Sanjay Bhardwaj SBN 257780
Law Offices of Sanjay Bhardwaj
44663 Japala Pl
Fremont CA 94539.
bhardwajsa@cs.com
5106512755

FILED

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IN THE STATE BAR OF CALIFORNIA COURT

State Bar of California Petitioner v. Sanjay Bhardwaj Respondent.	**CASE No.: 14-O-00848** RESPONDENT'S AMENDED ANSWER TO NOTICE OF DISCIPLINARY CHARGES Date: 7.6.16 Judge: Hon. Patrice McElroy Hearing Date : 7.11.16 Date Action Filed: 6.6.16

RESPONDENT'S PRELIMINARY AMENDED ANSWER TO NOTICE OF DISCIPLINARY CHARGES

On 6.6.16, State Bar filed an NDC. Respondent filed a motion to strike and dismiss on 6.16.16. State Bar filed a response on 6.22.16. Respondent filed the reply to response on 6.28.16. On 6.30.16, the State Bar Court summarily denied all claims by Respondent regarding immediate striking and dismissal. The State Bar Court offered no reasoning, basis in law or fact. The denial is with prejudice. Respondent intends to seek an interlocutory review of the

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ruling through a petition for review to be filed in 15 days from 6.30.16. In the interim, Respondent files this preliminary answer to meet the notice of disciplinary charges. The filing of the preliminary answer is in no way a concession of the claim that State Bar Court lacks jurisdiction over subject matter and claims. The action is claimed to be barred under state's anti-SLAPP statute CCP §425.16, by the Supremacy Clause of the US Constitution (Article VI, Clause 2), by the federal case law on petitions to federal courts against state public officials, and state and federal whistle blower laws.

DISCLAIMER ON ADMISSIBILITY

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

JURISDICTION

The State Bar Court is without jurisdiction to modify, amend or correct orders after litigation in Article VI state courts and Article III federal courts. State Bar's basis for discipline on elements is to find the elements in the

orders. Any augmentations are not only without jurisdiction in this court, but also violate principles of *res judicata* and finality of orders.

PROCEDURAL AND FACTUAL BACKGROUND

The alleged charges stem from Respondent's own divorce case involving division of community property. At the time of the allegations, Respondent was not a practicing attorney, but was employed in the profession, vocation or occupation of an engineer. Respondent was not within the purview of the State Bar Act, but Professional Engineer Act. Respondent did not hold himself out to public for rendering of legal services. During the adjudication of the dissolution action, Respondent observed disregard of law and facts to make arbitrary property rulings regarding his real and personal property. Apparently because Respondent was of foreign origin and *pro per*, first the State Judge (Stephen M Pulido, later improper delegation to a commissioner, Thomas Nixon) and the corresponding appellate division (Division V Barbara J R Jones) came in lock step (enterprise to protect each other[1]) to make arbitrarily rulings designed to take property from Respondent. Rulings were made with a predisposed position to sell realty and convert to cash for award of arbitrary property to other party and her attorney. Such conduct

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[1] So that the decisions and opinions are not looked at by other courts or judicial officers (as purpose of enterprise), exorbitant sanctions were levied with no basis and understanding of standards and law.

multiplied after Respondent approached the US Supreme Court after summary denials of petition for rehearing and petition of certiorari to the California Supreme Court (S201548). Litigation was accepted and property taken beyond entry of judgment that terminates trial court litigation in all US jurisdictions.

It was during the post-judgment litigation from September 2012 to February 2013 that Respondent realized a scheme of doctoring of transcripts perpetrated by opposing attorney and trial judge with the use of court personnel. A complete review revealed the scheme ongoing from the first proceeding in October 2009 to on and after 2.8.13. Due to wrongful taking and complete breakdown of lawful proceedings and illegal acts, Respondent petitioned to the US District Court for the Northern District of California through case 13-CV-3807 which is *subjudice* to this day under 13-17498 with the United States Court of Appeals for the Ninth Circuit. The federal claims arise under 42 USC §1983 (civil rights), 18 USC §1964 (civil RICO) and 15 USC §1-7 (anti-trust). No state court can adjudicate anti-trust claims where the jurisdiction is exclusively with federal courts. The Ninth Circuit has been fully briefed regarding the course of events and conduct of state public officials as of January 2015.

