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9 STATE BAR COURT
10 HEARING DEPARTMENT – SAN FRANCISCO
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13 In the matter of:
14 CHARLES DODGSON,
15 No. 999999,
16 A Member of the State Bar.
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Case No. 13-O-1778506

RESPONDENT'S PRETRIAL
STATEMENT

Trial Date: January 20, 2015

Trial Judge: Hon. John Smith
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21 Pursuant to the Court's scheduling order and Rules of Procedure 5.101 and
22 Rules of Practice 1221, Respondent Charles Dodgson hereby submits the
23 following Pretrial Statement.

24 (a) **Party:** This statement is filed on behalf of Respondent.

25 (b) **Substance of the Proceeding:** This matter arises from a complaint
26 by Respondent's former client Jack Singh ("Mr. Singh"), a professional litigant
27 who repeatedly lied to him about many key aspects of his wrongful termination
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1 claim against a purported former employer. As his lies unraveled, so did his
2 case, and he blames Mr. Dodgson for his ultimate loss.

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

15 Mr. Singh is a frequent litigator and is also no stranger to the State Bar
16 complaint process. In addition to being a plaintiff in multiple law suits, Mr.
17 Singh filed a State Bar complaint against his previous attorney on this same
18 litigation. Following his loss on summary judgment, he filed the complaint
19 against Mr. Dodgson which underlies the NDC.

20 (c) **Undisputed Facts:** Respondent contends that the following facts are
21 not in dispute. Respondent and the State Bar continue to confer on these facts
22 and anticipate filing a stipulation of facts prior to the pretrial conference.

- 23 1. Respondent was admitted to the practice of law in the State of
24 California on March 8, 2000.
- 25 2. Respondent has no prior record of discipline.
- 26 3. Respondent was retained by Mr. Singh on approximately
27 September 15, 2011.
- 28 4. The attorney-client relationship between Respondent and Mr. Singh

- 1 continued from 2011 through the filing of the instant complaint.
- 2 5. By September 12, 2013, Mr. Singh owed Respondent \$79,985.00 in
3 outstanding legal fees and \$6,913.31 in costs.
- 4 6. Trial in the case referred to throughout this matter as the Smith case,
5 in which Mr. Singh was represented by Respondent, took place on
6 dates spanning the period of October 23, 2013 to November 5, 2013.
- 7 7. On July 1, 2014, Mr. Singh owed Respondent \$201,536.51.
- 8 8. Mr. Singh did not dispute owing Respondent \$201,536.51 as of
9 July 1, 2014.
- 10 9. Upon request by Mr. Singh, Respondent provided all necessary files
11 for cases being transferred from Respondent to new counsel for Mr.
12 Singh.
- 13 10. Mr. Singh posted an appeal bond in the amount of \$384,706.60 on
14 August 3, 2012 in the Smith matter with the Superior Court of the
15 State of California, Los Angeles County.
- 16 11. Respondent received a partial refund of Mr. Singh's appeal bond on
17 June 2, 2014.
- 18 12. The amount of the refund of the appeal bond received from the
19 court was \$80,247.35.
- 20 13. Respondent immediately notified Mr. Singh of receipt of the appeal
21 bond refund.
- 22 14. Respondent deposited the appeal bond refund in his client trust
23 account on June 3, 2014.
- 24 15. Respondent prepared and provided an accounting of how the court
25 arrived at the appeal bond refund amount.
- 26 16. Respondent withdrew \$80,247.35 from his client trust account on
27 July 10, 2014.
- 28 17. Respondent credited Mr. Singh's outstanding invoices for \$80,247.35

1 following the July 16, 2014 withdrawal.

2 18. At no time has Mr. Singh submitted to Respondent any dispute of
3 the \$201,536.51 owed to him.

4 19. On August 21, 2015, Respondent filed for fee arbitration with Mr.
5 Singh for \$189,793.77.

6 20. Mr. Singh declined fee arbitration on September 14, 2015.

7 (d) **Disputed Issues:** All other facts alleged in the NDC are contested.
8 There are no disputed evidentiary issues or claims of privilege.

