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FRANK C. CARSON  


13 Attorneys for Respondent  
14 FRANK C. CARSON

15 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
16 COUNTY OF STANISLAUS

17 In the Matter of the Assumption of  
18 Jurisdiction over the Law Practice of

Case No. 2016630

**FRANK C. CARSON'S STATUS REPORT**

*signature by fax*

19 FRANK C. CARSON  
20 No. 136261

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**I. BACKGROUND**

On September 2, 2015, the Court held a hearing regarding the State Bar's application to assume jurisdiction over Mr. Carson's law practice in light of his incarceration. At that hearing, we informed the Court and the State Bar of the status of Mr. Carson's efforts to arrange to have co-counsel associated into his matters to protect his client's interests or, in some cases, to withdraw from representation.

At that hearing, the court observed that it was "impressed by Mr. Carson's response to his custodial status and the steps he has taken to obtain representation for his clients." The court asked Mr. Carson to continue taking steps to either (a) obtain client consent and qualified co-counsel or (b) withdraw from representation. The Court set further hearing for Tuesday, September 15, 2015 and ordered the parties to meet and confer prior to the hearing.

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**II. STATUS REPORT**

Counsel for the State Bar (Robert Henderson) and for Mr. Carson (Kathleen Ewins, Jessica MacGregor and Noah Rosenthal) met and conferred on Wednesday, September 9, 2015. Mr. Carson's counsel updated the State Bar on the status of the clients. Mr. Henderson suggested that the Bar would be satisfied with the steps Mr. Carson had taken to protect his clients if the appropriate criminal court had already issued an order approving association of co-counsel or Mr. Carson's withdrawal. He suggested, as well, that having filed such applications would likely satisfy the Bar's concerns. As to the clients that Mr. Carson could not locate, the Bar suggested, and Mr. Carson's counsel agreed, that withdrawing was the best option. Because of the need to provide notice to these clients, one of Mr. Carson's co-counsel will attend the next hearing in these cases and discuss with the Court how the Court would like him to effect notice to his missing clients so that he may withdraw.

As of the meet and confer conference, Mr. Carson had obtained signed association of counsel forms from a significant number of his clients. Thereafter, Mr. Carson has obtained and filed such forms from several more clients. The status of each client is detailed in the accompanying Declaration of Jessica Duran. To summarize the status here:

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- There is only one civil matter in Mr. Carson's office, in which his client is Giovanni Garcia (Stanislaus Superior Court, 2001815 CV). Mr. Garcia has approved Mr. Martinez serving as co-counsel in that matter and an Association of Counsel was filed on September 11, 2015.
- For 13 clients, the court has already allowed Mr. Carson to withdraw or approved the association of co-counsel.
- For 18 additional clients, Mr. Carson has, with client approval, retained co-counsel and filed associations of counsel with the court. As we understand the practice in Stanislaus County criminal courts, it is necessary for the court to approve these associations, but the court will not rule on the requests until the next scheduled hearing in these cases. Thus, the next time a court appearance is required, the co-counsel will be associated in pursuant to the association signed by the client and filed with the court. Until then, the retained co-counsel will take any steps necessary to protect the client's interest, even though that will not involve court appearances and co-counsel has not been formally associated by the court.
- Thirteen additional clients have approved the co-counsel arrangement, but have not been able to come to Mr. Carson's office to sign the association of counsel form. (In addition, Gabriel Mirjana, one client has signed the association of counsel form in the two cases where Mr. Carson is retained counsel, but not yet in the one case where Mr. Carson is appointed counsel. Percy Martinez, one of Mr. Carson's co-counsel, plans to meet personally with Mr. Miranda as soon as possible to discuss his options for the appointed case, after which Mr. Carson's office will act promptly to either withdraw or associate in Mr. Martinez.) Mr. Carson's assistant, Ms. Duran, continues to work to obtain the signature of the remaining clients on the association of counsel forms. Their goal is to have each of these clients sign an association of counsel form, and file it with the court, by the end of the September, or prior to the next hearing in the client's case, whichever comes first.
- Three clients remain missing. Mr. Carson will ask the court to allow him to withdraw

1 from those representations as soon as possible. We anticipate that those motions will  
2 be filed this week. However, as noted above, one of Mr. Carson's co-counsel will  
3 need to appear in court at the next scheduled hearing to discuss with the Court how it  
4 would like Mr. Carson to handle providing notice of his intent to withdraw to his  
5 absentee clients.

6 At this stage, other than the three missing clients, every client that Mr. Carson still  
7 represents has consented to his ongoing representation in conjunction with co-counsel. Although  
8 formal associations are not in place in every one of those cases, it is clear that the Bar cannot  
9 meet two elements required for the court to assume jurisdiction over Mr. Carson's practice: (1)  
10 that the attorney has an unfinished client matter for which no other attorney, with client consent,  
11 has agreed to assume responsibility; and (2) client prejudice. (See Bus & Prof. Code §§6190,  
12 6190.34 [emphasis added]) There are indisputably other attorneys who have agreed, with client  
13 consent, to assume responsibility for each of these cases. And there is no suggestion that this co-  
14 counsel arrangement would prejudice the clients.

15 Finally, we would like to alert the Court to a troubling event that has some bearing on this  
16 matter. Percy Martinez, who is Mr. Carson's criminal counsel and also his co-counsel in some of  
17 his client matters, sent his assistant, Mayra Mendoza, to court on to file documents in one of Mr.  
18 Carson's cases. The clerk informed Ms. Mendoza that only supervisors in the clerk's office could  
19 accept filings in any matter in which Mr. Carson is counsel of record. Ms. Mendoza then waited  
20 over 45 minutes for a supervisor before being told that the supervisor would not be coming and  
21 she should return later in the day. Another of Mr. Martinez's assistants eventually returned and  
22 after an additional wait, the supervisor finally arrived and allowed her to file the documents.  
23 These events are detailed in declarations, filed herewith.

24 We do not understand why the clerk's office has taken this position, and we've written to  
25 the Executive Officer of the of the Stanislaus County Superior Court to get clarity and ask that  
26 this practice stop. However, we are concerned that the pendency of this action may be playing a  
27 role in the courts decision make filing difficult in Mr. Carson's cases. There is no justification for  
28 the clerk's office to treat Mr. Carson's clients differently from any other criminal defendant, and

1 we believe that prompt resolution of this action may help to put a stop to this unfair policy. This  
2 is an additional reason why the Court should dismiss this action.

3 **III. CONCLUSION**

4 The Court should deny the Bar's request and dismiss this action. Should circumstances  
5 change in the future such that the Bar can meet the requirements of Section 6190 et seq., the Bar  
6 could file another action again requesting jurisdiction over Mr. Carson's practice. As of now,  
7 there is no basis on which to keep this matter pending.

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9 Dated: September 14, 2015

LONG & LEVIT LLP

10  
11 By: 

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13 JESSICA R. MACGREGOR  
14 NOAH S. ROSENTHAL  
15 Attorneys for Respondent  
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