

**U.S. District Court
California Northern District (San Francisco)
CIVIL DOCKET FOR CASE #: 3:99-cv-03387-WHO2**

Breimhorst, et al v. Educational Testing
Assigned to: Hon. William H. Orrick, Jr
Referred to: Magistrate Judge Elizabeth D. Laporte
Demand: \$0
Cause: 42:12101 Americans w/ Disabilities Act (ADA)

Date Filed: 07/12/1999
Date Terminated: 02/08/2001
Jury Demand: Both
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: Federal Question

Plaintiff

Mark Breimhorst

represented by **Joshua Geoffrey Konecky**
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Plaintiff

The International Dyslexia Association

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Plaintiff

Californians For Disability Rights

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V.

Defendant

Educational Testing Service

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Date Filed	#	Docket Text
07/12/1999	1	COMPLAINT Summons(es) issued; Fee status pd entered on 7/12/99 in the amount of \$ 150.00 (Receipt No. 3302574); jury demand [3:99-cv-03387] (ga, COURT STAFF) (Entered: 07/13/1999)
07/12/1999	2	ORDER RE COURT PROCEDURE and SCHEDULE (ADR Multi-Option) by Mag. Judge Maria-Elena James : Proof of service to be filed by 8/26/99 ; counsels' case management statement to be filed by 11/1/99 ; initial case management conference will be held 10:00 11/10/99 . (cc: all counsel) [3:99-cv-03387] (ga, COURT STAFF) (Entered: 07/13/1999)

08/17/1999	3	WAIVER OF SERVICE by defendant Educational Testing served on 8/11/99 in response to the Request for Waiver sent on 7/15/99 [3:99-cv-03387] (ga, COURT STAFF) (Entered: 08/19/1999)
08/23/1999	4	AMENDED COMPLAINT [1-1] by Plaintiff Mark Breimhorst; jury demand; adding Internationall Dyslexia, Californians for Disability Rights [3:99-cv-03387] (ga, COURT STAFF) (Entered: 08/24/1999)
09/13/1999	5	ANSWER by defendant Educational Testing to complaint [4-1] [3:99-cv-03387] (ga, COURT STAFF) (Entered: 09/16/1999)
10/01/1999	7	DECLINATION to proceed before magistrate by defendant Educational Testing [3:99-cv-03387] (ga, COURT STAFF) (Entered: 10/05/1999)
10/04/1999	6	ORDER by Mag. Judge Maria-Elena James of impending reassignment to a United States District Judge () (cc: all counsel) [3:99-cv-03387] (ga, COURT STAFF) (Entered: 10/05/1999)
10/06/1999	8	ORDER by Assignment Committee Case reassigned to Senior Judge William H. Orrick () (cc: all counsel) [3:99-cv-03387] (ga, COURT STAFF) (Entered: 10/15/1999)
11/03/1999	9	CLERK'S NOTICE Case Management Conference set for 2:00 12/9/99 ; [3:99-cv-03387] (cs, COURT STAFF) (Entered: 11/04/1999)
11/29/1999	10	CASE MANAGEMENT STATEMENT and PROPOSED ORDER filed. [3:99-cv-03387] (db, COURT STAFF) (Entered: 12/07/1999)
12/09/1999	11	MINUTES: (C/R Lydia Radovich) (Hearing Date: 12/9/99)Case Management Conference. Counsel shall agree on trial date, pretrial date, discovery cut of date and last date to hear dispositive motions. Counsel to file a proper case management order. [3:99-cv-03387] (db, COURT STAFF) (Entered: 12/16/1999)
12/13/1999	12	ORDER by Senior Judge William H. Orrick (Date Entered: 12/16/99) Parties to file a proper joint case management conference statement no later than Wednesday, 12/15/99. A trial date within 15 months, must begin on a Monday at 8:30 am. See order for conditions (cc: all counsel) [3:99-cv-03387] (db, COURT STAFF) (Entered: 12/16/1999)
12/13/1999	13	CASE MANAGEMENT STATEMENT and PROPOSED ORDER filed. Further case management conference 2/24/00: Expert disclosure, 11/17/00: Non-Expert discovery cut-off, 12/15/00: Rebuttal expert disclosure 1/5/01: Expert discovery cut-off, 2/9/01: Summary judgment motion hearing cut-off 3/15/01: Pretrial conference 4/5/01: Trial 5/3/01: [3:99-cv-03387] (db, COURT STAFF) (Entered: 12/16/1999)
12/15/1999	14	JOINT REQUEST for re filing of amended case management conf. statement. [3:99-cv-03387] (cgd, COURT STAFF) (Entered: 12/21/1999)
12/15/1999	16	ORDER by Senior Judge William H. Orrick denying proposed trial schedule [13-1] (Date Entered: 12/28/99) (cc: all counsel) [3:99-cv-03387] (RS, COURT STAFF) (Entered: 12/28/1999)
12/17/1999	15	ORDER by Senior Judge William H. Orrick granting request for refileing of amended case management conference statement [14-1]. (Date Entered: 12.21.99) (cc: all counsel) [3:99-cv-03387] (cgd, COURT STAFF) (Entered: 12/21/1999)
12/17/1999	17	SECOND AMENDED CASE MANAGEMENT STATEMENT and PROPOSED ORDER filed. [3:99-cv-03387] (RS, COURT STAFF) (Entered: 12/28/1999)
12/29/1999	18	PROOF OF SERVICE by defendant Educational Testing of request [14-1] 12/28/99 [3:99-cv-03387] (db, COURT STAFF) (Entered: 01/03/2000)
01/05/2000	19	MOTION before Senior Judge William H. Orrick by defendant Educational Testing for attorney to appear pro hac vice [3:99-cv-03387] (mmr, COURT STAFF) (Entered: 01/07/2000)
01/05/2000	19	ORDER by Senior Judge William H. Orrick granting motion for attorney to appear pro hac vice [19-1] (Date Entered: 1/7/00) (cc: all counsel) [3:99-cv-03387] (mmr, COURT STAFF) (Entered: 01/07/2000)

