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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SAN FRANCISCO

Jonathan Corbett,  
Petitioner-Plaintiff

v.

State Bar of California  
Respondent-Defendant

**Case No. CGC-17-557535**

**FIRST AMENDED VERIFIED  
COMPLAINT AND PETITION  
(Cal. Civ. Proc. § 472(a))**

**JURY TRIAL DEMANDED**

**SUMMARY**

1. The State Bar of California (the “Bar”) is a public corporation entrusted with, *inter alia*, ensuring the qualifications of licensed attorneys via examinations.
2. Plaintiff Jonathan Corbett (“Corbett”) is a law student who sat for one such examination in June 2016, the California First Year Law Students’ Exam.
3. When the Bar graded Corbett’s examination, it arbitrarily and capriciously used a grading formula different from the standard it had publicly promised exam takers across the state,

1 resulting in a failing grade on Corbett's examination when, had they used the promised  
2 formula, Corbett's grade would have been passing.

- 3
- 4 4. The Bar has refused to justify this deviation from the published formula, to the point  
5 where it has refused a lawful public records request by Corbett that would shed light on  
6 the matter. Plaintiff therefore asks that the Court<sup>1</sup> to order the Bar to grade his exam  
7 using the published formula, to release the records requested by Corbett, and to reimburse  
8 Corbett for the cost of re-taking the exam, which he completed successfully in October  
9 2016.

10 **JURY TRIAL**

- 11
- 12 5. Corbett requests a trial by jury on all issues so triable.

13

14

15 **PARTIES**

- 16 6. Corbett is an individual residing in Miami-Dade County, Florida, and is a law student,  
17 registered with the State Bar of California, at Northwestern California University School  
18 of Law in Sacramento, California.

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23 <sup>1</sup> Defense counsel has contacted Plaintiff to advise that some portions of his claim need to be  
24 presented in a petition to the California Supreme Court. Accompanying this amended pleading  
is a motion to split and transfer the portions of this case not related to the public records  
request to that court, under Cal. Civ. Proc. § 396.

1 7. The Bar is a public corporation that describes itself, and Corbett stipulates is, “an  
2 administrative arm of the California Supreme Court” that was “[f]ounded in 1927 by the  
3 legislature.”  
4

5  
6 **JURISDICTION & VENUE**

7 1. This Court has subject matter jurisdiction over state statutory claims under the California  
8 Public Records Act, as this complaint presents.  
9

10 2. Pursuant to Cal. Rules of Court, Rule 9.13(d), the California Supreme Court has  
11 exclusive jurisdiction over challenges relating to the State Bar’s exam procedures.  
12 Accordingly, the Court should transfer the portions of this case so relating to the  
13 California Supreme Court via Cal. Civ. Proc. § 396.  
14

15 3. This Court has personal jurisdiction over the Bar because it is a California corporation  
16 that regularly does business within the State of California.  
17

18 4. Venue is appropriate because the Bar is headquartered within this district.  
19  
20

21 **ALLEGATIONS OF FACT**

22 5. The Bar produces and administers an examination known as the First-Year Law Students’  
23 Exam (“FYLSX”), offering test administrations twice annually.  
24

- 1 6. California law students who are not “exempt” must take the FYLSX after completion of  
2 their first year of studies, and must pass it within 3 administrations of the test subsequent  
3 to the date they completed their first year.  
4
- 5 7. Non-exempt students who do not pass the exam within 3 administrations are, by law,  
6 subject to disqualification of any studies beyond their first year, and must be  
7 academically dismissed from their law program until they successfully complete the  
8 FYLSX.  
9
- 10 8. The FYLSX, nicknamed the “baby bar,” tests students at the same difficulty level of the  
11 bar examination, but limits its scope to the subjects of contracts, torts, and criminal law.  
12
- 13 9. Like the bar examination, the FYLSX contains both essay and multiple choice questions.  
14
- 15 10. The Bar charges students \$624.00 to take the FYLSX, in addition to fees for, *e.g.*, the  
16 privilege of typing rather than handwriting the essay questions.  
17
- 18 11. Corbett is a California law student registered with the Bar who is not exempt from taking  
19 the FYLSX.  
20
- 21 12. Corbett registered for, and took, the June 2016 administration of the FYLSX.  
22
- 23 13. The Bar publishes a document entitled “Description and Grading of the California First-  
24 Year Law Students’ Examination.” See Exhibit A.

1  
2 14. This document, as made available to those taking the June 2016 FYLSX, contains the  
3 following text (*underlined emphasis added, bold emphasis in original*):  
4

5 **Grading of the First-Year Law Students'**  
6 **Examination**

7 An applicant's raw multiple-choice score will be  
8 the number of items answered correctly.  
9 Multiple-choice raw scores will be converted to a  
10 400-point scale. ... An applicant's assigned  
11 grade on an essay question can range between 40  
12 and 100. Total raw essay scores can therefore  
13 range between 160 and 400 points. Total raw  
14 essay scores will be converted to the same 400-  
15 point scale of measurement as that used for the  
16 multiple-choice portion...

