

) United States District Court
Andrew U. D. Straw,) Northern District of Illinois
Plaintiff)
) Case No. 1:14-cv-5194
v.) Jury Trial Not Demanded
American Bar Association Section of)
Legal Education and Admission to)
the Bar, et. al.,)

VERIFIED FIRST AMENDED COMPLAINT

Comes now plaintiff Andrew U. D. Straw, for my complaint for redress of damages from the American Bar Association Section of Legal Education and Admission to the Bar, et. al., defendants, and having considered the facts and law further, amend my complaint as follows:

STATEMENT

1. I incorporate all exhibits I heretofore submitted to the Court by reference.
2. I allege that I am a person with mental and physical disabilities.

I have bipolar disorder. I also have injuries from a reckless driver hitting me on my way to work at the Indiana Supreme Court.

These include a crushed hip and leg broken in four places; I have approximately 30 pins holding my hip and leg together, plus a total hip replacement.

3. My injuries give me standing to challenge discrimination on the basis of both physical and mental disabilities. I have standing here.
4. I am an attorney and I practice disability rights law. I am also a political advocate for disability rights. (See Plaintiff's Exhibits 1 & 2)
5. I was recognized by the American Bar Association's Commission for Disability Rights as its "Spotlight" disabled American attorney for January of 2014. (See Plaintiff's Exhibit 2)
6. I have challenged disability violations in state and federal court on my own account, *pro se*, and before state and federal civil rights agencies, *pro se*. *Straw v. Chamber, et.al.*, 2013L063066 (Cook Cty Cir. Ct.), *Straw v. Kloecker, et. al.*, 14-1714 (U.S. Court App. 7th Cir.), *Straw v. Indiana Democratic Party*, 93A02-1406-EX-399 (Ind. Ct. App. 2014), *Straw v. Illinois*, CR-13-8 (U.S.

Treasury), *Straw v. Indiana*, DJ# 204-26S-189 (U.S. Department of Justice).

7. I was found “qualified” by the U.S. Office of Personnel Management to be general counsel for the U.S. Access Board, the federal agency that establishes disability access standards in the United States, including for the Americans with Disabilities Act. (See Plaintiff’s Exhibit 3)
8. I have a Doctor of Jurisprudence degree from Indiana University-Maurer School of Law. Graduation: 12/31/1997
9. I am admitted to practice law in Indiana (2002)¹, and I allege that I was discriminated against on the basis of disability by the Indiana State Board of Law Examiners in 2002. When I challenged the consent decree I was forced to sign to get my license, alleging ADA Title II violations and citing *Tennessee v. Lane*, 504 U.S. 509 (2004), the Indiana State Board of Law Examiners provided me with an unencumbered license in 2006.

¹ I am also admitted to the Bar in Virginia, but my status there is currently “Disabled: Lifetime” by my choice, and I have not practiced law there since I lived in Virginia in 2000, when I worked as corporate counsel for famous transportation planner Alan M. Voorhees.

10. I wish to write a dissertation and obtain a Ph.D. with my topic to be: discrimination on the basis of disability in law school admissions and state supreme court rules of admission and discipline, to cover all 50 states.
11. My Ph.D. dissertation title is: “Combating Disability Discrimination in the U.S. Legal System.” (See Plaintiff’s Exhibit 6)
12. “All law schools approved by the American Bar Association are LSAC members...” (See Plaintiff’s Exhibit 4)
13. Discrimination in law school admissions is universal. The Law School Admission Test was conducted by the LSAC so that disabled test-takers who asked for accommodations were “flagged” by its publisher, the Law School Admissions Council (LSAC). This “flagging” was then provided to the law schools. This of course is discriminatory, and the LSAC (with all ABA-accredited law schools as members) admitted as much in May of 2014 in its consent agreement with the U.S. Department of Justice. (See Plaintiff’s Exhibits 5 & 8)

