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Jane Roe 2, Jane Roe 3, and John Roe 2, *on behalf of*
themselves and all others similarly situated

8
9 **UNITED STATES DISTRICT COURT**
10 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

11 JOHN ROE 1, an individual; JANE ROE 1, CASE NO. 22-cv-00983-DFM
12 an individual; JANE ROE 2 an individual;
13 JANE ROE 3, an individual, JOHN ROE 2, Assigned to the Hon. Douglas F. McCormick
14 *on behalf of themselves and all others* Crtm. 6B
similarly situated, Complaint filed: 03-18-2022

15 Plaintiff,
16 vs.

17 THE STATE BAR OF CALIFORNIA;
18 TYLER TECHNOLOGIES, INC.; KEVAN
19 SCHWITZER; RICK RANKIN; and DOES
20 4 through 10, inclusive,

21 Defendants.

22 **SECOND AMENDED CLASS ACTION
23 COMPLAINT**

24

1. Violation of Cal. Information
Practices Act of 1977
2. Invasion of Privacy (Cal. Const. Art I
§ 1)
3. Invasion of Privacy (Civ. Code §
1798.53)
4. Antitrust Violation - Sherman Act § 1
5. Antitrust Violation - Sherman Act § 2
6. Negligence
7. Negligence per Se

25 **[DEMAND FOR JURY TRIAL]**

1
2 Plaintiffs John Roe 1, Jane Roe 1, Jane Roe 2, Jane Roe 3 and John Roe 2
3 (referred to collectively as "Plaintiff" or "Plaintiffs"), by and through their attorney,
4 amend their pleadings pursuant to Court Order and bring this action against
5 Defendants, the State Bar of California, Tyler Technologies, Inc., Rick Rankin, and
6 Does 4 through 10, and each of them so captioned, (collectively the "Defendants") and
7 alleges the following on information and belief, except as to those allegations which
8 pertain to the Plaintiffs and are within their personal knowledge:

9
10 **PARTIES**

11 1. Plaintiff, John Roe 1, at all times mentioned herein relevant to this complaint is
12 employed in and is a resident of Orange County, California and had filed a confidential
13 Complaint with the State Bar of California. Plaintiff sues under the pseudonym of "John
14 Roe 1" to protect his legitimate interests in his privacy. Plaintiff John Roe 1 filed a claim
15 with the State Bar prior to this complaint being filed on March 18, 2022, on his behalf
16 and others similarly situation. The claim was denied a few weeks thereafter. John Roe 1
17 is not an attorney but employed in public relations mainly for cybersecurity firms. In or
18 about 2018 he complained against an attorney who represented he was making mistakes
19 in his legal work and was not able to practice law due to an ongoing medical condition
20 but continued the practice of law anyway.

21 2. Plaintiff, Jane Roe 1, at all times mentioned herein relevant to this complaint was a
22 resident of Los Angeles County, California and had filed a confidential Complaint with
23 the State Bar of California. Plaintiff sues under the pseudonym of "Jane Roe 1" to protect
24 her legitimate interests in her privacy. Plaintiff Jane Roe 1 filed a claim with the State
25 Bar prior to this complaint being filed on March 18, 2022 on her behalf and all others
26 similarly situated. The State Bar denied the claim a few weeks thereafter. Jane Roe 1 is
27 not an attorney, but a college student. In or about 2014 she complained against an
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1 attorney as part of a campaign and later regretted being a part of that campaign.
2 Complainant CX is willing to step into the shoes of Jane Roe 1, she filed a complaint
3 against a District Attorney in San Mateo County, California. She received an Odyssey
4 Notice in May 2022.

5 3. Plaintiff, Jane Roe 2, at all times mentioned herein relevant to this complaint was a
6 former judge licensed by the State Bar of California and resident of San Diego County,
7 California and was the subject of a confidential investigation filed with the State Bar of
8 California. Plaintiff sues under the pseudonym of "Jane Roe 2" to protect her legitimate
9 interests in her privacy. Plaintiff Jane Roe 2 was investigated for a medical condition and
10 is informed and believes and alleges thereon that the State Bar file contains her private
11 medical records. No public disciplinary action shows on her member profile. A claim
12 was filed with the State Bar on her behalf on March 14, 2022 prior to the filing of this
13 lawsuit and was later denied by the State Bar. On or about September 20, 2022, another
14 claim was filed with the State Bar in her own name.

16 4. Plaintiff, Jane Roe 3, at all times mentioned herein relevant to this complaint was
17 an attorney licensed by the State Bar of California and resident of Contra Costa County,
18 California and was the subject of a confidential Complaint filed with the State Bar of
19 California. Plaintiff sues under the pseudonym of "Jane Roe 3" to protect her legitimate
20 interests in her privacy. Plaintiff Jane Roe 3 was a mediator and member of the Bar. A
21 family member filed one or more complaints against her during a probate dispute over
22 property they inherited that were never made public and never went beyond the
23 investigation stage. Public disciplinary action shows on her member profile. A claim was
24 filed with the State Bar on her behalf on March 14, 2022 prior to the filing of this lawsuit
25 and was later denied by the State Bar. On or about September 20, 2022, another claim
26 was filed with the State Bar in her own name. Attorney DE is willing to step into the
27 shoes of Jane Roe 3. He is an attorney from San Francisco and had a highly confidential
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1 proceeding under Bus & Prof Code § 6007(b)(3) wherein those records were also
2 supposed to remain highly confidential under both state and federal HIPAA laws.
3 Attorney DE did receive an Odyssey notice in May 2022.

4 5. Plaintiff, John Roe 2, at all times mentioned herein relevant to this complaint is an
5 attorney licensed by the State Bar of California and resident of Los Angeles County,
6 California and was the subject of a confidential investigation filed with the State Bar of
7 California. Plaintiff sues under the pseudonym of “John Roe 2” to protect his legitimate
8 interests in his privacy. Plaintiff John Roe 2 is a solo practitioner protecting consumers in
9 litigation and/or criminal defense and was investigated for representing homeowners
10 seeking loan modifications approximately a decade ago. He has a disciplinary record
11 wherein he has been disciplined repeatedly over the same practice when new complaints
12 are made by those who sought services a decade ago. A claim was filed with the State
13 Bar on his behalf on March 14, 2022 prior to the filing of this lawsuit and was later
14 denied by the State Bar. On or about September 20, 2022, another claim was filed with
15 the State Bar in his own name. If the Court should deny a protective order, putative class
16 member NZ is also a consumer rights attorney in Los Angeles County, California who
17 has no disciplinary record on his member profile. The State Bar investigated him for
18 several complaints that never ended up with public disciplinary charges. He is willing to
19 put his name on the caption of this pleading in order to allow the complaint to go
20 forward. A claim was filed with the State Bar on his behalf on March 14, 2022 prior to
21 the filing of this lawsuit and was later denied by the State Bar. On or about September
22 20, 2022, another claim was filed with the State Bar in his own name.
23

24 6. Defendant THE STATE BAR OF CALIFORNIA, is a public corporation created
25 by the Legislature passing the State Bar Act in 1927 and has two main offices located in
26 (1) San Francisco, California; and (2) Los Angeles, California. On or about February 24,
27 2022, the State Bar announced that it released approximately 260,000 (later 322,525)
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1 confidential disciplinary records to a third party through one of its ports which displayed
2 those records on a website with the URL JudyRecords.com. It was not the result of a
3 hack.

4 7. KEVAN SCHWITZER is a resident of Texas and operates a website called
5 JudyRecords.com that freely publishes information from various federal and state
6 agencies. On or about October 15, 2022 approximately 322,525 confidential State Bar of
7 California records were published on this website.

8 8. Plaintiff is informed and believes and alleges thereon that Defendant RICK
9 RANKIN, principal of RPR Impact, LLC, was hired to perform the services as interim
10 Director of the Information Technology Department of the State Bar of California
11 fictitiously sued as EMPLOYEE DOE at all times mentioned herein and is the person
12 employed by the State Bar of California designated with the responsibility for ensuring
13 the agency complies with all of the provisions of the Information Practices Act of 1977
14 (“IPA”) and/or ensure that confidential information in digital form would be secure from
15 being released to third parties by accessing the internet.

17 9. Plaintiff is informed and believes and alleges thereon that Defendant TYLER
18 TECHNOLOGIES, INC. (“Tyler Technologies”) fictitiously sued as DOE 3 is the
19 vendor that has supplied the case management software referred to as Odyssey being
20 used by the State Bar of California. Due to a failure with the Odyssey portal, the State
21 Bar reported nonpublic records were swept up by JudyRecords.com and published.

22 10. Plaintiff does not know the true names and capacities of the Defendants DOES 4
23 through 10, inclusive, and, as such, names said Defendants by such fictitious names.
24 Plaintiff will amend the complaint to state the true name and capacity of the DOE
25 Defendant(s) when such information is ascertained.

1 11. Plaintiff is informed and believes, and alleges thereon, that each Defendant
 2 assisted, adopted, ratified, approved, conspired, or acted in concert therewith with the
 3 other Defendant(s).

4 12. Plaintiff is informed and believes, and alleges thereon, that each Defendant is
 5 responsible in some manner for the occurrences alleged in this complaint, and that
 6 Plaintiff's damages were proximately caused by the Defendants at all times mentioned
 7 in this complaint.

8 **FACTS**

9 13. In 1927, the California Legislature enacted the State Bar Act which created The
 10 State Bar of California. It is a public corporation with an annual budget of \$244.3 million
 11 for 2022.

12 14. The State Bar of California has its own disciplinary system wherein State Bar
 13 investigations and prosecutions are housed within the Office of Chief Trial Counsel.

15 15. The State Bar's Office of Chief Trial Counsel investigates and pursues complaints
 16 about members of the Bar. It collects confidential information from *both* its members and
 17 the public. Sometimes it collects confidential information from all members of the Bar.
 18 For example, a few years ago, the State Bar collected fingerprints of all members of the
 19 Bar then used that electronic database to determine which attorneys had a criminal
 20 conviction in order to investigate and prosecute. The State Bar also collects financial
 21 records, such as bank statements when there is a complaint of misused or unearned fees
 22 and medical records when there is a decision to investigate a mental or physical health
 23 issue of a member or a prospective member of the Bar. These records include address
 24 history, email history and telephone history from the date the individual became a member
 25 to the present date of investigation. These records also include birthdates, social security
 26 numbers and in some cases family names (relatives). In sum, the State Bar maintains a
 27 large volume of sensitive private information, including but not limited to an attorney's
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1 financial records, banking records, medical records, and fingerprints (biometric data) about
2 members of the State Bar.

3 16. The information in these records is so wide spreading in detail that they can be
4 used to make it easy for a third party to bypass “forgot password” checks, to harass
5 opponents, to obtain online credit reports, to commit extortion or bribery, or to commit
6 other frauds via identity theft.

7 17. The State Bar 2020 Annual Discipline Report acknowledged that the Disciplinary
8 System is slanted toward the small practitioner:

9 a. “A report commissioned by the State Bar found that the sector of the
10 profession serving individuals as opposed to businesses experienced fewer
11 paying clients and declining attorney income starting in the mid-1970s.
12 Between 2007 and 2012, this sector’s revenues shrank by 10 percent while
13 the number of self-represented parties in state court continued to increase.
14 Given that the vast majority of complaints are filed by individual
15 consumers, fewer underlying transactions between individuals (as opposed
16 to businesses) and attorneys have likely led to fewer complaints per attorney
17 being filed with the State Bar.” (2020 State Bar Annual Discipline Report
18 pg. 14).

20 18. The State Bar, including the Office of Chief Trial Counsel and the State Bar Court
21 is self-funded by the members. A substantial portion of the revenue come from the
22 member’s mandatory annual fees which the Legislature sets. Active attorneys must pay
23 \$463.00 annually to maintain their license which includes a \$25.00 discipline fee and
24 \$40.00 client security fee according to the State Bar of California Annual Budget Report
25 Feb. 2022.

26 19. Other revenues are provided from fees the members pay for Disciplinary Costs,
27 Client Security fund fees and lawyer assistance fees. The State Bar discipline system is
28

1 considered a “fee-for-services” activity. A fixed cost sheet is created by the State Bar
2 annually. The most recently published Cost Sheet is attached as Exhibit A.

3 20. The State Bar has internally controlled the price of Disciplinary Costs that falls
4 more heavily on lawyers in the People market much more than lawyers in the
5 Organizational Clients Market.

6 21. In a study of 874 lawyers in the disciplinary system from 2014 to 2016 eleven
7 percent (11%) sought a waiver or modification of the discipline costs imposed based on
8 financial hardship. Plaintiffs are informed and believe that the members seeking the
9 waivers or modification were members in the declining sector of the People Market and
10 who defended against the charges made against them up to trial.

11 22. Plaintiffs are further informed and believe and allege thereon that a substantial
12 portion of lawyers in the disciplinary system that did not seek a waiver or modification
13 of the costs imposed were provided a payment plan at a reduced cost and/or most likely
14 stipulated to the charges instead of going to trial to defend against them.

15 23. The Cost structure is akin to a regressive tax which becomes unaffordable to the
16 solo practitioner at the bottom of the lawyer rate scale who wants to defend against the
17 charges by a huge margin.

18 24. In 2014, it cost a member of the Bar \$2,992.00 to stipulate to discipline if offered
19 by the Office of Chief Trial Counsel before charges were filed. On the other hand, that
20 cost increased over 200% to \$7,253.00 for a member to defend against the charges in a
21 one-day trial. To have the ruling reviewed, it costs a member \$20,005.00 in 2014 if they
22 can pay for the costs of transcripts upfront.

23 25. In 2022, the cost to stipulate to discipline before charges are publicly filed is
24 \$3,693.00. The cost for a member to defend in a one-day trial is \$8,952.00. To have the
25 ruling reviewed, it costs a member \$24,695.00 if they can pay for the costs of transcripts
26 upfront.(Exhibit A).

1 26. Attorneys must pay this discipline cost even if the most egregious charges which
2 impugned the lawyer's character are never proven.

3 27. It is common that the member will be suspended until the attorney pays the
4 discipline costs owed creating a barrier to reentry.

5 28. Furthermore, unlike ABA Model Rule 10 which does not allow any "and until"
6 conditions to attach to the length of the period of suspension, in California, an "and
7 until" condition can attach to any condition laid out in the order, including financial
8 payments.

9 29. During this time period, the member is not allowed to practice law in the state of
10 California. A notation of the member being ineligible to practice law along with the date of
11 suspension is placed on the attorney member's public profile online without distinction
12 between the length of suspension or remaining ineligible due to inability or failure to pay
13 the discipline costs as the sole barrier to reinstatement.

14 30. One percent of all disciplinary investigations that were opened were made public in
15 2020. In raw numbers, approximately the Office of Chief Trial Counsel opened 17,500
16 cases to investigate for possible discipline in 2020. The Office of Chief Trial Counsel filed
17 180 Notice of Public Disciplinary Charges in 2020. (2020 State Bar Annual Discipline
18 Report).

19 31. All State Bar complaints and investigations are confidential until public Notice of
20 Disciplinary Charges are filed. Approximately 97% of all complaints and investigations
21 never end up being prosecuted, others remain confidential through prosecution, and still
22 others become confidential after being "expunged."

23 32. In 2018, the Office of Chief Trial Counsel ("OCTC") launched an online
24 complaint portal, allowing complaining witnesses to file complaints electronically, rather
25 than on paper via mail in both English and Spanish. For approximately 10 months
26 afterwards, OCTC saw a significant increase in the number of complaints received

1 overall. Four additional languages (Vietnamese, Korean, Russian, and Chinese) were
2 added to the system in 2019 to further expand access to complaining witnesses in their
3 preferred language.

4 33. This online complaint portal could contain confidential information such as bank
5 account information or even medical records of either the complaining witness or the
6 attorney or both.

7 34. Because the State Bar decided to collect confidential information from
8 complainants and its members (attorneys), the State Bar was under a duty to appoint
9 someone to make sure all confidential information was secure from public disclosure and
10 that adequate security measures were in place in accordance with a set of policies and
11 procedures, both online and offline.

12 35. Plaintiff is informed and believes and alleges thereon that Defendant Rick Rankin
13 as interim IT Director was either assigned that duty or had the authority to assign that duty
14 to an employee within the State Bar who is named a Doe Defendant because that identity
15 is not yet known.

16 36. Plaintiff is informed and believes and alleges thereon that Defendant Rick Rankin
17 and/or Doe Defendant failed to implement and maintain reasonable security procedures
18 and practices appropriate to the nature of the information such as their port which gave
19 JudyRecords.com the ability to obtain the confidential information and place it in the
20 public domain which the State Bar now denies any such duty.

21 37. That duty was breached due to the failure to discover an access control check was
22 missing which allowed the public to access any confidential information stored in its
23 database online which included confidential investigation files maintained by the Office of
24 Chief Trial Counsel.

1 38. That breach was discovered by the State Bar when a complainant notified the State
2 Bar on or about February 21, 2022 that a confidential matter was contained in a free public
3 records website called JudyRecords.com.

4 39. The confidential matter was harvested or scraped from the State Bar of California's
5 online discipline records page which was created to store records on a platform called
6 Odyssey.

7 40. State Bar of California purchased or subscribed to a cloud case management
8 platform named Odyssey from Tyler Technologies, Inc. for approximately \$3 million as an
9 initial payment.

10 41. The State Bar directly or indirectly through Tyler Technologies intentionally
11 decided to open its port(s) and publish all its public records concerning disciplinary
12 proceedings online, including but not limited to dockets, disciplinary files,
13 recommendations, and review department opinions.

14 42. The State Bar also created a log in space called "My State Bar Portal" for all
15 members to provide confidential information in paying their annual fees, Client Security
16 Fund reimbursement costs and Disciplinary Costs that were assessed. Defendant, State Bar
17 would also use "My State Bar Portal" to communicate with its members by uploading
18 "important communications" such as confidential State Bar investigation correspondence
19 to the internet for the State Bar member such as Jane Roe 3 to log in, retrieve and
20 download.

21 43. The State Bar of California then intentionally migrated approximately 516,000
22 Office of Chief Trial Counsel investigations from the AS 400 case management system to
23 the cloud onto Tyler Technologies' Odyssey platform and created a public facing portal
24 for free retrieval of public disciplinary records which went live on May 31, 2019.

1 44. These migrated files included approximately 325,525 confidential investigations in
 2 addition to the approximately 48,114 public disciplinary matters it intended to share with
 3 the public that ended up on JudyRecords.com.

