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STATE BAR COURT CLERK'S OFFICE  
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7 Attorney for Respondent Allen C. Hassan

8 STATE BAR COURT  
9 HEARING DEPARTMENT – SAN FRANCISCO

10 In the Matter of:

) Case No. SBC-20-O-00001  
)

11 ALLEN CLARENCE HASSAN,  
12 No. 104024,  
13 )

) ANSWER OF ALLEN CLARENCE HASSAN  
) TO NOTICE OF DISCIPLINARY CHARGES  
) (OCTC cases 18-O-15134; 19-O-15428)  
)

14 A Member of the State Bar  
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16 )

) Judge: Hon. Manjari Chawla  
) Court Specialist: Shannon Crossley  
)  
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18 Respondent Allen C. Hassan submits the following Answer to the Notice of  
19 Disciplinary Charges (“NDC”) pursuant to State Bar Rules of Procedure, rule 5.43:

20 Jurisdiction

21 1. Respondent admits the allegations of par. 1 of the NDC and affirms that he was a  
22 licensed attorney at all times pertinent to the charges and is currently a licensed attorney.

23 Count One

24 2. Respondent admits that he was initially retained by Mr. Jerry Littleton on about  
25 August 21, 2012, that he was retained pursuant to a written attorney-client contingency-fee  
26 agreement executed by Mr. Littleton on that date, and that the purpose of the attorney-client  
27 agreement was the filing of a lawsuit against PG&E and South Feather Water and Power  
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1 Agency for on-going violations of his civil rights resulting in his contracting a chronic  
2 pulmonary condition commonly known as “welder’s lung disease” allegedly caused by  
3 inhaling harmful fumes during his duties as a welder for the South Feather Water and Power  
4 Agency. Respondent denies that he intentionally, recklessly, or repeatedly failed to perform  
5 with competence in violation of former rule 3-110(A), and Respondent specifically denies that  
6 the allegations of par. 2 A – K, inclusive, of the NDC constitute failure to perform with  
7 competence in violation of former rule 3-110(A). Respondent asserts that the following facts  
8 are relevant to his defense: Respondent Hassan promptly filed and served a lawsuit for  
9 damages in the U.S. District Court, Eastern District of California (Case No. 2:12-cv-02236)  
10 pursuant to his contingent-fee agreement with Mr. Littleton. Defendants each moved to  
11 dismiss the Complaint under Rule 12(b)(6), and on February 13, 2013 the Court granted each  
12 of their motions with 14-day’s leave for plaintiff to file an amended complaint. Respondent  
13 Hassan on behalf of his client timely filed and served his First Amended Complaint.  
14 Defendant South Feather Water and Power Agency filed its Answer to Plaintiff’s First  
15 Amended Complaint (“FAC”). However, there were structural problems with the federal  
16 claims stated in the lawsuit in that: (1) Mr. Littleton had previously filed a worker’s  
17 compensation claim with the California WCAB – which claim was not filed by Mr. Hassan,  
18 who does not practice worker’s comp law – for an award against his employer (South  
19 Feather) based on pulmonary injuries from welder’s lung disease that resulted in a final  
20 judgment, and hence was res judicata of any similar claims being made in Mr. Littleton’s  
21 federal lawsuit; (2) Although Mr. Littleton’s action under Section 1983 for civil rights violations  
22 did not require as a prerequisite the filing of a public entity claim, a Section 1983 violation  
23 against the public employer was difficult to establish, and (3) Mr. Littleton had not filed the  
24 prerequisite request for a “right to sue” letter from the EEOC. Furthermore, Respondent  
25 Hassan was having difficulty finding a medical opinion supportive of a claim that Mr.  
26 Littleton’s chronic pulmonary condition was caused by fumes inhaled by him during his years  
27 as a welder for the Water and Power Agency rather than from his history as a heavy smoker

1 for most of his adult life. The defendant public employer South Feather filed a dispositive  
2 motion for partial summary judgment in August 2013. Respondent Hassan discussed these  
3 issues with Mr. Littleton, but the client was not prepared to dismiss the case voluntarily.  
4 Lacking a legitimate basis for contesting South Feather's summary judgment motion,  
5 Respondent declined to file an opposition to it. On February 12, 2014 the Court dismissed the  
6 case pursuant to Rule 41 for failure to diligently prosecute the lawsuit. At Mr. Littleton's  
7 request, Respondent promptly filed a motion to set aside the dismissal, but at the hearing on  
8 May 14, 2014 the Court denied the motion. Due to the inherent problems with the case, no  
9 appeal was taken.

