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CLERK OF THE SUPERIOR COURT  
COUNTY OF STANISLAUS

*Ana Valencia*  
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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **COUNTY OF STANISLAUS**

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11 THE PEOPLE OF THE STATE OF CALIFORNIA, ) CASE NO.: 1490969  
12 Plaintiff, ) **PEOPLE'S OPPOSITION TO THE**  
13 vs. ) **MOTION TO RECUSE THE**  
14 ) **STANISLAUS COUNTY DISTRICT**  
FRANK CLIFFORD CARSON, ) **ATTORNEY'S OFFICE**  
15 ) **(PEN. CODE, § 1424)**  
BALJIT ATWAL, )  
16 DALJIT ATWAL, )  
WALTER WESTLEY WELLS, )  
17 **GEORGIA DEFILIPPO,** ) Date: September 14, 2015  
CHRISTINA DEFILIPPO, ) Time: 10:00 a.m.  
18 EDUARDO QUINTARA, and ) Dept: 8  
SCOTT MCFARLANE, ) The Honorable Barbara Zufiga  
19 Defendants. )

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21 Comes now the People of the State of California, by and through their attorney, BIRGIT  
22 FLADAGER, Stanislaus County District Attorney, MARLISA FERREIRA, Chief Deputy  
23 District Attorney, and respectfully submits the following points and authorities in support of its  
24 opposition to defendant DeFilippo's motion to recuse the Stanislaus County District Attorney's  
25 Office.

26 **STATEMENT OF RELEVANT FACTS**

27 Defendant Georgia DeFilippo is charged by complaint with murder (Pen. Code, § 187(a);  
28 count I) with the special circumstance of lying in wait (Pen. Code, § 190.2(15)) and conspiracy

1 to obstruct justice (Pen. Code, § 182(a)(5); count II.)

2 **LAW AND ARGUMENT**

3 **I.**

4 **RECUSAL IS NOT REQUIRED UNDER SECTION 1424 UNLESS EVIDENCE SHOWS**  
5 **THAT A CONFLICT OF INTEREST EXISTS THAT WOULD MAKE IT UNLIKELY**  
6 **THE DEFENDANT WOULD RECEIVE A FAIR TRIAL.**

7 Penal Code section 1424, enacted in 1980, provides inter alia:

8 The notice of motion [for recusal] must set forth a statement of facts  
9 relevant to the contentioned disqualification and the legal authorities relied upon  
10 by the moving party.... *The motion shall not be granted unless it is shown by the  
evidence that a conflict of interest exists such as would render it unlikely that  
the defendant would receive a fair trial.*

11 (§ 1424, subd. (a)(1); emphasis added.)

12 The California Supreme Court has explained that on its face section 1424 “articulates a  
13 two-part test: ‘(i) is there a conflict of interest?; and (ii) is the conflict so severe as to disqualify  
14 the district attorney from acting?’” (*People v. Gamache* (2010) 48 Cal.4th 347, 362 citing  
15 *Haraguchi v. Superior Court* (2008) 43 Cal.4th 706, 711.) “Thus, the first half of the inquiry asks  
16 only whether a ‘reasonable possibility’ of less than impartial treatment exists, while the second  
17 half of the inquiry asks whether any such possibility is so great that it is more likely than not the  
18 defendant will be treated unfairly during some portion of the criminal proceedings.” (*Id.* at p.  
19 713.)

20 A conflict of interest within the meaning of section 1424 has been defined by the  
21 California Supreme Court as “exist[ing] whenever the circumstances of a case evidence a  
22 reasonable possibility that the [district attorney’s] office may not exercise its discretionary  
23 function in an evenhanded manner.” (*People v. Conner* (1983) 34 Cal.3d 141, 148.) However,  
24 the prosecutor’s interest must be more than an advocate’s usual interest in prevailing. (*People v.*  
25 *Vasquez* (2006) 39 Cal.4th 47.) For example, in *People v. Parmar* (2001) 86 Cal.App.4th 781,  
26 the court held that a prosecutor’s conduct in pursuit of his or her duties, even if erroneous, does  
27 not support disqualification. The *Parmar* court explained:

28 [T]he interest to be served by a motion to disqualify a prosecutor is the defendant’s

1 interest in fair treatment. A defendant has the right to be treated the same as any  
2 other person in the same circumstances[.]