4 45. Defendant Tyler Technologies, Inc. describes Odyssey as follows:

5 "What is Odyssey by Tyler Technologies?

6 Odyssey — An Open Platform At Tyler Technologies, we understand and
 7 embrace the benefits of open systems to allow courts to work most
 8 efficiently. Odyssey® leverages hundreds of APIs to connect and securely
 9 share data across multiple systems." (Exhibit B)

10 46. The California State Bar never encrypted the 322,525 confidential investigation
 11 files it migrated over to Odyssey that ended up in JudyRecords.com website nor proof that
 12 HIPAA was followed when migrating files online. Plaintiff is informed and believes and
 13 alleges thereon that either Rick Rankin and Doe Defendant never advised the State Bar
 14 that it should encrypt confidential information held by the State Bar including the 322,525
 15 confidential investigation files it migrated to Odyssey or the State Bar refused to encrypt
 16 the files.

17 47. Failing to encrypt confidential information that can be accessed by an authorized
 18 user online by the State Bar fell below the industry standard of care and was reckless, if
 19 not intentional.

20 48. In August 2020, the Office of Chief Trial Counsel integrated the online complaint
 21 portal that was launched in 2018 with the Odyssey case management system that was
 22 launched on May 31, 2019 so that, after verification, complaints submitted, including
 23 attachments, were automatically uploaded to the case management system and a new
 24 case was opened.

25 49. The publicly stated purpose of this integration was to eliminate the need for staff
 26 to manually enter data for complaints submitted on-line. Plaintiff is informed and
 27

1 believes and alleges thereon that Defendant Tyler Technologies administered or assisted
2 in this integration and was paid additional monies for it.

3 50. Plaintiff is also informed and believes and alleges that Tyler Technologies failed to
4 implement a basic online security measure called an access control check as part of the
5 Odyssey platform that the State Bar of California (and thirteen other California county
6 agencies) purchased.

7 51. The State Bar of California failed to perform due diligence to ensure basic security
8 measures were employed by Tyler Technologies such as “access control” prior to
9 purchasing its software platform Odyssey.

10 52. The definition of access control according to [techtarget.com](http://www.techtarget.com) is **“a security
11 technique that regulates who or what can view or use resources in a computing
12 environment.”** It is a fundamental concept in security that minimizes risk to the business
13 or organization. There are two types of access control: physical and logical.”

14 53. Plaintiff is further informed and believes and alleges that the State Bar of
15 California, Tyler Technologies, Inc., Rick Rankin, Does 4 through 10, and each of them,
16 failed to properly check or test to determine that the confidential State Bar investigation
17 files that were migrated over to Odyssey could not be accessed online by the public on or
18 before May 31, 2019 through February 24, 2022.

19 54. Normal testing prior to bringing records online for public access where the
20 database includes confidential information would include penetration testing (“pen
21 testing”) of portals, and to determine if the access control check was broken or missing.

22 55. It is also custom and practice in the industry to maintain security measures are in
23 place which includes, but is not limited to, periodically checking to determine if the access
24 control check has been broken or is missing, and then to fix it after migration.

25 56. Plaintiff is informed that the State Bar of California, Rick Rankin, Tyler
26 Technologies, Inc. and Does 1 through 4 failed to maintain adequate security measures,
27

1 which would include checking to see if the access control check had been broken or was
2 missing, to prevent the release of plaintiffs' confidential information at all times mentioned
3 in this complaint.

4 57. Because either no measures were taken or inadequate measures were taken on
5 double checking to ensure the confidential investigation files that the State Bar brought to
6 the cloud through Tyler Technologies Odyssey were secure, the confidential investigation
7 files held by the State Bar was open for any member of the public to scrape or harvest
8 since May 31, 2019.

9 58. This lack of access control check allowed former defendant Kevan Schwitzer to
10 scrape or harvest 370,489 State Bar disciplinary records which included both 48,114
11 public records and 322,525 confidential records on or about October 15, 2021 which he
12 put on his free online public records search database called JudyRecords.com.

13 59. Defendant California State Bar did not publish a warning that prohibited third
14 parties from obtaining records through the same webpage.

15 60. Prior to the breach, employees of the State Bar had brought it to the attention of
16 the Board that the system was bloated with over 513,000 old confidential complaints that
17 the employees wanted purged from the system.

18 61. The State Bar has not notified the people contained in the 513,000 confidential
19 complaints that there was a data breach, even though it was confirmed after Kevan
20 Schwitzer took down the records contained on his website, confidential State Bar records
21 were still publicly available and indexed on Google.

22 62. Jeremy Ward, employee of Tyler Technologies, Inc. confirmed in writing from
23 Kevan Schwitzer that he did not index the California State Bar records with Google.

24 63. As such, Plaintiffs are informed and believe and allege thereon a third party other
25 than Kevan Schwitzer had already obtained the confidential State Bar investigations and
26 distributed them elsewhere on the internet.

1 64. Additionally, after this lawsuit was filed, plaintiffs discovered there was a “second
2 vulnerability” to Odyssey the State Bar of California, Tyler Technologies, Rick Rankin,
3 Does 4 through 10 and Kevan Schwitzer either discovered or had knowledge of, but it was
4 not identified what that second vulnerability was in the communications produced by
5 Kevan Schwitzer.

6 65. The State Bar of California retained E-magined, a forensic security firm, which
7 instructed the defendants to label their communications as “attorney-client”
8 communications.

9 66. Plaintiff is informed and believes and alleges thereon that Defendants Tyler
10 Technologies and the State Bar of California conspired to keep this breach quiet in order to
11 preserve their own reputation.

12 67. On or about February 21, 2022, a complainant alerted the State Bar of California
13 that her confidential complaint was online and thought that it meant public charges were
14 filed against the attorney she complained about.

15 68. After receiving this notification, the State Bar was able to, and should have, but did
16 not advise its members to change their login passwords to the Online State Bar Portal
17 which also holds confidential investigation correspondence, licensee information, private
18 email and mail addresses and a portal to pay fees by credit card.

19 69. On March 1, 2022 when inquired, the State Bar responded that it cannot answer
20 individual questions from its members about the data breach and directed members to the
21 State Bar’s press releases on its website.

22 70. On March 3, 2022 when inquired, the State Bar again responded that it cannot
23 answer individual questions from its members about the data breach and directed members
24 to the State Bar’s press releases on its website.

25 71. As a result, information was requested by plaintiff’s counsel as to what confidential
26 information that the State Bar was storing about the member, but the State Bar refused to

1 reveal that information based on – the information being confidential: In response to a
2 request for all open disciplinary investigations against a member, the State Bar responded:

3 To the extent this request could be construed as a request for all records
4 concerning open State Bar investigations against you, all such records are
5 confidential and exempt from disclosure. (Gov. Code § 6254(f))

6 [Investigatory files compiled by a state agency for licensing purposes are not
7 subject to disclosure under the California Public Records Act]; Bus. & Prof.
8 Code § 6086.1(b) [“[D]isciplinary investigations ... shall not be disclosed
pursuant to any state law, including, but not limited to, the California Public
Records Act.”].

9 Please be advised that these records would also be exempt pursuant to
10 Government Code section 6254(k), which exempts from disclosure “records,
11 the disclosure of which is exempted or prohibited pursuant to federal or state
12 law, including, but not limited to, provisions of the Evidence Code relating
13 to privilege.” Here, any withheld records are exempt from disclosure
14 pursuant to the Official Information Privilege contained in Evidence Code
15 sections 1040 - 1042 (protecting information “acquired in confidence by a
16 public employee in the course of his or her duty and not open, or officially
17 disclosed, to the public prior to the time the claim of privilege is made”), and
18 the Attorney Work Product Privilege contained in the Code of Civil
19 Procedure section 2018.030 (“Any writing that reflects an attorney's
20 impressions, conclusions, opinions, or legal research or theories shall not be
21 discoverable under any circumstances.”)

22 State Bar Letter dated April 14, 2022.

23 72. The response was the same for any confidential closed disciplinary investigation
24 files:

25 The CPRA requires that the State Bar respond to requests for reasonably
26 identifiable records. (Cal. Gov. Code § 6253). It does not obligate the State
27 Bar to answer questions or create new records in order to respond to a
28 records request. *Fredericks v. Sup. Ct.* (2015) 233 Cal.App.4th 209, 227
(citing *Haynie v. Sup. Ct.* (2001) 26 Cal.4th 1061, 1075). It is not clear from
your Request what record(s) you are requesting from the State Bar. To the
extent this could be construed as a request for all records concerning closed
State Bar investigations against you, all such records are confidential and

1 exempt from disclosure. (Gov. Code § 6254(f) [Investigatory files compiled
 2 by a state agency for licensing purposes are not subject to disclosure under
 3 the California Public Records Act]; Bus. & Prof. Code § 6086.1(b)
 4 [“[D]isciplinary investigations ... shall not be disclosed pursuant to any state
 law, including, but not limited to, the California Public Records Act.”].

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 7 the disclosure of which is exempted or prohibited pursuant to federal or state
 8 law, including, but not limited to, provisions of the Evidence Code relating
 9 to privilege.” Here, any withheld records are exempt from disclosure
 10 pursuant to the Official Information Privilege contained in Evidence Code
 11 sections 1040 - 1042 (protecting information “acquired in confidence by a
 12 public employee in the course of his or her duty and not open, or officially
 13 disclosed, to the public prior to the time the claim of privilege is made”), and
 14 the Attorney Work Product Privilege contained in the Code of Civil
 Procedure section 2018.030 (“Any writing that reflects an attorney's
 impressions, conclusions, opinions, or legal research or theories shall not be
 discoverable under any circumstances.”)

15 State Bar Letter Dated April 14, 2022.

16 73. Plaintiffs are informed and believe and allege thereon that based on the response
 17 given to plaintiff's counsel, it would be a futile exercise to attempt to individually request
 18 what information was contained in the breach from the State Bar.

20 74. Up to this point in time, each Plaintiff knew there was a confidential investigation
 21 by the State Bar that had not been revealed to the public. The State Bar refused to inform
 22 each Plaintiff whether or not that confidential investigation was part of the data breach.
 23 The failure to inform whether or not that confidential investigation was part of the data
 24 breach was the direct and proximate cause of plaintiff's harm. Plaintiffs suffered angst,
 25 worry, paranoia, that their information would be in the hands of competitors, opposing
 26 counsel, other clients, their insurance carriers or never do wells that could then steal their
 27 identity, harass them, or commit other frauds.

1 75. Up until May 19, 2022, the State Bar of California had refused to provide Plaintiffs
 2 and all Classes any specific information about the breach, when requested, including but
 3 not limited to whether their confidential information was breached, what information was
 4 in the breach, and what next steps the individual can take to protect themselves. They were
 5 merely directed to the Data Breach release on www.Calbar.ca.gov website.

6 76. Notices dated May 18, 2022 through July 11, 2022 failed to provide the
 7 information required by the Information Practices Act of 1977. As of October 7, 2022
 8 these failures have not been cured by the State Bar of California making their actions
 9 willfully egregious as further alleged herein.

10 77. Prior to learning of the data breach, attorneys, including plaintiffs identified in this
 11 action, who were asked by the State Bar to turn over their private financial records
 12 including bank statements, documents relating to family issues, medical records, social
 13 security numbers, and biometric data such as their fingerprints, did so voluntarily
 14 believing the information would be kept safe and remain confidential.

15 78. The plaintiffs' belief and reliance that information would be kept confidential was
 16 reasonable because multiple rules created this pocket of confidentiality surrounding the
 17 private and confidential information of the State Bar's members. For example, the State
 18 Bar Rules of Procedure, Rule 2301 provides: "Except as otherwise provided by law or by
 19 these rules, the files and records of the Office of Chief Trial Counsel are confidential."
 20 As another example, the State Bar Rules of Procedure, Rule 2302(e)(2) provides: "(a)
 21 Except as otherwise provided by law or these rules, information concerning inquiries,
 22 complaints or investigations is confidential, and shall not be shared outside of the State
 23 Bar Office of Chief Trial Counsel."

24 79. As a direct and proximate result of the data breach, sixty-eight percent (68%) of
 25 the members of the California State Bar who took a public online survey on or about
 26 October 5, 2022 which asked "Knowing that the California State Bar suffered a data
 27

1 breach which leaked out 322,525 confidential State Bar investigations, would you be less
2 likely to submit bank records, medical records, or other sensitive information if asked by
3 the State Bar during an investigation (even if you knew you did nothing wrong?),"
4 responded "Yes."

5 80. Plaintiff is informed and believes and alleges thereon that this will increase the
6 fees the State Bar will charge its members and decrease the efficiency of State Bar
7 disciplinary proceedings leading to harm to both the members of the State Bar and the
8 public who rely on State Bar disciplinary proceedings to protect them.

9 81. The Plaintiffs and all Classes did not consent, permit, let, authorize, or acquiesce in
10 the State Bar of California to allow others to gain access to the confidential information in
11 the custody of the State Bar of California.

12 82. The Plaintiffs and all Classes did not consent, permit, let, authorize, or acquiesce in
13 the Kevan Schwitzer (JudyRecords.com) to obtain or publish confidential information it
14 obtained from the State Bar of California.

15 83. The Plaintiffs and all Classes did not consent, permit, let, authorize, or acquiesce in
16 any Doe Defendant to obtain or publish confidential information it obtained from the State
17 Bar of California or index the records to Google or place them on the dark web.

18 84. As a direct and proximate result of the intentional conduct by Rick Rankin, Tyler
19 Technologies, the State Bar of California, and Kevan Schwitzer (JudyRecords.com),
20 details of approximately 322,525 to 513,000 confidential disciplinary records or other
21 confidential information was publicly searchable on the internet between May 31, 2019
22 and February 26, 2022, and either all or a portion were published on JudyRecords.com for
23 about four months from October 15, 2021 through at least February 24, 2022.

24 85. Since the data breach, Jane Roe 2 has complained of identity theft resulting in the
25 loss of money; John Roe 2 has been receiving new annoying spam to his cellphone which

1 he did not receive before. Others similarly situated have complained about instances of
2 either identity theft or receiving new annoying spam since the breach.

3 86. Plaintiffs are informed and believe and allege thereon that Defendants State Bar of
4 California, Tyler Technologies, Inc., Rick Rankin and Does 4 through 10 are a substantial
5 factor in causing that harm.

6 **ADDITIONAL FACTS ABOUT THE CONSPIRACY**

7 87. Judyrecords.com site is set up to do a search by name wherein one can see the
8 details of the investigation without having to click on the record. The search results are not
9 uniform, but some level of detailed information shows up in a general search without
10 having to select and view the actual file. The data includes the venue, the names of the
11 parties, a URL to the record, and a case number.

12 88. When this lawsuit was filed on March 18, 2022, Defendant State Bar had not
13 notified the members or complainants of the breach or what confidential information
14 (other than generically stating disciplinary records) were obtained leaving them to guess if
15 they should do something or what they should do next, although it is best practices to
16 notify each victim of a data breach within 10 days using an address coming from the State
17 Bar of California.

18 89. When this lawsuit was originally filed on March 18, 2022, the California State Bar
19 had only reported the public disclosure of this massive number of confidential records on
20 its website wherein it further states it is working on trying to identify 1,000 out of the
21 322,525 confidential records that have had unique views on the JudyRecords.com website.

22 90. When this lawsuit was originally filed on March 18, 2022, Defendant State Bar had
23 not reported the breach to the California Attorney General's office or local law
24 enforcement. Instead, it used the time and press to obfuscate, downplay, and deny against
25 any liability. It has the specter of destroying and/or covering up the evidence or
26 wrongdoing.

1 91. An obscure online report by the Whittier Daily News provided “the confidential
 2 documents published by JudyRecords.com included case number, type, status, file date
 3 and respondent and complaining witness names” which the State Bar has now – reduced.
 4

5 92. Plaintiff is informed and believes and alleges thereon that Defendants State Bar of
 6 California and Tyler Technologies entered into a conspiracy to minimize the data breach
 7 in order to preserve their reputation.
 8

9 93. The Defendants worked with E-magined and Kevan Schwitzer to obfuscate the
 10 breach in order to maintain their reputation without regard to the victims of the breach.
 11

10 94. Coincidentally, on or about October 6, 2022 in a similar attempt to cover up a data
 11 breach, Fortune.com reported that U.S. Attorney Stephanie M. Hinds said:
 12

13 a. “Technology companies in the Northern District of California collect
 14 and store vast amounts of data from users,” U.S. Attorney Stephanie
 15 M. Hinds said in a statement. “We will not tolerate concealment of
 16 important information from the public by corporate executives more
 17 interested in protecting their reputation and that of their employers
 18 than in protecting users.”
 19

20 95. Like Uber, Tyler Technologies is a technology company that has collected a vast
 21 amount of confidential information stored in the public sector. In California alone, it has
 22 collected data not only from the State Bar of California but also from Merced, San
 23 Mateo, Butte, Kings County, Sutter, Sonoma, Yuba, Stanislaus, Calaveras, Mendocino,
 24 Tehama, and San Diego counties. All of these confidential court files were also swept up
 25 into JudyRecords.com or other sites because the access control check was missing there
 26 and plaintiff is informed and believes and alleges thereon that Defendants were helping
 27 them to obfuscate the data breach too.
 28

96. However, it restricted access to its press release of the data breach to its paying
 100 customers on its website because it was not only the State Bar of California Odyssey’s
 101

1 portal that had a missing access control check, but all of Tyler Technologies Odyssey's
 2 platforms had missing access control checks throughout the state of California and the
 3 United States.

4 97. Over the last several years, Tyler Technologies has acquired approximately a
 5 dozen or so companies in the information technology sector, multiplying the number of
 6 APIs, thus expanding services it can have customers subscribe to. "API stands for
 7 application programming interface, which is a set of definitions and protocols for
 8 building and integrating application software." (Redhat.com).

9 98. One of the largest companies it recently acquired was NIC which provides online
 10 payment portals to government websites which recently had handled \$84 billion dollars'
 11 worth of transactions for government entities.

12 99. This money generating enterprise complements Tyler Technologies data
 13 management enterprise tying them together.

14 100. This meant that every federal, state, and local agency using Odyssey from Tyler
 15 Technology had no access control. The door was left wide open for any third party to
 16 scrape or harvest confidential information stored in those databases, from confidential
 17 court records to State Bar disciplinary investigations. However, none of the people were
 18 provided with notice, it was just Tyler's customers.

19 101. For example, putative Class Member, complaining witness CX filed a State Bar
 20 complaint concerning a criminal matter in San Mateo about a District Attorney working
 21 there. Theoretically speaking CX could have been a victim both of a County of San
 22 Mateo and a California State Bar breach where confidential records identifying her was
 23 breached because there was no access control check on either system.