10 Count Two

11 3. Respondent denies that he failed to keep his client Jerry Littleton reasonably  
12 informed of developments in violation of Bus. and Prof. Code section 6068(m) by failing to  
13 inform him that his case was dismissed. For reasons described above in paragraph 2,  
14 Respondent did not file an opposition to South Feather's summary judgment motion. On  
15 February 12, 2014 the Court dismissed the case pursuant to Rule 41 for failure to diligently  
16 prosecute the lawsuit. At Mr. Littleton's request, Respondent promptly filed a motion to set  
17 aside the dismissal, but at the hearing on May 14, 2014 the Court denied the motion. Due to  
18 the inherent problems with the case, no appeal was taken.

19 Count Three

20 4. Respondent Hassan denies that he violated Bus. and Prof. Code section 6103 in  
21 failing to comply with the court orders listed at par. 4 A – G of the NDC. Respondent did  
22 comply with the federal court's orders after he received notice that he had missed the filing  
23 deadlines referenced in par. 4, and Respondent timely paid the sanctions that were assessed  
24 against him by the court. For reasons described above in paragraph 2, Respondent did not  
25 file an opposition to South Feather's summary judgment motion filed in August 2013, and did  
26 not file further papers thereafter. On February 12, 2014 the Court dismissed the case  
27 pursuant to Rule 41 for failure to diligently prosecute the lawsuit.

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Count Four

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5. Respondent Hassan admits that he was retained by Ms. Victoria Littleton, that he filed a lawsuit in Butte County Superior Court, case no. 165489 against South Feather Water and Power Agency in the name of her father Jerry Littleton, who was recently deceased. The case was not correctly denominated in the name of the deceased, so this case was abandoned and with the consent of the client a new and different lawsuit (Butte County Superior Court case no. 16-cv-01637) was filed in order to prosecute the wrongful death of Jerry Littleton – please see below in par. 6 for the facts pertaining to the prosecution of that case. Respondent denies that he intentionally, recklessly, or repeatedly failed to perform with competence in violation of former rule 3-110(A), and Respondent specifically denies that the allegations of par. 5 A – H, inclusive, of the NDC constitute failure to perform with competence in violation of former rule 3-110(A). Respondent incorporates by reference the factual circumstances recited below in par. 6, pages 5:25 – 6:20, and asserts that such circumstances are relevant to his defense regarding this Count Four.

Count Five

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6. Respondent Hassan admits that he was retained by Ms. Victoria Littleton, that he was retained pro bono, and that the purpose of the retainer was the filing of a lawsuit in Butte County Superior Court, case no. 16-cv-01637, sounding in tort against South Feather Water and Power Agency for the wrongful death of her father Jerry Littleton that occurred on November 20, 2015 as a result of his allegedly contracting a chronic pulmonary condition commonly known as “welder’s lung disease” allegedly caused by inhaling harmful fumes during his duties as a welder for the South Feather Water and Power Agency. Respondent denies that he intentionally, recklessly, or repeatedly failed to perform with competence in violation of former rule 3-110(A), and Respondent specifically denies that the allegations of par. 6 A – E, inclusive, of the NDC constitute failure to perform with competence in violation of former rule 3-110(A). Respondent asserts that the following facts are relevant to his defense: On behalf of his client Victoria Littleton and the other children of their deceased

