

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR, Complainant,

v.

STEPHEN GUTIERREZ, Respondent.

**Supreme Court Case
No. SC-**

**The Florida Bar File
No. 2018-70,160(11J)**

ANSWER AND AFFIRMATIVE DEFENSES TO PLAINTIFF'S COMPLAINT

COMES NOW the Respondent, Stephen Gutierrez, by and through the undersigned attorney, and pursuant to Fla. R. Civ. P. 1.100; 1.110; 1.120; 1.140; 1.420, answers Counts 1 through 5 of the Plaintiff's Complaint as follows:

1. Admitted.
2. Admitted, insofar as Respondent practiced law in Miami-Dade County.
3. Respondent is without knowledge, therefore, denied.
4. Denied as phrased, Respondent does not know the state of mind of the arresting officers, or whether they properly executed any documents to properly effectuate arrest
5. Admitted.
6. Admitted insofar as to trial information being filed. This is a compound statement, which Respondent cannot intelligently respond to, pursuant to Fla. R. Civ. P. 1.080.
7. Denied as to phrasing and compound statement.
8. Admitted
9. Admitted, however, this statement is taken out of context.
10. Admitted solely for the purposes of Jurisdiction.
11. Denied as phrased. Respondent cannot know the Plaintiff's state of mind.
12. Admitted solely for the purposes of Jurisdiction.
13. Denied as phrased.

14. Denied as phrased. The Explosion emanated from the front of the vehicle.
15. Denied. Respondent moves to strike this paragraph from the complaint: it is not the burden of Respondent to “present” anything in its case. Guilt must be proven by the State beyond any reasonable doubt. There was never any theory of spontaneous combustion presented by the Defense.
16. Denied as phrased. The video showed the Respondent n the back of his vehicle, where the alleged fire was started. However, the video clearly shows the fire coming from the front of the vehicle.
17. Denied in part, admitted in part. Respondent’s loose batteries in his pocket began to get hot. Respondent ran out of the courtroom to ensure the safety of everyone in it.
18. Denied as Phrased. Respondent was digging in his pockets because they were getting hotter, and he did not know why.
19. Admitted.
20. Denied.
21. Admitted.
22. Admitted.
23. Admitted.
24. Respondent is without personal knowledge, therefore Denied.
25. Admitted.
26. Admitted insofar as the filing of an Amended Complaint. Respondent believed in his Client’s innocence, and still does.
27. Admitted, although Respondent was not Personally involved in these matters.

28. Denied as phrased. The Report states it was unlikely it could prove, beyond a reasonable doubt, that it was intentional.
29. Admitted.
30. Denied. Respondent informed the Attorney for the Insurance Company, whom attended every criminal hearing, that he and his client could no longer pursue the civil case, given Mr. Charles' admission. Undersigned Counsel was devastated by these events, and lost not only two (2) family members (Mother and Little Sister) but also went through a Divorce... it destroyed me.
31. Denied. Respondent informed opposing counsel during the criminal case hearings.

COUNT I

RESPONDENT'S COMPLAINTS IN THE CIVIL CASE LACKED MERIT AND CONSTITUTE FRIVOLOUS PLEADINGS UNDER RULE 4-3.1

32. Respondent re-alleges and incorporates by reference each allegation contained in the previous paragraphs as if set forth fully herein.
33. Admitted
34. Denied. The basis for the entire claim was the insurance claim, which was denied by Geico.
35. Denied as phrased. Respondent was told, specifically, that he was referred to Miami PD after GEICO submitted him to an Examination Under Oath, with no creole interpreter, and informed him he could not bring an Attorney.
36. Denied as phrased. The guilty verdict had no bearing when it came to the contractual obligation of the Insurance Company under Florida Statutes, including their duty to properly investigate and adjust a claim.
37. Denied.

38. Denied as phrased. GEICO's counsel was informed that a Motion for Summary Judgment would not be objected to. Insofar as much as multiple motions to dismiss "may" have gotten rid of the case, GEICO's counsel knew all it would take is one Motion for Summary Judgment, unopposed, and the case could have been ended. Respondent questions why this would not be the first course of action.
39. Denied. Undersigned never made any allegations, or conducted himself in a manner consistent with bad faith

COUNT 2

RESPONDENT'S ACTIONS IN THE CRIMINAL TRIAL AND THE CIVIL CASE CAUSED PREJUDICE TO THE ADMINISTRATION JUSTICE UNDER RULE 4-8.4(d)

40. Respondent re-alleges and incorporates by reference each allegation contained in the previous paragraphs as if set forth fully herein.\
41. Admitted
42. Admitted, insofar as its only applicability is to intentional conduct.
43. Admitted.
44. Denied. Respondent never did anything to cause a disruption. The alleged disruption was caused by an accident – the contact of batteries in Respondent's pockets with other loose metal objects, also in his pocket.
45. Denied as phrased. Respondent's conduct is not what caused the alleged 'disruption.'
46. DENIED. Again, there was no conduct by Respondent, it was a coincidence. It did not subject the state's legal profession to incredulity and mockery – it only subjected the Respondent to this. Respondent genuinely believes the Judges Judicial Assistant believed his words when Respondent called the Judge's Chambers the next day in tears, literally asking "What do I do? Why is this happening!?"

47. Denied. Respondent believed in his cause of action, but was unable to develop it.
48. Denied as phrased. And the jury can be wrong. Just as a client may win a criminal case, but lose a civil case (O.J. Simpson), so too may the opposite happen.
49. Denied as phrased – Respondent told Counsel for GEICO, who personally attended every criminal hearing, of the situation.
50. Denied.

COUNT III

RESPONDENTS ACTIONS ARE CONTRARY TO HONEST AND JUSTICE UNER RULE 3-4.3

51. Respondent re-alleges and incorporates by reference each allegation contained in the previous paragraphs as if set forth fully herein.
52. Admitted.
53. Admitted.
54. Denied.
55. Denied

WHEREFORE, Respondent prays that the State and the Florida Bar will allow him to grieve and heal from the pain he has suffered throughout all of this. Shortly before receiving this lawsuit, Respondent found the corpse of his little Sister, days after her accidental overdose, and approximately two (2) years after their Mother died of an accidental gunshot wound to the head on early New Years' Day 2016, which Respondent also had to examine to verify whether or not there could be an open casket.

Respondent prays that he be allowed to continue to practice law. It is one of the few things that he remains passionate about, that he believes in, that he loves. Please do not do this to me, everything I have told you is the truth.

(CERTIFICATE OF SERVICE ON FOLLOWING PAGE)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **Answer** was served, Pursuant to Fla. R. Jud. Admin 2.514 and 2.516, been E-filed with the Clerk of the Court this same date, to wit: **May 20, 2019**.

Respectfully Submitted,

Law Offices of Stephen Gutierrez, P.A.

/s/ Stephen Gutierrez /

**Stephen Gutierrez, Esquire
(Bar No. 117515)
454 SW 8th street
Miami, FL 33130
Email: sg@sglawfirms.com**