



Fictitious Business Names and Team Names

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Key Questions:

Once I select and record a fictitious business name and have it approved by the CalBRE, doesn't that give me the sole right to use the name? See Question 4

How do I choose and register a fictitious business name so that I receive trademark protection for the name? See Question 6

Does the CalBRE have to approve the team name? See Question 33

Are there special requirements when using a team name in advertising? See Question 35

For a quick overview on this topic, see: [Quick Guide, Team Names](#)

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I. Fictitious Business Names

Q1. What is a "fictitious business name"?

A1. A "fictitious business name" is the name a person uses to conduct business if that person is not using his or her own legal name. (Cal. Bus. & Prof. Code § 17900). For example, if John Doe runs a sole proprietorship under the name "ABC Real Estate" rather than as "John Doe Real Estate," he is using a fictitious business name.

For rules regarding fictitious names for sole proprietorships, partnerships, corporations, and other business structures, see Questions 7-12.

A business using a fictitious business name can accept payments, advertise and otherwise communicate under that name. Using a fictitious business name also permits a single legal entity such as a corporation or an LLC to operate multiple businesses without creating a new legal entity for each business.

Q2. What must a person or entity do if he/she/it wants to use a fictitious business name?

A2. To use a fictitious name in business, the person or entity must file a fictitious business name statement with the local county clerk. (Cal. Bus. & Prof. Code § 17900(a)(1)). Then, the person or entity must publish the statement in a public newspaper in the same county. (Cal. Bus. & Prof. Code § 17917).

For more information on the filing process, see Questions 13-19. For more information on the publication process, see Questions 20-23.

II. Trademark Rights and Fictitious Business Names

Q3. What is the difference between a fictitious business name and a trademark?

A3. A fictitious business name is a name that you use to conduct business that isn't your own actual name. A trademark is a symbol or name that carries with it the legal right to use the name. Just because you have obtained a fictitious business name does not necessarily mean you have a trademark right to use that name. It is possible for example, to get a fictitious name issued by your county and approved by the California Bureau of Real Estate (hereinafter CalBRE), and then find out that you do not have the right to use that name because someone else already uses it and has trademarked it (see below).

Q4. Once I select and record a fictitious business name and have it approved by the CalBRE, doesn't that give me the sole right to use the name?

A4. No. Recording a fictitious business name, and obtaining approval by the CalBRE does not create a trademark right. Another company may already have rights to the name. When the CalBRE approves a fictitious name it is primarily reviewing the name for compliance with CalBRE regulations and not to determine if the name or a similar name is being used by other persons or entities.

Q5. What if I choose a name and begin using it, and then find out later that another company may have rights to the name?

A5. The person who has the name may take legal action against you to stop you from using the name. You might receive a cease and desist letter demanding that you stop using the name. Or you could also face a law suit for violation of trademark. You might be forced to give up the name, and the business goodwill that you built up may be lost.

Q6. How do I choose and register a fictitious business name so that I receive trademark protection for the name?

A6. You first choose a name that is minimally unique and non-generic. Not all names can be used to create a trademark right. Moreover, not all names are equal. Some names have potential to provide stronger trademark protection than others.

Ideally, you will choose a name that no one else is using and is not confusingly similar to a name currently in use. To determine this, you must do a search, and the first place to start is the CalBRE's website where you can verify a real estate license. This will generally show if anyone else is using your desired name.

Once the name is chosen, the trademark right can be established in a number of ways including registration with the California Secretary of State, registration with the United States Patent and Trademark Office, or through using a name within a geographic area.

This Q&A discusses only the law surrounding fictitious business names, and the mechanics of filing a name and having the CalBRE approve it, but does not provide a detailed explanation on how to choose and register a name to receive trademark protection. C.A.R.'s "New Broker Start-Up Kit" provides guidance on choosing a name that will have trademark protection (available under the Business Products section at car.org), as do many other popular legal how-to guides. However, for navigating through this complex subject, C.A.R recommends that you consult with an attorney.

III. Choosing a Fictitious Business Name

Q7. Can any name be used as a fictitious business name?

A7. No. There are rules which limit the names a particular business may use. The rules differ depending on the structure of the business (e.g., sole proprietorship, partnership or corporation).

For the specific rules and examples, see Questions 8-12.

