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9 *themselves and all others similarly situated*

10  
11 **UNITED STATES DISTRICT COURT**  
12 **CENTRAL DISTRICT OF CALIFORNIA**

13 JOHN ROE 1, an individual; JANE ROE 1,  
14 an individual; JANE ROE 2 an individual;  
15 JANE ROE 3, an individual, JOHN ROE 2,  
16 *on behalf of themselves and all others*  
17 *similarly situated,*

18 Plaintiff,

19 vs.

20 THE STATE BAR OF CALIFORNIA;  
21 TYLER TECHNOLOGIES, INC.; KEVAN  
22 SCHWITZER; RICK RANKIN; and DOES  
23 4 through 10, inclusive,  
24 Defendants.

CASE NO. 22-cv-00983-DFM

Assigned to Hon. Douglas F. McCormick  
Complaint filed: 03-18-2022

**PLAINTIFFS' MOTION FOR  
PRELIMINARY INJUNCTION**

Hearing Date: September 15, 2022  
Time: 2:00PM  
Crtm: 6B

**TO THE COURT, THE PARTIES AND ALL ATTORNEYS OF RECORD:**

**COMES NOW PLAINTIFFS,** John Roe 1, Jane Roe 1, Jane Roe 2, Jane Roe 3,  
and John Roe 2, and putative class hereby moves for a preliminary injunction under Fed.  
R. Civ. Proc. Rule 65 before the Honorable Douglas F. McCormick sitting in Courtroom  
6B of the United States District Court for the Central District of California located at 411  
W. Fourth Street, Santa Ana, California at the above mentioned date and time or as soon  
as the matter may be heard.

**MOTION FOR PRELIMINARY INJUNCTION**

1 Meeting of Counsel: On May 26, 2022 counsel for all parties met and conferred on  
2 the issue whether the State Bar, its agents and employees should be enjoined pending  
3 final outcome of trial. A follow up email exchange occurred on July 25, 2022. Defense  
4 responded on August 1, 2022. As such Local Rule 7-3 has been met by a good faith  
5 attempt to informally resolve this dispute before seeking relief with the Court.

6 This motion is based on the motion, attached memorandum of points and  
7 authorities, Request for Judicial Notice, declarations filed concurrently herewith; further  
8 declarations filed thereafter in support of the motion and any other pleadings or papers  
9 that may be presented at the time of hearing.

10 Dated: August 5, 2022

11 Respectfully Submitted,  
12 LAW OFFICES OF LENORE ALBERT  
13 /s/ Lenore Albert

14 LENORE L. ALBERT, ESQ.

15 Attorney for Plaintiffs, John Roe 1, Jane Roe 1,  
16 Jane Roe 2, Jane Roe 3, and John Roe 2, *on*  
17 *behalf of themselves and all others similarly*  
18 *situated*

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**MOTION FOR PRELIMINARY INJUNCTION**

1  
2 **MEMORANDUM OF POINTS & AUTHORITIES**

3 **I. FACTS**

4 On March 18, 2022 the plaintiffs, John Roe 1, Jane Roe 1, Jane Roe 2, Jane Roe 3,  
5 and John Roe 2, *on behalf of themselves and all others similarly situated* filed this  
6 putative class action in the Superior Court of California, county of Orange alleging that  
7 the State Bar of California and others violated their right to privacy when over 226,000  
8 confidential records State Bar disciplinary records were published on the internet through  
9 a public records search site with the URL JudyRecords.com. One of the claims was that  
10 the State Bar failed to give notice to the victims of the breach.

11 From on or about May 18, 2022 through to the present the State Bar has been  
12 sending out notices to approximately 1,600 people that said: their confidential  
13 information had evidence of “page views.” On or about May 23, 2022 through to the  
14 present, the State Bar sent out a second notice to approximately 100,000 or more people  
15 that said: their confidential information did not have evidence of “page views.”

16  
17 Some of these notices are not being sent to the victims of the data breach, but to  
18 their attorneys of record. Some are not being sent notices at all.

19 The notices do not contain the information required by the Information Practices  
20 Act so many people who received the second notice type understood it to mean that their  
21 confidential information did not end up on the internet because it said that their  
22 information had no purported “page views.”