17  
18 15. The document continues (*underlined emphasis added*):

19 An applicant's total score on the examination is  
20 the sum of that applicant's converted scores on  
21 the multiple-choice and essay sections. This  
22 step gives these sections equal weight in  
23 determining the total score.  
24

1 16. Corbett was notified several weeks later that he did not pass the June 2016  
2 FYLSX. See Exhibit B.

3  
4 17. The notification explained how his grade was calculated, stating as follows:

5 **To confirm your total scaled score:**

6 Converted multiple-choice score

7 Add your three multiple-choice scores. The sum of  
8 these scores is your total raw multiple choice  
9 score. Insert this value into the following  
10 formula:  $\text{Converted multiple-choice score} = (\text{Total}$   
11  $\text{raw multiple-choice score} \times 3.4092) + 21.6267.$

12 *Id.*

13  
14 18. Given that a total of 100 raw points were available for the multiple choice, the maximum  
15 “converted multiple-choice score” using this equation was 362.5467.

16  
17 19. Thus, although the Bar promised that the multiple choice and the essay portions would be  
18 counted equally as 400 points each, the formula used by the Bar instead diminished the  
19 value of the multiple choice by 9.36%.

20  
21 20. The Bar graded Corbett’s multiple-choice raw score as 94, which converted to 342.0915  
22 using this formula, while they graded his essay raw score at 270.0, which scaled to  
23 193.0830, for a total scaled score of 535.1745, a failing score.

- 1 21. Had the Bar graded the multiple-choice on a 400 point scale as promised, and thus  
2 Corbett's multiple-choice score increased by 9.36%, his total scaled score would have  
3 been 567.1943, a passing score  
4
- 5 22. The Bar has offered no justification for its deviation from its advertised policy of  
6 counting the multiple-choice section and essay section as equal parts of the examination.  
7
- 8 23. Had the Bar accurately informed Corbett and the remainder of the exam takers that it  
9 intended to weight the essays higher before the exam administration, Corbett would have  
10 similarly weighted his study time such that additional emphasis was placed on the essays.  
11
- 12 24. As a result of the Bar's post-exam announcement of a grading scheme that did not  
13 comport with the advertised scheme, Corbett has attempted to mitigate his damages (*i.e.*,  
14 not being able to continue his education or pursue a career in law) by registering for the  
15 next administration of the FYLSX examination.  
16
- 17 25. Corbett paid \$777.00 to the Bar, inclusive of all fees, to take the October 2016 exam.  
18
- 19 26. Corbett would have had no need to take the exam again and pay these fees but for the  
20 Bar's failure to properly assign a passing grade to his first exam, and in fact by the Bar's  
21 own rules would be prohibiting from re-taking the exam had he been assigned a passing  
22 score the first time.  
23  
24

1 27. Corbett, now with foreknowledge that the bar deviates from its published grading  
2 scheme, by adjusting his studying emphasis, passed the October 2016 exam.

3  
4 28. On August 18<sup>th</sup>, 2016, Corbett sent to the Bar a public records request for documents that  
5 explain how and why the Bar comes up with their scaling/raw score conversion formulae,  
6 as well as redacted and anonymized copies of all score reports for 2 prior sittings of the  
7 FYLSX exam. See Exhibit C.

8  
9 29. Simultaneously, Corbett notified the bar that he was appealing his grade based on the  
10 grading issue described above. *Id.*

11  
12 30. On August 28<sup>th</sup>, 2016, Corbett received a response to his communications. See Exhibit  
13 D.

14  
15 31. On the matter of the public records request, the Bar denied his request in full, citing Cal  
16 Gov. Code. § 6254(g), which protects, *inter alia*, “test questions” and “scoring keys,” and  
17 to protect the identities of test-takers. *Id.*

18  
19 32. But, Corbett’s public records request did not request test questions, scoring keys, or any  
20 other exam information that would be expected to remain private; he simply asked for an  
21 explanation of the formula they use and copies of the same score reports that the Bar  
22 sends to exam takers, *with their identities redacted.*



1 33. On the matter of his grade appeal, the Bar denied his request, citing a rationale unrelated to  
2 his grade appeal. *Id.*

3  
4 34. On September 21<sup>st</sup>, 2016, Corbett served a California Tort Claims Act notice on the Bar,  
5 providing the Bar with fair notice of all issues presented to the Court in this complaint.

6  
7 35. The Bar denied the claims presented in that notice on November 28<sup>th</sup>, 2016.

