

FILED

2015 SEP 29 PM 3:56

CLERK OF THE SUPERIOR COURT
COUNTY OF STANISLAUS

Ana Valencia
DEPUTY

1 FRANK CARSON
2 Defendant

5 SUPERIOR COURT OF CALIFORNIA
6 COUNTY OF STANISLAUS

7	PEOPLE OF THE STATE OF CALIFORNIA)	Case No.:1490969
8	Plaintiff,)	NOTICE OF MOTION TO CONTINUE,
9	vs.)	POINTS AND AUTHORITIES IN
10	FRANK CARSON, ET AL)	SUPPORT (Penal Code Sec. 1050)
11	Defendants.)	Date: October 1, 2015
)	Time: 8:30am
)	

14 STATEMENT OF FACTS

15 Defendant Frank Carson is retaining new counsel, and he is
16 requesting a continuance of the motion to recuse the District
17 Attorney's Office. It is expected that new counsel will appear on
18 October 1 and/or have someone appear specially for them. The
19 recusal issue in this case involves 25 years of ill will by the
20 District Attorney against Mr. Carson; hence the motion requires
21 in-depth preparation. Mr. Carson has extensive notes regarding
22 the factual history behind the motion to recuse, and these have
23 not been typed up into a declaration or formal pleading. Mr.
24 Carson has requested counsel to prepare these, but this work has
25 not been done.

I

THE RECUSAL MOTION SHOULD BE CONTINUED

1
2
3 A defendant is entitled by statute to a continuance at
4 arraignment to secure counsel of choice. (Implicit in PC sec.
5 859.) Additionally, even in the absence of a specific statute,
6 the constitutional right to counsel and due process require that
7 a defendant be given a reasonable continuance to obtain counsel
8 of his or her choice. (See *People v. Courts* (1985) 37 C3d 784,
9 789.)

10
11
12 Finally, defendant Carson notes that the recusal motions of other
13 defendants are primarily based on Mr. Carson's history with the
14 District Attorney. So for a fair and complete hearing, all of the
15 recusal motions should be continued.

16
17 Dated: 9/29/15

18 *Steven O'Connor*
19 *for Frank Carson*

20
21 FRANK CARSON
22 Defendant

PROOF OF SERVICE

1. I am employed in the county of Stanislaus, State of California. I am over the age of eighteen (18) years and not a party to the within action. My business address is 1509 K Street, Modesto, CA 95354.
2. I served the foregoing document described as follows:
* or *penelung email*
___ Motion to Continue _____
3. On ___Sept. 29 2015___ on counsel in this action
4. AT

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5. Manner of Service

- a. By personal service. I personally delivered copies (see below). *or email*
- b. ~~Operating fax machine~~ Via Facsimile. I placed a true copy in a correctly operating fax machine and sent it to 209-525-5545.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on ___Sept. 29___, 2015 at Modesto, California