3 (Id. at p. 797.)

4 **II.**

5 **DEFENSE COUNSEL PORI'S DECLARATION FAILS TO ESTABLISH THE PRIMA**  
6 **FACIE SHOWING REQUIRED FOR AN EVIDENTIARY HEARING.**

7 The statutory procedure established by section 1424 prescribes a two-stage process.  
8 (*Packer v. Superior Court* (2014) 60 Cal.4th 695, 710.) At the first stage, the defendant must file  
9 a notice of motion containing a statement of the facts setting forth the grounds for the contentioned  
10 disqualification, the legal authorities relied upon, and affidavits to support the allegations. (*Id.* at  
11 710.) The second stage – an evidentiary hearing – is necessary only if the defendant's affidavits  
12 establish a prima facie case for recusal. (*Ibid.*) “[A] prima facie showing refers to those facts  
13 demonstrated by *admissible* evidence, which would sustain a favorable decision if the evidence  
14 submitted by the movant is credited.” (*Spaccia v. Superior Court* (2012) 209 Cal.App.4th 93,  
15 112; italics in original.)

16 Here, defense counsel has set forth numerous points in his statement of facts and re-  
17 ordered them somewhat to serve as his affidavit in support of the motion. As the following  
18 analysis demonstrates, the affidavit fails to provide the prima facie showing necessary for grant  
19 of an evidentiary hearing. Defense counsel's affidavit consists largely of references to unrelated  
20 cases, hearsay, speculation and conclusory statements that all lead to the same defense claim: The  
21 district attorney doesn't like Frank Carson. The affidavit is wholly lacking in evidentiary support.  
22 Nowhere has defense counsel provided evidence of actual antagonism on the part of the district  
23 attorney's office. As such, the defendant's motion should be denied.

24 **A.**

25 **Numbers 1 - 3 of the Affidavit Relate to *Modesto Bee* Articles and Out-of-County Judges.**  
26 **Defendant's Contentions.**

27 1. In a *Modesto Bee* article, Judge Cordova said he and the other judges would likely recuse  
28 themselves if co-conspirators were charged in the murder of Korey Kauffman.

1 2. A Madera County judge signed the *Ramey* warrants.

2 3. The defendants appeared in court before a Santa Clara judge; therefore, the Stanislaus  
3 County bench is sensitive to the appearance of a conflict.

4 **People's Argument.**

5 The People object to judicial notice being taken of any newspaper articles. Newspaper  
6 articles do not appear in section 452 of the Evidence Code setting forth matters of which the court  
7 may take permissive judicial notice.

8 In any event, Judge Cordova's statement, if true, relates to the recusal of *judges* in the  
9 Stanislaus County Superior Court. Any such recusals are not relevant here. Penal Code section  
10 1424 provides for recusal of *the district attorney* where the evidence shows that a conflict of  
11 interest exists that would render it unlikely that the defendant would receive a fair trial.

12 **B.**

13 **Sufficiency of Probable Cause for the Arrest Warrant Affidavit.**

14 **Defendant's Contention.**

15 4. The arrest warrant affidavit fails to establish probable cause.

16 **People's Argument.**

17 Whether there was probable cause to support the arrest warrant affidavit is not relevant to  
18 a motion to recuse the district attorney's office as it provides no evidence of a conflict of interest.

19 **C.**

20 **Written Style of Arrest Warrant Affidavit in a Wholly Unrelated Federal Case.**

21 **Defendant's Contention.**

22 5. Kirk Bunch was "chastised" for a "rambling" warrant affidavit authored in an unrelated  
23 federal case.

24 **People's Argument.**

25 First, the defendant's contention concerns an unrelated case in another jurisdiction of  
26 which the defendants in the instant case are not parties.

27 Second, the affiant's writing style is not remotely relevant to a motion to recuse the district  
28 attorney's office in this case (or any other), as it could not possibly demonstrate a failure on the

1 part of the district attorney to exercise its discretionary function in the case in an evenhanded  
2 manner.

