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10 Attorneys for Defendant
11 ACT, INC.

12 *(Additional Counsel Listed on Signature Page)*

13
14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA

16 STEPHANIE ENYART) CASE NO. C09-05191 **CRB**
17))
Plaintiff,))
18 vs.))
19 NATIONAL CONFERENCE OF BAR))
EXAMINERS, INC., ACT, INC., AND THE))
20 STATE BAR OF CALIFORNIA,))
21))
Defendants.))

22
23 Plaintiff, STEPHANIE ENYART ("Plaintiff"), and Defendants, NATIONAL
24 CONFERENCE OF BAR EXAMINERS, INC. ("NCBE") and ACT, INC. ("ACT"), by and
25 through their respective counsel, state as follows:

26 WHEREAS, Plaintiff has filed a Complaint in this action alleging disability
27 discrimination against her in connection with the California Bar Examination, and in particular,
28 the Multistate Bar Exam (MBE) and the Multistate Professional Responsibility Examination

1 (MPRE);

2 WHEREAS, Plaintiff has sought certain types of accommodations in connection with
3 future administrations of the MBE and MPRE;

4 WHEREAS, ACT has administered the MPRE under a contract with NCBE, which
5 developed this exam;

6 WHEREAS, the decision and authority with respect to whether to provide the particular
7 accommodations sought by Plaintiff on the MPRE for future examinations rest with NCBE; and

8 WHEREAS, Plaintiff has named ACT as a party in this action based upon, *inter alia*, the
9 possibility that ACT may be an indispensable party with respect to the delivery and/or
10 administration of certain prospective injunctive relief requested in this action;

11 WHEREAS; ACT agrees to furnish to Plaintiff the accommodations if any, ordered by
12 the Court in this action or which are agreed to by Plaintiff and NCBE therein;

13 NOW, THEREFORE, the Parties hereby AGREE and STIPULATE, and request that the
14 Court order, as follows:

15 1. That Defendant ACT is dismissed, without prejudice, as a defendant in this
16 action.

17 2. That ACT will abide by the final determination of the Court, including any
18 injunctive relief, if granted, regarding accommodations which Plaintiff seeks with respect to the
19 provision of testing accommodations in connection with any future administration of the MPRE
20 in which ACT has any role or involvement.

21 3. By entering into this Stipulation, neither ACT nor NCBE makes any concession
22 or waives any position regarding the merits of any claims or defenses asserted, or which may be
23 asserted, in this action. In particular but without limitation, neither ACT nor NCBE makes any
24 concession or waives any position or defense with respect to the propriety or reasonableness of
25 the disability accommodations sought by Plaintiff in this action. To the contrary, NCBE
26
27
28

1 expressly preserves all defenses and positions with respect to the allegations and claims made in
2 this action.

3
4 IT IS SO STIPULATED.

5
6 Dated: November 25, 2009



Laurence W. Paradis
Anna Levine
Karla Gilbride
DISABILITY RIGHTS ADVOCATES

Attorneys for Plaintiff

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11 Dated: November 25, 2009



Michael D. Bruno
Brian P. Maschler
GORDON & REES, LLP

Attorneys for Defendant
ACT, INC.

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17 Dated: November 25, 2009



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[Proposed] ORDER

IT IS SO ORDERED.

Dated: Dec. 8, 2009

~~Honorable Maria Elena James~~
~~U.S. Magistrate Judge~~