24 102. Defendant State Bar of California did not try to contact JudyRecords.com's owner
 25 when it first learned of the breach. It also initially lied to the public by saying they
 26 contacted law enforcement.

1 103. On February 26, 2022 Kevan Schwitzer found out that the records were being
2 reported as hacked and, not hearing from the State Bar he emailed them:
3

4 Hey, I saw these pages just a bit ago
5

6 First thing, I removed all the CA state bar court cases in the judyrecords search
7 index. All the records downloaded were publicly accessible on this portal:
8 <https://discipline.calbar.ca.gov/>
9

10 Second, I haven't been contacted about this issue and just checked for any
11 communication from my hosting provider. Also, anyone can contact me for
12 example on reddit with a simple google search.
13

14 These cases were publicly accessible, so my assumption is that those are the
15 cases open to the public. They weren't protected from public access.
16

17 104. A few days later, the State Bar via Rick Rankin replied:
18

19 From: Rankin, Rick
20 Sent: Monday, February 28, 2022 2:12:37 AM
21 To: Kevan Schwitzer
22 Subject: Re: ca state bar confidential data publicly accessible
23

24 Hi Kevan,
25

26 We greatly appreciate you making contact with us, for taking down the
27 records, and for being willing to speak with us tomorrow.
28

29 It is not our current belief that any unlawful or malicious hacking occurred.
30

31 We look forward to learning more about your statement that the records
32 were publicly available. Understanding how the nonpublic records may have
33 been unintentionally swept up with the public records will help us to better
34 secure our data.
35

36 Sending over the invite for tomorrow's call shortly.
37

38 Sincerely,
39 Rick
40

41 --

1 Rick Rankin | IT Director (Interim)
2 The State Bar of California

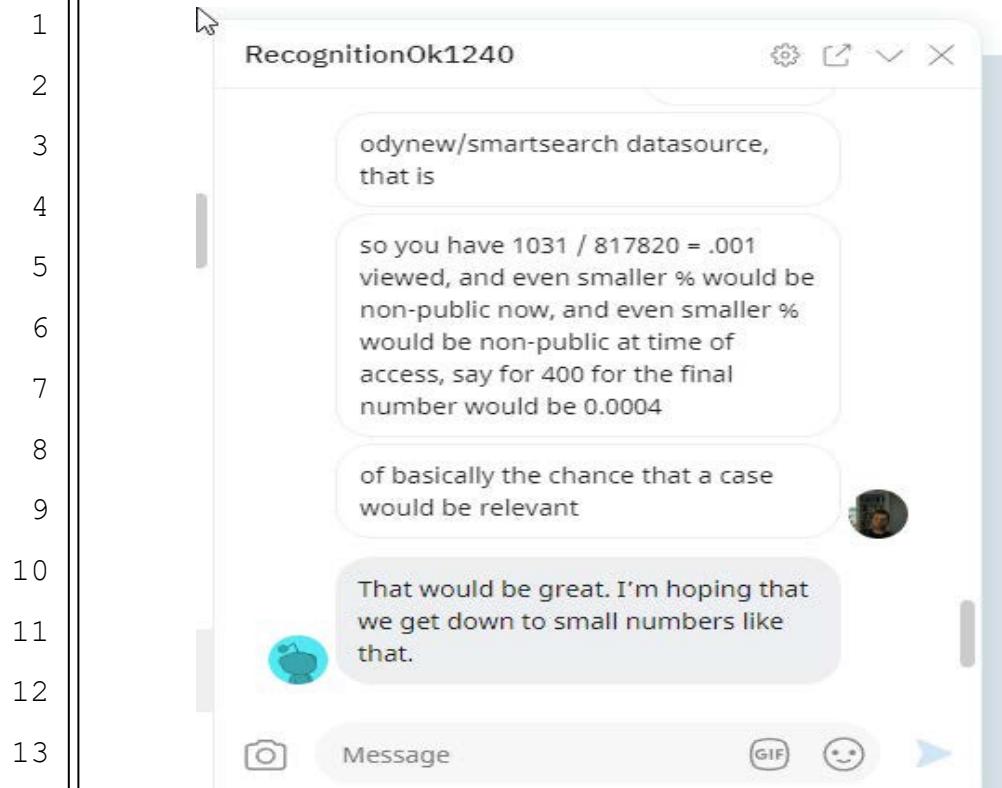
3 105. On February 27, 2022 Kevan Schwitzer informed Rick Rankin that the confidential
4 State Bar records were indexed on Google, but the State Bar did not take action to notify
5 the plaintiffs or other victims of the breach.

6 106. Jeremy Ward of Tyler Technologies, Inc. then asked Kevan Schwitzer to pull the
7 records from the California Counties of Merced, San Mateo, Butte, Kings County, Sutter,
8 Sonoma, Yuba, Stanislaus, Calaveras, Mendocino, State Bar, Tehama, San Diego, and
9 Forsyth County Georgia.

10 107. Kevan Schwitzer and Jeremy Ward of Tyler Technologies then worked together
11 to create a process to minimize exposure to create an analytic of “page views” which
12 Defendant State Bar of California either directed, requested, agreed to, or acquiesced in.

13 108. Kevan Schwitzer started working on the project and Jeremy Ward which is
14 depicted as the blue Martian on the left of the text message below is crunching the
15 numbers:

17
18
19
20
21
22
23
24
25
26
27
28



109.

110. Using the analytics created, the State Bar was going to say their investigation was completed by March 7, 2022 and only 600 records were breached.

111. On Mon, Mar 07, 2022 at 02:18 PMjudyrecordssite@gmail.com wrote:

112. Also, just a few thoughts.

113. I believe CA Bar is basically already close to finishing their analysis of the exposure. To the extent that they are able to say that only say 600 cases were exposed, esp. compared to the numbers that were thrown out individually, I think that can be a big win as far as being able to piggy back on Cal Bar's analysis, as well as being able to point to their ability to specifically determine which cases were affected.

114. They were basically able to tie up loose ends with the investigation/analysis portion within 1 week. In my opinion, that's incredible for being able to give other jurisdictions a similar level of confidence both in scope and ability to take appropriate action for the exact affected cases.

1 Re:a few thoughts
2 W jeremy.ward@tylertech.com
3 Mar 07, 2022, 2:49 PM

4 That is a very good point. I'm hoping that we can use CA Bar as an example
5 of what can be done here once they have the right information.
6

7 111. Based on the communications between Rick Rankin, Jeremy Ward and Kevan
8 Schwitzer, plaintiffs are informed and believe and allege thereon that the State Bar
9 requested a way to message that the breach was very small and agreed with Tyler
10 Technology to use the model developed for Tyler Technologies purposes of having the rest
11 of its customers also publish that there was minimal harm as a result.
12

13 112. Plaintiffs are informed and believe and allege thereon that both the State Bar of
14 California and Tyler Technologies, Inc.'s sole concern was to get the information to their
15 clients as to how to minimize exposure.
16

17 113. On March 8, 2022 Kevan Schwitzer (identified as judyrecordssite@gmail.com)
18 received a communication from Rick Rankin that the State Bar determined the number of
19 confidential records viewed would be around 1100.
20

21 On Tue, Mar 08, 2022 at 10:48 AM judyrecordssite@gmail.com wrote:
22

23 fyi, rick from cal bar said preliminarily 1100 cases were viewed that were
24 meant to be confidential.
25

26 i don't think he would mind me sharing that, so maybe that gives some
27 helpful context. cal bar also seemed to have an unrepresentative high% of
28 non-confidential cases.
29

30 Re: cal bar tentative case count
31 W jeremy.ward@tylertech.com
32 Mar 08, 2022, 1 :59 PM
33

34 That's great info. I believe you said CalBar had approximately 20,000 non-
35 public cases in your system. Is that correct? If so, that would be a great
36

1 percentage for us.
2

3 On Tue, Mar 08, 2022 at 03:05 PM judyrecordssite@gmail.com wrote:
4

5 322,375 non-public cases in Cal Bar system, which I would tentatively say
6 is extremely high.
7

8 Total count was 370,489. After removing non-public cases, I have 48,114
9 cases currently.
10

114. A few hours later, the defendants started getting into a disagreement about the
12 messaging:
13

14 On Tue, Mar 08, 2022 at 05:00 PM judyrecordssite@gmail.com wrote:
15

16 OK, I have already mentioned what is the most important issue. I do not
17 want to have to fight against the idea that you either think I intentionally
18 downloaded non-public records or are not sure and are keeping your options
19 open to legally come after me. After having given a mile already, I DO NOT
20 want to be backed into a corner.
21

22 Also, in case it will help to calm the situation, there are certain things I can
23 say that I think would help calm the situation as well.
24

25 For example, when I was able to say the Cal Bar number of affected cases is
26 tentatively < 1,000 I think that helped put perspective on the issue, and
27 even allowed them to refer to this comment on their data breach FAQ page.
28 Cal Bar wasn't in a position to make a statement like that, and I'm in a
position to make a similar kind of estimate on the outstanding data sources
as well. My estimate proved to be pretty close the first time.
29

30 Being able to say my estimate for the total number of affected cases 6-7k or
31 less across spread out over 30 jurisdictions I think would be useful. That
32 would amount to an average of 200 cases per portal that has the technical
33 issue. I personally think that would be huge to be able to say that.
34

35 W jeremy.ward@tylertech.com
36 Mar 08, 2022, 4:13 PM
37

1 I understand your perspective and I've tried to represent that to the best of
2 my ability. If the statement gets posted and you have additional
3 comments, I can try to get those updated as the page will be a living
4 document based on our continued collaboration. We appreciate how much
5 you have provided already and look forward to continuing that relationship
in an attempt to calm the tension between Tyler's clients and you/us.

6 As far the estimates you provided, I'll share those with our teams. That
7 number should help calm our internal teams. I do not think we could put
8 those in our communication yet, but they can potentially be used verbally
when talking with clients.

9
10 W jeremy.ward@tylertech.com
11 Mar 08, 2022, 8:20 PM

12 We actually did a fair bit of research on Scraping vs. Harvesting after you
13 mentioned it. From the attached screenshot, Harvesting and Scraping are
14 both mentioned. We also checked with outside legal counsel and they said
15 that from a purely court case perspective, Scraping has been cited as
malicious in many court cases. By their definition, Harvesting would be
considered less malicious from a Legal perspective...

16
17 On Tue, Mar 08, 2022 at 09:30 PM judyrecordssite@gmail.com wrote:
18

19 OK, at the end of the day I'm not going to put words in your mouth. In my
20 opinion, there is nothing unambiguous about the access method or the lack
of authorization checking.

21 I have to defend myself about any doubt of malicious/criminal intent and am
22 not going to sit around with that being an open question.

23 Here are a few things I remember my boss telling me after I showed him
24 what happened and to get his feedback:

25
26 "Are you serious?"
27 "Wow."
28 "That's a rookie mistake."

1 W jeremy.ward@tylertech.com
2 Mar 09, 2022, 12:59 PM

3 For clarity's sake, we are ready to pull the trigger on Dallas and when they
4 respond to us, we'll provide the results right back. Once we get you the
5 results for Forsyth, would you be willing to provide the full set for Dallas?

6 Re:plan for short update points
7 W jeremy.ward@tylertech.com
8 Mar 09, 2022, 3:24 PM

9 Is there a way for you to "officially confirm" that you remove the Forsyth
10 records from your system?

11 Also, at this point we are holding on the CA clients you shared as we need to
12 deal with them as a single bucket. We are working Dallas Co TX now
13 and should be sending that back to you as soon as we can.

14 Where do we stand on the remaining Tyler clients?

15 On Wed, Mar 09, 2022 at 04:42 PM judyrecordssite@gmail.com wrote:

16 This is the gist of what I intend to say, and reflecting our progress today as
17 well. I may add a bit more to the end to clarify why this is important
18 to me, but I'm not sure what I'll say exactly.

19 There have been significant steps in collaboration with Tyler Technologies
20 and the State Bar of California over the last week.n

21 I believe the Cal Bar will be releasing more detailed information soon, but
22 anticipate that the number of estimated cases exposed to be relatively
23 close to my original estimate of &It; 1,000.n

24 Working with Tyler Technologies, we have identified a subset of portals that
25 may be similarly impacted, and judyrecords has saved case identifiers
26 that will allow cross-referencing between systems.n

27 W jeremy.ward@tylertech.com
28 Mar 09, 2022, 5:27 PM

1 Any chance You could say that "Together, we have tentatively identified a
2 process

3 W jeremy.ward@tylertech.com
4 Mar 10, 2022, 5:00 PM

5 We have not communicated that page broadly, other than to our clients.

7 On Thu, Mar 10, 2022 at 08:56 PM judyrecordssite@gmail.com wrote:

8 I initially considered all the direct access data sources as not having the
9 authentication on direct access, but did not clarify those specifically.
10 I think you may be thinking of me mentioning to Rick/Nick about a
11 vulnerability I found a long time ago in an Odyssey system, where it showed
12 all confidential documents and the ssns contained within them, and I
submitted that to the clerk.

13 I actually have a screenshot of this from 2013 when I submitted the issue
14 and the corresponding email.

15 On Thu, Mar 10, 2022 at 07:39 PM jeremy.ward@tylertech.com wrote:

17 Ahh, I understand. I'll have to get with our internal team on your question.
18 Let me get back to you as soon as possible.

19 Does this have anything to do with the 2nd "vulnerability" that we had
20 initially discussed?

21 Re:New question
22 W jeremy.ward@tylertech.com
23 Mar 18, 2022, 10:35 AM

24 Morning, we've noticed that some of the pages from your site are being
25 indexed by google (and presumably other search engines). We're not sure
26 yet, but the concern would be that some of the non-public cases might have
been indexed and are still visible.

1 115. But Kevan Schwitzer did not have the records indexed on Google making it
2 plausible another party had already accessed those confidential records and placed them on
3 the internet.

4 116. Plaintiffs are informed and believe and allege thereon this massive data breach was
5 contained because the federal, state, county and local agencies followed suit of the State
6 Bar of California and kept the issue quiet going along with the lead Tyler Technologies,
7 Inc. and the State Bar of California were doing.

8 Re: What happened With Tyler Technologies
9 W jeremy.ward@tylertech.com
10 Mar 21, 2022, 6:46 PM

11 In reviewing your most recent posts on this page, we see that you have
12 posted information about Forsyth, GA. Posting information of that nature
13 without consent from Forsyth may put them in an unexpected situation that
14 they do not desire. It may dis-incentivize other Tyler clients from
15 providing information to us (and you) if they are concerned that you will
16 post sensitive information about their ongoing investigations.
17 We request that you remove the info regarding Forsyth, GA.
18 Thanks.

19 117. Tyler Technologies intentionally limited access to its communications about the
20 data breach to its customers that could access the information online by logging in instead
21 of being forthright and addressing the public as a whole whose confidential data in court
22 systems, State Bar and other agencies had been put at risk and or published on
23 JudyRecords.com.

24 118. Defendant State Bar immediately hired E-magined to work on the data breach,
25 which plaintiffs are informed and believe demonstrate Defendant State Bar of California's
26 attempt to quickly shut down access to communications about the data breach by having
27 E-magined direct Kevan Schwitzer and others to cloak their communications as "attorney
28 client privileged"

1 Re: State Bar of California + judyrecords.com connect
2

3 Hi Kevin. Great work today sir, I appreciate all of the collaboration you've had
4 with us!

5 For future communication, let's leverage the following tag:
6 Attorney-Client Privileged/Attorney Work Product
7 on all emails.

8 Additionally, if you'd like to connect over signal, my number is [redacted]
9 Thanks again,
Nicholas

10 Nicholas Albright
11 CTO/VP, Managed Security Services
12 Office: [redacted]
Mobile: [redacted]

13 119. From communications obtained, plaintiffs are informed and believe and allege
14 thereon there were approximately 141 records (plus or minus 34) where Complainants
15 were identified. JudyRecords was able to also extract social security numbers and date of
16 birth although the former was not a designated column, and the latter was.
17

18 120. JudyRecords apparently downloaded whatever the web case URL returned instead
19 of specific fields. In the case of the confidential State Bar investigations, the breach was
20 the public knowledge the record itself existed which identified a person by name, not that
21 any part of the record had to contain confidential information itself.

22 121. Public knowledge of disciplinary investigations and the number provoke others to
23 perceive the attorney negatively as demonstrated by Kevan Schwitzer's email to Rick
24 Rankin where he implies the same related to this lawsuit.

25 122. As such, the State Bar of California, Tyler Technologies, Inc., Rick Rankin and
26 Defendant Does 4 through 10 chose to protect their reputation over the reputation of the
27 victims of the data breach knowing that the breach automatically would generate some sort
28 of reputational harm to the victim aka plaintiffs and putative class.

1 123. The breached confidential disciplinary records indexed on Google and elsewhere
2 are nothing more than fake public disciplinary records floating around on the internet or
3 dark web which poses the same risk to the attorneys who have been publicly disciplined.

4 124. On or about May 18, 2022, after this lawsuit was filed, the State Bar through a
5 third party with an email address from admin@castatebarodysseynotice.com sent out
6 emails which said in pertinent part...We are notifying you because your nonpublic State
7 Bar record(s) showed evidence of a page view on judyrecords....The State Bar verified
8 that this vulnerability allowed judyrecords to scrape both public and nonpublic State Bar
9 attorney discipline case records from the Odyssey Portal. The scraping occurred on or
10 about October 15, 2021...Importantly, the Odyssey vulnerability was only triggered by
11 web scraping; regular searches of the Odyssey Portal did not permit access to nonpublic
12 records. There is no evidence to suggest the Odyssey Portal was scraped by any entity
13 besides judyrecords. The investigation revealed no evidence that scraped State Bar
14 records were on internet archive sites.

15 125. Plaintiffs are informed and believe that the statement that there was not evidence
16 that the State Bar records were not otherwise on the internet is not true because it is clear
17 from the communications provided by Kevan Schwitzer the records were indexed on
18 Google and Kevan Schwitzer never indexed the records on his site to google.

19 126. Additionally, on May 23, 2022 admin@castatebarodysseynotice.com sent other
20 emails that stated basically the same thing but there was “no evidence” of a “page view.”

21 127. Similar types of email and mail correspondence went out to members of the State
22 Bar and complaining witnesses through July 11, 2022.

