

PUBLIC MATTER

1 STATE BAR OF CALIFORNIA  
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FILED

NOV 16 2015

STATE BAR COURT CLERK'S OFFICE  
SAN FRANCISCO

8  
9 STATE BAR COURT  
10 HEARING DEPARTMENT - SAN FRANCISCO

11  
12 In the Matter of: ) Case Nos.: 15-O-11281 [15-O-11398]  
13 CARY LEE PETERSEN, )  
14 No. 173406, ) NOTICE OF DISCIPLINARY CHARGES  
15 A Member of the State Bar. )

16 **NOTICE - FAILURE TO RESPOND!**

17 **IF YOU FAIL TO FILE A WRITTEN ANSWER TO THIS NOTICE**  
18 **WITHIN 20 DAYS AFTER SERVICE, OR IF YOU FAIL TO APPEAR AT**  
**THE STATE BAR COURT TRIAL:**

- 19 (1) **YOUR DEFAULT WILL BE ENTERED;**  
20 (2) **YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU**  
**WILL NOT BE PERMITTED TO PRACTICE LAW;**  
21 (3) **YOU WILL NOT BE PERMITTED TO PARTICIPATE FURTHER IN**  
**THESE PROCEEDINGS UNLESS YOU MAKE A TIMELY MOTION**  
**AND THE DEFAULT IS SET ASIDE, AND;**  
22 (4) **YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE.**  
23 **SPECIFICALLY, IF YOU FAIL TO TIMELY MOVE TO SET ASIDE**  
24 **OR VACATE YOUR DEFAULT, THIS COURT WILL ENTER AN**  
**ORDER RECOMMENDING YOUR DISBARMENT WITHOUT**  
25 **FURTHER HEARING OR PROCEEDING. SEE RULE 5.80 ET SEQ.,**  
**RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA.**

26 The State Bar of California alleges:

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JURISDICTION

1. Cary Lee Petersen ("respondent") was admitted to the practice of law in the State of California on December 12, 1994, was a member at all times pertinent to these charges, and is currently a member of the State Bar of California.

COUNT ONE  
Case No. 15-O-11281  
Rules of Professional Conduct, rule 3-110(A)  
[Failure to Perform with Competence]

2. On or about December 24, 2014, Rachael Bortolamedi ("Bortolamedi") employed respondent to perform legal services, namely respondent to represent her in dissolution of marriage, which respondent intentionally, recklessly, or repeatedly failed to perform with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A), by:

(A) Failing to file a petition for dissolution of marriage on behalf of Bortolamedi and by failing to take any legal action whatsoever on behalf of Bortolamedi.

COUNT TWO  
Case No. 15-O-11281  
Rules of Professional Conduct, rule 3-700(A)(2)  
[Improper Withdrawal from Employment]

3. Respondent failed, upon termination of employment, to take reasonable steps to avoid reasonably foreseeable prejudice to respondent's client, Rachael Bortolamedi ("Bortolamedi"), by constructively terminating respondent's employment on January 20, 2015 by failing to take any action on the client's behalf between on or about December 24, 2014 through on or about January 20, 2015, and thereafter vacating his law office without providing Bortolamedi new contact information and failing to inform the client that respondent was withdrawing from employment, in willful violation of Rules of Professional Conduct, rule 3-700(A)(2).

COUNT THREE  
Case No. 15-O-11281  
Rules of Professional Conduct, rule 3-700(D)(2)  
[Failure to Refund Unearned Fees]

4. On or about December 24, 2014, respondent received advanced fees of \$950 from a client, Rachael Bortolamedi ("Bortolamedi"), for legal services, namely to represent Bortolamedi in a dissolution of marriage action. Respondent failed to file the dissolution of marriage, or

1 perform any legal services for the client, and therefore earned none of the advanced fees paid.  
2 Respondent failed to refund promptly, upon respondent's termination of employment on or about  
3 January 20, 2015 any part of the \$950 advance fee to the client, in willful violation of Rules of  
4 Professional Conduct, rule 3-700(D)(2).

5 COUNT FOUR

6 Case No. 15-O-11281

7 Business and Professions Code, section 6068(m)  
8 [Failure to Inform Client of Significant Development]

9 5. Respondent failed to keep respondent's client, Rachael Bortolamedi ("Bortolamedi"),  
10 reasonably informed of significant developments in a matter in which respondent had agreed to  
11 provide legal services, in willful violation of Business and Professions Code, section 6068(m),  
12 by failing to inform the client of the following:

- 13 (A) That respondent had serious issues which precluded his working on the dissolution of  
14 marriage;  
15 (B) That respondent had not filed the dissolution of marriage; and  
16 (C) That respondent had moved out of his law office.

17 COUNT FIVE

18 Case No. 15-O-11398

19 Rules of Professional Conduct, rule 3-110(A)  
20 [Failure to Perform with Competence]

21 6. On or about October 24, 2014, Chelsea Lemos-Sticlaru ("Lemos-Sticlaru") employed  
22 respondent to perform legal services, namely to represent her in a limited scope family law issue,  
23 which respondent intentionally, recklessly, or repeatedly failed to perform with competence, in  
24 willful violation of Rules of Professional Conduct, rule 3-110(A), by:

- 25 (A) Failing to file child custody and visitation documents with the court in *In the matter*  
26 *of Sticlaru*, Siskiyou County Superior Court case no. SC CV FL 11-0000139.