For some strange and unknown reasons, the State Bar (creature of legislature as opposed to Article III of US Constitution or Article VI of the California

Constitution) through trial counsel Robin B Brune ("Brune"), with evidence of involvement of the attorney (Paul W Thorndal SBN 178622,), other party and the appellate court in question and likely involvement of Alameda County Superior Court (defendant in federal case), has filed the NDC on 6.6.16. Some of the claims have statute of limitation expired beyond the permitted 5 years. State Bar fails to plead any exceptions to expiry of statute of limitation. The early neutral evaluation occurred around 12.15.15. It appears to Respondent that State Bar, working with the parties having interest in the federal litigation, has filed this action in order to influence the federal litigation. With this background, Respondent answers each COUNT mentioned in the NDC.

RESPONDENT'S ANSWER ON EACH COUNT

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

COUNT ONE

Respondent is not a practicing attorney on or around 7.2.2010 and not within discipline jurisdiction. The claimed order, even if true, is challenged as obtained through extrinsic fraud, and deceit in a federal court, with matter still *subjudice*.

Respondent needs Article III court ruling as part of his defense. The statute of limitation of five years has expired. State Bar fails to plead any exceptions in NDC. Respondent denies intent element of "willful." State Bar's prosecutor has contacted several state and out of state courts in an *ex parte* manner and violated Respondent's right of confidentiality during investigation. Rule 2302. State Bar is improperly interfering in Respondent's private property rights having nothing to do with attorney conduct. 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.

COUNT TWO

Respondent is not a practicing attorney on or around 2.28.12 and not within discipline jurisdiction. The claimed order, even if true, is challenged as obtained through extrinsic fraud, deceit and mistake in a federal court, with matter still *subjudice*. Respondent needs Article III court ruling as part of his defense. Respondent denies intent element of "willful." The charging instrument or order, even if authenticated, violates Respondent's attorney client privilege on pages 2 and 11 and is inadmissible as evidence. The alleged order uses unsworn testimony as evidence first time on appeal and is inadmissible on this ground as well. The order *prima facie* misapplies the "indisputably without merit" standard. State Bar's

prosecutor (Brune) has contacted several state, federal and out of state courts in an *ex parte* manner and violated Respondent's right of confidentiality during investigation. Rule 2302. Respondent has First Amendment protection as charges are filed to chill petitioning against state public officials. State Bar is improperly interfering in Respondent's private property rights having nothing to do with attorney conduct. Respondent denies factual allegations and that even if true they rise to disciplinable conduct.

COUNT THREE

Respondent is not a practicing attorney on or around 3.10.14 and not within discipline jurisdiction. The claimed order, even if true, is challenged as obtained through extrinsic fraud, deceit and mistake in a federal court, with matter still *subjudice*. Respondent needs Article III court ruling as part of his defense. Respondent denies intent element of "willful." The order is issued without jurisdiction of the subject matter and is void. Respondent had no notice of order and was not served on or around 3.10.14 or later. Respondent did not attend the hearing. State Bar's prosecutor (Brune) has contacted several state, federal and out of state courts in an *ex parte* manner and violated Respondent's right of confidentiality during investigation. Rule 2302. Respondent has First Amendment protection as charges are filed to chill petitioning against state public officials. The

order attempts to modify or amend an entered judgment by a newly appointed Judge (Brad Seligman), as opposed to Judge who entered the judgment and is void for this reason as well. Respondent denies factual allegations and that even if true they rise to disciplinable conduct.

COUNT FOUR

Respondent is not a practicing attorney from 4.9.2010 to 2.28.12 and not within discipline jurisdiction. The claimed actions, if true, appeared objectively and subjectively to be legal and just to Respondent. Action cited involves forced sale of three pieces of realty without right to buy of a co-owner which is deemed as illegal in all US jurisdictions. The claimed order, even if true, is challenged as obtained through extrinsic fraud, deceit and mistake in a federal court, with matter still *subjudice*. Respondent needs Article III court ruling as part of his defense. Respondent denies intent element of "willful." State Bar's prosecutor (Brune) has contacted several state, federal and out of state courts in an *ex parte* manner and violated Respondent's right of confidentiality during investigation. Rule 2302. The order at issue, if and when authenticated, violates Respondent's attorney client privilege and uses unsworn testimony as evidence first time on appeal. It cannot be legally used for subsequent new actions. Respondent has First Amendment

protection as charges are filed to chill petitioning against state public officials. The statute of limitation of five years has expired. State Bar fails to plead any exceptions. Respondent denies factual allegations and that even if true they rise to disciplinable conduct.