Q8. What are the fictitious business name rules for a sole proprietorship?

A8. In the case of an sole owner, "fictitious business name" means a name that does not include the surname (last name) of the individual or a name that suggests the existence of additional owners (Cal. Bus. & Prof. Code § 17900(b)(1) and (c)).

FICTITIOUS BUSINESS LICENSE NOT REQUIRED

Example: If broker named John Doe conducts business under the name "John Doe Realty" or "Doe Realty," that usage does not constitute a fictitious business name.

Case Example: In *Kohler v. Stephenson*, 39 Cal. App. 374 (1919), the "Kohler Steam Laundry" was owned and managed by a person named Lottie A. Kohler. The court held that since she was the sole owner, the name was not fictitious and no certificate was required to be filed.

Practicice Tip: Even though a broker may technically not need a DBA for a name such as "John Doe Realty," there are still advantages to obtaining one such as your information on the CalBRE site will be easily accessible by any prospective clients.

Warning: while a broker may use John Doe Realty without filing for a DBA (assuming John Doe is the name of the broker), a sales-agent may not. CalBRE has issued a warning against any salesperson who might use the name "John Doe

Realty" (assuming the agent's name is John Doe) since such usage would lead members of the public to incorrectly believe that the business is operated and managed by a real estate broker. See CalBREs "**Licensee Alert:** supplemental disciplinary Advisory to Real Estate Salespersons Who Mislead Consumers into Falsely Believing that They are Brokers -- and a Concurrent Caution to the "[Ir]responsible" Brokers Who Permit or Support Such Practices." Moreover, this licensee alert cautions any broker against permitting their agents to engage in this practice.

Lastly, even if the salesagent obtained a DBA for "John Does Realty" its usage would not be approved by CalBRE since the DBA contains the name of a salesagent. (Regulation 2731).

FICTITIOUS BUSINESS LICENSE IS REQUIRED

Example Four: If John Doe conducts business under the name "Doe and Sons," he needs a fictitious business name license.

Example Five: If Lottie Kohler uses the business name "Kohler Steam Laundry Company" or "Kohler Steam Laundry & Company," she needs a fictitious business name license.

Example Six: If John Doe conducts business under the name "John Doe Realty Company" or "Doe and Company," he needs a fictitious business name license.

Adding the words "and Sons" or "Company" implies the existence of additional owners and, thus, requires a fictitious business name license (Cal. Bus. & Prof. Code § 17900(b)(1) and (c)).

Q9. What are the fictitious business name rules for a partnership?

A9. In the case of a partnership, "fictitious business name" means a name that does not include the last names of all the general partners or a name that suggests the existence of additional owners. (Cal. Bus. & Prof. Code § 17900(b)(2).)

FICTITIOUS BUSINESS LICENSE NOT REQUIRED

Example One: If Aaron Adams, Bob Brown and Carol Cooke are the general partners in a partnership, a name such as "Adams, Brown & Cooke Investment Group" would not be considered fictitious because it includes the last names of all three general partners. Thus, a fictitious business name license would not be required.

FICTITIOUS BUSINESS LICENSE IS REQUIRED

Example Two: If the three partners in Example One above wanted to conduct business under the name "ABC Housing" or "Adams & Brown Realty Group," the partnership would need to file either of those names for a fictitious business name license because they do not contain all three last names of the partners.

Example Three: If the three partners in Example One above wanted to use the name "Adams, Brown, Cooke & Company," they would now need a fictitious business name license. Adding the words "& Company" requires a fictitious business name license because it suggests the existence of additional owners (or partners).

These rules apply to all partnerships or other unincorporated associations with the exception of registered limited partnerships. For rules regarding limited partnerships, see Question 10.

Q10. What are the fictitious business name rules for a limited partnership?

A10. For a registered limited partnership, a fictitious business name license is required if any name other than the name of the limited partnership as on file with the California Secretary of State is used (Cal. Bus. & Prof. Code § 17900(b)(4)).

These rules apply to limited partnerships registered in California and to foreign limited partnerships that have filed an application for registration with the California Secretary of State (Cal. Bus. & Prof. Code § 17900(b)(4)).

Q11. What are the fictitious business name rules for a limited liability company?