23 There is no disagreement among the parties that the records were leaked onto a  
24 public internet site judyrecords.com or that they were supposed to be confidential; and  
25 that confidential nature relates to the identity of the witness or attorney involved.

26 Plaintiffs’ counsel requested assurances that the State Bar would not begin filing  
27 public disciplinary charges on old matters thereby purporting to lessen the harm to the  
28 plaintiffs and putative class making the confidential nature transitory. The State Bar

1 could not do so. As a result, plaintiffs and members of the putative class now seek  
2 injunctive relief.

## 3 II. LAW

4 Fed. R. Civ. Proc. Rule 65 allows a party to move for a preliminary injunction  
5 upon notice to the other party.

6 The Ninth Circuit allows the use of pseudonyms by parties when the issue of right  
7 to privacy exists. *See, United States v. Doe*, 655 F.2d 920, 922n. (9th Cir. 1981).

8 The decision whether to issue a preliminary injunction is based on considering  
9 four factors using a sliding scale approach. This is called the serious questions test. The  
10 four elements:

11 Under *Winter*, plaintiffs must establish that irreparable harm is *likely*, not just  
12 possible, in order to obtain a preliminary injunction. *Id.* The Court wrote,  
13 "A plaintiff seeking a preliminary injunction must establish that he is likely to  
14 succeed on the merits, that he is likely to suffer irreparable harm in the absence  
15 of preliminary relief, that the balance of equities tips in his favor, and that  
16 an injunction is in the public interest." *Id.* at 374.

17 *Alliance for the Wild Rockies v. Cottrell* (9th Cir. 2011) 632 F.3d 1127, 1131

18 "[W]e hold that the 'serious questions' approach survives *Winter* when  
19 applied as part of the four-element *Winter* test. In other words, 'serious  
20 questions going to the merits' and a hardship balance that tips sharply toward  
21 the plaintiff can support issuance of an injunction, assuming the other  
22 two elements of the *Winter* test are also met."

23 *Leiva-Perez v. Holder* (9th Cir. 2011) 640 F.3d 962, 966

## 24 III. LEGAL ARGUMENT

### 25 A. Plaintiffs Are Likely To Succeed on the Merits

26 The Information Practices Act requires timely notice of a Data Breach. The State  
27 Bar did not do that. It also requires the notice provide specific items that were missing  
28 from the notice under 1789.29 as detailed below.

1 None of the notices sent, which can be found on the State Bar's own website  
2 contained this information. As such an injunction should issue.

3 The Information Practices Act requires that a government agency set adequate  
4 security measures around confidential information they collect. The evidence shows that  
5 the State Bar failed to implement the basic security measure of an access **The Relief**  
6 **Being Sought is Reasonable to Prevent the Risk of Irreparable Harm to the**  
7 **Plaintiffs and Putative Class**

8 The State Bar has argued that the harm to the plaintiff members is fleeting on the  
9 purported grounds that these confidential investigations would eventually become public.  
10 However, the 2020 State Bar audit shows that only 3.5% of all such investigations  
11 become public. When asked for assurances that these investigations would remain  
12 confidential the Board said it could not do so necessitating this motion. (RJN).

13 Both Bus. & Prof. Code § 6140.2 and Bus. & Prof. Code § 6094.5 require the  
14 State Bar to file the charges within six months. The goal and policy of the State Bar is to  
15 complete its investigation and either file or dismiss the complaint prior to filing public  
16 charges within 6 months. The Legislature set a goal that these investigations should  
17 conclude within 6 months. Bus. & Prof. Code, § 6094.5.

18 The State Bar shall set as a goal the improvement of its disciplinary system  
19 so that no more than six months will elapse from the receipt of complaints to  
20 the time of dismissal, admonishment of the attorney involved, or the filing of  
21 formal charges by the State Bar Office of Trial Counsel.

22 Bus. & Prof. Code, § 6140.2

23 On or about February 24, 2022 the State Bar reported 322,525 of these  
24 confidential records were released and discovered on the internet in a free public search  
25 database. This is far more than the number being actively pursued by the State Bar.  
26 According to the Audit only 3% of these investigations culminate in public charges.  
27  
28



1 The ability of the State Bar to retaliate against the class representatives and  
2 putative class by taking the confidential investigation and making it a public charge is  
3 real after their identity is known. When asked for reassurances from the State Bar that  
4 they would not do such a thing, they said they could not do it. As such, the restraining  
5 order and order to show cause should issue restraining the State Bar from filing any  
6 public charges that were confidential yet breached if that investigation is more than six  
7 months old or some other reasonable point.

