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IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

THE DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING, an agency of the State of California,

Plaintiff,

vs.

LAW SCHOOL ADMISSION COUNCIL, INC., a Delaware tax exempt corporation

Defendant.

JOHN DOE, JANE DOE, PETER ROE, RAYMOND BANKS, KEVIN COLLINS, RODNEY DECOMO-SCHMITT, ANDREW GROSSMAN, ELIZABETH HENNESSEY-SEVERSON, OTILIA IOAN, ALEX JOHNSON, NICHOLAS JONES, CAROLINE LEE, ANDREW QUAN, STEPHEN SEMOS, GAZELLE TALESHPOUR, KEVIN VIELBAUM, AUSTIN WHITNEY, and all other similarly situated individuals,

Real Parties in Interest.

Case No. C 12-01830

PLAINTIFF DFEH'S NOTICE OF MOTION AND UNOPPOSED MOTION FOR LEAVE TO FILE THIRD AMENDED COMPLAINT; POINTS AND AUTHORITIES IN SUPPORT THEREOF

Date: October 31, 2013
Time: 1:30 p.m.
Dept.: 5

(Hon. Edward M. Chen)

NOTICE OF MOTION AND MOTION

FOR LEAVE TO FILE THIRD AMENDED COMPLAINT

PLEASE TAKE NOTICE that on October 31, 2013, at 1:30 p.m., or as soon thereafter as the matter may be heard, Plaintiff Department of Fair Employment and Housing ("DFEH") will, and hereby does, move for an order granting DFEH leave to file its Third Amended Complaint for Damages and Injunctive Relief.

POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO AMEND

INTRODUCTION

Pursuant to Rule 15 of the Federal Rules of Civil Procedure and the Court's Case Management and Pre-Trial Order for Jury Trial ("Case Management Order"), DFEH seeks leave to file a Third Amended Complaint which (1) adds a timely cause of action for violation of California Education Code section 99161.5, and (2) revises language in the Complaint consistent with the Court's April 22, 2013 Order Granting Plaintiff DFEH's Motion to Proceed for Group or Class Relief, Dkt. 136. A true and correct copy of the proposed Third Amended Complaint is attached as Exhibit 1 to the Declaration of Mari Mayeda in Support of DFEH's Motion for Leave to File Third Amended Complaint. DFEH's Third Amended Complaint is timely, made in good faith, and does not prejudice Defendant Law School Admission Council, Inc. ("LSAC"). Moreover, the Court should grant DFEH's Motion because:

(1) LSAC does not oppose this Motion;

(2) The Court largely disposed of all arguments against amendment when it granted Legal Aid Society–Employment Law Center's ("LAS-ELC") request to add a cause of action under section 99161.5 of the California Education Code, Order re LAS-ELC's Mot. Am. 4:26-9:28, April 19, 2013, Dkt. 135; and

(3) The additional language regarding the interests of DFEH in this case and its authority to proceed for group or class relief is fully discussed in this Court's April 22, 2013 Order and the amendment simply seeks to add language consistent with that ruling. Order Granting DFEH Mot. Group/Class Relief 13:3-15:12, Dkt. 136. DFEH has additionally changed

the phrase "reasonable accommodation" or "accommodation" to the more accurate phrase "testing accommodation" throughout.

STATEMENT OF FACTS

DFEH filed its Complaint against LSAC on March 15, 2012 in Alameda County Superior Court, alleging that LSAC engages in a pattern or practice of discrimination against disabled test takers of the Law School Admissions Test. LSAC removed the case to federal court under both federal question and diversity grounds. Notice of Removal, Dkt. 1. The Complaint, brought on behalf of 16—originally 17—real parties in interest and other similarly situated test takers, alleges that LSAC discriminated against these test takers by imposing upon them onerous application and documentation requirements, denying them reasonable accommodation, "flagging" or annotating the test scores of disabled test takers who received an accommodation of extra time, providing those test takers with different and less desirable score reports, and failing to explain the reasons for denial in writing.

On February 6, 2013, the Court granted DFEH leave to file its First Amended Complaint to extend the time period defining covered victims of discrimination, replacing "February 6, 2012" with the phrase "to the present" to reflect the continuing nature of the defendant's illegal conduct. Order Granting DFEH's Mot. to File First Am. Compl., Dkt. 103. On March 27, 2013, the Court granted DFEH's Unopposed Motion for Leave to File a Second Amended Complaint, which deleted Plaintiff's Doe allegations and added to the prayer for relief a request for attorneys' fees and costs. Order Granting DFEH's Mot. to File Second Am. Compl., Dkt. 125.

A. Section 99161.5 of the California Education Code Became Effective and this Court Previously Allowed Plaintiff-Intervenors to Add It to Their Complaint

On January 1, 2013, section 99161.5 of the California Education Code became effective. It outlaws, *inter alia*, the practices of "flagging" test scores, failing to grant reasonable accommodations, and failing to report percentile rankings or score bands for disabled accommodated test takers. On January 7, 2013, LSAC filed an action in state court against the State of California, seeking to declare section 99161.5 unconstitutional. Complaint, *Law School Admissions Council,*

Inc. ("LSAC") v. California, No. 34-2013-00135574 (Cal. Super. Ct. Jan. 10, 2013). Although the Sacramento County Superior Court preliminarily enjoined enforcement of section 99161.5, Order Granting Mot. Prelim. Inj., *LSAC v. California*, No. 34-2013-00135574 (Feb. 13, 2013), the court of appeals stayed the injunction and ordered LSAC to comply with the Education Code, directing that "[LSAC] shall not take any action inconsistent with Education Code section 99161.5, subdivision (c) . . . ." Order Staying Prelim. Inj. Order, No. C073187 (Cal. Ct. App. March 5, 2013).

On April 19, 2013, this Court granted in part LAS-ELC's Motion to Amend their complaint to allege a cause of action against LSAC under section 99161.5 California Education Code. Order Granting in Part Motion to Am. Compl. 3:17-4:2, Dkt. 135. The Court examined the factors of undue delay, prejudice to defendant, futility, bad faith and prior amendments and granted LAS-ELC Motion to Amend to add a claim for violation of the Education Code via California Business and Professions Code and Unruh, but denying any claim seeking to give retroactive binding effect to section 99161.5. *Id.* at 12:25-27.

Discovery in this case has been limited. This Court set an expedited schedule for settlement related discovery and referred the case for settlement purposes to Magistrate Judge Joseph C. Spero. Order Referring Case to J. Spero, Dkt. 113; Case Mgmt. Order, Dkt. 129. Thus, discovery has been limited to that which is "tailored and focused to those topics and those sources necessary for meaningful participation in ADR . . ." Jt. Pre-ADR Discovery Plan and Order ¶ B, Dkt. 114. The parties met with Judge Spero on July 9 and August 12, 2013 and are scheduled for a further settlement conference on October 10, 2013. The Court's April 5, 2013 Case Management Order also set October 31, 2013 as the deadline for filing a motion to amend the pleadings. Case Mgmt. Order ¶ 10, Dkt. 129.

B. The Court Recognized DFEH's Authority to Bring Enforcement Actions Without Complying with Rule 23 of the Federal Rules of Civil Procedure

On April 22, 2013 the Court held that the Department could proceed in this government enforcement action without filing a motion under Rule 23 of the Federal Rules of Civil Procedure. Order re DFEH Mot. Group/Class Relief, Dkt. 136. The Court recognized that, like Title VII, the

Inc. ("LSAC") v. California, No. 34-2013-00135574 (Cal. Super. Ct. Jan. 10, 2013). Although the Sacramento County Superior Court preliminarily enjoined enforcement of section 99161.5, Order Granting Mot. Prelim. Inj., *LSAC v. California*, No. 34-2013-00135574 (Feb. 13, 2013), the court of appeals stayed the injunction and ordered LSAC to comply with the Education Code, directing that "[LSAC] shall not take any action inconsistent with Education Code section 99161.5, subdivision (c) . . . ." Order Staying Prelim. Inj. Order, No. C073187 (Cal. Ct. App. March 5, 2013).

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Fair Employment and Housing Act ("FEHA") authorizes DFEH to bring "enforcement actions . . . act[ing] 'not merely [as] a proxy for the victims of discrimination,' but also 'to vindicate the public interest in preventing [certain forms of] discrimination. [Citation.]" *Id.* at 13:9-14. Given its authority to obtain broad relief for discriminatory conduct, this Court concluded that DFEH's enforcement suit is not a representative action subject to Rule 23. *Id.* at 13:21-24. Moreover, the Court held that DFEH's use of the phrase "class action" in its Complaint is of no moment, *id.* at 16:17, and that "it is clear from [DFEH's] pleadings that . . . [Rule 23] pleadings were made in the alternative," *id.* at 16:14-17:3. Thus, the proposed Third Amended Complaint simply seeks to incorporate the Court's own holdings and language, from its April 22, 2013 Order, regarding the interests of the State of California and the group or class relief nature of the case.

Pursuant to Federal Rule of Civil Procedure 15, DFEH counsel contacted LSAC's counsel to obtain LSAC's written consent to the amendments. Mayeda Decl. ¶ 4. On September 25, 2013, LSAC gave its consent to the amendments, while reserving its rights to raise any defenses to DFEH's claims, as amended, and authorized DFEH to represent to the Court that it will not be opposing this Motion. *Id.* Accordingly, DFEH requests this Court to grant its Motion..

ARGUMENT

Federal Rule of Civil Procedure 15(a)(2) provides that "[t]he court should freely give leave [to amend] when justice so requires." *See DCD Programs, Ltd. v. Leighton*, 833 F.2d 183, 186 (9th Cir. 1987) (providing that leave to amend should be granted with "extreme liberality"). Indeed, a court should only consider denying such a motion when the defendant firmly establishes undue delay, bad faith, dilatory motive, repeated failure to cure deficiencies with previously allowed amendments, undue prejudice, and futility. *See Foman v. Davis*, 371 U.S. 178, 182 (1962); *DCD Programs*, 833 F.2d at 186*); Eminence Capital, LLC v. Aspeon, Inc.*, 316 F.3d 1048, 1052 (9th Cir. 2003); *Cooper Development Co. v. Employers Insurance of Wausau*, 765 F.Supp. 1429, 1432 (N.D. Cal. 1991) ("Courts have been quite liberal in granting leave to amend . . . .").

Absent prejudice, or a strong showing of any of the other *Foman* factors, a presumption exists under Rule 15(a) in favor of granting leave to amend. *See Eminence Capital*, 316 F.3d at 1052; *see*

also Roberts v. Arizona Bd. of Regents, 661 F.2d 796, 798 (9th Cir. 1981) ("Ordinarily, leave to amend pleadings should be granted regardless of the length of time or delay by the moving party absent a showing of bad faith by the moving party or prejudice to the opposing party."). The interests of justice and judicial economy warrant leave to amend in this case, and none of the factors weighing against it is present.

A. There Is No Undue Delay

This Motion is timely filed and made without delay. In the proposed Joint Case Management Statement, the parties agreed to a deadline of December 13, 2013 for parties to seek leave to file amended pleadings. Second Jt. Case Mgmt. Stmt. 2:21–23, Dkt. 127. The Court amended this deadline on its own motion to October 31, 2013. Case Mgmt. Order ¶ 10, Dkt. 129. DFEH files this motion in advance of the Court's deadline, therefore, there is no undue delay. *See Hofstetter v. Chase Home Finance, LLC*, 751 F.Supp.2d 1116, 1122 (N.D. Cal. 2010) (no undue delay where the motion to amend was filed "before the [established] deadline for pleading amendments").

DFEH cannot be faulted for not adding its Education Code claim earlier. Section 99161.5 of the Education Code was not effective until January of this year. On January 7, 2013 LSAC filed its state court challenge of the Education Code, and the State of California was enjoined from enforcing the provision by the Superior Court's preliminary injunction. Order Staying Prelim. Inj. Order, No. C073187 (Cal. Ct. App. March 5, 2013). Although not a party to that litigation, and arguably not bound by that ruling, DFEH could not risk running afoul of the superior court's preliminary injunction barring enforcement of the Education Code by the State of California. In the months since the state court injunction was stayed, DFEH participated in good faith in the ADR discovery and settlement conferences ordered by this Court. DFEH did not want to jeopardize, or risk running afoul of the Court's directions to focus on, ADR discovery and settlement by also litigating a motion to amend the complaint early in the settlement process. Mayeda Decl. ¶ 3.

As to the amended language regarding the interest of the state and the clarification of the allegations regarding the class nature of the relief sought: DFEH makes these changes consistent with the Court's April 22, 2013 Order Granting DFEH's Motion to Proceed for Group or Class

Relief. As this is DFEH's first amendment to the complaint since that motion was granted, there is no undue delay.

B. LSAC Will Not Be Prejudiced by the Amendments

LSAC suffers no prejudice should the Court allow DFEH's amendments. Prejudice to the opposing party is the factor "that carries the greatest weight." *Eminence Capital,* 316 F.3d at 1052. Prejudice can be established when a motion to amend is made after the cut of date, or when discovery has closed or is about to close. *See, e.g., Zivkovic v. Southern Cal. Edison Co.*, 302 F.3d 1080, 1087 (9th Cir. 2002). DFEH's Motion is within the deadline set by the court for filing a motion to amend, and the parties are just emerging from limited ADR discovery. Full discovery has not commenced. The non-expert discovery cut off is April 25, 2014, several months away, and the dispositive motion deadline is approximately one year away, on October 30, 2014. Case Mgmt. Order ¶ 5, Dkt. 129. LSAC will have ample time to propound discovery and investigate the Education Code claim, which overlap with the existing claims in any event.

In this case, this Court has already ruled on a similar motion to amend made by Plaintiff-Intervenors LAS-ELC et al. In granting permission for Plaintiff-Intervenors to amend their complaint to add causes of action for violations of section 99161.5 of the Education Code, the Court relied on the fact that the Unruh/ADA claims in the existing complaint and the added section 99161.5 claims cover the same facts and essentially the same allegations. Order re LAS-ELC's Mot. Am. Compl. 7:4-11, Dkt. 135. The same is true as to DFEH's proposed Third Amended Complaint.

As LSAC is already being sued in this litigation for violating the Education Code, the issue is already raised in this case. *Id.* Pursuant to the Court's order, Plaintiff Intervenors filed their First Amended Complaint, adding causes of action for violations of section 99161.5 via section 17200 of the California Business and Professions Code and Unruh Act. LAS-ELC First Am. Compl., Dkt. 137. The same reasoning that supported granting Plaintiff-Intervenors permission to add the Education Code claim applies with equal force to Plaintiff DFEH's Motion to add the Education Code claim, therefore, the Motion to Amend should be granted.

LSAC has been on notice from the beginning as to the scope of the litigation, and that DFEH was challenging the systemic nature of LSAC's discriminatory conduct. Section 99161.5 of the Education Code addresses the same issues already challenged in the existing Complaint: "flagging" of test scores, failure to grant reasonable accommodations to disabled students, failure to provide accommodated test takers with score reports which contain score bands and percentile rankings, and failure of LSAC to sufficiently explain the reasons for its denials of accommodation in writing. As a further demonstration of the lack of prejudice to LSAC, the California legislature itself stated that section 99161.5 "does not constitute a change in, but is declaratory of existing law" and that the statute does "not provide greater protections to persons with disabilities than those provided by Section 51 of the Civil Code." Cal. Educ. Code § 99161.5. As this Court correctly observed when permitting Plaintiff-Intervenors to add claims under the Education Code, section "99161.5 supplies the legislature's interpretation and clarification of rights under the provision of the Fair Employment and Housing Act which are incorporated into the Unruh Act . . . ." Order re LAS-ELC's Mot. Am. Compl. 9:14-16, Dkt. 135.

Given that this litigation is in its relatively early stages and LSAC has consented to the amendments, allowing DFHE to file its Third Amended Complaint does not cause any prejudice to LSAC. Therefore, DFEH requests the Court grant its Motion.

C. The Motion Is Made in Good Faith and Amendment Would Not Be Futile

DFEH's Motion to Amend is made in good faith. DFEH seeks to amend the Complaint to add a cause of action for violation of the section 99161.5 of the California Education Code, which was not in effect until January 2013. Shortly after section 99161.5 became effective, LSAC challenged the law in state court and the superior court issued a preliminary injunction. Order Granting Mot. Prelim. Inj., *LSAC v. California*, No. 34-2013-00135574 (Cal. Super. Ct. Feb. 13, 2013). Once that injunction was dissolved by the court of appeals, Order Staying Prelim. Inj. Order, No. C073187 (Cal. Ct. App. March 5, 2013), the parties had been ordered into expedited ADR discovery and settlement with Magistrate Judge Spero. DFEH now seeks to add the Education Code

claim after the court of appeal sanctioned the enforcement of the provision and the parties have engaged in good faith settlement discussions and ADR discovery. Mayeda Decl. ¶ 3.

This Court previously dispatched previous arguments regarding each of the *Foman* factors in granting Plaintiff-Intevenors motion to amend their complaint. In opposing that motion to add the Education Code cause of action, LSAC argued that there is no private right of action under section 99161.5. LSAC's Opp. to LAS-ELC's Mot. Am. 3:22-5:21, Dkt 96. Here, however, DFEH brings this claim, as "an exercise of the police power of the state," Cal. Gov't Code § 12920, in its capacity as "a public prosecutor testing a public right." Order re DFEH Mot. Group/Class Relief, Dkt. 136. We invoke the power given to the "head of a department" of the State of California under section 11180 of the California Government Code to "prosecute actions . . . [a]s to all matters relating to . . . subjects under the jurisdiction of the department." *See also id.* at 11:9-11 (noting that Government Code section 11180 authorizes DFEH's director to bring suit); *People ex. rel. Dep't of Conservation v. El Dorado Cnty.*, 36 Cal.4th 971, 988 (2005).

Thus, DFEH has the authority to enforce section 99161.5 of the Education Code through Government Code section 11180. As acknowledged by the Court in this case, DFEH was elevated to the status of a Department in 1980 so that the "consolidated DFEH 'would have the organizational structure necessary to conduct its activities effectively.'" Order re DFEH Mot. Group/Class Relief 11:26-12:4, Dkt. 136 (quoting with approval from the legislative history to the 1980 amendments to FEHA). In 1980, FEHA was amended to specify that DFEH had the powers of a department, such as the power to prosecute actions under Government Code section 11180. *Id.* Government Code section 12902 (which is part of FEHA) specifically states, "[t]he provisions of Chapter 2 (commencing with Section 11150) of Part 2 apply to the director and the director is the head of a department within the meaning of such chapter."

Education Code section 99161.5 is enforceable by DFEH under Government Code section 11180 because that section of the Education Code concerns a subject within or "relating to" a subject matter over which the Department has jurisdiction. We seek to enforce the Education Code's provisions that outlaw: discrimination in "flagging" test scores, discrimination in denial of

reasonable accommodations without explanation, and discriminatory score reporting. Further, the legislature specified that the Education Code "does not constitute a change in, but is declaratory of existing law" and that the statute does "not provide greater protections to persons with disabilities than those provided by Section 51 of the Civil Code." Cal. Educ. Code § 99161.5. As this Court correctly observed, section "99161.5 supplies the legislature's interpretation and clarification of rights under the provision of the Fair Employment and Housing Act which are incorporated into the Unruh Act . . . ." Order re LAS-ELC's Mot. Am. Compl. 9:14-16, Dkt. 135, April 19, 2013. And, of course, both Unruh and FEHA are subjects clearly under the jurisdiction of the Department, confirming the DFEH's authority to bring a claim under section 99161.5. Cal. Gov't Code § 12930(f), (g), (h).

