



**Answer to Count One**

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3 I personally appeared on her case for the arraignment March 2, 2010, a pre-trial conference  
4 on March 15, 2010 and a second pretrial conference on April 14, 2010. Miss Schuman was  
5 personally present on March 2, 2010 and March 15, 2010. On March 15th Mrs. Schuman was  
6 present when she was ordered to appear on the April 14th pre-trial conference in hopes of settling  
7 the case. Miss Schuman failed to appear and was not available by phone to discuss the matter. The  
8 court did not issue a bench warrant at that time for reasons I cannot explain except for the Judge  
9 Simmons was new to the bench and failed to issue a bench warrant as required nor did I remind the  
10 court of its prior order for my loyalty to my client in my opinion was greater then that to the court.  
11 Had a bench warrant been issued as required I would have been relieved of my obligations under the  
12 case and I would have withdrawn from the case at that time and I would not be facing a State Bar  
13 Complaint. It is my ultimate duty to protect my client that has created this entire state bar Complaint.  
14 On March 15th, 32010 Miss Schuman was personally present in court when the court order her to be  
15 present at the next court date April 14, 2010. Had Miss Schuman appeared as required the case  
16 would have been resolved at that time for Miss Schuman did not want to proceed to trial she was  
17 looking for the best deal possible. Further had she appeared as ordered she would have been  
18 personally informed of the next court dates and there would be no violations as described in the State  
19 Bar Complaint Counts 1-3. Additionally had the court issued the bench warrant as required, the case  
20 would have been stop at which time I would have requested to withdraw from the case and the court  
21 would have granted my request as it is seen as general practice to withdraw from cases when clients  
22 failed to appear as ordered.

23  
24 On March 15th, 2010, I had orally informed Miss Schuman of my schedule and that if she  
25 was not going to make her self available or appear at court that date, I would not be able to represent  
26 her in any further proceedings. Miss Schuman agreed to appear or allow me to be relieved, if she did  
27 not appear. I spoke to Miss Schuman after she failed to appear on April 14th and informed her that  
28 she had to appear on April 20th, 2011 and that my schedule was booked with other court  
appearances and if she did not appear promptly at 815 at the court house, I would have no choice but  
let the court issue a bench warrant and I would then seek to withdraw.

On April 20th, 2010 I appeared at the court house at 815. I know this to be true for I had a  
personal drivers for all of 2010 and they keep logs. I spoke to my driver who confirms we were  
there, unfortunately at the time of the filing of this answer, I have not received a copy of the log but I  
expect to have it soon or my driver has indicated his willingness to testify at a trial. I waited 45  
minutes before I made my decision to proceed to my next court appearance in another county. I did  
not appear before the court that morning for the court was quiet busy and the time waiting for Miss  
Allison had put me at the end of the court's list to appear and waiting might prevent me for making  
the other court appearances. And had I appeared the court would have questioned me about Miss  
Schuman's failure to appear thus creating a clash between my duty to my client and my obligation to  
the court. I decided at that moment to proceed to my other appearance and return in hopes of making  
it back to Miss Schuman case prior to the court finishing its calendar and to allow additional time for  
Miss Schuman to appear. Unfortunately I was unable to return to Miss Schuman's case before the  
court issued the bench warrant. It should be noted that had I appeared the morning of April 20th

1 without Miss Schuman a bench warrant would have been issued for the court would have asked me  
2 the usual customary questions when a client fails to appear as ordered and my answers would have  
3 been in direct disregard of my greatest obligation that is to protect my client at all costs.  
4 **Additionally had Miss Schuman appeared as order on April 14th, 2010, she would have been**  
5 **personally present when the court ordered her personally present on April 20th and there**  
6 **would have been no violations of Count One in the State Bar Complaint. Further had Miss**  
7 **Schuman appeared on April 14th, 2010 or April 20th, 2010 the case would have been resolved**  
8 **and there would have been no violations of Counts 2-3. Lastly had she appeared on April 20th**  
9 **my appearance would not have caused the court to issue any bench warrants but would have**  
10 **been forced the court to set another court date to compel my appearance.**

11 **It is extremely important to take note of the fact that Miss. Schuman was a personal**  
12 **friend of my step daughter Ashley Washburn for they both went to the same high and were**  
13 **attending the same college and Miss Schuman was spending the night at our home in Santa**  
14 **Cruz on a regular basis during the period her case was pending therefore I strongly object to**  
15 **the contention that she was ever uninformed at anytime and will present personal testimony at**  
16 **time of trial of Ashley Washburn and her mother Kim Washburn who will testify that the**  
17 **above stated is true.**

### 18 Count Two

19 All defenses stated in count one are incorporated as they apply by reference to Count Two.

20 As indicated in Paragraphs 6-7 above this case would not have proceeded to the point were  
21 Count Two becomes ripe for had Miss Schuman appeared as ordered on April 14th, 2010 or April  
22 20th 2010 there would have been no issues for which Miss Schuman could make a bar complaint.

