

LIU, J.

No. S214058

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

PATRICIA J. BARRY

Plaintiff and Appellant,

v.

THE STATE BAR OF CALIFORNIA,

Defendant and Respondent.

SUPREME COURT
FILED

OCT 22 2013

Frank A. McGuire Clerk

Deputy

After a Published Decision by the Court of Appeal Second Appellate District, Division Two Case No. B242054, Reversing a Judgment Entered by the Superior Court for the County of Los Angeles, Case No. BC452239, The Honorable Dierdre Hill presiding

REQUEST FOR JUDICIAL NOTICE

Volume I of IV

Request and Exhibits A-I

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THE STATE BAR OF CALIFORNIA

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Attorneys for Defendant and Respondent
THE STATE BAR OF CALIFORNIA

REQUEST FOR JUDICIAL NOTICE

Pursuant to rule 8.54 of the California Rules of Court, Evidence Code section 452, subdivision (d), and Evidence Code section 459, Petitioner The State Bar of California (“State Bar”) moves for judicial notice of the following Superior Court actions, all of which were brought against the State Bar, its officials or employees:

1. *Alexander, Jon v. State Bar, et al*, San Francisco Sup. Ct., Case No. CGC-12-525073, filed October 12, 2012 (Exs. A-B).
2. *Brown, James Earl v. Guitierrez, et al.*, Los Angeles Sup. Ct., Case No. BC369840, filed April 23, 2007 (Exs. C-D).
3. *Chavarela, Nicholas v. State Bar et al.*, Orange County Sup. Ct. Case No. 30-2009-00311346, filed October 4, 2009, Fourth Dist. Ct. of App. Case No. G043727 (Exs. E-F).
4. *Dickson, Lorraine v. State Bar, Board of Governors, Streeter, Kim, et al.*, Los Angeles Sup. Ct., Case No. BC470523, filed September 28, 2011(Exs. G-H).
5. *Dydzak, Daniel v. Dunn, Joseph, et al.*, Orange County Sup. Ct., Case No 30-2012-00558031, filed May 2, 2012 (Exs. I-J).
6. *Fletcher, Michael v. State Bar et al.*, Los Angeles Sup. Ct., Case No. BS129414, filed November 24, 2010 (Exs. K-L).
7. *Foley, Natalia v. State Bar, B. Rodriguez*, Los Angeles Sup. Ct., Case No. BC445288, filed September 9, 2010 (Exs. M-N).
8. *Gjerde, Sean v. State Bar, et al.*, Sacramento Co. Sup. Ct., Case No. 34-2012-00134070, filed October 19, 2012 (Exs. O-P).
9. *Gottshalk, Ronald v. Public Defender et al*, Orange County Sup. Ct., Case No. 30-2010-00359752-CU-NP-CJC, filed April 5, 2010 (Exs. Q-R).
10. *Henschel, Bradford v. State Bar, et al.*, Los Angeles Sup. Ct., Case No. BC379051, filed December 4, 2007, Second Dist. Ct. of App., Case Nos. B206984, B213595 (Exs. S-T).

11. *Joseph, Joel v. the State Bar of California*, Los Angeles Sup. Ct., Case No. SC103749, filed June 26, 2009, Second Dist. Ct. of App., Case No. B221236 (Exs. U-V).
12. *Kay, Philip E. v. State Bar, et al.*, San Francisco Sup. Ct., Case No. CGC-10-496869, filed February 16, 2010, First Dist. Ct. of App., Case No. A129515, Cal. Supreme Court Case No. S198578 (Exs. W-X).
13. *Kay, Philip E. v. State Bar, et al.*, San Francisco Sup. Ct., Case No. CGC-10-502372, filed August 6, 2010, First Dist. Ct. of App., Case Nos. A132643, A134111, A137989 (Exs. Y-Z).
14. *Kay, Philip E. v. State Bar, et al.*, San Francisco Sup. Ct., Case No. CGC-11-510717, filed May 4, 2011, First Dist. Ct. of App., Case Nos. A134205, A137989 (Exs. AA-BB).
15. *Kay, Philip E., Robin Kay, Chris Enos v. State Bar, et al.*, San Francisco Sup. Ct., Case No. CGC-11-514255, filed September 4, 2011 (Exs. CC-DD).
16. *Missud, Patrick v. State Bar of California*, San Francisco Sup. Ct., Case No. CGC-13-533811, filed September 3, 2013 (Ex. EE).
17. *Morris, Gregory A. v. State Bar of California, et al.*, San Francisco Sup. Ct., Case No. CGC-06-450766, filed November 29, 2006 (Exs. FF-GG).
18. *Morris, Gregory A. v. State Bar of California, et al.* San Francisco Sup. Ct., Case No. CGC-08-471504 (Exs. HH-II).
19. *Morrowatti, Nasrin v. State Bar of California*, Los Angeles Sup. Ct., Case No. BC 347921, filed February 23, 2006, Second Dist. Ct. of App., Case No. B196392 (Exs. JJ-KK).
20. *Oxman, Brian v. Chang, Alec, et al.*, Los Angeles Sup. Ct., Case No. BC516601, filed July 29, 2013 (Ex. LL).
21. *Scurrah, Robert v. State Bar et al.*, Orange County Sup. Ct., Case No. 30-2012-00595756, filed September 5, 2012 (Exs. MM-NN).
22. *Spadaro, Charlotte v. Phyllis Williams, The State Bar of California*, San Bernardino Co. Sup. Ct. , Case No. CIVRS1203310, filed April 30, 2012 (Ex. OO-PP).
23. *Taylor, Swazi v. State Bar*, Los Angeles Sup. Ct., Case No. BC476842, filed January 18, 2012 (Exs. QQ-RR).