01/06/2000	20	NOTICE OF MOTION AND MOTION WITH MEMORANDUM OF POINTS AND AUTHORITIES before Senior Judge William H. Orrick by defendant Educational Testing for judgment on the pleadings with Notice set for 2/24/00 at 2:00 p.m. [3:99-cv-03387] (mmr, COURT STAFF) (Entered: 01/07/2000)
01/06/2000	23	CASE MANAGEMENT STATEMENT and PROPOSED ORDER filed. [3:99-cv-03387] (db, COURT STAFF) (Entered: 01/13/2000)
01/10/2000	21	APPLICATION of C. Geoffrey Weirich to appear as counsel Pro Hac Vice: Declarations etc... by defendant Educational Testing [3:99-cv-03387] (db, COURT STAFF) (Entered: 01/11/2000)
01/10/2000	22	ORDER by Senior Judge William H. Orrick granting application [21-1] (Date Entered: 1/11/00) (cc: all counsel) [3:99-cv-03387] (db, COURT STAFF) (Entered: 01/11/2000)
01/10/2000	22	NOTICE by defendant Educational Testing of association of attorney C. Geoffrey Weirich [3:99-cv-03387] (db, COURT STAFF) (Entered: 01/11/2000)
01/11/2000	24	PROOF OF SERVICE by defendant Educational Testing of orders granting the applications to appear as counsel pro hac vice [3:99-cv-03387] (db, COURT STAFF) (Entered: 01/13/2000)
01/12/2000	25	SCHEDULING ORDER by Senior Judge William H. Orrick : ; discovery cutoff 9/8/00 ; all motions hearing on 2:00 12/21/00 ; pretrial conference set for 2:00 2/15/01 ; jury trial set for 8:30 3/12/01 (cc: all counsel) [3:99-cv-03387] (db, COURT STAFF) (Entered: 01/13/2000)
01/18/2000	26	ORDER by Senior Judge William H. Orrick, the date for plaintiffs' opposition brief is extended to 2/1/00. Plaintiff's counsel will serve the opposition , this change will not alter the hearing date because defendant's reply brief will still be due on 2/10/00 (db, COURT STAFF) Modified on 01/27/2000 (Entered: 01/26/2000)
02/01/2000	27	OPPOSITION by Plaintiffs to motion for judgment on the pleadings [20-1] [3:99-cv-03387] (db, COURT STAFF) (Entered: 02/02/2000)
02/01/2000	28	NOTICE of summary of argument, by Plaintiff Mark Breimhorst, Plaintiff Int'l Dyslexia, Plaintiff Californians Rights [27-1] re opposition [3:99-cv-03387] (db, COURT STAFF) (Entered: 02/02/2000)
02/10/2000	29	STATEMENT of facts by defendant Educational Testing in support of motion for judgment on the pleadings [20-1] [3:99-cv-03387] (db, COURT STAFF) (Entered: 02/11/2000)
02/10/2000	30	REPLY by defendant Educational Testing re motion for judgment on the pleadings [20-1] [3:99-cv-03387] (db, COURT STAFF) (Entered: 02/11/2000)
02/14/2000	31	JOINT STATUS REPORT by Plaintiff, defendant, Plaintiff [3:99-cv-03387] (db, COURT STAFF) (Entered: 02/15/2000)
02/24/2000	32	MINUTES: (C/R Jim Yeoman) (Hearing Date: 2/24/00) that the motion for judgment on the pleadings [20-1] is submitted [3:99-cv-03387] (scu, COURT STAFF) (Entered: 02/25/2000)
03/27/2000	33	MEMORANDUM OPINION, AND ORDER: by Senior Judge William H. Orrick granting in part and denying in part motion for judgment on the pleadings [20-1] Granted with respect to plaintiffs' claim for violation of # 302 of the ADA. ETS' motion for judgment on the pleadings is denied in all other respects. Remaining claims to be litigated are plaintiffs' claims that ETX' flagging policy violates # 309 of the ADA, # 504 of the Rehabilitation Act, the Unruh Civil Rights Act, the Disabled Persons Act and # 17200 of the CA Bus. & Prof Code Status conference set for 2:00 5/25/00 ; A Joint Status Conference Statement will be file by 5/18/00 (Date Entered: 3/27/00) (cc: all counsel) [3:99-cv-03387] (db, COURT STAFF) Modified on 05/03/2000 (Entered: 03/27/2000)
04/28/2000	34	LETTER dated 4/25/00 from David E. Gevertz to the Court re joint request permission to participate in the scheduled 5/25/00 status conference or reschedule the status conference for 6/1/00 at 2:00 PM [3:99-cv-03387] (db, COURT STAFF) Modified on 05/03/2000 (Entered: 05/01/2000)