14. I sought to know which law school was admitting the highest percentage of its class with disabilities, because my work is very sensitive and I wanted a school that is not discriminating as much as the others. Following the May announcement by the Department of Justice of LSAC's consent agreement, I began searching for such a school.
15. What I found is that none of the top 50 law schools, according to U.S. News & World Report, provide disability statistical information online regarding their classes.
16. All of them provide gender or minority status, or both. (See Plaintiff's Exhibits Class1-Class50)
17. All universities are required to have accommodations after admission, and this is not the issue for me. The issue is *discrimination in admissions* before students are even eligible to ask for those accommodations. Not providing information on class profiles allows law schools to hide their poor records, and hide the likelihood that further discrimination is likely at that school.
18. Because all ABA-accredited law schools have been provided the "flagged" information to identify disabled students, and

because all are on the LSAC which flagged these students for them, hiding disabled student statistics is these schools' means to hide the discrimination in which they have been engaging through the system. The *law schools already discriminated and admitted as much*, since LSAC admitted it and they are *all members* of LSAC.

19. These schools are leaders in the field of law, and graduated the top attorneys in law firms, government, and the private sector. When they discriminate, they create generations of lawyers with an artificially low number who have disabilities. That low number is not sufficient to meet the needs of the millions of Americans who have mental and physical disabilities.

20. This is what must change. My doctorate after years of experience will document the barriers in law school admissions and bar admissions that make the legal profession insensitive to disability rights, even when Congress voted unanimously to strengthen the ADA in both the United States House of Representatives and the United States Senate. Those unanimous changes reversed several U.S. Supreme Court decisions limiting

disability rights, and those reversed decisions are a symptom of the problem.

21. When the law schools hid class profile disability information, it affected my ability to choose a school that discriminates less, since I have mental and physical disabilities myself and I am studying this phenomenon. I allege that a school that discriminates less will be more supportive of my work, and less likely to undermine my work.

22. The American Bar Association Section of Legal Education and Admission to the Bar mandates its Standard 509 form for all accredited law schools to report information about the schools. (See Plaintiff's Exhibits 509.1-509.50)

23. Disability is not mandated information regarding law school classes on the 509 form. (See Plaintiff's Exhibits 509.1-509.50)

24. When I asked, the American Bar Association refused to adjust its 509 form to include disability statistics in class information. This is wrong, contrary to law and human rights, and the ABA must change the form.

25. The refusal injured me, since I seek to do my Ph.D. at a school that publishes this information to reduce the chance of discrimination to myself and others, and protecting others' disability rights is a right protected under the ADA:

(a) Retaliation

No person shall discriminate against any individual because such individual has **opposed any act or practice** made unlawful by this chapter or because such individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this chapter.

(b) Interference, coercion, or intimidation

It shall be unlawful to coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of my or her having exercised or enjoyed, or on account of my or her **having aided or encouraged any other individual** in the exercise or enjoyment of, any right granted or protected by this chapter.

42 U.S.C. § 12203 (a, b)

26. I have opposed discrimination in law school admissions and in bar admissions and in law school procedures and practices. I am opposed to discrimination where I may find it, and right now I find it on Form 509.

27. Disability discrimination in the legal system and barriers to becoming a lawyer or judge with disabilities are the battleground of a hot civil rights war. Following the LSAC's defeat in discriminating with the very test used by law schools in admissions, the LSAT, it is time to find out the raw numbers of students with disabilities as a benchmark.

28. Women needed these statistics decades ago, and now we can see officially (on the 509 form) how most schools have about 50% women now. Minority students needed these statistics decades ago, and now we see how most schools have improved these numbers also. Students with disabilities need these statistics just as much to combat discrimination and make choices about where to study. Law schools may not make the specious argument that asking admitted students these numbers is discriminatory. The law schools have *already discriminated*; the purpose of asking

(with anonymity) now is to record these raw numbers and use them as a benchmark to evaluate future classes and progress.