23 128. The emails were below the standard of best practices because the email obfuscated
24 the breach, did not come from a familiar and trusted email address from the State Bar of
25 California, and the subject line did not refer to the State Bar Data Breach. Instead, the
26
27

1 Subject line of the email provided “Informational Notice Re Odyssey Portal
2 Vulnerability.”

3 129. Plaintiffs are informed and believe and allege thereon many of these emails went
4 unopened and into spam as a result giving no notice to plaintiffs and the putative class.
5 Moreover, the contents of the notice did not contain the sections required under the
6 Information Practices Act.

7 130. Additionally, it was evidence of the conspiracy to reduce the potential harm by
8 focusing on “page views” based on a model the defendants created and has not been
9 tested by an unbiased source or firm that did not have a motive to make those numbers or
10 the breach as low as possible.

11 131. Some attorneys who received the notice did not properly understand the notice to
12 mean that a confidential disciplinary record appeared on JudyRecords.com because the
13 notice said there were no page views making the notice deceitful.

14 132. Members of the State Bar of California and members of the public rely on the
15 State Bar of California to keep disciplinary records confidential until formal charges are
16 filed for the safety and protection of everyone involved.

17 133. The delay in providing specific and unambiguous information along with
18 meaningful steps for the victim plaintiffs to take, harms the Plaintiffs and all members of
19 all Classes because the Plaintiffs and all members of all Classes are being prevented from
20 taking any steps to mitigate the fallout from their information being published for others
21 to see. They need to know what information was out there so they can mitigate harm,
22 how far it reached or at least what was potentially open to be exposed.

23 134. The State Bar notice clearly discloses at least one social security number was
24 found in the batch they reviewed. As such, it is irrelevant what the fields in
25 JudyRecords.com were labeled.

1 135. The State Bar could have released the members fingerprints and social security
2 numbers along with investigation information. The State Bar could have released the
3 Complainants home address or an investigation of a supervisor. Not knowing and not
4 getting any specific information when requested is causing anxiety, worry, and
5 emotional distress.

6 136. Public disclosure of such private facts including the identity of a complainant or
7 member under investigation can lead to reputation loss, job loss, identity theft, extortion,
8 blackmail, emotional distress, paranoia, annoyances, harassment, anxiety, other frauds, and
9 in extreme cases bodily injury or loss of life. A complainant may suffer in their
10 employment if they complained about their boss or may have a chilling effect on finding
11 future representation to their injury. Likewise, an attorney could be harmed by others
12 knowing the State Bar opened an investigation thus causing a chilling effect where
13 potential clients will look elsewhere for representation. Additionally, an investigation on a
14 complaint of stalking or violence leaked out to the public could lead to the respondent
15 prematurely learning of it, leading to potential bodily harm upon the complaining victim.
16 Likewise, not all investigations or even most complaints are meritorious; having an
17 unmeritorious complaint land on a public website can lead to reputational harm, threats of
18 extortion, or even job loss or loss of job opportunities. The reputation of an attorney is one
19 of the most valuable assets an attorney has, and this can devastate his or her entire
20 livelihood. It can cost anywhere between \$10,000.00 to \$25,000.00 per year to just try to
21 combat and repair reputational harm on the internet.

22 137. This is not the first time the State Bar of California has been notified that it has
23 released the confidential information of complainants or members. There are two decades
24 of complaints by attorneys and complaining witnesses that have been engaged in the
25 disciplinary system showing State Bar's reckless conduct in disclosing confidential
26 information without recourse.

1 138. This disclosure of approximately 322,525 confidential records by Defendants and
 2 unreasonable delay to notify has caused harm to the Plaintiff and all Classes, including but
 3 not limited to, time, expense, worry, anxiety, reputational harm, and emotional distress.

4 139. After this action was filed, the State Bar began using the Odyssey case
 5 management system and online portal again without any assurance it took all proper
 6 security measures to keep the information confidential causing additional distress to the
 7 plaintiffs and all classes. Investigation is still continuing, and Plaintiffs and all members of
 8 all Classes reserve the right to amend the factual allegations as more information is
 9 discovered.

10 140. Three claims were filed with the State Bar of California on March 13, 2022 for
 11 both attorneys and complainants in compliance with the California State Bar tort claims
 12 act. Those claims were denied by the State Bar. Approximately six more tort claims were
 13 filed with the State Bar of California on September 20, 2022 representing both plaintiffs
 14 and complainants. None of those claims have been accepted by the State Bar of California.
 15 Those plaintiffs identified to the State Bar prior to the May communications sent by a third
 16 party on behalf of the State Bar, did not receive a communication.

17 **CLASS ALLEGATIONS**

18 141. Class Definition: Plaintiffs bring this suit as a class action pursuant to California
 19 Information Practices Act of 1977, rights under the California and United States
 20 Constitution, and Antitrust laws, on behalf of themselves and all other similarly situated
 21 persons as a member of a Class defined as follows:

22 a. All California residents identified in the approximately 188 to 322,525
 23 confidential aka “nonpublic” California State Bar records received by
 24 Kevan Schwitzer, the owner/operator of <https://JudyRecords.com> which
 25 include both:
 26 i. Complainants; and

ii. Members of the State Bar of California

142. Excluded from the Class are the Court, Defendants, and their affiliates, subsidiaries, current or former employees, officers, directors, agents, representatives, and their family members.

143. Numerosity: The persons who comprise the Plaintiff Class are so numerous that the joinder of all such persons is impracticable and the disposition of their claims as a class will benefit the parties and the Court. Class members are so numerous and are dispersed throughout the state that joinder of all Class members is impracticable. Class members can be identified, *inter alia*, through records maintained by the Defendants.

144. Common Questions of Fact and Law: Nearly all factual, legal, statutory, declaratory, and injunctive relief issues that are raised in this Complaint are common to the Plaintiff Class and will apply uniformly to every member of the Plaintiff Class:

- a. Whether Defendants violated the California Information Practices Act of 1977.
- b. Whether Defendants violated the Plaintiff Classes constitutional rights.
- c. Whether Defendants violated antitrust laws.
- d. Whether Defendants were negligent.

145. Defendants have acted or refused to act on grounds generally applicable to the class.

146. A class action is superior to other methods for the fast and efficient adjudication of this controversy and to avoid the risk of disparate and inconsistent rulings in different courts. A class action regarding the issues in this case does not create any problems of manageability.

147. The nature of notice to the proposed class required and/or contemplated would Defendant's list, when disclosed, would most likely be notice through email from Defendant's list which already identifies the complainants and attorney members along

1 with their contact information, including email is the best practicable method possible.
2 Also, mailing, media, the internet and/or other general notices are contemplated to ensure
3 notice.

4 **FIRST CAUSE OF ACTION**

5 **Violation of California Information Practices Act of 1977**
6 **(All Plaintiffs and All Classes Against Defendant State Bar of California)**

7 148. Plaintiffs incorporate herein by reference the allegations made in paragraphs 1
8 through 147 above as though fully set forth herein.
9
149. Plaintiffs bring this claim on their behalf and on behalf of all other Class members.
10
150. Defendant, State Bar of California, is a public corporation that owns or licenses
11 computerized data that includes personal information of California residents. It is
12 therefore subject to the Cal. Civil Code § 1798.29.
13
151. Defendant, State Bar of California, has a duty under California Civil Code §
14 1798.24 to not disclose personal information in a manner that would link the information
15 disclosed to the individual to whom it pertains.

16 a. As identified herein, Defendant failed to do so with 260,000 records or so.
17 b. As a direct and proximate result of Defendant's acts, Plaintiffs', and class
18 members' unencrypted confidential information was subjected to
19 unauthorized access and exfiltration, theft, or disclosure.

20
152. Defendant, State Bar of California, also has a duty under California Civil Code §
21 1798.29 to prevent Plaintiffs' and class members' nonencrypted and nonredacted
22 personal information from unauthorized access and exfiltration, theft, or disclosure.
23 a. As identified herein, Defendant failed to do so with 260,000 records or so.
24 b. As a direct and proximate result of Defendant's acts, Plaintiffs', and class
25 members' unencrypted confidential information was subjected to
26 unauthorized access and exfiltration, theft, or disclosure.
27
28

1 153. Defendant, State Bar of California, has a duty under California Civil Code 1798.21
2 to establish appropriate and reasonable administrative, technical, and physical safeguards
3 to ensure compliance with the Information Practices Act of 1977 (“IPA”) for it to follow
4 to ensure the security and confidentiality of records, and to protect against anticipated
5 threats or hazards to their security or integrity which could result in any injury.

6 a. As identified herein, Defendant failed to do so.
7 b. As a direct and proximate result of Defendant’s acts, Plaintiffs’, and class
8 members’ unencrypted confidential information was subjected to
9 unauthorized access and exfiltration, theft, or disclosure.

10 154. Defendant, State Bar of California, also has a duty to implement and maintain
11 reasonable security procedures and practices to protect this personal information.

12 a. As identified herein, Defendant failed to do so.
13 b. As a direct and proximate result of Defendant’s acts, Plaintiffs’, and class
14 members’ unencrypted confidential information was subjected to
15 unauthorized access and exfiltration, theft, or disclosure.

16 155. Defendant, State Bar of California, also has a duty to disclose any breach of the
17 security of the system following discovery or notification of the breach in the security of
18 the data to any resident of California in the most expedient time possible and without
19 unreasonable delay (1) whose unencrypted personal information was, or is reasonably
20 believed to have been, acquired by an unauthorized person, or, (2) whose encrypted
21 personal information was, or is reasonably believed to have been, acquired by an
22 unauthorized person and the encryption key or security credential was, or is reasonably
23 believed to have been, acquired by an unauthorized person and the agency that owns or
24 licenses the encrypted information has a reasonable belief that the encryption key or
25 security credential could render that personal information readable or usable.

26 a. As identified herein, Defendant failed to do so.

b. As a direct and proximate result of Defendant's acts, Plaintiffs' and class members' have been left to worry, anxious to know if their information was contained in the breach and what information that was causing emotional distress. Others still do not know about the breach and cannot take steps to protect themselves due to the breach.

156. Defendant, State Bar of California, has a duty to issue a security breach notification (1) written in plain language, shall be titled “Notice of Data Breach,” and shall present the information described in paragraph (2) under the following headings: “What Happened,” “What Information Was Involved,” “What We Are Doing,” “What You Can Do,” and “For More Information.”

- a. As identified herein, Defendant failed to do so.
- b. As a direct and proximate result of Defendant's acts, Plaintiffs' and class members' have been harmed.

157. Defendant, State Bar of California, also has a duty to report the breach to the California Attorney General and ensure that a sample copy of a breach notice sent to more than 500 California residents was provided to the California Attorney General.

- a. As identified herein, Defendant failed to do so.
- b. As a direct and proximate result of Defendant's acts, notice to Plaintiffs and class members has been further delayed.

158. Plaintiffs and Class Members seek injunctive or other equitable relief to ensure Defendant adequately safeguard all confidential information going forward, by implementing reasonable security procedures and practices. This relief is particularly important because Defendant continues to hold Plaintiffs' and Class Members' confidential information which includes biometric information of other members of the State Bar of California.

1 159. Plaintiffs and Class Members have an interest in ensuring that their confidential
2 information is reasonably protected, and Defendant has demonstrated a pattern of failing
3 to adequately safeguard this information.

4 160. As a direct and proximate result of Defendant's conduct alleged above, Plaintiffs
5 and the Class have been harmed entitling them to injunctive relief. Plaintiffs and all
6 Classes are also entitled to actual and/or statutory damages, online reputation
7 repair/branding subscription, emotional distress damages for the worry, delay, anxiety
8 and extreme distress, costs, and an award of attorney fees.

9 161. Plaintiffs and the class are also entitled to exemplary damages due to Defendant's
10 act(s) of oppression, malice, or fraud, including but not limited to the events laid out
11 herein showing that Defendant's conduct subjected Plaintiff and all Classes to cruel and
12 unjust hardship in conscious disregard of their rights.

13 **SECOND CAUSE OF ACTION**
14 **Invasion of Privacy – Cal Constitution**
15 **(All Plaintiffs and All Classes Against All Defendants)**

16 162. Plaintiffs incorporate herein by reference paragraphs 1 through 161 above in this
17 pleading as though fully set forth herein.

18 163. This cause of action is being brought on behalf of Plaintiffs and all members of all
19 Classes.

20 164. Plaintiffs and the class had a legally protected privacy interest in the 322,525
21 confidential records released from the State Bar of California.

22 165. Defendant represented the information would be confidential, including but not
23 limited to during the investigation stage, while in the special program, and/or that the
24 records were sealed.

25 166. Plaintiffs and the class had a reasonable expectation of privacy in the confidential
26 information under the circumstances laid out in the complaint.

1 167. The Defendants, Tyler Technologies, State Bar of California, Rick Rankin, Kevan
2 Schwitzer (JudyRecords.com), and Does 4 through 10's conduct constituted a serious
3 invasion of privacy causing injury to the Plaintiffs and all Classes because those records
4 were confidential and/or the public access to the confidential records would be highly
5 offensive to an objective reasonable person.

6 168. Plaintiffs are informed and believe that Defendants still have not encrypted the
7 information before going back online and taken other standard industry security
8 measures leaving plaintiffs at further risk.

9 169. As such, Plaintiffs and the Class members are entitled to injunctive relief against
10 all Defendants.

12 170. Plaintiffs and the Class are entitled to costs and reasonable attorney fees.

13 **THIRD CAUSE OF ACTION**

14 **Invasion of Privacy**

15 **(All Plaintiffs against Defendant Tyler Technologies and Does 4 to 10)**

16 171. Plaintiffs incorporate herein by reference paragraphs 1 through 170 above in this
pleading as though fully set forth herein.

17 172. This cause of action is being brought on behalf of all Plaintiffs and all members of
18 all Classes.

19 173. Defendant, Kevan Schwitzer (JudyRecords.com), Tyler Technologies, and Does 4
20 to 10, intentionally (1) received information, not otherwise public, (the confidential
21 disciplinary records); and/or (2) released some or all of that information which it knows
22 or should reasonably have known was obtained from personal information maintained by
23 the State Bar of California, invading the privacy of the Plaintiffs and all members of all
24 Classes pursuant to Cal. Civ. Code § 1798.53.

25 174. Public disclosure of these private facts (the confidential disciplinary records)
26 would be offensive and objectionable to the reasonable person and were not a legitimate
27 public concern.

1 175. As a direct and proximate cause, Tyler Technologies and Kevan Schwitzer's
2 conduct and the conduct of Does 4 to 10 harmed the Plaintiffs and all members of all
3 Classes.

4 176. Defendant Tyler Technologies, Defendant Kevan Schwitzer (JudyRecords.com)
5 and Defendant Does 4 to 10's invasion of the Plaintiffs' and class members' privacy has
6 been a substantial factor in causing them to expend unnecessary time in trying to figure
7 out what is going on, also shock, fear, mental suffering, anxiety, humiliation, emotional
8 distress; harm to reputation and/or loss of standing in the community entitling them to
9 special and general damages.

10 177. Plaintiffs and all members of all Classes are entitled to costs and attorney fees.

11 178. Plaintiffs and all members of all Classes are also entitled to exemplary damages of
12 at least \$2,500.00 each pursuant to Cal. Civ. Code § 1798.53.

13 **FOURTH CAUSE OF ACTION**

14 **Sherman Act § 1 brought pursuant to authorization under §4 of the Clayton Act
15 (All Attorney Member Plaintiffs against Defendants State Bar of California, Tyler
16 Technologies, Does 4-10)**

17 179. Plaintiffs incorporate herein by reference paragraphs 1 through 178 above in this
18 pleading as though fully set forth herein.

19 180. This cause of action is being brought on behalf of Attorney Member Plaintiffs and
20 all members of the Attorney Member Class.

21 181. This cause of action is being brought pursuant to the authorization under § 4 of the
22 Clayton Act.

23 182. Defendants State Bar of California, Tyler Technologies and Does 4-10 made an
24 agreement or entered a conspiracy resulting in an unreasonable restraint of trade, and
25 causing antitrust injury as specifically alleged below in the Conspiracy to Restrain Trade
26 by Obfuscating the Data Breach Section.

1 183. The State Bar of California Board is controlled in part by marketplace participants
 2 (7 board members out of 13 members are attorneys). Defendants State Bar of California,
 3 Board and Does 4-10 made an agreement to create a regressive fixed disciplinary cost
 4 sheet resulting in an unreasonable restraint of trade, and causing antitrust injury as
 5 specifically alleged below in the Price Fixing Section.

6 184. Plaintiffs are informed and believe and allege thereon, both restraints combined
 7 have exponentially caused harm to the plaintiffs and the class as well as increased
 8 inefficiencies in the market, although one restraint alone is enough to and has injured
 9 competition in the PeopleLaw Market.

10 185. The John Roe and Jane Roe plaintiffs have been injured based on the State Bar's
 11 price fixing scheme and their conspiracy with Tyler Technologies to restrain trade as
 12 further alleged in this cause of action.

13 **CONSPIRACY TO RESTRAIN TRADE BY OBFUSCATING THE DATA
 14 BREACH**

15 186. Defendants State Bar of California, Tyler Technologies, Inc. and Does 4 through
 16 10 violated §1 of the Sherman Antitrust Act when they conspired to cover up the lack of
 17 security of plaintiffs' confidential information and/or minimize the data breach by
 18 recasting the breach as "page views" when the Defendants actually knew that 322,525
 19 confidential disciplinary investigations from the State Bar were open on the internet as
 20 more fully alleged above. The motive was to preserve the reputation of the State Bar,
 21 Tyler Technologies and Does 4-10 by obfuscating the same breach involving other
 22 agencies over 30 different jurisdictions including a dozen or so counties in California.

23 187. The conspiracy to cover this up in order to preserve their own reputations was
 24 illegal and/or violated policies, procedures or best practices when it comes to notifying
 25 victims as quickly as possible in order to mitigate any future harm that could be caused
 26 by the breach.

1 188. Neither the California Supreme Court acting legislatively nor the state legislature
 2 has articulated a clear policy to allow this anticompetitive conduct which was an abuse or
 3 misuse of their power and even if it did, the state is not actively supervising this
 4 anticompetitive conduct of the State Bar and Tyler Technologies in downplaying,
 5 concealing, obfuscating, or covering up the data breach by sending confusing “notices”
 6 to plaintiffs and all Class members about “page views;” or not revealing the data breach
 7 connection with the other agencies to the plaintiffs and all Class members; or concealing
 8 there was evidence the records were found indexed on Google; or delaying the notices to
 9 the plaintiffs and all Class members so this page view model could be used for
 10 messaging to protect the Defendants’ reputations and downplay the size of the breach
 11 which confused the plaintiffs and class, if they received any notice at all.