A11. For a limited liability company, a fictitious business name license is required if any name other than the name stated in its articles of organization (and in the case of a foreign limited liability any name other than the name of the limited liability company as on file with the California Secretary of State) is used (Cal. Bus. & Prof. Code § 17900(b)(5)).

The fictitious business name of a limited liability company may not suggest a business structure different from a limited liability company (Cal. Bus. & Prof. Code § 17910.5(b)).

Q12. What are the fictitious business name rules for a corporation?

A12. For a corporation, a fictitious business name license is required if any name different from the name on its articles of incorporation (as filed with the California Secretary of State) is used (Cal. Bus. & Prof. Code § 17900(b)(3)).

For example, if a corporation is registered with the Secretary of State as "I-Beam Housing, Inc." and it chooses to conduct business under the name "S-Beam Housing, Inc." then it must register that fictitious business name.

The fictitious business name of a corporation may not suggest another business structure (Cal. Bus. & Prof. Code § 17910.5(a)).

These rules apply to both domestic and foreign corporations (Cal. Bus. & Prof. Code § 17900(b)(3)).

IV. Filing a Fictitious Business Name Statement

Q13. What is a fictitious business name statement?

A13. A fictitious business name statement is a document that states a person or entity is conducting business under a fictitious name (Cal. Bus. & Prof. Code § 17913). Certain persons or entities conducting business under a fictitious name are required to file such a statement with the clerk of the county where that person or entity has his/her/its principal place of business (Cal. Bus. & Prof. Code § 17915). Click here for a **Sample Fictitious Business Name Statement.** [W](#)

For more information on who must file a statement, see Question 14.

The filing of the statement makes it public record allowing the public to identify the persons or entity doing business under that fictitious name (Cal. Bus. & Prof. Code § 17900). The filing also gives the person or entity who filed it a rebuttable presumption that he/she/it may use the fictitious name exclusively in that area. (Cal. Bus. & Prof. Code § 14411).

Q14. Who must file a fictitious business name statement?

A14. Every person or entity which regularly does business under a fictitious name in California for profit must file a certificate with the county clerk (Cal. Bus. & Prof. Code § 17910).

Nonprofit corporations and associations, such as churches, labor unions, and charitable organizations are exempt from this rule (Cal. Bus. & Prof. Code § 17911). Real estate investment trusts are also exempt (Cal. Bus. & Prof. Code § 17912).

Q15. What information must be provided in the fictitious business name statement?

A15. The fictitious business name statement must include the names of the person(s) or entity conducting business, that person's or entity's address, the fictitious name and the address of the place of business (Cal. Bus. & Prof. Code § 17913 (b)). The form must also be signed by a specific person or officer of the entity, assuring that the information in the statement is true (Cal. Bus. & Prof. Code § 17914). For more information on who must sign the form, see Question 16.

The state of California does not provide a standard form, but does require the statement to follow a certain format. Click here for a **Sample Fictitious Business Name Statement.** [W](#)

Q16. Who must sign the fictitious business name statement?

A16. The law varies on who must sign the fictitious business name statement depending on who is filing the statement. If the filing is on behalf of:

- an individual, then the individual must sign
- husband and wife, then either husband or wife must sign
- a partnership, then any general partner may sign

a limited liability company, then a manager or officer may sign
a trust, then the trustee may sign
corporation, then any officer may sign.

(Cal. Bus. & Prof. Code § 17914.)

Q17. When must the fictitious business name statement be filed?

A17. The statement must be filed within 40 days from the time the person or entity began using the fictitious name for business transactions (Cal. Bus. & Prof. Code § 17910).

Q18. What must the person or entity do to “file” the fictitious business name statement?

A18. The person or entity (called the “registrant”) must bring two copies of the statement to the county clerk and pay a filing fee. If the clerk accepts the statement, he or she will certify the statement and send a copy to the registrant. Then, the statement is considered filed. (Cal. Bus. & Prof. Code § 17916).

Q19. Once a fictitious business name statement is filed, is it valid forever?

A19. No. The fictitious business name statement is valid for 5 years from the date it was filed with the county clerk (Cal. Bus. & Prof. Code § 17920(a)).

If any changes occur in the information provided on the fictitious business name statement, the statement expires 40 days after the change takes place. (Cal. Bus. & Prof. Code § 17920(b)).

Changes that trigger expiration include new owners or a new address for the business. However, a change in the residential address (not the business address) of individuals listed on the statement would not cause the statement to expire.