29. I need the numbers, as I was not only discriminated against through this lack of information, but I need it for my work, which will expose discrimination and help eliminate it for other law students. This very discrimination is the topic of my doctoral dissertation. (See Plaintiff's Exhibit 6)

30. I am well prepared, and the U.S. government has affirmed it. In May/June of 2014, I was deemed highly qualified, and referred to the hiring official at the Library of Congress (to be an Administrative Librarian), the U.S. Department of Transportation (to be the Director, Departmental Office of Human Resources Management), and the U.S. Army (to be Attorney Advisor, Army Medical Command). (See Plaintiff's Exhibit 7)

31. I believe that not providing the information I requested creates an *information barrier* to admissions for myself and to my doctoral work, since students with disabilities like myself were being discriminated by every single one of these law schools

through their membership in the discriminating Law School Admission Council. (See Plaintiff's Exhibits 5 & 8)

32. Congress has found in 29 U.S.C. §701 that:

“(5) individuals with disabilities **continually encounter various forms of discrimination** in such critical areas as employment, housing, **public accommodations**, **education**, transportation, **communication**, recreation, institutionalization, health services, voting, and **public services**; and”

“(6) the goals of the Nation properly include the goal of providing individuals with disabilities with **the tools necessary** to—

(A) **make informed choices and decisions**; and

(B) achieve **equality of opportunity, full inclusion and integration in society**, employment, independent living, and economic and social self-sufficiency, for such individuals.”

33. These “top 50” law schools, as defined by the U.S. News and World Report rankings, have discriminated, and continue to discriminate. These “top 50” law schools have refused to provide **“the tools necessary to make informed choices and decisions”** about which school to attend.

34. I wished to attend a school that discriminates less on the basis of disability, as is my right, and these schools are **hiding which school that is**. These law schools are hiding their history of discrimination from students by hiding their disability enrollment statistics. They are hiding their current discrimination in the latest class, even after LSAC admitted what their discriminatory scheme was: flagging LSAT scores, then identifying students who had flagged scores to LSAC's members, *all ABA-accredited law schools*.

35. Most states only will allow graduates of ABA-accredited law schools to sit for the bar exam, so discrimination by these schools and the ABA is the *human rights bottleneck* for the legal profession and judiciary as well.

36. The American Bar Association is assisting these "top 50" law schools in discriminating by not mandating disability statistics on its Standard 509 form. The 509 form should show how many students with disabilities are in law school classes, just as it does minority status or gender.

37. Without this benchmark, schools will have no motivation to change and take affirmative steps to reverse the discrimination that has existed up to this time.
38. This discrimination has harmed me as a prospective doctoral student in seeking a university that discriminates less, and it harms every disabled prospective law student, who deserve to know which schools were discriminating against them in the severest and most basic ways (admissions), and which schools were doing better.

REMOVAL OF DEFENDANTS

39. Although I would find it helpful to know which law schools provide more law professors with disabilities, I recognize that mandating the law professors to reveal this information, even anonymously, could be an invasion that could lead to discrimination against them in some cases, especially given the history of discrimination in law student admissions, which appears to be universal. For this reason, I no longer seek the law professor disability information.

40. Furthermore, the law schools are responsible for not publishing the information about disability, but the ABA also does not provide this information on its Standard Form 509. If the ABA mandates a **disability data point** on Form 509, it will be unnecessary to get injunctions against individual schools. Also, there are 203 ABA-accredited law schools, more than four times the original number of law school defendants in this case. With one small change in the American Bar Association's Form 509, all 203 accredited law schools will provide baseline information to all prospective law students with disabilities, just like the Form 509 does for both race and gender. Disability information belongs on that form, and I personally need it to make my doctoral program decisions. Because no one law school can fix the problem, but the ABA can make a small effort on Form 509 that will do so, I hereby remove all law school defendants and leave only the ABA.

AMERICANS WITH DISABILITIES ACT, TITLE III

41. The ADA, Title III, prohibits private entities such as law schools at private universities from discriminating as “public accommodations.” 42 U.S.C. §12181(7)(J).

42. 42 U.S.C. §12182(a) General rule:

43. “No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation.”

44. 42 U.S.C. §12182(b)(1)(D)

(D) Administrative methods

An individual or entity shall not, directly or through contractual or other arrangements, utilize standards or criteria or methods of administration

(i) that have the effect of discriminating on the basis of disability; or (ii) that perpetuate the discrimination of others who are subject to common administrative control.

45. 42 U.S.C. §12182(b)(2)(A)(ii) prohibits:

46. “a failure 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, unless the entity

can demonstrate that making such modifications would fundamentally alter the nature of such goods, services, facilities, privileges, advantages, or accommodations;”

47. In the case of these “top 50” law schools, all of them discriminated under the terms of their consent agreement with the Department of Justice in May of 2014. Not providing the statistics allows them to perpetuate their own discrimination with no oversight.