24. *Viriyapanthu, Paul v. The State Bar of California, Viveros*, Orange County Sup. Ct., Case No. 30-2010-00418393, filed October 15, 2010 (Exs. SS-TT).

DATED: October 21, 2013

KERR & WAGSTAFFE LLP

By



MICHAEL VON LOEWENFELDT
Attorneys for Respondent
The State Bar of California

MEMORANDUM OF POINTS AND AUTHORITIES

This request seeks judicial notice of all of the cases in which Petitioner and its officials, agents and employees have been sued in superior court regarding the attorney admissions and discipline process despite an absence of jurisdiction. Pursuant to California Rules of Court, rule 8.252(a)(2)(A), these lawsuits are relevant because they demonstrate that the State Bar has been sued numerous times in superior court regarding attorney admissions and discipline despite a lack of jurisdiction. The volume of these cases demonstrate the corresponding time and effort the State Bar has had to expend in order to get these cases dismissed.

As required under California Rules of Court, rule 8.252(a)(2)(B), Petitioner avers that these documents were not the subject of judicial notice at either the trial court or the appellate court level because the merits of the trial court's order granting the State Bar's special motion to strike were not at issue. See Declaration of Danielle Lee, attached hereto.

Judicial notice is the appropriate procedure for bringing these lawsuits before this court. (California Rules of Court, rule 8.252(a)(2)(C); see Evid. Code, §452, subd. (d); *Szetelea v. Discover Bank* (2002) 97 Cal.App.4th 1094, 1098; *Taus v. Loftus* (2007) 40 Cal.4th 683, 726 (records from other state court proceedings involving plaintiff relevant to discredit plaintiff's present intrusion-into-private-matters lawsuit);

Based on the foregoing legal authority, and for the foregoing reasons, the State Bar respectfully requests this court to grant the motion for judicial notice.

DATED: October 21, 2013

Respectfully submitted,

KERR & WAGSTAFFE LLP

By



Michael von Loewenfeldt

Attorneys for Respondent
THE STATE BAR OF CALIFORNIA

DECLARATION OF DANIELLE LEE

I, Danielle Lee, hereby declare:

1. I am an attorney licensed to practice before all federal and state courts in the State of California, and am an attorney in the Office of the General Counsel of The State Bar of California, one of the attorneys of record for the State Bar of California. I have personal knowledge of the facts stated herein, and, if called as a witness, could and would competently testify to them under oath.

2. I was counsel of record in this matter for The State Bar of California when this matter was in Los Angeles Superior Court, Case number BC452239. I did not request judicial notice of the other cases to which the State Bar, its officials, agents and employees have been a party because the trial court had already granted that the State Bar's special motion to strike pursuant to Code of Civil Procedure section 425.16. The only issue for the hearing on the State Bar's motion for attorney's fees was the reasonableness of the State Bar's fee request.

3. I was counsel of record for the State Bar at the time Ms. Barry appealed the attorney fees award, Second District Court of Appeal, Case number B242054. Because Ms. Barry admitted that she was not appealing the order granting the State Bar's special motion to strike, and was only appealing the order granting the State Bar attorney fees, I did not

request judicial notice of the other cases to which the State Bar, its officials, agents and employees.

4. The State Bar's Office of General Counsel was counsel in each of the cases referenced in this Motion for Judicial Notice. The documents attached hereto are all true and correct copies from the court files in those cases.

I declare under penalty of perjury that the foregoing is true and correct. Executed on October 12, 2013, at San Francisco, California.



DANIELLE LEE

PROOF OF SERVICE

I, Lisa Ramon, declare that I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is 100 Spear Street, 18th Floor, San Francisco, California 94105.

On October 21, 2013, I served the following document(s):

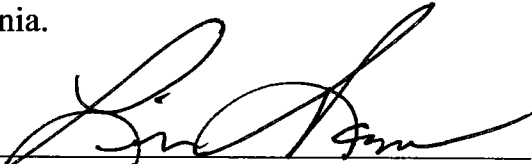
- **REQUEST FOR JUDICIAL NOTICE, VOLUME I OF IV, REQUEST AND EXHIBITS A-I**

on the parties listed below as follows:

Patricia J. Barry 634 Spring Street, #823 Los Angeles, CA 90014	Los Angeles Superior Court Stanley Mosk Courthouse 111 North Hill St. Los Angeles, CA 90012
California Court of Appeal 2nd Appellate District, Division 2 Ronald Reagan State Building 300 S. Spring Street 2nd Floor, North Tower Los Angeles, CA 90013 <i>Via Electronic Submission to California Court of Appeal (Petition for Review only)</i>	

By first class mail by placing a true copy thereof in a sealed envelope with postage thereon fully prepaid and placing the envelope in the firm's daily mail processing center for mailing in the United States mail at San Francisco, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on October 21, 2013 at San Francisco, California.



