryan Roth, being duly sworn, deposes and declares: That he represents Christina
19 DeFilippo, a party to the within action. That the Honorable Barbara Zuniga, the judge before
20 whom the trial or hearing of the aforesaid action is pending, is prejudiced against the defendant
21 or the interest of the party so that defendant cannot or believes that she cannot have a fair and
22 impartial trial or hearing before the judge.

24 Subscribed and sworn before me this September 10, 2015.

26 
27 _____
28 RYAN ROTH

1 RYAN ROTH
2 ATTORNEY AT LAW
3 State Bar No. 291844
4 1120 14th St, Suite 5
5 Modesto, CA 95354
6 (209)557-2592/ (209)579-2211 Fax

7 Attorney for Defendant
8 CHRISTINA DEFILIPPO

9
10 IN THE SUPERIOR COURT OF CALIFORNIA
11 COUNTY OF STANISLAUS

12 THE PEOPLE OF THE STATE OF
13 CALIFORNIA,

14 Plaintiff,

15 vs.

16 CHRISTINA DeFILIPPO,

17 Defendant.

Case No. 1490969

POINTS AND AUTHORITIES IN SUPPORT OF
MOTION FOR PEREMPTORY CHALLENGE
[C.C.P. § 170.6]

DATE: September 14, 2015
TIME: 1:30 p.m.
DEPT: 26

18 **FACTS**

19 Christina DeFilippo has not made an initial appearance before this court. Attorney Ryan
20 Roth was retained on August 31, 2015. Mr. Roth has not made any appearance on behalf of
21 Christina DeFilippo in this case. Ms. DeFilippo has an arraignment date of September 14, 2015.
22 At the time of her arraignment, I will again request the court accept the 170.6 peremptory
23 challenge based on opposing interests of involved parties.

24 A peremptory challenge under 170.6 of the Code of Civil Procedure was filed on behalf
25 of Ms. DeFilippo on September 3, 2015. The court summarily struck the challenge. The
26 defendant and counsel are scheduled to make their initial appearance on September 14, 2015.
27
28

1
2 **POINTS AND AUTHORITIES**
3

4 When a case is assigned to one judge "for all purposes," a 170.6 CCP challenge, must be
5 made to the assigned judge or presiding judge within 10 calendar days after notice of the all-
6 purpose assignment. CCP 170.6(a)(2). If a party has not yet appeared when the notice issues,
7 however, the challenge may be made within 10 calendar days after counsel's first appearance in
8 the case and before the judge has determined a contested issue of fact relating to the merits of the
9 case. CCP Section 170.6(a)(2). A continuance of a matter may not be done to try and
10 circumvent the 10/5-day rule. People v. Richard (1978) 85 CA3d 292

11 A party or his attorney generally has a right to only one challenge in a case. CCP Sec.
12 170.6(a)(4). The substitution of new counsel does not entitle a defendant or his attorney to a
13 second opportunity to challenge a judge. In a case involving more than one party (co-
14 defendants) a party may have an additional opportunity to challenge a judge if the defendant can
15 show that his interests are substantially adverse to that of his codefendant. Pappa v. Superior
16 Court (1960) 54 C2d 350

17 **ARGUMENT**

18 Counsel learned of the judicial assignment in this case and out of an abundance of
19 caution filed a 170.6 peremptory challenge on behalf of Christina DeFilippo.
20

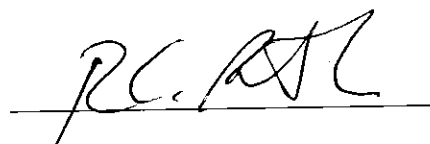
21 After review of the bail hearing transcripts, and based on facts discussed therein, counsel
22 contends that the involved parties maintain opposing interests and defenses in this case.
23 Christina DeFilippo had no knowledge of any murder, specifically that of Korey Kauffman. It is
24 conceivable that Ms. DeFilippo may point the finger at Frank Carson and/or other co-defendants
25 and argue that even if a murder occurred, she had no involvement or awareness, which under the
26 theory of the People she would have to possess in order to obstruct any related investigation.
27 The interests of Ms. DeFilippo are clearly adverse from those of her co-defendants.
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CONCLUSION

Because Christina DeFilippo's interests and defenses are substantially adverse to those of Frank Carson and other defendants, Mrs. DeFilippo's challenge to Judge Zuniga pursuant to section 170.6 must be accepted.

Respectfully submitted,



Ryan Roth

Dated: 9/10/15

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PROOF OF SERVICE

I declare that I am over the age of eighteen (18), not a party to the above-referenced action, and my business address is 1120 Fourteenth Street, Suite 5, Modesto, California 95354.

On the date shown below, I

_____ deposited in the United States Mail, or

 X personally served the following:

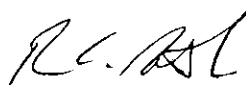
**PEREMPTORY CHALLENGE, POINTS AND AUTHORITIES IN SUPPORT OF
MOTION FOR PEREMPTORY CHALLENGE; CHRISTINA DeFILIPPO;
CASE NO. 1490969**

On the following parties:

STANISLAUS COUNTY DISTRICT ATTORNEY
832 12th Street, Room 300
Modesto, CA 95354

I declare under the penalty of perjury that the foregoing is true and correct.

Signed this 21ST of July, 2015, at Modesto, California.



Ryan Roth