05/05/2000	35	CLERK'S NOTICE Rescheduling Status conference set for 2:00 6/8/00 ; Satus Conference Statements are due 10 days before the conference. [3:99-cv-03387] (db, COURT STAFF) (Entered: 05/08/2000)
05/15/2000		RECEIVED Proposed Protective Order (defendant, Plaintiff) [3:99-cv-03387] (db, COURT STAFF) (Entered: 05/16/2000)
05/17/2000	36	ORDER by Senior Judge William H. Orrick for protective order (Date Entered: 5/17/00) (cc: all counsel) [3:99-cv-03387] (db, COURT STAFF) (Entered: 05/17/2000)
05/22/2000	37	REPORTER'S TRANSCRIPT; Date of proceedings: 2/24/00 (C/R: James Yeomans) [3:99-cv-03387] (db, COURT STAFF) (Entered: 05/23/2000)
05/24/2000	38	CLERK'S NOTICE Resetting Status conference for 2:00 6/29/00 ;Status Conference Statements are due ten days before the conference. [3:99-cv-03387] (db, COURT STAFF) (Entered: 05/24/2000)
06/19/2000	39	CASE MANAGEMENT STATEMENT and PROPOSED ORDER filed. [3:99-cv-03387] (db, COURT STAFF) (Entered: 06/19/2000)
06/19/2000	40	Plaintiff's Separate CASE MANAGEMENT STATEMENT and PROPOSED ORDER filed. [3:99-cv-03387] (db, COURT STAFF) (Entered: 06/20/2000)
06/29/2000	41	MINUTES: (C/R Jim Yeomans) (Hearing Date: 6/29/00) Status conference set for 2:00 9/28/00 ; , and referring case for settlement to a US Magistrate. Defendant's motion for an extension of time for the Trial Date, submitted. [3:99-cv-03387] (db, COURT STAFF) (Entered: 06/30/2000)
06/30/2000		REFERRAL: referring case for settlement to Mag. Judge Elizabeth D. Laporte [3:99-cv-03387] (wh, COURT STAFF) (Entered: 06/30/2000)
07/13/2000	42	NOTICE OF MOTION AND MOTION WITH MEMORANDUM OF POINTS AND AUTHORITIES before Senior Judge William H. Orrick by Plaintiff to compel responses to first request for production of documents with Notice set for 8/17/00 @ 2:00 PM. [3:99-cv-03387] (db, COURT STAFF) (Entered: 07/14/2000)
07/13/2000	43	DECLARATION by Joshua Konecky on behalf of Plaintiff re motion to compel responses to first request for production of documents [42-1] [3:99-cv-03387] (db, COURT STAFF) (Entered: 07/14/2000)
07/13/2000	44	NOTICE of Summary of Argument and Evidence re: Plaintiffs' motion to compel responses to first request for production of documents by Plaintiff [3:99-cv-03387] (db, COURT STAFF) (Entered: 07/14/2000)
07/21/2000	45	ORDER by Mag. Judge Elizabeth D. Laporte Settlement conf. (Mag) at 2:00 8/16/00 ;On 8/2/00 parties to deliver to Magistrate Judge a confidential settlement conference statement. (Date Entered: 7/24/00) (cc: all counsel) [3:99-cv-03387] (db, COURT STAFF) (Entered: 07/24/2000)
07/27/2000	46	RENOTICE of hearing by Plaintiff setting motion to compel responses to first request for production of documents [42-1] ; hearing set for 2:00 8/24/00 [3:99-cv-03387] (db, COURT STAFF) (Entered: 07/28/2000)
08/10/2000	47	RESPONSE by defendant Educational Testing re motion to compel responses to first request for production of documents [42-1] [3:99-cv-03387] (db, COURT STAFF) (Entered: 08/11/2000)
08/10/2000	48	ORDER by Mag. Judge Elizabeth D. Laporte excusing attendance at settlement conference that Patricia Taylor, associate General Counsel for ETS be excused from personally appearing at the settlement conference set 8/16/00. No opposition was filed by plaintiffs. Patricia Taylor be available by phone from 2 PM until further notice on 8/16/00. (Date Entered: 8/14/00) (cc: all counsel) [3:99-cv-03387] (db, COURT STAFF) (Entered: 08/14/2000)
08/16/2000	49	MINUTES: Magistrate Laporte (C/R Tape #SC) (Hearing Date: 8/16/00) Settlement Conference. Case did not settle. Other: Settlement Conference continuance to be set. 5 Hours. [3:99-cv-03387] (db, COURT STAFF) (Entered: 08/16/2000)

