

1 indefinitely. Furthermore, Redinger was coerced into the plea by the misrepresentation
2 and pressure that if he was convicted of the charges, he would be sentenced to a
3 mandatory 3 years in prison. Fearing a jury trial would be biased against Attorneys, and
4 believing the plea to be of a minor nature, the plea was taken to avoid the jeopardy at
5 Trial.

6 The false commentary of this plea is alleged in the motion filed in the Trial Court
7 to withdraw and set aside the plea. Said pleading is attached hereto as Exhibit "A" and
8 incorporated and reaffirmed as though fully realleged herein.

9 Mr. Redinger contends and asserts in that motion that the representation and
10 actions of the D.A. in negotiating the plea were such that the Defendant's free will was
11 overcome and the plea was thusly, not voluntary.

12 The medical conditions of the Defendant, were also a crucial factor in impairing
13 Redinger's exercise of his free will. Redinger himself did not know how deathly ill he
14 was, and that his medical condition could have an effect on his judgment and ability to
15 comprehend the effects of the plea. Redinger was waiting and was scheduled for a cardio-
16 inversion procedure in an effort to reduce or cure his atrial ^{fibrillation} fibrosis, which was aggravated
17 by his constant shortness of breath, congestive heart failure, lack of concentration,
18 fatigue, lapses of consciousness, confusion, sleep apnea, and chronic exhaustion all of
19 which rendered him unable to competently enter the plea.

20 The foregoing is a summary of the medical problems that contribute to the overall
21 condition of the Respondent. On May 22, 2016 (two months after the plea) Respondent's
22 Heart received a treatment that began his recovery from these ailments.

23 However on 03-18-16, Respondent was in the lowest point of his health ever. The
24 requirements of the Respondent's practice were severe and great, and these heavily taxed
25 his strength and heart forcing him to struggle to complete his duties.

26 Respondent asserts that the plea was entered into in haste ^{and} ~~ad~~ that the Defendant
27 knew little about it's consequences. The Respondent has fully complied with the order
28 requiring that the notice required by rule 9.20, be given. Respondent expects to retire
from practice within the next five years and requests thusly a reasonable punishment.

Respectfully Submitted,


GARY S. REDINGER
In pro-per

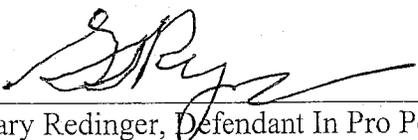
EXHIBIT "A"

1 PLEASE TAKE NOTICE that on the date, time and place in a hearing to be heard on or
2 as soon thereafter as the matter may be heard on ~~September~~ ^{October} 07, 2016, at 8:30 a.m., in Dept.
3 R-17, and/or within 10 days after the filing of this Motion to withdraw plea of nolo contendere
4 (“no contest”) of Defendant Gary Redinger (herein after referred to as “Defendant” and/or
5 “Redinger”) and for leave to defend the action (herein after referred to as “Motion”), the
6 concurrent supporting documents, and the concurrent Stipulation for Redinger Shortening Time
7 of the above-entitled court located in San Bernardino County, California, located at 8303 Haven
8 Ave, Rancho Cucamonga, CA 91730, Defendant, will and hereby does move this Good Court for
9 an order shortening time pursuant to the concurrently filed stipulation and to withdraw and/or
10 vacate the plea of “no contest” of the complaint, that was entered with this court on March 18,
11 2016, before the Honorable Jerry Johnson. The allegations against Redinger are based
12 exclusively on circumstantial and speculative extrinsic evidence. In support thereof, Defendant
13 will show this Honorable Court the following, including the circumstances of the Defendant
14 when making the plea agreement, which are identified herein in the Defendant’s Declaration and
15 in the supported documents of the concurrent Declaration of Medical Experts, in support herein.
16 Based on the various evidence submitted in the moving papers, the attached exhibits, the
17 Declarations in support thereof (including the Declaration of Medical Expert(s)), and pursuant to
18 California Penal Code (“PC”) §1018, there is “good cause” for this Court to grant Defendant’s
19 Motion to WITHDRAW PLEA and be given the constitutional right to defend against the
20 charges filed against him (“complaint”), in the interest of justice. Defendant’s Motions is timely
21 filed, within 6 months from the entering of the plea agreement of March 18, 2016, pursuant to
22 PC § 1018, which expires on September 19, 2016, plus 5 days for notice of the Court Ruling.

1 This motion is made upon this Notice, the pleadings, the court records, on the grounds
2 that Mr. Renger did not enter into his plea of "no contest" knowingly, intelligently, nor of his
3 own free will, especially based on the various medical issues and circumstances that are
4 described and detailed herein in these moving papers. This motion is based on this notice of
5 motion, the declaration of defendant, the attached declaration of the medical experts, attached
6 exhibits, the memorandum of points and authorities served and filed herewith, on the records on
7 file in this action, the Judicial Notice submitted concurrently is also requested of this court, and
8 on such oral and documentary evidence as may exist in the court's file, the pleading and such
9 other evidence as may be submitted at the hearing of said motion.

10 Date: August 24, 2016

11 Respectfully Submitted,

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16 Gary Redinger, Defendant In Pro Per
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **IN SUPPORT OF MOTION TO WITHDRAW PLEA**

3 **I. INTRODUCTION**

4 This timely motion is made on the basis that there exist causes to withdraw the plea of
5 “no contest” that was entered by the Defendant on March 18, 2016, in the Superior Court of San
6 Bernardino in the Rancho Cucamonga District, State of California, in the Case No. FWV
7 1503034, before the Honorable Jerry Johnson.

8 **STATEMENT OF FACTS / FACTUAL BACKGROUND**

9 **A. Pre-Indictment Background**

10 The San Bernardino Criminal case, Case No. FWV 1503034, involves circumstance in
11 which a client (Gregory McGuire) (“McGuire”) of the Counsel Defendant Redinger (herein after
12 referred to as “Defendant” and/or “Redinger”), the case of the People versus McGuire
13 (“McGuire”), was to establish a pre-trial with several other misdemeanor cases in Department R-
14 17 of the Superior Court of San Bernardino County. Defendant was offered a plea bargain to
15 settle the case, but the client McGuire rejected the plea bargain. The client, McGuire was then
16 presented a pre-trial continuance worksheet (herein after referred to as “continuance sheet”
17 and/or “form”) to sign, in order to continue the pre-trial hearing. This, one page form contained
18 signature lines for 1) the District Attorney, 2) the Defendant Gregory McGuire (McGuire, client
19 of Redinger), 3) Defendant’s Counsel (Redinger), and 4) the Honorable Judge. At the time the
20 form was handed to McGuire, the signature of Gary S. Redinger was the only signature on the
21 form. McGuire was hesitant about signing at the time, and subsequently Redinger withdrew the
22 form from McGuire, and appeared “977” for his client, McGuire.
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1 Redinger, thereafter signed his signature on this form, appeared "977" for his client
2 McGuire, and then McGuire with Redinger handed the form to the clerk of the court without the
3 signature of the District Attorney or that of the Judge on the form. The clerk nodded to Redinger
4 that the date on the form was acceptable, and then both Redinger and McGuire left the court
5 room. Sometimes thereafter, Redinger was suspected of forging the District Attorney's
6 signature, without cause. To the shock and disbelief, Redinger was informed by the Office of the
7 District Attorney, that charges of alleged use of personal "ID" Information and forgery was filed
8 against Redinger, that is : violation of 1) PC 115(A)-F: Offer/Etc. False/Forged Instrument To
9 File and 2) PC 530.5(A)-M: Unlawful Use Identifying Information. Subsequently on or about
10 September 29, 2015, the Defendant Redinger entered a plea of "No Nolo Contendere" ("No
11 Contest") before this Court. Redinger in disbelief of the charges, made both oral and written
12 request for discovery from the District Attorney's Office. To date these requests have not been
13 produced and/or provided to Redinger, demonstrating any evidence of Redinger's guilt.
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15 The Court should be aware that on the date of the alleged forgery, Counsel/ Attorney
16 Redinger had several cases on calendar in Department R-17 of the Superior Court of California
17 in San Bernardino. As standard procedure, there was a pretrial worksheet (herein referred to as
18 "continuance sheet" and/or "form") prepared for each separate case (representing each client), in
19 which each form was used to obtain permission from all parties for the continuation to a new
20 pre-trial date. One of these forms represented the case of People vs. Gregory McGuire. As is
21 common at the pre-trial hearing, there are negotiations for plea deals and offers (herein referred
22 to as "plea"). In this case, the plea was offered for Redinger's client, McGuire, who was present
23 at the hearing in Department R-17, of the Superior Court of San Bernardino County, State of
24 California. Following a conference between Redinger and McGuire, the offer of the plea deal,
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1 was rejected by McGuire, and the pre-trial matter for McGuire was continued to the same date as
2 the others defendants in the department. In this circumstance, as stated herein, Redinger
3 submitted a pre-trial worksheet for his client McGuire to review, and McGuire carefully read it
4 as instructed. McGuire was than instructed to obtain McGuire's signature on the form. During
5 this period of time, it was clear to Redinger, who was aware and subsequently realized that his
6 client, McGuire, was hesitant to sign this form. To expedite the matter, Counsel Redinger
7 appeared "977" for McGuire, his client, signed for the Defense Counsel area of the form (that is
8 signature of Redinger Only), and returned the form with the areas for the signatures of the
9 District Attorney ("D.A.") and that of the Court (Judge) **blank** (that is the form did not contain
10 the signatures of the DA or the Judge). The Client McGuire, having read the document carefully
11 was fully aware that D.A.'s signature was NOT on the form, and thus there is at least one witness
12 to this material fact. Thereafter McGuire watched Counsel Redinger turned the form into the
13 clerk of the Court, and both client Mr. McGuire and Defendant Counsel Redinger left the Court.
14 At this period of time, there was no knowledge of any issues, until several days later that the
15 Court told Counsel Redinger that the D.A.'s signature was a forgery. As this Court is well
16 aware, this form is a standard form (sheet) that is commonly used to continue a Criminal
17 proceeding. Thousands of these forms (sheet) are used per year, and Redinger has used these
18 forms for over 39 years, during the period law practice, which is well over approximately 10-20
19 per week. One can only reason, that the D.A.'s office presumed that Redinger had forged this
20 form with the signature of the DA, and without any other evidence. (Despite the request by
21 Redinger to produce any evidence that it was Redinger that signed this form of the DA's
22 signature). It is clear and undisputed that the Court Room of Department R-17 clearly packed
23 with other people, had other parties, any one of whom may have had the opportunity to forge the
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1 DA's signature on this document (form) and/or even sign the form by mistake. The Counsel
2 Redinger has personal experience with the Clerk and the Bailiff in Department R-17 of the
3 Superior Court of San Bernardino, both who have had animosity against Counsel Redinger, and
4 for years have disliked Counsel Redinger for reasons unknown. Thus, perhaps the form has been
5 signed without the knowledge of Redinger, in order to frame Counsel (one of many possibilities).
6 It is undisputed that at least one witness of Redinger, Mr. McGuire, can clearly testify that the
7 continuance sheet (form) was submitted to the court without the signature of the District
8 Attorney (DA). Redinger believes and herein alleges that the District Attorney's Office is well
9 aware of these issues and circumstances that have been identified herein.

