

**General Docket**  
**United States Court of Appeals for the Ninth Circuit**

**Court of Appeals Docket #:** 20-17316

**Docketed:** 11/27/2020

**Nature of Suit:** 3440 Other Civil Rights

Benjamin Kohn v. State Bar of California, et al

**Appeal From:** U.S. District Court for Northern California, Oakland

**Fee Status:** IFP

**Case Type Information:**

- 1) civil
- 2) private
- 3) null

**Originating Court Information:**

**District:** 0971-4 : 4:20-cv-04827-PJH

**Trial Judge:** Phyllis J. Hamilton, Senior District Judge

**Date Filed:** 07/18/2020

**Date Order/Judgment:**

10/27/2020

**Date Order/Judgment EOD:**

10/27/2020

**Date NOA Filed:**

11/25/2020

**Date Rec'd COA:**

11/25/2020

**Prior Cases:**

None

**Current Cases:**

None

BENJAMIN KOHN  
Plaintiff - Appellant,

Gregory Richard Michael, Esquire, Attorney  
Direct: 510-296-5600  
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[COR LD NTC Pro Bono Appointment]  
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Dorothy Yamamoto  
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[COR LD NTC Pro Bono Appointment]  
Michael Yamamoto LLP  
1400 Shattuck Avenue  
Suite 412  
Berkeley, CA 94709

v.

STATE BAR OF CALIFORNIA  
Defendant - Appellee,

Jean Roche Krasilnikoff, Attorney  
Direct: 415-538-2444  
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[COR LD NTC Retained]  
State Bar of California  
180 Howard Street  
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Rita Kathryn Himes  
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[COR NTC Retained]

CALIFORNIA COMMITTEE OF BAR EXAMINERS, and Their  
Agents in Their Official Capacity  
Defendant - Appellee,

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DISABILITY RIGHTS EDUCATION AND DEFENSE FUND, INC.,  
LEGAL AID AT WORK, ET AL.  
Amicus Curiae,

SARKARLAW  
Amicus Curiae,

State Bar of California  
Office of the General Counsel  
180 Howard Street  
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Jean Roche Krasilnikoff, Attorney  
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(see above)

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[COR LD NTC Retained]  
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BENJAMIN KOHN,

Plaintiff - Appellant,

v.

STATE BAR OF CALIFORNIA; CALIFORNIA COMMITTEE OF BAR EXAMINERS, and Their Agents in Their Official Capacity,

Defendants - Appellees.

11/27/2020	<input type="checkbox"/> <u>1</u> 61 pg, 1.04 MB	DOCKETED CAUSE AND ENTERED APPEARANCES OF COUNSEL AND PRO SE APPELLANT. SEND MQ: No. The schedule is set as follows: Appellant Benjamin Kohn opening brief due 01/27/2021. Appellees California Committee of Bar Examiners and State Bar of California answering brief due 03/01/2021. Appellant's optional reply brief is due 21 days after service of the answering brief. [11907596] (RT) [Entered: 11/27/2020 10:15 AM]
12/07/2020	<input type="checkbox"/> 2	Filed (ECF) notice of appearance of Kenneth John Holloway (The State Bar of California, 180 Howard Street, San Francisco, CA 94105) for Appellees California Committee of Bar Examiners and State Bar of California. Date of service: 12/07/2020. (Party was previously proceeding with counsel.) [11916421] [20-17316] (Holloway, Kenneth) [Entered: 12/07/2020 09:24 AM]
12/07/2020	<input type="checkbox"/> 3	Added Attorney(s) Kenneth John Holloway for party(s) Appellee California Committee of Bar Examiners Appellee State Bar of California, in case 20-17316. [11916533] (CW) [Entered: 12/07/2020 09:58 AM]
01/27/2021	<input type="checkbox"/> 4	<del>STRICKEN PER ORDER [28]. Submitted (ECF) Opening Brief for review. Submitted by Appellant Mr. Benjamin Kohn. Date of service: 01/27/2021. [11982600] [20-17316] (Kohn, Benjamin) [Entered: 01/27/2021 05:19 AM]</del>
01/27/2021	<input type="checkbox"/> <u>5</u> 2 pg, 95.65 KB	Filed clerk order: The opening brief [4] submitted by Mr. Benjamin Kohn is filed. Within 7 days of the filing of this order, filer is ordered to file 6 copies of the brief in paper format, accompanied by certification (attached to the end of each copy of the brief) that the brief is identical to the version submitted electronically. Cover color: not applicable. The paper copies shall be submitted to the principal office of the Clerk. [11983306] (KWG) [Entered: 01/27/2021 01:19 PM]
01/27/2021	<input type="checkbox"/> <u>6</u> 1 pg, 171.93 KB	Filed (ECF) joinder letter in lieu of amicus brief pursuant to Circuit Advisory Committee Note to Rule 29-1. Filed by Julian Sarkar, joining in brief(s) [4] submitted by Appellant Mr. Benjamin Kohn. Date of service: 01/27/2021. [11983426] [20-17316] (Sarkar, Julian) [Entered: 01/27/2021 02:00 PM]
01/28/2021	<input type="checkbox"/> 7	Filed (ECF) Streamlined request for extension of time to file Answering Brief by Appellees California Committee of Bar Examiners and State Bar of California. New requested due date is 03/31/2021. [11984372] [20-17316] (Holloway, Kenneth) [Entered: 01/28/2021 10:08 AM]
01/28/2021	<input type="checkbox"/> 8	Received 6 paper copies of Opening Brief [4] filed by Mr. Benjamin Kohn. [11985260] (SD) [Entered: 01/28/2021 04:12 PM]
01/28/2021	<input type="checkbox"/> 9	<b>Streamlined request [7] by Appellees California Committee of Bar Examiners and State Bar of California to extend time to file the brief is approved. Amended briefing schedule: Appellees California Committee of Bar Examiners and State Bar of California answering brief due 03/31/2021. The optional reply brief is due 21 days from the date of service of the answering brief.</b> [11985435] (DLM) [Entered: 01/28/2021 06:12 PM]
02/12/2021	<input type="checkbox"/> <u>10</u> 2 pg, 127.18 KB	Filed referral notice (Deputy Clerk:CKP): Referring to the district court for determination whether in forma pauperis status should continue for this appeal. [12001572] (CKP) [Entered: 02/12/2021 12:48 AM]
03/30/2021	<input type="checkbox"/> 11	<del>STRICKEN PER ORDER [28]. Submitted (ECF) Answering Brief for review. Submitted by Appellees California Committee of Bar Examiners and State Bar of California. Date of service: 03/30/2021. [12057797] [20-17316]--[COURT UPDATE: Attached corrected PDF. 03/30/2021 by LA] (Holloway, Kenneth) [Entered: 03/30/2021 09:33 AM]</del>
03/30/2021	<input type="checkbox"/> 12	<del>STRICKEN PER ORDER [28] (replacement excerpts filed). Submitted (ECF) supplemental excerpts of record. Submitted by Appellees California Committee of Bar Examiners and State Bar of California. Date of service: 03/30/2021. [12057798] [20-17316] (Holloway, Kenneth) [Entered: 03/30/2021 09:35 AM]</del>
03/30/2021	<input type="checkbox"/> <u>13</u> 2 pg, 95.65 KB	Filed clerk order: The answering brief [11] submitted by California Committee of Bar Examiners and State Bar of California is filed. Within 7 days of the filing of this order, filer is ordered to file 6 copies of the brief in paper format, accompanied by certification (attached to the end of each copy of the brief) that the brief is identical to the version submitted electronically. Cover color: red. The supplemental excerpts of record [12] submitted by California Committee of Bar Examiners and State Bar of California are filed. Within 7 days of this order, filer is ordered to file 3 copies of the excerpts in paper format securely bound on the left side, with white covers. The paper copies shall be submitted to the principal office of the Clerk. [12058661] (LA) [Entered: 03/30/2021 03:42 PM]
04/01/2021	<input type="checkbox"/> 14	Received 3 paper copies of supplemental excerpts of record [12] in 1 volume(s) and index volume filed by Appellees California Committee of Bar Examiners and State Bar of California. [12060985] (LA) [Entered: 04/01/2021 02:37 PM]
04/01/2021	<input type="checkbox"/> 15	Received 6 paper copies of Answering Brief [11] filed by California Committee of Bar Examiners and State Bar of California. [12061186] (SD) [Entered: 04/01/2021 04:10 PM]
04/03/2021	<input type="checkbox"/> <u>16</u> 12 pg, 270.18 KB	Filed (ECF) Appellant Mr. Benjamin Kohn Motion to file oversized brief. Date of service: 04/03/2021. [12062776] [20-17316] (Kohn, Benjamin) [Entered: 04/03/2021 09:49 PM]
04/16/2021	<input type="checkbox"/> <u>17</u> 2 pg, 222.3 KB	Filed (ECF) Appellant Mr. Benjamin Kohn Amended Motion to file oversized brief. Date of service: 04/16/2021. [12078178] [20-17316]--[COURT UPDATE: Removed brief (resubmitted in correct entry [19]). 04/19/2021 by LA] (Kohn, Benjamin) [Entered: 04/16/2021 11:36 PM]