A fictitious business name statement may be renewed or amended to prevent expiration. For more information on these processes, see Questions 24-26.

V. Publication of Fictitious Business Name Statement

Q20. What happens after a person or entity files a fictitious business name statement?

A20. After filing the fictitious business name statement with the county clerk, the person or entity must publish the statement in a newspaper of general circulation in that county to place the public on notice of the fictitious business name (Cal. Bus. & Prof. Code § 17917).

The person or entity must then file an affidavit with the county clerk certifying that the statement was published. This filing must be done within 30 days of the last publication. (Cal. Bus. & Prof. Code § 17917(d)).

Q21. When must the person or entity publish the fictitious business name statement?

A21. The statement must be published within 30 days after the fictitious business name statement is filed with the county clerk (Cal. Bus. & Prof. Code § 17917).

Q22. Where must the fictitious business name statement be published?

A22. The statement must be published in a newspaper of general circulation in the same county where the statement was filed. If that county does not have a newspaper, the statement must be published in a newspaper of general circulation in the neighboring county. (Cal. Bus. & Prof. Code § 17917).

Q23. How often must the person or entity publish the fictitious business name statement?

A23. The publication must run at least once a week for 4 consecutive weeks (Cal. Gov't Code § 6064).

VI. Renewal, Amendment and Abandonment of Fictitious Business Names

Q24. How does a person or entity renew a fictitious business name statement?

A24. If a person or entity already filed a fictitious business name statement and wishes to use the same name beyond the 5-year period the statement is valid for, he/she/it must re-file that statement with the county clerk following the steps set out in Question 18 (Cal. Bus. & Prof. Code § 17910(c)). The statement should be re-filed before the previous statement expires. In some counties, the fee for re-filing is lower than the fee for the first filing.

If the information in the statement has not changed from the initial filing, then it need not be published (Cal. Bus. & Prof. Code § 17917).

Q25. How does a person or entity amend a fictitious business name statement?

A25. If a change occurs in the information on the fictitious business name statement, a new, accurate statement must be filed with the county clerk to prevent the statement from expiring (Cal. Bus. & Prof. Code § 17910(b)). This process is the same as filing for the first time (described in Question 14.) This new statement must be published in a newspaper of general circulation in that county under the same rules described in Questions 21-23. (Cal. Bus. & Prof. Code § 17917(c)).

In the very specific instance of a general partner withdrawing from a partnership, rather than re-filing a fictitious business statement, the general partner must file a statement of withdrawal (Cal. Bus. & Prof. Code § 17923).

Q26. If a person or entity no longer wishes to use a fictitious business name, what must he/she/it do?

A26. If a person or entity chooses to stop using a fictitious business name within the 5 years the name is valid, he/she/it should execute a statement of abandonment of use of fictitious name. (Cal. Bus. & Prof. Code § 17922).

The statement should include:

- 1 The fictitious name being abandoned,
- 2 The address of the business,
- 3 The date, filing number and county where the fictitious name was registered, and
- 4 The names and contact information of the individuals who were on the original statement (either the owners, partners, officers or trustees).

(Cal. Bus. & Prof. Code § 17922(b)).

The statement should be filed with the clerk of the same county where the fictitious business name was originally filed. (Cal. Bus. & Prof. Code § 17922). It must also be published in the same manner as the original filing (see Questions 21-23).

VII. Real Estate Brokers Using Fictitious Business Names

Q27. May a real estate broker do business under a fictitious business name?

A27. Yes. An individual real estate broker, or a corporation licensed as a real estate broker (or a partnership) may do business under a fictitious business name. To do so, he/she/it must add the DBA to the person's or entity's license (10 C.C.R. § 2731). This DBA must be added to the license before the fictitious name is used in real estate transactions that require a license (Cal. Bus. & Prof. Code § 10159.5).

Q28. How does a real estate broker obtain a license from the CalBRE bearing a fictitious name?

A28. To add a DBA to a real estate license, the individual or corporation must submit the appropriate license application and fee to the DRE along with a certified copy of the broker's fictitious business name statement published as required by law and filed with the county clerk (Cal. Bus. & Prof. Code § 10159.5, 10 C.C.R. § 2731). CalBRE forms RE 204 or RE 204A may be used for this purpose.

