

MAR 14 2014

David J. Bradley, Clerk of Court

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JESSICA GALEAS

VS.

LAW SCHOOL ADMISSION COUNCIL, INC.
AND
AMERICAN BAR ASSOCIATION D/B/A ABA

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CIVIL ACTION NO.:

ORIGINAL COMPLAINT

Plaintiff, Jessica Galeas, respectfully submits this complaint, for the Southern District of Texas. Defendants the AMERICAN BAR ASSOCIATION d/b/a ABA and LAW SCHOOL ADMISSION COUNCIL, INC. and its trustees by and through their policies, procedures, practices, and their employees discriminated against Plaintiff on the bases of her disability. Defendants imposed undisclosed fees; failed to provide the Plaintiff, an individual with a disability, with the proper communication and necessary services; and failed take such steps as may be necessary to ensure that Plaintiff and no individual with a disability is excluded, denied service, segregated or otherwise treated differently than other individuals with disabilities.

LSAC’s policies, procedures, and practices violate the Americans with Disabilities Act of 1990, as amended, (“ADA”), 42 U.S.C. § 12101, *et seq.*, and Section 504 of the Rehabilitation Act of 1973 (“Section 504”), 29 U.S.C. § 794 and Title IX and the Equal Protection Clause of the 14th Amendment, 42 U.S.C. §12188 and Title IX and 34 C.F.R. § 106.41(c)(1).

ORIGINAL COMPLAINT

JURISDICTION AND VENUE

1. This Court has jurisdiction over this action under 42 U.S.C. § 12188(b) (1) (B) and 28 U.S.C. §§ 1331 and 1345.
2. Venue is proper in the Southern District of Texas pursuant to 28 U.S.C. § 1391(b) (2) because a substantial part of the events or omissions giving rise to the claims occurred in this judicial district.

PARTIES

1. Defendant, Law School Admission Council, Inc. is located at 662 Penn Street, Newton PA 18940-0995 and may be served by delivering a copy of the summons and complaint at 661 Penn St. Box 40, Newton PA 18940.
2. Defendant, the American Bar Association headquarters are located at 321 North Clark Street, Chicago Illinois 60654 and may be served by delivering a copy of the summons and complaint to their registered agent Jarisse J. Sanborn located at 321 N. Clark St., Chicago IL 60654.
3. Plaintiff, is an individual with a disability, or associated with individuals with, a disability, and covered by title III of the ADA, 42 U.S.C. §§12102(1) & (3), 12182(b); 28 C.F.R. §36.104
4. Defendants are both private entities, and its trustees and operators for each are covered by Title III of the ADA, 42 U.S.C. 12181 (7)(B) and 28 C.F. R. 36.104.

ORIGINAL COMPLAINT

FACTS

1. One in five Americans has a disability, according to the United States Census Bureau.
2. Plaintiff is an individual with a disability within the meaning of the ADA Title III and a person with a disability within meaning of Chapter 121.
3. Defendants, by delaying and denying the accommodations requests from individuals with disabilities force millions of individuals with disabilities, including Plaintiff to pay the registration fee several times in addition to paying the Defendant rescheduling fees, and other undisclosed fees. Defendants' revenue rises by approximately \$18 million dollars each time they delay the accommodations process.
4. Defendants do not employ any medical experts; physicians; specialists; or any qualified individuals to help in the assessments of the thousands of accommodation requests they receive from individuals with disabilities.
5. Plaintiff, a female student was diagnosed with Inattentive Type of ADHD; this type is more easily missed at an early age. However, as responsibility for schoolwork and life management increases, trouble staying organized becomes more apparent.
6. Plaintiff submitted her past and current medical records, four separate expert evaluations her current physician's file; an educational reports; neurological assessments; and medical letters, all of which document her disability. To date, Defendants refuse to grant the necessary services and accommodations for examination needed to enroll in a legal post -secondary program.
7. According to Defendants, six million people registered for the LSAT exam. If one out of every five Americans has a disability, therefore approximately a total of 1.2 million

ORIGINAL COMPLAINT

individuals with disabilities registered for the LSAT exam. Accounting for \$18 million of Defendant's revenue. Nevertheless, when Defendants delay accommodation requests just one time Defendants revenue increase \$18 million dollars each time bringing their revenue from approximately \$96,000,000 to \$114,000,000.00 and so forth.

8. Defendant's profits are the result of their nonexistent refunds policy or alternative options for people with disabilities who need additional time to gather the documents and lengthy assessments Defendants request.
9. Plaintiff paid Defendant's LSAC registration fee (\$160.00) a total of four times totaling Six Hundred and Forty Dollars. Plaintiff made several attempts to cancel and obtain a full refund before the deadline. However, the Defendants disabled Plaintiff's access to cancel online. Therefore, Plaintiff called Defendants' administrative office in an attempt to obtain a full refund. Plaintiff did not obtain a refund and unsuccessful in cancelling the test, and was charged a \$40.00 rescheduling fee.
10. Furthermore, Plaintiff was forced to pay undisclosed fee of \$83.00, which is a violation of the ADA.
11. For the tax year beginning in July 1, 2011 and ending in 2012, Defendant LSAC, Inc., an independent contractor made approximately (\$200,602,972.00) in the United States of America.
12. Defendants failed to review all of Plaintiff's prior and current medical documents and evaluations from various medical and educational experts that support her need for accommodations. And proceeded to make unreasonable requests for documentation and additional assessments that varied greatly from each other.