8 **1. Serious Questions that the State Bar Violated the Information Practices**  
9 **Act (“IPA”) Exist**

10 The State Bar of California, has a duty under California Civil Code § 1798.24 to  
11 not disclose personal information in a manner that would link the information disclosed  
12 to the individual to whom it pertains.

13 Defendant, State Bar of California, also has a duty under California Civil Code §  
14 1798.29 to prevent Plaintiffs’ and class members’ nonencrypted and nonredacted  
15 personal information from unauthorized access and exfiltration, theft, or disclosure.

16 Defendant, State Bar of California, has a duty under California Civil Code §  
17 1798.21 to establish appropriate and reasonable administrative, technical, and physical  
18 safeguards to ensure compliance.

19 Defendant, State Bar of California, also has a duty to disclose any breach of the  
20 security of the system following discovery or notification of the breach in the security of  
21 the data to any resident of California in the most expedient time possible and without  
22 unreasonable delay (1) whose unencrypted personal information was, or is reasonably  
23 believed to have been, acquired by an unauthorized person.

24 The Notice should have contained the following parts:

25 “[NAME OF INSTITUTION / LOGO] \_\_\_\_\_ Date: [insert date]

26 NOTICE OF DATA BREACH  
27  
28

1 What Happened?

2 What Information Was Involved?

3 What We Are Doing.

4 What You Can Do.

5 Other Important Information.[insert other important information]

6 For More Information.Call [telephone number] or go to [internet website]” Civ.  
7 Code, § 1798.29

8 Civil Code § 1798.29/

9 The State Bar did none of these things.

10  
11 Prima facie evidence exists to show the State Bar violated the Information  
12 Practices Act of 1977 so a preliminary injunction should be granted. The State Bar  
13 admitted that its Odyssey Case Management system was breached resulting in 322,525  
14 confidential records being released onto a free public records search site with the URL  
15 judyrecords.com. The State Bar posted that the breach was not due to any hacking but it  
16 was due to a failure of their own security measures. Kevan Schwitzer explained in his  
17 declaration and on his website that this was a basic security flaw where there was no  
18 access control check in place. Meaning anyone who knocked on the front door was  
19 allowed to enter and take out whatever was inside. The State Bar also posted an update  
20 admitting that it did not notify anyone of the breach until four months after the State Bar  
21 had actual knowledge of the breach. The State Bar then went ahead with posting the form  
22 letters it sent via a third party through email or the US mail. Each party admission  
23 against interest shows that the State Bar violated the plaintiffs’ right to privacy via this  
24 data breach with their own admissions or declarations against interest, which is an  
25 exception to the hearsay rule. The representative declarants have testified on paper that  
26 either they received notice that their information was breached or they believe the State  
27 Bar knew of their identity prior to sending out the notices which occurred after this case  
28

1 was filed. When plaintiff's counsel filed a Tort Claims Act claim on the plaintiffs behalf,  
2 she received a new notice of disciplinary charges on a matter that was several years old.  
3 The State Bar dismissed the notice of disciplinary charges for failure to cite the local  
4 rules that were allegedly violated. The plaintiffs that are members of the Bar fear that the  
5 State Bar will start taking their old confidential investigation files and file charges, not  
6 because they believe there is more merit to them, but because they can then argue there  
7 was no damage due to the breach because the confidential information eventually  
8 became public through filing the charges. The complainants, on the other hand, fear  
9 retaliation. This evidence supports a finding that serious questions exist warranting  
10 injunctive relief.  
11

12 Defendant State Bar is established under the State Bar Act, Cal. Bus & Prof Code  
13 §6001 et seq. As such, the Information Practices Act applies to the State Bar as a  
14 professional licensing agency of the state of California making the Information Practices  
15 Act applicable to it. Cal. Civ. Code 1798.3(b)(2).