Q29. Can the CalBRE refuse to issue a license bearing the fictitious business name to a real estate broker?

A29. Yes. The issuance of a license bearing the fictitious name is not automatic. The CalBRE may deny the addition of the DBA to the license if the fictitious name:

- 1 is misleading or would constitute false advertising,
- 2 implies a partnership or corporation when a partnership or corporation does not exist,

- 3 includes the name of a real estate salesperson (or a broker associate -- that is, a broker working in the capacity of a salesperson for another broker or corporation)
- 4 violates various specific statues regarding the publication and filing of fictitious business names,
- 5 is the name formerly used by a licensee whose license has since been revoked, or
- 6 contains the word or designation "bank," "banker," "trust," "trustee," "trust company," "insurance" or "assurance," "escrow," or "savings."

(10 C.C.R. § 2731).

(Item #6 is not included in Reg 2731 but is included in the list in the CalBRE Online Reference Book, Chapter 1, at p. 14 <http://www.bre.ca.gov/files/pdf/refbook/ref01.pdf>)

Q30. Can a real estate salesperson obtain a license bearing a fictitious business name?

A30. No. A license bearing a fictitious business name may only be issued to a broker. (10 C.C.R. § 2731). However, a salesperson may own a fictitious business name and use it as permitted by his or her broker as discussed in section IX.

Q31. May a salesperson use a fictitious business name that has been obtained by the broker in his or her real estate activity?

A31. Yes, if the broker authorizes the salesperson to do so.

VIII. Team Names

Q32. What is a Team Name?

A32. A team name is "a professional identity" or "brand name" used by a salesperson and at least one or more other licensees that meets the following requirements:

The name includes the surname of at least one of the licensee members of the team and that name is used in conjunction with the term "associates," "group," or "team."

The name does not include any term or terms, such as broker or brokerage that would lead a member of the public to believe that the team is offering real estate brokerage services, or that implies the team is operating independent of the real estate brokerage of which it is a part.

(Cal. Bus. & Prof. Code § 10159.7).

Some examples of names that could meet the requirements of the law, are the "Garcia Group," the "Nguyen Team," or "Smith and Associates." However a name like the Garcia Brokerage Group would violate the law as it suggests that the team is offering real estate brokerage services or is itself an independent real estate brokerage. (Cal. Bus. & Prof. Code § 10159.7).

Teams must operate under a brokerage and the broker continues to have the duty to supervise the team and its members.

Q33. Does the CalBRE have to approve the team name?

A33. No, effective January 1, 2015, as long as the requirements listed in question 32 are satisfied, a broker may permit salespersons to use a team name without having to submit the name to be approved as a fictitious name by CalBRE. (Cal. Bus. & Prof. Code § 10159.7).

Q34. May a broker prohibit her or his salespersons from using a team name?

A34. Yes, the broker retains the right to prohibit her or his salespersons from using team names.

Q35. Are there special requirements when using a team name in advertising?

A35. Yes. If a team name is used in advertising, all the following rules apply:

All advertising and solicitation materials which include the team name including print or electronic media and "for sale" signs, must include the team name, and the name and license number of at least one of the licensed members of the team all of which must be displayed in a conspicuous manner.

The responsible broker's identity under which the members of the team are a part, must be displayed as prominently and conspicuously as the team name in all advertising and solicitation materials. (The law was changed effective August 28, 2016 to eliminate the requirement of displaying the broker's license number. This is now optional).

The advertising and solicitation material must not contain any terms that imply the team is a real estate entity independent of the responsible broker.

(Cal. Bus & Prof. Code § 10159.6).

Q36. Does a team name still need to be registered as a fictitious name with the county?

A36. No. The law states decisively that a team name is not a fictitious business name (DBA) under the real estate law or any other law. Thus, it is not necessary to register a team name as a DBA at the county recorder, nor is it necessary to apply with the Bureau of Real Estate for use of the team name, as long as all the other rules outlined above are followed.

Q37. Can I use the words "realty," or "real estate" as part of my team name?

A37. Because the law does not prohibit such words, the answer is yes, provided you include the surname of at least one team member, and include the words "group," "team," or "associates." **For example, the "Smith Real Estate Team" would be allowed as an acceptable team name.** From CalBRE's **Frequently Asked Questions Regarding "Team Names"**

Q38. Can real estate brokers who operate as brokers and not broker associates use a “team name?”