10 Subsequently, Redinger was shocked to receive the indictment and/or charges with the
11 Count One and Count Two Charges, which falsely claimed that the signature of the District
12 Attorney was signed by the Counsel Redinger. Count One alleges violation of California Penal
13 Code ("PC") section 115(A) (PC § 115(A)-F: Offer/Etc. False/Forged Instrument To File) and
14 Count Two alleges violation of California Penal Code ("PC") section 530.5(A) (PC § 530.5(A)-
15 M: Unlawful Use Identifying Information). At **no** time did the Defendant McGuire's Counsel,
16 Redinger have any benefit or reason to sign for the District Attorney, in fact there were several
17 other continuance sheets that were signed without incident. Thus, there was no benefit to do so,
18 what so ever. Once this "continuance sheet", left the possession of Counsel Redinger, there is
19 clearly a great deal of uncertainty, regarding its handling. It remains unknown as to who in fact
20 signed in the signature area of the form of the District Attorney. The allegations against
21 Defendant Redinger are clearly circumstantial and in fact false.
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1 B. Background on Indictment

2 On or about August 18, 2015, the Defendant was shocked to discover that the San
3 Bernardino District Attorney's Office was charging the Defendant Redinger of the charge of
4 violation of PC§ 115(A), a felony, and PC § 530.5(A), a misdemeanor. On or about 09/29/2015,
5 the Defendant Redinger subsequently entered an entry of "Not Nolo contendere". At no time
6 prior to March 18, 2016, did the Defendant Redinger have intention to entertain a plea deal and
7 had all intention to litigate this issues and prove his innocence. The Defendant Redinger has a
8 clean record, and to date Redinger has never been charged with and/or accused of any dishonesty
9 at any time over the 39 year that he has practiced Law in the State of California.

10 C. Nolo Contender Plea Hearing

11 The charges were filed in Rancho Cucamonga Court, in the State of California rather than
12 in the San Bernardino Court, and the case proceeded to several pre-trial appearances until March
13 18, 2016. While in Department 17 in the Rancho Cucamonga Superior Court, Redinger was
14 confronted by Michael Collins, a young D.A., who offered Redinger a misdemeanor instead of a
15 felony, and no jail time, and summary probation, if Redinger would agree to plead to the charge
16 of PC 530.5(C)(1)-M: Unauthorized Use-Personal Id Information. Initially, Redinger at first
17 refused the D.A's offer, until the D.A. coerced Redinger, by telling Redinger that if he was
18 convicted of the charges, it would carry a three year mandatory state prison sentence which had a
19 greater impact on Redinger. Redinger was fearful of the mandatory state prison considering his
20 age and health. It was not until after the deal ("plea") was accepted that Redinger heard was
21 possible, but the effect of the mandatory state prison was sufficient to panic Redinger. The
22 Defendant Redinger also entered into an oral contractual agreement, as part of this plea deal, that
23 the D.A.'s office would modify the traffic fine of which the Defendant was being faced with.
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1 During this period of time, Redinger was in substantial duress, confused, and was suffering with
2 various medical issues. (See Decl. Redinger, and Decl. Expert Witness(s)) Redinger requested
3 two weeks to consider the matter, but he was told by D.A. Collins that the offer was good for that
4 one day only (would expire thereafter), and that if Redinger did not take the offer (the "plea"),
5 the D.A. would not make that offer again. During this period of time, Redinger who was without
6 counsel, was being pressured, and in addition was told that mandatory State Prison sentence was
7 at issues, and despite the request for continuance by Redinger to fully understand and
8 comprehend the various issues that was needed to make a rational decision, the request for
9 continuance was denied. (See Judicial Notice, Exhibit "A", transcript of March 18, 2016
10 hearing). At age 67, Redinger was in duress, and very shaken by the prospect of any State Prison
11 issue, especially when Redinger did not forge anyone's signature on the form. Redinger, who
12 was facing significant health issues at the time of the plea (including respiratory ailments, heart
13 conditions, and complications with a broken leg), without assistance of counsel to consult, and
14 with severe duress, requested at least a two weeks period to consider this plea, obtain counsel,
15 and investigate the various legal issues and the various detrimental effects of the plea upon his
16 business and practice, was pressured and/or coerced into taking the plea. Prior to the plea,
17 Redinger requested a two week continuance, giving several grounds all of which were denied by
18 the Court. The D.A. emphasized that the plea agreement ("offer") was for that day only, and the
19 D.A. said that it would never be made again. (See Decl. Redinger, Exhibit "A" in the Judicial
20 Notice – a true and accurate copy of the Court Transcript of the hearing for the plea on March
21 18, 2016, Judicial Notice filed concurrently.)
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1 Thus during the hearing in Department R-17, in the Superior Court of San Bernardino, in
2 the State of California, on Friday March 18, 2015, by the Honorable Jerry Johnson, with the
3 presence of the Deputy District Attorney David Collins, and official reporter Victoria E.
4 Villegas, the Defendant Redinger, after the various legal issues and circumstances as briefly
5 described herein, agreed to a plea of “no contest”, under duress, and in part was coercion by the
6 District Attorney, to the Penal Code § 530.5(c) (1) (Unauthorized Use of Personal Identity
7 Information), a misdemeanor. Defendant Redinger now believes and herein alleges that he has
8 entered this plea, under not only medical issues that at the time altered his mental reasoning, but
9 also now believes that extreme pressure and duress, and other legal issues played a part, to plead
10 nolo contendere due to the government’s deadline and/or various misinformation. Defendant
11 Redinger now believes and herein alleges that there is clear and convincing evidence that the
12 plea was entered when Redinger was operating under mistake, ignorance, or any other factor
13 overcoming exercise of his or her free judgment, including inadvertence, fraud or duress. In
14 addition, the Defendant Redinger did not know that this plea would result in an “interim
15 suspension after conviction” by the California Bar, pursuant to the provision of Business and
16 Professions Code, section 6101-6102 and the California Rules of Court, rule 9.5 et. seq.. This
17 motion to withdraw the plea of “no contest” is not being made because the defendant has
18 changed his mind, but because his free will to make the discussion was molested.

20 During the hearing the District Attorney added a Third Count to the Indictment of
21 Defendant Redinger. The Third Count was a violation of California Penal Code (“PC”) section
22 430.5(C)(1); PC§ 530.5(C)(1)-M: Unauthorized Use-Personal Id Information. Thus during this
23 hearing, the charges in the original complaint : Penal Code § 115(a) (Procuring and Offering
24 False or Forged Instrument), a felony; and Penal Code § 530.5(a) (Identity Theft), a
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1 misdemeanor, were dismissed. Penal Code § 530.5(c) (1) (Unauthorized Use of Personal
2 Identity Information), a misdemeanor, was added by oral motion on 03/18/16. Based upon the
3 misrepresentations by the D.A., and the nature of the offer, Redinger decided to take the
4 punishment without admitting nolo contendere, and pleaded “no contest”. Redinger believes that
5 the Bar consequences for a misdemeanor would be minor and thus consented to the plea, without
6 having any notice of the consequences of this decision. At no time was Defendant fully aware
7 that the California Bar would immediately suspend his license, especially without any hearing,
8 pursuant to the provision of Business and Professions Code, section 6101-6102 and the
9 California Rules of Court, rule 9.5 et. seq.. Redinger further believes that there is no judicial
10 basis for a plea to an unauthorized use of personal Identity Information, P.C. 530.5(c)(1).

11 A trial court is obligated to advise a defendant of the direct consequences of a plea of
12 nolo contendere or no contest to a felony or misdemeanor before it takes the plea. (*People v.*
13 *Zaidi* (2007) 147 Cal.App.4th 1470, 1481.) In this case this Court did not inform the various
14 direct consequences of a plea. “Mistake, ignorance or any other factor overcoming the exercise
15 of free judgment is good cause for withdrawal of a nolo contendere plea. (PC (§ 1018.) (*People*
16 *v. Cruz* (1974) 12 Cal.3d 562, 566.) Had Defendant Redinger known about this evidence, he
17 would not have plead “no contest” to the charge. Had Redinger been provided Counsel and/or
18 given the two week to think about his decision, and also made a decision after the improvement
19 his medical illness, he would not have agreed to the plea deal. (See Decl. Redinger) In addition,
20 had Redinger been provided the timely discovery that was requested by the D.A.’s, he would
21 have not agreed to a plea deal. The Court denied the Defendant’s request for a continuance in
22 order to not only obtain more information, but to obtain the advice of counsel, and cause
23 Redinger to exercise less judgement, and increase the already confused and duress Defendant.
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1 D. Post Nolo Contender Hearing

2 Since the entry of the Plea the Defendant's health has improved. The Defendant has
3 improved the issues with both his lung and his heart which at the time of the plea, impaired his
4 ability to exercise free judgment. (See Decl. Redinger filed herein and Decl. Expert Witness,
5 filed concurrently)

6 The Defendant now with an improved frame of thought and mind, and with more
7 informed information is now filing a timely motion to set aside and/or withdraw the plea of "no
8 contest", and will be exercising his constitutional right to maintain his innocence and litigate the
9 false charges that have been brought against him. The court may and should properly conclude
10 that justice requires the withdrawal of Defendant Redinger's plea, especially based upon the
11 good cause, as is in these circumstances as outlined herein. The Defendant has sound grounds to
12 withdraw plea of nolo contendere, including but not limited the following : 1) to breach of
13 agreement of the plea by the District Attorney; 2) lack of discovery when requested; 3)
14 misinformation at the time of the plea; 4) lack of counsel (inadequate representation); 5) denial
15 of continuance; 6) coercion by the District Attorney; 7) lack of knowledge of potentially
16 meritorious defenses; 8) lack of effect on a professional business by the California Bar as a direct
17 result of the plea; 9) failure to advise of collateral consequences; 10) duress due to outside
18 pressures; 11) misrepresentation and/or misadvise of legal issues during the plea to the
19 Defendant; 12) failure to properly advise Redinger of all consequences as a direct result of the
20 plea; 13) violation of due process; 14) failure of adequate counsel, a violation of the constitution
21 for proper representation, 15) failure of Rediger to understand all of the legal issues due to
22 mental capacity from ongoing medical issues; and 16) that the offence had no factual basis.
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1 The defendant needed only show one of the forgoing 16 legal issues and/or basis in order
2 to set aside the plea. The California Court have granted the withdrawal of the plea based on the
3 following, many of which apply in this case, and are briefly identified herein as follows :

4 1) Court held that a plea of nolo contendere and/or "no contest" is not knowingly and
5 intelligently made when a defendant does not have knowledge of a potentially meritorious
6 defense prior to entering the plea. (*People v. Harvey* (1984) 151 Cal.App.3d 660, 668-671;
7 see also *In re Williams* (1969) 1 Cal.3d 168, 177); When a person enters a nolo contendere
8 plea, he or she must be advised of the direct consequences of the conviction. (*Bunnell v.*
9 *Superior Court* (1975) 13 Cal.3d 592, 604.). In this circumstances I was never provided all
10 of the direct consequences following the entry of my plea;