16 The State Bar is not an agency established under Article VI of the Cal. Const. It is  
17 not a Judiciary and Article VI merely mentions that some members of the State Bar may  
18 participate in several committees. The State Bar is a consumer protection agency like the  
19 Medical Board and Board of Accountancy. Defendant, State Bar of California, is a public  
20 corporation that owns or licenses computerized data that includes personal information  
21 of California residents. It is therefore subject to the Cal. Civil Code § 1798.29.  
22

23 Public disclosure of such private facts including the identity of a complainant or  
24 member under investigation can lead to reputation loss, job loss, emotional distress and in  
25 extreme cases bodily injury or loss of life. A complainant may suffer in their employment  
26 if they complained about their boss or may have a chilling effect on finding future  
27 representation to their injury. Likewise, an attorney could be harmed by others knowing  
28 the State Bar opened an investigation thus causing a chilling effect where potential clients

1 will look elsewhere for representation. Additionally, an investigation on a complaint of  
2 stalking or violence leaked out to the public could lead to the respondent prematurely  
3 learning of it, leading to potential bodily harm upon the complaining victim. Likewise, not  
4 all investigations or even most complaints are meritorious; having an unmeritorious  
5 complaint land on a public website can lead to reputational harm, threats of extortion, or  
6 even job loss or loss of job opportunities. The reputation of an attorney is one of the most  
7 valuable assets an attorney has, and this can devastate his or her entire livelihood. It can  
8 cost anywhere between \$10,000.00 to \$25,000.00 per year to just try to combat and repair  
9 reputational harm on the internet. So, the preliminary injunction should be granted.

10  
11 **2. Serious Questions that the State Bar Violated the Plaintiffs’**  
12 **Constitutional Right of Privacy (Cal Const Art 1 § 1) Exist**

13 The plaintiffs have also sued alleging that their right to informational privacy was  
14 violated. To state a valid cause of action that the plaintiff’s Constitutional right to  
15 information privacy was violated, three elements must be alleged: (1) a legally protected  
16 privacy interest; (2) a reasonable expectation of privacy; and (3) a serious invasion of the  
17 privacy interest. *Hill v National Collegiate Athletic Assn.* (1994) 7 Cal4th 1, 35-37. “[A]  
18 plaintiff need not show actual loss to establish standing for common-law claims of  
19 invasion of privacy and intrusion upon seclusion.” *In re Facebook Internet Tracking*  
20 *Litig.* (N.D. Cal. 2017) 263 F. Supp. 3d 836, 843

21 Prima facie evidence exists to support each of the three elements to support a  
22 cause of action for Invasion of Privacy under the California Constitution Article 1,  
23 section 1 using the same facts asserted for the IPA violation.

24 Plaintiff had a legally protected privacy interest. [FAC ¶ 66]. A legally protected  
25 privacy interest includes “confidential” or “sensitive” information. Plaintiff alleged the  
26 information was confidential or sensitive information State Bar disciplinary matters  
27  
28

1 about the plaintiffs which included biometric data. [FAC ¶8, 12, 16, 17, 22, 25, 34-36,  
2 66-67]

3 The State Bar Act which is codified at Cal. Bus & Prof. Code §§ 6000 to 6243  
4 defines *all* State Bar investigations and disciplinary matters “**confidential**” as a matter of  
5 law until public charges are filed. (See, Cal. Bus & Prof Code § 6060.2(a), Cal. Bus. &  
6 Prof. Code § 6086.1(b), Cal. Bus & Prof. Code § 6090.6, Cal. Bus. & Prof. Code § 6168,  
7 Cal. Bus & Prof. Code § 6200, and Cal. Bus. & Prof. Code § 6234.

8 This concept of privacy is incorporated into the State Bar Rules of Procedure. For  
9 example, State Bar Rules of Procedure, Rule 2301 and State Bar Rules of Procedure,  
10 Rule 2302(e)(2)(a). [FAC ¶14-15]

11 The cause of action gives adequate notice by alleging the State Bar “maintains a  
12 large volume of sensitive private information, which was recently expanded to include  
13 biometric data about members of the State Bar.” [¶ 12] All State Bar complaints and  
14 investigations are confidential until public Notice of Disciplinary Charges are filed. Some  
15 complaints and investigations never end up being prosecuted, others remain confidential  
16 through prosecution, and still others become confidential after being “expunged.” [¶13].

