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17 **UNITED STATES DISTRICT COURT**  
 18 **NORTHERN DISTRICT OF CALIFORNIA**

19 ALAN KONIG,  
 20 Plaintiff,  
 21 v.  
 22 THE STATE BAR OF CALIFORNIA, *et al.*  
 23 Defendants.  
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Case No. C 04-02210 MJJ

**~~PROPOSED~~ ORDER RE MOTION OF  
 NON-PARTY PHILIP E. KAY FOR  
 LEAVE TO INTERVENE AND TO  
 UNSEAL RECORDS; DIRECTIONS TO  
 CLERK; DIRECTIONS TO DEFENDANTS**

DATE: March 13, 2009

TIME: 9:00 a.m.

PLACE: Courtroom 7, 19th Floor

Hon. Maxine M. Chesney

1 **ORDER**

2 Pursuant to the parties' stipulation, IT IS HEREBY ORDERED that:

3 Docket Nos. 24, 31, 35, 37, 62, 63, 98, 99, 126, 128, and 130 be unsealed in their entirety  
4 immediately; the Clerk is hereby DIRECTED to file said documents in the public record.

5 Docket Nos. 25, 36, 49, 94, 100, 101, 102, 127, and 129 shall be unsealed immediately  
6 except that the names of individuals investigated by the State Bar but never publicly charged  
7 with any misconduct shall remain sealed or otherwise be redacted from the public record,  
8 because the identities of those individuals are confidential as a matter of law, Cal. Bus. & Prof.  
9 Code § 6086.1(b);

10 Page 266, lines 13-25 of Exhibit A to the Declaration of Emilia Mayorga in Support of  
11 Motion for Partial Summary Judgment on Due Process Claims, Docket No. 25, shall remain  
12 sealed or otherwise be redacted because it discuss a confidential settlement agreement made  
13 between the State Bar and an individual investigated for misconduct but never publicly charged,  
14 because the identities of those individuals are confidential as a matter of law, Cal. Bus. & Prof.  
15 Code § 6086.1(b);

16 The seal <sup>is</sup> ~~may be~~ lifted immediately with respect to Docket No. 95, the Declaration of  
17 Emilia Mayorga in Support of Motion for Partial Summary Judgment and the Exhibits attached  
18 thereto, except that the following documents shall remained sealed at this time pending further  
19 order. The Bar contends they are the formal work product of the State Bar of California, and  
20 therefore confidential as a matter of law, see e.g. Foltz v. State Farm Mut. Auto. Ins. Co., 331  
21 F.3d 1122, 1138 (9th Cir. 2003); General Dynamics v. Super Ct., 7 Cal. 4th 1164, 1191 (1994),  
22 while Kay reserves the right to contest this designation: the documents bates labeled DEF 01294  
23 - 01298, attached to Exhibit D; DEF 01300 - 01308, attached to Exhibit D; DEF 01310 - 01318,  
24 attached to Exhibit D; DEF 01985 - 01991, attached to Exhibit F; DEF 02077 - 02094, attached  
25 to Exhibit F; DEF 02112 - 02117, attached to Exhibit F. The names of individuals investigated  
26 by the State Bar, but never charged with any misconduct, shall remain sealed or otherwise be  
27 redacted from the public record because the identities of those individuals are confidential as a  
28 matter of law, Cal. Bus. & Prof. Code § 6086.1(b);

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1 The seal ~~may be~~ lifted with respect to Docket No. 96, the Declaration of Lawrence J. Dal  
2 Cerro in Support of Motion for Partial Summary Judgment and the Exhibits attached thereto,  
3 except that: Exhibits O and BB shall remain sealed at this time because the Bar contends they are  
4 the formal work product of the State Bar of California and therefore confidential as a matter of  
5 law, see e.g. Foltz v. State Farm Mut. Auto. Ins. Co., 331 F.3d 1122, 1138 (9th Cir. 2003);  
6 General Dynamics v. Super Ct., 7 Cal. 4th 1164, 1191 (1994) while Kay reserves the right to  
7 contest this designation. The names of individuals investigated by the State Bar, but never  
8 charged with any misconduct, shall remain sealed or otherwise be redacted from the public  
9 record because the identities of those individuals are confidential as a matter of law, Cal. Bus. &  
10 Prof. Code § 6086.1(b);

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11 The seal ~~may be~~ lifted with respect to Docket No. 97, the Declaration of Allen  
12 Blumenthal in Support of Motion for Summary Judgment and the Exhibits attached thereto,  
13 except that Exhibit K shall remain sealed at this time because the Bar contends it is the formal  
14 work product of the State Bar of California and therefore confidential as a matter of law, see e.g.  
15 Foltz v. State Farm Mut. Auto. Ins. Co., 331 F.3d 1122, 1138 (9th Cir. 2003); General Dynamics  
16 v. Super Ct., 7 Cal. 4th 1164, 1191 (1994), while Kay reserves the right to contest this  
17 designation. The names of individuals investigated by the State Bar, but never charged with any  
18 misconduct, shall remain sealed or otherwise be redacted from the public record because the  
19 identities of those individuals are confidential as a matter of law, Cal. Bus. & Prof. Code §  
20 6086.1(b).

21 IT IS FURTHER ORDERED that defendants shall file in the public record, no later than  
22 March 9, 2009, redacted versions of the following documents: Docket Nos. 25, 36, 49, 94, 95,  
96, 97, 100, 101, 102, 127, and 129.

23 Dated: March 3, 2009

  
24 HON. MAXINE M. CHESNEY  
25 UNITED STATES DISTRICT JUDGE  
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