8  
9 36. The notice stated that Corbett had “6 months” to challenge the Bar’s decisions in court.

10  
11 **CLAIMS FOR RELIEF**

12 **Count 1: Reimbursement / Unjust Enrichment**

13 37. Corbett re-alleges and incorporates by reference all of the above paragraphs.

14  
15 38. The Bar has publicly posted a scoring methodology for the FYLSX exam.

16  
17 39. By doing so, it has warranted that it will score the exam in the manner that it posted.

18  
19 40. The scoring methodology used by the bar substantially differed from the posted  
20 methodology, and thus the Bar has breached that warranty.

21  
22 41. But for the Bar’s breach of this express warranty, Corbett would have passed the exam.

1 42. As a result, Corbett suffers injury due to having to re-take the exam (exam fees, travel  
2 expenses, significant time required to re-study the material tested, and intangible injury to  
3 his reputation and status as a law student).

4  
5  
6 **Count 2: Promissory Estoppel**

7 43. Corbett re-alleges and incorporates by reference all of the above paragraphs.

8  
9 44. As an alternative theory to Count 1, the Bar made a promise clear and unambiguous in  
10 terms: to grade the examination as described on the Bar's Web site.

11  
12 45. Corbett relied on the Bar's promise by placing more emphasis on studying the multiple  
13 choice questions, as compared to the essay questions.

14  
15 46. Corbett's reliance was reasonable and foreseeable.

16  
17 47. As a result of his reliance on the Bar's promise, Corbett suffers injury due to having to re-  
18 take the exam (exam fees, travel expenses, significant time required to re-study the  
19 material tested, and intangible injury to his reputation and status as a law student).

20  
21  
22 **Count 3: California Public Records Act**

23 48. Corbett made a valid request for records under California's Public Records Act  
24

1 49. The records Corbett requested were releasable under the Act, and the Bar's denial of  
2 Corbett's request is not based on any lawful grounds that actually apply to the request.

3  
4 50. Specifically, there is no reason to believe that the release of anonymized score reports  
5 could result in the invasion of the privacy of exam takers.

6  
7 51. Further, there is no reason to believe that describing the scoring methodology would  
8 result in harm to the integrity of the exam or the Bar's testing programs generally.

9  
10 52. As a result, the Bar has failed, without adequate justification, to comply with its statutory  
11 duty to release public records to Corbett.

12  
13  
14 **PRAYER FOR RELIEF**

15 WHEREFORE, Plaintiff prays for the following relief:

16 a) Injunctive relief requiring that the Bar re-score Corbett's June 2016 FYLSX examination  
17 using equal weighting between the multiple choice and essay sections as it had promised.

18  
19 b) Re-imbursement of the amount Corbett paid to re-take the FYLSX exam, in the amount  
20 of \$777.00.

21  
22 c) Injunctive relief requiring the Bar to update Corbett's file to reflect a passing grade on the  
23 June 2016 FYLSX exam, and to communicate that update to any and all parties to whom  
24 it communicated that Corbett had failed that exam.

- 1
- 2 d) Injunctive relief requiring the Bar to release the public records Corbett seeks.
- 3
- 4 e) Cost of the action.
- 5
- 6 f) Reasonable attorney's fees, should CORBETT retain an attorney and to the extent
- 7 California allows a *pro se* litigant to recover fees.
- 8
- 9 g) Any other such relief as the Court deems appropriate.
- 10
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- 16

17 Dated: San Francisco, CA

18 April 11<sup>th</sup>, 2017

Respectfully submitted,

19 

20 Jonathan Corbett

21 Plaintiff, *Pro Se*

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**VERIFICATION**

**Verification of Pleading (Cal. Civ. Proc., § 446)**

**Declaration under Penalty of Perjury Form (Cal. Civ. Proc., §§ 446, 2015.5)**

By Plaintiff Jonathan Corbett

*Corbett v. State Bar of California*

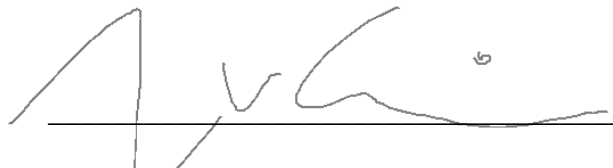
I, Jonathan Corbett, declare that I am the plaintiff in the above-titled matter. I have read the foregoing complaint and know the contents thereof. The same is true of my own knowledge, except as to those matters which are therein stated on information and belief, and, as to those matters, I believe them to be true.

I declare, under penalty of perjury, that the foregoing is true and correct.

Dated: San Francisco, CA

April 11<sup>th</sup>, 2017

Respectfully submitted,



Jonathan Corbett

Plaintiff, *Pro Se*

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