13 189. Plaintiffs allege the defendant's conduct not only harmed the plaintiff attorneys
 14 but also adversely affected competition generally by decreasing the client's ability to
 15 freely choose amongst members of the Bar by improperly tainting the plaintiffs and
 16 putative class in this pool with fake disciplinary dockets floating around the internet
 17 about the member attorneys, thus causing an antitrust injury. It has also exploited a
 18 section of the Bar leaving them open to exploitation by the Organization Clients sector.

19 190. Plaintiffs are informed and believe and allege thereon this unlawful conduct by
 20 Defendants State Bar of California, Tyler Technologies, Inc. and Does 4-10 caused an
 21 injury to the plaintiffs and Class members that flows from that which makes the conduct
 22 unlawful (the conspiracy obfuscating the data breach and price fixing reducing the
 23 PeopleLaw Market and making it more costly), and that is of the type the antitrust laws
 24 were intended to prevent causing antitrust injury as more fully alleged below.

25 MARKET POWER

26 191. The State Bar has legally acquired market power over the members who can
 27 practice law in the State of California and who are the plaintiffs/breach victims identified
 28

1 in this complaint. There is market power held by the State Bar in the market upstream
 2 which is licensing of attorneys and there is another market downstream which is
 3 providing legal services. To practice in state court one must be a member of the State
 4 Bar.

5 **THE PEOPLELAW MARKET**

6 192. The Legal Market Landscape Report linked in the 2020 State Bar Discipline
 7 Report suggests “[t]here is ample evidence that the legal profession is divided into two
 8 segments, one serving individuals (PeopleLaw) and the other serving corporations
 9 (Organizational Clients).” As such, the Market in this complaint consists of mainly solo
 10 practitioners like John Roe 2, Jane Roe 2 and Jane Roe 3 which represent the people
 11 called the PeopleLaw Market. At the high end of the pay scale is the Organizational
 12 Clients Market which consists of lawyers who work in large firms representing large
 13 organizations.

14 **DIFFERENT MARKET BEHAVIOR**

15 193. Clients obtaining legal services in the two market sectors behave differently
 16 economically speaking: the people in the PeopleLaw Market will file complaints against
 17 their attorney when dissatisfied, but clients in the Organizational Clients Market will
 18 merely move their money to another large firm when dissatisfied.

19 194. The Legal Market Landscape Report also provides “solo practitioners...were
 20 much more likely to serve individuals,” i.e., the PeopleLaw market.

21 195. The 2020 State Bar Annual Discipline Report further explains that “solo
 22 practitioners are at greater risk of having complaints filed against them.”

23 196. This creates a breeding ground for inefficiencies in the market. The State Bar 2020
 24 Annual Discipline Report suggests the decline in solo practitioners (who tend to serve
 25 the PeopleLaw market) led to a rise in self-representation which would be “output
 26

1 reduction.” As such, a conspiracy that hurts solo practitioners can be expected to reduce
 2 output and therefore cause antitrust harm.

3 197. The Office of Chief Trial Counsel in turn also behaves differently depending on
 4 the market it deals with. For example, putative class member DG defending mainly DUI
 5 clients (a member of the PeopleLaw Market) had a local District Attorney (part of the
 6 Organizational Clients Market) encourage the State Bar OCTC to push through a State
 7 Bar disciplinary complaint against the attorney in the PeopleLaw Market. The Office of
 8 Chief Trial Counsel took the complaint and decided to actively participate in the process
 9 all the way to acting Chief at the time, to formulate it in a way that by sending it to the
 10 Intake Unit it would get sent back to the OCTC for prosecution.

11 198. The anticompetitive conduct affected interstate commerce because the conspiracy
 12 between the State Bar and Tyler Technologies and Does 4 through 10 affected members
 13 of the Bar who lived outside the state of California or out of state consumers needing
 14 representation from members of the Bar in California. Their model using a “page view”
 15 to downplay the scope of the breach and additional vulnerabilities was also used in
 16 interstate commerce.

17 199. Plaintiffs allege that the Conspiracy to restrain trade under § 1 of the Sherman
 18 Antitrust Act between Defendant State Bar of California and Tyler Technologies makes
 19 it less likely that attorneys will continue to volunteer information in State Bar
 20 investigations which will increase costs for investigations and decrease public protection
 21 of accurately filtering the bad attorneys out of the PeopleLaw Market.

22 200. The State Bar of California and other agencies continues to Tyler Technologies,
 23 Inc. Odyssey and related software programs and APIs due to Tyler Technologies’ own
 24 market power in the public sector that is currently increasing. PeopleLaw Market
 25 members are not as willing to volunteer confidential information anymore to the State
 26 Bar which reduces efficiency in the market because there is a risk of a future data breach

1 covered up by Tyler Technologies, Inc. and the State Bar of California blocking the
2 member plaintiffs and Class will not be able to ameliorate the harm. It makes State Bar
3 investigations less efficient and makes it harder for consumers to choose quality
4 attorneys because the State Bar will be even less effective at eliminating the bad ones.
5 This overall affects consumer welfare and competition that the antitrust laws were
6 enacted to protect.

7 201. As shown in the survey taken of members after the breach, nearly 68% of the
8 members of the California State Bar are no longer willing to voluntarily provide
9 confidential information during an investigation such as their financial records or
10 medical records. The qualitative analysis combined with this small quantitative data
11 supports rational behavior of the plaintiffs and class.

12 202. This new reluctance to volunteer information will increase the costs of State Bar
13 investigations because the State Bar Office of Chief Trial Counsel will be required to do
14 more investigative work than before the breach driving up the costs for State Bar
15 investigations.

16 203. As alleged above, the member plaintiffs will have to pay for the increased
17 investigative work at the State Bar because State Bar investigations are self-funded by
18 members, causing injury to the plaintiffs and putative class.

19 204. This transfer of costs will not be a perfect substitute for voluntary submission of
20 confidential information by members so the State Bar investigations will be less
21 efficient, leading to less protection of the public at the same cost base, too.

22 205. If the plaintiff attorneys and members in the PeopleMarket are charged too much,
23 they will be compelled to pass that extra cost off to consumers seeking services (potential
24 clients in the PeopleLaw Market), increasing prices thus cutting out the people at the
25 lowest rung in the PeopleLaw Market of obtaining legal representation at one of their
26 most vulnerable times in their life, forcing them to represent themselves.

1 206. Increasing the number of self-represented people in the PeopleLaw Market creates
2 further inefficiencies in the administration of the court and justice, which is an issue the
3 State Bar is currently dealing with because the PeopleLaw Market has decreased as
4 shown in the study above.

5 207. The data breach caused by the Defendants which released fake disciplinary records
6 on the internet, has created a negative reputation of plaintiffs and the class, and when a
7 potential client runs into that information, the potential client, making an economically
8 rational choice, will choose the attorney without a disciplinary record without knowing
9 the internet disciplinary record (which may have led to a negative Google or Yelp
10 review) was fake. Once something is on the internet, it is impossible to ensure it remains
11 deleted from the internet. Yet, there has been nothing done by the State Bar to inform the
12 people that an internet search of an attorney may show fake results about the attorney's
13 competency or reputation. This creates an inefficiency in the PeopleLaw Market when
14 consumers are trying to make an economic choice when selecting an attorney.

16 Additionally, there will be additional inefficiencies in the State Bar disciplinary process
17 leading to less public protection.

18 208. Defendants Tyler Technologies, Inc. and the State Bar of California conspired to
19 withhold the information about the breach. They obfuscated the breadth and impact in
20 order to protect their own reputation making the breach worse for the member victims.

21 209. This injury to the Plaintiffs and all members of this class is the type that antitrust
22 laws were made to prevent.

23 210. Prior to the data breach, the State Bar was already set up to allow decisionmakers
24 in the State Bar and those outside of the process to destroy competing members through
25 the disciplinary process like DG above. This could be achieved in many ways, including
26 but not limited to, conditioning reinstatement on a payment that the member had no
27

1 financial means to pay, or making false complaints outside the system like the price
2 fixing scheme alleged below.

3 211. Plaintiff attorneys and the Class have and/or will suffer harm in the form of
4 increased State Bar costs, possibly fewer clients, reputational harm, paranoia, anxiety,
5 emotional distress, put at risk of extortion, bribery or other types of frauds, harassment
6 (spam), and increased risk of loss of income or barrier to reenter the profession that the
7 plaintiff chose.

8 212. As a proximate result, the plaintiffs and class have been harmed and the
9 defendants caused that harm warranting injunctive relief for both the conspiracy and the
10 illegal price fixing.

11 213. Under the Clayton Act, as a further proximate result, actual damages, if any,
12 attorney fees, costs and treble damages are warranted.

14 **PRICE FIXING AS A BARRIER RESTRAINT ON TRADE**

15 214. Second, the Governing Board, a majority of which are Market participants, agreed
16 to create a fixed Disciplinary Cost sheet (attached). Plaintiffs and class members must
17 pay these amounts in order be able to hold an active license if the Office of Chief Trial
18 Counsel informs the attorney it is going to file charges. The Costs sheet is regressive
19 because the member must pay more if the member chooses to defend him or herself as
20 alleged in the facts above.

21 215. This price fixing affects interstate commerce because attorneys do not have to
22 reside in California to be a member of the State Bar, and members of the State Bar who
23 reside outside the state have been victims of the data breach. Moreover, attorneys who do
24 reside in California represent clients in California courts that reside outside the state.

25 216. Neither the California Supreme Court acting in its legislative capacity, nor the
26 state legislature required the State Bar to create a Regressive Fixed Cost sheet that

1 increases in amount based on the stage of the proceeding. Additionally, the court does
 2 not actively supervise this anti-competitive conduct.

3 217. The agreement by the Board of the State Bar of California to fix the disciplinary
 4 costs and make the member pay more to defend him or herself if they choose to have a
 5 hearing on the matter in a disciplinary board matter *is illegal* because the statutory
 6 scheme, for example, has no provision requiring the adjudicator to consider the financial
 7 condition of the plaintiffs or class members prior to imposing the costs. (See, *California*
 8 *Teachers Assn. v. State of California* (1999) 20 Cal.4th 327, 349).

9 218. The Board of the State Bar has controlled the price of Disciplinary Costs by
 10 creating the Fixed Disciplinary Costs Sheet (attached) that falls more heavily on
 11 PeopleLaw Market lawyers much more than others. In a study of 874 lawyers in the
 12 disciplinary system from 2014 to 2016 eleven percent (11%) sought a waiver or
 13 modification of the costs imposed based on financial hardship. A substantial portion of
 14 lawyers in the disciplinary system that did not seek a waiver or modification of the costs
 15 imposed were provided a payment plan at a reduced cost because they stipulated to the
 16 charges instead of going to trial to defend against them.

17 219. The Cost structure is akin to a regressive tax which becomes unaffordable to the
 18 solo practitioner at the bottom of the lawyer rate scale (in the PeopleLaw Market) who
 19 want to defend against the charges by a huge margin. In 2014 the cost to pay before
 20 charges were filed was \$2,992.00 but to go to trial was \$7,253.00 for one day and to take
 21 the case to the Review Department cost \$20,005.00. Today, the cost to pay before
 22 charges is filed is \$3,693.00 but to go to a one-day trial is \$8,952.00 and to take the case
 23 to the Review Department costs \$24,695.00. At trial, the State Bar OCTC goes first,
 24 spending the entire first day trying their case, increasing the disciplinary costs by 225%
 25 on the costs sheet to \$20,188.00 for the attorney desiring to put on a defense. Attorneys
 26 must pay this cost even if the most egregious charges which impugned the lawyer's
 27
 28

1 character are never proven. Furthermore, unlike ABA Model Rule 10 which does not
2 allow any “and until” conditions to attach to the length of the period of suspension, the
3 suspension period is prolonged until the attorney pays those State Bar disciplinary costs,
4 without a stipulation from the OCTC or a waiver or modification granted by the Bar, of
5 which, there is no absolute right to.

6 220. This is a barrier to reentry for those lawyers who are solo practitioners at the
7 bottom of the fee scale in the PeopleLaw Market. The State Bar controls which attorneys
8 to file charges against and offer a stipulation to at a lower rate. The attorney may accept
9 the charge on grounds other than culpability based on the cost to defend, thus
10 unnecessarily harming his or her reputation. Other attorneys who seek to defend the
11 charges against them must pay more than the attorney offered a stipulation prior to any
12 charges being filed. The existing floor price for legal services in the PeopleLaw Market
13 rises by getting rid of the attorneys who provide legal services at the low end of the
14 hourly fee scale (PeopleLaw Market). The State Bar survey showed from 2014-2016
15 approximately eleven percent (11%) found this to be a barrier to re-entry which barred
16 them from reentry into the practice of law. That is going to reduce the number of
17 suppliers, which in this case are attorneys providing services to the people such as
18 plaintiff side civil rights/consumer rights lawyers, and criminal defense in the PeopleLaw
19 Market. This barrier to reentry increases the price for legal services at that level for those
20 seeking affordable legal services that solo practitioners and small firms provide. This
21 also takes the pressure off those lawyers providing legal services at the higher end of the
22 pay scale (Organizational Clients Market) from justifying the higher priced hourly rates.

23 221. This has reduced and continues to reduce the number of competitors at the lower
24 end of the attorney fee structure offered to the public and since this group of lawyers
25 providing these services exert a pressure to the cost for legal services at the higher end of
26 the food chain that affects competition.

1 222. Standing alone, this is the type of anticompetitive conduct the Sherman Act and
2 Clayton Act were created to govern against because trying to provide Legal services in a
3 professional environment where this type of anticompetitive conduct of the Bar exists
4 has an actual sustained adverse effect on the market.

5 223. This structure of having the State Bar members pay the disciplinary costs as a
6 service highlights a recurring problem of public entities imposing fiscal burdens on those
7 that can least afford them.

8 224. The California State Bar relies on self-generated revenue, most of which comes
9 from its own members. Seeking to obtain that revenue by pursuing legal actions against
10 lawyers in the PeopleLaw Market can have damaging effects on the community. Not
11 only does it unfairly make the PeopleLaw Market endure most of the costs of the State
12 Bar disciplinary system as a regressive tax, but it takes advantage of the members in the
13 PeopleLaw Market when they are at their most vulnerable stage of their career.

14 225. Such practices can undermine the perceived integrity of the legal process, too.

15 226. The State Bar Disciplinary Cost Sheet scheduled in this regressive fashion and the
16 way it is enforced constitutes price fixing or other restraint on trade under §1 of the
17 Sherman Antitrust Act.

18 227. In other words, by reducing an appreciable number of suppliers in the PeopleLaw
19 Market (by 11% from 2014 to 2016), the price for services in the PeopleLaw Market will
20 increase at that level and at the same time will take the pressure off the lawyers providing
21 services in the Organizational Clients Market to contain their higher hourly fee structure.

22 228. This reduced number of competitors in the PeopleLaw Market will raise the price
23 in that market, forcing more people to represent themselves leading to inefficiencies in
24 the legal services sector or eventually closing the ability for some of the most vulnerable
25 people in the PeopleLaw Market to seek meaningful redress at all.

1 229. The data breach which distributed confidential investigations on the internet has
 2 only exasperated this anti-competitive behavior because as the State Bar study showed
 3 the PeopleLaw Market has been declining by 10% and the PeopleLaw Market endures
 4 the most complaints. Consumers are less likely to hire this attorney and more likely to
 5 “pile on” complaints online or with the State Bar because consumers do not understand
 6 that the confidential investigations on the internet are nothing more than fake disciplinary
 7 records. This aggravates the anticompetitive conduct created by the barrier to reentry and
 8 makes that barrier even larger – and the risk could make reentry for competent and
 9 ethical lawyers in the PeopleMarket no longer attainable on a permanent basis causing
 10 injury to the plaintiffs and the class.

12 230. As such there is antitrust injury as a result of the fixed State Bar Disciplinary Costs
 13 which has caused increased costs to the plaintiffs and a barrier to re-enter the PeopleLaw
 14 Market thus decreasing the supply of PeopleLaw Market attorneys for consumers to
 15 choose from increasing the costs of legal services in this sector.

16 231. As a direct and proximate result, plaintiffs and all Class members will be harmed
 17 from the price fixing, in the form of choosing between reputational harm and loss of
 18 potential business or risking taking it to trial and being barred from reentry because the
 19 price is too high to pay. Further harm as alleged herein includes but is not limited to the
 20 possible “pile on” complaints or harassment causing extra time, expense and serious
 21 emotional distress, or loss of ability to practice in one’s chosen profession, and
 22 depression.

23 232. As a proximate result, injunctive relief is warranted for the illegal price fixing.

24 233. Under the Clayton Act, as a further proximate result, actual damages, if any,
 25 attorney fees, costs and treble damages are warranted.

26 **THE COMPOUNDED EFFECT OF THE FAKE DISCIPLINARY RECORDS**

1 234. As alleged above, the conspiracy to cover up or obfuscate the data breach is almost
2 worse than the breach itself in the PeopleLaw Market.

3 235. The fake disciplinary records online plus whatever other confidential information
4 was released onto the internet from May 31, 2019 to the present can make the barrier to
5 re-entry that much harder for the suspended plaintiff or Class member. For example, it
6 could make it harder to obtain work and increases the risk of “pile on” complaints
7 causing injury to the plaintiffs and class. It makes the PeopleLaw Market cost more,
8 reduces the efficiency in the market and also irrationally reduces consumer choice in this
9 Market. It also takes pressure off the Organizational Client Market in keeping their prices
10 lower.

11 236. The fake disciplinary records online in any format on the internet increases the
12 cost to do business for the plaintiff or Class member that is actively practicing law, too. It
13 still creates the risk of making it much harder for the attorney to obtain new clients
14 (work) and increases the risk of “pile on” complaints causing injury to the plaintiffs and
15 the class. A study was done showing if an officer followed someone driving down the
16 road for any length of time, the driver would have committed several driving infractions.
17 This is called the broken tail-light scenario. The more “pile on” complaints the State Bar
18 receives about an attorney, the more likely the State Bar will eventually find a way to
19 discipline that attorney. (the broken tail-light scenario). The data breach makes this
20 scenario that much more likely thus taking more PeopleLaw Market attorneys and
21 putting them in the State Bar disciplinary wheelhouse. Consumers have no way of
22 knowing what is legitimate or what is fake. Most cannot even understand what is being
23 conveyed in Orders, opinions or Disciplinary Charges.