1 father, attorney Hassan filed a Complaint for Wrongful Death in Butte County Superior Court  
2 case 16CV01637 on August 2, 2016. The primary defendant was South Feather Water and  
3 Power Agency. Attorney Hassan states that he was donating his attorney's time pro bono in  
4 order to prosecute the Butte County lawsuit, and that there was no written attorney-client  
5 agreement because there were no attorney fees being charged. The Defendants demurred to  
6 the Complaint on grounds that Plaintiffs failed to comply with the California Tort Claims Act  
7 requiring notice to public-entity defendants prior to filing a civil action. Attorney Hassan filed  
8 an Opposition to Demurrer on behalf of Plaintiffs. The Court ruled in favor of Defendants but  
9 granted leave to amend within twenty days based on a possible theory of compliance with the  
10 Tort Claims Act on grounds of late discovery. On March 2, 2017 the Court entered Notice of  
11 Entry of Order, and on March 10, 2017 attorney Hassan filed a First Amended Complaint on  
12 behalf of Plaintiffs. Defendants again demurred. Attorney Hassan filed Plaintiffs' Opposition to  
13 Defendants' Demurrer on April 21, 2017. On April 28, 2017 the Court issued its tentative  
14 ruling granting the demurrers without leave to amend on grounds that the defendant Agency  
15 had denied the Plaintiffs' petition to file a late claim. A case management conference was  
16 held by the Court on May 5, 2017, and on May 8, 2017 the Court issued its Notice of Entry of  
17 Judgment/Order dismissing the First Amended Complaint for failure to state a cause of  
18 action. On May 18, 2017 attorney Hassan filed Plaintiffs' Petition for Order for Relief from  
19 having to file a claim pursuant to Gov. Code § 945.6. On June 9, 2017 attorney Hassan  
20 attended the Court's case management conference, and on July 7, 2017 he attended the  
21 hearing on Plaintiffs' motion for relief. At that hearing, the Court denied the Plaintiffs' motion  
22 for relief on grounds that Plaintiffs had not provided an explanation of why they did not timely  
23 investigate the cause of Mr. Littleton's death such that a claim could be filed with the  
24 defendant Agency within the one-year limitation of Gov. Code § 911. On August 31, 2017 the  
25 Court filed its Judgment of Dismissal After Sustaining Demurrer to First Amended Complaint.  
26 Again, Respondent Hassan was unable to find a medical opinion supportive of a claim that  
27 Mr. Littleton's chronic pulmonary condition was caused by fumes inhaled by him during his

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1 years as a welder for the Water and Power Agency rather than from his history as a heavy  
2 smoker for most of his adult life. The QME report dated February 22, 2012 by Dr. Schenker  
3 for Mr. Littleton's WCAB proceedings was based solely on his 1-hour examination of Mr.  
4 Littleton (on January 12, 2012) and his five hours of reviewing the latter's medical records;  
5 there was no reference to any X-rays of Mr. Littleton's lungs. Respondent states that only an  
6 X-ray of Mr. Littleton's lungs while he was alive, or a biopsy of his lungs from the Coroner's  
7 autopsy would show the minute particles of metal, such as iron, in the lung tissue (so-called  
8 'bubbles' that reflect on an X-ray or are detected in a biopsy) that show the presence of  
9 Welder's Lung Disease. There was no evidence in the record of funding such particles of  
10 metal or X-ray 'bubbles' in Mr. Littleton's lungs. Indeed, in the Coroner's Report dated  
11 November 24, 2015 for Mr. Littleton, the Coroner determined that the cause of death was  
12 "Chronic Obstructive Pulmonary Disease" (i.e., COPD), due to "Pulmonary Fibrosis," hence  
13 that it was not medically possible that cause of death was from Welder's Lung Disease.  
14 Again, there was no viable wrongful death case for Mr. Hassan to prosecute on behalf of  
15 Vicki Littleton, therefore he could not pursue the claim and result in incurring further costs to  
16 Ms. Littleton. Notwithstanding this, at the request of client Ms. Littleton, on September 9,  
17 2017, attorney Hassan filed a Notice of Appeal on behalf of Plaintiffs in case 16CV01637,  
18 which was filed in the Third Appellate District as case C085740. A related appeal had been  
19 filed in the Butte County case that had been brought in the name of Jerry Littleton (no.  
20 165489), filed in the Third Appellate District as case C085702. Plaintiffs did not perfect their  
21 appeal (either of them) by preparing the appropriate transcripts for the appellate court, and  
22 both appeals were dismissed. Attorney Hassan moved to reinstate the appeal, but on April  
23 30, 2018 the Court denied the motion. Attorney Hassan notified Victoria Littleton that the  
24 appeal had been dismissed, and he refunded to her the costs that had been expended in  
25 filing the appeals.