CONCLUSION

For the reasons discussed above, and because LSAC does not oppose this Motion, DFEH respectfully seeks leave of this Court to file the proposed Third Amended Complaint.

DATED: September 26, 2013

Respectfully submitted,
DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

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IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

THE DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING, an agency of the State of California, Plaintiff, vs. LAW SCHOOL ADMISSION COUNCIL, INC., a Delaware tax exempt corporation Defendant. JOHN DOE, JANE DOE, PETER ROE, RAYMOND BANKS, KEVIN COLLINS, RODNEY DECOMO-SCHMITT, ANDREW GROSSMAN, ELIZABETH HENNESSEY-SEVERSON, OTILIA IOAN, ALEX JOHNSON, NICHOLAS JONES, CAROLINE LEE, ANDREW QUAN, STEPHEN SEMOS, GAZELLE TALESHPOUR, KEVIN VIELBAUM, AUSTIN WHITNEY, and all other similarly situated individuals, Real Parties in Interest.	**Case No. C 12-01830** **DECLARATION OF MARI MAYEDA IN SUPPORT OF DFEH'S UNOPPOSED MOTION FOR LEAVE TO FILE THIRD AMENDED COMPLAINT** **Date: October 31, 2013** **Time: 1:30 p.m.** **Dept.: 5** **(Hon. Edward M. Chen)**

I, MARI MAYEDA, declare:

1. I am an attorney at law duly licensed to practice before all the courts of the State of California, and employed as an Associate Chief Counsel by Plaintiff Department of Fair Employment and Housing ("DFEH"). In my official capacity, I am assigned to the case captioned above. I have personal knowledge of the above-captioned case, and if called upon to testify, I could do so competently.

2. A true and correct copy of the proposed Third Amended Group and Class Action Complaint for Damages and Injunctive Relief ("Third Amended Complaint") is attached to this Declaration as Exhibit 1.

3. DFEH did not delay in adding its Education Code claims to this lawsuit. After the section 99161.5's effective date, LSAC was granted a preliminary injunction enjoining enforcement of the provision, which was subsequently stayed by the court of appeal. Following the reviewing court's order, the parties were directed by this Court to focus on ADR discovery and settlement negotiations, and DFEH did not want to contravene this directive or jeopardize early settlement discussions by also litigating a motion to amend simultaneously.

4. Pursuant to Federal Rules of Civil Procedure 15, DFEH counsel contacted LSAC's counsel to obtain LSAC's written consent to DFEH's amendments to its Complaint. On September 25, 2013, LSAC consented to the filing of the Third Amended Complaint, reserving its right to raise any and all claims and defenses to the pleading, as amended, and authorized DFEH to represent to this Court that it will not be opposing this Motion. A stipulation consenting to the filing of the Third Amended Complaint, signed by all parties, is filed concurrently herewith.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was signed in Berkeley, California, on September 26, 2013.

By: /s/ Mari Mayeda
Mari Mayeda
Attorneys for the Department

EXHIBIT 1

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IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

THE DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING, an agency of the State of California, Plaintiff, vs. LAW SCHOOL ADMISSION COUNCIL, INC., a Delaware tax exempt corporation, Defendant.	**Case No.** CV 12-1830-EMC **THIRD AMENDED COMPLAINT SEEKING GROUP OR CLASS RELIEF, IN THE ALTERNATIVE GROUP AND CLASS ACTION COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF** [FEHA, Cal. Gov. Code § 12900 et seq. and Unruh Civil Rights Act, Cal. Civ. Code § 51 et seq.]

JOHN DOE, JANE DOE, PETER ROE, RAYMOND BANKS, KEVIN COLLINS, RODNEY DECOMO-SCHMITT, ELIZABETH HENNESSEY-SEVERSON, OTILIA IOAN, ALEX JOHNSON, NICHOLAS JONES, CAROLINE LEE, ANDREW QUAN, STEPHEN SEMOS, GAZELLE TALESHPOUR, KEVIN VIELBAUM, AUSTIN WHITNEY, and all other similarly situated individuals,

Real Parties in Interest.

Jury Trial Demanded

Plaintiff DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING (Department or DFEH) alleges the following against defendant LAW SCHOOL ADMISSION COUNCIL, INC. (LSAC), a Delaware tax exempt corporation:

PARTIES

1. DFEH is the state agency charged with enforcing the right of all Californians under the Unruh Civil Rights Act (Unruh Act) (Cal. Civ. Code §§ 51 et seq.) "to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever." Cal. Civ. Code § 51 (a) (West 2013). Government Code section 12948 makes a violation of the Unruh Act a violation of the Fair Housing and Employment Act (FEHA) Cal. Gov't Code §§ 12900 et seq. (West 2013). The FEHA empowers the DFEH to investigate and prosecute Unruh Act claims within the state, including those that adversely affect, in a similar manner, a group or class. Cal. Gov't Code §§ 12961, 12965. The Government Code authorizes DFEH to prosecute actions in state and federal court. Cal. Gov't Code §§ 12930(h), 11180.

A. California's public policy against discrimination on the basis of disability is "substantial and fundamental." City of Moorpark v. Super. Ct. of Ventura Cnty., 18 Cal. 4th 1143, 1161 (1998); see also Cal. Civ. Code § 51 ("All persons within the jurisdiction of this state are free and equal, and no matter their . . . disability, medical condition . . . are entitled to the full and equal accommodations . . . or services in all business establishments of every kind whatsoever"); Cal. Gov't Code § 12920 ("It is hereby declared as the public policy of this state that it is necessary to protect and safeguard the right and opportunity of all persons to seek, obtain, and hold employment without discrimination or abridgement on account of . . . physical disability [or] mental disability[.]"); Cal. Gov't Code §12921 9 ("The opportunity to seek, obtain and hold employment without discrimination because of . . . physical disability [or] mental disability . . . is hereby recognized as and declared to be a civil right.").

Similarly, the ADA provides a mandate for "the elimination of bias against individuals with disabilities.") 42 U.S.C. § 12101.

B. DFEH commenced this suit as an exercise of the police power, based on its determination that defendant, Law School Admission Council (LSAC) engaged in discrimination on the basis of disability.

C. DFEH acts as a public prosecutor testing a public right. The interest of DFEH in the law school admissions process was articulately summarized by the United States Supreme Court:

> In order to cultivate a set of leaders with legitimacy in the eyes of the citizenry, it is necessary that the path to leadership be visibly open to talented and qualified individuals . . . . All members of our heterogeneous society must have confidence in the openness and integrity of the educational institutions that provide this training. As we have recognized, law schools "cannot be effective in isolation from the individuals and institutions with which the law interacts." Access to legal education (and thus the legal profession) must be inclusive of [all] talented and qualified individuals . . . so that all members of our heterogeneous society may participate in the educational institutions that provide the training and education necessary to succeed in America. Grutter v. Bollinger, 539 U.S. 306, 333 (citations omitted).

D. The LSAT is required for admission to any ABA accredited law school. The State of California, through the DFEH, has an interest in ensuring that gateways to education and employment are open to individuals with disabilities. The State of California also has an interest in eliminating bias and enhancing diversity in the legal profession, and in furtherance of this interest, the testing process for entry into law school should not be an obstacle to the

full and equal participation of individuals with disabilities in the legal profession. Ensuring that law school admissions reflect the diversity of our society not only affects students with disabilities, but also their would-be classmates who benefit from the presence of those perspectives in the classroom. The legal profession as a whole, and the society which it serves, stands to be negatively affected by practices that result in the unfair exclusion of individuals with disabilities.

2. Each real party in interest, John Doe, Jane Doe, Peter Roe, Raymond Banks, Kevin Collins, Rodney Decomo-Schmitt, Elizabeth Hennessey-Severson, Otilia Ioan, Alex Johnson, Nicholas Jones, Caroline Lee, Andrew Quan, Stephen Semos, Gazelle Taleshpour, Kevin Vielbaum, and Austin Whitney, applied to LSAC for testing accommodations[1] on the Law School Admissions Test (LSAT) between January 19, 2009 and the present. Each real party was denied a testing accommodation, either in whole or in part, within this same time frame. At the time of applying for testing accommodations, each real party resided in California.

3. Real parties in interest John Doe, Jane Doe, and Peter Roe wish to participate in this litigation anonymously. Each real party seeks to retain their privacy interest in the details of their disability and need for testing accommodation. Each of these real parties has expressed a legitimate fear of negative professional ramifications should their true names be associated with this litigation. A motion requesting the court's permission to proceed under fictitious names for these two real parties is filed concurrently with this complaint.

[1] The Third Amended Complaint substitutes the common term 'testing accommodation' for the technical phrase 'modification, accommodation, or auxiliary aid or service.' Both terms denote those modifications, accommodations, or auxiliary aids or services that a testing entity must provide in order to make an examination accessible to people with disabilities under the ADA. 42 U.S.C. § 12189; 28 U.S.C. § 36.309.

4. At all times relevant to this complaint, LSAC was a business establishment as defined by Civil Code section 51, subdivision (b). LSAC offers and administers its LSAT at multiple locations in the State of California several times a year.

GROUP RELIEF ALLEGATIONS

5. The DFEH brings this case on behalf of a group of 16 named individuals.

CLASS RELIEF AND IN THE ALTERNATIVE CLASS ACTION ALLEGATIONS

6. **Class Definition**: The DFEH may bring a government enforcement action for group or class relief without meeting the requirements for class certification. The DFEH brings this case for class wide relief and in the alternative as a class action, on behalf of: a*ll disabled individuals in the State of California who requested a testing accommodation for the Law School Admission Test (LSAT) from January 19, 2009 to the present*. The DFEH alleges that everyone within this class was subjected to LSAC's unlawful policies, patterns, or practices of discouraging requests for testing accommodation, requiring excessive documentation, and requesting unlawful information about mitigation measures. Within this class is a subclass of people who took the LSAT with the condition of extended time and were thereafter subjected to unlawful policies or practices of discriminatory treatment and retaliation because of this testing accommodation. These two classes are defined as follows:

a. Unlawful Discouragement and Consideration of Mitigation Measures: All disabled individuals in the State of California who requested a testing accommodation for the LSAT from January 19, 2009 to the present.

b. Differential Treatment and Retaliation Against Examinees Granted Extended Time: All disabled individuals in the State of California who took the LSAT with the testing accommodation of extra time from January 19, 2009 to the present.

7. **Class Representative**: The DFEH may bring a government enforcement action seeking relief for a group or class of persons without being certified as the class representative. In the alternative, this lawsuit meets the criteria for class certification. The Director of the DFEH, with the assistance of the 16 named real parties in interest, will fairly and adequately represent the class.

8. **Manageability**: The DFEH may bring a government enforcement action seeking relief for a group or class of persons without meeting the requirements for class certification. In the alternative, class treatment of this dispute would save time and money by bringing all like claims before this court. For LSAC policies that affect a large group of applicants in a similar fashion, such as subjecting applicants to unlawful inquiries and flagging certain scores, treatment as a class is a superior method of adjudication, as compared to multiple individual suits where each plaintiff would allege an identical harm. Class treatment would neatly aggregate these claims, preventing duplicative litigation and potential inconsistencies in the ultimate findings.

9. **Numerosity**: The DFEH may bring a government enforcement action without meeting the requirements for class certification. In the alternative, the class is estimated to include hundreds of LSAT applicants. It would be impracticable to join each of these applicants who requested testing accommodation during the three-year time frame and to bring them individually before the court for adjudication. The members of this class are fully ascertainable and there exists a probability that the individual members will ultimately be available to come forward to prove their separate damage-related claims to a portion of the total class recovery, if any.

10. **Commonality**: The DFEH may bring a government enforcement action without meeting the requirements for class certification. In the alternative, there exists for the class a well-defined community of interest such that common questions of both law and fact predominate over individual interests or claims.

11. **Typicality**: The DFEH may bring a government enforcement action without meeting the requirements for class certification. In the alternative, class claims raised by the real parties in interest are typical of those held by other members of the class. Each applicant for testing accommodation was subject to an unlawful inquiry about mitigation measures, and each test-taker, who was granted extra time, had his or her test score segregated and flagged.

12. **Adequacy of Representation**: The DFEH may bring a government enforcement action without meeting the requirements for class certification. In the alternative, with the assistance

of the real parties in interest, the DEFH will fairly and adequately represent the interests of all members of the class in the adjudication of their similar legal claims.

JURISDICTION AND VENUE

13. The DFEH realleges and incorporates by reference each and every allegation contained in paragraphs 1 through 12, inclusive, as if fully set forth herein.

14. This action arises under the FEHA, specifically Government Code section 12948, which incorporates the Unruh Act into the enforcement structure of the FEHA, giving the DFEH jurisdiction over Unruh Act violations occurring within the state. By virtue of its incorporation into the Unruh Act, a violation of the Americans with Disabilities Act of 1990 (ADA) (42 U.S.C. §§ 12101 et seq.) also constitutes a violation of the Unruh Act. Cal. Civ. Code § 51(f).

15. At all times relevant to this complaint, LSAC was a business establishment as defined by Civil Code section 51, subdivision (b). LSAC offers and administers its LSAT at multiple locations in the State of California several times a year.

16. At all times relevant to this complaint, real parties in interest John Doe, Jane Doe, Peter Roe, Raymond Banks, Kevin Collins, Rodney Decomo-Schmitt, Elizabeth Hennessey-Severson, Otilia Ioan, Alex Johnson, Nicholas Jones, Caroline Lee, Andrew Quan, Stephen Semos, Gazelle Taleshpour, Kevin Vielbaum, Austin Whitney, and all other similarly situated individuals, were "persons" within the meaning of Government Code section 12925, subdivision (d), and Civil Code section 51, subdivision (b).

17. On May 9, 2010, Jane Doe filed a verified complaint of discrimination in writing with the Department pursuant to Government Code section 12960, alleging that LSAC unlawfully denied her full and equal access to the LSAT within the preceding one year, in violation of the FEHA and Unruh Act. A redacted copy of this complaint is attached hereto as Exhibit 1.

18. On January 12, 2010, Nicholas Jones filed a verified complaint of discrimination in writing with the Department pursuant to Government Code section 12960, alleging that LSAC unlawfully denied him full and equal access to the LSAT within the preceding one year, in violation

of the FEHA and Unruh Act. A true and correct copy of this complaint is attached hereto as Exhibit 2.

19. After receiving the complaints of Jane Doe and Mr. Jones, and beginning an investigation into their allegations, the Department came to believe that LSAC's policies and practices toward disabled applicants requesting testing accommodation were affecting a larger group or class of applicants in a similar manner.

20. On July 22, 2010, the Department issued a document entitled "Notice of Class Action Complaint and Director's Complaint" describing the affected group or class as "all disabled individuals in the State of California who have or will request a testing accommodation for the Law School Admission Test (LSAT), administered by the LSAC, and who have or will be unlawfully denied such request from January 19, 2009 to the conclusion of the Department's investigation of this complaint." A redacted copy of this complaint is attached hereto as Exhibit 3.

21. During its investigation of the class action and Director's complaint, the DFEH propounded administrative discovery to determine whether other people had been harmed by LSAC's discriminatory practices within the state. The DFEH's efforts to obtain this information from defendant included the filing of a superior court petition to compel LSAC to respond to its discovery requests. Although Government Code section 12960, subdivision (d), provides that the DFEH has one year from the date of the filing of its complaint until the filing of its accusation, this time is extended by the pendency of a court action to enforce administrative discovery. Cal. Gov't Code § 12963.5(f). Therefore, this action is timely filed.

22. With the court's assistance, the DFEH was able to discover and notify other persons who were harmed by defendant's discriminatory practices, to wit:

A. While applicants with disabilities may seek testing accommodations on the LSAT, LSAT's policies, practices or procedures impose restrictions that are inconsistent with the ADA, FEHA and Unruh;

B. Under LSAC's policies, practices or procedures, applicants with disabilities must complete and submit an extensive portfolio of current and historical materials including medical and/or psychological documentation by a stated deadline;

C. Depending on the applicant's disability, individuals are also required to complete additional forms and medical reports. Then, even after so doing, LSAC requires even further additional documentation or medical reports.

D. LSAC's burdensome documentation requests "may cost [a test taker] over $3,000, a cost that bars low-income individuals from access." Assembly Third Reading, AB 2122 (2011-2012);

E. LSAC's policies or practices are so burdensome that some applicants have had to secure legal counsel in pursuit of their testing accommodation request;

F. When LSAC grants applicants the testing accommodation of extended time, it specially marks or "flags" the test scores as having been taken under non-standard conditions and advises law schools to "[c]arefully evaluate LSAT scores earned under accommodated or nonstandard conditions." See LSAC's Cautionary Policies Concerning LSAT Scores and Related Services (Rev. 2005). LSAC segregates all such test scores so that when it submits scores to law schools, it does not report a percentile ranking for those applicants.

Some of the people harmed by LSAC's policies or practices elected to file individual complaints as follows.

23. On August 29, 2011, Alex Johnson filed a verified complaint of discrimination in writing with the Department pursuant to Government Code section 12960, alleging that LSAC unlawfully denied him full and equal access to the LSAT within the preceding one year, in violation of the FEHA and Unruh Act. A true and correct copy of this complaint is attached hereto as Exhibit 4.

24. On August 31, 2011, John Doe filed a verified complaint of discrimination in writing with the Department pursuant to Government Code section 12960, alleging that LSAC unlawfully

denied him full and equal access to the LSAT within the preceding one year, in violation of the FEHA and Unruh Act. A redacted copy of this complaint is attached hereto as Exhibit 5.

25. On September 26, 2011, Elizabeth Hennessey-Severson filed a verified complaint of discrimination in writing with the Department pursuant to Government Code section 12960, alleging that LSAC unlawfully denied her full and equal access to the LSAT within the preceding one year, in violation of the FEHA and Unruh Act. A true and correct copy of this complaint is attached hereto as Exhibit 6.

26. On October 3, 2011, Caroline Lee filed a verified complaint of discrimination in writing with the Department pursuant to Government Code section 12960, alleging that LSAC unlawfully denied her full and equal access to the LSAT within the preceding one year, in violation of the FEHA and Unruh Act. A true and correct copy of this complaint is attached hereto as Exhibit 7.

27. On October 6, 2011, Raymond Banks filed a verified complaint of discrimination in writing with the Department pursuant to Government Code section 12960, alleging that LSAC unlawfully denied him full and equal access to the LSAT within the preceding one year, in violation of the FEHA and Unruh Act. A true and correct copy of this complaint is attached hereto as Exhibit 8.

28. On October 7, 2011, Gazelle Taleshpour filed a verified complaint of discrimination in writing with the Department pursuant to Government Code section 12960, alleging that LSAC unlawfully denied her full and equal access to the LSAT within the preceding one year, in violation of the FEHA and Unruh Act. A true and correct copy of this complaint is attached hereto as Exhibit 9.