17 Plaintiffs alleged and the State Bar has published that this confidential and  
18 sensitive information was released onto the internet from at least October 2021 through  
19 February 2022. [FAC ¶22, 31] As such, plaintiffs’ allegations that they “had a legally  
20 protected privacy interest in the 260,000 confidential records released from the State Bar  
21 of California” is supported by prima facie evidence.  
22

23 As stated above, the second element is the reasonable expectation of privacy. The  
24 plaintiffs had a reasonable expectation of privacy because the investigations were  
25 confidential pursuant to state statute.  
26

27 The invasion was serious because those records were confidential containing  
28 unproven accusations about a professional’s conduct or medical diagnosis.

1 Cal. Govt Code § 11549.3 lists various aspects any state agency must undertake in  
2 controlling, maintaining, and tracking personal information it collects. This includes  
3 creating policies and procedures. This section of the Government Code would not exist if  
4 the personal information (“PI”) was not confidential and sensitive in nature.

5 Like the *McDonald* case, the plaintiffs have no access or control over the data that  
6 the State Bar gathered about them. In fact, under the State Bar Act, the plaintiffs are  
7 even deprived of obtaining the information that the government agency collects on them  
8 because their rights under California Public Records Act were taken away. (See, Cal. Bus  
9 & Prof Code § 6060.2(a), Cal. Bus. & Prof. Code § 6086.1(b), Cal. Bus & Prof. Code §  
10 6090.6, Cal. Bus. & Prof. Code § 6168, Cal. Bus & Prof. Code § 6200, Cal. Bus. & Prof.  
11 Code §6234). The fact that these records were deemed to be so confidential that the  
12 subject could not even obtain a record of it for themselves demonstrates that this breach  
13 was egregious enough to warrant injunctive relief. *McDonald v. Aps* (N.D. Cal. 2019)  
14 385 F. Supp. 3d 1022, 1037

15  
16 **B. Plaintiffs Are Likely to Suffer Irreparable Harm in Absence of the**  
17 **Preliminary Injunction**

18 Plaintiffs that are members of the State Bar already fear retaliation by the State  
19 Bar. Plaintiffs that are complainants fear retaliation of those they complained against or  
20 by being wrongfully labeled as vexatious or affiliated with an unsavory group that  
21 convinced them to file a State Bar complaint for an ulterior motive. For those that are not  
22 aware that they were victims of a breach, the harm is that they have no knowledge that  
23 they should take steps to protect themselves. The harm to those that know, is that the  
24 State Bar has not given the plaintiffs any steps to take to protect themselves. A unique  
25 problem in this case is that the plaintiffs are not allowed to know what the investigations  
26 were about that were placed on the internet. This makes having meaningful steps to  
27 protect themselves from the effects of a data breach even more important.  
28

1 It is easy fodder to then be doxxed on the dark web, set up for harassment by  
2 never-do-wells or extortion. Money cannot adequately compensate the plaintiffs for this  
3 type of harm which the Information Practices Act has already acknowledged by placing  
4 the right to injunctive relief within the statute.

5 There is no risk of harm to the public or to the State Bar because plaintiffs are only  
6 asking this Court to order the State Bar to follow the law already in place. Both Bus. &  
7 Prof. Code § 6140.2 and Bus. & Prof. Code § 6094.5 provide that the State Bar should  
8 file the charges within six months.

9  
10 **C. The Balance of Equities Tips in Favor of the Plaintiffs**

11 The balance of equities tips in favor of the plaintiffs because the plaintiff  
12 complainants fear publication could result in retaliation and the plaintiff attorney  
13 members fear that they will be forced to defend against confidential investigations, but  
14 for the data breach, would have never been filed publicly.

15 Additionally, the Information Practices Act has already codified that there is  
16 implied irreparable damage when a state agency collects confidential information but  
17 does not implement sufficient security measures to allow it to escape. When it escapes,  
18 the state agency is required to give notice which lists and takes adequate steps. The State  
19 Bar did not follow any of these steps, did not give notice, then the purported notice it  
20 gave three months later was so obtuse some victims did not understand that they were  
21 victims of the breach.