ORIGINAL COMPLAINT

Page 4 of 12

13. Defendants denied Plaintiff's necessary services and accommodations based on her ability to read a single format sentence. Defendants used the results of the single format sentence section of the Woodcock Johnson assessment, unrelated and not similar to the LSAT exam to deny Plaintiff's accommodations.
14. According to LSAT, there were six million people who registered for the LSAT but it is unclear how approximately the 1.2 million requests from individuals with disabilities are processed and evaluated by the Defendant's accommodation department. This means Defendants process 100,000 accommodation requests monthly. Therefore, averaging 25,000 requests a week and processing 5,000 requests daily. Defendant's accommodation department consists of two to three staff member.
15. Regulations require public entities' communications with individuals with disabilities to be as effective as the entities communications with others 28.C.F.R. 35.160(a)(1). However, when Plaintiff called Defendant's administrative office to inquire about Woodcock Johnson assessment providers, she was told by the accommodation department, "We are not a referral service,"
16. Plaintiff called Defendant's offices on a separate occasion to inquire about the denial letter Defendants mailed. The employee was unable to answer any questions regarding the denial letter and was told by the employee to "I don't know. Ask your doctor."
17. Defendant's administrative employees inability to discuss and answer basic questions; explain the denial letter, and their careless acknowledgment of Plaintiff's disability is evidence of their inept inability to fully review and understand the requests being made by individuals with disabilities. Defendants currently employ approximately 28

ORIGINAL COMPLAINT

employees this includes trustees, officers, directors, key employees, and highest compensated employees. None of which are physicians, medical experts; consultants or are qualified or have any experience in the medical field.

18. Plaintiff, an individual with a disability, incurred approximately Eight Thousand and Three Hundred Dollars (**\$8,300.00**) in fees for additional assessments.
19. Yet, according to LSAC, "*It is not sufficient for the current evaluation report to simply refer to a prior diagnosis as confirmatory evidence of a present condition.*" Therefore, these assessments serve no purpose and they were only used to delay Plaintiff's request and eventually used to by Defendants to deny the necessary services and accommodations.
20. Additionally, Defendant's LSAC's guidelines states, "Results and summary from a timed reading comprehension measure, which has been normed on adults and which allows for both extended and regular administrators; *the Nelson-Denny Reading Test is the preferred instrument.*" Yet, Defendant's ignored Plaintiff's results for the Nelson Reading Test, which supports her need for the accommodations.
21. In fact, Defendants based Plaintiff's denial of accommodations on the results of the Woodcock Johnson, The Woodcock Johnson is based on single sentence format as opposed to using the Nelson Reading Denny which is much more similar to the LSAT exam and the preferred method
22. Defendants failed to provide testing accommodations so as to best ensure that test results reflect aptitude rather than disability.

ORIGINAL COMPLAINT

23. Once the registrations fee had been paid and the application for accommodations has been submitted. Defendants do not provide refunds to individuals with disabilities so they can gather the additional reports, assessments and documents the Defendants' office requests. Defendants immediately generate a letter asking individuals with disabilities for additional documents. Therefore, Defendants force the individuals with disabilities to cancel and subsequently loose the registration fee. If the individual does not cancel the test he or she is forced to pay additional fees to temporarily post-pone test only until the next scheduled test date only. LSAC will subsequently send another request to the individual for more documents which will lead to another additional fee and so forth.

24. Pursuant the ADA, Title III, any private entity that offers examinations or courses related to applications, licensing, certification, or credentialing for secondary or postsecondary education, professional, or trade purposes shall offer such examinations or courses in a place and manner accessible to persons with disabilities or offer alternative accessible arrangements for such individuals.

COUNT I-Title IX and The Equal Protection Clause of the 14th Amendment
Discrimination Based on Sex (Title IX and 34 C.F.R. § 106.41(c)(1).)

Plaintiff incorporates herein, as if fully set forth, the allegations contained in paragraphs 1-25.

Through the actions outlined above, the Defendants –discriminated against Plaintiff by excluding and denying her equal access to the goods and services of enrollment and access to a legal post-secondary education and the opportunity to pursue a legal career- S.C. 42 U.S.C. § 12182(b)(1)(E).

ORIGINAL COMPLAINT

Plaintiff, a female is capable of participating and enrolling in a law school once the accommodations for the LSAT examination are granted. However, Defendants denied and refused to provide Plaintiff, a female, the necessary services and accommodations for the exam. Yet Plaintiff's male counterparts, currently receiving similar medical treatment as Plaintiff are granted the accommodations. Defendants violated Title IX and the Equal Protection Clause of the Fourteenth Amendment.