04/16/2021  [18](#)  
3 pg, 240.81 KB Filed (ECF) Appellant Mr. Benjamin Kohn Motion to file supplemental brief. Date of service: 04/16/2021. [12078179] [20-17316]--[COURT UPDATE: Removed brief (resubmitted in correct entry [20]). 04/19/2021 by LA] (Kohn, Benjamin) [Entered: 04/16/2021 11:38 PM]

04/16/2021  [19](#) STRICKEN PER ORDER [\[25\]](#) (brief will not be filed). ~~Submitted (ECF) Reply Brief for review. Submitted by Appellant Mr. Benjamin Kohn. Date of service: 04/16/2021. [12078488]--[COURT ENTERED FILING to correct entry [17].]~~ (LA) [Entered: 04/19/2021 09:18 AM]

04/16/2021  [20](#) STRICKEN PER ORDER [\[25\]](#) (brief will not be filed). ~~Submitted (ECF) Supplemental Brief for review. Submitted by Appellant Mr. Benjamin Kohn. Date of service: 04/16/2021. [12078492]--[COURT ENTERED FILING to correct entry [18].]~~ (LA) [Entered: 04/19/2021 09:19 AM]

04/28/2021  [21](#)  
2 pg, 106.09 KB Filed (ECF) Appellant Mr. Benjamin Kohn citation of supplemental authorities. Date of service: 04/28/2021. [12090500] [20-17316] (Kohn, Benjamin) [Entered: 04/28/2021 05:22 PM]

05/25/2021  [22](#)  
4 pg, 223.92 KB Filed (ECF) Appellant Mr. Benjamin Kohn citation of supplemental authorities. Date of service: 05/25/2021. [12124654] [20-17316] (Kohn, Benjamin) [Entered: 05/25/2021 09:33 PM]

06/07/2021  [23](#) Filed (ECF) notice of appearance of Jean Roche Krasilnikoff (The State Bar of California, Office of General Counsel, 180 Howard Street, San Francisco CA 94105) for Appellees California Committee of Bar Examiners and State Bar of California. Substitution for Attorney Kenneth John Holloway for Appellees California Committee of Bar Examiners and State Bar of California. Date of service: 06/07/2021. (Party was previously proceeding with counsel.) [12136466] [20-17316] (Krasilnikoff, Jean) [Entered: 06/07/2021 04:08 PM]

06/07/2021  [24](#) Attorney Kenneth John Holloway and substituted by Attorney Jean Roche Krasilnikoff in 20-17316. [12136498] (HH) [Entered: 06/07/2021 04:21 PM]

07/02/2021  [25](#)  
2 pg, 102.69 KB Filed clerk order (Deputy Clerk: KD): The court has determined that appointment of pro bono counsel would benefit the court's review in this appeal. If appellant objects to the appointment of counsel, appellant must file a written objection within 14 days of this order. Absent objection from the appellant, and upon locating suitable counsel, the Clerk will enter an order appointing counsel to represent appellant for purposes of this appeal only. The Clerk will also set a supplemental/replacement briefing schedule. Pro bono counsel is encouraged, with the consent of the client, to file replacement briefing, rather than supplemental briefing. Appellant's pro se motions to file an oversized reply brief (Docket Entry Nos. [\[16\]](#), [\[17\]](#)) and pro se motion to file a supplemental brief (Docket Entry No. [\[18\]](#)) are denied as unnecessary. [12162150] (AF) [Entered: 07/02/2021 03:42 PM]