3 Third, in the unrelated case referred to by the defendant, the federal judge granted in part,  
4 and denied in part, the defendant's motion to quash the search warrant and denied the defendant's  
5 motion to traverse the search warrant. As such, there was no showing of any wrongdoing on the  
6 part of the affiant.

7 **D.**

8 **Numbers 6 & 7 Relate to Mr. Carson's Civil Lawsuit Against Stanislaus County.**

9 **Defendant's Contentions.**

10 6. There is a history of enmity between defendant Carson and the district attorney's office,  
11 including Investigator Jacobson.

12 7. Defendant Carson's civil lawsuit against Stanislaus County and D.A. Investigator  
13 Jacobson was postponed and has not been rescheduled, and Mr. Carson is unaware of the reason  
14 for the delay.

15 **People's Argument.**

16 The People are informed and believe that Defendant Carson's civil lawsuit was delayed  
17 by motion of the Superior Court. Defendant Carson's suit is against Stanislaus County and  
18 Investigator Jacobson, neither of which are prosecuting the case against him. Therefore, he has  
19 failed to demonstrate how the civil case provides support for a motion to recuse the district  
20 attorney's office.

21 **E.**

22 **Numbers 8 - 13 Relate to a Contempt Proceeding in an Unrelated Case Prosecuted by Mr.**

23 **Harris and Defended by Mr. Carson.**

24 **Defendant's Contentions.**

25 8. Chief Deputy District Attorney David Harris and D.A. Investigator Jacobson are involved  
26 in a contempt proceeding following the acquittal of a defendant represented by defendant Carson  
27 in case number 1436501.

28 9. Judge Steffen signed an affidavit in which he stated that Mr. Harris's unsworn statement

1 that alternate jurors had been released was not correct.

2 10. Contempt charges against Mr. Harris and Mr. Jacobson are pending.

3 11. Counsel for Mr. Harris filed a Petition for Writ of Mandate and/or Prohibition in the Fifth  
4 District Court of Appeal.

5 12. Mr. Harris complained in his writ that the court permitted an adversarial witness (Carson)  
6 to act as a co-prosecuting attorney in an indirect contempt charge.

7 13. In its Argument to the Alternate Writ issued by the Court of Appeal, the Superior Court  
8 agreed that Carson's participation in further contempt proceedings would be limited to that of a  
9 witness.

10 **People's Argument**

11 None of the defendant's contentions demonstrate a basis for a conflict of interest. The  
12 Fifth District Court of Appeal *agreed* with the argument in Mr. Harris's writ that Mr. Carson was  
13 acting as a co-prosecuting attorney. Consequently, the Superior Court *limited* Mr. Carson's  
14 participation to that of a witness. As the appellate court agreed with petitioner Harris, the  
15 defendant cannot legitimately assert that district attorney's office has any rancor toward Mr.  
16 Carson.

17 **F.**

18 **Numbers 14 - 20 Relate to a Case *Unrelated* to the Instant Case.**

19 **Defendant's Contentions.**

20 14. Praveen Singh made allegations in his recusal motion that the Stanislaus County District  
21 Attorney targeted persons associated with Frank Carson.

22 15. Praveen Singh's recusal motion incorporates a civil lawsuit filed in U.S. District Court.

23 16. The complaint in the aforementioned lawsuit alleges that Mr. Singh has been the subject  
24 of the investigation related to the murder of Korey Kauffman.

25 17. Mr. Singh was arrested three times. The complaint alleges that murder was solved with  
26 arrest of Robert Woody, but that investigators kept the investigation open alleging that Frank  
27 Carson was involved.

28 18. The complaint filed in Mr. Singh's federal suit alleges the investigation is politically

1 motivated and a personal vendetta.

2 **19.** Kirk Bunch had a confidential informant place a call to Praveen Singh in an attempt to  
3 elicit incriminating statements.

4 **20.** The complaint in the federal civil suit alleges that there was illegal conduct and harassment  
5 by the D.A. against Mr. Singh. Dave Harris allegedly told Mr. Singh's counsel that the only way  
6 something could change was if Mr. Singh provided information against Frank Carson.