23 I can only explain Miss. Schuman's behavior with regard to her false statement to the court  
24 regarding the fact that she was not informed as a young scared girl who had an opportunity to take  
25 advantage of a better deal and erroneously stated that she was not informed. It is also quite possible  
26 that this court may have acted overzealously, because the Court, the Law Firm of Earl Carter and I  
27 have had our differences in the past. It is difficult to make a determination of the true reasons the  
28 court agreed with Miss Schuman regarding her statement that she was informed since the court never  
gave me the opportunity to testify and considering I never completed the case for it was given to an  
associate to complete the matter.

At the end of my court appearance on March 14, 2010 I received an offer to resolve the case  
from the district Attorney and I requested to approach the bench which was granted to ask the court  
for a better deal then that being offered. The court refused to give a better offer and the case was  
continued to April 14th, 2010. Miss Schuman was at the March 14th appetence when I received the  
final offer which is the same deal that she took via the Mills Wavier in June of 2010. On March 14,  
2010 Miss Schuman was informed of the offer during the court's morning brake. I also informed her  
that I would seek one last continuance in hopes of getting a better offer and I informed her that the  
court always requires the defendant to be personally present at all second pretrial, trial readiness's

1 and trials. on March 14th, 2010 during the courts brake I had Miss Schuman sign a plea agreement  
2 form after I explained to her all her rights and obligations under the agreed upon deal. I had her sign  
the agreement in case the court did not grant my request for another pretrial.

3 Again it was my zealous representation of my client and my desire to protect my client at all  
4 times and a scared young girl who had an opportunity to take advantage of a better deal and  
5 erroneously stated that she was not informed or had ever signed a waiver form that has caused this  
6 complaint not any true violations of any Rules of Professional Conduct or any violations of the  
7 Business and Professional code. It should be noted that this was Mrs. Schuman's second petty theft  
case and she had to return to Los Angeles because she was not asked back to Cal State Monterey due  
to her actions while attending her first semester plus she had other personal problems which may  
explain why she misinformed the court regarding her claim she was not informed.

8 On May 15th, prior to her next court date my firm created a Mills Waiver that I explained to  
9 Ms. Schuman over the phone. We could not get Ms. Schuman's signature on the Wavier prior to her  
10 next court date because she was living in Los Angeles. Her initials were placed on the form and her  
signature with her consent was also placed on the form and put into her file with the original plea  
11 form she signed on March 14th. The file was given to an associate Gabriel Castillo who was to take  
over the case. I do not have any knowledge of what happened to the case except for the fact that I  
12 was personally present when the sentencing documents were placed in the mail addressed to Miss  
Schuman. **Mrs. Schuman was aware of her obligations under the agreement and her  
13 obligations to return the documents by August 4th, 2010 from her own admission in paragraph  
14 13 under Count Two of the State bar complaint. she would not of had the ability to know what  
the fines were or had the ability to pay them without having the document or being aware of  
15 her obligations under the agreement for if she did not get the fine amount from the paperwork  
then it was from the court clerk who would have informed her of her obligations and her next  
16 court appearance of August 4th, 2010.**

17 Lastly, it is not clear why Mr. Castillo did not inform the court that the forms were initialed  
and signed by the office with Miss Schuman's consent and it is not clear why he did not show the  
18 court the original plea formed signed by Miss Schuman on March 14th. Had Mr. Castillo performed  
his obligations the court would have been aware of the issues and could have made a more informed  
19 decision thus preventing the issues presented in counts 2-3. The reasons for Mr. Castillo having to  
take over the case were simply my schedule did not allow it and Miss Schuman had been aware of  
20 that fact from the beginning of my representation.

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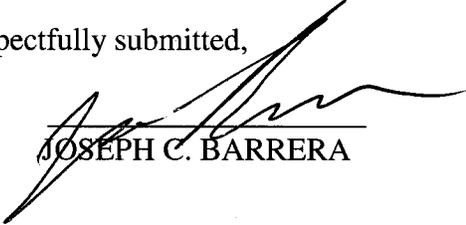
**Count Three**

All defenses and statements stated in Count One and Count Two are incorporated as they apply by reference to Count Three.

More specifically paragraphs 1-16 explicitly detail why there could be no violation of Count Three.

Respectfully submitted,

By:

  
JOSEPH C. BARRERA

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1 DECLARATION OF SERVICE

2  
3 Case No.:11-0-12291

4  
5 I THE UNDERSIGN OVER THE AGE OF 18 YEARS, WHOOSE BUSINESS ADDRESS  
6 AND PLACE OF EMPOLYMENT IS THE Law Offices of Joseph C. Barrera 511 Chestnut Street  
7 Santa Cruz, CA 95060 declare that I am not a party to the action, that I am readily familiar with law  
8 Office processing of mail with the United States Postal Service and the rules governing proper dates  
9 on pares being served by mail; deposited or placed for collection in the city of Santa Cruz, county of  
10 Santa Cruz on the date shown below, a true copy of

11 Answer of Joseph C. Barrera  
12 In a sealed envelope addressed to;  
13 Bruce Robinson\\  
14 Deputy Trial Counsel  
15 180 Howard Street  
16 San Francisco, California 94105-2385

17 I declare under penalty of perjury under the laws of the State of California that the forgoing is true  
18 and correct. Executed at Santa Cruz, California, on the date November 7, 2011:  
19

20 Dated: November 7, 2011

21 Declarant

22 By: 

23 SARAH BAKER  
24  
25  
26  
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