Lisa Ramon

TABLE OF CASES

Exhibit	Case
A.	<i>Alexander, Jon v. State Bar, et al.</i> , San Francisco Sup. Ct., Case No. CGC-12-525073, Complaint filed October 12, 2012.
B.	<i>Alexander, Jon v. State Bar, et al.</i> , San Francisco Sup. Ct., Case No. CGC-12-525073, dismissal filed November 16, 2012.
C.	<i>Brown, James Earl v. Guitierrez, et al.</i> , Los Angeles Sup. Ct., Case No. BC369840, Complaint filed April 23, 2007.
D.	<i>Brown, James Earl v. Guitierrez, et al.</i> , Los Angeles Sup. Ct., Case No. BC369840, dismissal of action filed September 16, 2008.
E.	<i>Chavarela, Nicholas v. State Bar et al.</i> , Orange County Sup. Ct. Case No. 30-2009-00311346, Fourth Dist. Ct. of App. Case No. G043727, Complaint filed October 4, 2009.
F.	<i>Chavarela, Nicholas v. State Bar et al.</i> , Orange County Sup. Ct. Case No. 30-2009-00311346, Fourth Dist. Ct. of App. Case No. G043727, order granting special motion to strike filed April 29, 2010.
G.	<i>Dickson, Lorraine v. State Bar, Board of Governors, Streeter, Kim, et al.</i> , Los Angeles Sup. Ct., Case No. BC470523, Complaint filed September 28, 2011.
H.	<i>Dickson, Lorraine v. State Bar, Board of Governors, Streeter, Kim, et al.</i> , Los Angeles Sup. Ct., Case No. BC470523, judgment of dismissal filed April 10, 2012.
I.	<i>Dydzak, Daniel v. Dunn, Joseph, et al.</i> , Orange County Sup. Ct., Case No 30-2012-00558031, First Amended Complaint filed May 2, 2012.
J.	<i>Dydzak, Daniel v. Dunn, Joseph, et al.</i> , Orange County Sup. Ct., Case No 30-2012-00558031, voluntary request for dismissal filed October 9, 2012.
K.	<i>Fletcher, Michael v. State Bar et al.</i> , Los Angeles Sup. Ct., Case No. BS129414, petition for writ of mandate filed November 24, 2010.

- L. *Fletcher, Michael v. State Bar et al.*, Los Angeles Sup. Ct., Case No. BS129414, dismissal minute order filed March 29, 2011.
- M. *Foley, Natalia v. State Bar, B. Rodriguez*, Los Angeles Sup. Ct., Case No. BC445288, Complaint filed September 9, 2010.
- N. *Foley, Natalia v. State Bar, B. Rodriguez*, Los Angeles Sup. Ct., Case No. BC445288, voluntary dismissal filed December 28, 2010, and minute order following voluntary dismissal filed February 14, 2011.
- O. *Gjerde, Sean v. State Bar, et al.*, Sacramento Co. Sup. Ct., Case No. 34-2012-00134070, Complaint filed October 19, 2012.
- P. *Gjerde, Sean v. State Bar, et al.*, Sacramento Co. Sup. Ct., Case No. 34-2012-00134070, Judgment of Dismissal following granting of special motion to strike filed April 11, 2013.
- Q. *Gottshalk, Ronald v. Daniels et al.*, Orange County Sup. Ct., Case No. 30-2010-00359752-CU-NP-CJC, Complaint filed April 5, 2010.
- R. *Gottshalk, Ronald v. Daniels et al.*, Orange County Sup. Ct., Case No. 30-2010-00359752-CU-NP-CJC, Notice of Dismissal filed August 22, 2011.
- S. *Henschel, Bradford v. State Bar, et al.*, Los Angeles Sup. Ct., Case No. BC379051, Second Dist. Ct. of App., Case Nos. B206984, B213595, Complaint filed December 4, 2007.
- T. *Henschel, Bradford v. State Bar, et al.*, Los Angeles Sup. Ct., Case No. BC379051, filed December 4, 2007, Second Dist. Ct. of App., Case Nos. B206984, B213595, order granting special motion to strike filed January 17, 2008.
- U. *Joseph, Joel v. the State Bar of California*, Los Angeles Sup. Ct., Case No. SC103749, Second Dist. Ct. of App., Case No. B221236, Complaint filed June 26, 2009.
- V. *Joseph, Joel v. the State Bar of California*, Los Angeles Sup. Ct., Case No. SC103749, Second Dist. Ct. of App., Case No. B221236 2009, Order sustaining demurrer without leave to amend October 27, 2009.