48. The law schools have agreed that they discriminated, because all are members of the Law School Admission Council, and all received the “flagged” scores.

49. The terms of that agreement did not include the positive step of mandating them to provide statistics on disabled students in law school classes, but this is **absolutely necessary to ensure discrimination stops**, and to see the extent of the discrimination that has been happening under the previous discriminatory LSAT-“flagging” regime.

REQUEST FOR RELIEF

50. I, Andrew U. D. Straw, respectfully seek no monetary damages against the American Bar Association, but instead appropriate injunctive relief under the ADA. I respectfully request that this honorable Court provide injunctive relief to mandate that the American Bar Association will immediately include disability statistics about law student classes on its Standard Form 509. ABA's mandatory reporting system makes it a private entity serving very public purposes, and the civil rights information is absolutely vital going forward. Law students from each incoming class at each school should be asked to provide this information in an absolutely confidential manner, **just as they do with gender and minority status.**

51. I respectfully request \$400 from the American Bar Association to reimburse my court filing costs here. Defendant American Bar Association has taken part in the "flagging-discriminating-hiding statistics" system which has heretofore been used to exclude disabled law students. The ABA is aware of its own internal failings with regard to disabled attorneys being

nearly absent from ABA leadership positions, evidenced in the latest issue of its ABA Goal III Report. Its Standard Form 509 does not ask for disability statistics, and this has been the excuse law schools give in not providing this vital information. Forcing the ABA to include disability on its mandatory form 509 is critical to establishing, monitoring, and addressing disability discrimination we know is taking place.

52. The ABA accredits law schools, and its lack of leadership has encouraged law schools to discriminate, knowing full well that the ABA has not made them reveal their discrimination in mandated statistics.

53. LSAC admitted that its flagging of disabled students' scores was a discriminatory scheme by the Council to exclude disabled students from law school. ALL ABA-accredited law schools were participating. The ABA's Standard and mandated Form 509 is the universal reporting mechanism where disability should appear so that efforts to reverse the history of discrimination can be measured. As they say, "if you don't measure it, it didn't happen."

54. If a legal profession that does not discriminate is an important goal to the legal profession, to the judiciary, to law schools, and to the ABA, building that house requires tools. Form 509 is a very important one of those tools. Let's make sure Form 509 works properly in recording the state of disability access in law school admissions. I respectfully request this relief from this Honorable Court, and any other relief the Court deems just under the circumstances.

JURISDICTION

55. The Court has jurisdiction over this action pursuant to 42 U.S.C. §12133 and 42 U.S.C. §12188(a)(1) and 29 U.S.C. §794(a). The Court may grant injunctive relief pursuant to the Americans with Disabilities Act, 42 U.S.C. §§12101, 12188(a)(2) and attorney fees and costs under 42 U.S.C. §§12205 . Therefore, this case is under federal question jurisdiction under 28 U.S.C. §1331.

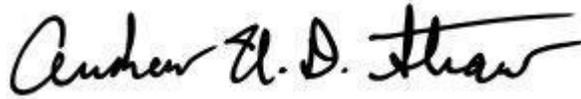
VENUE

56. Venue lies in this District and this Division pursuant to 28 U.S.C. § 1391 because the plaintiff lives in Cook County, Illinois, and discrimination took place there. The American Bar

Association Section of Legal Education and Admissions to the Bar is located in this federal District, in Chicago. All of the law schools are now removed as defendants. I downloaded the 509 forms and the class profile information on my computer in Streamwood, Illinois.

I, Andrew U. D. Straw, provided the above amendments and statements and verify under penalty of perjury that they are true to the best of my knowledge and belief.

Respectfully submitted,



ANDREW U. D. STRAW

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Date: this 31st Day of October, 2014

CERTIFICATE OF SERVICE

I hereby certify that on the date set forth below, I electronically filed the foregoing:

VERIFIED AMENDED COMPLAINT

with the Court using the Court's CM/ECF system, which will serve the attached on all counsel of record.

Dated this 31st day of October, 2014



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