29. On October 11, 2011, Peter Roe filed a verified complaint of discrimination in writing with the Department pursuant to Government Code section 12960, alleging that LSAC unlawfully denied him full and equal access to the LSAT within the preceding one year, in violation of the FEHA and Unruh Act. A redacted copy of this complaint is attached hereto as Exhibit 10.

30. On October 11, 2011, Stephen Semos filed a verified complaint of discrimination in writing with the Department pursuant to Government Code section12960, alleging that LSAC unlawfully denied him full and equal access to the LSAT within the preceding one year, in violation of the FEHA and Unruh Act. A true and correct copy of this complaint is attached hereto as Exhibit 11.

31. On October 14, 2011, Rodney DeComo-Schmitt filed a verified complaint of discrimination in writing with the Department pursuant to Government Code section 12960, alleging that LSAC unlawfully denied him full and equal access to the LSAT within the preceding one year, in violation of the FEHA and Unruh Act. A true and correct copy of this complaint is attached hereto as Exhibit 12.

32. On October 17, 2011, Andrew Grossman filed a verified complaint of discrimination in writing with the Department pursuant to Government Code section 12960, alleging that LSAC unlawfully denied him full and equal access to the LSAT within the preceding one year, in violation of the FEHA and Unruh Act. A true and correct copy of this complaint is attached hereto as Exhibit 13. Andrew Grossman directly entered into a settlement agreement with LSAC. The DFEH is not a party to the settlement agreement between Andrew Grossman and LSAC.

33. On October 19, 2011, Kevin Collins filed a verified complaint of discrimination in writing with the Department pursuant to Government Code section 12960, alleging that LSAC unlawfully denied him full and equal access to the LSAT within the preceding one year, in violation of the FEHA and Unruh Act. A true and correct copy of this complaint is attached hereto as Exhibit 14.

34. On October 24, 2011, Otilia Ioan filed a verified complaint of discrimination in writing with the Department pursuant to Government Code section 12960, alleging that LSAC unlawfully denied her full and equal access to the LSAT within the preceding one year, in violation of the FEHA and Unruh Act. A true and correct copy of this complaint is attached hereto as Exhibit 15.

35. On October 28, 2011, Andrew Quan filed a verified complaint of discrimination in writing with the Department pursuant to Government Code section 12960, alleging that LSAC unlawfully denied him full and equal access to the LSAT within the preceding one year, in violation of the FEHA and Unruh Act. A true and correct copy of this complaint is attached hereto as Exhibit 16.

36. On October 28, 2011, Austin Whitney filed a verified complaint of discrimination in writing with the Department pursuant to Government Code section 12960, alleging that LSAC unlawfully denied him full and equal access to the LSAT within the preceding one year, in violation of the FEHA and Unruh Act. A true and correct copy of this complaint is attached hereto as Exhibit 17.

37. On November 7, 2011, Kevin Vielbaum filed a verified complaint of discrimination in writing with the Department pursuant to Government Code section 12960, alleging that LSAC unlawfully denied him full and equal access to the LSAT within the preceding one year, in violation of the FEHA and Unruh Act. A true and correct copy of this complaint is attached hereto as Exhibit 18.

38. On February 6, 2012, the DFEH issued a Group and Class Accusation before the California Fair Employment and Housing Commission (Commission), charging LSAC with violations of the Unruh Act. The Group and Class Accusation was properly served on LSAC by certified mail.

39. On February 17, 2012, the DFEH issued a First Amended Group and Class Accusation before the Commission. This accusation was properly served on the LSAC by certified mail.

40. Pursuant to Government Code section 12965, subdivision (c)(1), LSAC elected to have this dispute heard in civil court in lieu of a hearing before the Commission, and so notified the Department in writing, on or about February 22, 2012. A true and correct copy of "Respondent's Notice of Transfer of Proceedings to Court" is attached hereto as Exhibit 19.

41. The Department has withdrawn its accusation and timely filed a civil complaint in Alameda County Superior Court pursuant to Government Code section 12965, subdivision (c)(2).

A. LSAC removed this case to the United States District Court, Northern District of California on April 12, 2012 on both federal question and diversity grounds. Docket No. 1.

B. DFEH sought and received leave to amend and file a First Amended Complaint, deemed filed February 6, 2013. DFEH sought and received leave to amend to file a Second Amended Complaint, filed March 27, 2013.

42. The harm that is the subject of this complaint occurred throughout the State of California. Three of the real parties in interest lived in the County of Alameda at the time that they were denied full and equal accommodations in the testing process.

43. The amount of damages sought by this complaint exceeds the minimum jurisdictional limits of this court, and is estimated to exceed $5 million.

FACTUAL ALLEGATIONS

The Law School Admissions Test (LSAT)

44. The LSAT is a half-day, standardized test administered four times each year at designated testing centers throughout the State of California. It purports to provide a standard measure of acquired reading and verbal reasoning skills that law schools use to assess applicants. Applicants to all ABA accredited law schools are required to take the LSAT in order to be eligible for admission to law school.

45. The test consists of five 35-minute sections of multiple-choice questions. A 35-minute writing sample is administered at the end of the test. Defendant does not score the writing sample, but sends it on to the law schools with the scores.

46. The LSAT is designed to measure reading and comprehension skills, the ability to organize and manage information, and analytical skills such as evaluation and criticism.

47. The three multiple-choice question types in the LSAT are labeled reading comprehension, analytical reasoning, and logical reasoning. All candidates take one additional multiple-choice section, which is experimental.

LSAC Business within the State

48. LSAC offers and administers its LSAT at multiple locations in the State of California four times a year, typically at law schools and universities. Applicants pay a test registration fee of $139 after creating an online account and filling out the online application form. Additional fees charged by LSAC include $68 for late registration and $35 to change the test date.

49. LSAC pays local proctors to administer the exam on site. LSAC also pays for accommodations at the site, such as readers or scribes.

50. LSAC offers a Credential Assembly Service to law schools and law school applicants, which streamlines the law school admission process by allowing transcripts, recommendations and evaluations to be sent one time to LSAC. LSAC, in turn, summarizes and combines a law school applicant's LSAT score, writing samples, transcripts, recommendations, and evaluations into a report to an applicant's prospective law schools. The Credential Assembly Service also includes access through an applicant's LSAC account to electronic applications for all ABA-approved law schools. Applicants are charged $124 to register for the Credential Assembly Service and $16 for law school reports.

51. LSAC provides a series of LSAT preparatory guides, manuals and compilations of sample LSATs for purchase via its Web site, which materials range in price from $8 to $39.96. LSAC also sells a guide to ABA-approved law schools for $26 and a skill readiness inventory for $29.95.

The LSAC Accommodation Request Process

52. LSAC requires candidates requesting a testing accommodation to utilize its standard forms and procedures. Applicants making a testing accommodation request for a so-called cognitive or psychological impairment are required to provide psychoeducational/ neuropsychological testing and a full diagnostic report, including comprehensive aptitude and achievement testing.

53. LSAC requires each applicant to disclose whether he or she took prescribed medication during the evaluation process and to provide an explanation for any failure or refusal to take the medication.

54. LSAC has a policy whereby examinees who complete the LSAT under a disability-related testing accommodation involving additional test time receive a notation on their score report

indicating that their exam scores were earned under non-standard time conditions. When reporting these LSAT scores to the law schools, defendant advises the schools that these examinees' scores "should be interpreted with great sensitivity and flexibility."

55. In addition, scores from tests taken under extended time conditions are not averaged with other scores to produce a percentile ranking as are other test scores. Instead, extended time scores are reported individually.

John Doe

56. John Doe, a resident of Rancho Santa Fe (San Diego County), requested that defendant make testing accommodations for the December 2010 LSAT at Saddleback College.

57. Mr. Doe was diagnosed with attention deficit disorder (ADD) at age 13. In addition, in 2010 he became extremely ill with a bacterial infection and was hospitalized for approximately two months, spending several weeks in the Intensive Care Unit in a medically-induced coma. During this illness he suffered a severe brain edema, which left him with residual neurological impairments.

58. Mr. Doe requested time and a half (150 percent) on the multiple choice and writing sections for the December 2010 LSAT.

59. In support of his request, Mr. Doe submitted medical documentation verifying his hospitalization, and a complete psychoeducational assessment, which reported multiple diagnoses: ADD, a learning disability (spelling), and a "[r]ecent bacterial infection with sustained induced coma and residual impairments."

60. LSAC refused to grant Mr. Doe's requested accommodation and instead asked for "a detailed explanation regarding the nature, severity, treatment, and extent of [his] disorder at the present time and it [*sic*] impact on your ability to take the LSAT."

61. Mr. Doe then submitted additional medical documentation indicating that he had "suffered a serious illness and developed marked weaknesses and encephalopathy. He continues to have fatigability and impaired concentration." His doctor recommended that Mr. Doe be granted increased time to complete the LSAT.

62. LSAC then demanded that Mr. Doe's psychologist provide "a current update of [his] cognitive status" before making a decision on his testing accommodation request.

63. Mr. Doe and his doctor disputed the need for an updated psychoeducational assessment just three months after the first report was completed. His doctor responded, "I would reiterate that Mr. Doe's intelligence is much as it was when he was originally seen (10/26/10) and with IQ scores as noted in that report, all within the average range with the exception of Processing Speed (4th percentile)."

64. LSAC granted Mr. Doe nine additional minutes for the multiple choice and writing sample sections (125 percent), with an additional 15 minutes of break time between sections three and four, for the February and June 2011 LSAT.

Jane Doe

65. Jane Doe, a resident of Oakland (Alameda County), requested that defendant provide her with testing accommodations on each of two administrations of the LSAT examination, one in February 2010 and a second in June 2010.

66. Ms. Doe has attention deficit disorder (ADD). Her condition makes it difficult to retain attention and focus, and significantly impairs her ability to conceptually organize and sequence abstract ideas.

67. Ms. Doe requested that LSAC accommodate her with time and a half (150 percent) on the multiple choice and writing sample sections of the LSAT.

68. In support of her request, Ms. Doe submitted medical documentation, verification that she had received the testing accommodation of time and a half (150 percent) as an undergraduate university student, and proof that she had received extended time (150 percent) on the Graduate Record Exam (GRE).

69. On January 15, 2010, LSAC denied Ms. Doe's testing accommodation requests, explaining that her documentation did not demonstrate that she had a disability, which affected her ability to take the LSAT.

70. Ms. Doe reapplied for testing accommodations on the June 2010 LSAT, requesting the same testing accommodation of time and a half (150 percent) on the multiple choice and writing sample sections.

71. LSAC also denied this request. When Ms. Doe asked for an explanation for the denial, defendant replied in writing that it was "not obligated to provide accommodations that are not warranted or supported by the documentation."

Peter Roe

72. Peter Roe, a resident of San Jose (Santa Clara County), requested that defendant make testing accommodations for the September 2009 LSAT at California State University, East Bay.

73. Mr. Roe has reading and math disorders, characterized by impaired auditory attention span and low visuomotor processing speed. These learning disorders substantially impact his ability to process written material, particularly under timed conditions.

74. Mr. Roe requested 20 extra minutes for the multiple choice sections and 30 extra minutes for the writing sample section of the LSAT. He also requested a reader and permission to use a computer dictation program.

75. In support of his request, Mr. Roe submitted a neuropsychological evaluation documenting his learning disabilities.

76. LSAC denied Mr. Roe any testing accommodation, noting that he had neglected to submit a "timed reading comprehension measure" in conformance with LSAC's guidelines, he had no history of educational accommodation, and his test results demonstrated an "average range of functioning."

77. Mr. Roe requested reconsideration of LSAC's denial, submitting the results of an additional reading comprehension test that documented Mr. Roe's reading problems and recommended that he receive a testing accommodation of time and a half (150 percent).

78. After reconsideration, LSAC stood by its previous decision to deny testing accommodation.

Raymond Banks

79. Raymond Banks, a resident of San Francisco (County of San Francisco), requested that defendant make testing accommodations for the February 2011 LSAT at San Francisco State University.

80. Mr. Banks had a longstanding and severe injury to his shoulder muscle. As a result of this injury, Banks suffered from nerve damage, carpal tunnel syndrome, and chronic pain, all of which limited his ability to write.

81. Mr. Banks requested five additional minutes to complete each multiple-choice test section of the LSAT, 10 additional minutes on the writing sample section, five-minute breaks between each test section, a large table to write on, and permission to wear a splint on his wrist.

82. Real party Banks submitted medical documentation in support of his request, as well as proof that he had received accommodation as a student at the University of California, Berkeley for time and a half (150 percent) on all exams and quizzes.

83. LSAC denied all of Mr. Banks' requests, other than permitting him to wear a hand splint "as a courtesy." When Mr. Banks asked LSAC for an explanation of the denial, LSAC responded in writing that "[t]he documentation provided did not support your request for the additional accommodations you requested."

Kevin Collins

84. Kevin Collins, a resident of Woodland Hills (Los Angeles County), requested that defendant make testing accommodations for the February 2011 LSAT at California State University, Northridge.

85. Mr. Collins suffers from two learning disorders: disorder of written expression and a reading disorder. He has perceptual-organizational impairments, making it significantly more difficult for him to process simple or routine visual material without making errors, as compared to his peers.

86. Collins requested the accommodations of double time on multiple choice and writing sample sections of the LSAT, permission to use a computer and printer for the writing sample, and an alternative, non-Scantron answer sheet.

87. In support of his request, Collins submitted proof that he had received time and a half (150 percent) on the GRE and for exams at Claremont Graduate University. He also submitted a full psychoeducational assessment report as requested by LSAC's guidelines.

88. Defendant's first response was to ask for additional information and inform Collins that the deadline had passed for the February 2011 LSAT. Later, after Collins had submitted the requested information and requested consideration for the June exam, defendant granted him the accommodations of time and a half (150 percent) for the multiple choice and writing sample sections, rather than the double time that he had requested. The rest of his requested testing accommodations were granted.

89. Collins asked LSAC to reconsider its decision to deny him double time. LSAC stood by its previous decision that time and a half was appropriate.

Rodney DeComo-Schmitt

90. Rodney DeComo-Schmitt, a resident of Marin County, requested that defendant make testing accommodations for the October 2010 LSAT offered at Sonoma State University.

91. Mr. DeComo-Schmitt suffers from a reading disorder, causing a significant discrepancy between his verbal abilities and his visual-spatial abilities, especially under timed conditions.

92. Mr. DeComo-Schmitt requested time and a half (150 percent) on the multiple-choice sections of the exam, extra rest and break time, and permission to use a computer for the writing sample.

93. In support of his request, Mr. DeComo-Schmitt submitted a thorough psychoeducational assessment and proof that he had received time and a half (150 percent) on his SAT exam.

94. LSAC at first refused to consider Mr. DeComo-Schmitt's request for reconsideration, asserting that it had been submitted past the deadline for the October 2010 exam. Later, LSAC denied any testing accommodation to Mr. DeComo-Schmitt for the December 2010 exam, asserting that the

documentation he had submitted did not demonstrate a limitation of a major life activity which affected his ability to take the LSAT.

95. Mr. DeComo-Schmitt requested reconsideration of LSAC's decision, submitting a letter from his psychologist contending that LSAC had misinterpreted the psychological testing.

96. LSAC stood by its denial of testing accommodation, informing Mr. DeComo-Schmitt that he was registered for the December 2010 LSAT as a standard test taker.

Elizabeth Hennessey-Severson

97. Elizabeth Hennessey-Severson, a resident of San Francisco (San Francisco County), requested that defendant make testing accommodations for the June 2011 LSAT at University of California, Hastings College of the Law.

98. Ms. Hennessey-Severson has reading, written expression and mathematics disorders, and ADHD. These conditions impair her working memory and her ability to plan, organize, and devote sustained attention to language-based tasks, particularly reading.

99. Ms. Hennessey-Severson requested that LSAC accommodate her on the LSAT with a minimum of time and a half (150 percent) extra testing time, and by allowing her short breaks of 10 to 15 minutes between sections of the exam.

100. In support of her request, Ms. Hennessey-Severson submitted psychoeducational assessment reports from 2002 and 2009. She also submitted proof that she had been accommodated with time and a half (150 percent) on the SAT, and while she was a student at Dartmouth College.

101. Defendant denied all of Ms. Hennessey-Severson's requests for accommodation, contending that she scored in the "very superior" and "high average" range in her psychoeducational testing, and that her 2002 evaluation noted that she demonstrated a remarkable ability to compensate for her learning disabilities, such that she was able to take honors courses and play high school sports.

102. Ms. Hennessey-Severson and her psychologist requested that LSAC reconsider its decision to deny testing accommodation. Her psychologist wrote: "It is my professional opinion based on all available evidence including comprehensive history, diagnostic interview, well established history of early diagnosis, remediation, and later accommodations throughout high school

and college, that Ms. Hennessey has a standard learning disability that has a substantial impact on a major life function, namely, her ability to read, write, and calculate efficiently, and that extended time for formal testing is a reasonable accommodation for her disability."

103. After reconsideration, LSAC stood by its prior decision to deny Ms. Hennessey-Severson any testing accommodation.

Otilia Ioan

104. Otilia Ioan, a resident of San Jose (Santa Clara County), requested testing accommodation for the December 2010 LSAT offered at Santa Clara University.

105. Ms. Ioan is quadriplegic. She is paralyzed in all four limbs and is unable to physically write without using a brace.

106. Ms. Ioan requested that LSAC provide her with double time on all sections of the test, an alternate answer sheet, the use of a scribe, and an additional break of 30 minutes between sections 3 and 4 of the test.

107. In support of her request, Ms. Ioan submitted verification that she had received the testing accommodation of double time on tests while a student at De Anza College, and double time when taking the GRE.

108. LSAC asked Ms. Ioan to submit additional information from her doctor before it could consider her request for testing accommodation. LSAC wrote: "Your evaluator needs to provide detailed information regarding the nature, extent, severity, and treatment of your disorder and its functional limitation on your ability to take the LSAT."

109. Ms. Ioan's doctor supplied the additional information that LSAC requested.

110. Ms. Ioan wrote to LSAC requesting reconsideration of its decision to deny her double testing time. LSAC stood by its previous decision.

Alex Johnson

111. Alex Johnson, a resident of Lake San Marcos (San Diego County), requested testing accommodations for the October 2010 LSAT offered at the University of Southern California.

112. Mr. Johnson is quadriplegic. He is unable to write or turn pages because his fingers are paralyzed. He is unable to draw diagrams, underline text, or use a standard Scantron answer sheet.

113. Mr. Johnson requested 15 minutes of extra break time between each section of the LSAT, and 120 additional minutes (more than triple time) on the multiple choice and writing sample sections.

114. In support of his request, Mr. Johnson submitted medical documentation of his condition and need for testing accommodation, as well as verification from the University of Southern California that he had received double time on his exams while a student there.

115. At first, LSAC refused to consider Mr. Johnson's accommodation request, because he was not registered to take the LSAT. Later, it granted Mr. Johnson time and a half (150 percent) on the multiple choice and writing sample sections, and 10 minutes of break time between each section. It agreed to provide Mr. Johnson with a scribe, and permitted him to use a computer for the writing sample.

116. Mr. Johnson requested that LSAC reconsider his request for double time. His doctor wrote, "Double time is the least amount of time I should be allocated. It is also very hard to use a scribe because of time limitations."