- W. *Kay, Philip E. v. State Bar, et al.*, San Francisco Sup. Ct, Case No. CGC-10-496869, First Dist. Ct. of Appeal, Case No. A129515, California Supreme Court, Case No. S198578, Complaint filed February 16, 2010.
- X. *Kay, Philip E. v. State Bar, et al.*, San Francisco Sup. Ct, Case No. CGC-10-496869, First Dist. Ct. of Appeal, Case No. A129515, California Supreme Court, Case No. S198578, order sustaining demurrer and taking special motion to strike off calendar filed July 29, 2010.
- Y. *Kay, Philip E. v. State Bar, et al.*, San Francisco Sup. Ct., Case No. CV 10-502372, First Dist. Ct. Appeal, Case Nos. A132643, A134111, A137989, Complaint filed August 6, 2010.
- Z. *Kay, Philip E. v. State Bar, et al.*, San Francisco Sup. Ct., Case No. CV 10-502372, First Dist. Ct. Appeal, Case Nos. A132643, A134111, A137989, order sustaining demurrer filed September 20, 2011.
- AA. *Kay, Philip E. v. State Bar, et al.*, San Francisco Sup. Ct., Case No. CGC-11-510717, First Dist. Ct. Appeal, Case Nos. A134205, A137989, Complaint filed May 4, 2011.
- BB. *Kay, Philip E. v. State Bar, et al.*, San Francisco Sup. Ct., Case No. CGC-11-510717, First Dist. Ct. Appeal, Case Nos. A134205, A137989, order sustaining demur filed August 5, 2011.
- CC. *Kay, Philip E., Robin Kay, Chris Enos v. State Bar et al.*, San Francisco Sup. Ct., Case No. CGC-11-514255, Complaint filed September 14, 2011.
- DD. *Kay, Philip E., Robin Kay, Chris Enos v. State Bar et al.*, San Francisco Sup. Ct. , Case No. CGC-11-514255, voluntary dismissal filed February 17, 2012.
- EE. *Missud, Patrick v State Bar of California*, San Francisco Sup. Ct., Case No. CGC-13-533811, First Amended Complaint filed September 3, 2013.
- FF. *Morris, Gregory A. v. State Bar of California, et al.*, San Francisco Sup. Ct., Case No. CGC 06-450766, fifth Amended Complaint filed

October 9, 2009.

- GG. *Morris, Gregory A. v. State Bar of California, et al.*, San Francisco Sup. Ct., Case No. CGC 06-450766, order sustaining demurrer filed May 18, 2010.
- HH. *Morris, Gregory A. v. State Bar of California, et al.*, San Francisco Sup. Ct., Case No. CGC 08-471504, Complaint filed January 29, 2008.
- II. *Morris, Gregory A. v. State Bar of California, et al.*, San Francisco Sup. Ct., Case No. CGC 08-471504, order dismissing entire action filed January 12, 2009.
- JJ. *Morrowatti, Nasrin v. State Bar of California, et al.*, Los Angeles Sup. Ct., Case No. BC 347921, Second Dist. Ct. Appeal, Case No. B196392, Complaint filed February 23, 2006.
- KK. *Morrowatti, Nasrin v. State Bar of California, et al.*, Los Angeles Sup. Ct., Case No. BC 347921, Second Dist. Ct. Appeal, Case No. B196392, minute order sustaining demurrer filed November 17, 2006.
- LL. *Oxman, Brian v. Chang, Alec, et al.*, Los Angeles Sup. Ct., Case No. BC516601, Complaint filed July 29, 2013.
- MM. *Scurrah, Robert v. State Bar et al.*, Orange County Sup. Ct., Case No. 30-2012-00595756, Complaint filed September 5, 2012.
- NN. *Scurrah, Robert v. State Bar et al.*, Orange County Sup. Ct. , Case No. 30-2012-00595756, Minute order sustaining demurrer filed August 27, 2013.
- OO. *Spadaro, Charlotte v. Phyllis Williams, The State Bar of California*, San Bernardino Co. Sup. Ct., Case No. CIVRS1203310, Complaint filed April 30, 2012.
- PP. *Spadaro, Charlotte v. Phyllis Williams, The State Bar of California*, San Bernardino Co. Sup. Ct., Case No. CIVRS1203310, order sustaining demurrer filed October 3, 2013.
- QQ. *Taylor, Swazi v. State Bar*, Los Angeles Sup. Ct., Case No. BC476842, Complaint filed January 18, 2012.

- RR. *Taylor, Swazi v. State Bar*, Los Angeles Sup. Ct., Case No. BC476842, judgment of dismissal filed August 23, 2012.
- SS. *Viriyapanthu, Paul v. The State Bar of California, Viveros*, Orange County Sup. Ct., Case No. 30-2010-00418393, Complaint filed October 15, 2010.
- TT. *Viriyapanthu, Paul v. The State Bar of California, Viveros*, Orange County Sup. Ct., request for dismissal filed April 1, 2011.