26 Count Six

1 7. Respondent denies that he failed to keep his client Victoria Littleton reasonably  
2 informed of developments in the appeal of *Victoria Littleton v. South Feather* (case C085740)  
3 in violation of Bus. and Prof. Code section 6068(m) by failing to inform her that the appeal of  
4 her case had been dismissed. Respondent states as matters relevant to his defense on this  
5 Count Six that, for reasons described above in paragraph 6, Respondent did not perfect the  
6 appeal by preparing the appropriate transcripts for the appellate court, thus saving the client  
7 the significant sums that would have been required to have the transcripts prepared, and that  
8 he discussed this decision in a timely manner with his client.

9 Count Seven

10 8. Respondent denies that he failed to keep his client Victoria Littleton reasonably  
11 informed of developments in the appeal of *Jerry Littleton v. South Feather* (case C085702) in  
12 violation of Bus. and Prof. Code section 6068(m) by failing to inform her that the appeal of her  
13 case had been dismissed. Respondent states as matters relevant to his defense on this  
14 Count Seven that, for reasons described above in paragraph 6, Respondent did not perfect  
15 the appeal by preparing the appropriate transcripts for the appellate court, thus saving the  
16 client the significant sums that would have been required to have the transcripts prepared,  
17 and that he discussed this decision in a timely manner with his client.

18 Count Eight

19 9. Respondent admits that he received \$1,550 from his client Victoria Littleton in order  
20 to pay the filing fees for the two appeals referenced above that were not deposited into an  
21 attorney trust-funds account. Respondent states as matters relevant to his defense on this  
22 Count Eight that his attorney trust account had been closed; that he paid the \$1,550 filing  
23 fees for the two appeals from the funds that Ms. Littleton had provided for that purpose; that  
24 for reasons described above in paragraph 6, Respondent did not perfect the appeal by  
25 preparing the appropriate transcripts for the appellate court; and that he refunded to her the  
26 costs that had been expended in filing the appeals.

27 Count Nine

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10. Respondent denies that he retained, hired, or otherwise employed inactive attorney John Edmund Wolfram, and therefore denies that he had a duty to serve notice of such employment upon the State Bar.

Count Ten

11. Respondent admits that during the referenced time period he did not serve written notice upon the State Bar that he had employed disbarred attorney Thomas J. Dixon periodically on an independent contractor basis to perform various non-lawyer tasks. Respondent states as matters relevant to his defense on this Count Ten that he orally informed the deputy State Bar attorney of this fact at the settlement conference hearings during 2015, and that it was discussed during settlement negotiations related to the NDC filed against him in 2015 alleging among other things that he had failed to inform the State Bar that he was periodically hiring disbarred attorney Mr. Dixon.

Count Eleven

12. Respondent admits the allegations contained in paragraphs 15 – 22, inclusive, of this Count Eleven. Respondent states that he did not realize that he had a duty to report to the State Bar regarding any disciplinary sanctions on his medical license.

Count Twelve

13. Respondent admits the allegations contained in paragraphs 23 – 25, inclusive, of this Count Twelve. Respondent incorporates herein the facts stated above in paragraphs 9, 11, and 12 of this Answer as facts relevant to his defense of this Count Twelve.

Count Thirteen

14. Respondent admits the allegations contained in paragraphs 26 – 28, inclusive, of this Count Thirteen. Respondent incorporates herein the facts stated above in paragraphs 9, 11, and 12 of this Answer as facts relevant to his defense of this Count Thirteen. Respondent denies the allegations of paragraphs 29 – 30; in particular, Respondent denies that he knew he was not in compliance as alleged and denies that he was deliberately or recklessly committing any misrepresentation to the State Bar.



