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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

SARA GRANDA,

Plaintiff,

v.

LAW SCHOOL ADMISSION COUNCIL,
INC.,

Defendant.

CIV-S-05-1090 DFL KJM

MEMORANDUM OF OPINION
AND ORDER

Plaintiff Sara Granda moves for a temporary restraining order to compel defendant Law School Admission Council, Inc. ("LSAC") to grant her request for accommodations for the June 6, 2005 Law School Admissions Test ("LSAT"). The plaintiff's motion is GRANTED in part and DENIED in part.

To secure a temporary restraining order, plaintiff must demonstrate "either a combination of probable success on the merits and the possibility of irreparable injury, or that serious questions are raised and the balance of hardships tips sharply in [her] favor." Rodde v. Bonta, 357 F.3d 988, 994 (9th Cir. 2004) (citing Johnson v. Cal. State Bd. of Accountancy, 72 F.3d 1427,

1 1430 (9th Cir. 1995)) (emphasis in original).

2 The Department of Justice has interpreted the Americans with
3 Disabilities Act ("ADA") to permit private organizations that
4 administer examinations for post-secondary applications to
5 require a disabled applicant to provide advance notice of her
6 need for accommodation. 28 C.F.R. Pt. 36, App. B. However, the
7 requirement for advance notice must not be "unreasonable and the
8 deadline for such notice [must not be] earlier than the deadline
9 for others applying to take the examination." Id.

10 Plaintiff timely registered as a late registrant. She also
11 asserts that by that date she provided LSAC with all the
12 necessary materials for her accommodation request. However, LSAC
13 refuses to process her application because she also timely
14 registered under the regular registration deadline. LSAC asserts
15 that once a registrant submits an application for the regular
16 deadline, she may not submit a second timely application for the
17 late registration deadline, even if she withdraws her first
18 registration, pays the late fee, and her papers are otherwise in
19 order. Therefore, if plaintiff had first filed on May 4 for the
20 late registration, LSAC would process her application. Because
21 she first applied for regular registration by the May 3 deadline,
22 however, LSAC declines to permit her to go forward as a late
23 registrant.

24 Plaintiff alleges that defendant's policy of prohibiting
25 disabled test-takers who register during the regular registration
26 period from re-registering during the late registration period

1 for purposes of submitting a timely accommodation application is
2 unreasonable and results in an earlier registration deadline for
3 applicants seeking accommodations. (Mot. at 10-11.) At least at
4 this juncture, the policy appears discriminatory because
5 applicants for accommodations are, on the record before the
6 court, the only class of persons prohibited from re-registering
7 for late registration once they have registered during the
8 regular registration period. Thus, for example, it appears that
9 a non-disabled applicant who cancelled her timely registration
10 and then changed her mind and registered as a late registrant,
11 paying the additional fee, would be permitted to sit for the
12 examination. Despite an invitation to file the written
13 instructions that forbid timely re-registration by any applicant,
14 whether disabled or not, defendant has failed to do so.¹ Because
15 defendant has not provided any evidence that non-disabled
16 applicants are prohibited from re-registering as late applicants,
17 plaintiff has met her burden of demonstrating serious questions
18

19 ¹ Counsel for defendant stated during oral argument that in
20 paragraph sixteen of Kim Dempsey's declaration, Dempsey avers
21 that the policy is uniform; however, that portion of the Dempsey
22 declaration is at least ambiguous and appears to be directed
23 exclusively to applicants seeking accommodation. The court
24 invited counsel to file the page of the instruction booklet that
25 informed all registrants, disabled and non-disabled, that LSAC
26 prohibits re-registration as a late applicant once a timely
registration is on file, even if that registration is withdrawn
and a new fee and timely late application is filed. Instead,
counsel filed a letter brief, with accompanying documents,
addressing other matters. The court may draw the inference from
this unhelpful response that no such instructions exist and that
non-disabled registrants may re-register as late registrants even
if they have already registered in time for the regular deadline
but then cancelled the registration.

1 regarding the merits of her claim.

2 Plaintiff has also shown that the balance of hardships tips
3 sharply in her favor. Plaintiff is a C2 quadriplegic. (Mot. at
4 1.) She alleges that if relief is denied, she will need to
5 dedicate a substantial amount of time and effort to prepare for a
6 subsequent administration of the LSAT. (Mot. at 12.) Defendant
7 argues that granting the relief requested by plaintiff will
8 undermine its role as regulator of the integrity of the LSAT and
9 deprive it of the opportunity to defend the reasonableness of its
10 policy in court. (Opp'n at 20-21.) The balance of these
11 hardships depends on the relief granted. Because the following
12 relief maintains the defendant as the arbiter of the appropriate
13 accommodations, the balance of hardships tips sharply in
14 plaintiff's favor.

15 _____Plaintiff's request that defendant be ordered to provide the
16 requested accommodations is DENIED. Plaintiff's request for
17 other relief is GRANTED. Defendant is ordered to treat plaintiff
18 as a timely late-registrant and evaluate plaintiff's
19 accommodation application to determine what accommodations, if
20 any, are appropriate. Defendant shall inform plaintiff of the
21 results of its evaluation within 24 hours of the issuance of this
22 order.

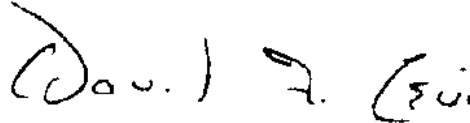
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1 Entered this day of June 9, 2005 at 8:35 AM in Sacramento,
2 California. IT IS SO ORDERED.
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6 DAVID F. LEVI
7 Chief United States District Judge
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