11 2) Inadequate representation (*People v. McGarvy* (1943) 61 Cal.App.2d 557), especially
12 when Redinger informed the Court that at the present time Redinger could not afford counsel;

13 3) Consequences unknown to any party as a result of the plea agreement (*People v. Superior*
14 *Court (Giron)* (1974) 11 Cal.3d 793), in which Redinger the court denied the request for a small
15 extension (two week) in order to investigate legal issues regarding the California Bar and his
16 license to practice law, the Court failed to advise the Defendant prior to the plea, and thus the
17 Defendant's plea was not properly informed by this Court;

18 4) Failure to advise on collateral consequence (Ibid), Redinger did not know of the legal
19 issues and circumstances by the California Bar that would result as a direct result of the plea, the
20 Court failed to advise the Defendant of several important facts concerning the plea and thus the
21 defendant was not properly informed by this Court;

22 5) Duress due to outside pressure (*People v. Hurricks* (1995) 32 Cal.App.4th 1201, 1208[
23 not sufficient here to show under more pressure that other faced with this decision].), Redinger
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1 not only had medical issues that cause confusion (See Decls. Redinger submitted herein and
2 Expert witness filed concurrently), but the added pressure by the District Attorney and the
3 various misrepresentations caused failed reasoning for Redinger;

4 6) Misadvise to defendant regarding legal issues (*People v. Victoria* (1992) 2 Cal.App.4th
5 954); In fear of mandatory state prison.

6 7) Failure to be properly advised on one's Boykin-Tahl rights and/or other constitution
7 rights (*People v. Cruz* (1974) 12 Cal.3d 562), the Defendant was not properly informed by this
8 Court;

9 8) The District Attorney's Office breached the plea agreement, by not modifying the other
10 fines of Reinger, that were promised;

11 9) Lack of potentially meritorious defenses, especially since the DA never complied to
12 Defendant's written discovery requests, in violation of due process;

13 10) Failure to understand due to mental capacity (*People v. Fairbanks* (1997) 16 Cal.4th
14 1223, if the negotiated disposition cannot be implemented, then petitioner has a right to withdraw
15 his plea. *People v. Floyd* (1988) 198 Cal.App.3d 608.

16 "Good cause" to set aside a nolo contendere plea is shown when the defendant demonstrates
17 that the plea was entered as the result of mistake, ignorance, inadvertence, or some other factor
18 that demonstrates the defendant did not intend to accept the plea. In this instant, as identified
19 briefly above the Defendant has more than adequate reasons why this Court should grant the
20 Motion, especially under the circumstances that have been identified herein.

21 A decision to deny a motion to withdraw a plea "rests in the sound discretion of the trial
22 court" and is final unless the defendant can show a clear abuse of that discretion. *In re Brown*
23 (1973) 9 Cal.3d 679, 685. But, in accord with the general policy of courts to protect the
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1 defendant's opportunity for a fair hearing, even when its loss is attributable in some degree to the
2 defendant's own neglect, Pen. Code, § 1018 provides that the statute must be liberally construed
3 to effect those objects and to promote justice. Hence, appellate courts have frequently found
4 discretion abused. In the early case of McCrory, the Supreme Court emphasized the need to read
5 the section broadly to promote justice: “[W]hen there is reason to believe that the plea has been
6 entered through inadvertence, and without due deliberation, or ignorantly, and mainly from the
7 hope that the punishment, to which the accused would otherwise be exposed, may thereby be
8 litigated, the Court should be indulgent in permitting the plea to be withdrawn.” People v.
9 McCrory (1871) 41 Cal. 458, 462. A similar view was expressed in the 1943 McGarvy case:
10 “[T]he withdrawal of a plea of nolo contendere should not be denied in any case where it is in
11 the least evident that the ends of justice would be sub served by permitting the defendant to plead
12 not nolo contendere instead; and it has been held that the least surprise or influence causing a
13 defendant to plead nolo contendere when he has “any defense at all” should be sufficient cause to
14 permit a change of plea from nolo contendere to not nolo contendere” People v. McGarvy
15 (1943) 61 Cal.App.2d 557, 564.

17 E. Appeal Rights are not waived

18 But a defendant’s decision to enter a plea agreement and waive the right to appeal is not
19 valid unless it is a knowing, intelligent, and voluntary waiver. (Ibid.) If a defendant’s decision
20 to enter a plea agreement is based on misadvice from either the court or counsel, the decision to
21 waive the right to appeal cannot be knowing and voluntary. (In re Uriah R. (1999) 70
22 Cal.App.4th 1152, 1157 [“the issue of whether the nolo contendere plea was informed and
23 voluntarily made will always remain open for appellate review”]; People v. Vargas (1993) 13
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1 *Cal.App.4th 1653, 1659* [defendant may waive the statutory right to appeal as part of a plea
2 agreement “provided it is knowing, intelligent and voluntary”].)

3 **II. LEGAL ARGUMENT AND CITATION OF AUTHORITY**

4 **STATEMENT OF LAW**

5 Defendant submit the following Points and Authorities in support of the Motion to
6 withdraw the Plea of nolo contendere and/or Vacate the Plea that was entered on March 18,
7 2016, and for Leave to Defend this Action.

8 **A. THIS COURT HAS THE POWER TO ISSUE AN ORDER SHORTENING TIME**
9 **FOR A HEARING ON DEFENDANT’S MOTION**

10 *Code of Civil Procedure* § 1005(b) and *California Rule of Court* § 3.1300(b) state in
11 pertinent part that a Court may prescribe a shorter time for filing and service of papers for a
12 Motion than the times specified in *Code of Civil Procedure* § 1005. Defendant has obtained s
13 stipulation by the Plaintiff, District Attorney (DA), that is filed concurrently that has complied
14 with Rules of Court.

15 **B. AN ORDER SHORTENING TIME FOR A HEARING ON DEFENDANT’S**
16 **MOTION**

17 There is good cause to shorten time in this matter as stated herein, and the Plaintiff (DA)
18 has stipulated to shorten time for a hearing in this matter.

19 **C. THE COURT SHOULD GRANT WITHDRAWAL OF THE PLEA OF NOLO**
20 **CONTENDERE AND/OR VACATE THE PLEA BECAUSE DEFENDANT HAS**
21 **“GOOD CAUSE” AND WITHDRAL IS FAIR AND JUST**

22 UPON A SHOWING OF GOOD CAUSE, THE COURT MAY ALLOW A DEFENDANT
23 TO WITHDRAW HIS PLEA.

24 California Penal Code section 1018 states in relevant part: “. . . On application of the
25 defendant at any time before judgment . . . , the court may, . . . , for a good cause shown, permit
the plea of nolo contendere to be withdrawn and a plea of not nolo contendere substituted. . . .”

1 In making a ruling with regards to granting a motion to withdraw a nolo contendere plea, the
2 court may consider the totality of the circumstances including : (1) whether close assistance of
3 counsel was available; (2) whether the plea was knowing and voluntary; (3) whether judicial
4 resources would be conserved; (4) whether the government would be prejudiced if the defendant
5 were allowed to withdraw his plea. United States v. Buckles, 843 F. 2d 469, 471-472 (11th Cir.
6 1998); United States v. Weaver, 275 F. 3d 1320 (11th Cir. 2001).

7 In the present case, Defendant can show a fair and just reason for withdrawing his nolo
8 contendere plea for the following reasons. 1) The Defendant did not have adequate assistance of
9 counsel, 2) The nolo contendere plea was not knowing and voluntary, and as identified herein
10 could be considered coerced by the Plaintiff (DA) in this instance. In addition, the Defendant
11 was under an inordinate amount of stress and pressure and was not thinking clearly at the time he
12 accepted the government's offer. (See Decls. Redinger herein and Medical Expert, filed
13 concurrently) By setting an immediate deadline to accept the nolo contendere plea, the
14 Defendant was pressured and under less than optimal medical conditions, the Defendant made an
15 abrupt, rash, and in somewhat incapacitated decision, in which at the time he felt compelled to
16 plead nolo contendere, and not considering clearly the dire consequences of the California Bar
17 actions. According to the Defendant, during the plea, he felt, "numb" and full of fear and unable
18 to fully comprehend his actions or the magnitude of his decision. By feeling such enormous
19 pressure, he could not voluntarily enter into the plea because he believed he had no other choice
20 but to plea that way. This Court is acutely aware of some of these facts since the Defendant
21 stated the various hesitation of his decision during the pleas agreement. The Defendant herein
22 claims that the prosecutor and this Court by denying the continuance pressured Redinger into
23 accepting a nolo contendere plea once it was proposed to him by the government (DA). 3)
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1 Judicial resources are not a key factor, since the same resources would have been utilized had the
2 Defendant not entered a plea. As to the conservation of judicial resources, it is clear a trial will
3 cost more money, but at this point, Defendant would be the allowed to defend his innocence, and
4 thus justice would be given a chance. Thus, the judicial resources would not be increased. 4)
5 Undoubtedly, the government would not be prejudiced if Defendant was allowed to withdraw his
6 nolo contendere plea. The prosecution case has not changed, and if there were any witnesses,
7 they have not disappeared and the government can readily locate them. The only prejudice at
8 present is that for the Defendant in these circumstances. The Defendant understands all of the
9 consequences that could result if his earlier plea is vacated. The Defendant fully understands
10 that if he does not prevail on his case, will accept all of the associated consequences. (See Decl.
11 Redinger)

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13 “Where the facts establish that counsel was ignorant of facts or the law and it appears that
14 such ignorance caused the withdrawal of a crucial defense, his client is entitled to relief.” (People
15 v. Stanworth (1974) 11 Cal.3d 588, 612.) Moreover, courts should not deny withdrawal of a plea
16 of nolo contendere where it is evident that the interests of justice would be better served by
17 permitting the defendant to plead not nolo contendere instead. The least surprise or influence
18 causing a defendant to plead nolo contendere when he has any defense at all should be sufficient
19 cause to permit a change of plea from nolo contendere to not nolo contendere. (*People v. Hunt*
20 *(1985, 2d Dist) 174 Cal.App.3d 95, 106, referring to People v. McGarvey (1943) 61 Cal.App.2d*
21 *557 564.*) It is clear that a defendant may not withdraw his/her plea just because they “changed
22 his mind.” (*People v. Nance (1991) 1 Cal.App. 4 1453, 2 Cal.Rptr.2d 670.*), this is not the case in
23 this matter. That is why a judge is the empowered with an enormous amount of judicial
24 discretion when discussing this subject. Judicial fairness and the promotion of an equitable
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1 result is the main criteria. This section is to be liberally construed to effect these objects and to
2 promote justice. In this case the entire lively hood and productivity of 39 years of building a
3 practicing law are erased and wasted as Rediger was not aware of the summary suspension. For
4 this reason, the Defendant, Mr. Redinger, hereby respectfully requests that his plea of “no
5 contest” to the count 3, be set aside (his plea of guild withdrawn) and be allowed to defend this
6 action, in the interest of justice.