FILED
Superior Court of California
County of San Francisco

OCT 10 2012

CLERK OF THE COURT

By: *[Signature]*
Deputy Clerk

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2 **NOLEN LAW FIRM**
3 1501 28TH Street
4 Sacramento, California 95816
5 Telephone: (916) 733-0600
6 Facsimile: (916) 733-0601

7
8 Attorney for Plaintiff,
9 **JON MICHAEL ALEXANDER**

SUMMONS ISSUED

10
11 SUPERIOR COURT OF CALIFORNIA
12 COUNTY OF SAN FRANCISCO

13 **JON MICHAEL ALEXANDER,**

CGC-12-525073
CASE NO:

14 Plaintiff,

COMPLAINT FOR DAMAGES AND
PRELIMINARY AND PERMANENT
INJUNCTION FOR:

15 vs.

16
17 STATE BAR OF CALIFORNIA, STATE BAR
18 OF CALIFORNIA OFFICE OF THE CHIEF
19 TRIAL COUNSEL, CYDNEY TABOR
20 BATCHELOR, MICHAEL DONALD RIESE,
21 KAREN DIANE OLSON, MORDECHAI
22 DAVID PELTA, and DOES 1 through 50,
23 inclusive,

1. VIOLATION OF UNRUH CIVIL RIGHTS ACT;
2. INTENTIONAL INTERFERENCE WITH CONTRACTUAL RELATIONS;
3. INTENTIONAL INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE;
4. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS;
5. NEGLIGENT INTERFERENCE WITH CONTRACTUAL RELATIONS;
6. NEGLIGENT INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE;
7. NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS;
8. DEFAMATION;
9. NEGLIGENCE;
10. CONSPIRACY

24 Defendants.

REQUEST FOR EXEMPLARY DAMAGES
AMOUNT DEMANDED EXCEEDS \$10,000

DEMAND FOR JURY TRIAL

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FILE BY FAX

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I.

Plaintiff, JON MICHAEL ALEXANDER (hereinafter referred to as "Plaintiff" or "ALEXANDER"), for his complaint against STATE BAR OF CALIFORNIA, STATE BAR OF CALIFORNIA OFFICE OF THE CHIEF TRIAL COUNSEL, CYDNEY TABOR BATCHELOR, MICHAEL DONALD RIESE, KAREN DIANE OLSON, MORDECHAI DAVID PELTA, and DOES 1 through 50, inclusive, alleges as follows:

1. Plaintiff is, and at all times herein mentioned was, an individual residing in the city of Crescent City, Del Norte County, California, and is currently the District Attorney of Del Norte County, having been duly elected to this position by the citizens of Del Norte County on January 3, 2011.

2. Plaintiff is informed and believes, and based thereon alleges, that Defendant STATE BAR OF CALIFORNIA (hereinafter referred to as the "STATE BAR") is, and at all times herein mentioned was, a public corporation duly organized and existing under the laws of the State of California, situated in the County of San Francisco, and engaged in the business of regulating the practice and conduct of member attorneys licenced to practice law within the state, as well as providing greater access to the justice system for all citizens.

3. Plaintiff is informed and believes, and based thereon alleges, that Defendant STATE BAR OF CALIFORNIA OFFICE OF THE CHIEF TRIAL COUNSEL (hereinafter referred to as "OCTC") is, and at all times herein mentioned was, an entity duly organized and existing under the laws and rules of the STATE BAR and/or the State of California, situated in the County of San Francisco, and engaged in the business of reviewing, investigating, and prosecuting charges of lawyer misconduct.

4. Plaintiff is informed and believes, and based thereon alleges, that Defendant CYDNEY TABOR BATCHELOR (hereinafter referred to as "BATCHELOR") is, and at all times herein mentioned was, an individual residing in the city of San Francisco, San Francisco County, California, and employed as Deputy Trial Counsel for OCTC.

5. Plaintiff is informed and believes, and based thereon alleges, that Defendant MICHAEL DONALD RIESE (hereinafter referred to as "RIESE") is, and at all times herein

1 mentioned was, an individual residing in the city of Crescent City, Del Norte County, California, and
2 formerly employed as District Attorney for Del Norte County.

3 6. Plaintiff is informed and believes, and based thereon alleges, that Defendant KAREN
4 DIANE OLSON (hereinafter referred to as "OLSON") is, and at all times herein mentioned was, an
5 individual residing in the city of Crescent City, Del Norte County, California, and formerly employed
6 as Assistant District Attorney for Del Norte County.

7 7. Plaintiff is informed and believes, and based thereon alleges, that Defendant
8 MORDECHAI DAVID PELTA (hereinafter referred to as "PELTA") is an individual currently residing
9 in the city of San Francisco, San Francisco County, California, and formerly employed as Deputy
10 District Attorney for Del Norte County.

11 8. Defendants DOES 1 through 50, inclusive, are sued herein under fictitious names
12 pursuant to California Code of Civil Procedure Section 474. Plaintiffs do not know the true names
13 or capacities of these Defendants, but each Defendant is somehow legally and proximately
14 responsible in some manner for the occurrences herein alleged and proximately caused injuries
15 and/or damages to Plaintiffs, as hereinafter alleged, and Plaintiffs hereby pray that the true names
16 and/or capacities of these Defendants may be inserted herein when ascertained. All charging
17 allegations of this complaint are pled as to all fictitious Defendants.