117. LSAC responded that it did not offer an untimed test, and that the documentation submitted did not support Johnson's request.

Nicholas Jones

118. Nicholas Jones, a resident of Palm Desert (Riverside County), requested that defendant provide him with a testing accommodation for the December 2009 LSAT offered at the University of Laverne (Ontario).

119. Mr. Jones suffers from two distinct eye conditions. First, he has amblyopia or "lazy eye" in his left eye, which impairs his visual processing. Second, he has posterior vitreous detachments in his right eye, meaning that he has persistent floaters or spots, which obstruct his field of vision. These conditions together impair Mr. Jones' reading speed and ability.

120. Mr. Jones requested time and a half (150 percent) on the multiple choice and writing sample sections of the exam and five-minute breaks between each section.

121. In support of his request, Mr. Jones submitted medical forms filled out by his doctor, an eye specialist.

122. LSAC refused to provide any accommodation to Mr. Jones, informing him that "[t]he documentation provided did not reflect an impairment related to taking the Law School Admission Test."

123. Mr. Jones requested that LSAC reconsider its decision denying him testing accommodations, and asked it to provide further explanation. Mr. Jones' doctor wrote a letter supporting his request for reconsideration, asserting that Jones' eye condition "substantially limits him in at least one major life activity, reading."

124. After reconsideration, defendant stood by its prior decision to deny testing accommodation.

Caroline Lee

125. Caroline Lee, a resident of Oakland (Alameda County), requested that defendant make testing accommodations for the December 2010 LSAT offered in the City of Oakland.

126. Ms. Lee suffers from ADHD and a reading disorder, causing her reading to be labored and excessively slow, and impairing her short-term memory.

127. Ms. Lee requested time and a half (150 percent) on the LSAT multiple choice and writing sample, as well as extended breaks during the exam, a quiet testing environment, and the use of a laptop to compose all written work.

128. In support of her request, Ms. Lee submitted proof that she had received extended testing time of 150 percent while a student at City College of San Francisco (CCSF) and that she had taken the SAT and ACT with testing accommodations. She also submitted a psychoeducational assessment that had been performed while she was a student at CCSF.

129. LSAC replied in writing to Ms. Lee that she needed to submit additional documentation in order for her request to be considered, asking for: "[t]esting results and a full

diagnostic report from a comprehensive up-to-date psychoeducational/neuropsychological assessment that comply with the Law School Admissions Council, Inc. Guidelines for Documentation of Cognitive Impairments."

130. Ms. Lee then obtained and submitted a full psychoeducational evaluation in February 2011, which documented her ADHD and reading disorder. Her psychologist recommended that she receive 150 percent extended time, as well as the other previously requested accommodations.

131. LSAC then requested that Ms. Lee submit several additional documents and reports. Ms. Lee did so.

132. In April 2011, defendant denied all of Ms. Lee's requested testing accommodations, informing her that: her performance on academic measures was commensurate with her ability, negating a finding of impairment; her documentation failed to support the diagnosis of an attention disorder; and her request for additional time on the writing sample was not considered because her psychologist had not administered the right tests.

133. Ms. Lee requested that LSAC reconsider its denial of accommodation. This request was accompanied by a letter from her psychologist, who contended that LSAC had misinterpreted the psychoeducational assessment.

134. After reconsideration, LSAC stood by its initial decision to deny testing accommodations.

Andrew Quan

135. Andrew Quan, a resident of Hayward (Alameda County), requested testing accommodation for the October 2011 LSAT offered at the University of California, Santa Cruz.

136. Mr. Quan has ADHD, a visual-motor integration deficit with slow processing speed, hypotonia, and dysgraphia.

137. Mr. Quan requested that LSAC provide him with the accommodations of double time on the multiple choice and writing sample portions of the exam, 10-minute breaks between each section of the test, and the use of a computer for the writing sample.

138. In support of his request, Mr. Quan submitted to LSAC proof that he had been accommodated with the use of a computer on his ACT exams. He also submitted a 2008 psychoeducational assessment from high school, showing that Mr. Quan suffered from "significant deficits in visual-motor integration and fine motor skills." Included within that assessment was a 2008 IEP documenting dysgraphia, attention deficit, visual processing, and sensory motor skills disorders which qualified him for special educational services, the use of a laptop computer, a scribe, and extra examination time.

139. LSAC requested that Mr. Quan provide further documentation to support his request, including "testing results and a full diagnostic report from a comprehensive up-to-date psychoeducational/neuropsychological assessment that comply with [LSAC Guidelines]."

140. Mr. Quan contested LSAC's need for additional documentation, asserting that it was unnecessary, unaffordable, and burdensome.

141. LSAC responded that if Mr. Quan wanted any testing accommodation in the future, he would need to submit "substantive documentation to support your request for your hypotonia/dysgraphia disorders."

Stephen Semos

142. Stephen Semos, a resident of Rancho Palos Verdes (Los Angeles County), requested that defendant make testing accommodations for the December 2010 LSAT at Whittier Law School (Costa Mesa).

143. Mr. Semos has ADHD and dsygraphia, which significantly impair his reading, writing, organization, and general academic performance.

144. Mr. Semos requested time and a half (150 percent) on both the multiple-choice and writing sample portions of the exam, additional break time of five to eight minutes.

145. In support of his request, Mr. Semos submitted proof that he had received: testing accommodations on the SAT; an IEP from the Palos Verdes Peninsula Unified School District identifying Mr. Semos as learning disabled; a letter verifying that he had received accommodations

while a student at the University of California, Irvine, of time and a half (150 percent) on tests; and a complete psychoeducational assessment by his doctor, a neuropsychologist.

146. LSAC's first response was to ask Mr. Semos to provide additional documentation in order to consider his testing accommodation request, including a full report of two particular tests for cognitive disabilities, the Nelson-Denny Reading Test (NDRT) and the Conner's Continuous Performance Test-II. LSAC also informed Mr. Semos that the deadline for the December 2010 LSAT had passed, but that he could request accommodation for future exams.

147. Mr. Semos then submitted his documentation for the February 2011 LSAT.

148. In response, LSAC denied all of Mr. Semos' requests for testing accommodation on the basis that his test scores were generally commensurate with his abilities and thus did not demonstrate a learning disability.

149. Mr. Semos' neuropsychologist requested that LSAC reconsider its denial. Mr. Semos' doctor wrote: "Your denial letter written to Mr. Semos selectively highlighted the above average scores and thereby masked the patterns of deficits in processing speed and fine motor speed noted in my neuropsychological report."

150. LSAC responded that the letter from Mr. Semos' neuropsychologist had arrived too late to be considered for the February 2011 LSAT. LSAC wrote: "You remain registered to test as a standard test taker. No accommodations have been granted."

Gazelle Taleshpour

151. Gazelle Taleshpour, a resident of San Diego (San Diego County), requested that defendant make testing accommodations for the October 2010 LSAT offered at the University of San Diego.

152. Ms. Taleshpour has ADHD. She also suffers from osteopenia (bone loss) and chronic pain in her neck and back as a result of treatment she had received for leukemia, a bone marrow transplant, radiation, and chemotherapy.

153. Ms. Taleshpour requested that LSAC accommodate her with 30 extra minutes on the multiple choice and writing sample portions of the exam, breaks of two to five minutes every half hour so that she could stretch and alleviate pain, a high table, and a comfortable chair.

154. In support of her request, Ms. Taleshpour submitted documentation from her treating medical doctor, her chiropractor, and her psychologist. She also provided LSAC with verification that she had received time and a half (150 percent) on all tests and exams while a student at the University of San Diego.

155. LSAC requested that Ms. Taleshpour provide additional documentation in support of her testing accommodation request, including "[t]esting results and a full diagnostic report from a psychoeducational/neuropsychological assessment that comply with Guidelines for Documentation of Cognitive Impairments."

156. Ms. Taleshpour obtained and submitted the additional documentation that LSAC requested. Her psychiatrist performed a full psychoeducational assessment, which diagnosed her with ADHD, a reading disorder, and a learning disability (dyslexia). Her psychiatrist supported Ms. Taleshpour's request for double time and other testing accommodations.

157. LSAC only partially granted Ms. Taleshpour's request for testing accommodation, allowing her to sit or stand at a podium while taking the exam, and to bring a seat cushion or an adjustable chair.

158. Ms. Taleshpour then resubmitted a request for accommodation for the December 2010 LSAT: double time on multiple choice and writing sample; an alternate, non-Scantron answer sheet; use of a reader; an additional 15 minutes of rest time; and 15-minute breaks between sections.

159. LSAC denied the request for additional accommodations beyond the two it had already granted, explaining to Ms. Taleshpour that her intelligence test scores were average and commensurate with her ability, meaning that no cognitive disability was apparent.

160. Ms. Taleshpour requested that LSAC reconsider its denial of testing accommodation for extra time. Her psychologist supported the reconsideration request, contending that LSAC failed to recognize significant discrepancies in her reading speed and comprehension. "These significant

difficulties provide psychometric evidence of the presence of a Learning Disability as described by the ADA," he wrote.

161. LSAC stood by its prior decision to limit the testing accommodations made for Ms. Taleshpour: permission to sit or stand with a podium and to bring a seat cushion or an adjustable chair.

Kevin Vielbaum

162. Kevin Vielbaum, a resident of San Mateo (San Mateo County), requested that defendant make testing accommodations for him in taking the June 2011 LSAT at the University of California, Hastings College of the Law.

163. Mr. Vielbaum has a reading disorder (dyslexia), characterized by a significant difficulties with perceptual reasoning, working memory, and cognitive processing speed.

164. Mr. Vielbaum requested that defendant accommodate him with time and a half (150 percent) on the multiple choice section of the LSAT, double time on the writing sample, and permission to use a computer for the writing sample.

165. In support of his request, Mr. Vielbaum submitted extensive records from his primary education at a special school for students with dyslexia, where he was granted accommodations of extended time and the use of a laptop and calculator.

166. LSAC granted Mr. Vielbaum only the accommodation of using a computer, printer and spell check for the writing sample. LSAC denied the accommodation of extra time, noting that Mr. Vielbaum had not requested accommodation on the SAT, and that he had scored well on the tests involved in his psychoeducational assessment. Defendant went on to explain that: "[y]our evaluator notes you have difficulties with logical reasoning. Inasmuch as the Law School Admission Test is designed to measure these skills, the testing accommodations requested (extended time on all examinations that involve the solving of logic problems), would not be appropriate."

Austin Whitney

167. Austin Whitney, a resident of Contra Costa County, first requested testing accommodations for the September 2009 LSAT offered at San Diego State University.

168. Mr. Whitney is paraplegic due to a spinal cord injury in 2007.

169. Mr. Whitney requested that defendant accommodate his disability with time and a half (150 percent) on the multiple choice and writing sample sections of the LSAT, and a wheelchair accessible testing location.

170. In support of his request, Mr. Whitney submitted medical records pertaining to his 2007 injury, verification from the University of California at Berkeley that he had received time and a half (150 percent) for all exams and quizzes during his undergraduate studies, and a form filled out by his doctor indicating that, because of his injury and surgeries, he suffered from "severe chronic pain and radiating radicular nerve pain" for which Whitney took prescription medication that caused drowsiness.

171. LSAC responded that Mr. Whitney's request for testing accommodation had been submitted too late for the September 2009 test, and therefore he was registered as a standard test taker.

172. Mr. Whitney next requested testing accommodations for the June 2010 LSAT offered in Berkeley at the California Ballroom. This time he requested that LSAC accommodate him with five- minute breaks between sections, in addition to providing time and a half (150 percent) on the multiple choice and writing sample sections and a wheelchair accessible testing site.

173. In support of this request, Mr. Whitney submitted medical forms from four different doctors, each of whom supported his need for extra testing time. Dr. Larry Snyder explained: "Patient has significant fatigue due to medications taken for previous spinal injury - this will affect his performance in TIMED conditions." Dr. Carol Jessop wrote that, due to Mr. Whitney's spinal cord injury with chronic, nueropathic pain, he needed extra time to compensate for the effects of the pain medication which cause fatigue. Dr. Jessop explained: "This is a significant problem for Austin Whitney as he is taking medications . . . that cause him to be sleepy and fatigued. This drowsiness makes him slower in his response to test questions. If an exam has a time limit, he will definitely need extra time to complete it."

174. LSAC then granted Mr. Whitney the extra break time that he requested, and agreed to provide a wheelchair accessible testing site, but denied his request for extra testing time. "If you choose to have your cognitive disorder (alluded to by Carol Jessop, MD) considered," defendant wrote, "you must provide a current psychoeducational/neuropsychological assessment or neuropsychological evaluation as per our Guidelines for Documentation of Cognitive Impairments."

175. Mr. Whitney asked defendant to reconsider its decision to deny additional testing time, and three of his doctors wrote to LSAC in support of his request.

a. Dr. Snyder wrote, "His pain and spacticity are a constant distraction and put him at a significant disadvantage as a test taker. In addition, the medication he is taking causes significant fatigue and makes it difficult to concentrate. The medication side effects do not impair cognition but can slow processing speed. For these reasons, he should be afforded extra time when taking this standardized test."

b. Dr. Jessop wrote, "I would like to emphasize that the nature of Mr. Whitney's condition is physiological (pain issues) and NOT cognitive or due to a learning disorder. Our request for extra time on the exam is based solely on physiological effects of chronic, severe neuropathic pain, and the fatiguing side effects of pharmaceutical pain killers. Thus, because he doesn't have a learning disability, I feel strongly that neuropsychological or psychoeducational testing would be irrelevant in his case."

c. Dr. Hedelman wrote, "Patient's significant impacts on concentration, reading, writing, ability to attend class is secondary to his unpredictable, severe neuropathic pain and the associated pain management medications. Patient does not have an underlying cognitive impairment requiring neuropsych[ological] testing."

176. LSAC refused to reconsider its decision, responding: "We have no objective evidence to support Dr. Carol Jessop, MD's conclusion that your thought processes are not as fast as they could be without medication."

177. In 2011, at LSAC's behest, Mr. Whitney was evaluated by a psychologist, who determined that he required double time on examinations due to the effect that his pain medication was having on his cognitive abilities.

178. In response to a second accommodation request by Mr. Whitney with the psychologist's report as supporting documentation, LSAC awarded him 10 additional minutes on each section of the exam. LSAC provided no rationale for denying his request for double time.

FIRST CLASS CAUSE OF ACTION

Unlawful Consideration of Mitigation Measures

(42 U.S.C. § 12102(4)(E)(1)(i)(I))

179. The DFEH realleges and incorporates by reference each and every allegation contained in paragraphs 1 through 178, inclusive, as if fully set forth herein.

180. The ADA, 42 U.S.C. § 12102(4)(E)(1)(i)(I), requires that "any determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as medication." The ADA is incorporated into the Unruh Act by Civil Code section 51, subdivision (f).

181. By requiring applicants to take the medication prescribed for their disabilities while being evaluated for testing accommodations or explain their failure or refusal to do so, LSAC violates the rights of class members under the FEHA, Unruh Act, and ADA,

182. As a direct result of the unlawful practices of defendants as alleged herein, class members have incurred out of pocket losses, including test registration fees and medical bills, in an amount to be proven at trial.

183. As a further and direct result of the unlawful practices of defendants as alleged herein, class members have suffered emotional distress, anxiety, lost opportunity, frustration, humiliation, and loss of dignity and self-esteem, in an amount to be proven at trial.

184. Defendants have engaged in, and by their refusal to comply with the law, have demonstrated that they will continue to engage in, the pattern or practice of unlawful discrimination described herein unless and until they are enjoined, pursuant to the police power granted by

Government Code sections 12920 and 12920.5, and pursuant to section 12974, from failing or refusing to comply with the mandates of the FEHA, Unruh Act, and the ADA. Unless and until defendants are enjoined from failing or refusing to comply with the mandates of these laws, class members' right to full and equal access to places of public accommodation will continue to be violated. Plaintiff lacks any plain, speedy, adequate remedy at law to prevent such harm, injury and loss, which will continue until the court enjoins the complained of unlawful conduct and grants other affirmative relief as prayed for herein.

SECOND CLASS CAUSE OF ACTION

Failure to Ensure that Exam Measures Ability Rather than Disability

(42 U.S.C. § 12189 and 28 C.F.R. § 36.309)

185. The DFEH realleges and incorporates by reference each and every allegation contained in paragraphs 1 through 178, inclusive, as if fully set forth herein.

186. The ADA requires that any person offering examinations related to post-secondary education or profession "shall offer such examinations or courses in a place and manner accessible to persons with disabilities." 42 U.S.C. § 12189. Regulations interpreting this section impose an obligation on the entity offering such an examination that " [t]he examination is selected and administered so as to best ensure that, when the examination is administered to an individual with a disability that impairs sensory, manual, or speaking skills, the examination results accurately reflect the individual's aptitude or achievement level or whatever other factor the examination purports to measure, rather than reflecting the individual's impaired sensory, manual, or speaking skills." 28 C.F.R. § 36.309.

187. By adhering to a blanket policy of annotating scores taken under extended time conditions, defendant is communicating to law schools that it does not know whether or not the applicants' exam results accurately reflect aptitude or achievement. Therefore, LSAC is breaching its duty under the FEHA, Unruh Act, and ADA to ensure that the examination results accurately reflect the individual's aptitude or achievement level. 28 C.F.R. § 36.309(b)(1)(i).

188. As a direct result of the unlawful practices of defendants as alleged herein, class members have incurred out of pocket losses, including test registration fees and medical bills, in an amount to be proven at trial.

189. As a further and direct result of the unlawful practices of defendants as alleged herein, class members have suffered emotional distress, anxiety, lost opportunity, frustration, humiliation, and loss of dignity and self-esteem, in an amount to be proven at trial.

190. Defendants have engaged in, and by their refusal to comply with the law, have demonstrated that they will continue to engage in, the pattern or practice of unlawful discrimination described herein unless and until they are enjoined, pursuant to the police power granted by Government Code sections 12920 and 12920.5, and pursuant to section 12974, from failing or refusing to comply with the mandates of the FEHA, Unruh Act, and the ADA. Unless and until defendants are enjoined from failing or refusing to comply with the mandates of these laws, class members' right to full and equal access to places of public accommodation will continue to be violated. Plaintiff lacks any plain, speedy, adequate remedy at law to prevent such harm, injury and loss, which will continue until the court enjoins the complained of unlawful conduct and grants other affirmative relief as prayed for herein.

THIRD CLASS CAUSE OF ACTION

Coercion, Intimidation, Threats, or Interference with ADA Rights - Flagging

(42 U.S.C. § 12203)

191. The DFEH realleges and incorporates by reference each and every allegation contained in paragraphs 1 through 178, inclusive, as if fully set forth herein.

192. The ADA makes it unlawful to "coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, any right granted or protected by this Act." 42 U.S.C. § 12203.

193. LSAC's policy of annotating tests scores administered under extended time conditions discourages applicants from seeking such a testing accommodation, and punishes those who receive it, in violation of the FEHA, Unruh Act, and ADA.

194. As a direct result of the unlawful practices of defendants as alleged herein, class members have incurred out of pocket losses, including test registration fees and medical bills, in an amount to be proven at trial.