9 (e) **Disposition Sought:** Respondent seeks dismissal of this action. In
10 the event culpability is found, Respondent seeks imposition of a 30-day actual
11 suspension.

12 (f) **Points of Law:** The following points of law are relevant in this
13 matter:

14 1. Funds properly withdrawn from trust are not required to be
15 redeposited into trust if client later disputes fee. State Bar of California Standing
16 Committee on Professional Responsibility and Conduct Op. 2006-171 (if funds
17 are withdrawn from a client trust account at a time when the attorney's fee was
18 fixed, and that fee is later disputed, the attorney has no obligation to re-deposit
19 the funds into trust).

20 2. Rule of Professional Conduct 4-100(A)(2) requires client funds to
21 remain in trust when the client disputes the attorney's fee. Rule 4-100(A)(2); *In*
22 *the Matter of Davis* (Rev. Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576, 586 (attorney
23 had "certain knowledge" that his fee was being disputed, had received "explicit
24 directives" to cease representation, and thus was not permitted to withdraw
25 funds); *In the Matter of Fonte* (Rev. Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752, 758
26 (client contests fees charged, funds are to be placed in trust).

27 3. Failing to hold disputed client funds in trust is not an act of moral
28 turpitude where attorney had honest belief that he was entitled to the funds,

1 even if that belief was unreasonable. *In the Matter of Hagen* (Rev. Dept. 1992) 2
2 Cal. State Bar Ct. Rptr. 153, 168-69 (established billing practices permitted
3 attorney's collection of fees from related entity, and attorney had honest but
4 unreasonable belief he was entitled to collect fees at the time he received the
5 money); *Sternlieb v. State Bar* (1990) 52 Cal.3d 317, 332 (no moral turpitude where
6 attorney held honest but unreasonable belief of entitlement to funds).

7 4. Failing to hold funds in trust where client objects to source of
8 payment of fee but not to fee itself is not moral turpitude. *In the Matter of*
9 *Respondent K* (Rev. Dept. 1993) 2 Cal. State Bar Ct. Rptr. 335, 349 (with no dispute
10 as to the amount of the fee, but only as to the source of the funds used to pay the
11 fee, attorney's collection of the fee from trust funds was not moral turpitude).

12 (g) **Witnesses To Be Called:** Respondent intends to call the following
13 fact witnesses. He has no scheduling difficulties, and the other two witnesses are
14 the complaining witnesses to be called by the State Bar. Respondent will not be
15 calling any expert witnesses.

16 1. Respondent – to testify to all matters pertinent to the NDC and in
17 mitigation.

18 2. Mr. Singh – to testify to all matters pertinent to the NDC.

19 3. Jonathan Hill – to testify to all matters pertinent to the NDC taking
20 place from January 2014 to date.

21 (h) **Further Discovery or Motions:** No further discovery or motions are
22 pending or expected.

23 (i) **Stipulations:** Respondent seeks only stipulation to the facts listed
24 above herein for the purpose of shortening trial.

25 (j) **Amendments, Dismissals:** Respondent seeks no amendments or
26 dismissals at this time.

27 (k) **Settlement Discussion:** Respondent has participated in extensive
28 settlement discussions and a voluntary settlement conference, but such

1 discussions were ultimately unproductive. Respondent does not believe
2 additional settlement discussions would be useful at this time.

3 (l) **Bifurcation, Separate Trial of Issues:** Respondent does not seek
4 bifurcation of trial.

5 (m) **Limitation of Experts:** Respondent believes no expert testimony is
6 needed and thus none should be permitted.

7 (n) **Estimate of Trial Time:** Respondent believes trial should take no
8 more than one court day.

9 (o) **Claim of Privilege or Work Product:** Respondent does not claim
10 that any of the matters required to be stated by this rule are covered by work
11 product or other privilege.

12 (p) **Failure to Cooperate:** There has been cooperation by both sides in
13 this matter.

14 (q) **Miscellaneous:** Respondent has no further matters to bring to the
15 Court's attention.

16 Respectfully submitted,

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18 Dated: January 6, 2016

19 Charles Dodgson
20 Respondent