24 237. Unpacking this economic model and overlaying with a rational behavior model,
25 the data breach with the conspiracy to cover up the data breach in a monopoly that has
26 members paying the costs of a disciplinary system that creates a barrier to re-entry only
27
28

1 further reduces the choice a consumer in the PeopleLaw Market will make, thus leading
 2 to increased risk that inaccurate consumer choices will be made. This will lead to
 3 increasing the risk of harm to the consumer and harming the plaintiff attorneys with the
 4 fake disciplinary records online who may lose that potential client or become disciplined
 5 based on the “pile on” complaints where the State Bar eventually finds a broken tail-
 6 light.

7 238. Another anticompetitive injury shown by anecdotal evidence, is that some
 8 members of the Organizational Clients Market will use those fake disciplinary records as
 9 an advantage to “pile on” more State Bar complaints or harass, vex, annoy to gain other
 10 advantage. Some former clients in the PeopleLaw Market may use the fake records to
 11 “pile on” and file State Bar complaints that otherwise would not have been filed or as a
 12 way to obtain a payout by the Client Security Fund which includes payment based on an
 13 allegation of “unearned fees.”

14 239. As a proximate result, the plaintiffs and class have been harmed and the
 15 defendants caused that harm warranting injunctive relief for both the conspiracy and the
 16 illegal price fixing.

17 240. Under the Clayton Act, as a further proximate result, actual damages, if any,
 18 attorney fees, costs and treble damages are warranted.

20 **FIFTH CAUSE OF ACTION**

21 **Antitrust Violation Under the Sherman Act § 2**

22 **(Attorney Member Plaintiffs Against Defendants the State Bar of California,
 23 and Does 4 to 10)**

24 241. Plaintiffs incorporate herein by reference paragraphs 1 through 240 above in this
 25 pleading as though fully set forth herein.

26 242. This cause of action is being brought on behalf of the Attorney Member Plaintiffs
 27 and all members of the Attorney Member Class.

1 243. The allegations of the State Bar's Monopoly, Market definition, Market Power,
 2 interstate commerce, and lack of Parker Immunity alleged in Cause of Action Number
 3 Four above is explicitly incorporated as though such allegations were laid out herein.

4 **DISCIPLINARY COSTS AS A REFUSAL TO DEAL**

5 244. Incorporating the above Section 1 claim, focused on the State Bar disciplinary
 6 costs, if said claim is not a §1 Sherman Antitrust violation, then it is a violation under §2
 7 of the Sherman Antitrust Act because here, we have the unreasonable terms and
 8 conditions predicated on payment of money when the OCTC decides it will file
 9 disciplinary charges. The price fixed by a Board consisting of market participants is too
 10 high in this monopoly environment. By the State Bar demanding the member in the
 11 PeopleLaw Market pay a cost that the Bar has reason to know the member cannot afford
 12 to pay in order to have a hearing on the matter or to appeal a decision on the merits, the
 13 offer with such unreasonable terms and conditions are a refusal to deal.

14 245. Additionally, or alternatively, if the cost is demanded as a term or condition to
 15 reentry into the PeopleLaw Market while the plaintiff's license is suspended; the plaintiff
 16 cannot earn the money to pay the cost making it such an unreasonable term and condition
 17 which also amounts to a practical refusal to deal.

18 246. Third, the State Bar costs deter the right to go trial. The Costs amount to a
 19 practical refusal to deal when the attorney is charged with multiple offenses and all of the
 20 most egregious offenses are dismissed at trial, leaving one or two technical violations
 21 akin to a broken taillight. The Costs are fixed where the attorney must pay the entire cost
 22 bill, it is not offset in a pro rata manner based on the fact that most charges were
 23 dismissed. The OCTC does not have to prove probable cause before filing the charges,
 24 either. The OCTC should know at the beginning the attorney who cannot afford to go to
 25 trial will still go to trial to defend against the egregious allegations, thus setting up a way
 26 to 27
 28

1 to permanently disbar an attorney by erecting the Disciplinary Cost barrier to reenter the
 2 PeopleLaw Market based on the costs.

3 247. As a proximate result, the plaintiffs and class have been harmed and the
 4 defendants caused that harm warranting injunctive relief because the State Bar Board's
 5 cost sheet has the practical effect of being a refusal to deal.

6 248. Plaintiffs and the class are also entitled to damages if any, costs, attorney fees and
 7 treble damages.

8 **ATTEMPT TO MONOPOLIZE THE FEDERAL BAR/COURTS**

9 249. Defendant State Bar of California had a specific intent to monopolize using
 10 predatory or anticompetitive conduct directed at accomplishing the unlawful purpose of
 11 attempting to control who could practice in federal court; and had/has a dangerous
 12 probability of achieving this monopoly power by threatening plaintiffs and class
 13 members in the PeopleLaw Market with allegations of committing a felony if they
 14 practiced in the federal court market (even when the federal court allowed it) as more
 15 particularly described below.

16 250. The State Bar of California has a legally acquired monopoly power over who can
 17 be admitted to and practice in the state courts in California.

18 251. The federal courts have legally acquired monopoly power over who can be
 19 admitted to and practice in the federal courts.

20 252. The separation of the two systems is important from the perspective of the
 21 PeopleLaw Market lawyers because lawyers who represent the People at times are not
 22 favored in the state system. For example, a PeopleLaw Market lawyer may represent
 23 clients seeking legal redress for civil rights violations against state and local agencies. In
 24 order to quell those lawsuits and deter filing those lawsuits all a State Bar has to do is
 25 begin disciplining those attorneys and taking their licenses away to practice in state court
 26 or make the barrier of re-entry to costly giving the same effect as a disbarment. As such,
 27
 28

1 the federal courts do not have attorneys leave out of the same door the attorney may have
 2 entered into their Federal Bar under *Theard, Selling, and in re Poole*.

3 253. Neither the California Supreme Court acting legislatively nor the state legislature
 4 has articulated a clear policy to allow the State Bar to attempt to regulate who can
 5 practice in federal court, and even if it did, the state is not actively supervising this
 6 anticompetitive conduct of the State Bar in investigating and disciplining plaintiff
 7 members for unauthorized practice of law against suspended attorneys who *have not had*
 8 their membership suspended in the federal court(s).

9 254. The State Bar of California has attempted a monopoly over who can practice in
 10 federal court by threatening to charge or charging the plaintiffs and class members of
 11 unauthorized practice of law (UPL) in federal courts during a suspension in state court.

12 255. The plaintiffs and Class members that are inactive or suspended have been
 13 thwarted from seeking to maintain their membership in the federal court(s) based on the
 14 State Bar's attempt to monopolize who can practice in federal court as further alleged in
 15 this cause of action.

16 256. By threatening, investigating and/or disciplining suspended attorneys who have
 17 practiced law in federal court when their membership *was not suspended in federal court*
 18 is an attempt by the California State Bar to increase its monopoly power beyond the
 19 practice of law in the state of California and into the jurisdiction of the federal court
 20 which is unconstitutional.

21 257. Plaintiffs and the class are informed and believe based on the footnote in the May
 22 18, 2022 Odyssey Portal email that State Bar confidential investigations of the purported
 23 unauthorized practice of law ended up on the internet as disciplinary records in
 24 JudyRecords.com and possibly elsewhere.

25 258. This type of conduct unfairly tends to destroy competition itself. For example, the
 26 unauthorized practice of law is a felony which can result in the attorney's incarceration

1 (loss of liberty) in addition to their license to practice law in the state of California.
2 Unlike the state court, the federal court has no legitimate reason to continue a suspension
3 after the set term based on the attorney's failure or inability to pay the State Bar
4 disciplinary costs which can keep the attorney suspended infinitum. The federal court is
5 simply not a debt collector for the State Bar.

6 259. A second type of anticompetitive behavior arises from the Organizational Client
7 Market who may "pile on" by reporting the alleged unauthorized practice of law to
8 harass, vex, annoy or obtain some other benefit in its self-interest.

9 260. A third type of anticompetitive behavior arises from the State Bar initiated
10 investigations and discipline —some of whom on the Board have offered litigations
11 services—using their position to act in their own self-interest by threatening to charge
12 the suspended attorneys with unauthorized practice of law which is a felony and thereby
13 expel the attorney from the PeopleLaw Market in federal court, too.

14 261. Rational behavior of most plaintiffs and Class members that have felt the heavy
15 knee on their neck by the State Bar of California is to cease and desist such practice even
16 if the federal court has authorized it due to the risk of being charged with a felony and
17 possibly incarcerated.

18 262. This will create a barrier to reenter the profession for the plaintiff attorneys who
19 are suspended; a barrier to make a living while suspended; and a barrier to practice in the
20 PeopleLaw Market in federal court in those cases where the federal court has so
21 consented. It will deter and has deterred suspended attorneys from even trying which
22 makes it harder to reenter because there is no way for a substantial portion of the
23 attorneys in the PeopleLaw Market to pay the reentry Disciplinary Costs or makes it that
24 much harder to do so to the plaintiff members injury.

25 263. This will decrease the suppliers of PeopleLaw Market lawyers in federal court. It
26 will also decrease the pool of PeopleLaw Market lawyers who can provide pro bono
27

1 services leaving the pro bono work for people in the PeopleLaw Market to rely on pro
2 bono assistance from lawyers in the Organizational Clients Market.

3 264. The economic market inefficiencies will also have an effect in the courtroom
4 because it will increase the cost of access to the federal courts in the PeopleLaw Market
5 for consumers and those seeking redress based on their civil rights. It will harm the
6 consumer because some will no longer be able to afford an attorney and will either
7 forego pursuing or defending their rights in the PeopleLaw Market or try to do it
8 themselves.

9 265. It will also lessen the pressure on the higher cost for legal services in the
10 Organizational Clients Market; increasing costs for legal services in the Organizational
11 Clients Market.

12 266. This will lead to inefficiencies in the market, reduce the supply of legal services to
13 the PeopleLaw Market and create more administrative inefficiencies in the judicial
14 system as more people go unrepresented.

15 267. The data breach has only compounded this problem as repeatedly alleged above.

16 268. As such there is antitrust injury as a result of the threat or actual investigations
17 which has caused a barrier to re-enter the PeoplesLaw Market.

18 269. A confidential unauthorized practice of law record on the internet may have the
19 added negative injury of enticing more grifters to use the breached State Bar members
20 records for identity theft purposes as the behavior tends to match a perceived copycat
21 model, especially when so much legal work is now accomplished online and remotely.

22 270. The same injuries alleged in the other claims of antitrust violations above exist
23 here, too.

24 271. As a direct and proximate result, plaintiffs and the Class have been harmed by the
25 confidential investigations for unauthorized practice of law released onto the internet by
26 the Defendants.

1 272. Plaintiffs and the Class members have a risk of loss to reputation, risk of identity
2 theft, harassment, “pile on” complaints, and increased risk of loss of income or barrier to
3 reenter the profession that the plaintiff chose not due to the plaintiff’s own incompetence.

4 273. As a further proximate result, by the State Bar attempting to monopolize the
5 practice of law in federal court, the plaintiffs and the class lose income only exasperating
6 the problem.

7 274. This also undermines the legitimacy, independence and integrity of the federal
8 courts.

9 275. For example, a State Bar investigative report drafted by the Office of Chief Trial
10 Counsel shows Office of General Counsel told a lawyer in the Organizational Client
11 Market that the opposing lawyer in the PeopleLaw Market was unlawfully practicing law
12 in the Ninth Circuit although the Ninth Circuit issued an Order expressly consenting to
13 the practice of law knowing the State Bar had suspended the lawyer’s license. Based on
14 this knowledge, plaintiffs are informed and believe more internal communications like
15 this exist and during discovery more will come out.

16 276. In another case, putative class member DG has an email from the State Bar to a
17 District Attorney informing the District Attorney that the State Bar will file public
18 charges, but were debating whether to send the complaint to the public intake unit to read
19 it coming from the District Attorney or as an Internal State Bar investigation.

20 277. The State Bar has overreached unlawfully restraining the plaintiffs’ and class
21 members ability to provide services in the federal court without threat of possible
22 incarceration, causing harm to the plaintiffs and class members including loss of rights,
23 fear of loss of liberty, financial damage and mental harm.

24 278. Because there is no oversight, there is a dangerous probability that the State Bar of
25 California will succeed without giving the federal court a chance to weigh in on who can
26 practice before them in their court without injunctive relief.

1 279. As a proximate result, injunctive relief is warranted.

2 280. Plaintiffs and the Class members are entitled to, actual damages, if any, attorney
3 fees, costs and treble damages are warranted.

4 **SIXTH CAUSE OF ACTION**

5 **Negligence**

6 **(All Plaintiffs against Defendants Tyler Technologies, State Bar of California, and
Rick Rankin)**

7 281. Plaintiffs incorporate herein by reference paragraphs 1 through 280 above in this
8 pleading as though fully set forth herein.

9 282. This cause of action is being brought on behalf of all Plaintiffs and all members of
10 all Classes.

11 283. Plaintiffs and all class members personal and/or confidential information was
12 disclosed to one or more third parties.

13 284. Defendant State Bar of California and Rick Rankin were under a mandatory duty
14 and owed a duty of due care to plaintiffs and all class members to (1) provide reasonable
15 notice of the breach; (2) provide the plaintiffs and members steps to take to protect
16 themselves; (3) institute proper security measures to keep the information confidential;
17 and/or (4) maintain proper security measures to ensure the information remained
18 confidential.

19 285. Defendant Tyler Technologies voluntarily undertook to take responsibility for one
20 or more of their Co-defendant's duties and/or owed the Plaintiffs and all members of all
21 Classes a general duty of care when securing the confidential disciplinary records so it
22 could not be accessed through the portal.

23 286. Defendant State Bar of California, Rick Rankin and Tyler Technologies breached
24 that duty by failing to (1) provide reasonable notice of the breach; (2) provide the
25 plaintiffs and members steps to take to protect themselves; (3) institute proper security

1 measures to keep the information confidential; (4) secure the portal and/or (5) maintain
2 proper security measures to ensure the information remained confidential.

3 287. Plaintiffs and all class members stood in a special relationship with the Defendant
4 State Bar of California as members of the State Bar or complainants and as such were
5 damaged by the Defendant's breach of its duty of care.

6 288. Defendant Tyler Technologies, State Bar of California, and Rick Rankin were a
7 substantial factor in causing the plaintiffs and all class members emotional distress due to
8 the delay and failure to notify, including but not limited to, fear, anxiety, paranoia,
9 shame, loss of sleep, depression, and spending time and expense trying to figure out what
10 they could do to protect themselves, their reputation and/or their health wellbeing.

11 289. Plaintiffs and all class members are entitled to actual damages and general
12 damages.

14 **SEVENTH CAUSE OF ACTION**

15 **Negligence per Se**
(All Plaintiffs against All Defendants)

16 290. Plaintiffs incorporate herein by reference paragraphs 1 through 289 above in this
17 pleading as though fully set forth herein.

18 291. This cause of action is being brought on behalf of all Plaintiffs and all members of
19 all Classes.

20 292. Plaintiffs and all class members personal and/or confidential information was
21 disclosed to one or more third parties.

22 293. Plaintiffs and all class members stood in a special relationship with the Defendant
23 State Bar of California as members of the State Bar or complainants and as such were
24 damaged by the Defendant's breach of its duty of care or its agents or employees such as
25 Tyler Technologies, Rick Rankin and Does 4 through 10.

1 294. Defendant Kevan Schwitzer owed a duty to all plaintiffs and all class members not
2 to violate their right to privacy under Cal. Const. Art 1 § 1 and/or not to violate Cal. Civ.
3 Code § 1798.53.

4 295. Plaintiffs and all class members were protected members of the class in Cal. Civ.
5 Code §§ 1798.21, 1798.24, 1798.29, 1798.53 and/or Cal Const Art. 1 § 1.

6 296. Defendants violated one more Code or Constitutional Article as referred to above.

7 297. As a direct and proximate cause of Defendants' violation(s) of law, the plaintiffs
8 and all class members suffered emotional distress, including but not limited to, fear,
9 anxiety, paranoia, shame, loss of sleep, depression, and spending time and expense trying
10 to figure out what they could do to protect themselves, their reputation and/or their health
11 wellbeing.

12 298. Plaintiffs and all class members are entitled to actual damages and general
13 damages.

14 **PRAYER FOR RELIEF**

17 **First Cause of Action – Cal. IPA 1977**

18 1. Injunctive relief;
19 2. Actual damages;
20 3. General damages;
21 4. Costs;
22 5. Attorney fees; and
23 6. Any further relief the court would deem appropriate and just.

24 **Second Cause of Action – Invasion of Privacy**

25 1. Injunctive relief;
26 2. Costs;
27 3. Attorney fees; and

1 4. Any further relief the court would deem appropriate and just.

2 **Third Cause of Action – Invasion of Privacy**

3 1. Actual Damages;

4 2. General Damages;

5 3. Costs;

6 4. Exemplary Damages of at least \$2,500.00 per Plaintiff and class member;

7 5. Attorney fees; and

8 6. Any further relief the court would deem appropriate and just.

9 **Fourth Cause of Action - Antitrust**

10 1. Actual Damages;

11 2. General Damages;

12 3. Costs;

13 4. Attorney fees;

14 5. Treble Damages; and

15 6. Any further relief the court would deem appropriate and just.

16 **Fifth Cause of Action - Antitrust**

17 1. Injunctive relief;

18 2. Actual Damages;

19 3. General Damages;

20 4. Costs;

21 5. Attorney fees;

22 6. Treble Damages; and

23 7. Any further relief the court would deem appropriate and just.

24 **Sixth Cause of Action - Negligence**

25 1. Actual Damages;

26 2. General Damages;

- 1 3. Costs; and
- 2 4. Any further relief the court would deem appropriate and just.

3 **Seventh Cause of Action – Negligence per se**

- 4 1. Actual Damages;
- 5 2. General Damages;
- 6 3. Costs; and
- 7 4. Any further relief the court would deem appropriate and just.

