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CLERK OF THE SUPERIOR COURT
COUNTY OF STANISLAUS

BY Ana Valencia DEPUTY

LAW OFFICES OF
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TIMOTHY B. RIEN
STATE BAR NO. 77900

MELISSA E. ADAMS JOSEPH J. COX
STATE BAR NO. 238638 STATE BAR NO. 276277

ATTORNEY FOR Defendant, WALTER WESTLEY WELLS

SUPERIOR COURT OF CALIFORNIA, COUNTY OF STANISLAUS

MODESTO COURTHOUSE

PEOPLE OF THE STATE OF CALIFORNIA)

No. 1490969

Plaintiff,)

**NOTICE OF JOINDER RE:
MOTION TO RECUSE AND
DECLARATION OF COUNSEL
IN SUPPORT THEREOF**

vs.)

WALTER WESTLEY WELLS,)

Date: September 14, 2015

Defendant.)

Time: 10:00 a.m.

Dept: TBD

PLEASE TAKE NOTICE that on September 14, 2015, at the hour of 10:00 a.m., or as soon thereafter as the matter may be heard in a department to be assigned of the above-entitled court, Defendant WALTER WELLS, by and through his attorneys *THE LAW OFFICES OF TIMOTHY B. RIEN*, will join Defendant GEORGIA DEFILIPPO'S MOTION TO RECUSE THE STANISLAUS COUNTY DISTRICT ATTORNEY'S OFFICE (*Penal Code* § 1424) in connection with the prosecution of the within action.

By this notice, defendant, WALTER WELLS, hereby moves to recuse the Stanislaus County District Attorney's Office, and in doing so adopts and incorporates herein by reference each and all of the arguments, authorities and exhibits of defendant DeFilippo's moving papers; and reserves the right to supplement the motion by additional authorities,

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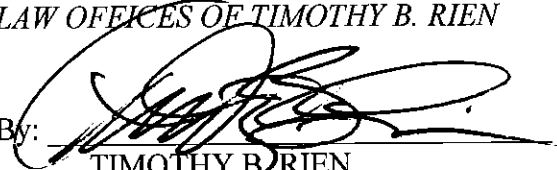
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argument and evidence.

Dated: August 31, 2015.

Respectfully Submitted

LAW OFFICES OF TIMOTHY B. RIEN

By: 
TIMOTHY B. RIEN
Attorneys for Defendant,
WALTER WESTLEY WELLS

Declaration of Counsel in Support of Motion to Recuse

I, Timothy B. Rien, hereby declare as follows:

1. That I am an attorney at law, licensed to practice before all of the courts of this state, certified by the California State Bar Board of Legal Specialization as a Specialist in Criminal Law, and *THE LAW OFFICES OF TIMOTHY B. RIEN* is attorney of record for defendant WALTER WELLS;

2. That on August 25, 2015, the court accepted the stipulation of the parties that the matter of the setting of bail on arraignment could be heard without the defense waiving the right to seek recusal of the Stanislaus County District Attorney's Office. *Trujillo v. Superior Court* (1983) 148 Cal.App.3d. Thereafter, the court accepted the filing of defendant DeFilippo's motion to recuse the district attorney, and set hearing on the matter for September 14, 2015;

3. That I have received and reviewed Defendant, Georgia DeFilippo's *NOTICE OF MOTION AND MOTION TO RECUSE DISTRICT ATTORNEY* (Penal Code § 1424), the attached Declaration of Counsel, authorities and attachments;

4. In addition, I have reviewed a copy of the *Ramey* Warrant issued for the arrest of my client, together with the 325 page affidavit of Stanislaus County Deputy Sheriff Corey Brown in support thereof, the declaration of Stanislaus County District Attorney Investigator Kirk Bunch in support of the prosecution's opposition to the court setting bail, and listened to the August 25, 2015, sworn testimony of Stanislaus County District Attorney Investigator Steven Jacobson taken in conjunction with the prosecution's opposition to the court setting bail;

5. From the foregoing, I am informed and believe and thereon allege that the Stanislaus County District Attorney's Office has an actual conflict of interest in prosecuting defendant and attorney FRANK CARSON, a co-defendant herein, such that there exists a "reasonable

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possibility that the DA's office may not exercise its discretionary function in an evenhanded manner." *Haraguchi v. Superior Court* (2008) 43 Cal.4th 706, at p. 713; *People v. Conner* (1983) 34 Cal.3d 141, at p. 148; that such conflict of interest is "so grave as to render it unlikely that defendant will receive fair treatment during all portions of the criminal proceedings," [*Haraguchi*, supra, and *People v. Vasquez* (2006) 39 Cal.4th 47, 55], and that that taint of conflict is so pervasive based upon the prosecution's theories of conspiracy and aiding and abetting that defendant WALTER WELLS will not receive evenhanded and fair treatment, denying him his right to Due Process under the Fifth and Fourteenth Amendments to the *United States Constitution* and *California Constitution* Art. I §§§ 7, 15, and 29;

6. Accordingly, Defendant WALTER WELLS joins in defendant DeFilippo's motion to recuse the district attorney, and respectfully asks the court to set an evidentiary hearing in accordance with the provisions of *Penal Code* §1424.

I declare under penalty of perjury that the foregoing is true and correct, and as to those matters stated upon information and belief, I believe them to be true.

Executed this 31 day of August, 2015, at Livermore, California.

LAW OFFICES OF TIMOTHY B. RIEN

By: 

TIMOTHY B. RIEN
Attorneys for Defendant,
WALTER WESTLEY WELLS

PROOF OF SERVICE BY MAIL
(Code Civil Procedure §§ 1013, 2015.5)

STATE OF CALIFORNIA, COUNTY OF ALAMEDA

I, Susan Benny, declare as follows:

I am over eighteen years of age and not a party to the within action; my business address is 39 South Livermore Avenue, Suite 209, Livermore, California 94550; I am employed in Alameda County, California. I am readily familiar with my employer's practices for collection and processing of correspondence for mailing with the United States Postal Service.

On August 31, 2015, I served a copy, with all attachments, of the following documents: **NOTICE OF JOINDER RE: MOTION TO RECUSE AND DECLARATION OF COUNSEL IN SUPPORT THEREOF** on the interested parties by placing a true copy of the above-referenced document(s) enclosed in a sealed envelope with postage fully prepaid in the United States mail at Livermore, California, addressed as follows:

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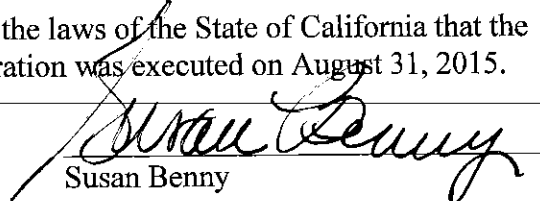
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Attorney for Robert Woody

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on August 31, 2015.


Susan Benny