27 COUNT SIX

28 Case No. 15-O-11398

Rules of Professional Conduct, rule 3-700(A)(2)  
[Improper Withdrawal from Employment]

7. Respondent failed, upon termination of employment, to take reasonable steps to avoid  
reasonably foreseeable prejudice to respondent's client, Chelsea Lemos-Sticlaru ("Lemos-  
Sticlaru"), by constructively terminating respondent's employment on or about January 9, 2015,

1 by failing to take any action on the client's behalf between on or about October 24, 2014 through  
2 on or about January 9, 2015, and thereafter vacating his law office without providing Lemos-  
3 Sticlaru new contact information and failing to inform the client that respondent was  
4 withdrawing from employment, in willful violation of Rules of Professional Conduct, rule 3-  
5 700(A)(2).

6 COUNT SEVEN  
7 Case No. 15-O-11398  
8 Rules of Professional Conduct, rule 3-700(D)(2)  
9 [Failure to Refund Unearned Fees]

10 8. On or about October 24, 2014, respondent received advanced fees of \$1,500 from a  
11 client, Chelsea Lemos-Sticlaru ("Lemos-Sticlaru"), to represent her in a limited scope family law  
12 issue, namely a child custody and visitation matter. Respondent failed to file any legal  
13 documents for the child custody and visitation matter, or perform any legal services for the  
14 client, and therefore earned none of the advanced fees paid. Respondent failed to refund  
15 promptly, upon respondent's termination of employment on or about January 9, 2015, any part of  
16 the \$1,500 advance fee to the client, in willful violation of Rules of Professional Conduct, rule 3-  
17 700(D)(2).

18 COUNT EIGHT  
19 Case No. 15-O-11398  
20 Business and Professions Code, section 6068(m)  
21 [Failure to Inform Client of Significant Development]

22 9. Respondent failed to keep respondent's client, Chelsea Lemos-Sticlaru ("Lemos-  
23 Sticlaru"), reasonably informed of significant developments in a matter in which Respondent had  
24 agreed to provide legal services, in willful violation of Business and Professions Code, section  
25 6068(m), by failing to inform the client of the following:

- 26 (A) That respondent had serious issues which precluded his working on the child custody  
27 and visitation issue;
- 28 (B) That respondent had not filed the paperwork for the child custody and visitation  
issue; and
- (C) That respondent had moved out of his law office.

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COUNT NINE  
Case No. 15-O-11398  
Rules of Professional Conduct, rule 3-700(D)(1)  
[Failure to Release File]

10. Respondent failed to release promptly, after termination of respondent's employment on or about January 9, 2015, to respondent's client, Chelsea Lemos-Sticlaru ("Lemos-Sticlaru"), all of the client's papers and property following the client's request for the client's file on January 9, 2015, in willful violation of Rules of Professional Conduct, rule 3-700(D)(1).

**NOTICE - INACTIVE ENROLLMENT!**

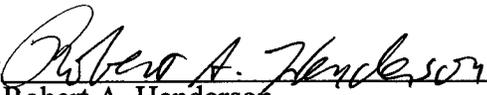
**YOU ARE HEREBY FURTHER NOTIFIED THAT IF THE STATE BAR COURT FINDS, PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTION 6007(c), THAT YOUR CONDUCT POSES A SUBSTANTIAL THREAT OF HARM TO THE INTERESTS OF YOUR CLIENTS OR TO THE PUBLIC, YOU MAY BE INVOLUNTARILY ENROLLED AS AN INACTIVE MEMBER OF THE STATE BAR. YOUR INACTIVE ENROLLMENT WOULD BE IN ADDITION TO ANY DISCIPLINE RECOMMENDED BY THE COURT.**

**NOTICE - COST ASSESSMENT!**

**IN THE EVENT THESE PROCEDURES RESULT IN PUBLIC DISCIPLINE, YOU MAY BE SUBJECT TO THE PAYMENT OF COSTS INCURRED BY THE STATE BAR IN THE INVESTIGATION, HEARING AND REVIEW OF THIS MATTER PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTION 6086.10.**

Respectfully submitted,  
  
THE STATE BAR OF CALIFORNIA  
OFFICE OF CHIEF TRIAL COUNSEL

DATED: November 16, 2015

By:   
Robert A. Henderson  
Supervising Senior Trial Counsel

**DECLARATION OF SERVICE**  
**BY CERTIFIED AND REGULAR MAIL**

**CASE NOS.: 15-O-11281; [15-O-11398]**

I, the undersigned, over the age of eighteen (18) years, whose business address and place of employment is the State Bar of California, 180 Howard Street, San Francisco, California 94105, declare that I am not a party to the within action; that 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; that 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; that I am aware that on motion of 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; and that in accordance with the practice of the State Bar of California for collection and processing of mail, I deposited or placed for collection and mailing in the City and County of San Francisco, on the date shown below, a true copy of the within

**NOTICE OF DISCIPLINARY CHARGES**

in a sealed envelope placed for collection and mailing as *certified mail, return receipt requested*, and in an additional sealed envelope as *regular mail*, at San Francisco, on the date shown below, addressed to:

**Article No.: 9414 7266 9904 2042 4851 16**

**Cary L. Petersen  
Cary Petersen, Esq.  
312 Natoma St., # 11  
Folsom, CA 95630**

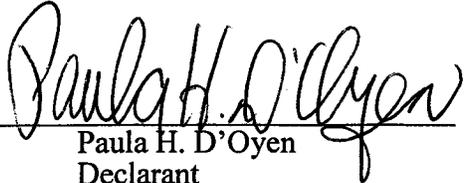
**Courtesy copy:  
Cary L. Petersen  
2300 Iron Point Rd., #1211  
Folsom, CA 95630**

in an inter-office mail facility regularly maintained by the State Bar of California addressed to:

N/A

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

DATED: November 16, 2015

Signed: 

Paula H. D'Oyen  
Declarant