8 **DEMAND FOR JURY TRIAL**

9 Plaintiffs hereby demand a jury trial for all legal claims.

10 Dated: October 8, 2022

11 Respectfully Submitted,
12 LAW OFFICES OF LENORE ALBERT
13 _____
14 /s/ Lenore Albert
15 _____
16 LENORE L. ALBERT, ESQ.
17 Attorney for Plaintiffs, John Roe 1, Jane Roe 1,
18 Jane Roe 2, Jane Roe 3, and John Roe 2, *on*
19 *behalf of themselves and all others similarly*
20 *situated*

1 PROOF OF SERVICE

2 STATE OF CALIFORNIA, COUNTY OF ORANGE:

3 I declare that I am over the age of 18 years, and not a party to the within action; that I
4 am employed in Orange County, California; my business address is 1968 S. Coast Hwy
#3960, Laguna Beach, CA 92651. On October 7, 2022, I served a copy of the following
5 document(s) described as:

6 **SECOND AMENDED CLASS ACTION COMPLAINT AS CORRECTED**

7 On the interested parties in this action as follows:

8 **[x] BY E-SERVE and EMAIL** – I caused such document(s) to be transmitted to the
9 office(s) of the addressee(s) listed above by electronic mail at the e-mail address(es) set
forth. (Per Covid-19 Order)

10 **[] BY MAIL** – I caused such document(s) to be placed in pre-addressed envelope(s)
11 with postage thereon fully prepaid and sealed, to be deposited as regular US Mail at
Huntington Beach, California, to the aforementioned addressee(s).

12 I declare under penalty of perjury under the laws of the State of California and the
13 United States of America that the foregoing is true and correct.

14 Dated: October 10, 2022

15 /s/Lenore Albert
16 Lenore Albert

1
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EX A

Discipline Costs

Effective January 1, 2022

Pursuant to action by the State Bar's governing board in January 2011 and May 2012, the costs assessed for disciplinary matters are adjusted annually to account for changes in labor and other resource costs. The adjustment is calculated by combining 40% of the year-on-year percentage change in the Consumer Price Index¹ with 60% of the year-on-year percentage change in the Employment Cost Index for Management, Professional and Related Occupations². For 2022, the adjustment is an increase of 3.81%.

Effective January 1, 2022, the costs assessed for disciplinary matters will be as follows³:

Original Proceedings	2021	2022
Matters that go in Default	5,165	5,362
Matters that Settle Prior to Filing of a Notice of Disciplinary Charges	3,558	3,693
Matters that Settle during first 120 days of proceeding	4,159	4,317
Matters that Settle before Pretrial Statement is filed	6,592	6,843
Matters that Settle before trial but after Pretrial Statement is filed	8,624	8,952
Matters that proceed to a One-day trial	8,624	8,952
Matters that proceed to a Multi-day trial	19,448	20,188
Matters that proceed to the Review Department	23,789	24,695

Conviction Referrals	2021	2022
Matters that go into Default	3,485	3,617
Matters that Settle during the first 120 days of proceeding	2,910	3,020
Matters that Settle before Pretrial Statement is filed	6,242	6,479
Matters that Settle before trial but after Pretrial Statement is filed	8,193	8,504
Matters that proceed to a One-day trial	8,193	8,504
Matters that proceed into a Multi-day trial	14,917	15,485
Matters that proceed to the Review Department	21,324	22,136

Other Matters	2021	2022
Probation Revocation Proceedings	2,787	2,893
Rule 9.20 Proceedings	2,932	3,043

Additional Costs	2021	2022
Each investigation matter over one	1,135	1,178
Each resignation	159	165

In addition, the following costs will be assessed as appropriate:

1. Consolidation costs equal to the minimum cost for the consolidated case type
2. Transcript costs⁴ incurred by the Office of Chief Trial Counsel
3. Taxable costs⁵ incurred by the Office of Chief Trial Counsel

¹ Specifically, the December-to-December change in U.S. Bureau of Labor Statistics series CUURS49BSA0.

² Specifically, the Q4-to-Q4 change in U.S. Bureau of Labor Statistics series CIU20100001000001.

³ Cost assessments for 2021 are shown for comparison only.

⁴ Per Business and Professions Code § 6086.10(b)(1)

⁵ Per Business and Professions Code § 6086.10(b)(2)

Discipline Costs – 2021

Effective January 1, 2021

Pursuant to action by the State Bar's governing board in January 2011 and May 2012, the costs assessed for disciplinary matters are adjusted annually to account for changes in labor and other resource costs. The adjustment is calculated by combining 40% of the year-on-year percentage change in the Consumer Price Index¹ with 60% of the year-on-year percentage change in the Employment Cost Index for Management, Professional and Related Occupations². For 2021, the adjustment is an increase of 1.98%.

For matters filed on or after January 1, 2021, the costs assessed are as follows:

Original Proceedings	2021
Matters that go in Default	\$5,165
Matters that Settle Prior to Filing of a Notice of Disciplinary Charges	\$3,558
Matters that Settle during first 120 days of proceeding	\$4,159
Matters that Settle before Pretrial Statement is filed	\$6,592
Matters that Settle before trial but after Pretrial Statement is filed	\$8,624
Matters that proceed to a One-day trial	\$8,624
Matters that proceed to a Multi-day trial	\$19,448
Matters that proceed to the Review Department	\$23,789

Conviction Referrals	2021
Matters that go into Default	\$3,485
Matters that Settle during the first 120 days of proceeding	\$2,910
Matters that Settle before Pretrial Statement is filed	\$6,242
Matters that Settle before trial but after Pretrial Statement is filed	\$8,193
Matters that proceed to a One-day trial	\$8,193
Matters that proceed into a Multi-day trial	\$14,917
Matters that proceed to the Review Department	\$21,324

Other Matters	2021
Probation Revocation Proceedings	\$2,787
Rule 9.20 Proceedings	\$2,932

Additional Costs	2021
Each investigation matter over one	\$1,135
Each resignation	\$159
Consolidation costs equal to the minimum cost for the consolidated case type	
Transcript costs incurred by the Office of the Chief Trial Counsel (Business and Professions Code 6086.10(b)(1))	
Taxable costs incurred by the Office of the Chief Trial Counsel (Business and Professions Code 6086.10(b)(2))	

¹ Specifically, the December-to-December change in U.S. Bureau of Labor Statistics series CUURS49BSA0.

² Specifically, the Q4-to-Q4 change in U.S. Bureau of Labor Statistics series CIU20100001000001.

Discipline Costs – 2020

Effective January 1, 2020.

Pursuant to action by the State Bar's governing board in January 2011 and May 2012, the costs assessed for disciplinary matters are adjusted annually to account for changes in labor and other resource costs. The adjustment is calculated by combining 40% of the year-on-year percentage change in the Consumer Price Index¹ with 60% of the year-on-year percentage change in the Employment Cost Index for Management, Professional and Related Occupations². For 2020, the adjustment is an increase of 2.33%.

For matters filed on or after January 1, 2020, the costs assessed are as follows:

Original Proceedings (Stage at which the matter settles)	Cost Assessment
Matters that go in Default	\$5,064
Matters that Settle Prior to Filing of a Notice of Disciplinary Charges	\$3,489
Matters that Settle during first 120 days of proceeding	\$4,078
Matters that Settle before Pretrial Statement is filed	\$6,464
Matters that Settle before trial but after Pretrial Statement is filed	\$8,456
Matters that proceed to a One-day trial	\$8,456
Matters that proceed to a Multi-day trial	\$19,069
Matters that proceed to the Review Department	\$23,327

Conviction Referrals (Stage at which the matter settles)	Cost Assessment
Matters that go into Default	\$3,417
Matters that Settle during the first 120 days of proceeding	\$2,853
Matters that Settle before Pretrial Statement is filed	\$6,120
Matters that Settle before trial but after Pretrial Statement is filed	\$8,033
Matters that proceed to a One-day trial	\$8,033
Matters that proceed into a Multi-day trial	\$14,627
Matters that proceed to the Review Department	\$20,909

Other Matters	Cost Assessment
Probation Revocation Proceedings	\$2,733
Rule 9.20 Proceedings	\$2,875

Additional Costs (as appropriate)	Cost Assessment
Each investigation matter over one	\$1,113
Each resignation	\$156
Consolidation costs equal to the minimum cost for the consolidated case type	
Transcript costs incurred by the Office of the Chief Trial Counsel (Business and Professions Code 6086.10(b)(1))	
Taxable costs incurred by the Office of the Chief Trial Counsel (Business and Professions Code 6086.10(b)(2))	

¹ Specifically, the December-to-December change in U.S. Bureau of Labor Statistics series CUURS49BSA0.

² Specifically, the Q4-to-Q4 change in U.S. Bureau of Labor Statistics series CIU2010000100000I.

Discipline Costs – 2019

Effective January 1, 2019.

Pursuant to action by the State Bar's governing board in January 2011 and May 2012, the costs assessed for disciplinary matters are adjusted annually to account for changes in labor and other resource costs. The adjustment is calculated by combining 40% of the year-on-year percentage change in the Consumer Price Index¹ with 60% of the annual percentage change in the Employment Cost Index for Management, Professional and Related Occupations². For 2019, the adjustment is an increase of 3.32%.

For matters filed on or after January 1, 2019, the costs assessed are as follows:

Original Proceedings (Stage at which the matter settles)	Cost Assessment
Matters that go in Default	\$4,949
Matters that Settle Prior to Filing of a Notice of Disciplinary Charges	\$3,409
Matters that Settle during first 120 days of proceeding	\$3,985
Matters that Settle before Pretrial Statement is filed	\$6,317
Matters that Settle before trial but after Pretrial Statement is filed	\$8,264
Matters that proceed to a One-day trial	\$8,264
Matters that proceed to a Multi-day trial	\$18,636
Matters that proceed to the Review Department	\$22,796

Conviction Referrals (Stage at which the matter settles)	Cost Assessment
Matters that go into Default	\$3,339
Matters that Settle during the first 120 days of proceeding	\$2,788
Matters that Settle before Pretrial Statement is filed	\$5,981
Matters that Settle before trial but after Pretrial Statement is filed	\$7,851
Matters that proceed to a One-day trial	\$7,851
Matters that proceed into a Multi-day trial	\$14,295
Matters that proceed to the Review Department	\$20,434

Other Matters	Cost Assessment
Probation Revocation Proceedings	\$2,670
Rule 9.20 Proceedings	\$2,809

Additional Costs (as appropriate)	Cost Assessment
Each investigation matter over one	\$1,088
Each resignation	\$152
Consolidation costs equal to the minimum cost for the consolidated case type	
Transcript costs incurred by the Office of the Chief Trial Counsel (Business and Professions Code 6086.10(b)(1))	
Taxable costs incurred by the Office of the Chief Trial Counsel (Business and Professions Code 6086.10(b)(2))	

¹ Specifically, the December-to-December change in U.S. Bureau of Labor Statistics series CUURA422SA0, CUUSA422SA0.

² Specifically, the Q4-to-Q4 change in U.S. Bureau of Labor Statistics series CIU2010000100000I.

Discipline Costs – 2018

Effective January 1, 2018.

Pursuant to action by the State Bar's governing board in January 2011 and May 2012, the costs assessed for disciplinary matters are adjusted annually to account for changes in labor and other resource costs. The adjustment is calculated by combining 40% of the year-on-year percentage change in the Consumer Price Index¹ with 60% of the annual percentage change in the Employment Cost Index for Management, Professional and Related Occupations². For 2018, the adjustment is an increase of 2.64%.

For matters filed on or after January 1, 2018, the costs assessed are as follows:

Original Proceedings (Stage at which the matter settles)	Cost Assessment
Matters that go in Default	\$4,790
Matters that Settle Prior to Filing of a Notice of Disciplinary Charges	\$3,300
Matters that Settle during first 120 days of proceeding	\$3,857
Matters that Settle before Pretrial Statement is filed	\$6,114
Matters that Settle before trial but after Pretrial Statement is filed	\$7,998
Matters that proceed to a One-day trial	\$7,998
Matters that proceed to a Multi-day trial	\$18,037
Matters that proceed to the Review Department	\$22,064

Conviction Referrals (Stage at which the matter settles)	Cost Assessment
Matters that go into Default	\$3,232
Matters that Settle during the first 120 days of proceeding	\$2,699
Matters that Settle before Pretrial Statement is filed	\$5,789
Matters that Settle before trial but after Pretrial Statement is filed	\$7,598
Matters that proceed to a One-day trial	\$7,598
Matters that proceed into a Multi-day trial	\$13,835
Matters that proceed to the Review Department	\$19,777

Other Matters	Cost Assessment
Probation Revocation Proceedings	\$2,585
Rule 9.20 Proceedings	\$2,744

Additional Costs (as appropriate)	Cost Assessment
Each investigation matter over one	\$1,053
Each resignation	\$147
Consolidation costs equal to the minimum cost for the consolidated case type	
Transcript costs incurred by the Office of the Chief Trial Counsel (Business and Professions Code 6086.10(b)(1))	
Taxable costs incurred by the Office of the Chief Trial Counsel (Business and Professions Code 6086.10(b)(2))	

¹ Specifically, the December-to-December change in U.S. Bureau of Labor Statistics series CUURA422SA0, CUUSA422SA0.

² Specifically, the Q4-to-Q4 change in U.S. Bureau of Labor Statistics series CIU2010000100000I.

Discipline Costs – 2017

Effective January 1, 2017.

Pursuant to action by the State Bar's governing board in January 2011 and May 2012, the costs assessed for disciplinary matters are adjusted annually to account for changes in labor and other resource costs. The adjustment is calculated by combining 40% of the year-on-year percentage change in the Consumer Price Index¹ with 60% of the annual percentage change in the Employment Cost Index for Management, Professional and Related Occupations². For 2017, the adjustment is an increase of 2.42%.

For matters filed on or after January 1, 2017, the costs assessed are as follows:

Original Proceedings (Stage at which the matter settles)	Cost Assessment
Matters that go in Default	\$4,667
Matters that Settle Prior to Filing of a Notice of Disciplinary Charges	\$3,215
Matters that Settle during first 120 days of proceeding	\$3,758
Matters that Settle before Pretrial Statement is filed	\$5,957
Matters that Settle before trial but after Pretrial Statement is filed	\$7,793
Matters that proceed to a One-day trial	\$7,793
Matters that proceed to a Multi-day trial	\$17,574
Matters that proceed to the Review Department	\$21,497

Conviction Referrals (Stage at which the matter settles)	Cost Assessment
Matters that go into Default	\$3,149
Matters that Settle during the first 120 days of proceeding	\$2,629
Matters that Settle before Pretrial Statement is filed	\$5,640
Matters that Settle before trial but after Pretrial Statement is filed	\$7,403
Matters that proceed to a One-day trial	\$7,403
Matters that proceed into a Multi-day trial	\$13,480
Matters that proceed to the Review Department	\$19,269

Other Matters	Cost Assessment
Probation Revocation Proceedings	\$2,518
Rule 9.20 Proceedings	\$2,673

Additional Costs (as appropriate)	Cost Assessment
Each investigation matter over one	\$1,026
Each resignation	\$144
Consolidation costs equal to the minimum cost for the consolidated case type	
Transcript costs incurred by the Office of the Chief Trial Counsel (Business and Professions Code 6086.10(b)(1))	
Taxable costs incurred by the Office of the Chief Trial Counsel (Business and Professions Code 6086.10(b)(2))	

¹ Specifically, the December-to-December change in U.S. Bureau of Labor Statistics series CUURA422SA0, CUUSA422SA0.

² Specifically, the Q4-to-Q4 change in U.S. Bureau of Labor Statistics series CIU2010000100000I.

Discipline Costs – 2016

Effective January 1, 2016.

Pursuant to action by the State Bar's governing board in January 2011 and May 2012, the costs assessed for disciplinary matters are adjusted annually to account for changes in labor and other resource costs. The adjustment is calculated by combining 40% of the year-on-year percentage change in the Consumer Price Index¹ with 60% of the annual percentage change in the Employment Cost Index for Management, Professional and Related Occupations². For 2016, the adjustment is an increase of 2.39%.

For matters filed on or after January 1, 2016, the costs assessed are as follows:

Original Proceedings (Stage at which the matter settles)	Cost Assessment
Matters that go in Default	\$4,557
Matters that Settle Prior to Filing of a Notice of Disciplinary Charges	\$3,139
Matters that Settle during first 120 days of proceeding	\$3,669
Matters that Settle before Pretrial Statement is filed	\$5,816
Matters that Settle before trial but after Pretrial Statement is filed	\$7,609
Matters that proceed to a One-day trial	\$7,609
Matters that proceed to a Multi-day trial	\$17,159
Matters that proceed to the Review Department	\$20,989

Conviction Referrals (Stage at which the matter settles)	Cost Assessment
Matters that go into Default	\$3,075
Matters that Settle during the first 120 days of proceeding	\$2,567
Matters that Settle before Pretrial Statement is filed	\$5,507
Matters that Settle before trial but after Pretrial Statement is filed	\$7,228
Matters that proceed to a One-day trial	\$7,228
Matters that proceed into a Multi-day trial	\$13,162
Matters that proceed to the Review Department	\$18,814

Other Matters	Cost Assessment
Probation Revocation Proceedings	\$2,459
Rule 9.20 Proceedings	\$2,610

Additional Costs (as appropriate)	Cost Assessment
Each investigation matter over one	\$1,001
Each resignation	\$140
Consolidation cost equal to the minimum cost for the consolidated case type	
Transcript costs incurred by the Office of the Chief Trial Counsel (BPC § 6086.10(b)(1))	
Taxable costs incurred by the Office of the Chief Trial Counsel (BPC § 6086.10(b)(2))	

¹ Specifically, the December-to-December change in U.S. Bureau of Labor Statistics series CUURA422SA0.

² Specifically, the Q4-to-Q4 change in U.S. Bureau of Labor Statistics series CIU20100001000001.

Discipline Costs – 2016

Effective January 1, 2016.

Pursuant to action by the State Bar's governing board in January 2011 and May 2012, the costs assessed for disciplinary matters are adjusted annually to account for changes in labor and other resource costs. The adjustment is calculated by combining 40% of the year-on-year percentage change in the Consumer Price Index¹ with 60% of the annual percentage change in the Employment Cost Index for Management, Professional and Related Occupations². For 2016, the adjustment is an increase of 2.39%.

