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28 Attorneys for Defendant THE STATE BAR OF CALIFORNIA

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

TIMOTHY ELDER,

Plaintiff,

v.

NATIONAL CONFERENCE OF BAR
EXAMINERS AND STATE BAR OF
CALIFORNIA,

Defendants.

Case No. CV11-00199 EDL

**JOINT STIPULATION AND
[PROPOSED] ORDER**

Counsel for the Parties in the above-captioned case have conferred by telephone and e-mail and have agreed to the matters set forth herein. The Parties hereby request that the Court enter this Joint Stipulation as an Order in this case. As used herein, "Defendants" shall refer collectively to Defendants National Conference of Bar Examiners and The State Bar of California.

1. **PRELIMINARY INJUNCTION.** Through this suit, Plaintiff is seeking to obtain testing accommodations on the Multistate Bar Examination ("MBE"), which is developed by the National Conference of Bar Examiners and administered by the State Bar of California. Plaintiff has applied to take the February 2011 California Bar Examination, which includes the MBE as one component, and the California Bar Examination commences February 22, 2011. Plaintiff has filed a motion for preliminary injunction that would require Defendants to provide his requested

1 accommodations on the California Bar Examination in advance of a trial on the merits. The
2 Parties have agreed to the following schedule for Plaintiff's preliminary injunction motion:

3 **a. Briefing schedule.** Plaintiff's motion for preliminary injunction, and all
4 papers in support thereof, shall be filed and electronically served on Defendants' counsel on or
5 before **January 14, 2011**. Defendants' opposition to Plaintiff's motion shall be filed and
6 electronically served on Plaintiff's counsel on or before **January 28, 2011**. Plaintiff's reply, if
7 any, shall be filed and electronically served on Defendants' counsel on or before **February 4,**
8 **2011**. Defendants may, but are not required to, file dispositive or other motions in response to
9 Plaintiff's complaint in conjunction with the briefing on Plaintiff's motion for preliminary
10 injunction.

11 **b. Hearing.** The Parties request that the Court set the hearing for **February**
12 **11, 2011**, one week after the reply papers are filed, or as soon thereafter as possible consistent
13 with the Court's calendar.


14 **2. IMMEDIATE IRREPARABLE HARM.** The Parties expressly acknowledge and agree
15 that Defendants' consent to this Scheduling Order does **not** mean that Defendants have stipulated
16 that there is immediate and/or irreparable harm to Plaintiff and this Stipulation shall be without
17 prejudice to any argument raised by Defendants concerning Plaintiff's alleged immediate and/or
18 irreparable harm, and without prejudice to any other argument that Defendants may raise in
19 opposition to Plaintiff's motion or thereafter.

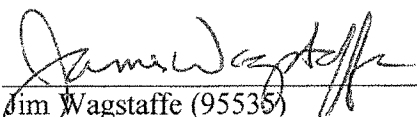
20 **3. TEMPORARY RESTRAINING ORDER.** Plaintiff has also requested a Temporary
21 Restraining Order ("TRO"). The Parties agree that Plaintiff shall not seek, and request that the
22 Court refrain from entering, any TRO pending the hearing on Plaintiff's motion for preliminary
23 injunction. Notwithstanding the foregoing, Plaintiff reserves his right to renew his request for a
24 TRO should the motion for a preliminary injunction not be heard prior to the start of the February
25 2011 California Bar Examination, and Defendants reserve the right to oppose any such renewed
26 request.

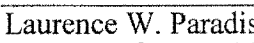
27 **4. GENERAL ORDER NO. 56.** The Parties to this Stipulation shall stipulate to an
28 administrative motion pursuant to Local Rule 7-11 that General Order No. 56 does not apply to

1 this case for the reasons to be set forth in the stipulated motion. Plaintiff's counsel shall draft, file
2 and serve this stipulated administrative motion.


3 5. SERVICE. The Parties to this Stipulation hereby stipulate to service of discovery
4 and pleadings by electronic mail.

5 Dated: January 19, 2011 COOLEY LLP
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9 Gregory C. Tenhoff (154553)
Attorneys for NATIONAL CONFERENCE OF
BAR EXAMINERS, INC.

10 Dated: January 18, 2011 KERR & WAGSTAFFE LLP
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14 Jim Wagstaffe (95535)
Attorneys for STATE BAR OF CALIFORNIA

15 Dated: January __, 2011 DISABILITY RIGHTS ADVOCATES
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19 Laurence W. Paradis
Attorneys for STEPHANIE ENYART
On behalf of all counsel for TIMOTHY ELDER

21 IT IS SO ORDERED.

22
23 Dated: _____, 2011 
24 UNITED STATES DISTRICT JUDGE

1 this case for the reasons to be set forth in the stipulated motion. Plaintiff's counsel shall draft, file
2 and serve this stipulated administrative motion.

3 **5. SERVICE.** The Parties to this Stipulation hereby stipulate to service of discovery
4 and pleadings by electronic mail.

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6 Dated: January __, 2011

COOLEY LLP

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8 _____
9 Gregory C. Tenhoff (154553)
10 Attorneys for NATIONAL CONFERENCE OF
11 BAR EXAMINERS, INC.

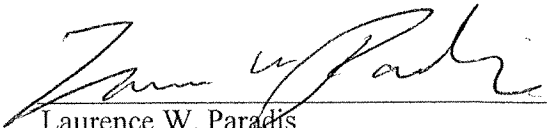
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13 Dated: January __, 2011

KERR & WAGSTAFFE LLP

14 _____
15 Jim Wagstaffe (95535)
16 Attorneys for STATE BAR OF CALIFORNIA

17
18 Dated: January 18, 2011

DISABILITY RIGHTS ADVOCATES

19 _____
20 
21 Laurence W. Paradis
22 Attorneys for STEPHANIE ENYART
23 On behalf of all counsel for TIMOTHY ELDER

24
25 **IT IS SO ORDERED.**

26
27 Dated: _____, 2011

28 _____
UNITED STATES DISTRICT JUDGE