A38. No. Brokers who operate as brokers and not broker associates are precluded from using a “team name” as defined in Business and Professions Code Section 10159.7(a)(5). Instead, they would be required to file and obtain a fictitious business name pursuant to Business and Professions Code Section 10159.5. From CalBRE's **Frequently Asked Questions Regarding "Team Names"**

Q39. Previously, the BRE allowed the approval of team names that were recorded with the county clerk and submitted to the BRE per their Spring 2013 Real Estate Bulletin even though the team name included the name of a sales agent. Will the BRE continue to approve team names in this way?

A39. No. The BRE has issued an advisory stating that they will no longer implement this policy. (See the BRE's “Advisory and Guidance to Licensees Regarding Senate Bill 146” <http://www.dre.ca.gov/files/pdf/AdvisoryAB2018.pdf>)

IX. Salesperson Owned Fictitious Names

Q40. Can a salesperson own a fictitious business name?

A40. Yes, effective January 1, 2015, a salesperson may maintain the ownership of a fictitious business name which then may be utilized when that salesperson works under a broker by contract and subject to the broker's rules and policies. (Cal. Bus. & Prof. Code § 10159.6.)

Q41. Does a broker have to allow a salesperson to utilize a fictitious business name owned by the salesperson?

A41. No, the broker can choose to not allow the salesperson to utilize a fictitious business that the salesperson owns while the salesperson works for that broker.

Q42. What are the requirements when a salesperson wishes to have and utilize a fictitious business name he or she owns?

A42. If a salesperson wishes to utilize a fictitious business name that she or he owns and the broker is willing to allow it, there must first be a written contract between the broker and the salesperson which may permit the salesperson to:

- 1 File an application to obtain a fictitious business name with the county clerk on behalf of the broker.
- 2 Deliver an application on CalBRE form RE 247, titled Add/Cancel Salesperson Owned Fictitious Business Name, to the CalBRE, signed by the broker, requesting the approval to

use a county approved fictitious business name that shall be identified with the broker's license number.

- 3 Pay for any fees associated with filing an application with a county or the CalBRE to obtain or use the fictitious business name.
- 4 Maintain the ownership of that name subject to the control of the broker under whom the salesperson is employed.

(Cal. Bus & Prof. Code § 10159.5).

CalBRE in their **Summer 2017 Real Estate Bulletin** gives the following advice when filing a salesperson-owned DBA with the county: First, all of the requirements for creating and filing for a regular DBA also apply to salesperson-owned fictitious business names, with a couple of exceptions. When filing a salesperson-owned business name with the county, the fictitious business name statement must identify the salesperson as the registered owner and that business is being conducted by an individual. This does not preclude, however, the salesperson from also including their employing broker or corporation as a registered owner as well. A salesperson attempting to add a salesperson-owned fictitious business name to either their employing broker's or copartners's license should use the form "Add/Cancel Salesperson Owned Fictitious Business Name" (RE247), which must be signed by both the salesperson and employing broker/broker officer. The form can be found on the CalBRE website, www.calbre.ca.gov.

Q43. Are there special advertising requirements if the salesperson-owned fictitious business name is used?

A43. Yes, a salesperson when using a salesperson-owned fictitious business name, must ensure that all advertising and solicitation materials, including business cards, print or electronic media and "for sale" signs, owned by a salesperson include the responsible broker's identity in a manner equally as prominent as the fictitious business name and must include the salesperson's name and license number. (Cal. Bus & Prof. Code § 10159.5).

The law was changed effective August 28, 2016 to eliminate the requirement of displaying the broker's license number. This is now optional.

Q44. For both team names and salesperson-owned DBA's the "responsible broker's identity must be prominently displayed in advertising and solicitation materials. What exactly is the "responsible broker's identity?"

A44. The "responsible broker's identity" means the name under which the responsible broker is currently licensed by CalBRE and conducts business in general or is a substantial division of the real estate firm. (The broker's license number is optional). But it will never be a team name or a salesperson-owned DBA.

Q45. Where can I obtain more information?

A45. This legal article is just one of the many legal publications and services offered by C.A.R. to its members. For a complete listing of C.A.R.'s legal products and services, please visit car.org/legal.

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