195. As a further and direct result of the unlawful practices of defendants as alleged herein, class members have suffered emotional distress, anxiety, lost opportunity, frustration, humiliation, and loss of dignity and self-esteem, in an amount to be proven at trial.

196. Defendants have engaged in, and by their refusal to comply with the law, have demonstrated that they will continue to engage in, the pattern or practice of unlawful discrimination described herein unless and until they are enjoined, pursuant to the police power granted by Government Code sections 12920 and 12920.5, and pursuant to section 12974, from failing or refusing to comply with the mandates of the FEHA, Unruh Act, and the ADA. Unless and until defendants are enjoined from failing or refusing to comply with the mandates of these laws, class members' right to full and equal access to places of public accommodation will continue to be violated. Plaintiff lacks any plain, speedy, adequate remedy at law to prevent such harm, injury and loss, which will continue until the court enjoins the complained of unlawful conduct and grants other affirmative relief as prayed for herein.

FOURTH CAUSE OF ACTION – REAL PARTIES IN INTEREST ONLY

Denial of Reasonable Accommodation

(42 U.S.C. § 12189 and 28 C.F.R. § 36.309(b)(1)(iv))

197. The DFEH realleges and incorporates by reference each and every allegation contained in paragraphs 1 through 178, inclusive, as if fully set forth herein.

198. The ADA requires that any person offering examinations related to post-secondary education or profession "shall offer such examinations or courses in a place and manner accessible to persons with disabilities." 42 U.S.C. § 12189. As part of this duty to make an examination accessible, the regulations require that any documentation requested be "reasonable and limited to the need for the modification, accommodation, or auxiliary aid or service requested." 28 C.F.R. § 36.309(b)(1)(iv).

199. LSAC breached its duty to make the LSAT accessible to people with disabilities by requiring excessive amounts of documentation and denying a testing accommodation to each real party in interest, in violation of the FEHA, Unruh Act, and ADA.

200. As a direct result of the unlawful practices of defendants as alleged herein, real parties have incurred out of pocket losses, including test registration fees and medical bills, in an amount to be proven at trial.

201. As a further and direct result of the unlawful practices of defendants as alleged herein, real parties have suffered emotional distress, anxiety, lost opportunity, frustration, humiliation, and loss of dignity and self-esteem, in an amount to be proven at trial.

202. Defendants have engaged in, and by their refusal to comply with the law, have demonstrated that they will continue to engage in, the pattern or practice of unlawful discrimination described herein unless and until they are enjoined, pursuant to the police power granted by sections 12920 and 12920.5, and pursuant to section 12974, from failing or refusing to comply with the mandates of the FEHA, Unruh Act, and the ADA. Unless and until defendants are enjoined from failing or refusing to comply with the mandates of these laws, class members' right to full and equal access to places of public accommodation will continue to be violated. Plaintiff lacks any plain, speedy, adequate remedy at law to prevent such harm, injury and loss, which will continue until the court enjoins the complained of unlawful conduct and grants other affirmative relief as prayed for herein.

FIFTH CAUSE OF ACTION – REAL PARTIES IN INTEREST ONLY

Coercion, Intimidation, Threats, or Interference with ADA Rights

(42 U.S.C. § 12203)

203. The DFEH realleges and incorporates by reference each and every allegation contained in paragraphs 1 through 178, inclusive, as if fully set forth herein.

204. The ADA makes it unlawful to "coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, any right granted or protected by this Act." 42 U.S.C. § 12203.

205. LSAC's policies and patterns of requiring unreasonable types and excessive amounts of documentation to support each testing accommodation request violate the FEHA, Unruh Act, and the ADA, by unlawfully coercing, intimidating, threatening, or interfering with real parties' exercise or enjoyment of their right to reasonable accommodation on the LSAT.

206. As a direct result of the unlawful practices of defendants as alleged herein, real parties have incurred out of pocket losses, including test registration fees and medical bills, in an amount to be proven at trial.

207. As a further and direct result of the unlawful practices of defendants as alleged herein, real parties have suffered emotional distress, anxiety, lost opportunity, frustration, humiliation, and loss of dignity and self-esteem, in an amount to be proven at trial.

208. Defendants have engaged in, and by their refusal to comply with the law, have demonstrated that they will continue to engage in, the pattern or practice of unlawful discrimination described herein unless and until they are enjoined, pursuant to the police power granted by Government Code sections 12920 and 12920.5, and pursuant to section 12974, from failing or refusing to comply with the mandates of the FEHA, Unruh Act, and the ADA. Unless and until defendants are enjoined from failing or refusing to comply with the mandates of these laws, class members' right to full and equal access to places of public accommodation will continue to be violated. Plaintiff lacks any plain, speedy, adequate remedy at law to prevent such harm, injury and loss, which will continue until the court enjoins the complained of unlawful conduct and grants other affirmative relief as prayed for herein.

SIXTH CAUSE OF ACTION – GROUP AND CLASS RELIEF

Discrimination on the Basis of Disability in Violation of California Education Code

(Cal. Educ. Code § 99161.5)

209. Plaintiff incorporates by reference paragraphs 1 through 178 as though fully set forth herein.

210. Government Code, section 12902 expressly makes Government Code, 11150 et seq. applicable to the DFEH. Under Government Code, section 11180, the DFEH is authorized to investigate and prosecute actions "relating to … subjects under the jurisdiction of the department." The activities prohibited by the Education Code, section 99161.5 relate to subjects under the jurisdiction of the DFEH.

211. California's Education Code, section 99161.5(a)(1), states: "The test sponsor of the Law School Admission Test shall provide testing accommodations to a test subject with a disability who makes a timely request to ensure that the Law School Admission Test accurately reflects the aptitude, achievement levels, or other factors that the test purports to measure and does not reflect the test subject's disability. This paragraph does not constitute a change in, but is declaratory of, existing law."

212. California's Education Code, section 99161.5, further states that, when determining whether to grant a testing accommodation to the test subject, "the test sponsor of the Law School Admission Test shall, consistent with existing law, give considerable weight to the documentation of past modifications, accommodations, or auxiliary aids or services received by the test subject in similar testing situations[.]" Cal. Educ. Code § 99161.5(b).

213. California's Education Code, section 99161.5, further states that the decision of whether or not to approve a request for a testing accommodation on the LSAT shall be conveyed to the requester within a reasonable amount of time. When a testing accommodation is denied, the test sponsor shall state the reasons for the denial in writing, and shall provide a timely appeals process. Cal. Educ. Code § 99161.5(a)(2), (3).

214. California's Education Code, section 99161.5, further prohibits the practice of "flagging" LSAT scores by prohibiting the test sponsor from "notify[ing] a test score recipient that the score of any test subject was obtained by a subject who received an accommodation pursuant to this section," or from "withhold[ing] any information that would lead a test score recipient to deduce that a score was earned by a subject who received an accommodation[.]" Cal. Educ. Code § 99161.5(c).

215. In violation of their rights under the California Education Code, Defendant LSAC imposed upon Real Parties in Interest, and continues to impose on California test takers, onerous and unnecessary documentation requirements to support requests for testing accommodations, and subjected them to arbitrary, ineffective, and unpredictable evaluation and appeals procedure. In violation of their rights under the California Education Code, Defendant LSAC refused to provide Real Parties in Interest with the testing modifications they needed to take the LSAT on an equal basis with other nondisabled test takers. In violation of the rights of Real Parties in Interest and other California test takers under the California Education Code, Defendant LSAC failed to give considerable weight to their documentation of past modifications, accommodations, or auxiliary aids or services received in similar testing situations. In violation of their rights under the California Education Code, Defendant LSAC refused to provide Real Parties in Interest and other California test takers with a test score in an equivalent format as their nondisabled peers.

216. In taking the above-described actions and inactions, Defendant LSAC failed to make any good faith effort or attempt to comply with state and federal laws. Defendant LSAC's unlawful actions were intentional, willful, malicious and/or done with reckless disregard to Real Parties in Interests' rights under the California Education Code. As a direct and proximate result of the unlawful acts described herein, Real Parties in Interest have suffered and continue to suffer injuries including emotional injuries.

217. Plaintiff DFEH and Real Parties in Interest are entitled to appropriate relief as determined by this Court which may include declaratory relief and/or a civil penalty not to exceed seven hundred fifty dollars ($750) for each violation and/or other appropriate relief.

PRAYER FOR RELIEF

WHEREFORE, the DFEH prays that the court issue a judgment in favor of the DFEH, real parties in interest, classwide relief, and order defendants to provide the following relief:

AS TO REAL PARTIES IN INTEREST

218. Provide free and accommodated testing at the next available testing date in each real party's area, with accommodations as initially requested by that real party;

219. Provide a letter to each real party explaining that their LSAT scores used for their law school applications during the relevant period may not have provided accurate measures of their acquired reading and verbal reasoning skills, because LSAC did not provide testing accommodations.

CLASSWIDE RELIEF, INCLUDING THE REAL PARTIES IN INTEREST

220. Cease and desist from consideration of mitigation measures such as medication when making a determination as to whether an applicant needs a testing accommodation.

221. Cease and desist from specially annotating LSAT scores tests scores administered under extended time conditions.

222. Include all test scores in the percentile ranking process and provide a ranked percentile to each test taker.

223. Immediately undertake a validation study to determine if LSAC scores under accommodation of extra time for cognitive disabilities are an equal measure of aptitude or achievement as compared to non-accommodated scores.

224. Reduce to a discrete and reasonable amount the documentation required to verify an applicant's need for a testing accommodation, especially for so-called cognitive disabilities, consistent with the ADA's requirement that such documentation be "reasonable" and Congress' mandate that "the question of whether an individual's impairment is a disability under the ADA should not demand extensive analysis." (28 C.F.R. § 36.309(b)(1)(iv); 42 U.S.C. § 1201 [Pub. L. No. 110-325 § 2(b)(5) (Sept. 25, 2008) 122 Stat. 3553].)

225. Create a more streamlined and user-friendly process for considering testing accommodation requests, that includes notice to applicants, within a reasonable period of time, whether or not requested testing accommodations have been granted, and provides a fair process for timely reconsideration of any denial of requested testing accommodations.

226. Pay actual damages according to proof for each Unruh Act violation up to a maximum of three times the actual damages but in no case less than $4,000 per violation.

227. Pay the DFEH's attorneys' fees and costs, pursuant to California Government Code § 12965(b) and California Civil Code § 52(a), in an amount according to proof, plus annual interest, as required by law.

228. Provide written proof to the Department of the nature and extent of LSAC's compliance with all requirements of the court's order within 100 days of its effective date.

229. Award penalties pursuant to California Education code, section 99161; and,

230. Provide such other relief as the Court deems to be just and proper.

Dated: September 27, 2013

DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

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By: /s/ R. Sybil Villanueva
R. Sybil Villanueva
Attorneys for the Department

EXHIBIT 1

* * * PUBLIC ACCOMMO TION/RALPH/CIVIL CODE S TIONS 51.5 & 54 * * *

COMPLAINT OF DISCRIMINATION UNDER THE PROVISIONS OF THE CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT WHICH INCORPORATES THE UNRUH CIVIL RIGHTS ACT, THE RALPH CIVIL RIGHTS ACT AND CIVIL CODE SECTIONS 51.5 AND 54

DFEH # U200910-Q-0003 -00

COMPLAINANT'S NAME(S) (Indicate Mr. or Ms., if individual)
[redacted]

ADDRESS [redacted] TELEPHONE NUMBER (INCLUDE AREA CODE) [redacted]

CITY/STATE/ZIP [redacted] COUNTY Alameda COUNTY CODE 001

NAMED IS THE PERSON, BUSINESS ESTABLISHMENT, PUBLIC ACCOMMODATION OR OTHER ENTITY THAT DISCRIMINATED AGAINST ME:

NAME(S)
LAW SCHOOL ADMISSIONS COUNCIL

ADDRESS
P.O. Box 8512

TELEPHONE NUMBER (INCLUDE AREA CODE)
(215) 968-1001

CITY/STATE/ZIP
Newtown, PA 18940

COUNTY
Accommodation Unit

COUNTY CODE
000

CAUSE OF DISCRIMINATION BASED ON (CHECK APPROPRIATE BOX(ES))
☐ RACE ☐ SEX ☑ DISABILITY ☐ RELIGION ☐ NATIONAL ORIGIN/ANCESTRY ☐ SEXUAL ORIENTATION
☐ COLOR ☐ AGE ☐ MARITAL STATUS ☐ OTHER (SPECIFY)

DATE MOST RECENT OR CONTINUING DISCRIMINATION TOOK PLACE (month, day, and year) April 21, 2010

TYPE OF COMPLAINT
B

THE PARTICULARS ARE:

I. On or about April 21, 2010, I was denied my reasonable accommodation request for 50% extra testing time when taking my LSAT exam for the Law School Admissions Council which is located at P.O. Box 8512, Newtown, PA 18940.

II. I believe I was denied my reasonable accommodation request for 50% extra testing time when taking my LSAT exam which is necessary due to my disability (Attention Deficit Disorder) which is a violation Government Code, Section 12948. The Government Code incorporates Section 51 of the Civil Code. My belief is based on the following:

A. Corporate Council, Joan Van Tol, was aware of my disability and the granting of my accommodation request for 50% additional testing time for a prior test date. However, after I requested an accommodation for 50% additional testing time for the June 6, 2010 exam, my request was denied.

Typed and mailed for signature on May 4, 2010.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge except as to matters stated on my information and belief, and as to those matters I believe it to be true.

Dated X May 3 2010

At X Oakland
City

[redacted]
COMPLAINANT'S SIGNATURE/GUARDIAN AD LITEM

RECEIVED
MAY 09 2010
DEPT OF FAIR EMPLOYMENT & HOUSING-OAKLAND HOUSING UNIT

DFEH-300-02 (12/99) Q:DS:bps
DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

DATE FILED:

STATE OF CALIFO

EXHIBIT 2

* * * PUBLIC ACCOMM ATION/RALPH/CIVIL CODE CTIONS 51.5 & 54 * * *

COMPLAINT OF DISCRIMINATION UNDER THE PROVISIONS OF THE CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT WHICH INCORPORATES THE UNRUH CIVIL RIGHTS ACT, THE RALPH CIVIL RIGHTS ACT AND CIVIL CODE SECTIONS 51.5 AND 54

DFEH # E-200910-G-0012-00-p

COMPLAINANT'S NAME(S) (Indicate Mr. or Ms., if individual)
Jones, Nicholas E. (Mr)

ADDRESS
73213 Catalina Way

TELEPHONE NUMBER (INCLUDE AREA CODE)
(760) 409-9103

CITY/STATE/ZIP
Palm Desert, ca 92260

COUNTY
Riverside

COUNTY CODE
065

NAMED IS THE PERSON, BUSINESS ESTABLISHMENT, PUBLIC ACCOMMODATION OR OTHER ENTITY THAT DISCRIMINATED AGAINST ME:

NAME(S)
Law School Admissions Council, Inc. (LSAC)

ADDRESS
Post Office Box 8512

TELEPHONE NUMBER (INCLUDE AREA CODE)
215-968-1001

CITY/STATE/ZIP
Newton, PA 18940-8512

COUNTY
Out-of-State

COUNTY CODE
000

CAUSE OF DISCRIMINATION BASED ON (CHECK APPROPRIATE BOX(ES))

☐ RACE ☐ SEX ☒ DISABILITY ☐ RELIGION ☐ NATIONAL ORIGIN/ANCESTRY ☐ SEXUAL ORIENTATION
☐ COLOR ☐ AGE ☐ MARITAL STATUS ☐ OTHER (SPECIFY)

DATE MOST RECENT OR CONTINUING DISCRIMINATION TOOK PLACE (month, day, and year) December 5, 2009

TYPE OF COMPLAINT
B

THE PARTICULARS ARE:

I. On or about December 5, 2009 I was denied reasonable accommodation to take the LSAT test for the Law School Admissions Council.

II. On or about October 27, 2009 and November 9, 2009 I received notification my request for reasonable accommodation had been denied.

III. I believe I was denied reasonable accommodation because of my disabilities (Amblyopia/Posterior Vitreous Detachment) and because of my membership in a class of people who are disabled. This is a violation of Section 12948 of the Government Code. The Government Code incorporates Section 51 of the Civil Code. My belief is based on the following:

A. On or about October 20, 2009 I requested a reasonable accommodation to take the LSAT test scheduled for December 5, 2009.

B. On or about October 27, 2009 I received notification the documentation I provided did not reflect an impairment related to taking the LSAT and I remained registered to test as a standard test taker.

C. On or about November 3, 2009 I requested reconsideration regarding my accommodation request by providing additional information requested by LSAC to justify my need for reasonable accommodation.

* * * PUBLIC ACCOMM. DATION/RALPH/CIVIL CODE ECTION 54 * * *

COMPLAINT OF DISCRIMINATION UNDER THE PROVISIONS OF THE CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT WHICH INCORPORATES THE UNRUH CIVIL RIGHTS ACT, THE RALPH CIVIL RIGHTS ACT AND CIVIL CODE SECTIONS 51.5 AND 54

DFEH # U-200910-G-0012-00-p

COMPLAINANT'
Jones, Nicholas E. (Mr.)

RESPONDENT
Law School Admissions Council, Inc. (LSAC)

THE PARTICULARS ARE:

D. On or about November 9, 2009 I received notification the additional documentation was reviewed and there was no change in their decision and my request for reasonable accommodation was denied.

IV. I am making this complaint on behalf of myself and all other disabled individuals, who have been, are now, or will in the future be similarly aggrieved.

RECEIVED

Typed and mailed for signature on January 11, 2010 JAN 2 1 2010

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge except as to matters stated on my information and belief, and as to those matters I believe it to be true.

DEPT. OF FAIR EMPLOYMENT & HOUSING SAN JOSE

Dated 1/14/2010

NICHOLAS E. JONES
COMPLAINANT'S SIGNATURE

At PALM DESERT, CA
City

COMPLAINANT'S SIGNATURE/GUARDIAN AD LITEM

DFEH-300-02 (12/99) SJ:ALeo

DATE FILED: JAN 2 1 2010

DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

STATE OF CALIFORNIA

EXHIBIT 3

SUSAN SAYLOR (#154592)
Acting Chief Counsel
ALEXANDRA SELDIN (#239708)
Staff Counsel
DEPARTMENT OF FAIR EMPLOYMENT
AND HOUSING
2218 Kausen Drive, Suite 100
Elk Grove, CA 95758
Telephone No.: (619) 645-2575
Facsimile: (619) 645-3170

Attorneys for the Department

BEFORE THE FAIR EMPLOYMENT AND HOUSING COMMISSION

OF THE STATE OF CALIFORNIA

In the Matter of the Complaint of THE DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING, vs. LAW SCHOOL ADMISSION COUNCIL, INC., Respondent, HAMID MICHAEL HEJAZI; NICHOLAS E. JONES; and [redacted] Complainants.	**Case Nos.** U-200910-G-0012-00-p U-200910-G-0011-00-p U-200910-Q0003-00 **NOTICE OF CLASS ACTION COMPLAINT AND DIRECTOR'S COMPLAINT** (Gov. Code §§ 12960, 12961 and 12965, subd. (a).)

