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Counsel for Respondent
JOANNN LEIGH PHEASANT

STATE BAR COURT

HEARING DEPARTMENT – SAN FRANCISCO

In the matter of:
JOANN LEIGH PHEASANT,
No. 248423,

A Member of the State Bar.

Case No. 13-O-17506

ANSWER TO THE STATE BAR'S NOTICE OF DISCIPLINARY CHARGES

PRELIMINARY STATEMENT

The charges alleged in the State Bar's Notice of Disciplinary Charges ("NDC") against Respondent Joann Leigh Pheasant ("Ms. Pheasant") relate to Ms. Pheasant's representation of Dean Doglietto ("Doglietto"), a professional litigant who repeatedly lied to her about many key aspects of his wrongful termination claim against a purported former employer. As his lies unraveled, so did his case, and he blames Ms. Pheasant for his ultimate loss. Unfortunately, Doglietto's dissatisfaction has now escalated into a baseless NDC brought by the State Bar.

At the outset of the engagement, Doglietto represented to Ms. Pheasant that he was a former police officer and that he had been wrongfully terminated from his most recent (non-police) employment. As Ms. Pheasant worked the case, the extent and significance of the client's misrepresentations became clear, and her task of successfully litigating his claim became impossible. Among other problems, Doglietto was neither a former police officer nor a former employee of the company against which he filed his lawsuit. Though Ms. Pheasant did the best she possibly could have done under extremely adverse conditions, the case was ultimately lost on summary judgment. Ms. Pheasant appropriately refused her client's request to appeal, as she was entitled to do under her engagement agreement. Her refusal to appeal was not only her right but supports her fulfillment of the ethical obligation to only pursue meritorious cases.

Doglietto is a frequent litigator and is also no stranger to the State Bar complaint process. In addition to being a plaintiff in multiple law suits, including a class action in which he was a named representative, Doglietto filed a State Bar complaint against his previous attorney on this same litigation. Following his loss on summary judgment, he filed the complaint against Ms. Pheasant which underlies the NDC. The attorney on the losing side of litigation has not necessarily committed an ethics violation, or there would be a violation

in every case litigated; here Ms. Pheasant committed no ethical violation whatsoever. Simply put, she fulfilled her ethical obligations to her client on a case which was ultimately proven to have no merit. The loss is not a violation.

No discipline is appropriate in this matter.

ANSWER

Respondent hereby answers the State Bar's NDC and admits, denies, and alleges as follows:

1. Respondent admits that she "was admitted to the practice of law in the State of California on February 22, 2007, 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. 13-O-17506
Rules of Professional Conduct, Rule 3-110(A)
[Failure to Perform with Competence]

2. Respondent admits that on approximately September 15, 2011, Dean Doglietto retained Respondent with respect to an already-filed litigation captioned *Dean A. Doglietto v. Trinity Protection Services, Inc.*, which was then pending in the United States District Court for the Northern District of California, Case No. 11-EV-0101. Respondent denies the remaining allegations of Paragraph 2. Respondent expressly denies that she intentionally, recklessly or repeatedly failed to perform with competence. Respondent denies that she violated Rule 3-110(A), willfully or otherwise. Respondent specifically responds to the subparagraphs of Paragraph 2 as follows:

A. Respondent denies that she failed to attempt to interview key witnesses identified by Doglietto in support of his claim and specifically denies that any such alleged failure is a violation of Rule 3-110(A);

B. Respondent denies that she failed to appear at Doglietto's

deposition on May 4, 2012 until contacted by Doglietto and specifically denies that any such alleged failure is a violation of Rule 3-110(A);

C. Respondent denies that failure to file an opposition to defendant's motion to compel discovery is a violation of Rule 3-110(A);

D. Respondent denies that she failed to propound discovery on behalf of Doglietto and specifically denies that any such alleged failure is a violation of Rule 3-110(A);

E. Respondent denies that she made "inadmissible statements in court pleadings regarding purported settlement agreements" and specifically denies that any such alleged statements are a violation of Rule 3-110(A);

F. Respondent denies that any failure to appear at a hearing on a motion to quash filed by Respondent is a violation of Rule 3-110(A);

G. Respondent denies that court imposition of sanctions resulting from discovery constitutes a violation of Rule 3-110(A);

H. Respondent denies failing to oppose a motion for terminating sanctions and alleges no such motion was filed.

COUNT TWO

Case No. 13-O-17506
Business & Professions Code § 6068(m)
[Failure to Inform Client of Significant Development]

3. Respondent denies the allegations contained in Paragraph 3 of the NDC. Respondent denies that she willfully violated Business & Professions Code § 6068(m).

COUNT THREE

Case No. 13-O-17506

Business & Professions Code § 6103

[Failure to Obey a Court Order]

4. Respondent denies the allegations contained in Paragraph 4. Respondent denies that she willfully violated Business & Professions Code § 6103.

FIRST AFFIRMATIVE DEFENSE

Failure to State a Violation of Rule 3-110(A)

5. Respondent alleges that even if the allegations contained in Paragraph 2 were true, they do not constitute a violation of Rule 3-110(A).

SECOND AFFIRMATIVE DEFENSE

Failure to State a Violation of Bus. & Prof. Code § 6068(m)

6. Respondent alleges that even if the allegations contained in Paragraph 3 were true, they do not constitute a violation of Business & Professions Code § 6068(m).

THIRD AFFIRMATIVE DEFENSE

Failure to State a Violation of Bus. & Prof. Code § 6103

7. Respondent alleges that even if the allegations contained in Paragraph 4 were true, they do not constitute a violation of Business & Professions Code § 6103.

Dated: January 15, 2015

Megan Zavieh
Counsel for Respondent Joann Leigh Pheasant

PROOF OF SERVICE

I, Megan Zavieh, declare as follows:

I am over the age of eighteen years and not a party to this action.

On January 15, 2015, I served a true and correct copy of the within document(s):

- Respondent's Answer to the State Bar's Notice of Disciplinary Charges

☐ by **FACSIMILE** by transmitting the document(s) listed above to the fax number(s) set forth below.

☐ by **PERSONAL DELIVERY**. I personally delivered the document(s) listed above, addressed as set forth below.

☒ by **UNITED STATES MAIL** by depositing the document(s) listed above in a sealed envelope, with postage fees fully prepaid, into the United States Postal Service delivery system containing the aforesaid document(s), addressed as stated above, at Alpharetta, Georgia.

Sherrie McLetchie
The State Bar of California
Office of the Chief Trial Counsel
180 Howard Street
San Francisco, CA 94105

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

Megan Zavieh