For matters filed on or after January 1, 2016, the costs assessed are as follows:

Original Proceedings (Stage at which the matter settles)	Cost Assessment
Matters that go in Default	\$4,557
Matters that Settle Prior to Filing of a Notice of Disciplinary Charges	\$3,139
Matters that Settle during first 120 days of proceeding	\$3,669
Matters that Settle before Pretrial Statement is filed	\$5,816
Matters that Settle before trial but after Pretrial Statement is filed	\$7,609
Matters that proceed to a One-day trial	\$7,609
Matters that proceed to a Multi-day trial	\$17,159
Matters that proceed to the Review Department	\$20,989

Conviction Referrals (Stage at which the matter settles)	Cost Assessment
Matters that go into Default	\$3,075
Matters that Settle during the first 120 days of proceeding	\$2,567
Matters that Settle before Pretrial Statement is filed	\$5,507
Matters that Settle before trial but after Pretrial Statement is filed	\$7,228
Matters that proceed to a One-day trial	\$7,228
Matters that proceed into a Multi-day trial	\$13,162
Matters that proceed to the Review Department	\$18,814

Other Matters	Cost Assessment
Probation Revocation Proceedings	\$2,459
Rule 9.20 Proceedings	\$2,610

Additional Costs (as appropriate)	Cost Assessment
Each investigation matter over one	\$1,001
Each resignation	\$140
Consolidation cost equal to the minimum cost for the consolidated case type	
Transcript costs incurred by the Office of the Chief Trial Counsel (BPC § 6086.10(b)(1))	
Taxable costs incurred by the Office of the Chief Trial Counsel (BPC § 6086.10(b)(2))	

¹ Specifically, the December-to-December change in U.S. Bureau of Labor Statistics series CUURA422SA0.

² Specifically, the Q4-to-Q4 change in U.S. Bureau of Labor Statistics series CIU20100001000001.

Discipline Costs – 2015

Effective January 1, 2015.

Pursuant to action by the State Bar's governing board in January 2011 and May 2012, the costs assessed for disciplinary matters are adjusted annually to account for changes in labor and other resource costs. The adjustment is calculated by combining 40% of the year-on-year percentage change in the Consumer Price Index¹ with 60% of the annual percentage change in the Employment Cost Index for Management, Professional and Related Occupations². For 2015, the adjustment is an increase of 2.47%.

For matters filed on or after January 1, 2015, the costs assessed are as follows:

Original Proceedings (Stage at which the matter settles)	Cost Assessment
Matters that go in Default	\$4,451
Matters that Settle Prior to Filing of a Notice of Disciplinary Charges	\$3,066
Matters that Settle during first 120 days of proceeding	\$3,584
Matters that Settle before Pretrial Statement is filed	\$5,680
Matters that Settle before trial but after Pretrial Statement is filed	\$7,431
Matters that proceed to a One-day trial	\$7,431
Matters that proceed to a Multi-day trial	\$16,758
Matters that proceed to the Review Department	\$20,499

Conviction Referrals (Stage at which the matter settles)	Cost Assessment
Matters that go into Default	\$3,003
Matters that Settle during the first 120 days of proceeding	\$2,507
Matters that Settle before Pretrial Statement is filed	\$5,378
Matters that Settle before trial but after Pretrial Statement is filed	\$7,059
Matters that proceed to a One-day trial	\$7,059
Matters that proceed into a Multi-day trial	\$12,854
Matters that proceed to the Review Department	\$18,375

Other Matters	Cost Assessment
Probation Revocation Proceedings	\$2,401
Rule 9.20 Proceedings	\$2,549

Additional Costs (as appropriate)	Cost Assessment
Each investigation matter over one	\$978
Each resignation	\$137
Consolidation cost equal to the minimum cost for the consolidated case type	
Transcript costs incurred by the Office of the Chief Trial Counsel (BPC § 6086.10(b)(1))	
Taxable costs incurred by the Office of the Chief Trial Counsel (BPC § 6086.10(b)(2))	

¹ Specifically, the December-to-December change in U.S. Bureau of Labor Statistics series CUURA422SA0.

² Specifically, the Q4-to-Q4 change in U.S. Bureau of Labor Statistics series CIU20100001000001.

Discipline Costs – 2014

Pursuant to action by the State Bar's governing board in January 2011 and May 2012, the costs assessed for disciplinary matters are adjusted annually to account for changes in labor and other resource costs. The adjustment is calculated by combining 40% of the year-on-year percentage change in the Consumer Price Index¹ with 60% of the annual percentage change in the Employment Cost Index for Management, Professional and Related Occupations². For 2014, the adjustment is an increase of 2.31%.

For matters filed on or after January 1, 2014, the costs assessed are as follows:

Original Proceedings (Stage at which the matter settles)	Cost Assessment
Matters that go in Default	\$4,343
Matters that Settle Prior to Filing of a Notice of Disciplinary Charges	\$2,992
Matters that Settle during first 120 days of proceeding	\$3,497
Matters that Settle before Pretrial Statement is filed	\$5,543
Matters that Settle before trial but after Pretrial Statement is filed	\$7,252
Matters that proceed to a One-day trial	\$7,252
Matters that proceed to a Multi-day trial	\$16,354
Matters that proceed to the Review Department	\$20,005

Conviction Referrals (Stage at which the matter settles)	Cost Assessment
Matters that go into Default	\$2,930
Matters that Settle during the first 120 days of proceeding	\$2,447
Matters that Settle before Pretrial Statement is filed	\$5,249
Matters that Settle before trial but after Pretrial Statement is filed	\$6,890
Matters that proceed to a One-day trial	\$6,890
Matters that proceed into a Multi-day trial	\$12,545
Matters that proceed to the Review Department	\$17,932

Other Matters	Cost Assessment
Probation Revocation Proceedings	\$2,344
Rule 9.20 Proceedings	\$2,488

Additional Costs (as appropriate)	Cost Assessment
Each investigation matter over one	\$955
Each resignation	\$134
Consolidation cost equal to the minimum cost for the consolidated case type	
Transcript costs incurred by the Office of the Chief Trial Counsel (BPC § 6086.10(b)(1))	
Taxable costs incurred by the Office of the Chief Trial Counsel (BPC § 6086.10(b)(2))	

¹ Specifically, the December-to-December change in U.S. Bureau of Labor Statistics series CUURA422SA0.

² Specifically, the Q4-to-Q4 change in U.S. Bureau of Labor Statistics series CIU20100001000001.

Discipline Costs – 2013

Pursuant to action by the State Bar's governing board in January 2011 and May 2012, the costs assessed for disciplinary matters are adjusted annually to account for changes in labor and other resource costs. The adjustment is calculated by combining 40% of the year-on-year percentage change in the Consumer Price Index³ with 60% of the annual percentage change in the Employment Cost Index for Management, Professional and Related Occupations⁴. For 2013, the adjustment is an increase of 2.08%.

For matters filed on or after January 1, 2013, the costs assessed are as follows:

Original Proceedings (Stage at which the matter settles)	Cost Assessment
Matters that go in Default	\$4,246
Matters that Settle Prior to Filing of a Notice of Disciplinary Charges	\$2,925
Matters that Settle during first 120 days of proceeding	\$3,419
Matters that Settle before Pretrial Statement is filed	\$5,418
Matters that Settle before trial but after Pretrial Statement is filed	\$7,088
Matters that proceed to a One-day trial	\$7,088
Matters that proceed to a Multi-day trial	\$15,986
Matters that proceed to the Review Department	\$19,554

Conviction Referrals (Stage at which the matter settles)	Cost Assessment
Matters that go into Default	\$2,864
Matters that Settle during the first 120 days of proceeding	\$2,392
Matters that Settle before Pretrial Statement is filed	\$5,131
Matters that Settle before trial but after Pretrial Statement is filed	\$6,734
Matters that proceed to a One-day trial	\$6,734
Matters that proceed into a Multi-day trial	\$12,262
Matters that proceed to the Review Department	\$17,528

Other Matters	Cost Assessment
Probation Revocation Proceedings	\$2,291
Rule 9.20 Proceedings	\$2,432

Additional Costs (as appropriate)	Cost Assessment
Each investigation matter over one	\$933
Each resignation	\$131
Consolidation cost equal to the minimum cost for the consolidated case type	
Transcript costs incurred by the Office of the Chief Trial Counsel (BPC § 6086.10(b)(1))	
Taxable costs incurred by the Office of the Chief Trial Counsel (BPC § 6086.10(b)(2))	

³ Specifically, the December-to-December change in U.S. Bureau of Labor Statistics series CUURA422SA0.

⁴ Specifically, the Q4-to-Q4 change in U.S. Bureau of Labor Statistics series CIU20100001000001.

Discipline Costs – 2012

Pursuant to action by the State Bar's governing board in January 2011 and May 2012, the costs assessed for disciplinary matters are adjusted annually to account for changes in labor and other resource costs. The adjustment is calculated by combining 40% of the annual percentage change in the Consumer Price Index⁵ with 60% of the annual percentage change in the Employment Cost Index for Management, Professional and Related Occupations⁶. Disciplinary costs assessed are as follows:

Original Proceedings (Stage at which the matter settles) – eff. 1/1/2012	Cost Assessment
Matters that go in Default	\$4,159
Matters that Settle Prior to Filing of a Notice of Disciplinary Charges	\$2,865
Matters that Settle during first 120 days of proceeding	\$3,349
Matters that Settle before Pretrial Statement is filed	\$5,308
Matters that Settle before trial but after Pretrial Statement is filed	\$6,944
Matters that proceed to a One-day trial	\$6,944
Matters that proceed to a Multi-day trial	\$15,660
Matters that proceed to the Review Department	\$19,156

Conviction Referrals (Stage at which the matter settles) – eff. 5/11/2012	Cost Assessment
Matters that go into Default	\$2,806
Matters that Settle during the first 120 days of proceeding	\$2,343
Matters that Settle before Pretrial Statement is filed	\$5,026
Matters that Settle before trial but after Pretrial Statement is filed	\$6,597
Matters that proceed to a One-day trial	\$6,597
Matters that proceed into a Multi-day trial	\$12,012
Matters that proceed to the Review Department	\$17,171

Other Matters	Cost Assessment
Probation Revocation Proceedings	\$2,244
Rule 9.20 Proceedings	\$2,382

Additional Costs (as appropriate)	Cost Assessment
Each investigation matter over one	\$914
Each resignation	\$128
Consolidation cost equal to the minimum cost for the consolidated case type	
Transcript costs incurred by the Office of the Chief Trial Counsel (BPC § 6086.10(b)(1))	
Taxable costs incurred by the Office of the Chief Trial Counsel (BPC § 6086.10(b)(2))	

⁵ Specifically, the December-to-December change in U.S. Bureau of Labor Statistics series CUURA422SA0.

⁶ Specifically, the Q4-to-Q4 change in U.S. Bureau of Labor Statistics series CIU20100001000001.

Discipline Costs

Effective January 10, 2011

Pursuant to action by the State Bar Board of Governors in January 2011, the costs associated with disciplinary actions have been increased to account for the increasing labor costs at the State Bar. For matters filed on or after January 10, 2011, the disciplinary costs assessed are as follows:

Original Proceedings (Stage at which the matter settles)	Cost Assessment
Matters that go in Default	\$4,060
Matters that Settle Prior to Filing of a Notice of Disciplinary Charges	\$2,797
Matters that Settle during first 120 days of proceeding	\$3,269
Matters that Settle before Pretrial Statement is filed	\$5,182
Matters that Settle before trial but after Pretrial Statement is filed	\$6,779
Matters that proceed to a One-day trial	\$6,779
Matters that proceed to a Multi-day trial	\$15,287
Matters that proceed to the Review Department	\$18,700

Conviction Referral (Stage at which the matter settles)	Cost Assessment
Matters that go into Default	\$2,739
Matters that Settle during the first 120 days of proceeding	\$2,287
Matters that Settle before Pretrial Statement is filed	\$4,906
Matters that Settle before trial but after Pretrial Statement is filed	\$6,440
Matters that proceed to a One-day trial	\$6,440
Matters that proceed into a Multi-day trial	\$11,726
Matters that proceed to the Review Department	\$16,762

Other Matters	Cost Assessment
Probation Revocation Proceedings	\$2,191
Rule 9.20 Proceedings	\$2,325

Additional Costs (as appropriate)	Cost Assessment
Each investigation matter over one	\$892
Each resignation	\$125
Consolidation cost equal to the minimum cost for the consolidated case type	
Transcript costs incurred by the Office of the Chief Trial Counsel (BPC § 6086.10(b)(1))	
Taxable costs incurred by the Office of the Chief Trial Counsel (BPC § 6086.10(b)(2))	

Discipline Costs

Effective January 1, 2003 – January 9, 2011

Pursuant to action by the State Bar Board of Governors in June 2002, the costs associated with disciplinary actions have been increased to account for the increasing labor costs at the State Bar. For matters filed on or after January 1, 2003 – January 9, 2011, the disciplinary costs assessed are as follows:

Original Proceedings (Stage at which the matter settles)	Cost Assessment
Matters that go in Default	\$2,918
Matters that Settle Prior to Filing of a Notice of Disciplinary Charges	\$1,983
Matters that Settle during first 120 days of proceeding	\$2,296
Matters that Settle before Pretrial Statement is filed	\$3,654
Matters that Settle before trial but after Pretrial Statement is filed or a one-day trial	\$4,920
Matters that proceed to a Multi-day trial	\$11,107
Matters that proceed to the Review Department	\$13,463

Conviction Referrals (Stage at which the matter settles)	Cost Assessment
Matters that go into Default	\$1,987
Matters that Settle during the first 120 days of proceeding	\$1,636
Matters that Settle before Pretrial Statement is filed	\$3,530
Matters that Settle before trial but after Pretrial Statement is filed or a one-day trial	\$4,569
Matters that proceed into a Multi-day trial	\$8,479
Matters that proceed to the Review Department	\$12,398

Other Matters	Cost Assessment
Probation Revocation Proceedings	\$1,564
Rule 9.20 Proceedings	\$1,641

Additional Costs (as appropriate)	Cost Assessment
Each investigation matter over one	\$619
Each resignation	\$89
Consolidation cost equal to the minimum cost for the consolidated case type	
Transcript costs incurred by the Office of the Chief Trial Counsel (BPC § 6086.10(b)(1))	
Taxable costs incurred by the Office of the Chief Trial Counsel (BPC § 6086.10(b)(2))	

EX B



Odyssey – An Open Platform

At Tyler Technologies, we understand and embrace the benefits of open systems to allow courts to work most efficiently. Odyssey® leverages hundreds of APIs to connect and securely share data across multiple systems. It adheres to national open data standards, is Springboard certified for third-party integration, and enables clients to analyze data gathered from disparate systems via Socrata®.

Our open data strategy represents Tyler's commitment to creating systems that make courts efficient, and our understanding that courts share information with a variety of partners. With an open platform, courts can develop agile, flexible, and comprehensive electronic processes.

Open Platform. Many Ways to Connect.

Odyssey provides a variety of ways for courts and other agencies to share data across applications, agencies, and jurisdictions. Here are a few of the ways Tyler helps clients connect our applications in an open fashion:

Integrate Systems With Tyler Alliance

Tyler Alliance is a multi-agency, distributed platform that integrates public safety and criminal justice systems by connecting departments, agencies, and jurisdictions. It helps organizations break down barriers to make information sharing across public safety and justice agencies easy and secure. Tyler Alliance establishes connection points across multiple applications, securely enabling data sharing across jurisdictions, resulting in improved search capabilities, increased automation, and reduced data entry.

Tyler products share a consistent technology foundation via a Universal Service Bus (USB) that seamlessly connects Tyler products, enabling them to operate more collaboratively and efficiently. Third parties can also share information with other applications from dispatch to disposition via APIs and other mechanisms.

Adhering to Open Industry Standards

We are committed to following national open data standards, including the Court Component Model (CCM) and the Electronic Court Filing Standard (ECF). In fact, our e-filing platform was the first to be certified by Springboard as adhering to OASIS ECF v 4.01. This makes the Odyssey Open Platform easy to integrate with EFSPs, other EFMs, and other third-party systems.

Odyssey is:

- **Comprehensive**, with broad capabilities for all aspects of the criminal justice enterprise, from dispatch to disposition
- **Connected out-of-the-box** across all Tyler systems through Tyler Alliance integrations
- **Open**, with third-party access to Tyler Alliance integrations and hundreds of APIs
- **Reliable** through integration certification and support programs that offer peace-of-mind
- **Secure** to meet CJIS security and data compliance standards
- **Transparent**, to provide both key stakeholders and the public easy access to data via data analytics

For more information, visit

www.tylertech.com

or email info@tylertech.com

Odyssey – An Open Platform (cont.)

Access to Hundreds of Published APIs

We have hundreds of APIs available today, and many of our clients take advantage of them to link Odyssey with other systems to make connections and the sharing of data easier. These APIs help facilitate communication scenarios like simultaneously publishing warrant statuses across court, law enforcement, and jail systems. They also allow third-party developers to innovate and connect with Odyssey to build new solutions, such as public-facing web portals.

Sharing Data With Configurable Integration Publishing (CIP)

With Configurable Integration Publishing, Tyler makes it easy for Odyssey clients to share data with other applications where an API is not enough. With CIP, Odyssey clients publish data in a configurable XML format and share it however they need. Odyssey can be configured to send that information automatically, so subscribers can leverage it within existing partner systems or new, innovative applications.

Connecting and Analyzing Data Across Disparate Systems

Tyler's Socrata solution analyzes data sets to give managers the insights needed to streamline workflows, alleviate procedural bottlenecks, and reduce backlogs. Socrata can connect data from both in and beyond courts to perform tasks like providing performance insights on city-wide, county-wide, and statewide KPIs, measuring e-filing performance within a jurisdiction, and examining a county-wide integrated criminal justice system to show supervisors system performance insights based on predetermined KPIs. All the information gathered across these disparate systems leads to better, more informed decision making.

A Marketplace for Extensibility

While open systems allow for faster innovation, they can create environments that are difficult to manage and govern. They also pose procurement challenges, as compatibility

between applications is often unclear. Tyler is committed to an open marketplace for innovation and information sharing, and maintains teams and programs dedicated to third-party integrators. Moving forward, information on certified-compatible systems, sample solutions, and support tools will be freely available online.

Dedication to Continuous Improvement

Tyler continues to invest a significant part of its annual \$40M+ R&D budget into connecting our applications so they work well together by sharing information and creating business processes across departments. At the same time, we remain committed to maintaining an open platform that allows other vendors to connect with Odyssey.

Courts, jails, and prosecutors, as well as probation, civil service, and police departments, can choose one of Tyler's apps designed to share information seamlessly with each other out of the box. Or, if they have sophisticated IT organizations and larger budgets, Odyssey provides a variety of ways to share data with third-party applications via Tyler Alliance, APIs, CIP, or Socrata.

Either way, Odyssey is backed by the Tyler evergreen philosophy for continuous improvement, which means when you purchase software solutions from Tyler, you aren't just getting the latest software as of the date you sign your contract. You are also getting the benefit of perpetual upgrades, and a way to keep your applications connected far into the future. We deliver this without additional license fees. It's all part of our commitment to empowering people who serve the public.

Open. Reliable. Secure. Comprehensive. Odyssey provides the best of both worlds — a broad array of best-in-class applications and best-in-class practices for open systems.