7 **A PLEA OF NOLO CONTENDERE MAY BE WITHDRAWN FOR MISTAKE,**
8 **IGNORANCE, INADVERTENCE, OR ANY OTHER FACTOR OVERREACHING A**
9 **DEFENDANT’S FREE AND CLEAR JUDGMENT**

10 In *People v. Dena*, (1972) 25 Cal.App.3d 1001, 102 Cal.Rptr. 357, the court held that:

11 “Where there was clear and convincing showing that the free will and judgment of Defendant, . . .
12 , were overcome by extrinsic causes, . . . , it was an abuse of discretion for trial court to deny his
13 motion to set aside a plea of nolo contendere.” [Id at]

14 Court Misinformed Defendant of Right Against Self-Incrimination

15 A court when accepting a nolo contendere plea needs to review a defendant’s federal
16 constitutional trial rights that they are waiving. In fact, Rule 11(1)(E) of the Federal Rules of
17 Criminal Procedure states, “[t]he right to confront and cross-examine adverse witnesses, to be
18 protected from compelled self-incrimination, to testify and present evidence, and to compel the
19 attendance of witnesses.” Defendant must be informed of Fifth Amendment right against
20 compulsory self- incrimination. *Boykin v. Alabama*, 395 U.S. 238 (1969). Defendant must waive
these important federal constitutional rights when a plea of nolo contendere is entered. Id. Since a
nolo contendere plea is also a waiver of constitutional trial rights, it not only must be voluntary
but must be a knowing, intelligent act done with sufficient awareness of the relevant
circumstances and likely consequences. *Brady v. United States*, 397 U.S. 742, 748 (1970).

21 This Honorable Court, when discussing the right against self-incrimination, must inform
22 the Defendant of all of these rights, including but not limited to Constitutional Rights, right to
23 counsel, and consequences to the plea, only to mention a few. In this case, Redinger’s right were
24 violated. In addition, the various legal issues as briefly outlined herein, including the coercion
25 and misrepresentation by the Plaintiff (DA), the explanation to Defendant was misleading as to

1 the punishment of the case and the legal consequences of the case, therefore was not a knowing
2 relinquishment of that right. As such, this Court should find that this invalidates any knowing
3 and voluntary plea and should allow a withdrawal for these reasons as well.

4 As pointed out in detail herein, this Defendant's case has been hamstrung by the Plaintiff
5 (DA) and thus has caused severe handicap placed on Defendant, due in part due to Plaintiff's
6 actions, and the other various circumstances imposed upon him in the San Bernardino County.
7 Nevertheless, Defendant was never given any opportunity to defend the action filed against him,
8 as is his constitutional right and was never given notice and/ or aware of any of the legal issues
9 or consequences in this matters. Had the Defendant know of these various legal issues, and was
10 allowed to have the two weeks as was requested during the plea hearing, the Defendant would
11 not have agreed to any plea. (See Decl. Redinger) In addition, the Defendant's ability to be able
12 to make a reasonable judgment not a rash decision was substantially limited by his medical
13 handicap and various other circumstances beyond his control. The Defendant's medical
14 circumstances and issues, including his pulmonary and vascular (i.e. lungs and heart) condition
15 at the time of the plea, were creating a difficult ability for Redinger to make a just and sound
16 decision. These medical factors alone are just "good cause" demonstrates that the plea was
17 entered as the result of mistake, ignorance, inadvertence, and/or excusable neglect that were not
18 know at the time, and are clearly factors influencing the Defendant in making the rash plea
19 decision. Inadvertence is a lack of heedfulness or attentiveness, inattention, fault from
20 negligence. Excusable neglect is that which might have been the act of a reasonably prudent
21 person under the same circumstances. These medical factors are medical in nature, not known to
22 Defendant at the time of the plea, and outside his control, and some of which have improved
23 and/or resolved. (See Decl. Redinger and Expert Witness testimony, filed concurrently) Thus
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1 the validity of the Plea must be evaluated under the totality of the circumstances, and be given
2 consideration to all of these issues, including the state of mind of the Defendant when the plea
3 was entered, of which his medical condition clearly cause influence that was beyond his control
4 (not a conscious decision he intended).

5 A remedial provision and is to be liberally construed so as to dispose of cases upon their
6 substantial merits, and to give the party claiming in good faith to have . . . a substantial defense
7 thereto an opportunity to present. It is for this reason that appellate courts more readily listen to
8 an appeal from an order refusing to set aside default than where the motion has been granted,
9 since in such case the defaulting party may and will be deprived of substantial right. " Slack v.
10 Murray (1959) 175 Cal.App.2d 558, 562. Relief is warranted under the circumstances, as such
11 the Defendant's Motion should be granted in the interest of justice.
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1 **IV. CONCLUSION**

2 Based upon the various issues and facts as presented herein, law with the memorandum
3 of points and authorities, and the various arguments set forth above, the Defendant, hereby
4 respectfully requests that Your Honor allow the Defendant to set aside his plea of “no contest”,
5 entered earlier on in this matter and allow Defendant to substitute a plea of not nolo contendere
6 instead and in place of the indicated “no contest” plea. Defendant fully understands that there
7 are risks in vacating his earlier pleas of “no contest”. However, due to the evidence discovered
8 and the overall and immediate consequences that Defendant is facing, Defendant is willing to
9 accept all of the risks. Based on the foregoing reasons, Defendant requests that he be allowed to
10 withdraw his nolo contendere plea and proceed to a jury trial, as is his constitutional right in the
11 interest of justice. The Defendant would not only be severely prejudiced due to this injustice, but
12 the Plaintiff would not be prejudice at all. **WHEREFORE**, it is clear that the most equitable
13 resolution of this matter would be a trial on the merits of the case, and therefore, it is respectfully
14 requested that the plea agreement be withdrawn and/or vacated against Defendant, in the interest
15 of justice, and that the Defendant’s be provided a constitutional right to litigate the alleged
16 charges filed against him.
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1 Date: August 24, 2016

2 Respectfully Submitted,

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7 Gary Redinger, Defendant In Pro Per
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1 **DECLARATION OF DEFENDANT**

2 I, Gary Redinger, declare as follows:

3 1. I am the Defendant Redinger (herein after referred to as Redinger), in the aforementioned
4 litigation and am the moving party. I have personal firsthand knowledge of the facts recited
5 below and, if called to testify as to these facts in a court of law, I could competently do so.

6 2. This declaration is submitted in support of my Motion to withdraw the Plea of Nolo
7 contendere in the Superior Court of San Bernardino, Rancho Cucamonga, in the State of
8 California in Case No. FWV 1503034 (herein after referred to the "San Bernardino Case").

9 3. In brief summary this San Bernardino Criminal Case, Case No. FWV 1503034, matter
10 involves disputed issues, in regards to a document that has a signature of the District Attorney on
11 a document, a "continuance sheet" (herein after referred to as "sheet" and/or "form") which was
12 submitted to the Court. The continuance sheet in fact had lines in where the signatures of the
13 District Attorney, the Defendant (Counsel Client, McGuire), the Defendant's Counsel
14 (Redinger), and the Judge were to sign. I signed in the space of the Defendant's Counsel, and
15 the form was subsequently filed with the court. The District Attorney ("DA") subsequently
16 falsely alleges that I signed the District Attorney's Name, which is completely false and is
17 disputed by at least one witness, the client McGuire. To my knowledge the District Attorney's
18 Office has no concrete evidence to support their claim, including any witnesses. These false
19 allegations against me are based exclusively on circumstantial and speculative extrinsic
20 evidence.

21 4. Thus, this San Bernardino Case involves circumstance in which a client (Gregory
22 McGuire) of me, Counsel Redinger in a criminal matter, a case of the People versus McGuire
23 ("McGuire), was to continue a criminal hearing but required permission to do so by all parties.
24 During this criminal Pre-Trial Conference hearing in the Superior Court of San Bernardino, the
25 client Gregory McGuire was presented a form in order to continue the court pretrial hearing,

1 which contained no signature by the DA. This continuance sheet was submitted to the court
2 without the signature of the DA, which was witnessed at least by the client (McGuire), the
3 Counsel Redinger of McGuire. Subsequently I, the Counsel of McGuire, was shocked to receive
4 the indictment and/or charges with the Count One and Count Two Charges, which falsely
5 claimed that the signature of the DA was signed by me, Counsel Redinger, who had no benefit,
6 motive, and/or interest in doing so.

7 5. Once this "continuance sheet", left the possession of Counsel Redinger, there is a great
8 deal of uncertainty, and facts unknown as to who in fact signed the signature of the District
9 Attorney on the form. I placed a "977" in the signature position of the McGuire, in order to
10 expedite the hearing. I never signed on behalf of any other party, and I have no reason to sign in
11 behalf of the DA, and would not benefit in doing so. The false allegation in this matter is purely
12 speculative and have no other evidence to support such a claim. As this Court is well aware, this
13 form is a standard form (sheet) that is commonly used to continue a Criminal proceeding.
14 Thousands of these forms (sheet) are used per year, and I have used them over the 39 years of
15 law practice, approximately 10-20 per week. At no other time have I ever been accused of
16 signing and/or forging anyone's signature.

17 6. I believe I have "good cause" to withdraw the plea of nolo contendere, especially under
18 these circumstances, including but not limited to breach of the plea agreement by the DA (where
19 the DA never complied to the agreements following the plea), duress by various factors
20 including medical issues that cause me to make very important decision under conditions of poor
21 health (especially mental and physical), misinformation and/or misguidance by the Court and/or
22 DA who led me to believe that the case carried a very heavy sentence, lack of counsel
23 (inadequate representation), lack of potentially meritorious defenses (especially since the DA
24 never complied to my written discovery requests), consequences unknown to me of any potential
25 actions by the California Bar as a direct result of the plea (including failure to advise of any

1 collateral consequences by the Court and/or DA), duress due to outside pressures and
2 compounded by medical issues, misrepresentation and/or misadvice of legal issues during the
3 plea of nolo contendere to the me, failure by the Court to properly advise me of various legal
4 issues, failure of me to understand due to mental capacity from ongoing medical issues, and a
5 few other issues, in the criminal proceeding in the Case FWV 1503034 in the Superior Court of
6 California, County of San Bernardino.

7 7. I believe that I entered this plea of nolo contendere, under extreme pressure and duress,
8 and also at a period of time in which I had medical issues (diminished mental capacity) that I
9 now believe had altered my mental reasoning. (See Decl. Medical Expert filed concurrently) In
10 addition, I believe that other legal issues the court should consider, since I was in part forced
11 and/or coerced to plead nolo contendere due to the government's deadline and/or various
12 misinformation.