Count Fourteen

15. Respondent admits that Marcos Jimenez retained him to perform legal services, and that, although he is not certain of the date, his best recollection is that it was during the September – October 2017 time period. Respondent denies the other allegations of Count Fourteen, and specifically denies that the items alleged at par. 31 A – D constitute a violation of former rule 3-110(A) of the Rules of Professional Conduct. Respondent states that the following circumstances are relevant to his defense to this Count Fourteen: Marcos Jimenez initially paid him a retainer of \$6,500.00 for fees to review records and provide an opinion on the professional competency of Mr. Jimenez’s former attorneys, in particular his former attorney Patrick Keenan, who had been handling the matter of his litigation efforts to obtain custody of his biological son Reed. Respondent Hassan states that he charges \$500 per hour for his attorney time; that he conducted a full legal review for Mr. Jimenez of the matter he was retained to investigate, including a review of the merits of Mr. Jimenez’s lawsuit against Mr. Keenan for attorney malpractice that was filed and prosecuted by Mr. Jimenez’s attorney Rajender Shyamala as well as discussions with attorneys Keenan and Shyamala. Respondent states that after this full legal review, he determined that there was no basis for concluding that any of the former attorneys in Mr. Jimenez’s custody case had acted below the standard of care. Respondent determined that there was no legal basis for continuing to prosecute the attorney malpractice lawsuit against Mr. Keenan, and therefore Respondent declined to appear formally as Mr. Jimenez’s attorney in that lawsuit. Indeed, Mr. Jimenez apparently had made complaints to the State Bar that his former attorneys, including attorney Keenan, had committed malpractice, but the Bar determined that the former attorneys had acted properly. Mr. Jimenez, however, insisted to attorney Hassan that he had a right to take his infant biological son Reed away from Reed’s adoptive parents, the Meyers, notwithstanding that the Meyers’ adoption of Reed was fully and finally adjudicated, and that the baby had bonded with the Meyers family. Mr. Jimenez then requested that Respondent look into whether Respondent could take any legal action to obtain full custody of his infant

1 son. Respondent investigated the matter of the custody/adoption proceedings undertaken by  
2 the Meyers to adopt Reed, including conversations with the attorney for the Meyers and with  
3 other child-custody experts. As a result, Respondent learned that Mr. Jimenez, who was  
4 approximately age 49, had gotten the mother, then age 19, pregnant, but that he had not  
5 been with the biological mother during her pregnancy or thereafter. He also learned that Mr.  
6 Jimenez had a felony criminal conviction. With these adverse facts, attorney Hassan was  
7 unable to generate a viable legal plan to obtain custody for Mr. Jimenez, primarily for the  
8 reason that Mr. Jimenez's conduct toward the birth mother and his infant son did not fall  
9 under the conditions identified in the leading case of *In re Kelsey* (1992) 1 Cal.4th 816, 849-  
10 850. Respondent Hassan communicated frequently with his client Mr. Jimenez regarding the  
11 matter of any possible further legal proceedings to obtain custody of his biological son Reed.  
12 Legal assistant Ronald Marcussen was present with Mr. Jimenez when Mr. Jimenez told  
13 Respondent that the latter had done all that he could do to try to obtain custody of Reed for  
14 him. Since neither the attorney malpractice case against Mr. Keenan nor further proceedings  
15 to contest the adoption of young Reed by the Meyers had legal merit, Respondent did not fail  
16 to perform competently under former rule 3-110(A) in failing to formally appear and prosecute  
17 either matter.

18 Count Fifteen

19 16. Respondent denies the allegations of Count Fifteen, and Respondent incorporates  
20 herein paragraph 15 above in full as and for a statement of circumstances to his defense of  
21 this Count Fifteen.