TO LAW SCHOOL ADMISSION COUNCIL, INC., 662 Penn Street, Box 40, Newton, Pennsylvania, 18940:

PLEASE TAKE NOTICE that pursuant to Government Code sections 12960 and 12961, the Director of the DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING (hereinafter "the Department") has determined that the cases listed below will be treated and proceed as a group or class complaint for all purposes, and the Director has issued the following Complaint of Discrimination on behalf of the group or class described below:

Case number U-200910-G-0011-00-p, filed by Complainant HAMID MICHAEL HEJAZI against Respondent LAW SCHOOL ADMISSION COUNCIL, INC. on January 19, 2010.

Case number U-200910-G-0012-00-p, filed by Complainant NICHOLAS E. JONES against Respondent LAW SCHOOL ADMISSION COUNCIL, INC. on January 21, 2010.

Case number U-200910-Q0003-00, filed by Complainant [redacted] against Respondent LAW SCHOOL ADMISSION COUNCIL, INC. on May 9, 2010.

The Director's determination and issuance is based on the following:

1. Complainants HAMID MICHAEL HEJAZI, NICHOLAS E. JONES and [redacted] (hereinafter "Complainants") filed individual verified complaints in writing with the Department on the dates herein indicated alleging that Respondent LAW SCHOOL ADMISSION COUNCIL, INC. (hereinafter "LSAC") engaged in unlawful practices against them which were discriminatory on the basis of disability, in violation of the Fair Employment and Housing Act ("FEHA"), Government Code section 12900, *et. seq.* and the Unruh Civil Rights Act, Civil Code section 51.

2. The Department's investigation revealed that LSAC is a proper respondent for all purposes in this matter.

3. The group or class of which the Complainants are members is comprised of all disabled individuals in the State of California who have or will request a reasonable accommodation for the Law School Admission Test ("LSAT"), administered by the LSAC, and who have or will be unlawfully denied such request from January 19, 2009 to the conclusion of the Department's investigation of this complaint.

4. There are common questions of law and fact involved which affect the parties to be represented and those persons similarly situated in that during the course of the Department's investigation the Complainants provided and the Department obtained information, which, if proven, indicates that LSAC unlawfully denied or denies disabled individuals reasonable accommodations for the LSAT. Respondent disputes some of these allegations. The Department will continue the investigation to determine the merits of these allegations.

5. The nature of the group or class is such that proof of a single set of facts will establish the right of each member of the group to recover.

6. The Director will fairly and accurately represent the interests of the group or class.

7. You may, but need not, respond to this notification in writing by submitting your response to:

Alexandra Seldin
Special Investigations Unit Administrator
Department of Fair Employment and Housing
2218 Kausen Drive, Suite 100
Elk Grove, CA 95758

DATED: July 22, 2010

DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

PHYLLIS W. CHENG
Director

By: _____
Phyllis W. Cheng

EXHIBIT 4

* * * PUBLIC ACCOMMODATION/RALPH/CIVIL CODE SECTIONS 51.5 & 54 * * *

COMPLAINT OF DISCRIMINATION UNDER THE PROVISIONS OF THE CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT WHICH INCORPORATES THE UNRUH CIVIL RIGHTS ACT, THE RALPH CIVIL RIGHTS ACT AND CIVIL CODE SECTIONS 51.5 AND 54

DFEH # U 201112 H-0007-00-p

COMPLAINANT'S NAME(S) (indicate Mr. or Ms., if individual)
JOHNSON, ALEX (MR.)

ADDRESS: 1447 La Linda Drive
TELEPHONE NUMBER (INCLUDE AREA CODE): 760-736-0119
CITY/STATE/ZIP: San Marcos, CA 92078
COUNTY: San Diego
COUNTY CODE: 073

NAMED IS THE PERSON, BUSINESS ESTABLISHMENT, PUBLIC ACCOMMODATION OR OTHER ENTITY THAT DISCRIMINATED AGAINST ME:

NAME(S): Law School Admissions Council, Inc. (LASC)
ADDRESS: 662 Penn Street
TELEPHONE NUMBER (INCLUDE AREA CODE): 215-968-1001
CITY/STATE/ZIP: Newtown, PA 18940
COUNTY: Out of State
COUNTY CODE: 000

CAUSE OF DISCRIMINATION BASED ON (CHECK APPROPRIATE BOX(ES))
☐ RACE ☐ SEX ☑ DISABILITY ☐ RELIGION ☐ NATIONAL ORIGIN/ANCESTRY ☐ SEXUAL ORIENTATION
☐ COLOR ☐ AGE ☐ MARITAL STATUS ☐ OTHER: (SPECIFY)

DATE MOST RECENT OR CONTINUING DISCRIMINATION TOOK PLACE (month, day, and year): September 17, 2010
TYPE OF COMPLAINT: Unruh

THE PARTICULARS ARE:

I. On or about 9/17/10 I was denied the reasonable accommodation needed to take the LSAT (Law School Admissions Test).

II. No reason was given for partial denial of my reasonable accommodation and the granting of inadequate/ineffective accommodations.

III. I believe I was denied reasonable accommodation, which is necessary due to my disability (Quadriplegia), which is a violation of Government Code, Section 12948. The Government Code incorporates Section 51 of the Civil Code. My belief is based on the following:

A. On or about 8/5/10 I advised the Accommodated Testing section of my medical need for accommodation in the form of using a computer for all sections of the test, 120 extra minutes on each section of the test, alternate to scantron answer sheet, use of amanuensis (to turn pages), additional rest period and breaks, . I also provided supporting medical documentation to confirm the accommodations were medically necessary.

B. On or about 9/17/10 I was notified that part of my requested accommodation was being denied. The accommodations that were granted were inadequate and ineffective.

IV. I am making this complaint on behalf of myself and all other disabled individuals who have been, are now, or will in the future be similarly aggrieved.

Typed and mailed for signature on August 23, 2011.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge except as to matters stated on my information and belief, and as to those matters I believe it to be true.

Dated 8-26-11 — COMPLAINANT'S SIGNATURE

At Lake San Marcos — City — COMPLAINANT'S SIGNATURE (GUARDIAN OR REP)

DFEH-300-02 (12/99) B:PND
DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

DATE FILED:

RECEIVED
AUG 29 2011
STATE OF CALIFORNIA
DEPT OF FAIR EMPLOYMENT & HOUSING
BAKERSFIELD DISTRICT OFFICE

EXHIBIT 5

* * * PUBLIC ACCOMMODATION/RALPH/CIVIL CODE SECTIONS 51.5 & 54 * * *

COMPLAINT OF DISCRIMINATION UNDER THE PROVISIONS OF THE CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT WHICH INCORPORATES THE UNRUH CIVIL RIGHTS ACT, THE RALPH CIVIL RIGHTS ACT AND CIVIL CODE SECTIONS 51.5 AND 54

DFEH # U 201112 H-0008-00-p

COMPLAINANT'S NAME(S) (Indicate Mr. or Ms., if individual)
[redacted]

ADDRESS
[redacted]

TELEPHONE NUMBER (INCLUDE AREA CODE)
XXX-XXX-XXXX

CITY/STATE/ZIP
[redacted]

COUNTY
San Diego

COUNTY CODE
073

NAMED IS THE PERSON, BUSINESS ESTABLISHMENT, PUBLIC ACCOMMODATION OR OTHER ENTITY THAT DISCRIMINATED AGAINST ME:

NAME(S)
Law School Admissions Council, Inc. (LASC)

ADDRESS
662 Penn Street

TELEPHONE NUMBER (INCLUDE AREA CODE)
215-968-1001

CITY/STATE/ZIP
Newtown, PA 18940

COUNTY
Out of State

COUNTY CODE
000

CAUSE OF DISCRIMINATION BASED ON (CHECK APPROPRIATE BOX(ES))

☐ RACE ☐ SEX ☑ DISABILITY ☐ RELIGION ☐ NATIONAL ORIGIN/ANCESTRY ☐ SEXUAL ORIENTATION
☐ COLOR ☐ AGE ☐ MARITAL STATUS ☐ OTHER (SPECIFY)

DATE MOST RECENT OR CONTINUING DISCRIMINATION TOOK PLACE (month, day, and year) October 31, 2010

TYPE OF COMPLAINT
Unruh

THE PARTICULARS ARE:

I. On or about 10/31/2010 I was denied the reasonable accommodation of adequate additional time to take the LSAT (Law School Admissions Test) and adequate break periods.

II. No reason was given for partial denial of my reasonable accommodation.

III. I believe I was denied reasonable accommodation in the form of additional test taking time and break periods, which is necessary due to my disabilities (ADD [Attention Deficit Disorder], Lemierre's Syndrome with Brain edema resulting in brain processing speed impairment), which is a violation of Government Code, Section 12948. The Government Code incorporates Section 51 of the Civil Code. My belief is based on the following:

A. On or about early 10/2010 I advised the Accommodated Testing section of my medical need for additional test taking time and break periods. I also provided supporting medical documentation.

B. On or about 10/31/10 I was notified that my requested accommodation was being denied. I was granted in sufficient additional time to take test sections. I was not granted sufficient break period to administer vital medication.

IV. I am making this complaint on behalf of myself and all other disabled individuals who have been, are now, or will in the future be similarly aggrieved.

Typed and mailed for signature on August 22, 2011.

I declare under penalty of perjury under the laws of the State of Calif[illegible] foregoing is true and correct of my own knowledge except as to matters stated on my information and belief [illegible] matters I believe it to be true.

Dated 8/26/2011

At Rancho Santa Fe CA
City

[redacted]
COMPLAINANT'S SIGNATURE

COMPLAINANT'S SIGNATURE/GUARDIAN AD LITEM

RECEIVED
AUG 31 2011
DEPT OF FAIR EMPLOYMENT & HOUSING
BAKERSFIELD DISTRICT OFFICE

DFEH-300-02 (12/99) B:PND
DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

DATE FILED:

STATE OF CALIFORNIA

EXHIBIT 6

* * * PUBLIC ACCOMMODATION/RALPH/CIVIL CODE SECTIONS 51.5 & 54 * * *

COMPLAINT OF DISCRIMINATION UNDER THE PROVISIONS OF THE CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT WHICH INCORPORATES THE UNRUH CIVIL RIGHTS ACT, THE RALPH CIVIL RIGHTS ACT AND CIVIL CODE SECTIONS 51.5 AND 54

DFEH # U 201112 H-0013-00-p

COMPLAINANT'S NAME(S) (Indicate Mr. or Ms., if individual)
HENNESSEY-SEVERSON, ELIZABETH (MS.)

TELEPHONE NUMBER (INCLUDE AREA CODE)
1-603-667-5459

ADDRESS
1067 Oak Street

TELEPHONE NUMBER (INCLUDE AREA CODE)
XXX-XXX-XXXX

CITY/STATE/ZIP: San Francisco, CA 92101
COUNTY: San Francisco
COUNTY CODE: 075

NAMED IS THE PERSON, BUSINESS ESTABLISHMENT, PUBLIC ACCOMMODATION OR OTHER ENTITY THAT DISCRIMINATED AGAINST ME:

NAME(S)
Law School Admissions Council, Inc. (LSAC)

ADDRESS
662 Penn Street

TELEPHONE NUMBER (INCLUDE AREA CODE)
215-968-1001

CITY/STATE/ZIP: Newtown, PA 18940
COUNTY: Out of State
COUNTY CODE: 000

CAUSE OF DISCRIMINATION BASED ON (CHECK APPROPRIATE BOX(ES))

☐ RACE ☐ SEX ☑ DISABILITY ☐ RELIGION ☐ NATIONAL ORIGIN/ANCESTRY ☐ SEXUAL ORIENTATION
☐ COLOR ☐ AGE ☐ MARITAL STATUS ☐ OTHER (SPECIFY)

DATE MOST RECENT OR CONTINUING DISCRIMINATION TOOK PLACE (month, day, and year): May 10, 2011

TYPE OF COMPLAINT: Unruh

THE PARTICULARS ARE:

I. From on or about 4/29/11 I was denied the reasonable accommodation of adequate additional time to take the LSAT (Law School Admissions Test).

II. No reason was given for denial of my reasonable accommodation.

III. I believe I was denied reasonable accommodation in the form of additional test taking time, which is necessary due to my disabilities (Anxiety, Processing Disorder, Learning Disorder, Attention Deficit-Hyperactivity Disorder [ADHD]), which is a violation of Government Code, Section 12948. The Government Code incorporates Section 51 of the Civil Code. My belief is based on the following:

A. On or about 4/27/11 I advised the Accommodated Testing section of my medical need for additional test taking time as well additional breaks in between test sections. I also provided supporting medical documentation.

B. On or about 4/29/11 and again 5/10/11 I was notified that my requested accommodation was being denied.

IV. I am making this complaint on behalf of myself and all other disabled individuals who have been, are now, or will in the future be similarly aggrieved.

Typed and mailed for signature on September 14, 2011.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge except as to matters stated on my information and belief, and as to those matters I believe it to be true.

Dated 9/22/2011

COMPLAINANT'S SIGNATURE

At San Francisco
City

COMPLAINANT'S SIGNATURE/GUARDIAN AD LITEM

RECEIVED
SEP 26 2011

DFEH-300-02 (12/99) B:PND
DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

DATE FILED:

STATE OF CALIFORNIA

EXHIBIT 7

* * * PUBLIC ACCOMM DATION/RALPH/CIVIL CODE SECTIONS 51.5 & 54 * * *

COMPLAINT OF DISCRIMINATION UNDER THE PROVISIONS OF THE CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT WHICH INCORPORATES THE UNRUH CIVIL RIGHTS ACT, THE RALPH CIVIL RIGHTS ACT AND CIVIL CODE SECTIONS 51.5 AND 54

DFEH # U 201112 H-0018-00-p

COMPLAINANT'S NAME(S) (Indicate Mr. or Ms., if individual)
LEE, CAROLINE FAVROT (MS.)

ADDRESS: 676 Alcatraz Avenue
TELEPHONE NUMBER (INCLUDE AREA CODE): 510-655-1758
CITY/STATE/ZIP: Oakland, CA 94609
COUNTY: Alameda
COUNTY CODE: 001

NAMED IS THE PERSON, BUSINESS ESTABLISHMENT, PUBLIC ACCOMMODATION OR OTHER ENTITY THAT DISCRIMINATED AGAINST ME:

NAME(S): Law School Admissions Council, Inc. (LSAC)
ADDRESS: 662 Penn Street
TELEPHONE NUMBER (INCLUDE AREA CODE): 215-968-1001
CITY/STATE/ZIP: Newtown, PA 18940
COUNTY: Out of State
COUNTY CODE: 000

CAUSE OF DISCRIMINATION BASED ON (CHECK APPROPRIATE BOX(ES))
☐ RACE ☐ SEX ☑ DISABILITY ☐ RELIGION ☐ NATIONAL ORIGIN/ANCESTRY ☐ SEXUAL ORIENTATION
☐ COLOR ☐ AGE ☐ MARITAL STATUS ☐ OTHER (SPECIFY)

DATE MOST RECENT OR CONTINUING DISCRIMINATION TOOK PLACE (month, day, and year): April 28, 2011
TYPE OF COMPLAINT: Unruh

THE PARTICULARS ARE:

I. From on or about 10/2010 I was denied reasonable accommodation to take the LSAT (Law School Admissions Test).

II. No adequate reason was given for denial of my reasonable accommodation.

III. I believe I was denied reasonable accommodation, which is necessary due to my disabilities (Learning Disabilities & Processing Disabilities), which is a violation of Government Code, Section 12948. The Government Code incorporates Section 51 of the Civil Code. My belief is based on the following:

A. On or about 10/2010 I advised the Accommodated Testing section of my medical need for reasonable accommodation. I also provided supporting medical documentation.

B. Most recently on or about 4/28/11 I was notified that my requested accommodation was being denied.

IV. I am making this complaint on behalf of myself and all other disabled individuals who have been, are now, or will in the future be similarly aggrieved.

Typed and mailed for signature on September 28, 2011.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge except as to matters stated on my information and belief, and as to those matters I believe it to be true.

Dated Sept 29 2011 — COMPLAINANT'S SIGNATURE

At Oakland — City

COMPLAINANT'S SIGNATURE/GUARDIAN AD LITEM

RECEIVED
OCT 03 2011
DEPT OF FAIR EMPLOYMENT & HOUSING
BAKERSFIELD DISTRICT OFFICE
STATE OF CALIFORNIA

DFEH-300-02 (12/99) B:PND
DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

DATE FILED:

EXHIBIT 8

* * * PUBLIC ACCOMMODATION/RALPH/CIVIL CODE SECTIONS 51.5 & 54 * * *

COMPLAINT OF DISCRIMINATION UNDER THE PROVISIONS OF THE CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT WHICH INCORPORATES THE UNRUH CIVIL RIGHTS ACT, THE RALPH CIVIL RIGHTS ACT AND CIVIL CODE SECTIONS 51.5 AND 54

DFEH # E 201112 H-0021-00-p

COMPLAINANT'S NAME(S) (Indicate Mr. or Ms., if individual)
BANKS, RAYMOND (MR.)

ADDRESS
P. O. Box 156661

TELEPHONE NUMBER (INCLUDE AREA CODE)
XXX-XXX-XXXX

CITY/STATE/ZIP
San Francisco, CA 94115

COUNTY
San Francisco

COUNTY CODE
075

NAMED IS THE PERSON, BUSINESS ESTABLISHMENT, PUBLIC ACCOMMODATION OR OTHER ENTITY THAT DISCRIMINATED AGAINST ME:

NAME(S)
Law School Admissions Council, Inc. (LSAC)

ADDRESS
662 Penn Street

TELEPHONE NUMBER (INCLUDE AREA CODE)
215-968-1001

CITY/STATE/ZIP
Newtown, PA 18940

COUNTY
Out of State

COUNTY CODE
000

CAUSE OF DISCRIMINATION BASED ON (CHECK APPROPRIATE BOX(ES))
☐ RACE ☐ SEX ☑ DISABILITY ☐ RELIGION ☐ NATIONAL ORIGIN/ANCESTRY ☐ SEXUAL ORIENTATION
☐ COLOR ☐ AGE ☐ MARITAL STATUS ☐ OTHER (SPECIFY)

DATE MOST RECENT OR CONTINUING DISCRIMINATION TOOK PLACE (month, day, and year) January 31, 2011

TYPE OF COMPLAINT
Unruh

THE PARTICULARS ARE:

I. On or about January 2011 I was denied the reasonable accommodation of adequate additional time to take the LSAT (Law School Admissions Test).

II. No reason was given for denial of my reasonable accommodation.

III. I believe I was denied reasonable accommodation in the form of additional test taking time, which is necessary due to my disabilities (Nerve and Muscle damage in left shoulder/arm), which is a violation of Government Code, Section 12948. The Government Code incorporates Section 51 of the Civil Code. My belief is based on the following:

A. On or about January 2011 I advised the Accommodated Testing section of my medical need for additional test taking time. I also provided supporting medical documentation.

B. On or about January 2011 I was notified that my requested accommodation was being denied.

IV. I am making this complaint on behalf of myself and all other disabled individuals who have been, are now, or will in the future be similarly aggrieved.

Typed and mailed for signature on August 28, 2011.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge except as to matters stated on my information and belief, and as to those matters I believe it to be true.