		08/17/2000)
08/17/2000	50	REPLY by Plaintiff re motion to compel responses to first request for production of documents [42-1] [3:99-cv-03387] (db, COURT STAFF) (Entered: 08/17/2000)
08/17/2000	51	Joint REQUEST by Plaintiff Mark Breimhorst for short extension in non-expert discovery schedule based on good cause to facilitate settlement [3:99-cv-03387] (lal, COURT STAFF) (Entered: 08/21/2000)
08/21/2000	52	REPORTER'S TRANSCRIPT; Date of proceedings: 6/29/00 (C/R: James Yeomans) minutes [41-3] [3:99-cv-03387] (rbe, COURT STAFF) (Entered: 08/24/2000)
08/22/2000	53	ORDER by Senior Judge William H. Orrick granting request [51-1]; setting hearing on motion to compel responses to first request for production of documents [42-1] 2:00 9/28/00 Discovery cutoff set for 10/6/00 ; (Date Entered: 8/24/00) (cc: all counsel) [3:99-cv-03387] (rbe, COURT STAFF) (Entered: 08/24/2000)
08/23/2000	54	ORDER by Mag. Judge Elizabeth D. Laporte Settlement conf. (Mag) at 2:00 9/27/00 ; (Date Entered: 8/24/00) (cc: all counsel) [3:99-cv-03387] (rbe, COURT STAFF) (Entered: 08/24/2000)
09/08/2000	55	MINUTES: (C/R none) (Hearing Date: 8/16/00) Settlement conf. (Mag)reset for 2:00 9/27/00 ; [3:99-cv-03387] (db, COURT STAFF) (Entered: 09/11/2000)
09/18/2000	56	JOINT STATUS CONFERENCE STATEMENT by Plaintiff, defendant, [3:99-cv-03387] (db, COURT STAFF) (Entered: 09/19/2000)
09/27/2000	57	ORDER by Mag. Judge Elizabeth D. Laporte for leave to for appearance telephonically at settlement conference for Tom Viall and Jon Lonbergb from 12 noon PM until further notice on 9/27/00. (Date Entered: 9/28/00) (cc: all counsel) [3:99-cv-03387] (db, COURT STAFF) (Entered: 09/28/2000)
10/02/2000	58	CLERK'S NOTICE Status conference set for 2:00 10/19/00 ; Status Conference Statements are due ten days before the conference [3:99-cv-03387] (db, COURT STAFF) (Entered: 10/02/2000)
10/04/2000	59	MINUTES:Magistrate Laporte (C/R none) (Hearing Date: 9/27/00) Settlement conference held for six hours. [3:99-cv-03387] (db, COURT STAFF) (Entered: 10/05/2000)
10/04/2000	60	MINUTES: Magistrate Laporte(C/R none) (Hearing Date: 9/27/00) Settlement Conference held, and case settled. 6 hours. [3:99-cv-03387] (db, COURT STAFF) (Entered: 10/10/2000)
10/10/2000	61	STATUS CONFERENCE STATEMENT by Plaintiff, defendant, Plaintiff [3:99-cv-03387] (db, COURT STAFF) (Entered: 10/12/2000)
10/12/2000	62	ORDER by Senior Judge William H. Orrick Status Conference set 10/19/00 @ 2:00 PM vacated per letter (Date Entered: 10/13/00) (cc: all counsel) [3:99-cv-03387] (db, COURT STAFF) (Entered: 10/13/2000)
02/07/2001	63	NOTICE by Plaintiff, defendant, of parties stipulation to voluntarily dismiss action with prejudice. [3:99-cv-03387] (db, COURT STAFF) (Entered: 02/08/2001)
02/08/2001	64	STIPULATION and ORDER by Senior Judge William H. Orrick : dismissing case voluntarily with prejudice (cc: all counsel) [3:99-cv-03387] (db, COURT STAFF) (Entered: 02/09/2001)