Defendants refuse to grant the necessary services and accommodations to Plaintiff, a female minority student diagnosed with Inattentive Type of ADHD, by claiming she has no prior documented history contrary to her male counterparts who are granted accommodations because they were diagnosed at a younger age due to their Hyperactivity Type of ADHD. As opposed to inattentiveness, which symptom includes daydreaming and is mistakenly attributed to girls being girls. This type is more easily missed at an early age. However, as responsibility for schoolwork and life management increases, trouble staying organized becomes more apparent.

Furthermore, Plaintiff provided Defendant several years of medical documents, current medical records, four different specialists evaluations, neurological assessments, T.O.V.A.; educational expert report and various other assessments, including Defendants very own preferred assessment, the Nelson Reading Test, which supports her need of additional time for the exam and confirmed her disability. Defendants proceeded to deny Plaintiff the necessary services and accommodations.

Thereby Defendants provided inferior services; and negatively affecting and prevented her equal access to post-secondary education, goods and services.

ORIGINAL COMPLAINT

No person in the United States shall, on the basis of sex, be excluded from participation in be denied the benefits of, or be subjected to discrimination under any education program or activity.

Plaintiff was harmed by the Defendants' discrimination and therefore are aggrieved persons as defined in 42 U.S.C. §12188 and (Title IX and 34 C.F.R. § 106.41(c) (1).)

COUNT II-TITLE III
DISCRIMINATION BASED ON DISABILITY

Pursuant the ADA, Title III, any private entity that offers examinations or courses related to applications, licensing, certification, or credentialing for secondary or postsecondary education, professional, or trade purposes shall offer such examinations or courses in a place and manner accessible to persons with disabilities or offer alternative accessible arrangements for such individuals.

Defendants, both private entities mandate and enforce law school examinations, applications, licensing, certification, or credentialing of postsecondary legal education programs. As such, Defendants refused to offer such examination, the LSAT, in manner accessible to Plaintiff, a female with a learning disability, and failed to offer Plaintiff alternative accessible arrangements.

Plaintiff was excluded, denied services, segregated or otherwise treated differently than other individuals. Defendants' policies, procedures and practices intentionally exploited Plaintiff, an individual with a disability and all individuals with a disability in order to increase their revenue.

ORIGINAL COMPLAINT

It is discriminatory to subject an individual on the basis of a disability or disabilities of such individual, directly, or through contractual, licensing, or other arrangements, to a denial of the opportunity of the individual to participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations of an entity. Defendant ABA is responsible for managing its test administrator company's policies, procedures, and practices; thereby ensuring that Plaintiff and all individuals with disabilities have equal access to a post-secondary education. Additionally, Defendants failed to offer any grievance procedures for Plaintiff, an individual with a disability, or any alternative options, violating the ADA. Both Defendants are under agreement to make post-secondary legal education accessible to individuals with disabilities.

Defendants discriminated against Plaintiff by the imposition or application of eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any goods, services, facilities, privileges, advantages, or accommodations, thereby violating the ADA. Defendants request for several additional unrelated assessments prior to reviewing Plaintiff's accommodation request was unreasonable and not completed in timely manner by Defendant these resulted in Plaintiff incurring several fees from Defendant. Furthermore, Plaintiff was denied the accommodations on the basis about her abilities to meet requirements that the LSAT exam is not designed to test, which is prohibited. Because of Defendants several unreasonable request for the past year and denial of the accommodations for the exam Plaintiff has been unable to proceed with enrollment in a post-secondary facility.

ORIGINAL COMPLAINT

Page 10 of 12

Defendants failed to make reasonable modifications in policies, practices, or procedures, when such modifications are necessary to afford such goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities.

PRAYER FOR RELIEF

WHEREFORE, the United States demands judgment be entered against Defendants and prays that the Court enter an order that:

Declares that the Defendants violated title III of the ADA, 42 U.S.C. §§12181 et seq. and its implementing regulation, 28 C.F.R. part 36, as alleged herein.

Enjoins the Defendants, their officers, employees, agents, successors, and all other persons in active concert or participation with any of them, from:

Discriminating on the basis of disability, as prohibited by title III of the ADA, 42 U.S.C. §§12181-12189, and its implementing regulation, 28 C.F.R. part 36, in any aspect of the provision of goods and services;

Discriminating against any individual because of that individual's known relationship or association with an individual with a disability, as prohibited by 42 U.S.C. §12182(b)(1)(E) and 28 C.F.R. §36.205, in any aspect of the provision of goods and services offered by LSAC, Inc., and the American Bar Association.

Retaliating, coercing, intimidating, threatening, or interfering with any individual in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account

ORIGINAL COMPLAINT

of his or her having aided or encouraged any other individual in the exercise or enjoyment of any right granted or protected by the ADA, 42 U.S.C. §12203.

Requires that Defendants establish a written policy for accommodating patrons with disabilities, as well as train all of their employees on the new policy and their obligations under the ADA generally;

Awards monetary damages to each person injured by each of the Defendants' conduct, pursuant to 42 U.S.C. §12189.

Respectfully submitted,

JESSICA GALEAS

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PLAINTIFF

ORIGINAL COMPLAINT

Page 12 of 12