

**IN THE SUPREME COURT OF FLORIDA  
(Before a Referee)**

THE FLORIDA BAR,

Supreme Court Case No. SC 19-488

Complainant,

v.

The Florida Bar File No. 2016-00,682(2A)

PHILLIP TIMOTHY HOWARD,

Respondent.

**RESPONDENT'S ANSWER AND AFFIRMATIVE DEFENSES**

Phillip Timothy Howard, Respondent, by and through his undersigned counsel, hereby provides the following Answer and Affirmative Defenses to the Complaint and says:

**ANSWER**

1. Respondent admits the allegations contained in Paragraph 1 of the Complaint.
2. Respondent admits the allegations contained in Paragraph 2 of the Complaint.
3. Respondent is without knowledge as to the allegations contained in Paragraph 3 of the Complaint and leaves Complainant to its proofs of same.
4. Respondent admits the allegations contained in Paragraph 4 of the Complaint.
5. Respondent admits the allegations contained in Paragraph 5 of the Complaint.
6. Admitted that Respondent represented Jason Hall in relation to a Worker's Compensation matter and denies the remaining allegations contained in Paragraph 6 of the Complaint.
7. The terms and conditions of the document referenced in Paragraph 7 of the Complaint speak for themselves. To the extent that the allegations contained in Paragraph 7 of the Complaint differ from the terms and conditions of the referenced document are denied.
8. The terms and conditions of the document referenced in Paragraph 8 of the Complaint

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9. speak for themselves. To the extent that the allegations contained in Paragraph 8 of the Complaint differ from the terms and conditions of the referenced document are denied.

9. The terms and conditions of the document referenced in Paragraph 9 of the Complaint speak for themselves. To the extent that the allegations contained in Paragraph 9 of the Complaint differ from the terms and conditions of the referenced document are denied.

10. Respondent denies the allegations contained in Paragraph 10 of the Complaint.

11. Respondent denies the allegations contained in Paragraph 11 of the Complaint.

12. Respondent denies the allegations contained in Paragraph 12 of the Complaint.

13. Respondent denies the allegations contained in Paragraph 13 of the Complaint.

14. Respondent denies the allegations contained in Paragraph 14 of the Complaint.

15. Respondent is without knowledge as to the allegations contained in Paragraph 15 of the Complaint and leaves Complainant to its proofs of same.

16. Respondent admits that Jason Hall is deceased and denies the remaining allegations contained in Paragraph 16 of the Complaint.

17. Respondent denies the allegations contained in Paragraph 17 of the Complaint.

18. Respondent denies the allegations contained in Paragraph 18 of the Complaint.

19. Respondent denies the allegations contained in Paragraph 19 of the Complaint.

20. Respondent denies the allegations contained in Paragraph 20 of the Complaint.

21. Respondent denies the allegations contained in Paragraph 21 of the Complaint.

22. Respondent denies the allegations contained in Paragraph 22 of the Complaint.

23. Respondent denies the allegations contained in Paragraph 23 of the Complaint.

24. Respondent denies the allegations contained in Paragraph 24 of the Complaint.

25. Respondent denies the allegations contained in Paragraph 25 of the Complaint.

26. Respondent denies the allegations contained in Paragraph 26 of the Complaint.

27. Respondent denies the allegations contained in Paragraph 27 of the Complaint.

28. Respondent denies the allegations contained in Paragraph 28 of the Complaint.

29. Respondent denies the allegations contained in Paragraph 29 of the Complaint.

#### **Trust Funds Were Commingled with Respondent's Personal Funds**

30. Respondent denies the allegations contained in Paragraph 30 of the Complaint.

31. The language of the document referenced in Paragraph 31 of the Complaint speaks for itself and Respondent denies the allegations contained in Paragraph 31 of the Complaint.

32. Respondent denies the allegations contained in Paragraph 32 of the Complaint. The legal arguments and conclusions contained in Paragraph 32 of the Complaint are expressly disputed.

33. Respondent denies the allegations contained in Paragraph 33 of the Complaint. The legal arguments and conclusions contained in Paragraph 33 of the Complaint are expressly disputed.

34. Respondent denies the allegations contained in Paragraph 34 of the Complaint.

35. Respondent denies the allegations contained in Paragraph 35 of the Complaint.

36. Respondent denies the allegations contained in Paragraph 36 of the Complaint.

#### **Failure to Create and Maintain Trust Accounting Records**

37. Respondent denies the allegations contained in Paragraph 37 of the Complaint. The legal arguments and conclusions contained in Paragraph 37 of the Complaint are expressly disputed.

38. Respondent denies the allegations contained in Paragraph 38 of the Complaint.

39. Respondent denies the allegations contained in Paragraph 39 of the Complaint.

#### **False Accounting for Third-Party Medical Liens**

40. Respondent admits that Jason Hall is deceased and denies the remaining allegations contained in Paragraph 40 of the Complaint.