13 8. Some of my medical conditions that have limited my mental and/or cognitive state of
14 mind, include but not limited to heart and lung problems, with a condition called "congestive
15 heart" and with an heart arrhythmia ("atrial fibrillation") and chronic obstructive pulmonary
16 disease (COPD), and with a bone infection. All of these medical conditions limit oxygen to the
17 brain, causing medical issues (diminished mental capacity), and are compounded by increased
18 stress.

19 9. Had I known about these various issues, including my mental state of mind, and had
20 received timely discovery as requested from the DA, was provided adequate time to review these
21 legal issues and to consult counsel, I would certainly not had plead "no contest" to the charge.

22 10. Had I been provided Counsel and/or given the two week as I had requested of the court,
23 with clear of mind and thought and to made a less stressful and rash decision, especially under
24 my various medical issues, I would not have agreed to a plea. Now according to my medical
25 doctors, I would have made a more rational decision after the improvement my medical illness

1 that were clouding my mind. I recently received a cardioversion in order to correct my heart
2 arrhythmia (“atrial fibrillation”)

3 11. I feel that the prosecutor and this Court pressured me into accepting a nolo contendere
4 plea.

5 12. At the time of the plea that was entered on March 18, 2016, I felt, “numb” and did not
6 fully comprehend my actions or understood the magnitude of these various legal issues decision.

7 13. Despite being an Attorney who has practiced for over 39 years, I still felt that under
8 these various circumstances, I would have made a different decision, that is not to plea, had I had
9 that assistance of counsel.

10 14. On March 18, 2016, I felt that I was coerced into entering a “no contest” to count 3, even
11 though it is a misdemeanor, based on the hard consequences of a conviction of the other charges.

12 15. I never was informed by this Court and/or the DA, and I did not realize the California
13 Bar’s would suspend my license to practice law due to my irrational decision to plea to the
14 charges of count 3, Violation of PC Section 530.5(c)(1) (Unauthorized Use of Personal Identity
15 Information, a misdemeanor, is a crime involving moral turpitude.

16 16. Plaintiff (DA) at any time, ever sent me or forward to me any “discovery” documents
17 that were requested by me, even to date in regards to this Criminal Action. Had I received these
18 documents and/or discovery as requested, under a clear mental capacity I would not have agreed
19 to a plea.

20 17. I have never been charged with and/or accused at any time of dishonesty over the 39
21 year of Law practiced in the State of California.

22 18. I have not had any administrative actions, since my bar license has been active since on
23 or about 06/30/1977.

24 19. My practice, for over 39 years, primarily for the service of the poor and indigent
25 population. There would be prejudice and hardship for the various clients in my law practice.

1 20. It is my belief that I have a meritorious defense and have been severely prejudiced in
2 this Criminal Action and the plea that was entered on March 18, 2016.

3 21. I have already spoken to Rick Young, Supervisor District Attorney, of the Rancho
4 Cucamonga Superior Court District Attorney's Office, to ask that he agree to a stipulation to Set
5 Aside and/or vacate the plea agreement that was made on March 18, 2016, in the San Bernardino
6 Case.

7 22. This Motion will not cause any prejudice to any other party, but will result in both
8 prejudice to me, the Law Practice and/or Law Office of Gary Redinger, and that of the various
9 clients, especially those that are indigent and cannot easily retain other counsels in this short
10 period of time.

11 23. My ability to learn of about the various legal issues of this case, was severely hampered
12 by my mental and physical illness, and subsequently improved since medical treatment.

13 24. Due to my severe handicap under these various legal issues and medical condition in this
14 case, I have been severely prejudiced and there has been an injustice, especially of a false
15 allegation that I am not at all nolo contendere of.

16 25. Despite my various limitations, through investigation I discovered that there was severe
17 consequences in agreeing to a plea in this instant matter, that is that my license of 39 years to
18 practice law has been suspended, destroying my livelihood, income, and clientel.

19 26. Once the DA office gave notice to the California Bar, the California Bar enforced a
20 "interim suspension after conviction", pursuant to Bus. & Prof. Code §§ 6101-6102; Cal. Rules
21 of Court, rule 9.5 et. seq., which I was not aware at the time I agreed to a plea. (See Exhibit "B",
22 a true and accurate copy of the Notice by the California Bar, Judicial Notice Requested.)

23 27. In addition, I had learned that the Plaintiff (DA) gave me misleading information to this
24 good Court, including but not limited to the fact that there was a mandatory three year prison
25 sentence if found nolo contendere.

1 28. On or about August 2016, I made an attempt to informally resolve this dispute,
2 requesting a stipulation to set aside the plea that was entered on March 18, 2018, the unjust
3 charges that were entered against me, without success.

4 29. Due not only to my financial constraints, and the various condition of my ill health
5 caused me to submit to the pressure.

6 30. This plea charge has severely prejudicial against me, and has caused irreparable harm,
7 including but not limited to the interim suspension that was affective on 08/22/2016.

8 31. It is my belief that I have a meritorious defense to this litigation, and that I should be
9 allowed a trial on the merits of the case. Therefore, I respectfully request the court to set aside
10 and/or vacate the plea and allow me to defend this action, as is my duty and legal rights.

11 32. Since Plaintiff's Counsel refused stipulate to set aside and/or allow me to withdraw the
12 plea, I was compelled to timely bring the instant Motion, in the interest of justice.

13 33. The public interest would be served by the motion in this matter, since there would be
14 prejudice and hardship for the various clients in my law practice. In addition, due to my busy
15 practice I do not have sufficient time and capital to transition my clients to other counsel,
16 especially since there are no other counsel on my staff. There will not be any harm to the client,
17 the public, and/or the administration of justice in granting this Motion.

18 34. I and my indigent clients are facing and will face irreparable harm in absence of this
19 Motion, especially under these circumstances.

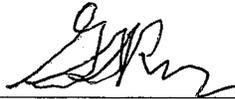
20 35. In the interest of justice, I should be allowed to defend myself and prove my innocence,
21 as to the false allegation that I under duress plead "no contest" to the charges in the Case No.
22 FWV 1503034, of the Superior Court of San Bernardino, State of California.

23 36. The Defendant understands all of the consequences that could result if his earlier plea is
24 vacated. The Defendant fully understands that if he does not prevail on his case, will accept all
25 of the associated consequences.

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

3 Executed this 24 day of August, 2016.

4 Respectfully Submitted,

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8 Gary Redinger, Defendant
9 In Pro Per

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SEP 14 2016

BY Alexandra Lopez
ALEJANDRA LOPEZ, DEPUTY

Gary S. Redinger
349 North Sierra Way
San Bernardino, CA 92410
Phone : (909) 888-0081, No Email, No Fax

Defendant In Pro Se

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO - RANCHO CUCAMONGA DISTRICT

THE PEOPLE OF THE STATE OF CALIFORNIA;

Plaintiff,

Vs.

Gary Redinger;

Defendant.

) **Case No.: FWV1503034**

) **Action Filed: 08/18/15**

) **NOTICE OF DEFENDANT REDINGER'S**
) **REQUEST FOR JUDICIAL NOTICE IN**
) **SUPPORT OF MOTION TO WITHDRAW**
) **PLEA OF NOLO CONTENDERE;**
) **DECLARATION OF REDINGER IN**
) **SUPPORT THEREIN.**

) **[STIPULATION TO SHORTEN TIME,**
) **NOTICE OF MOTION TO WITHDRAW**
) **PLEA, AND DECLARATION OF MEDICAL**
) **EXPERT(S) FILED CONCURRENTLY]**
) **Assigned to Honorable Judge: Jerry Johnson**

) **DATE: 09/7 / 2016**

) **TIME: 8:30 A.M.**

) **COURTROOM: Dept. R-175**

NOTICE TO THE COURT, DISTRICT ATTORNEY OF SAN BERNARDINO COUNTY AND/OR HIS REPRESENTATIVE DEPUTY DISTRICT ATTORNEY, TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD :

PLEASE TAKE NOTICE that Defendant Gary S. Redinger ("Defendant" and/or "Redinger"), hereby requests that the Court take judicial notice, pursuant to California Evidence Code Section 452 (c, d, and h), and 453, of the following documents. Defendant request that the

1 Court take notice of the contents of the documents, and the documents that have been of court
2 records (especially Court Orders), the truth of facts asserted in documents such as orders,
3 otherwise not for the truth of the matter asserted therein, but to the extent the statements made
4 provide notice and/or are consistent with statutory requirements and for the legal effect of the
5 operative language. (Fontenot v. Wells Fargo Bank (2011) 198 Cal.App. 4th 256).

6 General Principles Of Judicial Notice :

7 Judicial notice may be taken of “official acts of the . . . executive . . . department .
8 . . of any state.” (Cal. Evid. Code § 452, subd. (c).) Judicial notice may also be taken of “facts .
9 . . that are not reasonably the subject of dispute.” (Id., subds. (g) and (h).) Judicial notice of
10 such facts are mandatory upon request where the opposing party is permitted to raise objections
11 and the court has enough information about the facts in order to make a determination that they
12 come within a category subject to proper judicial notice. (Cal. Evid. Code § 453.) A reviewing
13 court is permitted to judicially notice facts in the same manner as a trial court. (Cal. Evid. Code
14 § 459.)

15 “Judicial notice is the recognition and acceptance by the court, for use . . . by the
16 court, of the existence of a matter of law or fact that is relevant to an issue in the action without
17 requiring formal proof of the matter.” (2 Jefferson, Cal. Evidence Benchbook, [(3d ed. 1997)
18 Judicial Notice,] § 47.1, at pp. 1064-1065.)” (Lockley v. Law Office of Cantrell, Green, et al.
19 (2001) 91 Cal.App.4th 875, 882; Evid. Code § 454.) “The underlying theory of judicial notice is
20 that the matter being judicially noticed is a law or fact that is not reasonably subject to dispute.”
21 (Lockley v. Law Office of Cantrell, Green, et al., supra, 91 Cal.App.4th at p.882; Evid. Code §
22 452, subd. (h).)

23 Defendant hereby requests pursuant to Evidence Code section(s) 451, 452, and 453, that
24 this Court take judicial notice of the documents identified in this Request. Pursuant to Section
25 430.30 of the California Code of Civil Procedure, section 451, 452, and 453 of the California

1 Evidence Code and California Rules of Court, including rules 3.1113(l) and 3.1306(c), Plaintiff
2 request that the Court take Judicial Notice of the Court's Minute Orders, Court's Online Records,
3 and the other documents, including any that are attached herein as Exhibits.

4 Evidence Code section 451(d) provides that the Court may take judicial notice of the
5 records of any court of the State of California. Evidence Code section 453 provides that the
6 Court shall take judicial notice of any matter specified in section 452, if a party request such
7 notice and gives each adverse party sufficient notice of the request and furnishes the court with
8 sufficient information to enable it to take judicial notice of the matter. The Court is not
9 permitted to do more than take notice that a particular document may have been recorded. So
10 even if the Court were to decide to take judicial notice of the following documents (See the
11 Exhibits attached herein and incorporated herein by reference) because they are purported to
12 have been recorded, the courts only take judicial notice of the recording of the document, they do
13 not take notice of the truth of matters stated in the documents. See People v. Long (1970) 7 Cal
14 App 3d 586.