COUNT FIVE

Respondent is not a practicing attorney on May 2, 2011 and not within discipline jurisdiction. The claimed order, even if true, is challenged as obtained through extrinsic fraud, deceit and mistake in a federal court, with matter still *subjudice*. Respondent needs Article III court ruling as part of his defense. Respondent denies intent element of "willful." The allegations regarding word limits constituting disciplinable offense are not in accord with facts. State Bar's prosecutor (Brune) has contacted several state, federal and out of state courts in an *ex parte* manner and violated Respondent's right of confidentiality during investigation. Rule 2302. The order at issue, if and when authenticated, violates Respondent's attorney client privilege and uses unsworn testimony as evidence first time on appeal. It cannot be legally used for subsequent new actions. Respondent has First Amendment protection as charges are filed to chill petitioning against state public officials. The statute of limitation of five years has expired. State Bar fails to plead any exceptions in the NDC. Respondent denies that rule of court 8.204 (c) (1) is

violated. Respondent denies factual allegations and that even if true they rise to disciplinable conduct.

COUNT SIX

Respondent is not a practicing attorney on May 2, 2011 and not within discipline jurisdiction. The claimed order, even if true, is challenged as obtained through extrinsic fraud, deceit and mistake in a federal court, with matter still *subjudice.* Respondent needs Article III court ruling as part of his defense. Respondent denies intent element of "willful." Respondent denies element of "bad faith." The allegations regarding word limits constituting disciplinable offense are not in accord with facts. State Bar's prosecutor (Brune) has contacted several state, federal and out of state courts in an *ex parte* manner and violated Respondent's right of confidentiality during investigation. Rule 2302. The order at issue, if and when authenticated, violates Respondent's attorney client privilege and uses unsworn testimony as evidence first time on appeal. It cannot be legally used for subsequent new actions. Respondent has First Amendment protection as charges are filed to chill petitioning against state public officials. The statute of limitation of five years has expired. State Bar fails to plead any exceptions in the NDC. Respondent denies that any alleged action constitutes an act of "moral turpitude."

Respondent denies factual allegations and that even if true they rise to disciplinable conduct.

COUNT SEVEN

Respondent is not a practicing attorney on May 2, 2011 and not within discipline jurisdiction. The claimed order, even if true, is challenged as obtained through extrinsic fraud, deceit and mistake in a federal court, with matter still *subjudice*. Respondent needs Article III court ruling as part of his defense. Respondent denies intent element of "willful." Respondent denies element of willful failure to maintain respect due to the courts of justice and judicial officers. The allegations regarding word limits constituting disciplinable offense are not in accord with facts. State Bar's prosecutor (Brune) has contacted several state and out of state courts in an *ex parte* manner and violated Respondent's right of confidentiality during investigation. Rule 2302. The order at issue, if and when authenticated, violates Respondent's attorney client privilege and uses unsworn testimony as evidence first time on appeal. It cannot be legally used for subsequent new actions. The statute of limitation of five years has expired. State Bar fails to plead 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.

COUNT EIGHT

Respondent is not a practicing attorney on October 5-7, 2009 and not within discipline jurisdiction. The claimed order, even if true, is challenged as obtained through extrinsic fraud, deceit and mistake in a federal court, with matter still *subjudice*. Respondent needs Article III court ruling as part of his defense. Respondent denies element of "knew" that opposing attorney and judge will not read a submitted Income and Expense Declaration establishing Respondent's unemployment. The declaration was filed first day of trial. Filing of objections immediately, if true, negates any such knowledge and intent. Respondent denies element of willful failure to maintain respect due to the courts of justice and judicial officers. State Bar's prosecutor (Brune) has contacted several state and out of state courts in an *ex parte* manner and violated Respondent's right of confidentiality during investigation. Rule 2302. The statute of limitation of five years has expired. State Bar pleads no 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.

