

**PUBLIC MATTER**

STATE BAR OF CALIFORNIA  
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**FILED**

**FEB 09 2017**

STATE BAR C  
CLERK'S OFFICE  
LOS ANGELES

STATE BAR COURT

HEARING DEPARTMENT - LOS ANGELES

In the Matter of: ) Case No. 16-O-12803  
CARMEN ANTHONY TRUTANICH, ) NOTICE OF DISCIPLINARY CHARGES  
No. 86629, )  
A Member of the State Bar )

**NOTICE - FAILURE TO RESPOND!**

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

- (1) YOUR DEFAULT WILL BE ENTERED;**
- (2) YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU WILL NOT BE PERMITTED TO PRACTICE LAW;**
- (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;**
- (4) YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE. SPECIFICALLY, IF YOU FAIL TO TIMELY MOVE TO SET ASIDE OR VACATE YOUR DEFAULT, THIS COURT WILL ENTER AN ORDER RECOMMENDING YOUR DISBARMENT WITHOUT FURTHER HEARING OR PROCEEDING. SEE RULE 5.80 ET SEQ., RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA.**

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1 The State Bar of California alleges:

2 JURISDICTION

3 1. Carmen Anthony Trutanich ("respondent") was admitted to the practice of law in the  
4 State of California on May 31, 1979, was a member at all times pertinent to these charges, and is  
5 currently a member of the State Bar of California.

6 COUNT ONE

7 Case No. 16-O-12803  
8 Business and Professions Code, section 6068(a)  
9 [Failure to Support Laws-*Brady v. Maryland* (1963) 373 U.S. 83]

10 2. At all times relevant to this charge, respondent represented the People of the State of  
11 California in the capital murder case titled *People of the State of California v. Barry Glenn*  
12 *Williams*, Los Angeles County Superior Court case no. A623377 (the "criminal matter").  
13 Respondent failed to comply with his constitutional obligation under *Brady v. Maryland* (1963)  
14 373 U.S. 83 to provide defense counsel with: (i) the correct home address of Arlene McKay, an  
15 eyewitness to the murder allegedly committed by the defendant in the criminal matter; and  
16 (ii) information showing that the true identity of "Jean Rivers" was Arlene McKay. Respondent  
17 thereby failed to uphold the laws of the United States, in willful violation of Business and  
18 Professions Code, section 6068(a).

18 COUNT TWO

19 Case No. 16-O-12803  
20 Rules of Professional Conduct, Rule 5-220  
21 [Suppression of Evidence]

22 3. At all times relevant to this charge, respondent represented the People of the State of  
23 California in the capital murder case titled *People of the State of California v. Barry Glenn*  
24 *Williams*, Los Angeles County Superior Court case no. A623377 (the "criminal matter").  
25 Respondent intentionally failed to comply with his constitutional obligation under *Brady v.*  
26 *Maryland* (1963) 373 U.S. 83 to provide defense counsel with: (i) the correct home address of  
27 Arlene McKay, an eyewitness to the murder allegedly committed by the defendant in the  
28 criminal matter; and (ii) information showing that the true identity of "Jean Rivers" was Arlene

1 McKay. Respondent thereby suppressed evidence in willful violation of Rules of Professional  
2 Conduct, rule 5-220.

3 COUNT THREE

4 Case No. 16-O-12803  
5 Business and Professions Code, section 6106  
6 [Moral Turpitude-Suppression of Evidence]

7 4. At all times relevant to this charge, respondent represented the People of the State of  
8 California in the capital murder case titled *People of the State of California v. Barry Glenn*  
9 *Williams*, Los Angeles County Superior Court case no. A623377 (the “criminal matter”).  
10 Respondent intentionally, or with gross negligence, failed to comply with his constitutional  
11 obligation under *Brady v. Maryland* (1963) 373 U.S. 83 to provide defense counsel with: (i) the  
12 correct home address of Arlene McKay, an eyewitness to the murder allegedly committed by the  
13 defendant in the criminal matter; and (ii) information showing that the true identity of “Jean  
14 Rivers” was Arlene McKay. Respondent thereby committed an act(s) of moral turpitude,  
15 dishonesty, or corruption in willful violation of Business and Professions Code, section 6106.

16 COUNT FOUR

17 Case No. 16-O-12803  
18 Business and Professions Code, section 6106  
19 [Moral Turpitude-Prosecutor Presenting False Testimony of a Witness]

20 5. Respondent represented the People of the State of California during the trial in the  
21 capital murder case titled *People of the State of California v. Barry Glenn Williams*, Los Angeles  
22 County Superior Court case no. A623377 (the “criminal matter”). On or about January 9, 1986,  
23 respondent conducted the direction examination of Patricia Lewis. Ms. Lewis testified that she  
24 witnessed the murder of the victim in the criminal matter from the passenger seat of a station  
25 wagon driven by “Jean Rivers.” At the time that Ms. Lewis testified in the criminal matter,  
26 respondent knew, or was grossly negligent in not knowing, that Ms. Lewis’ testimony regarding  
27 the identity of the woman in the station wagon with her on the night of the murder was actually  
28 false. At the time that Ms. Lewis testified in the criminal matter, respondent knew, or was  
grossly negligent in not knowing, that “Jean Rivers” true name was Arlene McKay, or at the

1 very least that "Jean Rivers" was an alias. Respondent intentionally, or with gross negligence,  
2 failed to correct Ms. Lewis' false testimony regarding the identity of the driver during the trial in  
3 the criminal matter. By intentionally or with gross negligence failing to correct Ms. Lewis'  
4 testimony with regard to the true identity of the driver of the station wagon, respondent  
5 committed an act involving moral turpitude, dishonesty or corruption in willful violation of  
6 Business and Professions Code, section 6106.