7 **People's Argument.**

8 Praveen Singh's cases are unrelated to the instant case. The People object to the  
9 introduction into evidence of any case or document *not related* to the current case. If this court  
10 elects, pursuant to Evidence Code section 452, to take judicial notice of Mr. Singh's recusal  
11 motion or his federal case, the court may not take judicial notice of the truth of factual matters  
12 asserted therein. (*Aquila, Inc. v. Superior Court* (2007) 148 Cal.App.4th 556; *Kilroy v. State*  
13 (2004) 119 Cal.App.4th 140 [court may not take judicial notice of the truth of hearsay statements  
14 in decisions and court files]; *Fowler v. Howell* (1996) 42 Cal.App.4th 1746 [court may not take  
15 judicial notice of truth of factual finding made in another action].)

16 Further, the assertion by the defendant that Mr. Harris made any statements to Mr. Singh's  
17 counsel as to providing information regarding Frank Carson is hearsay and, therefore,  
18 inadmissible. "[A] prima facie showing refers to those facts demonstrated by *admissible* evidence,  
19 which would sustain a favorable decision if the evidence submitted by the movant is credited."  
20 (*Spaccia v. Superior Court, supra*, 209 Cal.App.4th 93, 112; italics in original.)

21 **G.**

22 **Numbers 21 & 23 Relate to Defendants Baljit and Daljit Atwal's Federal Case.**

23 **Defendant's Contentions.**

24 **21.** Bobby and Daljit Atwal, defendants in the instant case, previously filed a lawsuit in the  
25 district court.

26 **22.** (See below.)

27 **23.** The complaint in the federal case alleges that subsequent searches of the Atwals' homes  
28 and business were conducted.

1 **People's Argument.**

2 The People object to the introduction into evidence of any case or document that is not  
3 part of the current case. As explained, *supra*, if this court elects, pursuant to Evidence Code  
4 section 452, to take judicial notice of the Atwals' federal case, the court may not take judicial  
5 notice of the truth of factual matters asserted therein. (*Aquila, supra*, 148 Cal.App.4th 556; *Kilroy,*  
6 *supra*, 119 Cal.App.4th 140 [court may not take judicial notice of the truth of hearsay statements  
7 in decisions and court files]; *Fowler, supra*, 42 Cal.App.4th 1746 [court may not take judicial  
8 notice of truth of factual finding made in another action].)

9 **22.** A search warrant based on an affidavit lacking in probable cause was executed at the  
10 Atwals' homes and business to search for weapons, controlled substances and items related to the  
11 murder of Korey Kauffman.

12 **People's Argument.**

13 As explained in B. 4., *supra*, whether there was probable cause to support the warrant  
14 affidavit is not relevant to a motion to recuse the district attorney's office as it provides no  
15 evidence of a conflict of interest. Other mechanisms are in place for attacking the sufficiency of  
16 probable cause.

17 **H.**

18 **Numbers 24 - 27 Relate to an Alleged "History of Enmity" Between Defendant Carson and**  
19 **the District Attorney's Office Based on Carson's Vocal Criticism of the D.A. and Carson's**  
20 **Professional Successes.**

21 **Defendant's Contentions.**

22 **24.** There is a long history of enmity between Mr. Carson and the District Attorney's office.  
23 Mr. Carson criticizes the D.A.'s office at Board of Supervisors' hearings and supported the district  
24 attorney's opponent in 2006. Mr. Carson has also reported the district attorney and Mr. Harris to  
25 the California State Bar for unethical and unprofessional conduct.

26 **25.** Mr. Carson portrayed the district attorney's office as corrupt and vengeful when he  
27 successfully defended former mayor Carmen Sabatino.

28 **26.** Mr. Carson has prevailed in other cases including two homicide cases.



1 27. Mr. Carson ran against the district attorney in 2014. The *Ramey* affidavit refers to his  
2 campaign as an attempt to obstruct the district attorney's investigation into his role in the murder  
3 of Korey Kauffman. People have told Mr. Carson the D.A.'s investigation was just retaliation for  
4 his having run against the district attorney.

5 **People's Argument.**

6 The defendant's contentions are without merit. The defendant cannot claim that his vocal  
7 opposition to the district attorney's office creates a conflict of interest that will prevent his being  
8 treated unfairly during prosecution. "Aggressively displaying one's antipathy to the ... system or  
9 daring the government to enforce it does not create immunity from, or a defense to, prosecution."  
10 (*United States v. Heilman* (7th Cir.1980) 614 F.2d 1133, 1139.)