15 A request for judicial notice is made under California Evidence Code Section(s) 451,
16 452, and 453.

17 Section 452(d) authorizes courts to take judicial notice of court records. Case law
18 follows the code in allowing judicial notice of court records. Duggal v. G.E. Capital
19 Communications Services, Inc., 81 Cal. App.4th 81, 86 (2000). Judicial notice may be taken of
20 records in another court's file or in a court's own files. Thornton v. Rhoden, 245 Cal. App. 2d 80,
21 96 n.17 (1966).

22 "Judicial notice is the recognition and acceptance by the court, for use by the trier of fact
23 or by the court, of the existence of a matter of law or fact that is relevant to an issue in the action
24 without requiring formal proof of the matter. "

1 In addition, Judicial notice is requested of the court documents pursuant to Evidence
2 Code section(s) 451(f), 452(d) and (g), and 453-455 :

3 **Exhibit**

Document(s)

4 "A"

5 Notice of the "Reporter's Transcript of Oral Proceeding" in the People v
6 Redinger, Case No. FWV1503034, before the Honorable Jerry Johnson, in
7 Department R-17, in the Superior Court of Rancho Cucamonga,
8 California, on Friday March 18, 2016, with the Plaintiff People of the
9 State of California, being represented by Michael A. Ramos District
10 Attorney, by David Collins, and the Defendant In Propria Persona, a true
11 and accurate copy of the Court Reporter's Transcript, as Exhibit "A".

12 "B"

13 Notice of the State Bar Court of the State Bar of California Case No. 15-
14 C-14234, in the Matter of the Conviction of Gary Stephen Redinger, Bar
15 No. 74041, filed on July 05, 2016, a true and accurate copy of the
16 California Bar, as Exhibit "B".

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EXHIBIT "A"

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO

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THE PEOPLE OF THE STATE OF CALIFORNIA,)
)
) Plaintiff,)
)
) vs.) Case No. FWV1503034
)
) GARY REDINGER,)
)
) Defendant.)
)

REPORTER'S TRANSCRIPT OF ORAL PROCEEDINGS

BEFORE HON. JERRY JOHNSON, JUDGE

DEPARTMENT R-17
RANCHO CUCAMONGA, CALIFORNIA
Friday, March 18, 2016

APPEARANCES:

For the Plaintiff: MICHAEL A. RAMOS
District Attorney
BY: DAVID COLLINS
Deputy District Attorney

For the Defendant: IN PROPRIA PERSONA

COPY

Reported by: VICTORIA E. VILLEGAS, CSR NO. 9843
Official Reporter

1 RANCHO CUCAMONGA, CALIFORNIA; FRIDAY, MARCH 18, 2016

2 A.M. SESSION

3 DEPARTMENT R-17

HON. JERRY JOHNSON, JUDGE

4 APPEARANCES:

5 The Defendant, In Propria Persona;
6 DAVID COLLINS, Deputy District
7 Attorney of San Bernardino County;
8 representing the People of the State
9 of California.

10 (Victoria E. Villegas, Official Reporter, CSR No. 9843.)

11 -000-

12 THE COURT: We're on the record, case number
13 FWV1503034.

14 Counsel, state your appearance, please.

15 MR. COLLINS: David Collins for the People.

16 THE DEFENDANT: Gary Redinger for myself.

17 THE COURT: I have -- the court has here a document
18 indicating a plea to an amended count.

19 Are you going to amend Count 2?

20 MR. COLLINS: Correct. It's actually an added Count
21 3 and it's a violation of Penal Code Section 530.5(c)(1),
22 identity theft.

23 THE COURT: So you're going to amend and add a Count
24 3?

25 THE DEFENDANT: Yes, your Honor.

26 THE COURT: 530 (c) dash (1) of the Penal Code?

27 MR. COLLINS: Yes.

28 THE COURT: You did not get a copy of an amended

1 complaint; you just amended it today?

2 MR. COLLINS: If that's agreeable with the court,
3 yes, your Honor.

4 THE COURT: All right. Mr. Redinger, you understand
5 that amendment and what Count 3 is?

6 THE DEFENDANT: I do. No objection.

7 THE COURT: All right. This advisement of rights,
8 waiver and plea form that you've initialed, Mr. Redinger,
9 indicates a plea to Count 3.

10 THE DEFENDANT: That's correct, your Honor, but
11 before we do that, I wanted to make my motion to continue the
12 matter and state the grounds.

13 THE COURT: Oh. Continue the preliminary hearing?

14 THE DEFENDANT: Yes.

15 THE COURT: Yes, you may.

16 THE DEFENDANT: Okay. Your Honor, I'm requesting a
17 continuance of the preliminary hearing in this matter today.
18 We had articulated some of the reasons yesterday but I want it
19 for the record to just state my position on it.

20 The first offer that I had was a misdemeanor was
21 made on Tuesday of this week. In order for me to competently
22 decide what to do in that situation, I need more than three
23 days for reason that the matter involves my status with the
24 California bar association. Also it has far reaching
25 ramifications in my life.

26 I have no counsel with which to discuss the matter,
27 and that is as a direct result of having suffered a charge of
28 hit and run driving in San Bernardino county line in November

1 of last year. And that charge caused me to have to bail
2 myself out. Because it was a Friday night, I would have been
3 in jail till Tuesday or Wednesday because of the holiday. So
4 I had to bail on it which took all of my savings, everything I
5 had. Leaves me without the ability to hire counsel. And so
6 at this point I'm without counsel still.

7 For the first time I was told on Tuesday this week
8 that the charge, the main charge of forgery, which I deny, is
9 a mandatory state prison charge, which means that no matter
10 what happens, if I get convicted of that, I'm on my way to
11 state prison. That substantially alters my position. And the
12 matter puts substantial pressure on me to resolve the matter
13 somehow short of that.

14 Also, based upon the Tuesday offers, I contacted my
15 client in the matter that was before the case in the alleged
16 continuance form that was allegedly forged, had to do with --
17 that is the People versus McGuire, Gregory McGuire. I
18 contacted Mr. McGuire since Tuesday and went over the plea
19 form with him -- I mean the continuance form.

20 He surprisingly was present that day of the alleged
21 incident, and he had told me that when we -- We were given a
22 plea form which the D.A. and I had worked out an agreement to
23 plea. When I presented that to him that morning prior to
24 noon, he rejected it surprisingly. I encouraged him to take
25 it. He rejected it nonetheless. So we were left with a case
26 where the plea bargain was out the window and we needed to
27 continue the matter.

28 The D.A. was not around so I prepared a continuance

1 sheet that is the subject of this litigation. That
2 continuance sheet I submitted to my client. And he -- he was
3 going to sign it. As we were chatting there I remembered he
4 told -- he told me -- yeah, he pulled it away from me and said
5 I don't need to sign it and I 977'd it. But he was present to
6 consider the plea bargain form.

7 While he had it in his possession, he remembered
8 that the signature of the D.A., you know, swirling type
9 signature, he said it was not there. So evidently, without my
10 personal knowledge, I have no memory of it, had turned in
11 without anybody's signature on it. And then, of course, ergo
12 down the road we face the charge of someone having forged it,
13 allegedly me.

14 So with the revelation of the valuable information
15 from the only percipient witness, Mr. McGuire, I can't get him
16 to the preliminary hearing this morning. And that is part of
17 the reason why I'd like to set it over so that I could decide
18 whether to proceed with the prelim and offer him as a witness.

19 Thank you for enduring me while I put you through
20 that. The entire aura of this case with the threat of
21 mandatory state prison, with the -- the stakes being so high
22 with the bar association and other matters, and me being
23 without counsel causes me to feel that a two-week continuance
24 to sort this out and make a competent decision is altogether
25 reasonable and proper and I do so request.

26 There's no reason why we can't come back in two
27 weeks and take this plea like we are, if we settled up that
28 way. But I feel that -- compelled to request it based upon

1 those circumstances and others that I articulated in chambers
2 that I don't recall. Submit.

3 MR. COLLINS: Thank you, your Honor.

4 This case has been pending since August of 2015.
5 And since the filing of the case and over the course of the
6 appearances that Mr. Redinger has made, there haven't been any
7 offers that have been made. The negotiations have pretty much
8 entailed me suggesting to Mr. Redinger that he contact the
9 state bar to see what he can or can't offer to the D.A.'s
10 office. There haven't been any offers from Mr. Redinger, so
11 it was this week that I had offered the misdemeanor.

12 In addition, Mr. Redinger had a chance to look at
13 the punishment for the forgery case. Probation can be
14 granted. It is a felony but it's not in all circumstances
15 where the individual is sent to state prison. As Mr. Redinger
16 is aware, he can have counsel appointed for him if he needs
17 representation. And I'd offered to keep the offer open so
18 that Mr. Redinger isn't pressured into signing a plea deal
19 that he doesn't want to take in the event that he wants to
20 waive the preliminary hearing and have a couple weeks to
21 consider the settlement negotiations.

22 People submit, your Honor.

23 THE COURT: Submitted?

24 MR. COLLINS: Yes.

25 THE DEFENDANT: I would only respond that the code
26 section does say that probation is possible but only in
27 extraordinary cases. So it is pretty much the rule that no
28 probation be granted for that type of offense. So I think if

1 -- the D.A. was right when he represented to me that it was
2 not likely to be a probation case, which changes things
3 substantially.

4 THE COURT: Submitted?

5 THE DEFENDANT: Submit. My record is such that I
6 doubt -- probation will be denied me. Yes, submit.

7 THE COURT: Anything else, Mr. Redinger?

8 THE DEFENDANT: Not at this point.

9 THE COURT: This court heard this case yesterday at
10 a pre-preliminary hearing. All of the arguments that you've
11 made with very little modification were made yesterday. The
12 court considered them carefully and I gave my reasons for not
13 continuing the matter yesterday. They've not changed
14 substantially today since yesterday. So I found no good cause
15 to continue the matter over, and I think your arguments
16 basically are the same as you made yesterday.

17 THE DEFENDANT: With the exception of the witness
18 that I did locate that I was unaware of before.

19 THE COURT: All right. Well, I'll deny the motion
20 again today based on your argument and counsel's statements.
21 I'll deny your request.

22 At this point we have a preliminary hearing
23 scheduled. I have this document now that you've initialed and
24 signed indicating the plea to an added Count 3.

25 Is that still your --

26 THE DEFENDANT: It is.

27 THE COURT: -- your desire now to change the status
28 with a plea to the misdemeanor?

1 THE DEFENDANT: Under the circumstances, yes.

2 THE COURT: All right. This document that you've
3 initialed on both sides and signed in the back indicating a
4 plea to the added Count 3, 530.5 (c) dash (1) of the Penal
5 Code, you've signed and initialed the appropriate boxes on the
6 side.