09/30/2021  [26](#) Filed (ECF) notice of appearance of James J. Chang (The State Bar of California, 180 Howard Street, San Francisco CA 94105) for Appellees California Committee of Bar Examiners and State Bar of California. Date of service: 09/30/2021. (Party was previously proceeding with counsel.) [12244178] [20-17316] (Chang, James) [Entered: 09/30/2021 02:37 PM]

09/30/2021  [27](#) Added Attorney(s) James Chang for party(s) Appellee California Committee of Bar Examiners Appellee State Bar of California, in case 20-17316. [12244188] (DJV) [Entered: 09/30/2021 02:40 PM]

01/25/2022  [28](#)  
4 pg, 241.81 KB Filed clerk order (Deputy Clerk: KD): Pursuant to this court's July 2, 2021 order, Gregory R. Michael, Esq., and Dorothy Yamamoto, Esq., are hereby appointed to represent appellant for purposes of this appeal only. The Clerk shall amend the docket to reflect that Gregory R. Michael, Esq., and Dorothy Yamamoto, Esq., Michael Yamamoto LLP, 1400 Shattuck Ave., #412, Berkeley, CA 94709, Email: gmichael@myllp.law, dyamamoto@myllp.law, are pro bono counsel of record for appellant. Within 30 days after the date of this order, appellant shall, and appellees may, complete and submit the Ninth Circuit Mediation Questionnaire. See 9th Cir. R. 3-4. The Clerk shall transmit the Mediation Questionnaire to counsel with this order. Counsel shall return it according to the instructions contained in the Mediation Questionnaire. Supplemental or replacement briefing shall proceed as follows: the opening brief is due April 8, 2022; the answering brief is due May 9, 2022; and the optional reply brief is due within 21 days after service of the answering brief. Appellant is encouraged to file replacement briefing rather than supplemental briefing. Appellees are directed to file a replacement or supplemental brief, or notify the court in writing that appellees stand on the previously filed answering brief. Both parties shall state on the cover pages of the briefs whether they are replacement briefs or supplemental briefs. If a replacement brief is filed, the Clerk shall strike the previously tendered brief. The Clerk shall serve a copy of this order on appellant individually. [12350620] (AF) [Entered: 01/25/2022 01:59 PM]

02/23/2022  [29](#)  
3 pg, 249.73 KB Filed (ECF) Appellant Mr. Benjamin Kohn Mediation Questionnaire. Date of service: 02/23/2022. [12378549] [20-17316] (Michael, Gregory) [Entered: 02/23/2022 06:29 PM]

02/23/2022  [30](#) The Mediation Questionnaire for this case was filed on 02/23/2022. To submit pertinent **confidential** information directly to the Circuit Mediators, please use the following [link](#). Confidential submissions may include any information relevant to mediation of the case and settlement potential, including, but not limited to, settlement history, ongoing or potential settlement discussions, non-litigated party related issues, other pending actions, and timing considerations that may impact mediation efforts.[12378552]. [20-17316] (AD) [Entered: 02/23/2022 06:44 PM]

03/01/2022  [31](#)  
5 pg, 166.18 KB MEDIATION CONFERENCE SCHEDULED - DIAL-IN Assessment Conference, 03/08/2022, 10:00 a.m. PACIFIC Time. The briefing schedule previously set by the court remains in effect. See order for instructions and details. [12382993] (BLS) [Entered: 03/01/2022 11:59 AM]

03/08/2022  [32](#)  
1 pg, 92.43 KB MEDIATION ORDER FILED: This case is RELEASED from the Mediation Program. Counsel are requested to contact the Circuit Mediator should circumstances develop that warrant settlement discussions while the appeal is pending. [12389517] (BLS) [Entered: 03/08/2022 02:45 PM]

04/08/2022  [33](#) Filed (ECF) Notice of withdrawal of counsel. Filed by Attorney James Chang for Appellees California Committee of Bar Examiners and State Bar of California. Party proceeding without counsel: No. Date of service: 04/08/2022. [12416159] [20-17316] (Chang, James) [Entered: 04/08/2022 12:04 PM]

04/08/2022  [34](#) Terminated James Chang for State Bar of California and California Committee of Bar Examiners in 20-17316 [12416262] (DJV) [Entered: 04/08/2022 01:39 PM]

04/08/2022  [35](#)  
1221 pg, 131.34 MB Submitted (ECF) excerpts of record. Submitted by Appellant Mr. Benjamin Kohn. Date of service: 04/08/2022. [12416673] [20-17316] (Michael, Gregory) [Entered: 04/08/2022 09:22 PM]

04/08/2022  [36](#)  
146 pg, 3.14 MB Submitted (ECF) Opening Brief for review. Submitted by Appellant Mr. Benjamin Kohn. Date of service: 04/08/2022. [12416678] [20-17316] (Michael, Gregory) [Entered: 04/08/2022 11:57 PM]

04/11/2022  [37](#)  
2 pg, 95.26 KB Filed clerk order: The replacement opening brief [\[36\]](#) submitted by Mr. Benjamin Kohn is filed. Within 7 days of the filing of this order, filer is ordered to file 6 copies of the brief in paper format, accompanied by certification (attached to the end of each copy of the brief) that the brief is identical to the version submitted electronically. Cover color: blue. The excerpts of record [\[35\]](#) submitted by Mr. Benjamin Kohn are filed. Within 7 days of this order, filer is ordered to file 3 copies of the excerpts in paper format securely bound on the left side, with white covers. The paper copies shall be submitted to the principal office of the Clerk. [12416991] (LA) [Entered: 04/11/2022 10:08 AM]

04/12/2022  [38](#) Filed (ECF) Streamlined request for extension of time to file Answering Brief by Appellees California Committee of Bar Examiners and State Bar of California. New requested due date is 06/08/2022. [12418976] [20-17316] (Krasilnikoff, Jean) [Entered: 04/12/2022 03:02 PM]