22 There is no financial harm to the Defendant State Bar by issuing the injunction, on  
23 the other hand. It will not cost them more money to keep these investigations  
24 confidential. The State Bar already has the list of victims and has a portal upload which  
25 it uses for annual billing statements and can simply use that process to send out proper  
26 notification letters to all victims in compliance with the Information Practices Act. This  
27 cost would be negligible.  
28

1           Moreover, there is no risk to the protection of the public because the plaintiffs are  
2 only seeking to keep matters confidential meaning not to file any public notice of  
3 disciplinary charges against any of the victims on investigations that were more than six  
4 months old as such these were not presumptively “serious” matters. This timeline is set  
5 by the legislature in the Business & Professions Code, thus asking the State Bar to  
6 comply with the guidance of the legislature.

#### 7           **D. Public Policy Tips in Favor of the Injunction Issuing**

8           There is a strong public interest in maintaining an independent and effective  
9 judicial system and in assuring that the channels [\*\*59] of government are  
10 open to people whose legal rights have been or may be adversely affected by  
11 government action. Therefore, the public interest will also be served by  
12 granting a **preliminary injunction**.

13           *Legal Aid Soc'y v. Legal Servs. Corp.*, 961 F. Supp. 1402, 1421

14           Although not technically a judiciary, the same public policy would exist for a state  
15 professional licensing board like the State Bar. Using the State Bar disciplinary system to  
16 lessen liability by making matters the State Bar kept confidential for years public now  
17 would erode the integrity of an effective disciplinary system in the State Bar. In the  
18 1970s, the state legislature codified such a policy which applies to all professional  
19 licensing agencies in California.

20           The Information Practices Act of 1977 provides for immediate injunctive relief or  
21 other orders as necessary to prevent an agency from doing anything that would violate  
22 the statute.

23           Any agency that fails to comply with any provision of this chapter may be  
24 enjoined by any court of competent jurisdiction. The court may make any  
25 order or judgment as may be necessary to prevent the use or employment by  
26 an agency of any practices which violate this chapter.

27           Actions for injunction under this section may be prosecuted by the Attorney  
28 General, or any district attorney in this state, in the name of the people of the



1 State of California whether upon his or her own complaint, or of a member of  
2 the general public, or by any individual acting in his or her own behalf.

3 Civ. Code, § 1798.47

4 As shown above, serious questions exist showing that the State Bar of California  
5 has and/or intends to use a tactic or act that would violate the statute.

6 Because the State Bar failed to file the spurious charges within 6 months as  
7 required by the Legislature in Bus. & Prof. Code § 6140.2 and Bus. & Prof. Code  
8 §6094.5, but only in reaction to the filing of the government tort claims with the State  
9 Bar just days earlier. This Court should infer that the State Bar chose to file the charges  
10 in reaction to the claim forms it received.

11 This should be enough evidence to grant the motion for a preliminary injunction in  
12 this case. If it is not, there are a few people willing to step in or step up as class  
13 representatives and allow their names to be exposed.

14 A preliminary injunction should issue, though, to protect them and all others  
15 similarly situated.

16 Finally, the type of relief being requested should issue, too. “The provisions of this  
17 chapter shall be liberally construed so as to protect the rights of privacy arising under this  
18 chapter or under the Federal or State Constitution.” Civ. Code, § 1798.63. Hence, the  
19 type of relief although not traditional, should be allowed in this case to protect the rights  
20 of privacy arising under the law.

21  
22 **E. Conflict of Interest**

23 Another unique circumstance in this case is that the Defendant has collected  
24 sensitive confidential information about the plaintiff and now sitting as an adversary, can  
25 try to exploit that information as part of their defense. A conflict of interest’s scope is not  
26 limited to attorney-client relationships.

27 the scope of rule 5-102(B) includes conflicts of interest arising other than in  
28 the course of legal representation. [Fn. omitted.]

**MOTION FOR PRELIMINARY INJUNCTION**

1 [A] conflict of interest [under rule 5-102(B)] may arise from an attorney's  
2 relationship with a nonclient. Such a conflict of interest may arise [1] where  
3 an attorney's relationship with a person or entity creates an expectation that  
4 the attorney owes a duty of fidelity. It may also arise [2] where the attorney  
5 has acquired confidential information in the course of such a relationship  
6 which will be, or may appear to the person or entity to be, useful in the  
7 attorney's representation in an action on behalf of a client.' (Cal.  
8 Compendium on Professional Responsibility . . . , State Bar Formal Opinion  
9 No. 1981-63, p. 3.)" (*William H. Raley Co. v. Superior Court, supra*, 149  
10 Cal.App.3d at pp. 1046-1047, italics added.)