7 Mr. Redinger, did you read and understand this
8 document?

9 THE DEFENDANT: I did.

10 THE COURT: Do you have any questions about anything
11 contained on this document?

12 THE DEFENDANT: No.

13 THE COURT: You understand the charge?

14 THE DEFENDANT: I understand the charge.

15 THE COURT: All right. And how do you plead to that
16 count?

17 THE DEFENDANT: No contest.

18 THE COURT: I'll accept your no contest plea as
19 having been given freely, voluntarily, knowingly,
20 intelligently. You have waived your constitutional rights.

21 You wish to be sentenced today on this case?

22 THE DEFENDANT: Sure.

23 THE COURT: All right. You have the right to be
24 sentenced at a formal hearing. You want to waive that right
25 and be sentenced --

26 THE DEFENDANT: So waived.

27 THE COURT: All right. I'll suspend the imposition
28 of sentence. Instead of a sentence I'm placing you on

1 probation, 24 months of summary probation. Obey all rules,
2 laws, court orders, terms and conditions of probation.

3 First condition of probation are fines and fees
4 totaling \$300. The fine plus all the mandatory fees, penalty
5 assessments added, \$300 total, \$25 a month, monthly payments.
6 First payment is April the 10th in the amount of \$25 and then
7 on the 10th of each month after that in the amount of \$25
8 until that's paid in full.

9 There is a People's motion on this case?

10 MR. COLLINS: Yes, to dismiss the remaining counts.

11 THE COURT: All remaining counts will be dismissed
12 on People's motion.

13 THE DEFENDANT: Your Honor, there was one other
14 ancillary agreement to the plea and that is that I have an
15 outstanding traffic fine in San Bernardino approximately \$900.
16 There would have been two of the \$250 increases due to
17 inability to pay and failure to pay on time. And I still
18 haven't been able to pay that fine because of the use of the
19 money for my bail.

20 I'm asking the court -- not asking the court -- the
21 district attorney has graciously agreed to suspend that fine,
22 or to vacate --

23 THE COURT: Well, the D.A. can't do that. It's not
24 their jurisdiction.

25 THE DEFENDANT: Well, then, I'm asking the court to
26 vacate it.

27 THE COURT: I don't have those files. Did you ask
28 the clerk to find them for you?

1 THE DEFENDANT: We asked to find them but she wasn't
2 able to locate the exact one because we didn't have a read-out
3 which one has the terms.

4 THE COURT: That is not part of the sentencing
5 agreement but it is something I can certainly consider. But I
6 don't have the files. What I think you told me is they're
7 downtown San Bernardino.

8 THE DEFENDANT: Right. We can have them sent over,
9 your Honor, if you like, but there is an agreement that the
10 D.A. agreed to that so -- as far as he can.

11 THE COURT: I think the basic thing that the D.A.
12 can do and the only thing is not object to the court doing
13 that. They can't make that decision themselves.

14 THE DEFENDANT: I'm just doing the best I can. I
15 know I can't pay everything.

16 MR. COLLINS: There is no objection by the People.

17 THE COURT: That doesn't mean the court will grant
18 it but I'll certainly listen to your argument.

19 THE DEFENDANT: Appreciate it.

20 THE COURT: When and if I get the case -- the files.

21 THE DEFENDANT: I'll send it over.

22 MR. COLLINS: What I might suggest too is Mr.
23 Redinger has the other pending felony matter.

24 THE COURT: I haven't gotten to that point. I know.

25 MR. COLLINS: When we set the dates on that for the
26 pre-pre/prelim maybe we can have that case addressed at that
27 point.

28 THE COURT: That might be a good idea.

1 THE DEFENDANT: I have the case number here for that
2 case. I'm just not quite sure which one it is. There's a
3 couple.

4 THE COURT: That's a doable suggestion.

5 Second case I have here is also a felony,
6 FSB1600139. Today is a pre-preliminary hearing set on this
7 case.

8 What's the status on this one?

9 MR. COLLINS: I believe that we were going to set
10 pre-pre and prelim and --

11 THE COURT: Well, we already have. This is a
12 pre-pre. You want to set this over for another pre-pre?

13 THE DEFENDANT: I would like to do that because I
14 think there is room for some more negotiation.

15 THE COURT: Well, I'm not opposed to that
16 particularly because this is a new filing and the pre-pre was
17 set early because of the other case.

18 MR. COLLINS: People are agreeable with that.

19 THE COURT: I don't have a problem with the pre-pre.

20 THE DEFENDANT: That's fine, your Honor. I think
21 that would probably be the right thing to do because we
22 probably can resolve that.

23 THE COURT: What date were you suggesting?

24 THE DEFENDANT: If I can get one of my calendars.
25 Got it. Couple of weeks all right?

26 THE COURT: Any day but Fridays. It's going to come
27 back here.

28 MR. COLLINS: Yes, your Honor.

1 THE COURT: Supervising judge indicated I should
2 calendar it here.

3 MR. COLLINS: Thank you.

4 THE DEFENDANT: Your Honor, perhaps we could do it
5 the 7th of April.

6 THE COURT: Thursday, April 7 for a pre-preliminary
7 hearing.

8 Do you need a time waiver on that one?

9 MR. COLLINS: I just want to confirm too we have
10 45 days from today?

11 THE COURT: I don't know what the time waiver was
12 before. I think it was a 60-day waiver but I'm not -- plus
13 60.

14 MR. COLLINS: People are -- that's fine.

15 THE COURT: Okay. Pre-pre plus -- want to calendar
16 a preliminary hearing as well?

17 THE DEFENDANT: We could do that if you like.

18 MR. COLLINS: That is agreeable with the People.

19 THE DEFENDANT: I prefer to make it a dispo/reset
20 but it's up to the D.A.

21 MR. COLLINS: That's fine. We can keep it as a D
22 and R at this point, no further time waiver, and we'll address
23 dates at that time.

24 THE COURT: D and R, then, would be on the 7th of
25 April, this court, Department 17 at 8:30 a.m.

26 Defendant's ordered to return on that date and he'll
27 remain on bail posted.

28 THE DEFENDANT: Thank you, your Honor.

1 MR. COLLINS: Thank you.

2 THE COURT: Thank you, Counsel.

3 And we can calendar those also for that day, all
4 those traffic tickets.

5 (Proceedings in the above-entitled matter
6 were concluded.)

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO

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THE PEOPLE OF THE STATE OF CALIFORNIA,)	
)	
Plaintiff,)	
)	
vs.)	Case No. FWV1503034
)	
GARY REDINGER,)	REPORTER'S
)	CERTIFICATE
Defendant.)	
)	

STATE OF CALIFORNIA)	
)	ss.
COUNTY OF SAN BERNARDINO)	

I, VICTORIA E. VILLEGAS, CSR, Official Reporter of the Superior Court of California, County of San Bernardino, do hereby certify that the foregoing pages, 1 through 12, to the best of my knowledge and belief, comprise a full, true and correct transcript of the proceedings taken in the matter of the above-entitled cause held on Friday, March 18, 2016.

Dated at Rancho Cucamonga, California, this 12th day of April, 2016.

Victoria E. Villegas CSR
Official Reporter, CSR No. 9843

EXHIBIT "B"

THE STATE BAR OF CALIFORNIA
OFFICE OF THE CHIEF TRIAL COUNSEL
CHARLES A. MURRAY
845 South Figueroa Street
Los Angeles, California 90017-2515
Telephone: (213) 765-1000

FILED

JUL 05 2016

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

IN THE STATE BAR COURT OF THE STATE BAR OF CALIFORNIA

IN THE MATTER OF THE) Case No. 15-C-14234
CONVICTION OF:)
GARY STEPEHN REDINGER,) Transmittal of Records of Conviction of Attorney (Bus. & Prof.
No. 74041,) Code §§ 6101-6102; Cal. Rules of Court, rule 9.5 et seq.)
A Member of the State Bar.) Felony;
) Crime(s) involved moral turpitude;
) Probable cause to believe the crime(s) involved moral
) turpitude;
) Crime(s) which may or may not involve moral turpitude or
) other misconduct warranting discipline;
) Transmittal of Notice of Finality of Conviction.

To the CLERK OF THE STATE BAR COURT:

1. Transmittal of records.

- A. Pursuant to the provisions of Business and Professions Code, section 6101-6102 and California Rules of Court, rule 9.5 et seq., the Office of the Chief Trial Counsel transmits a certified copy of the record of convictions of the following member of the Bar and for such consideration and action as the Court deems appropriate:
- B. Notice of Appeal
- C. Evidence of Finality of Conviction (Notice of Lack of Appeal)
- D. Other

Name of Member: GARY STEPEHN REDINGER

Date member admitted to practice law in California: June 30, 1977

Member's Address of Record: 349 N. Sierra Way
San Bernardino, CA 92410

2. Date and court of conviction; offense(s).

The record of conviction reflects that the above-named member of the State Bar was convicted as follows:

Date of entry of conviction: March 18, 2016

Convicting court: Superior Court, County of San Bernardino

Case number(s): FWV1503034

Crime(s) of which convicted and classification(s): Violation of Penal Code §530.5(c)(1) (Unauthorized Use of Personal Identity Information), even as here as a misdemeanor, is a crime involving moral turpitude.

PC section 530.5(c) (1) states: Every person who, with the intent to defraud, acquires or retains possession of the personal identifying information, as defined in subdivision (b) of Section 530.55, of another person is guilty of a public offense.

"An attorney's practice of deceit involves moral turpitude." (Cutler v. State Bar (1969) 71 Cal.2d 241, 253); in accord with Coppock v. State Bar (1988) 44 Cal.3d 665, 679 'an act by an attorney for the purpose of concealment or other deception is dishonest and involves moral turpitude[.]

In re Johnson (1992) 1 Cal.4th 689, 698-699 [An act constitutes moral turpitude if it reflects on the individual's honesty and veracity or demonstrates that the individual is unfit to practice law]; In re Fahey (1973) 8 Cal.3d 842, 849 [a conviction for crimes that necessarily involve an intent to defraud or intentional dishonesty establish moral turpitude on its face].

3. Compliance with Rule 9.20. (Applicable only if checked.)

We bring to the Court's attention that, should the Court enter an order of interim suspension herein, the Court may wish to require the above-named member to comply with the provisions of rule 9.20, California Rules of Court, paragraph (a), within 30 days of the effective date of any such order; and to file the affidavit with the Clerk of the State Bar Court provided for in paragraph (c) of rule 9.20 within 40 days of the effective date of said order, showing the member's compliance with the provisions of rule 9.20.

4. Other information to assist the State Bar Court

The charges in the original complaint: Penal Code §115(a) (Procuring and Offering False or Forged Instrument), a felony; and Penal Code §530.5(a) (Identity Theft), a misdemeanor, were dismissed. Penal Code §530.5(c)(1) (Unauthorized Use of Personal Identity Information), a misdemeanor, was added by oral motion on 3/18/16.

