

FILED

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STATE BAR COURT CLERK'S OFFICE
SAN FRANCISCO

IN THE STATE BAR OF CALIFORNIA COURT

CASE No.: 14-O-00848

7 State Bar of California

8 Petitioner

9 v.

10 Sanjay Bhardwaj

11 Respondent.

Date: 10.8.16

Judge: Hon. Patrice McElroy

Hearing Date : 7.11.16

Date Action Filed: 6.6.16

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17 **RESPONDENT'S PRELIMINARY AMENDED ANSWER TO NOTICE OF**
18 **DISCIPLINARY CHARGES**

19 On 9.15.16, State Bar filed a motion for amendment of NDC for COUNTS
20 FIVE, SIX and SEVEN. In response to first NDC filed 6.6.16, Respondent
21 indicated that underlying facts were wrongly stated. In his first pre-trial
22 conference statement filed 9.12.16, Respondent indicated that these
23 COUNTS fail on their "face" due to wrong facts elucidated. Respondent also
24 objected to the use of 2.28.12 decision of the Court of Appeal First
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1 Appellate District as it violated basic rules of evidence in use of unsworn
2 testimony and violation of attorney client privilege. Since the State Bar
3 Court continued the trial from 10.4.16-10.7.16 to January 2017, State Bar
4 files the motion to amend these mistakes claiming that Respondent shall
5 have notice. State Bar, however has the benefit of Respondent's answer filed
6 7.15.16 and his pre-trial conference statement to rectify mistakes arisen out
7 of inexcusable neglect and lack of diligence. This violates mechanics of an
8 adversarial proceeding. State Bar is relying on Respondent's work product
9 and research to charge him within the same proceeding. Out of procedural
10 regulations, State Bar Court granted the request to amend on 9.28.16.
11 Respondent has 20 days from the grant of amendment to file an answer to
12 the amendment. Respondent files this pleading on 10.11.16.

13 14 15 16 17 18 **DISCLAIMER ON ADMISSIBILITY**

19 The statements advanced in this document are for purposes of litigation
20 defense. They are not to be used to indicate Respondent's fixed position on
21 the issues during trial or case in chief. Accordingly, State Bar shall not use
22 any of the narratives from this document to make the case in chief.
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25 **JURISDICTION**

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1 The State Bar Court is without jurisdiction to modify, amend or correct
2 orders after litigation in Article VI state courts and Article III federal courts.
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4 State Bar's basis for discipline on elements is to find the elements in the
5 existing orders. Any augmentations or new findings are not only without
6 jurisdiction in this court, but also violate principles of *res judicata* and
7 finality of orders.
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10 PROCEDURAL AND FACTUAL BACKGROUND

11 This section is incorporated by reference from the answer filed 7.15.16.

12 Respondent does not find need to repeat the pleadings.
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14 RESPONDENT'S ANSWER ON EACH AMENDED COUNT

15 JURISDICTION: From 7.2.2010 to 12.14.13, Respondent is subject to regulatory
16 jurisdiction but not discipline jurisdiction. Respondent refutes that State Bar has
17 jurisdiction to discipline. Respondent is not a practicing attorney but a full time
18 W2 employee in technology companies.
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21 COUNT FIVE

22 Respondent is not a practicing attorney on or about May 2, 2011 and not within
23 discipline jurisdiction. The claimed order, even if true, is challenged as obtained
24 through extrinsic fraud, deceit and mistake in a federal court, with matter still
25 *subjudice*. Respondent needs Article III court ruling as part of his defense.
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1 Respondent denies intent element of "willful." The allegations regarding word
2 limits constituting disciplinable offense are not in accord with facts. No
3 combination of briefs or a single brief exceeds the prescribed word limits. State
4 Bar's prosecutor (Brune) has contacted several state, federal and out of state courts
5 in an *ex parte* manner and violated Respondent's right of confidentiality during
6 investigation. Rule 2302. The order at issue, used by the State Bar as foundation, if
7 and when authenticated, violates Respondent's attorney client privilege and uses
8 unsworn testimony as evidence first time on appeal. It cannot be legally used for
9 subsequent new actions. The appeal court provided no notice regarding an order to
10 show cause regarding likelihood of reference to disciplinary agency. The legally
11 insufficient notice issued also lacks requisite court days prescribed by code of civil
12 procedure §1005. Respondent has First Amendment protection as charges are filed
13 to chill petitioning against state public officials. The statute of limitation of five
14 years has expired. State Bar fails to plead any exceptions in the NDC. Respondent
15 denies that rule of court 8.204 (c) (1) is violated. Respondent denies factual
16 allegations and that even if true they rise to disciplinable conduct.
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24 COUNT SIX