04/12/2022  [39](#) **Streamlined request [\[38\]](#) by Appellees California Committee of Bar Examiners and State Bar of California to extend time to file the brief is approved. Amended briefing schedule: Appellees California Committee of Bar Examiners and State Bar of California answering brief due 06/08/2022. The optional reply brief is due 21 days from the date of service of the answering brief.** [12419355] (DLM) [Entered: 04/12/2022 05:05 PM]

04/13/2022  [40](#) Received 6 paper copies of Replacement Opening Brief [\[36\]](#) filed by Mr. Benjamin Kohn. [12420584] (SD) [Entered: 04/13/2022 03:38 PM]

04/13/2022  [41](#) Received 3 paper copies of excerpts of record [\[35\]](#) in 6 volume(s) and index volume filed by Appellant Mr. Benjamin Kohn. [12420593] (SD) [Entered: 04/13/2022 03:43 PM]

04/15/2022  [42](#)  
62 pg, 395.62 KB Submitted (ECF) Amicus brief for review (by government or with consent per FRAP 29(a)). Submitted by Disability Rights Education and Defense Fund, Legal Aid at Work, and fifteen Co-Amici. Date of service: 04/15/2022. [12423331] [20-17316] (Kim, Jinny) [Entered: 04/15/2022 08:27 PM]

04/18/2022  [43](#) Entered appearance of Amici Curiae Disability Rights Education and Defense Fund, Legal Aid at Work, et al. [12424561] (LA) [Entered: 04/18/2022 03:16 PM]

04/18/2022  [44](#)  
2 pg, 94.96 KB Filed clerk order: The amicus brief [\[42\]](#) submitted by Disability Rights Education and Defense Fund, Legal Aid at Work, et al. is filed. Within 7 days of the filing of this order, filer is ordered to file 6 copies of the brief in paper format, accompanied by certification (attached to the end of each copy of the brief) that the brief is identical to the version submitted electronically. Cover color: green. The paper copies shall be submitted to the principal office of the Clerk. [12424564] (LA) [Entered: 04/18/2022 03:17 PM]

04/20/2022  [45](#) Received 6 paper copies of Amicus Brief [\[42\]](#) filed by Disability Rights Education and Defense Fund, Legal Aid at Work, et al. [12426817] (SD) [Entered: 04/20/2022 03:17 PM]

04/29/2022  [46](#) COURT DELETED INCORRECT ENTRY. Notice about deletion sent to case participants registered for electronic filing. Correct Entry: [\[52\]](#). Original Text: Filed (ECF) SarkarLaw Motion to become amicus curiae. Date of service: 04/29/2022. [12435311] [20-17316] (Sarkar, Julian) [Entered: 04/29/2022 11:49 PM]

04/29/2022  [52](#)  
31 pg, 907.07 KB Submitted (ECF) Amicus brief for review and filed Motion to become amicus curiae. Submitted by SarkarLaw. Date of service: 04/29/2022. [12435846]--[COURT ENTERED FILING to replace entry [\[46\]](#).] (LA) [Entered: 05/02/2022 11:17 AM]

05/02/2022  [47](#) Filed (ECF) notice of appearance of Rita K. Himes (The State Bar of California, 180 Howard Street, San Francisco CA 94105) for Appellee State Bar of California. Date of service: 05/02/2022. (Party was previously proceeding with counsel.) [12435382] [20-17316] (Himes, Rita) [Entered: 05/02/2022 07:02 AM]