41. Respondent denies the allegations contained in Paragraph 41 of the Complaint.

42. Respondent denies the allegations contained in Paragraph 42 of the Complaint.

43. Respondent denies the allegations contained in Paragraph 43 of the Complaint.
44. Respondent denies the allegations contained in Paragraph 44 of the Complaint.
45. Respondent denies the allegations contained in Paragraph 45 of the Complaint.
46. Respondent denies the allegations contained in Paragraph 46 of the Complaint.

**Third-Party Medical Liens Were Not Promptly Paid**

47. Respondent denies the allegations contained in Paragraph 47 of the Complaint.
48. Respondent denies the allegations contained in Paragraph 48 of the Complaint.
49. Respondent denies the allegations contained in Paragraph 49 of the Complaint.

**Clearly Excessive Fee from Lien Negotiation Agreement**

50. Respondent denies the allegations contained in Paragraph 50 of the Complaint.
51. Respondent denies the allegations contained in Paragraph 51 of the Complaint.
52. Respondent denies the allegations contained in Paragraph 52 of the Complaint.
53. Respondent denies the allegations contained in Paragraph 53 of the Complaint.
54. The terms and conditions of the document referenced in Paragraph 54 of the Complaint speak for themselves. To the extent that the allegations contained in Paragraph 54 of the Complaint differ from the terms and conditions of the referenced document, they are denied.
55. Respondent denies the allegations contained in Paragraph 55 of the Complaint.
56. The terms and conditions of the document referenced in Paragraph 56 of the Complaint speak for themselves. To the extent that the allegations contained in Paragraph 56 of the Complaint differ from the terms and conditions of the referenced document, they are denied.
57. The terms and conditions of the document referenced in Paragraph 57 of the Complaint speak for themselves. To the extent that the allegations contained in Paragraph 57 of the Complaint differ from the terms and conditions of the referenced document, they are denied.
58. Respondent denies the allegations contained in Paragraph 58 of the Complaint.

59. Respondent denies the allegations contained in Paragraph 59 of the Complaint.

60. Respondent denies the allegations contained in Paragraph 60 of the Complaint.

61. Respondent denies the allegations contained in Paragraph 61 of the Complaint.

### **Misappropriation of Settlement Funds**

62. Respondent denies the allegations contained in Paragraph 62 of the Complaint.

63. Respondent denies the allegations contained in Paragraph 63 of the Complaint.

### **False Certification of Trust Accounting Compliance**

64. Respondent denies the allegations contained in Paragraph 64 of the Complaint. The legal arguments and conclusions contained in Paragraph 64 of the Complaint are expressly disputed.

65. Respondent denies the allegations contained in Paragraph 65 of the Complaint.

66. Respondent denies the allegations contained in Paragraph 66 of the Complaint.

67. Respondent denies the allegations contained in Paragraph 67 of the Complaint.

68. Respondent denies the allegations contained in Paragraph 68 of the Complaint.

69. Respondent denies the allegations contained in Paragraph 69 of the Complaint.

WHEREFORE, Respondent prays that no violations of the Rules Regulation The Florida Bar be found and no sanctions be imposed.

### **AFFIRMATIVE DEFENSES**

1. Waiver, Estoppel. All actions taken by Respondent on behalf of Jason Hall were done with Mr. Hall's full consent and at his direction.

2. Statute of Limitations. The improper acts alleged by the Complaint are expressly denied but if any such acts are found to have been committed, any and all such acts occurred and were known to have occurred beyond the applicable statute of limitations.

3. De Minimus. Any technical violations of the Rules alleged were, if at all, unintentional, inadvertent, *de minimus* and non-prejudicial.

4. Lack of Standing. Dana Hall and Sandra Fulop were not clients of Respondent at any relevant time. Neither Ms. Hall nor Ms. Fulop can advance any derivative rights from Respondent's prior representation of Jason Hall.

Respondent reserves his right to amend or supplement his Answer to the Complaint and/or to assert additional defenses at or before hearing as additional information is obtained or more perfectly understood through pre-hearing procedures and discovery.

Dated this 24<sup>th</sup> day of May 2019.

Respectfully submitted,

/s/ Alfred R. Brunetti

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-and-

/s/ James S. Myers

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**NOTICE OF TRIAL COUNSEL**

PLEASE TAKE NOTICE that the trial counsel in this matter is Alfred R. Brunetti, whose contact information is as follows:

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It is respectfully requested that Complainant address any filing, correspondence and communications in that matter to both Alfred R. Brunetti and James S. Myers at their following respective addresses:

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been delivered via Electronic Delivery to **Shanee L. Hinson, Esquire** at [shinson@flabar.org](mailto:shinson@flabar.org), **Adria E. Quintela, Esquire** at [aquintela@flabar.org](mailto:aquintela@flabar.org), and **The Honorable Paul S. Bryan** at [gutshall.tilena@jud3.flcourts.org](mailto:gutshall.tilena@jud3.flcourts.org) on this 24<sup>th</sup> day of May 2019.

/s/ James S. Myers

James S. Myers

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*Attorney for Respondent*