COUNT NINE

Respondent is not a practicing attorney from 7.10.12 to 12.14.13 and not within discipline jurisdiction. The claimed actions, even if true, are challenged as involving commission of extrinsic fraud, deceit and mistake in a federal court, with matter still *subjudice*. Respondent needs Article III court ruling as part of his defense. Respondent denies element of willful and with regards corrupt motive of passion or interest, for the purpose of harassment and delay.

Respondent has no notice of disciplinable offense from the pleadings. Other party in litigation and her attorney and state courts are engaged in sham litigation to steal Respondent's separate property. No corresponding court found the elements State Bar relies on, even if true. The action involves petitioning against public officials for corruption and connived or actual incompetence (Pulido, Nixon). Such actions cannot be unjust. Actions are protected under the First Amendment of the US Constitution. State Bar's prosecutor has contacted several state, federal and out of state courts in an *ex parte* manner and violated Respondent's right of confidentiality during investigation. Rule 2302. State Bar is improperly interfering in Respondent's private property rights. Respondent denies factual allegations and that even if true they rise to disciplinable conduct.

COUNT TEN

Respondent is not a practicing attorney from 7.10.12 to 12.14.13 and not within discipline jurisdiction. Respondent denies element of willful and with regards to elements of merit, improper purpose and for purpose of delay. Respondent denies and states that his actions, even if true, objectively and subjectively appeared to him and were in fact just and legal. The claimed actions, even if true, are challenged as involving commission of extrinsic fraud, deceit and mistake in a federal court, with matter still *subjudice*. Respondent needs Article III court ruling as part of his defense. Respondent has no notice of disciplinable offense from the pleadings. Other party in litigation and her attorney and state courts are engaged in sham litigation to steal Respondent's separate property. No corresponding court found the elements State Bar relies on, even if true. The action involves petitioning against public officials for corruption and connived or actual incompetence (Pulido, Nixon). Such actions cannot be unjust. Actions are protected under the First Amendment of the US Constitution. State Bar's prosecutor has contacted several state, federal and out of state courts in an *ex parte* manner and violated Respondent's right of confidentiality during investigation. Rule 2302. Petition to federal courts, even if true, without more, cannot be subject of attorney discipline. State Bar is improperly interfering in Respondent's private property rights.

Respondent denies factual allegations and that even if true they rise to disciplinable conduct.

COUNT ELEVEN

Respondent is not a practicing attorney from 7.10.12 to 12.14.13 and not within discipline jurisdiction. Claimed court orders and adjudications are claimed to be obtained by fraud, deceit and mistake in federal court where the matter is *subjudice*. Respondent needs Article III court ruling for his complete defense. Violation of court order (beyond a reasonable doubt burden or even lower burden) has not been judicially determined in any adjudication. It is a false claim by State Bar. Respondent denies element of willful and with regards to claimed improper purpose regarding sale of property, retaliation, violation of court orders. Respondent denies the acts, even if true constitute moral turpitude, dishonesty or corruption. State Bar's prosecutor has likely sat down with opposing attorney to provide defenses to federal action. Respondent has no notice of disciplinable offense from the pleadings. Some actions are initiated by third party and all others by opposing party. Other party in litigation and her attorney and state courts are engaged in sham litigation to steal Respondent's separate property. No corresponding court found the elements State Bar relies on, even if true. The action involves petitioning against public officials for corruption and connived or actual

incompetence (Pulido, Nixon). Actions are protected petitioning under the First Amendment of the US Constitution. State Bar's prosecutor has contacted several state and out of state courts in an *ex parte* manner and violated Respondent's right of confidentiality during investigation. Rule 2302. Petition to federal courts, even if true, without more, cannot be subject of attorney discipline. Timing of the filing is designed to affect federal litigation and is self-serving. State Bar is improperly interfering in Respondent's private property rights. Respondent denies factual allegations and that even if true they rise to disciplinable conduct.