18 9. At all times herein mentioned, each named Defendant and each fictitiously designated
19 Defendant, was the agent, partner, employee, joint venturer, co-conspirator or officer of each other
20 Defendant, and in doing the things hereinafter alleged, was acting within the course and scope of
21 said agency, partnership, employment, joint venture, conspiracy, office and each of the other
22 Defendants had ratified, acquiesced in, approved of, or benefitted from said acts of the other
23 Defendants. Each such named and/or fictitiously designated Defendant is liable to Plaintiffs for
24 their own conduct and omissions and is further liable based on the conduct and omissions of each
25 other defendant based on the principles of agency and respondeat superior.

26 10. Whenever and wherever reference is made to individuals who are not named as a
27 Defendant in this Complaint, but who at all relevant time periods were employees and/or agents
28 of any of the named or unnamed Defendants, such individuals at all relevant times acted on behalf

1 of their respective employer defendants, and all other co-defendants, and did such acts within the
2 course and scope of their respective employment agency and other relationships with any and all
3 named and unnamed defendants.

4 11. Wherever appearing in this complaint, each and every reference to "Defendants" is
5 intended to be and shall be deemed as a reference to all defendants in this action, and to each of
6 them, named and unnamed, including all fictitiously named defendants.

7 12. On or about September 11, 2012, Plaintiff presented to the STATE BAR and OCTC
8 a claim to The State Bar of California for the injuries, disability, losses, and damages suffered and
9 incurred by him by reason of the events described below, all in compliance with the requirements
10 of *Government Code Section 905*. A true and correct copy of the claim is attached hereto as
11 Exhibit A and made a part hereof.

12 13. On or about September 25, 2012, the STATE BAR and OCTC rejected the claim in
13 its entirety.

14 II.

15 GENERAL ALLEGATIONS

16 14. ALEXANDER was admitted to practice law in the State of California in 1987. He has
17 been, and is currently, an active member of the STATE BAR. In approximately January 2011,
18 ALEXANDER took office as the District Attorney of Del Norte County, after being elected by the
19 citizens of that county to this position.

20 15. Membership in the STATE BAR is available to all persons who meet certain
21 educational requirements, and who pass several examinations as well as receive a positive moral
22 character determination after undergoing a background check. Membership affords persons who
23 meet these criteria the right and privilege of practicing law in the State of California. Membership
24 is maintained by paying annual dues and complying with various statutes, rules and regulations.
25 Failure to comply could subject members to discipline from the STATE BAR, up to and including
26 suspension or termination of membership, or disbarment.

27 16. On or about May 15, 2012, Defendant STATE BAR, by and through Defendant
28 OCTC, filed a Notice of Disciplinary Charges (hereinafter referred to as the "NOTICE") against

1 ALEXANDER with the State Bar Court (Case Nos. 11-O-12821 [11-O-14028]). It alleged seven
2 separate counts, four of which involved purported violations of the Rules of Professional Conduct.
3 The remaining three involved purported acts of moral turpitude and/or corruption. A true and
4 correct copy of the NOTICE is attached hereto as Exhibit B and made a part hereof.

5 17. Plaintiff is informed, believes, and based thereon alleges, that Defendants, and each
6 of them, are seeking to have him disbarred on an expedited basis pursuant to the charges in the
7 NOTICE. Disbarment would cause ALEXANDER to lose his license to practice law and terminate
8 his position as District Attorney of Del Norte County.

9 18. ALEXANDER has denied the allegations in the NOTICE and has cited facts and legal
10 authority demonstrating the charges lack merit. A true and correct copy of the Respondent's
11 Answer to Notice of Disciplinary Charges (hereinafter referred to as the "ANSWER") is attached
12 hereto as Exhibit C.

13 19. Plaintiff is informed and alleges that the STATE BAR and OCTC's continued
14 prosecution of the disciplinary charges in the NOTICE, as well as prior prosecution of other charges
15 starting in 2006, are not based on a fair and equal application of the law, but rather on intentional
16 and purposeful discrimination against him as explained further below.

17 **A. Plaintiff's Prior History of Substance Abuse**

18 20. Defendants, and each of them, were aware of Plaintiff's prior addiction to
19 methamphetamines. At the time he was addicted to this substance, he was disciplined by the
20 STATE BAR and OCTC for inactions on his part which were the result of his addiction. Since
21 recovering from his addiction approximately nine years ago, ALEXANDER has been at all times
22 clean and sober. As District Attorney, ALEXANDER has performed his duties in a responsible
23 manner as an elected public official.

24 21. Plaintiff is informed and alleges, despite his rehabilitation, he is, and has been
25 discriminated against, humiliated, injured, damaged, and caused to suffer reputational, emotional
26 and economic harm, by Defendants, and each of them, on account of his history of substance
27 abuse.

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1 **B. Discrimination by STATE BAR and OCTC**

2 22. Plaintiff is informed and alleges that Defendant BATCHELOR, on behalf of the
3 STATE BAR and OCTC, stated she did not believe ALEXANDER should be District Attorney
4 because she thought his mental abilities continued to be affected by his prior methamphetamine
5 use, and that the Attorney General agreed with her.