Dated 10/6/11

At San Francisco
City

Raymond Banks
COMPLAINANT'S SIGNATURE

COMPLAINANT'S SIGNATURE/GUARDIAN/AD LITEM

DFEH-300-02 (12/99) B:PND
DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

DATE FILED:

RECEIVED
OCT 06 2011
STATE OF CALIFORNIA
DEPT OF FAIR EMPLOYMENT & HOUSING
BAKERSFIELD DISTRICT OFFICE

EXHIBIT 9

* * * PUBLIC ACCOMMODATION/RALPH/CIVIL CODE SECTIONS 51.5 & 54 * * *

COMPLAINT OF DISCRIMINATION UNDER THE PROVISIONS OF THE CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT WHICH INCORPORATES THE UNRUH CIVIL RIGHTS ACT, THE RALPH CIVIL RIGHTS ACT AND CIVIL CODE SECTIONS 51.5 AND 54

DFEH # U 201112 H-0023-00-p

COMPLAINANT'S NAME(S) (Indicate Mr. or Ms., if individual)
TALESHPOUR, GAZELLE (MS.)

ADDRESS: 6756 Bestwood Court
TELEPHONE NUMBER (INCLUDE AREA CODE): XXX-XXX-XXXX
CITY/STATE/ZIP: San Diego, CA 92119
COUNTY: San Diego
COUNTY CODE: 073

NAMED IS THE PERSON, BUSINESS ESTABLISHMENT, PUBLIC ACCOMMODATION OR OTHER ENTITY THAT DISCRIMINATED AGAINST ME:

NAME(S): Law School Admissions Council, Inc. (LSAC)
ADDRESS: 662 Penn Street
TELEPHONE NUMBER (INCLUDE AREA CODE): 215-968-1001
CITY/STATE/ZIP: Newtown, PA 18940
COUNTY: Out of State
COUNTY CODE: 000

CAUSE OF DISCRIMINATION BASED ON (CHECK APPROPRIATE BOX(ES))
☐ RACE ☐ SEX ☑ DISABILITY ☐ RELIGION ☐ NATIONAL ORIGIN/ANCESTRY ☐ SEXUAL ORIENTATION
☐ COLOR ☐ AGE ☐ MARITAL STATUS ☐ OTHER (SPECIFY)

DATE MOST RECENT OR CONTINUING DISCRIMINATION TOOK PLACE (month, day, and year): December 6, 2010
TYPE OF COMPLAINT: Unruh

THE PARTICULARS ARE:

I. Most recently on or about 12/6/10 I was denied the reasonable accommodation to take the LSAT (Law School Admissions Test).

II. No adequate reason was given for denial of my reasonable accommodation.

III. I believe I was denied reasonable accommodation in the form of additional test taking time, which is necessary due to my disabilities (Dyslexia, ADHD, Complications due to bone marrow transplant), which is a violation of Government Code, Section 12948. The Government Code incorporates Section 51 of the Civil Code. My belief is based on the following:

A. On or about 2008 and again starting in 7/2010 I advised the Accommodated Testing section of my medical need for reasonable accommodations. I also provided supporting medical documentation.

B. Most recently on or about 12/6/10 I was notified that at least part of my requested accommodation was being denied.

IV. I am making this complaint on behalf of myself and all other disabled individuals who have been, are now, or will in the future be similarly aggrieved.

Typed and mailed for signature on September 30, 2011. Corrected and re-mailed October 7, 2011.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge except as to matters stated on my information and belief, and as to those matters I believe it to be true.

Dated Oct 7th, 2011

Gazelle Taleshpour
COMPLAINANT'S SIGNATURE

At _____
City

COMPLAINANT'S SIGNATURE/GUARDIAN AD LITEM

RECEIVED
OCT 07 2011
DEPT OF FAIR EMPLOYMENT & HOUSING
BAKERSFIELD DISTRICT OFFICE

DFEH-300-02 (12/99) B:PND
DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

DATE FILED:

STATE OF CALIFORNIA

EXHIBIT 10

* * * PUBLIC ACCOMMODATION/RALPH/CIVIL CODE SECTIONS 51.5 & 54 * * *

COMPLAINT OF DISCRIMINATION UNDER THE PROVISIONS OF THE CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT WHICH INCORPORATES THE UNRUH CIVIL RIGHTS ACT, THE RALPH CIVIL RIGHTS ACT AND CIVIL CODE SECTIONS 51.5 AND 54

DFEH # _____

COMPLAINANT'S NAME(S) (Indicate Mr. or Ms., if individual)
[redacted]

ADDRESS [redacted] TELEPHONE NUMBER (INCLUDE AREA CODE) XXX-XXX-XXXX

CITY/STATE/ZIP [redacted] COUNTY: Out of State COUNTY CODE: 000

NAMED IS THE PERSON, BUSINESS ESTABLISHMENT, PUBLIC ACCOMMODATION OR OTHER ENTITY THAT DISCRIMINATED AGAINST ME:

NAME(S)
Law School Admissions Council, Inc. (LSAC)

ADDRESS 662 Penn Street TELEPHONE NUMBER (INCLUDE AREA CODE) 215-968-1001

CITY/STATE/ZIP Newtown, PA 18940 COUNTY: Out of State COUNTY CODE: 000

CAUSE OF DISCRIMINATION BASED ON (CHECK APPROPRIATE BOX(ES))
☐ RACE ☐ SEX ☑ DISABILITY ☐ RELIGION ☐ NATIONAL ORIGIN/ANCESTRY ☐ SEXUAL ORIENTATION
☐ COLOR ☐ AGE ☐ MARITAL STATUS ☐ OTHER (SPECIFY)

DATE MOST RECENT OR CONTINUING DISCRIMINATION TOOK PLACE (month, day, and year) October 21, 2010 TYPE OF COMPLAINT: Unruh

THE PARTICULARS ARE:

I. On or about 10/21/10 I was denied the reasonable accommodation to take the LSAT (Law School Admissions Test).

II. The reason citd for denying my request for reasonable accommodation was that documentation did not support that my condition limited a major life activity.

III. I believe I was denied reasonable accommodation, which is necessary due to my disabilities (Attention Deficit–Hyperactivity Disorder [ADHD] and Learning Disabilities), which is a violation of Government Code, Section 12948. The Government Code incorporates Section 51 of the Civil Code. My belief is based on the following:

A. On or about 8/2010 I advised the Accommodated Testing section of my medical need for reasonable accommodations. I also provided supporting medical documentation.

B. Most recently on or about 10/21/10 I was notified that my requested accommodations were being denied.

IV. I am making this complaint on behalf of myself and all other disabled individuals who have been, are now, or will in the future be similarly aggrieved.

Typed and mailed for signature on September 27, 2011.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge except as to matters stated on my information and belief, and as to those matters I believe it to be true.

Dated 09/27/2011

At Scottsdale, Az
City

[redacted]
COMPLAINANT'S SIGNATURE/GUARDIAN AD LITEM

DATE FILED: 9/29/11

RECEIVED
SEP 29 2011
STATE OF CALIFORNIA
DEPT OF FAIR EMPLOYMENT & HOUSING
BAKERSFIELD DISTRICT OFFICE

EXHIBIT 11

PUBLIC ACCOMM ...ATION/DALPH/CIVIL CODE ... TIONS 51.5 & 54

COMPLAINT OF DISCRIMINATION UNDER THE PROVISIONS OF THE CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT WHICH INCORPORATES THE UNRUH CIVIL RIGHTS ACT, THE RALPH CIVIL RIGHTS ACT AND CIVIL CODE SECTIONS 51.5 AND 54

DFEH # U 201112 H-0025-00-p

COMPLAINANT'S NAME(S) (Indicate Mr. or Ms., if individual)
SEMOS, STEPHEN (MR.)

ADDRESS: 6512 Monero Drive
TELEPHONE NUMBER (INCLUDE AREA CODE): 310-544-2993
CITY/STATE/ZIP: Rancho Palos Verdes, CA 90275
COUNTY: Los Angeles
COUNTY CODE: 037

NAMED IS THE PERSON, BUSINESS ESTABLISHMENT, PUBLIC ACCOMMODATION OR OTHER ENTITY THAT DISCRIMINATED AGAINST ME:

NAME(S): Law School Admissions Council, Inc. (LSAC)
ADDRESS: 662 Penn Street
TELEPHONE NUMBER (INCLUDE AREA CODE): 215-968-1001
CITY/STATE/ZIP: Newtown, PA 18940
COUNTY: Out of State
COUNTY CODE: 000

CAUSE OF DISCRIMINATION BASED ON (CHECK APPROPRIATE BOX(ES))
☐ RACE ☐ SEX ☑ DISABILITY ☐ RELIGION ☐ NATIONAL ORIGIN/ANCESTRY ☐ SEXUAL ORIENTATION
☐ COLOR ☐ AGE ☐ MARITAL STATUS ☐ OTHER (SPECIFY)

DATE MOST RECENT OR CONTINUING DISCRIMINATION TOOK PLACE (month, day, and year): February 28, 2011
TYPE OF COMPLAINT: Unruh

THE PARTICULARS ARE:

I. Most recently on or about February 2011 I was denied reasonable accommodation to take the LSAT (Law School Admissions Test).

II. No adequate reasons were given for denial of my reasonable accommodation.

III. I believe I was denied reasonable accommodation which is necessary due to my disabilities ((Epilepsy, ADD [Attention Deficit Disorder] and Gertsmann Syndrome), which is a violation of Government Code, Section 12948. The Government Code incorporates Section 51 of the Civil Code. My belief is based on the following:

A. On or about 2008, 11/2010 and 12/21/10 I advised the Accommodated Testing section of my medical need for accommodation. I also provided supporting medical documentation.

B. Most recently on or about February 2011 I was notified that my requested accommodation was being denied.

IV. I am making this complaint on behalf of myself and all other disabled individuals who have been, are now, or will in the future be similarly aggrieved.

Typed and mailed for signature on September 30, 2011.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge except as to matters stated on my information and belief, and as to those matters I believe it to be true.

Dated 10-5-2011 Stephen Semos
COMPLAINANT'S SIGNATURE

At _____
City

COMPLAINANT'S SIGNATURE/GUARDIAN AD LITEM

RECEIVED
OCT 11 2011
DEPT OF FAIR EMPLOYMENT & HOUSING
BAKERSFIELD DISTRICT OFFICE

DFEH-300-02 (12/99) B:PND
DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

DATE FILED:

STATE OF CALIFORNIA

EXHIBIT 12

* * * PUBLIC ACCOMMODATION/RALPH/CIVIL CODE SECTIONS 51.5 & 54 * * *

COMPLAINT OF DISCRIMINATION UNDER THE PROVISIONS OF THE CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT WHICH INCORPORATES THE UNRUH CIVIL RIGHTS ACT, THE RALPH CIVIL RIGHTS ACT AND CIVIL CODE SECTIONS 51.5 AND 54

DFEH # U 201112 H-0027-00-p

COMPLAINANT'S NAME(S) (Indicate Mr. or Ms., if individual)
DECOMO-SCHMITT, RODNEY ALEXANDER

ADDRESS: 4579 Paradise Drive
TELEPHONE NUMBER (INCLUDE AREA CODE): XXX-XXX-XXXX
CITY/STATE/ZIP: Tiburon, CA 94920
COUNTY: Marin
COUNTY CODE: 041

NAMED IS THE PERSON, BUSINESS ESTABLISHMENT, PUBLIC ACCOMMODATION OR OTHER ENTITY THAT DISCRIMINATED AGAINST ME:

NAME(S): Law School Admissions Council, Inc. (LSAC)
ADDRESS: 662 Penn Street
TELEPHONE NUMBER (INCLUDE AREA CODE): 215-968-1001
CITY/STATE/ZIP: Newtown, PA 18940
COUNTY: Out of State
COUNTY CODE: 000

CAUSE OF DISCRIMINATION BASED ON (CHECK APPROPRIATE BOX(ES))
☐ RACE ☐ SEX ☑ DISABILITY ☐ RELIGION ☐ NATIONAL ORIGIN/ANCESTRY ☐ SEXUAL ORIENTATION
☐ COLOR ☐ AGE ☐ MARITAL STATUS ☐ OTHER (SPECIFY)

DATE MOST RECENT OR CONTINUING DISCRIMINATION TOOK PLACE (month, day, and year): October 25, 2010
TYPE OF COMPLAINT: Unruh

THE PARTICULARS ARE:

I. Most recently on or about 10/25/10 I was denied reasonable accommodation to take the LSAT (Law School Admissions Test).

II. LSAC stated that the documentation submitted did not support that my condition limited a major life activity.

III. I believe I was denied reasonable accommodation in the form of additional test taking time, which is necessary due to my disabilities (Learning Disability—Reading Processing Problem), which is a violation of Government Code, Section 12948. The Government Code incorporates Section 51 of the Civil Code. My belief is based on the following:

A. On or about 9/2010 I advised the Accommodated Testing section of my medical need for reasonable accommodation. I also provided supporting medical documentation.

B. Most recently on or about 10/25/10 I was notified that my requested accommodation was being denied.

IV. I am making this complaint on behalf of myself and all other disabled individuals who have been, are now, or will in the future be similarly aggrieved.

Typed and mailed for signature on October 13, 2011.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge except as to matters stated on my information and belief, and as to those matters I believe it to be true.

Dated 10-13-11 _____ COMPLAINANT'S SIGNATURE

At Tiburon, California _____ COMPLAINANT'S SIGNATURE/GUARDIAN AD LITEM
City

DFEH-300-02 (12/99) B:PND
DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

DATE FILED:

RECEIVED
OCT 14 2011
DEPT OF FAIR EMPLOYMENT & HOUSING
BAKERSFIELD DISTRICT OFFICE

STATE OF CALIFORNIA

#7708 P.002/005 10/14/2011 09:11:4

EXHIBIT 13

* * * PUBLIC ACCOMMODATION/RALPH/CIVIL CODE SECTIONS 51.5 & 54 * * *

U 201112 H-0028-00-p

COMPLAINT OF DISCRIMINATION UNDER THE PROVISIONS OF THE CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT WHICH INCORPORATES THE UNRUH CIVIL RIGHTS ACT, THE RALPH CIVIL RIGHTS ACT AND CIVIL CODE SECTIONS 51.5 AND 54

DFEH # _____

COMPLAINANT'S NAME(S) (Indicate Mr. or Ms., if individual)
GROSSMAN, ANDREW "ANDY" (MR.)

ADDRESS: 14780 Farwell Avenue
TELEPHONE NUMBER (INCLUDE AREA CODE): 408-741-5869
CITY/STATE/ZIP: Saratoga, CA 95070
COUNTY: Santa Clara
COUNTY CODE: 085

NAMED IS THE PERSON, BUSINESS ESTABLISHMENT, PUBLIC ACCOMMODATION OR OTHER ENTITY THAT DISCRIMINATED AGAINST ME:

NAME(S): Law School Admissions Council, Inc. (LSAC)
ADDRESS: 662 Penn Street
TELEPHONE NUMBER (INCLUDE AREA CODE): 215-968-1001
CITY/STATE/ZIP: Newtown, PA 18940
COUNTY: Out of State
COUNTY CODE: 000

CAUSE OF DISCRIMINATION BASED ON (CHECK APPROPRIATE BOX(ES))
☐ RACE ☐ SEX ☒ DISABILITY ☐ RELIGION ☐ NATIONAL ORIGIN/ANCESTRY ☐ SEXUAL ORIENTATION
☐ COLOR ☐ AGE ☐ MARITAL STATUS ☐ OTHER (SPECIFY) _____

DATE MOST RECENT OR CONTINUING DISCRIMINATION TOOK PLACE (month, day, and year): November 30, 2010
TYPE OF COMPLAINT: Unruh

THE PARTICULARS ARE:

I. Most recently on or about 11/2010 I was denied reasonable accommodation to take the LSAT (Law School Admissions Test).

II. No reason was given for the partial denial of my reasonable accommodation.

III. I believe I was denied reasonable accommodation which is necessary due to my disabilities (Traumatic Brain Injury and Depression/Anxiety Disorder), which is a violation of Government Code, Section 12948. The Government Code incorporates Section 51 of the Civil Code. My belief is based on the following:

A. On or about 7/2010 or 8/2010 I advised the Accommodated Testing section of my medical need for reasonable accommodation. I also provided supporting medical documentation.

B. Most recently on or about 11/2010 I was notified that part of my requested accommodation was being denied.

IV. I am making this complaint on behalf of myself and all other disabled individuals who have been, are now, or will in the future be similarly aggrieved.

Typed and mailed for signature on October 10, 2011.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge except as to matters stated on my information and belief, and as to those matters I believe it to be true.

Dated 10/13/11 — Andrew L Grossman — COMPLAINANT'S SIGNATURE

At Saratoga — City — Andrew L Grossman — COMPLAINANT'S SIGNATURE/GUARDIAN AD LITEM

RECEIVED
OCT 17 2011
DEPT OF FAIR EMPLOYMENT & HOUSING

DFEH-300-02 (12/99) B:PND
DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING
DATE FILED:
STATE OF CALIFORNIA

EXHIBIT 14

* * * PUBLIC ACCOMMODATION/RALPH/CIVIL CODE SECTIONS 51.5 & 54 * * *

DFEH # U 201112 H-0029-00-p

COMPLAINT OF DISCRIMINATION UNDER THE PROVISIONS OF THE CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT WHICH INCORPORATES THE UNRUH CIVIL RIGHTS ACT, THE RALPH CIVIL RIGHTS ACT AND CIVIL CODE SECTIONS 51.5 AND 54

COMPLAINANT'S NAME(S) (Indicate Mr. or Ms., if individual)
COLLINS, KEVIN M. (MR.)

ADDRESS: 23140 Victory Blvd.
TELEPHONE NUMBER (INCLUDE AREA CODE): 818-346-4200

CITY/STATE/ZIP: Woodland Hills, CA 91367
COUNTY: Los Angeles
COUNTY CODE: 037

NAMED IS THE PERSON, BUSINESS ESTABLISHMENT, PUBLIC ACCOMMODATION OR OTHER ENTITY THAT DISCRIMINATED AGAINST ME:

NAME(S): Law School Admissions Council, Inc. (LSAC)

ADDRESS: 662 Penn Street
TELEPHONE NUMBER (INCLUDE AREA CODE): 215-968-1001

CITY/STATE/ZIP: Newtown, PA 18940
COUNTY: Out of State
COUNTY CODE: 000

CAUSE OF DISCRIMINATION BASED ON (CHECK APPROPRIATE BOX(ES))
☐ RACE ☐ SEX ☑ DISABILITY ☐ RELIGION ☐ NATIONAL ORIGIN/ANCESTRY ☐ SEXUAL ORIENTATION
☐ COLOR ☐ AGE ☐ MARITAL STATUS ☐ OTHER (SPECIFY)

DATE MOST RECENT OR CONTINUING DISCRIMINATION TOOK PLACE (month, day, and year): March 14, 2011
TYPE OF COMPLAINT: Unruh

THE PARTICULARS ARE:

I. On or about 1/18/11 and most recently on 3/14/11 I was denied reasonable accommodation to take the LSAT (Law School Admissions Test).

II. The denial on 1/18/11 was allegedly due to insufficient documentation. No reason was given for the partial denial of my requested reasonable accommodation on 3/14/11.