05/02/2022	<input type="checkbox"/>	48	Added Attorney(s) Rita Kathryn Himes for party(s) Appellee State Bar of California, in case 20-17316. [12435390] (DJV) [Entered: 05/02/2022 07:09 AM]
05/02/2022	<input type="checkbox"/>	49	Filed (ECF) notice of appearance of Brady R. Dewar (The State Bar of California, 180 Howard Street, San Francisco CA 94105) for Appellee State Bar of California. Date of service: 05/02/2022. (Party was previously proceeding with counsel.) [12435520] [20-17316] (Dewar, Brady) [Entered: 05/02/2022 08:52 AM]
05/02/2022	<input type="checkbox"/>	50	Added Attorney(s) Brady Richard Dewar for party(s) Appellee State Bar of California, in case 20-17316. [12435527] (DJV) [Entered: 05/02/2022 08:54 AM]
05/02/2022	<input type="checkbox"/>	51	Entered appearance of Amicus Curiae - Pending SarkarLaw. [12435842] (LA) [Entered: 05/02/2022 11:15 AM]
05/05/2022	<input type="checkbox"/>	<u>53</u> 6 pg, 89.65 KB	Filed (ECF) Appellee State Bar of California response opposing motion ([52] Motion (ECF Filing), [52] Motion (ECF Filing)). Date of service: 05/05/2022. [12439144] [20-17316] (Himes, Rita) [Entered: 05/05/2022 12:53 PM]
05/09/2022	<input type="checkbox"/>	<u>54</u> 16 pg, 1.86 MB	Filed (ECF) Amicus Curiae - Pending SarkarLaw reply to response (). Date of service: 05/09/2022. [12441893] [20-17316] (Sarkar, Julian) [Entered: 05/09/2022 02:59 PM]
05/10/2022	<input type="checkbox"/>	<u>55</u> 7 pg, 133.43 KB	Filed (ECF) Appellee State Bar of California Joint Motion to extend time to file Answering brief until 09/12/2022. Date of service: 05/10/2022. [12443003] [20-17316] (Dewar, Brady) [Entered: 05/10/2022 01:39 PM]
05/10/2022	<input type="checkbox"/>	<u>56</u> 3 pg, 65.94 KB	Filed (ECF) Amicus Curiae - Pending SarkarLaw reply to response (). Date of service: 05/10/2022. [12443296] [20-17316] (Sarkar, Julian) [Entered: 05/10/2022 03:37 PM]
05/11/2022	<input type="checkbox"/>	57	COURT DELETED INCORRECT ENTRY. Notice about deletion sent to case participants registered for electronic filing. Correct Entry: [60]. Original Text: Filed (ECF) joinder letter in lieu of amicus brief pursuant to Circuit Advisory Committee Note to Rule 29-1. Filed by National Disabled Law Students Association, joining in brief(s) [52]. Date of service: 05/11/2022. [12444746] [20-17316] (Sarkar, Julian) [Entered: 05/11/2022 08:01 PM]
05/16/2022	<input type="checkbox"/>	<u>58</u> 2 pg, 127.35 KB	Filed clerk order (Deputy Clerk: KD): Appellees' motion to withdraw the opposition to the motion to for leave to file an amicus curiae brief is granted. Docket Entry No. [53] is deemed withdrawn. In light of appellees' consent, the motion of SarkarLaw for leave to file an untimely amicus curiae brief (Docket Entry No. [52]-1) is unnecessary. See Fed. R. App. P. 29(a)(2). The Clerk will file the amicus curiae brief submitted at Docket Entry No. [52]-2. Within 7 days after the date of this order, the prospective amicus is ordered to file 6 copies of the brief in paper format with green covers, accompanied by certification (attached to the end of each copy of the brief) that the brief is identical to the version submitted electronically. The Form 18 certificate is available on the court's website at <a href="http://www.ca9.uscourts.gov/forms/">http://www.ca9.uscourts.gov/forms/</a> . The paper copies shall be submitted to the principal office of the Clerk. The address for regular U.S. mail is P.O. Box 193939, San Francisco, CA 94119-3939. The address for overnight mail is 95 Seventh Street, San Francisco, CA 94103-1526. The joint motion for an extension of time to file the answering brief (Docket Entry No. [55]) is granted. The opening brief has been filed. The answering brief is due September 12, 2022; and the optional reply brief is due within 21 days after service of the answering brief. [12448063] (AF) [Entered: 05/16/2022 02:28 PM]
05/16/2022	<input type="checkbox"/>	<u>59</u> 2 pg, 94.83 KB	Filed clerk order: The amicus brief [52] submitted by SarkarLaw is filed. Within 7 days of the filing of this order, filer is ordered to file 6 copies of the brief in paper format, accompanied by certification (attached to the end of each copy of the brief) that the brief is identical to the version submitted electronically. Cover color: green. The paper copies shall be submitted to the principal office of the Clerk. [12448197] (LA) [Entered: 05/16/2022 03:29 PM]
05/17/2022	<input type="checkbox"/>	<u>60</u> 2 pg, 129.86 KB	Filed (ECF) joinder letter in lieu of amicus brief pursuant to Circuit Advisory Committee Note to Rule 29-1. Filed by the National Disabled Law Students Association, joining in brief(s) [52]. Date of service: 05/11/2022. [12448641]--[COURT ENTERED FILING to replace entry [57].]--[Edited 05/17/2022 by SML to attach PDF file with the case number.] (SML) [Entered: 05/17/2022 09:21 AM]
05/19/2022	<input type="checkbox"/>	61	Received 6 paper copies of Amicus Brief [52] filed by SarkarLaw. [12452243] (SD) [Entered: 05/20/2022 09:51 AM]
05/23/2022	<input type="checkbox"/>	<u>62</u> 1 pg, 107.42 KB	Filed (ECF) Appellant Mr. Benjamin Kohn Correspondence: Notice to Clerk regarding FRAP 44 (appeal presents questions as to constitutionality of an act of Congress).. Date of service: 05/23/2022 [12453859] [20-17316] (Michael, Gregory) [Entered: 05/23/2022 01:16 PM]
06/15/2022	<input type="checkbox"/>	<u>63</u> 2 pg, 209.07 KB	Filed (ECF) Appellee State Bar of California Correspondence: FRAP 44. Date of service: 06/15/2022 [12471396] [20-17316] (Himes, Rita) [Entered: 06/15/2022 08:40 AM]
06/17/2022	<input type="checkbox"/>	<u>64</u> 1 pg, 182.75 KB	Filed (ECF) Appellant Mr. Benjamin Kohn Correspondence: Letter to Clerk. Date of service: 06/17/2022 [12474624] [20-17316] (Yamamoto, Dorothy) [Entered: 06/17/2022 04:13 PM]