DOCUMENTS TRANSMITTED:

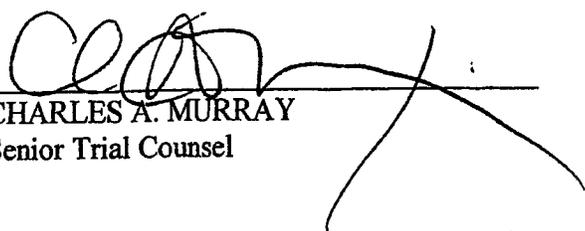
Certified Complaint
Certified Plea Bargain Agreement
Certified Docket
Notice of Lack of Appeal

DATED:

7/1/2016

THE STATE BAR OF CALIFORNIA
OFFICE OF THE CHIEF TRIAL COUNSEL

BY:


CHARLES A. MURRAY
Senior Trial Counsel

DECLARATION OF SERVICE

by
U.S. FIRST-CLASS MAIL / U.S. CERTIFIED MAIL / OVERNIGHT DELIVERY / FACSIMILE-ELECTRONIC TRANSMISSION

CASE NUMBER(s): 15-C-14234

I, the undersigned, am over the age of eighteen (18) years and not a party to the within action, whose business address and place of employment is the State Bar of California, 845 South Figueroa Street, Los Angeles, CA 90017-2515, declare that:

- on the date shown below, I caused to be served a true copy of the within document described as follows:

TRANSMITTAL OF RECORDS OF CONVICTION OF ATTORNEY;
Certified Felony Complaint; Certified Plea Bargain Agreement; Certified Docket; and
Notice of Lack of Appeal

- By U.S. First-Class Mail: (CCP §§ 1013 and 1013(a))
By U.S. Certified Mail: (CCP §§ 1013 and 1013(a))
By Overnight Delivery: (CCP §§ 1013(c) and 1013(d))
By Fax Transmission: (CCP §§ 1013(e) and 1013(f))
By Electronic Service: (CCP § 1010.6)

- (for U.S. First-Class Mail) in a sealed envelope placed for collection and mailing at Los Angeles, addressed to: (see below)
(for Certified Mail) in a sealed envelope placed for collection and mailing as certified mail, return receipt requested, Article No.: 9414 7266 9904 2010 0658 52 at Los Angeles, addressed to: (see below)
(for Overnight Delivery) together with a copy of this declaration, in an envelope, or package designated by UPS, Tracking No.: addressed to: (see below)

Table with 4 columns: Person Served, Business-Residential Address, Fax Number, Courtesy Copy to:
Row 1: Gary Stephen Redinger, 349 N. Sierra Way San Bernardino, CA 92410, Electronic Address

via inter-office mail regularly processed and maintained by the State Bar of California addressed to:

N/A

I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for mailing with the United States Postal Service, and overnight delivery by the United Parcel Service (UPS). In the ordinary course of the State Bar of California's practice, correspondence collected and processed by the State Bar of California would be deposited with the United States Postal Service that same day, and for overnight delivery, deposited with delivery fees paid or provided for, with UPS that same day.

I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date on the envelope or package is more than one day after date of deposit for mailing contained in the affidavit.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. Executed at Los Angeles, California, on the date shown below.

DATED: July 5, 2016

SIGNED: [Signature]
JULI FINNILA
Declarant

PROOF OF SERVICE / CERTIFICATE OF SERVICE

(California Code of Civil Procedure §§ 1005, 1011, 1013(a), 2015.5 et. seq.)

Case Name : The People Of The State of California v Gary Redinger
Case Number : FWV1503034

I am a resident of the State of California, I am over the age of 18 years, and I am not a party to this lawsuit. The business address is 349 N. Sierra Way, San Bernardino, California 92410.

On the date listed below, I personally served and/or deposited a true copy of the following document(s) :

NOTICE OF DEFENDANT REDINGER'S REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF MOTION TO WITHDRAW PLEA OF NOLO CONTENDERE; DECLARATION OF REDINGER IN SUPPORT THEREIN.

by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid by first-class mail, through the United States Postal Service, California, addressed as set forth below. I am readily familiar with the firm's practice of collecting and processing correspondence for mailing.

by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, deposited with Federal Express Corporation on the same date set out below in the ordinary course of business; that on the date set below, I caused to be served a true copy of the attached document(s).

by causing personal delivery of the document(s) listed above at the address set forth below.

by personally delivering the document(s) listed above to the person at the address set forth below.

The District Attorney of San Bernardino Assistant District Attorney David Collins 8303 Haven Ave. Rancho Cucamonga, CA 91730	The State Bar of California Office of the Chief Trial Counsel 845 South Figueroa Street Los Angeles, CA 90017
---	--

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

Dated: September 14, 2016



Sunil Bhasin

1 Gary S. Redinger
2 349 North Sierra Way
3 San Bernardino, CA 92410
4 Phone : (909) 888-0081, No Email, No Fax

5 Defendant In Pro Se

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
RANCHO CUCAMONGA DISTRICT
SEP 14 2016

BY [Signature] DEPUTY

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 COUNTY OF SAN BERNARDINO - RANCHO CUCAMONGA DISTRICT

10 THE PEOPLE OF THE STATE OF
11 CALIFORNIA;

12 Plaintiff,

13 Vs.

14 Gary Redinger;

15 Defendant.

) Case No.: FWV1503034

) Action Filed: 08/18/15

) NOTICE OF MEDICAL EXPERT
) DECLARATION(S) IN SUPPORT OF
) MOTION TO WITHDRAW PLEA OF
) GUILT OF THE DEFENDANT
) REDINGER AND FOR LEAVE TO
) DEFEND THE ACTION IN SUPPORT
) THEREIN.

) [JUDICIAL NOTICE AND NOTICE OF
) MOTION FILED CONCURRENTLY]

) Assigned to Honorable Judge: Jerry Johnson

20)
21) DATE: 09/07/2016

22) TIME: 8:30 A.M.

) COURTROOM: Dept. R-17 5

23 NOTICE TO THE COURT, OFFICE OF THE DISTRICT ATTORNEY, TO ALL
24 PARTIES AND TO THEIR ATTORNEYS OF RECORD:

25 NOW COMES MEDICAL EXPERT DECLARATION(S) IN SUPPORT OF
26 MOTION TO WITHDRAW PLEAD OF GUILT OF THE DEFENDANT REDINGER
27 AND FOR LEAVE TO DEFEND THE ACTION IN SUPPORT THEREIN.
28

1 7) In the later part of 2015, I diagnosed Mr. Redinger with Atrial Fibrillation and
2 referred him to Dr. Shaker, a Cardiologist.

3 8) Some of the risks factors for poor mental health wellness, include issues with the
4 lungs (lung disease), issues with the heart (cardiovascular disease), high stress, Anxiety, increase
5 muscle activities, infection, and/or trauma (to mention a few).
6

7 9) In Mr. Redinger's circumstances, he has had to experience multiple factors that may
8 have influence with this ability to make decisions, when not provided adequate time to consider a
9 particular circumstance.

10 10) In particular, on or about March 18, 2016, Mr. Redinger was suffering from a
11 medical conditions called "Atrial Fibrillation", causing shortness of breath from its complication
12 of a medical condition called "Congestive Heart Failure" (a/k/a "CHF"), which in many cases
13 cause patients to experience confusion and difficulty in concentration. In addition, Mr. Redinger
14 had increased shortness of breath, anxiety from multiple factors, with physical exhaustion, and
15 with multiple medications had increase risk factors, in addition to those that have been briefly
16 stated herein, that most probably have contributed and/or led Mr. Redinger to confusion and
17 affected his judgment, during his March 18, 2016 Court hearing in regards to this matter.
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12) The medical literature has clearly demonstrated that stress, anxiety, and physical illness (especially Cardiopulmonary diseases) can influence a party to make a decision that would not have made were he in good health.

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

Date: August 26, 2016

Peiyuen Tang, MD
Dr. Peiyuen Tang, Medical Expert
And Witness

PROOF OF SERVICE / CERTIFICATE OF SERVICE
(C.C.P. §§ 1005, 1011, 1013(a), 2015.5 et. seq.)

Case Name : The People Of The State of California v Gary Redinger
Case Number : FWV1503034

I am a resident of the State of California, I am over the age of 18 years, and I am not a party to this lawsuit. The business address is 349 N. Sierra Way, San Bernardino, California 92410.

On the date listed below, I personally served and/or deposited a true copy of the following document(s) :

NOTICE OF MEDICAL EXPERT DECLARATION(S) IN SUPPORT OF MOTION TO WITHDRAW PLEA OF GUILT OF THE DEFENDANT REDINGER AND FOR LEAVE TO DEFEND THE ACTION IN SUPPORT THEREIN.

by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid by first-class mail, through the United States Postal Service, California, addressed as set forth below. I am readily familiar with the firm's practice of collecting and processing correspondence for mailing.

by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, deposited with Federal Express Corporation on the same date set out below in the ordinary course of business; that on the date set below, I caused to be served a true copy of the attached document(s).

by causing personal delivery of the document(s) listed above at the address set forth below.

by personally delivering the document(s) listed above to the person at the address set forth below.

The District Attorney of San Bernardino Assistant District Attorney David Collins 412 W Hospitality Ln. San Bernardino, CA 92415

The State Bar of California Office of the Chief Trial Counsel 845 South Figueroa Street Los Angeles, CA 90017
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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: September 14, 2016



Sunil Bhasin

PROOF OF SERVICE / CERTIFICATE OF SERVICE

(California Code of Civil Procedure §§ 1005, 1011, 1013(a), 2015.5 et. seq.)
[Rules Proc. of State Bar; Rule 5.2703); Code Civ. Proc., § 1013a(4)]

State Bar Court of California, County of Los Angeles
Case Name : RE: Gary S. Redinger, Bar 074041
Case No: 15-C-14234

I am a resident of the State of California, I am over the age of 18 years, and I am not a party to this lawsuit. The business address is 349 N. Sierra Way, San Bernardino, California 92410. On the date listed below, I served and/or deposited a true copy of the following document(s):

ANSWER AND RESPONSE OF GARY S. REDINGER TO NOTICE OF HEARING ON CONVICTION; STATEMENT OF RESPONDENT’S POSITION ON ISSUES STATED IN ORDER OF 07/28/2016; ATTACHED EXHIBIT “A” OF MOTION TO WITHDRAW PLEA OF NOLO CONTENDERE, REDINGER’S REQUEST FOR JUDICIAL NOTICE, AND NOTICE OF MEDICAL EXPERT DECLARATION IN SUPPORT OF MOTION TO WITHDEAW PLEA OF GUILT.

by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5 p.m. Our facsimile machine reported the "send" as successful.

by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid by first-class mail, through the United States Postal Service, California, addressed as set forth below. I am readily familiar with the firm's practice of collecting and processing correspondence for mailing.

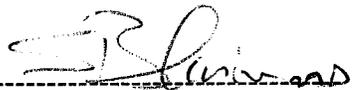
by causing personal delivery of the document(s) listed above at the address set forth below.

by personally delivering the document(s) listed above to the person at the address set forth below.

The State Bar of California Office of the Chief Trial Counsel Attorney Charles A. Murray, Nina 845 South Figueroa Street Los Angeles, CA 90017	Sarraf-Yazdi
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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: September 29, 2016



Sunil Bhasin