25 Respondent is not a practicing attorney on or about May 2, 2011 and not within
26 discipline jurisdiction. The claimed order, even if true, is challenged as obtained
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1 through extrinsic fraud, deceit and mistake in a federal court, with matter still
2 *subjudice*. Respondent needs Article III court ruling as part of his defense.
3
4 Respondent denies intent element of "willful." Respondent denies element of "bad
5 faith." The allegations regarding word limits constituting disciplinable offense are
6 not in accord with facts. No combination of briefs or a single brief exceeds the
7 prescribed word limits. State Bar's prosecutor (Brune) has contacted several state,
8 federal and out of state courts in an *ex parte* manner and violated Respondent's
9 right of confidentiality during investigation. Rule 2302. The order at issue, if and
10 when authenticated, violates Respondent's attorney client privilege and uses
11 unsworn testimony as evidence first time on appeal. The appeal court provided no
12 notice regarding an order to show cause regarding likelihood of reference to
13 disciplinary agency. The legally insufficient notice issued also lacks requisite court
14 days prescribed by code of civil procedure §1005. It cannot be legally used for
15 subsequent new actions. Respondent has First Amendment protection as charges
16 are filed to chill petitioning against state public officials. The statute of limitation
17 of five years has expired. State Bar fails to plead any exceptions in the NDC.
18 Respondent denies that any alleged action constitutes an act of "moral turpitude."
19 Respondent denies factual allegations and that even if true they rise to disciplinable
20 conduct.
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1 COUNT SEVEN

2 Respondent is not a practicing attorney on or about May 2, 2011 and not within
3 discipline jurisdiction. The claimed order, even if true, is challenged as obtained
4 through extrinsic fraud, deceit and mistake in a federal court, with matter still
5 *subjudice*. Respondent needs Article III court ruling as part of his defense.
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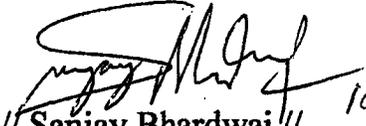
8 Respondent denies intent element of "willful." Respondent denies element of
9 willful failure to maintain respect due to the courts of justice and judicial officers.
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11 No judicial officers are named to draft a suitable defense. The allegations
12 regarding word limits constituting disciplinable offense are not in accord with
13 facts. No combination of briefs or a single brief exceeds the prescribed word limits.
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15 State Bar's prosecutor (Brune) has contacted several state and out of state courts in
16 an *ex parte* manner and violated Respondent's right of confidentiality during
17 investigation. Rule 2302. The order at issue, if and when authenticated, violates
18 Respondent's attorney client privilege and uses unsworn testimony as evidence
19 first time on appeal. It cannot be legally used for subsequent new actions. The
20 appeal court provided no notice regarding an order to show cause regarding
21 likelihood of reference to disciplinary agency. The legally insufficient notice
22 issued also lacks requisite court days prescribed by code of civil procedure
23 §1005. The statute of limitation of five years has expired. State Bar fails to plead
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any exceptions in the NDC. Respondent has First Amendment protection as charges are filed to chill petitioning against state public officials. Respondent denies factual allegations and that even if true they rise to disciplinable conduct.


11 Sanjay Bhardwaj 11 10-8-16
Sanjay Bhardwaj, Esq.
Attorney

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PROOF OF SERVICE

The undersigned hereby declares that I am over 18 years and not a party to this action, My business address is: Arria Printing and Shipping 43575 Mission Blvd Fremont CA 94539. On 10.8.16, I mailed a true copy of Respondent' Supplemental Answer To Amended Counts to Notice of Disciplinary Charges By mail, by placing the said document(s) in an envelope addressed as shown below. I sealed the envelope and placed it in for collection and mailing with postage fully prepaid on the date stated below to the addressee below.

Robin B Brune
Deputy Trial Counsel
Office of Chief trial Counsel
180 Howard Street
San Francisco CA 94105

I declare under the penalty of perjury, under the laws of the State of California that the foregoing is true and correct. The declaration is executed at Fremont California on 10.8.16.