6 23. Plaintiff is informed and alleges that BATCHELOR's statement was intentionally
7 leaked to the media by the OCTC and that the statement was contained in correspondence to
8 persons within the STATE BAR and OCTC. Contrary to BATCHELOR's assertion, the Attorney
9 General has honored and cited ALEXANDER for his service as District Attorney of Del Norte
10 County.

11 24. Plaintiff is informed and further alleges that the manner and speed at which the
12 NOTICE is being prosecuted by the OCTC, and the STATE BAR's attitude throughout, indicate a
13 discriminatory motive and intent.

14 25. As seen in the NOTICE and alleged further below, the STATE BAR and OCTC have,
15 for several years, unreasonably subjected Plaintiff to a higher level of scrutiny and to prosecution
16 beyond any steps or procedures that apply to all lawyers in general.

17 **C. The Wesley Blake Communication**

18 26. In approximately 2005, while Plaintiff was a Deputy District Attorney for Del Norte
19 County, he was involved the case of a methamphetamine dealer named Wesley Blake. Unable
20 to attend Mr. Blake's sentencing hearing, ALEXANDER gave a handwritten letter to the Drug Task
21 Force Commander to be read in open court at the hearing. Plaintiff's letter was never read in open
22 court. It came into the possession of Defendant OLSON instead. This letter was never intended
23 to be an *ex parte* communication to the judge.

24 27. In approximately 2006, OLSON together with Defendant RIESE, initiated a complaint
25 against ALEXANDER with the STATE BAR falsely alleging that an *ex parte* communication had
26 occurred. Defendant BATCHELOR was involved with the STATE BAR and OCTC's prosecution
27 of the Notice of Disciplinary Charges brought against Plaintiff pursuant to the alleged *ex parte*
28 communication.

1 28. During this time, ALEXANDER was in the early stages of reestablishing himself after
2 rehabilitating from his addiction. He could not afford legal counsel. BATCHELOR informed him
3 he would receive no discipline if he entered into a stipulation with the OCTC that he had violated
4 certain provisions of the Rules of Professional Conduct. Even though Plaintiff did not commit any
5 violations as charged, he stipulated in writing to the violations, relying on the representation by
6 BATCHELOR that there would be no further discipline and believing that this would be the most
7 expedient resolution.

8 29. After ALEXANDER entered into the stipulation, the OCTC repudiated the stipulation
9 and demanded further discipline; to wit, one year of actual suspension and three years of probation.
10 At his hearing, ALEXANDER proclaimed his innocence and presented evidence of the
11 representation by BATCHELOR that he would receive no discipline in exchange for his stipulation.
12 He was threatened with disbarment if he withdrew his stipulation, and was offered sixty days of
13 actual suspension instead of one year. Even though he wanted to dispute the charges, he was not
14 in a financial or psychological position to do so. He had no choice but to accept the discipline.

15 **D. Disparate Treatment by STATE BAR and OCTC**

16 30. Plaintiff is informed and alleges that Defendant PELTA, who is a complainant in all
17 but one of the matters alleged in the NOTICE currently being prosecuted against ALEXANDER,
18 was terminated from his position as Deputy District Attorney for Del Norte County after it was
19 discovered that he sent an anonymous *ex parte* communication to a judge in a homicide case being
20 handled by ALEXANDER. The communication contained untrue allegations regarding Plaintiff
21 purportedly receiving a campaign loan from opposing counsel. After terminating him, County
22 Counsel thereafter filed a complaint against PELTA with the STATE BAR alleging the same type
23 of violation which resulted in ALEXANDER's three year probation and sixty day suspension.
24 However, instead of imposing any disciplinary action, the STATE BAR and OCTC dismissed the
25 complaint against PELTA.

26 31. Plaintiff is informed and further alleges that Defendant RIESE, who was District
27 Attorney at the time, approved and assisted PELTA in the drafting of the anonymous *ex parte*
28 communication to the judge containing the untrue allegations about Plaintiff.

1 32. Plaintiff is informed and further alleges that PELTA, as well as RIESE and OLSEN,
2 who have also made complaints against Plaintiff to the STATE BAR, have themselves committed
3 several violations of their professional responsibilities which had been reported to the STATE BAR
4 by parties other than ALEXANDER, but which the STATE BAR and OCTC have declined to
5 prosecute.

6 33. In approximately May 2011, the STATE BAR billed ALEXANDER for the costs of
7 prosecution related to the Wesley Blake communication. Defendant then suspended him from the
8 practice of law for alleged non-payment of those fees, all without notice or a hearing.

9 34. Plaintiff alleges the STATE BAR disregarded and violated applicable statutes
10 including Business and Professions Code Sections 6143 and 6140.7, since it never sent
11 Respondent a bill for the additional costs after they became due and did not send him any notice
12 of his alleged delinquency. When ALEXANDER was apprised of the suspension, he was then
13 advised by the STATE BAR that the charges had been "added" after he had been billed for his fees
14 and without notice to him. Plaintiff paid the additional charges immediately and was promptly
15 reinstated.

16 35. Because of Plaintiff's status as District Attorney of Del Norte County, his erroneous
17 suspension for failure to pay costs made local news in Northern California and Oregon.