- 07/13/2022  [65](#)  
4 pg, 100.32 KB Filed (ECF) joinder letter in lieu of amicus brief pursuant to Circuit Advisory Committee Note to Rule 29-1. Filed by Autistic Women & Nonbinary Network, joining in brief(s) [52]. Date of service: 07/13/2022. [12493461] [20-17316]--[COURT UPDATE: Attached corrected PDF. 07/18/2022 by JMR] (Sarkar, Julian) [Entered: 07/13/2022 11:59 PM]
- 09/12/2022  [66](#)  
134 pg, 3.45 MB Submitted (ECF) Answering Brief for review. Submitted by Appellees California Committee of Bar Examiners and State Bar of California. Date of service: 09/12/2022. [12538499] [20-17316]--[COURT UPDATE: Attached corrected brief. 09/14/2022 by JMR] (Dewar, Brady) [Entered: 09/12/2022 03:28 PM]
- 09/12/2022  [67](#)  
109 pg, 1.81 MB Submitted (ECF) supplemental excerpts of record. Submitted by Appellees California Committee of Bar Examiners and State Bar of California. Date of service: 09/12/2022. [12538505] [20-17316]--[COURT UPDATE: Attached corrected excerpts. 09/14/2022 by JMR] (Dewar, Brady) [Entered: 09/12/2022 03:30 PM]
- 09/12/2022  68 Filed (ECF) Streamlined request for extension of time to file Reply Brief by Appellant Mr. Benjamin Kohn. New requested due date is 11/02/2022. [12538677] [20-17316] (Michael, Gregory) [Entered: 09/12/2022 05:47 PM]
- 09/13/2022  69 **Streamlined request [68] by Appellant Mr. Benjamin Kohn to extend time to file the brief is approved. Amended briefing schedule: the optional reply brief is due 11/02/2022.** [12539373] (DLM) [Entered: 09/13/2022 02:52 PM]
- 09/14/2022  [70](#)  
2 pg, 95.73 KB Filed clerk order: The replacement answering brief [66] submitted by California Committee of Bar Examiners and State Bar of California is filed. Within 7 days of the filing of this order, filer is ordered to file 6 copies of the brief in paper format, accompanied by certification (attached to the end of each copy of the brief) that the brief is identical to the version submitted electronically. Cover color: red. The supplemental excerpts of record [67] submitted by California Committee of Bar Examiners and State Bar of California are filed. Within 7 days of this order, filer is ordered to file 3 copies of the excerpts in paper format securely bound on the left side, with white covers. The paper copies shall be submitted to the principal office of the Clerk. [12540353] (JMR) [Entered: 09/14/2022 02:41 PM]
- 09/15/2022  71 Received 6 paper copies of replacement Answering Brief [66] filed by California Committee of Bar Examiners and State Bar of California. [12541401] (NAR) [Entered: 09/15/2022 02:27 PM]
- 09/15/2022  72 Received 3 paper copies of supplemental excerpts of record [67] in 1 volume(s) and index volume filed by California Committee of Bar Examiners and State Bar of California. [12541420] (NAR) [Entered: 09/15/2022 02:33 PM]
- 09/21/2022  73 This case is being considered for an upcoming oral argument calendar in San Francisco
- Please review the San Francisco sitting dates for January 2023 and the 2 subsequent sitting months in that location at [http://www.ca9.uscourts.gov/court\\_sessions](http://www.ca9.uscourts.gov/court_sessions). If you have an unavoidable conflict on any of the dates, please file [Form 32](#) **within 3 business days of this notice** using the CM/ECF filing type **Response to Case Being Considered for Oral Argument**. Please follow the form's [instructions](#) carefully.
- When setting your argument date, the court will try to work around unavoidable conflicts; the court is not able to accommodate mere scheduling preferences. You will receive notice that your case has been assigned to a calendar approximately 10 weeks before the scheduled oral argument date.
- If the parties wish to discuss settlement before an argument date is set, they should jointly request referral to the mediation unit by filing a letter **within 3 business days of this notice**, using CM/ECF (**Type of Document:** Correspondence to Court; **Subject:** request for mediation).[12545501]. [20-17316] (KS) [Entered: 09/21/2022 10:51 AM]
- 09/21/2022  [74](#)  
1 pg, 122.21 KB Filed (ECF) Attorney Mr. Brady Richard Dewar for Appellee State Bar of California response to notice for case being considered for oral argument. Date of service: 09/21/2022. [12545925] [20-17316] (Dewar, Brady) [Entered: 09/21/2022 02:36 PM]
- 09/23/2022  [75](#)  
1 pg, 163.2 KB Filed (ECF) Attorney Gregory Richard Michael, Esquire for Appellant Mr. Benjamin Kohn response to notice for case being considered for oral argument. Date of service: 09/23/2022. [12548384] [20-17316] (Michael, Gregory) [Entered: 09/23/2022 05:13 PM]
- 10/19/2022  76 This case is being considered for an upcoming oral argument calendar in San Francisco
- Please review the San Francisco sitting dates for February 2023 and the 2 subsequent sitting months in that location at [http://www.ca9.uscourts.gov/court\\_sessions](http://www.ca9.uscourts.gov/court_sessions). If you have an unavoidable conflict on any of the dates, please file [Form 32](#) **within 3 business days of this notice** using the CM/ECF filing type **Response to Case Being Considered for Oral Argument**. Please follow the form's [instructions](#) carefully.
- When setting your argument date, the court will try to work around unavoidable conflicts; the court is not able to accommodate mere scheduling preferences. You will receive notice that your case has been assigned to a calendar approximately 10 weeks before the scheduled oral argument date.



If the parties wish to discuss settlement before an argument date is set, they should jointly request referral to the mediation unit by filing a letter **within 3 business days of this notice**, using CM/ECF (**Type of Document:** Correspondence to Court; **Subject:** request for mediation).[12568209]. [20-17316] (KS) [Entered: 10/19/2022 04:31 PM]

- 10/20/2022  [77](#)  
1 pg, 122.64 KB Filed (ECF) Attorney Mr. Brady Richard Dewar for Appellee State Bar of California response to notice for case being considered for oral argument. Date of service: 10/20/2022. [12568948] [20-17316] (Dewar, Brady) [Entered: 10/20/2022 01:02 PM]
- 10/20/2022  [78](#)  
6 pg, 145.68 KB Filed (ECF) Appellant Mr. Benjamin Kohn Unopposed Motion to extend time to file Reply brief until 11/23/2022. Date of service: 10/20/2022. [12569632] [20-17316] (Michael, Gregory) [Entered: 10/20/2022 06:08 PM]
- 10/24/2022  [79](#)  
1 pg, 163.94 KB Filed (ECF) Attorney Gregory Richard Michael, Esquire for Appellant Mr. Benjamin Kohn response to notice for case being considered for oral argument. Date of service: 10/24/2022. [12571910] [20-17316] (Michael, Gregory) [Entered: 10/24/2022 04:31 PM]
- 11/01/2022  [80](#)  
1 pg, 100.06 KB Filed clerk order (Deputy Clerk: KD): Appellant's unopposed motion for a second extension of time to file the reply brief (Docket Entry No. [78](#)) is granted. The optional reply brief is due November 23, 2022. Principal briefing is complete. [12578050] (AF) [Entered: 11/01/2022 02:08 PM]
- 11/24/2022  [81](#)  
42 pg, 368.79 KB Submitted (ECF) Reply Brief for review. Submitted by Appellant Mr. Benjamin Kohn. Date of service: 11/23/2022. [12595516] [20-17316] (Yamamoto, Dorothy) [Entered: 11/24/2022 ]
- 11/25/2022  [82](#)  
2 pg, 97.11 KB Filed clerk order: The Court sua sponte grants Benjamin Kohn a 1-day extension of time to file the reply brief, which was not timely submitted. The reply brief [81](#) submitted by Benjamin Kohn is filed. Within 7 days of the filing of this order, filer is ordered to file 6 copies of the brief in paper format, accompanied by certification (attached to the end of each copy of the brief) that the brief is identical to the version submitted electronically. Cover color: gray. The paper copies shall be submitted to the principal office of the Clerk. [12595672] (LA) [Entered: 11/25/2022 10:36 AM]
- 11/29/2022  [83](#)  
2 pg, 130 KB Letter Filed (Deputy Clerk: JN): In accordance with Federal Rule of Appellate Procedure 44 and 28 U.S.C. § 2403(b), we are certifying to the United States Attorney General a constitutional challenge to a federal statute raised in a pending appeal in which the United States is not a party. The case is Kohn v. State Bar of California, Ninth Circuit docket number 20-17316. The federal statute at issue is 42 U.S.C. § 12202. [12597918] (AF) [Entered: 11/29/2022 11:35 AM]
- 11/29/2022  84  
A copy of the letter [83](#) was served on Merrick B. Garland, Attorney General, U.S. Department of Justice, 950 Pennsylvania Avenue NW, Washington, DC 20530-0001, via U.S. Mail. [12597925] (AF) [Entered: 11/29/2022 11:38 AM]
- 12/01/2022  85  
Received 6 paper copies of Reply Brief [81](#) filed by Mr. Benjamin Kohn. (sent to panel) [12600441] (SD) [Entered: 12/01/2022 03:50 PM]
- 12/04/2022  86  
Notice of Oral Argument on Monday, February 13, 2023 - 11:00 A.M. - Courtroom 3 - Scheduled Location: San Francisco CA.  
The hearing time is the local time zone at the scheduled hearing location.