7 COUNT FIVE

8 Case No. 16-O-12803

9 Business and Professions Code, section 6106

10 [Moral Turpitude-Prosecutor Presenting False Testimony of a Witness]

11 6. Respondent represented the People of the State of California during the trial in the  
12 capital murder case titled *People of the State of California v. Barry Glenn Williams*, Los Angeles  
13 County Superior Court case no. A623377 (the "criminal matter"). On or about December 18,  
14 1985, the court in the criminal matter held a pretrial hearing (the "*Massiah* hearing") on whether  
15 the prosecution had obtained incriminating statements purportedly made by the defendant to  
16 Arthur Cox, a fellow inmate at the Los Angeles County Jail, in violation of the rule in the  
17 Supreme Court case of *Massiah v. United States* (1964) 377 U.S. 201. At issue at the *Massiah*  
18 hearing was whether Mr. Cox: (i) was acting on behalf of the government when the defendant  
19 made the purported incriminating statements to him; and (ii) deliberately elicited the purported  
20 incriminating statements from the defendant outside the presence of counsel.

21 7. In response to questions asked of him by respondent during the *Massiah* hearing, the  
22 Detective testified, among other things, that: (i) Mr. Cox initiated the first contact with the  
23 Detective by way of a telephone call; (ii) the telephone conversation occurred after the July 7 and  
24 8, 1982 preliminary hearing in the criminal matter, and probably on July 10, 1982; at which time  
25 Mr. Cox had already been moved into the defendant's module at Los Angeles County Jail; and  
26 (iii) law enforcement's first interview with Mr. Cox occurred on July 15, 1982.

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1           8. At the time of the *Massiah* hearing, respondent knew, or was grossly negligent in not  
2 knowing, that the Detective's testimony was false. Specifically, respondent knew, or was  
3 grossly negligent in not knowing, that the Detective: (i) initiated contact with Mr. Cox; and  
4 (ii) spoke with Mr. Cox before the preliminary hearing in the criminal matter, and before  
5 Mr. Cox moved into the defendant's module at Los Angeles County Jail, and before Mr. Cox  
6 obtained incriminating statements from the defendant that Mr. Cox provided to law enforcement  
7 on July 15, 1982.

8           9. Respondent intentionally, or with gross negligence, failed to correct the Detective's  
9 false testimony at the *Massiah* hearing about the origin and timing of his initial contact with Mr.  
10 Cox.

11           10. By intentionally or with gross negligence failing to correct the Detective's false  
12 testimony at the *Massiah* hearing, respondent committed an act involving moral turpitude,  
13 dishonesty or corruption, in willful violation of Business and Professions Code, section 6106.

14  
15                                   **NOTICE - INACTIVE ENROLLMENT!**

16           **YOU ARE HEREBY FURTHER NOTIFIED THAT IF THE STATE BAR**  
17           **COURT FINDS, PURSUANT TO BUSINESS AND PROFESSIONS CODE**  
18           **SECTION 6007(c), THAT YOUR CONDUCT POSES A SUBSTANTIAL**  
19           **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.**

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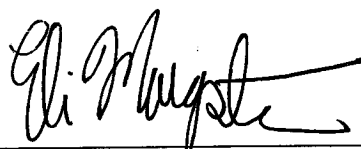
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**NOTICE - COST ASSESSMENT!**

**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,

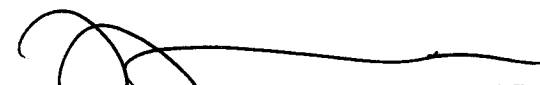
THE STATE BAR OF CALIFORNIA  
OFFICE OF CHIEF TRIAL COUNSEL



DATED: February 9, 2017

By: \_\_\_\_\_  
Eli D. Morgenstern  
Senior Trial Counsel

DATED: February 9, 2017



By: \_\_\_\_\_  
Nina Sarraf-Yazdi  
Deputy Trial Counsel

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DECLARATION OF SERVICE

CASE NUMBER(s): 16-O-12803

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, California 90017, declare that:

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

NOTICE OF DISCIPLINARY CHARGES

- 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 0772 82 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 via Email to. Row 1: DAVID CAMERON CARR, KLINEDINST PC 501 W. BROADWAY, STE. 600 SAN DIEGO, CA 92101, Electronic Address, dcarr@klinedinstlaw.com

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').

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: February 9, 2017

SIGNED:

SANDRA JONES
Declarant