III. I believe I was denied reasonable accommodation which is necessary due to my disabilities (Gifted Learning disability: Reading Disorder and Written Expression Disorder), which is a violation of Government Code, Section 12948. The Government Code incorporates Section 51 of the Civil Code. My belief is based on the following:

A. Beginning on or about 12/10/10 I advised the Accommodated Testing section of my medical need for reasonable accommodation. I also provided supporting medical documentation.

B. On or about 1/18/11 I was notified that my requested accommodation was not being granted even thought I believe that all necessary supporting documentation had been submitted.

C. Most recently on 3/14/11 I was notified that part of my requested accommodation was being denied.

IV. I am making this complaint on behalf of myself and all other disabled individuals who have been, are now, or will in the future be similarly aggrieved.

Typed and mailed for signature on October 19, 2011.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge except as to matters stated on my information and belief, and as to those matters I believe it to be true.

Dated 10/23/11
At Los Angeles
City

COMPLAINANT'S SIGNATURE

RECEIVED
OCT 27 2011
DEPT OF FAIR EMPLOYMENT & HOUSING OF CALIFORNIA
BAKERSFIELD DISTRICT OFFICE

DATE FILED:

DFEH-300-02 (12/99) B:PND
DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

EXHIBIT 15

* * * PUBLIC ACCOMMODATION/RALPH/CIVIL CODE SECTIONS 51.5 & 54 * * *

COMPLAINT OF DISCRIMINATION UNDER THE PROVISIONS OF THE CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT WHICH INCORPORATES THE UNRUH CIVIL RIGHTS ACT, THE RALPH CIVIL RIGHTS ACT AND CIVIL CODE SECTIONS 51.5 AND 54

DFEH # U 201112 H-0031-00-p

COMPLAINANT'S NAME(S) (Indicate Mr. or Ms., if individual)
IOAN, OTILIA (MS.)

ADDRESS: 5305 Harwood Road
TELEPHONE NUMBER (INCLUDE AREA CODE): XXX-XXX-XXXX

CITY/STATE/ZIP: San Jose, CA 95124
COUNTY: Santa Clara
COUNTY CODE: 085

NAMED IS THE PERSON, BUSINESS ESTABLISHMENT, PUBLIC ACCOMMODATION OR OTHER ENTITY THAT DISCRIMINATED AGAINST ME:

NAME(S): Law School Admissions Council, Inc. (LSAC)

ADDRESS: 662 Penn Street
TELEPHONE NUMBER (INCLUDE AREA CODE): 215-968-1001

CITY/STATE/ZIP: Newtown, PA 18940
COUNTY: Out of State
COUNTY CODE: 000

CAUSE OF DISCRIMINATION BASED ON (CHECK APPROPRIATE BOX(ES))
☐ RACE ☐ SEX ☑ DISABILITY ☐ RELIGION ☐ NATIONAL ORIGIN/ANCESTRY ☐ SEXUAL ORIENTATION
☐ COLOR ☐ AGE ☐ MARITAL STATUS ☐ OTHER (SPECIFY)

DATE MOST RECENT OR CONTINUING DISCRIMINATION TOOK PLACE (month, day, and year): November 17, 2010
TYPE OF COMPLAINT: Unruh

THE PARTICULARS ARE:

I. On or about 11/17/10 I was denied reasonable accommodation to take the LSAT (Law School Admissions Test).

II. No reason was given for denial of my reasonable accommodation.

III. I believe I was denied reasonable accommodation which is necessary due to my disability (Spinal Chord Injury–Quadriplegia), which is a violation of Government Code, Section 12948. The Government Code incorporates Section 51 of the Civil Code. My belief is based on the following:

A. On or about 8/2010 I advised the Accommodated Testing section of my medical need for reasonable accommodation. I also provided supporting medical documentation.

B. On or about 11/17/10 I was notified that part of my requested accommodation was being denied.

IV. I am making this complaint on behalf of myself and all other disabled individuals who have been, are now, or will in the future be similarly aggrieved.

Typed and mailed for signature on September 27, 2011.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge except as to matters stated on my information and belief, and as to those matters I believe it to be true.

Dated 10/20/11
COMPLAINANT'S SIGNATURE: Otilia Ioan

At San Jose
City
COMPLAINANT'S SIGNATURE/GUARDIAN AD LITEM: Otilia Ioan

RECEIVED
DEPT OF FAIR EMPLOYMENT & HOUSING
BAKERSFIELD DISTRICT STATE OF CALIFORNIA

DFEH-300-02 (12/99) B:PND
DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

DATE FILED:

EXHIBIT 16

* * * PUBLIC ACCOMMODATION/RALPH/CIVIL CODE SECTIONS 51.5 & 54 * * *

COMPLAINT OF DISCRIMINATION UNDER THE PROVISIONS OF THE CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT WHICH INCORPORATES THE UNRUH CIVIL RIGHTS ACT, THE RALPH CIVIL RIGHTS ACT AND CIVIL CODE SECTIONS 51.5 AND 54

DFEH # U 201112 H-0032-00-p

COMPLAINANT'S NAME(S) (Indicate Mr. or Ms., if individual)
QUAN, ANDREW (MR.)

ADDRESS
4023 Oak Manor Court

TELEPHONE NUMBER (INCLUDE AREA CODE)
XXX-XXX-XXXX

CITY/STATE/ZIP
Hayward, CA 94542

COUNTY
Alameda

COUNTY CODE
0001

NAMED IS THE PERSON, BUSINESS ESTABLISHMENT, PUBLIC ACCOMMODATION OR OTHER ENTITY THAT DISCRIMINATED AGAINST ME:

NAME(S)
Law School Admissions Council, Inc. (LSAC)

ADDRESS
662 Penn Street

TELEPHONE NUMBER (INCLUDE AREA CODE)
215-968-1001

CITY/STATE/ZIP
Newtown, PA 18940

COUNTY
Out of State

COUNTY CODE
000

CAUSE OF DISCRIMINATION BASED ON (CHECK APPROPRIATE BOX(ES))
☐ RACE ☐ SEX ☑ DISABILITY ☐ RELIGION ☐ NATIONAL ORIGIN/ANCESTRY ☐ SEXUAL ORIENTATION
☐ COLOR ☐ AGE ☐ MARITAL STATUS ☐ OTHER (SPECIFY)

DATE MOST RECENT OR CONTINUING DISCRIMINATION TOOK PLACE (month, day, and year) September 13, 2011

TYPE OF COMPLAINT
Unruh

THE PARTICULARS ARE:

I. Most recently on or about 9/13/11 I was denied reasonable accommodation to take the LSAT (Law School Admissions Test).

II. No reason was given for denial of my requested reasonable accommodations.

III. I believe I was denied reasonable accommodation in the form of additional test taking time, which is necessary due to my disabilities (Hypotonia, Dysgraphia, ADHD, Visual Processing Disorder, and back injury), which is a violation of Government Code, Section 12948. The Government Code incorporates Section 51 of the Civil Code. My belief is based on the following:

A. On or about 9/2011 I advised the Accommodated Testing section of my medical need for reasonable accommodations. I also provided supporting medical documentation.

B. Most recently on or about 9/13/11 I was notified that my requested accommodations were being denied.

IV. I am making this complaint on behalf of myself and all other disabled individuals who have been, are now, or will in the future be similarly aggrieved.

Typed and mailed for signature on October 7, 2011.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge except as to matters stated on my information and belief, and as to those matters I believe it to be true.

Dated 10-26-2011

COMPLAINANT'S SIGNATURE

At

City

COMPLAINANT'S SIGNATURE/GUARDIAN AD LITEM

DFEH-300-02 (12/99) B:PND
DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

DATE FILED:

STATE OF CALIFORNIA

RECEIVED
OCT 28 2011
DEPT OF FAIR EMPLOYMENT & HOUSING
BAKERSFIELD DISTRICT OFFICE

EXHIBIT 17

* * * PUBLIC ACCOMMOD TION/RALPH/CIVIL CODE SE TIONS 51.5 & 54 * * *

COMPLAINT OF DISCRIMINATION UNDER THE PROVISIONS OF THE CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT WHICH INCORPORATES THE UNRUH CIVIL RIGHTS ACT, THE RALPH CIVIL RIGHTS ACT AND CIVIL CODE SECTIONS 51.5 AND 54

DFEH # U 201112 H-0035-00-p

COMPLAINANT'S NAME(S) (Indicate Mr. or Ms., if individual)
WHITNEY, AUSTIN (MR.)

ADDRESS: 1050 Miller Avenue
TELEPHONE NUMBER (INCLUDE AREA CODE): XXX-XXX-XXXX

CITY/STATE/ZIP: Berkeley, CA 94708
COUNTY: Alameda
COUNTY CODE: 001

NAMED IS THE PERSON, BUSINESS ESTABLISHMENT, PUBLIC ACCOMMODATION OR OTHER ENTITY THAT DISCRIMINATED AGAINST ME:

NAME(S)
Law School Admissions Council, Inc. (LSAC)

ADDRESS: 662 Penn Street
TELEPHONE NUMBER (INCLUDE AREA CODE): 215-968-1001

CITY/STATE/ZIP: Newtown, PA 18940
COUNTY: Out of State
COUNTY CODE: 000

CAUSE OF DISCRIMINATION BASED ON (CHECK APPROPRIATE BOX(ES))
☐ RACE ☐ SEX ☑ DISABILITY ☐ RELIGION ☐ NATIONAL ORIGIN/ANCESTRY ☐ SEXUAL ORIENTATION
☐ COLOR ☐ AGE ☐ MARITAL STATUS ☐ OTHER (SPECIFY)

DATE MOST RECENT OR CONTINUING DISCRIMINATION TOOK PLACE (month, day, and year): September 21, 2011
TYPE OF COMPLAINT: Unruh

THE PARTICULARS ARE:

I. On or about 9/21/11 I was denied reasonable accommodation to take the LSAT (Law School Admissions Test).

II. No reason was given for denial of my reasonable accommodation.

III. I believe I was denied reasonable accommodation in which is necessary due to my disabilities (Spinal Chord Injury—paraplegia, chronic/neuropathic pain), which is a violation of Government Code, Section 12948. The Government Code incorporates Section 51 of the Civil Code. My belief is based on the following:

A. On or about 8/28/11 I advised the Accommodated Testing section of my medical need for reasonable accommodation. I also provided supporting medical documentation.

B. On or about 9/21/11 I was notified that part of my requested accommodation was being denied.

IV. I am making this complaint on behalf of myself and all other disabled individuals who have been, are now, or will in the future be similarly aggrieved.

Typed and mailed for signature on October 28, 2011.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge except as to matters stated on my information and belief, and as to those matters I believe it to be true.

Dated 11/6/11

COMPLAINANT'S SIGNATURE

At Berkeley, CA
City

COMPLAINANT'S SIGNATURE/GUARDIAN AD LITEM

RECEIVED
NOV - 7 2011
DEPT OF FAIR EMPLOYMENT & HOUSING
BAKERSFIELD DISTRICT OFFICE

DFEH-300-02 (12/99) B:PND
DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

DATE FILED:

STATE OF CALIFORNIA

EXHIBIT 18

* * * PUBLIC ACCOMMOL .TION/RALPH/CIVIL CODE SE TIONS 51.5 & 54 * * *

COMPLAINT OF DISCRIMINATION UNDER THE PROVISIONS OF THE CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT WHICH INCORPORATES THE UNRUH CIVIL RIGHTS ACT, THE RALPH CIVIL RIGHTS ACT AND CIVIL CODE SECTIONS 51.5 AND 54

DFEH # U 201112 H-0033-00-p

COMPLAINANT'S NAME(S) (Indicate Mr. or Ms., if individual)
VIELBAUM, KEVIN (MR.)

ADDRESS: 812 Foothill Drive
TELEPHONE NUMBER (INCLUDE AREA CODE): XXX-XXX-XXXX

CITY/STATE/ZIP: San Mateo, CA 94402
COUNTY: San Mateo
COUNTY CODE: 081

NAMED IS THE PERSON, BUSINESS ESTABLISHMENT, PUBLIC ACCOMMODATION OR OTHER ENTITY THAT DISCRIMINATED AGAINST ME:

NAME(S): Law School Admissions Council, Inc. (LSAC)

ADDRESS: 662 Penn Street
TELEPHONE NUMBER (INCLUDE AREA CODE): 215-968-1001

CITY/STATE/ZIP: Newtown, PA 18940
COUNTY: Out of State
COUNTY CODE: 000

CAUSE OF DISCRIMINATION BASED ON (CHECK APPROPRIATE BOX(ES))
☐ RACE ☐ SEX ☑ DISABILITY ☐ RELIGION ☐ NATIONAL ORIGIN/ANCESTRY ☐ SEXUAL ORIENTATION
☐ COLOR ☐ AGE ☐ MARITAL STATUS ☐ OTHER (SPECIFY)

DATE MOST RECENT OR CONTINUING DISCRIMINATION TOOK PLACE (month, day, and year): May 12, 2011
TYPE OF COMPLAINT: Unruh

THE PARTICULARS ARE:

I. Most recently on or about 5/12/11 I was denied reasonable accommodation to take the LSAT (Law School Admissions Test).

II. No adequate reason was given for denial of my reasonable accommodation.

III. I believe I was denied reasonable accommodation which is necessary due to my disabilities (Dyslexia—Learning Disabilities), which is a violation of Government Code, Section 12948. The Government Code incorporates Section 51 of the Civil Code. My belief is based on the following:

A. On or about March 2011 I advised the Accommodated Testing section of my medical need for reasonable accommodation. I also provided supporting medical documentation.

B. On or about 4/28/11 my initial request for accommodation was denied in total. Most recently on or about 5/12/11 I was notified that part of my requested accommodation was being denied.

IV. I am making this complaint on behalf of myself and all other disabled individuals who have been, are now, or will in the future be similarly aggrieved.

Typed and mailed for signature on November 4, 2011.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge except as to matters stated on my information and belief, and as to those matters I believe it to be true.

Dated 11/08/11

COMPLAINANT'S SIGNATURE

At San Mateo, CA
City

COMPLAINANT'S SIGNATURE/GUARDIAN AD LITEM

RECEIVED
NOV 2011
DEPT OF FAIR EMPLOYMENT & HOUSING
STATE OF CALIFORNIA
BAKERSFIELD DISTRICT

DFEH-300-02 (12/99) B:PND
DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

DATE FILED:

EXHIBIT 19

CASE NAME: DFEH v. Law School Admission Council, Inc.
(Austin Whitney, et al., Complainants)

CASE NOS.: U-201112-H-0021-00-p, U-201112-H-0008-00-p, U-201112-H-0029-00-p, U-201112-H-0027-00-p, U-200910-Q-0003-00-p, U-201112-H-0018-00-p, U-201112-H-0028-00-p, U-201112-H-0014-00-p, U-201112-H-0013-00-p, U-201112-H-0031-00-p, U-201112-H-0007-00-p, U-200910-G-0012-00-p, U-201112-H-0032-00-p, U-201112-H-0025-00-p, U-201112-H-0023-00-p, U-201112-H-0033-00-p, and U-201112-H-0035-00-p

RESPONDENT'S NOTICE OF TRANSFER OF PROCEEDINGS TO COURT

I am a Respondent in this matter. I elect to transfer this proceeding to court in lieu of a hearing before the Fair Employment and Housing Commission, pursuant to Government Code section 12965, subdivision (c)(1).

Dated: 2-22-12

Julie Capell
Respondent's/Representative's Signature

Respondent(s) [Please print]

Julie Capell, Attorney for Law School Admission Council, Inc.
Representative [Please print]

Address of Respondent, or if represented, address of Representative
Fulbright & Jaworski L.L.P.
555 S. Flower Street, 41st Floor
Street
Los Angeles, CA 90071
City State Zip
(213) 892-9200
Telephone number of Respondent, or if represented, telephone number of Representative

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING, an agency of the State of California,

Plaintiff,

vs.

LAW SCHOOL ADMISSION COUNCIL, INC., a Delaware tax exempt corporation,

Defendants.

JOHN DOE, JANE DOE, PETER ROE, RAYMOND BANKS, KEVIN COLLINS, RODNEY DECOMO-SCHMITT, ANDREW GROSSMAN, ELIZABETH HENNESSEY-SEVERSON, OTILIA IOAN, ALEX JOHNSON, NICHOLAS JONES, CAROLINE LEE, ANDREW QUAN, STEPHANIE SEMOS, GAZELLE TALESHPOUR, KEVIN VIELBAUM, AUSTIN WHITNEY, and all other similarly situated individuals,

Real Parties in Interest.

Case No. C 12-01830 EMC

STIPULATION RE DFEH'S UNOPPOSED MOTION FOR LEAVE TO FILE THIRD AMENDED COMPLAINT

Date: October 31, 2013
Time: 1:30 pm
Dept: Courtroom 5 - 17th Floor
Judge: Hon. Edward M. Chen

Pursuant to Civil Local Rule 7-12, the parties hereby stipulate that Defendant Law School Admission Council ("LSAC") will not oppose Plaintiff Department of Fair Employment and Housing's ("DFEH") Unopposed Motion for Leave to File Third Amended Complaint, filed concurrently with DFEH's Points and Authorities in Support Thereof, the Declaration of Mari Mayeda and supporting exhibits, and the [Proposed] Order Granting DFEH's Motion for Leave to File Third Amended Complaint. LSAC reserves all defenses that it may have with respect to any claims asserted or relief requested by DFEH in the Third Amended Complaint, as well as its right to oppose any further requests for leave to file an amended complaint.

Respectfully submitted,

Dated: September 26, 2013

DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

By /s/ Mari Mayeda
MARI MAYEDA[1]
Attorneys for Plaintiff Department of Fair Employment and Housing

Dated: September 26, 2013

FULBRIGHT & JAWORSKI L.L.P.

By /s/ Robert Burgoyne
ROBERT A. BURGOYNE
Attorneys for Defendant Law School Admission Council, Inc.

Dated: September 26, 2013

US DEPARTMENT OF JUSTICE

By /s/ Nabina Sinha

[1] Pursuant to General Order No. 45(X), I, Mari Mayeda, hereby attest that I obtained the concurrence of counsel to the filing of this document.

COUR
State c
Std. 11
FE&H.

NABINA SINHA
Trial Attorney
By /s/ Melanie L. Proctor
MELANIE L. PROCTOR
Assistant United States Attorney
Attorneys for the United States

Dated: September 26, 2013

THE LEGAL AID SOCIETY - EMPLOYMENT LAW CENTER

By /s/ Claudia Center
CLAUDIA CENTER
Attorney for Plaintiff-Intervenors ANDREW QUAN, NICHOLAS JONES, ELIZABETH HENNESSEY-SEVERSON

Pursuant to the parties' stipulation, it is hereby ORDERED that Plaintiff DFEH's Motion for Leave to File Third Amended Complaint is GRANTED and Plaintiff's Third Amended Complaint, attached as Exhibit 1 to its Motion, is deemed to be filed with the Court.

The 11/7/13 motion hearing is vacated.

IT IS SO ORDERED.

SIGNED on the 30th day of September, 2013

By: _____
The Hono
Judge, Uni
for the Nor

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
GRANTED
Judge Edward M. Chen