18 36. Plaintiff is informed and alleges that investigation and discovery will reveal other
19 disparate treatment of ALEXANDER by the STATE BAR and OCTC on account of his prior history
20 of substance abuse.

21 37. With regard to the NOTICE currently being prosecuted against ALEXANDER, while
22 they are stated in seven counts, they relate to three matters summarized below.

23 **E. Sanford Loan**

24 38. In approximately 2009, while ALEXANDER was in private practice as a criminal
25 defense lawyer, he made a loan to his friend Linda Sanford and her husband in the amount of
26 \$14,000. Ms. Sanford and ALEXANDER had a long-standing friendship well known throughout the
27 legal community in Del Norte County that included exchanges of gifts, favors and loans; All long
28 before the loan in question was made. On October 24, 2011, Ms. Sanford wrote to the STATE

1 BAR describing and explaining her relationship with ALEXANDER. Many others have since given
2 testimony supporting the existence and circumstances of their friendship.

3 39. At all times herein mentioned, Ms. Sanford was a Deputy Probation Officer of Del
4 Norte County. She was not an employee or officer of the courts. Her function at the time the loan
5 was made and since, has been as Director of the Del Norte County Juvenile Hall. In that capacity,
6 she writes virtually no probation reports. However, after Plaintiff made his loan to Ms. Sanford, she
7 was assigned to write two probation reports on cases when Plaintiff was in private practice as a
8 defense attorney, and one since he has been the District Attorney. In each of these cases, Ms.
9 Sanford recommended a disposition which was significantly adverse to ALEXANDER's clients –
10 prison or jail when he was the public defender, and probation when he was the prosecutor.

11 40. Plaintiff is informed and based thereon contends that any objective review of those
12 reports would indicate that they did not favor ALEXANDER's position, or that of his clients, in any
13 manner. The chief probation officer has testified that the recommendations in Ms. Sanford's
14 probation reports were well within the ranges he had set for his department.

15 41. Ms. Sanford was assigned recently to write a probation report on one of Plaintiff's
16 cases. ALEXANDER advised the judge presiding over the matter that he had made the loan in
17 question to Ms. Sanford and it was still outstanding. He also told the court the STATE BAR had
18 questioned the integrity and objectivity of Ms. Sanford's work because of the loan transaction. The
19 court replied that it saw no problem after the disclosure.

20 42. Two of the seven counts alleged in the NOTICE are based on the Sanford loan. The
21 first count involves a violation of Rules of Professional Conduct Rule 5-300(A), which provides that
22 lawyers may not

23 "directly or indirectly give or lend anything of value to a judge, official,
24 or employee of a tribunal unless the personal or family relationship
25 between the member and the judge, official, or employee is such
that gifts are customarily given and exchanged."

26 43. Plaintiff contends he has not violated Rule 5-300(A) because Ms. Sanford was not
27 a judge, official or employee of a tribunal at the time of the loan, and his friendship with her was
28 such that gifts, favors and loans were exchanged.

1 44. The second count involves allegations of moral turpitude and corruption based on
2 ALEXANDER's purported failure to disclose "the existence of [the] outstanding loan to the court and
3 opposing counsel in actual or potential cases to which [Ms. Sanford] was or could be assigned."

4 There are no allegations that ALEXANDER acted with any fraudulent, malicious, corrupt,
5 improper, or wrongful intent; merely a failure to disclose.

6 45. Plaintiff is informed and alleges that there was no reason in fact or in law why he
7 should have made his loan to the Sanfords known to the courts or opposing counsel.

8 46. The existence of the loan and its status was no secret to anyone. Plaintiff never had
9 any intent to keep its existence a secret. No legal authority has been cited to support that the
10 purported non-disclosure alleged by the OCTC amounts to moral turpitude or corruption or should
11 warrant the disbarment sought by the STATE BAR and OCTC.

12 **F. Zlokovich Matter**

13 47. The third count in the NOTICE, charging Plaintiff again with moral turpitude and
14 corruption, arises from ALEXANDER's relationship with a Del Norte County attorney named George
15 Mavis, as well as a dismissal of a criminal action against a child care provider named Jackie
16 Zlokovich.

17 48. At all times herein mentioned, George Mavis was one of approximately 48 lawyers
18 in Del Norte County who maintains a private practice in Crescent City. Mr. Mavis has been a friend
19 of ALEXANDER for many years and their relationship was well known in the Del Norte County legal
20 community.

21 49. In approximately early 2010, ALEXANDER sought representation from Mr. Mavis for
22 the limited purpose of responding to a motion made by the STATE BAR and OCTC to strike a
23 statement of mitigation ALEXANDER had filed. The STATE BAR and OCTC were seeking to
24 impose sanctions on Plaintiff. Mr. Mavis ceased any active representation of Plaintiff in
25 approximately July 2010, but inadvertently neglected to formally withdraw as ALEXANDER'S
26 attorney until early 2011. There was no existing attorney-client relationship between Mr. Mavis and
27 ALEXANDER after July 2010.

28 50. In or about December 2010, after ALEXANDER was elected District Attorney but