COUNT TWELVE

Respondent is not a practicing attorney from 7.10.12 to 12.14.13 and not within discipline jurisdiction. State Bar factually misstates date to be 12.14.14. Claimed court orders and adjudications are claimed to be obtained by fraud, deceit and mistake in federal court where the matter is *subjudice*. Respondent needs Article III court ruling for his complete defense. Violation of court order (generally beyond a reasonable doubt burden or even lower burden) has not been judicially determined. It is a false claim by State Bar. Respondent denies element of willful and with regards to claimed improper purpose regarding sale of property, retaliation, violation of court orders. Respondent denies acts, even if true,

constitute failure to maintain respect due to the courts of justice and judicial officers. The allegations are vague and Respondent cannot plan a defense as judicial officers are not named. Through civil RICO and anti-trust claims pursued in federal court, criminal conduct is alleged. State Bar's prosecutor has likely sat down with opposing attorney to provide defenses to federal action[2]. Respondent has no notice of disciplinable offense from the pleadings. Some actions are initiated by third party and all others by opposing party. Other party in litigation and her attorney and state courts are engaged in sham litigation to steal Respondent's separate property. No corresponding court found the elements State Bar relies on, even if true. The action involves petitioning against public officials for corruption and connived or actual incompetence (Pulido, Nixon). Actions are protected under the First Amendment of the US Constitution. State Bar's prosecutor (Brune) has contacted several state, federal and out of state courts in an *ex parte* manner and violated Respondent's right of confidentiality during investigation. Rule 2302. Petition to federal courts, even if true, without more, cannot be subject of attorney discipline. Timing of the filing is designed to affect

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[2] After being sued in federal court (8.16.13) Thorndal (SBN 178622) continued sham litigation with Alameda County Superior Court to make orders consistent with this count. Having failed (Seligman did not oblige), Thorndal approaches the State Bar as part of his state enterprise. Respondent expects no new orders or findings from State Bar Court (creature of legislature with jurisdiction limited to attorney discipline).

federal litigation and is self-serving. State Bar is improperly interfering in Respondent's private property rights. Respondent denies factual allegations and that even if true they rise to disciplinable conduct.

COUNT THIRTEEN

Respondent is not a practicing attorney from 7.10.12 to 12.14.13 and not within discipline jurisdiction. State bar misstates date to be 12.14.14. Claimed court orders and adjudications are claimed to be obtained by fraud, deceit and mistake in federal court where the matter is *subjudice*. Respondent needs Article III court adjudication for his complete defense. Violation of court order (generally beyond a reasonable doubt burden or even lower burden) has not been judicially determined. It is a false claim by State Bar. Respondent denies element of willful and with regards to claimed improper purpose regarding sale of property, retaliation, violation of court orders. Respondent denies acts, even if true constitute failure to comply with laws. State Bar fails to cite any law and claims court orders even if valid are "laws." This COUNT is immediately dismissible. State Bar's prosecutor (Brune) has likely sat down with opposing attorney to provide defenses to federal action. Respondent has no notice of disciplinable offense from the pleadings.

Some actions are initiated by third party and all others by opposing party. Other party in litigation and her attorney and state courts are engaged in sham litigation to steal Respondent's separate property. No corresponding court found the elements State Bar relies on, even if true. The action involves petitioning against public officials for corruption and connived or actual incompetence (Pulido, Nixon). Actions are protected petitioning under the First Amendment of the US Constitution. State Bar's prosecutor (Brune) has contacted several state, federal and out of state courts in an *ex parte* manner and violated Respondent's right of confidentiality during investigation. Rule 2302. Petition to federal courts, even if true, without more, cannot be subject of attorney discipline. Timing of the filing is designed to affect federal litigation and is self-serving. State Bar is improperly interfering in Respondent's private property rights. Respondent denies factual allegations and that even if true they rise to disciplinable conduct.

// Sanjay Bhardwaj //
Sanjay Bhardwaj, Esq.
Attorney

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 7.15.16, I mailed a true copy of

Respondent's Amended Answer to NDC

Respondent's Petition for Interlocutory Review

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 Brune
Senior Trial Counsel
State Bar of California
180 Howard Street
San Francisco CA 94105-1639

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 7.15.16.