View the Oral Argument Calendar for your case [here](#).

NOTE: Although your case is currently scheduled for oral argument, the panel may decide to submit the case on the briefs instead. See Fed. R. App. P. 34. Absent further order of the court, if the court does determine that oral argument is required in this case, you may have the option to appear in person at the Courthouse or remotely by video. Anyone appearing in person must review and comply with our Protocols for In Person Hearings, available [here](#). At this time, an election to appear remotely by video will not require a motion. The court expects and supports the fact that some attorneys and some judges will continue to appear remotely. If the panel determines that it will hold oral argument in your case, the Clerk's Office will contact you directly at least two weeks before the set argument date to review any requirements for in person appearance or to make any necessary arrangements for remote appearance.

Please note however that if you do elect to appear remotely, the court **strongly prefers** video over telephone appearance. Therefore, if you wish to appear remotely by telephone you will need to file a motion requesting permission to do so.

Be sure to review the [GUIDELINES](#) for important information about your hearing, including when to be available (30 minutes before the hearing time) and when and how to submit additional citations (filing electronically as far in advance of the hearing as possible).

If you are the specific attorney or self-represented party who will be arguing, use the [ACKNOWLEDGMENT OF HEARING NOTICE](#) filing type in CM/ECF no later than 28 days before Monday, February 13, 2023. No form or other attachment is required. If you will not be arguing, do not file an acknowledgment of hearing notice.[12601580]. [20-17316] (KS) [Entered: 12/04/2022 06:10 AM]

- 12/05/2022  [87](#) 3 pg, 201.78 KB Authorization for Pro Bono attorney Gregory Richard Michael, Esquire for Mr. Benjamin Kohn to travel to San Francisco to attend oral argument on 02/13/2023. See attached letter for details. [12601776] (CSR) [Entered: 12/05/2022 09:03 AM]
- 12/05/2022  [88](#) 3 pg, 201.73 KB Authorization for Pro Bono attorney Dorothy Yamamoto for Mr. Benjamin Kohn to travel to San Francisco to attend oral argument on 02/13/2023. See attached letter for details. [12601779] (CSR) [Entered: 12/05/2022 09:05 AM]
- 12/05/2022  [89](#) Filed (ECF) Acknowledgment of hearing notice by Attorney Gregory Richard Michael, Esquire for Appellant Mr. Benjamin Kohn. Hearing in San Francisco on 02/13/2023 at 11:00 A.M. (Courtroom: Courtroom 3). Filer sharing argument time: No. (Argument minutes: 15) Appearance in person or by video: I wish to appear by video. Special accommodations: NO. Filer admission status: I certify that I am admitted to practice before this Court. Date of service: 12/05/2022. [12602332] [20-17316] (Michael, Gregory) [Entered: 12/05/2022 01:27 PM]
- 12/05/2022  [90](#) Filed (ECF) Acknowledgment of hearing notice by Attorney Mr. Brady Richard Dewar for Appellee State Bar of California. Hearing in San Francisco on 02/13/2023 at 11:00 A.M. (Courtroom: 3). Filer sharing argument time: No. (Argument minutes: 15) Appearance in person or by video: I wish to appear in person. Special accommodations: NO. Filer admission status: I certify that I am admitted to practice before this Court. Date of service: 12/05/2022. [12602499] [20-17316] (Dewar, Brady) [Entered: 12/05/2022 02:58 PM]
- 01/05/2023  [91](#) Filed (ECF) notice of appearance of Laura I Alvarenga Scalia (Legal Aid at Work 180 Montgomery Street, Suite 600 San Francisco CA 94104) for Amicus Curiae Disability Rights Education and Defense Fund, Inc.. Date of service: 01/05/2023. (Party was previously proceeding with counsel.) [12624271] [20-17316] (Alvarenga Scalia, Laura) [Entered: 01/05/2023 05:10 PM]
- 01/06/2023  [92](#) Added Attorney(s) Laura Alvarenga Scalia for party(s) Amicus Curiae Disability Rights Education and Defense Fund, Inc.. [12624505] (RL) [Entered: 01/06/2023 10:09 AM]
- 01/11/2023  [93](#) Notice of Oral Argument on Wednesday, February 15, 2023 - 1:00 P.M. - Courtroom 3 - Scheduled Location: San Francisco CA.  
The hearing time is the local time zone at the scheduled hearing location.

View the Oral Argument Calendar for your case [here](#).

NOTE: Although your case is currently scheduled for oral argument, the panel may decide to submit the case on the briefs instead. See Fed. R. App. P. 34. Absent further order of the court, if the court does determine that oral argument is required in this case, you may have the option to appear in person at the Courthouse or remotely by video. Anyone appearing in person must review and comply with our Protocols for In Person Hearings, available [here](#). At this time, an election to appear remotely by video will not require a motion. The court expects and supports the fact that some attorneys and some judges will continue to appear remotely. If the panel determines that it will hold oral argument in your case, the Clerk's Office will contact you directly at least two weeks before the set argument date to review any requirements for in person appearance or to make any necessary arrangements for remote appearance.