11 Likewise, reporting the district attorney and Mr. Harris to the State Bar provides no basis  
12 upon which to demonstrate a conflict of interest. In *People v. Hamilton, supra*, 48 Cal.3d 1142,  
13 the defense attorney turned the prosecutor in to the State Bar for alleged unethical conduct. The  
14 trial court refused to recuse the Tulare County District Attorney's Office, and the California  
15 Supreme Court found no fault with the trial court's decision:

16 In arguing the motion [to recuse], defense counsel stressed...counsel's filing of a  
17 complaint with the State Bar. That complaint...might make the district attorney  
18 antagonistic toward defense counsel and his client....¶ Defendant presented no  
19 evidence of actual antagonism on the part of the district attorney or any attorney  
20 from his office. He points to nothing in the conduct of the case, which suggests  
21 bias against his client. Under these circumstances the possibility of hidden bias  
22 engendered by defense counsel's complaint to the State Bar is insufficient to  
23 overturn the trial court's ruling.

24 (*Id.* at pp. 1155-1156.)

25 Further, in an adversarial system, criminal defense attorneys win cases against the district  
26 attorney's office. Clearly, this is not an unusual occurrence, and Mr. Carson's success in winning  
27 any case fails to provide support for a conflict upon which to base an argument for recusal of the  
28 Stanislaus County District Attorney's Office. In *People v. Millwee* (1998) 18 Cal.4th 96, the  
29 District Attorney "allegedly harbored a strong dislike for the defendant that began several years  
30 earlier...." (*Id.* at p. 122.) The court found that "a disabling conflict does not exist simply

31 **because the district attorney and the defendant have been adversaries in other legal**

1 **proceedings, even where the defendant previously prevailed.”** (*Id.* at p. 123; boldface added.)

2 The fact that Mr. Carson ran for district attorney in 2014, likewise, does not support a  
3 motion to recuse the district attorney’s office. In *People v. Battin* (1978) 77 Cal.App.3d 635, 668,  
4 672, the court found that recusal was not warranted where there was “a certain amount of friction”  
5 between the District Attorney and the defendant who were “members of rival political groups.”

6 The California Supreme Court has explained that even political differences between the  
7 district attorney and the defendant himself is not grounds for disqualification:

8 District Attorneys, as people, inevitably hold individual personal values and  
9 allegiances and feel varying emotions relating to their work. As public  
10 officeholders, they may also have political ambitions or apprehensions. But **that**  
11 **a public prosecutor might feel unusually strongly about a particular**  
12 **prosecution or, inversely, might hesitate to commit to a prosecution for**  
13 **personal or political reasons does not inevitably indicate an actual conflict of**  
14 **interest, much less a constitutional bar to prosecution.** (See *Schumer v.*  
15 *Holtzman* (1983) 60 N.Y.2d 46, 56, 454 N.E.2d 522, 467 N.Y.S.2d 182 [district  
16 attorney’s “anxiety” over an appearance of impropriety, arising from her  
17 past political differences with the defendant, not grounds for  
18 disqualification]; *People v. Nelson* (N.Y.Crim.Ct.1995) 167 Misc.2d 665, 672-  
19 674, 647 N.Y.S.2d 438, 443 [neither district attorney’s actions in urging federal  
20 prosecution after earlier state acquittal in high profile case, nor effect of prior  
21 acquittal on his possible political ambitions, shows existence of a conflict that  
22 would disqualify district attorney from prosecuting the defendant on new,  
23 unrelated charges.])

17 (*People v. Bryant* (2014) 60 Cal.4th 335, 376 citing *People v. Vasquez* (2006) 39 Cal.4th at p. 63;  
18 boldface added.)

19 Finally, that people were telling Mr. Carson that the D.A.’s investigation was just  
20 retaliation for running against the district attorney, winning cases and exposing local corruption  
21 is nothing more than hearsay. As such, it is inadmissible evidence. “[A] prima facie showing  
22 refers to those facts demonstrated by *admissible* evidence, which would sustain a favorable  
23 decision if the evidence submitted by the movant is credited.” (*Spaccia v. Superior Court, supra,*  
24 209 Cal.App.4th 93, 112; italics in original.)