11 *American Airlines v. Sheppard* (2002) 96 Cal.App.4th 1017, 1033-34

12 Here, the State Bar has acquired confidential information from the plaintiff  
13 members in the course of the relationship as complainants or members of the State Bar of  
14 California which will be or appears to be useful to the State Bar as an adversary in this  
15 case. "Confidential and fiduciary relations are, in law, synonymous, and may be said to  
16 exist whenever trust and confidence is reposed by one person in the integrity and fidelity  
17 of another." *American Airlines v. Sheppard* (2002) 96 Cal.App.4th 1017, 1034.  
18 Consequently, the State Bar should be enjoined from sharing any of that information with  
19 the defendants or their counsel in this case.

#### 19 IV. CONCLUSION

20 For all of the foregoing reasons, the Plaintiffs, and each of them, respectfully  
21 request that this Court find serious questions go to the merits of this case and grant  
22 preliminary injunctive relief including the following:

- 23 1. Restrain the State Bar from using the phrase "page views" in their notices to  
24 the victims of the data breach because it is misleading and is tricking those who  
25 receive said notices into believing their confidential information was not found  
26 on the internet.
- 27 2. Restrain the State Bar from filing public Notices of Disciplinary Actions  
28 against any State Bar member where the investigation began more than six

1 months ago but was never filed or other time period that this Court deems  
2 reasonable.

- 3 3. Restrain the State Bar from sharing any confidential or sensitive information it
- 4 has accumulated on the plaintiffs with the Defendant’s counsel or defendants in
- 5 this case. If it has done so, then substitute out counsel from this case, as
- 6 necessary, due to the conflict of interest.
- 7
- 8 4. Prepare and upload Notices of Breach in compliance with the Information
- 9 Practices Act, email to all members, if no email then to the last known address
- 10 by mail, and email or mail if no email address the same Notice to the
- 11 complainants that are not members of the State Bar within the next 10 days.

12 The notices should contain the following:

- 13 5. The Notice should have contained the following parts:
  - 14 a. “[NAME OF INSTITUTION / LOGO] \_\_\_\_\_ Date: [insert date]
  - 15 b. NOTICE OF DATA BREACH
  - 16 c. What Happened?
  - 17 d. What Information Was Involved?
  - 18 e. What We Are Doing.
  - 19 f. What You Can Do.
  - 20 g. Other Important Information.[insert other important information]
  - 21 h. For More Information. Call [telephone number] or go to [internet
  - 22 website]” as required in Civ. Code, § 1798.29

- 23 6. Any other relief this Court may find reasonable and just.

24 Dated: August 5, 2022

25 Respectfully Submitted,  
 26 LAW OFFICES OF LENORE ALBERT  
 27 /s/ Lenore Albert  
 28 LENORE L. ALBERT, ESQ.  
 Attorney for Plaintiffs, John Roe 1, Jane Roe 1,  
 Jane Roe 2, Jane Roe 3, and John Roe 2, *on*

**MOTION FOR PRELIMINARY INJUNCTION**

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*behalf of themselves and all others similarly situated*

**MOTION FOR PRELIMINARY INJUNCTION**

**PROOF OF SERVICE OF DOCUMENT**

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding.  
My business address is: 1968 S Coast Hwy #3960, Laguna Beach, CA 92651  
A true and correct copy of the foregoing document entitled:

**MOTION FOR PRELIMINARY INJUNCTION**

will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR; and **(b)** in the manner stated below:

**3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (state method for each person or entity served):

Pursuant to F.R.Civ.P. on 08-05-2022, I served the following persons and/or entities ECF or email as follows:

X Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

08-05-2022	James D. Ocon	/s/James D. Ocon
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<i>Date</i>	<i>Printed Name</i>	<i>Signature</i>
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**MOTION FOR PRELIMINARY INJUNCTION**

**SERVICE BY ECF**

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**The State Bar of California**

represented by

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