Please note however that if you do elect to appear remotely, the court **strongly prefers** video over telephone appearance. Therefore, if you wish to appear remotely by telephone you will need to file a motion requesting permission to do so.

Be sure to review the [GUIDELINES](#) for important information about your hearing, including when to be available (30 minutes before the hearing time) and when and how to submit additional citations (filing electronically as far in advance of the hearing as possible).

If you are the specific attorney or self-represented party who will be arguing, use the [ACKNOWLEDGMENT OF HEARING NOTICE](#) filing type in CM/ECF no later than 28 days before Wednesday, February 15, 2023. No form or other attachment is required. If you will not be arguing, do not file an acknowledgment of hearing notice. [12628175]. [20-17316] (KS) [Entered: 01/11/2023 12:08 PM]

- 01/18/2023  [94](#) Filed (ECF) Acknowledgment of hearing notice by Attorney Gregory Richard Michael, Esquire for Appellant Mr. Benjamin Kohn. Hearing in San Francisco on 02/15/2023 at 1:00 P.M. (Courtroom: Courtroom 3). Filer sharing argument time: No. (Argument minutes: 15) Appearance in person or by video: I wish to appear in person. Special accommodations: NO. Filer admission status: I certify that I am admitted to practice before this Court. Date of service: 01/18/2023. [12632687] [20-17316] (Michael, Gregory) [Entered: 01/18/2023 11:24 AM]
- 01/18/2023  [95](#) Filed (ECF) Acknowledgment of hearing notice by Attorney Mr. Brady Richard Dewar for Appellee State Bar of California. Hearing in San Francisco on 02/15/2023 at 1:00 P.M. (Courtroom: Courtroom 3). Filer sharing argument time: No. Appearance in person or by video: I wish to appear in person. Special accommodations: NO. Filer admission status: I certify that I am admitted to practice before this Court. Date of service: 01/18/2023. [12632791] [20-17316] (Dewar, Brady) [Entered: 01/18/2023 12:09 PM]

02/03/2023	<input type="checkbox"/> <u>96</u> 6 pg, 153.86 KB	Received non-party filer response to Court order. [12645770] (NAC) [Entered: 02/03/2023 12:13 PM]
02/15/2023	<input type="checkbox"/> <u>97</u>	ARGUED AND SUBMITTED TO KIM MCLANE WARDLAW, CONSUELO M. CALLAHAN and JACQUELINE H. NGUYEN. The audio and video recordings of this hearing are available on our website at <a href="http://www.ca9.uscourts.gov/media/">http://www.ca9.uscourts.gov/media/</a> . [12653925] (BY) [Entered: 02/15/2023 02:24 PM]
05/19/2023	<input type="checkbox"/> <u>98</u> 1 pg, 111.3 KB	Filed order (KIM MCLANE WARDLAW, CONSUELO M. CALLAHAN and JACQUELINE H. NGUYEN): A judge of this court has called for a vote to determine whether this case should be heard en banc. The parties are directed to file simultaneous briefs setting forth their respective positions on whether this case should be heard en banc. The briefs shall not exceed 15 pages unless they comply with the alternative length limitation of 4,200 words, and they shall be filed within twenty-one (21) days of the date of this order. [12719035] (AF) [Entered: 05/19/2023 09:44 AM]
06/09/2023	<input type="checkbox"/> <u>99</u> 24 pg, 228.86 KB	Submitted (ECF) Supplemental Brief for review. Submitted by Appellees California Committee of Bar Examiners and State Bar of California. Date of service: 06/09/2023. [12732821] [20-17316] (Dewar, Brady) [Entered: 06/09/2023 03:03 PM]
06/09/2023	<input type="checkbox"/> <u>100</u> 1 pg, 92.59 KB	Filed clerk order: The supplemental brief [99] submitted by California Committee of Bar Examiners and State Bar of California is filed. No paper copies are required. [12733041] (LA) [Entered: 06/09/2023 05:02 PM]
06/09/2023	<input type="checkbox"/> <u>101</u> 28 pg, 319.42 KB	Submitted (ECF) Supplemental Brief for review. Submitted by Appellant Mr. Benjamin Kohn. Date of service: 06/09/2023. [12733155] [20-17316] (Michael, Gregory) [Entered: 06/09/2023 11:48 PM]
06/12/2023	<input type="checkbox"/> <u>102</u> 1 pg, 92.65 KB	Filed clerk order: The supplemental brief [101] submitted by Mr. Benjamin Kohn is filed. No paper copies are required. [12734018] (LA) [Entered: 06/12/2023 02:52 PM]
07/21/2023	<input type="checkbox"/> <u>103</u> 1 pg, 137.04 KB	Filed Order for PUBLICATION (MARY H. MURGUIA) Upon the vote of a majority of nonrecused active judges, it is ordered that this case be heard en banc pursuant to Federal Rule of Appellate Procedure 35(a) and Circuit Rule 35-3. Judge Koh did not participate in the deliberations or vote in this case. [12759300] (AH) [Entered: 07/21/2023 09:20 AM]
07/21/2023	<input type="checkbox"/> <u>104</u> 2 pg, 146.26 KB	Filed order (MARY H. MURGUIA): En banc oral argument will take place during the week of September 18, 2023, in San Francisco, California. The date and time will be determined by separate order. For further information or special requests regarding scheduling, please contact Deputy Clerk Paul Keller at <a href="mailto:paul_keller@ca9.uscourts.gov">paul_keller@ca9.uscourts.gov</a> or (206) 224-2236. Within seven days from the date of this order, the parties shall forward to the Clerk of Court eighteen additional paper copies of the original briefs and ten additional paper copies of the excerpts of record. The paper copies must be accompanied by certification (attached to the end of each copy of the brief) that the brief is identical to the version submitted electronically. The Form 18 certificate is available on the Court's website at <a href="http://www.ca9.uscourts.gov/forms/">http://www.ca9.uscourts.gov/forms/</a> [12759330] (AF) [Entered: 07/21/2023 09:54 AM]

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