25 **III.**

26 **THE SHOWING OF A CONFLICT OF INTEREST MUST BE ESPECIALLY**  
27 **PERSUASIVE TO RECUSE AN ENTIRE DISTRICT ATTORNEY’S OFFICE.**

28 Disqualification of an entire prosecutorial office from a case is disfavored by the courts,

1 absent a substantial reason related to the proper administration of justice. (*People v. Hernandez*  
2 (1991) 235 Cal.App.3d 674, 680; *People v. Lopez* (1984) 155 Cal.App.3d 813; 821-822; *Love v.*  
3 *Superior Court* (1980) 111 Cal.App.3d 367, 371; *People ex rel. Younger v. Superior Court* (1978)  
4 86 Cal.App.3d 180, 204.) In this regard:

5       The recusal of an entire prosecutorial office is a serious step, imposing a  
6       substantial burden on the People, and the Legislature and courts may reasonably  
7       insist upon a showing that such a step is necessary to assure a fair trial.

8 (*People v. Hamilton* (1989) 48 Cal.3d 1142, 1156.)

9       Recusal of an entire district attorney's office will involve commitment of the resources of  
10      a second prosecutorial agency, normally the Attorney General's Office or a special prosecutor,  
11      retained at public expense and inevitable duplication of work and cost.

12      [W]hen the entire prosecutorial office of the district attorney is recused and the  
13      Attorney General is required to undertake prosecution or employ a special  
14      prosecutor, the district attorney is prevented from carrying out the statutory duties  
15      of his elected office and, perhaps more significantly, the residents of the county  
16      are deprived of the services of their elected representative in the prosecution of  
17      crime in the county. The Attorney General is, of course, an elected state official,  
18      but unlike the district attorney, is not accountable at the ballot box exclusively to  
19      the electorate of the county. Manifestly, therefore, the entire prosecutorial office  
20      of the district attorney should not be recused in the absence of some substantial  
21      reason related to proper administration of criminal justice.

22 (*People ex rel. Younger v. Superior Court, supra*, 86 Cal.App.3d at p. 204; *People v. Lopez, supra*,  
23 155 Cal.App.3d 821-822 ["Particular caution" required in deciding whether to recuse entire  
24 prosecutorial office]; *People v. Hernandez, supra*, 235 Cal.App.3d at p. 678 [where entire  
25 prosecutor office recused, showing of conflict of interest must be "especially persuasive."].)

26       Recusal of an entire office is required only where the prosecutor's conflict, bias, or  
27      animosity is likely to affect the entire prosecutorial office substantially to such an extent that it  
28      would preclude any deputy from prosecuting the case in an evenhanded manner. (*People v.*  
*Hamilton* (1988) 46 Cal.3d 123, 139.) For a court to grant recusal of an entire prosecutorial  
agency, it must be demonstrated that there is "no other alternative available but to recuse the entire  
district attorney's office." (*People v. Merritt* (1993) 19 Cal.App.4th 1573, 1579.)

### CONCLUSION

The defendant's argument for recusal appears to be that the district attorney dislikes Mr.


1 Carson and that, as such, she – his codefendant – will be treated unfairly. The argument is  
2 conclusory and based upon nothing more than speculation. “[A] motion to disqualify a prosecutor  
3 must be based upon a likelihood of unfairness and not upon mere speculation.” (*Parmar, supra,*  
4 at p. 800.) The defendants here will be treated the same as any other defendants in the same  
5 circumstances. “Zealous advocacy in pursuit of convictions forms an essential part of the  
6 prosecutor’s proper duties and does not show the prosecutor’s participation [i]s improper.”  
7 (*Hambarian v. Superior Court* (2002) 27 Cal.4th 826, 843.)

8 In sum, the defendant’s affidavit fails to establish a prima face case for recusal; thus, no  
9 evidentiary hearing is warranted. As such, the People respectfully request that the court deny the  
10 defendant’s motion to disqualify the Stanislaus County District Attorney’s Office.