22 Count Sixteen

23 17. Respondent denies the allegations of Count Sixteen, and Respondent  
24 incorporates herein paragraph 15 above in full as and for a statement of circumstances to his  
25 defense of this Count Sixteen.

26 Count Seventeen

1 18. Respondent denies the allegations of Count Seventeen, and Respondent  
2 incorporates herein paragraph 15 above in full as and for a statement of circumstances to his  
3 defense of this Count Seventeen.

4 Count Eighteen

5 19. Except as stated below, Respondent denies the allegations of Count Eighteen,  
6 and Respondent incorporates herein paragraph 15 above in full as and for a statement of  
7 circumstances to his defense of this Count Eighteen. Respondent admits that Mr. Jimenez  
8 requested a full refund of the \$6,500 retainer he paid to Respondent, and Respondent admits  
9 that he agreed to provide a full refund in the form of giving Mr. Jimenez (a ferrier) one or  
10 more valuable horses then owned by Respondent, which Mr. Jimenez declined to accept.  
11 Respondent states that he does intend to refund \$6,500 to Mr. Jimenez but that he did not  
12 have the financial ability to do so.

13 **AFFIRMATIVE DEFENSES**

14 20. As and for a First Affirmative Defense, Respondent alleges that he is entitled to  
15 mitigation under Rule 1.6(f) of the Standards in that Respondent has extraordinary good  
16 character as attested by references in the legal and general community, who are aware of the  
17 full extent of the misconduct being alleged by the State Bar.

18 21. As and for a Second Affirmative Defense, Respondent alleges that he is entitled to  
19 mitigation under Rule 1.6(b) of the Standards in that Respondent had a good faith belief that  
20 was honestly and reasonable held that the underlying civil litigation proceedings referenced in  
21 the NDC each were not legally viable, given the circumstances actually known and  
22 reasonably knowable to him at the time.

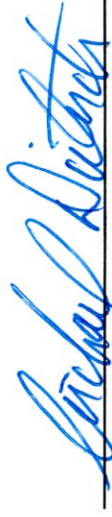
23 22. As and for a Third Affirmative Defense, Respondent alleges that he is entitled to  
24 mitigation under Rule 1.6(c) of the Standards in that Respondent's conduct in attempting to  
25 mitigate any harmful consequences to his clients Jerry Littleton, Victoria Littleton, and Marcos  
26 Jimenez resulted in a lack of harm to the clients, the public, and the administration of justice.

1 23. As and for a Fourth Affirmative Defense, Respondent alleges that he is entitled to  
2 mitigation under Rule 1.6(e) of the Standards in that Respondent exhibited spontaneous  
3 candor and cooperation to the former clients and to the State Bar.

4 24. As and for a Fifth Affirmative Defense, Respondent alleges that he is entitled to  
5 mitigation under Rule 1.6(d) of the Standards in that at all times pertinent to the charges  
6 stated in the NDC, Respondent was under the care of his physicians for neuropathy resulting  
7 from a series of spinal surgeries that occurred in 2011, who prescribed an anti-neuropathy  
8 drug Gabapentin (generic name Neurontin) that has recently been shown to cause mental  
9 confusion and forgetfulness. Respondent further states that his physicians have now stopped  
10 the Neurontin and instead are prescribing Lyrica, which does not have the harmful side  
11 effects caused by Gabapentin.  
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13 Dated: January 21, 2020

LAW OFFICES OF MICHAEL DIETRICK

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15 By: MICHAEL DIETRICK,  
16 Attorney for Respondent Allen C. Hassan  
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PROOF OF SERVICE BY HAND DELIVERY

I am employed in the County of Sonoma, State of California. I am over the age of 18 and not a party to the within action. My business address is Law Offices of Michael Dietrick, 765 Baywood Drive, Suite 227, Petaluma, California 94954.

On Jan-22, 2020, I served the within

Answer by delivering a true copy thereof, addressed as

follows:

Alex Binder, Deputy Trial Counsel  
State Bar of California  
180 Howard Street  
San Francisco, CA 94105

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed Jan 22, 2020 at Petaluma, California. <sup>SF</sup>



Michael Dietrick