11 Dated this 14th day of September, 2015, at Modesto, California.

12 Respectfully submitted,

13 BIRGIT FLADAGER  
14 District Attorney

15   
16 Marlysa Ferreira  
17 Chief Deputy District Attorney

18 MAF/BC/bc  
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**PROOF OF SERVICE BY MAIL AND ELECTRONIC MAIL**

1  
2 STATE OF CALIFORNIA            )  
3 COUNTY OF STANISLAUS        )

4 I, the undersigned, declare as follows:

5 That I am over the age of 18 years and am not a party to this action and I am employed by  
6 the Stanislaus County District Attorney's Office, 832 12th Street, Suite 300, Modesto, California.

7 That I served a copy of the **PEOPLE'S OPPOSITION TO THE MOTION TO  
8 RECUSE THE STANISLAUS COUNTY DISTRICT ATTORNEY'S OFFICE (PEN.  
9 CODE, § 1424)** by placing in an envelope addressed to:

9 Timothy B. Rien  
10 Law Office of Timothy B. Rien  
11 39 S. Livermore Ave., #209  
12 Livermore, CA 94550-3119  
13 *Attorney for Defendant Wells*

9 Tim Allen Pori  
10 Law Office of Tim A. Pori  
11 521 Georgia St.  
12 Vallejo, CA 94590  
13 *Attorney for Defendant G. DeFilippo*

14 The envelope was then sealed and placed for collection and mailing on September 4, 2015,  
15 following ordinary office business practices.

16 That I am readily familiar with the office business practice for collection and processing  
17 of correspondence for mailing with the United States Postal Service and that in the ordinary course  
18 of business, correspondence is deposited with the United States Postal Service the same day.

19 That I served a copy of the **PEOPLE'S OPPOSITION TO THE MOTION TO  
20 RECUSE THE STANISLAUS COUNTY DISTRICT ATTORNEY'S OFFICE (PEN.  
21 CODE, § 1424)** on September 4, 2015, pursuant to California Code of Civil Procedure section  
22 1010.6(a)(6) by electronically sending a copy thereof to the offices of Timothy Rien at  
23 [rienlaw@sbcglobal.net](mailto:rienlaw@sbcglobal.net), Tim Allen Pori at [tim@defense-attorney-pori.com](mailto:tim@defense-attorney-pori.com), Martha Carlton-  
24 Magana at [carltnm@hotmail.com](mailto:carltnm@hotmail.com), Preciliano Martinez at [attymartinezp@yahoo.com](mailto:attymartinezp@yahoo.com), Hans  
25 Hjertonsson at [Hans.hjertonsson@gmail.com](mailto:Hans.hjertonsson@gmail.com), Alonzo Gradford at  
26 [alonzogradford924@gmail.com](mailto:alonzogradford924@gmail.com), Larry Niermeyer at [lniermeyer@aol.com](mailto:lniermeyer@aol.com), Mary Lynn Belsher  
27 at [belsher@arrival.net](mailto:belsher@arrival.net), and Bruce Perry at [brucerperry@msn.com](mailto:brucerperry@msn.com)

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

Executed this 4th day of September 2015, at Modesto, California.

  
Declarant

Case No. 1490969

People v. Carson et al.

Hearing: 9/14/2015//Dept. 8

**DECLARATION OF SERVICE**

I, the undersigned, say:

I was at the time of service of the attached **PEOPLE'S OPPOSITION TO THE MOTION TO RECUSE THE STANISLAUS COUNTY DISTRICT ATTORNEY'S OFFICE (PEN. CODE, § 1424)** over the age of eighteen years and not a party to the above-entitled action. I served a copy of the above-entitled document on September 4, 2015, by serving a copy on the offices of:

Preciliano Martinez  
1120 14th St., Suite 5  
Modesto, CA 95354  
[attymartinezp@yahoo.com](mailto:attymartinezp@yahoo.com)  
*Attorney for Defendant Carson*

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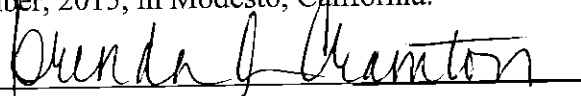
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I declare under penalty of perjury that the foregoing is true and correct.

Executed this 4th day of September, 2015, in Modesto, California.

  
Declarant

Case No. 1490969  
People v. Carson et. al.  
Hearing: 9/14/2015, Dept. 8