

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

<b>JOSE ERNESTO MARTINEZ,</b>	:	
<b>an individual,</b>	:	<b>Civil Action No.:</b>
	:	<b>3:07-CV-01212 (VLB)</b>
<b>Plaintiff,</b>	:	
	:	
<b>v.</b>	:	
	:	
<b>FERGUSON LIBRARY, INC.,</b>	:	
<b>and</b>	:	
<b>ERNEST DIMATTIA,</b>	:	
	:	<b>November 29, 2007</b>
<b>Defendants.</b>	:	

**DEFENDANTS' MOTION TO DISMISS THE COMPLAINT**

Pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure, Defendants the Ferguson Library, Inc. and its President, Ernest Dimattia (collectively, "Defendants"), move to dismiss Plaintiff's Complaint for lack of subject matter jurisdiction.

Plaintiff Jose Ernesto Martinez ("Plaintiff") commenced this action, seeking injunctive relief, attorney's fees and costs. Plaintiff alleges that Defendants have violated the Americans with Disabilities Act of 1990 ("the ADA"), with respect to the facility that houses Defendants' services (the "Library") located at One Public Library Plaza, Stamford, Connecticut. Plaintiff's claim is that the Library is not accessible due to a variety of "architectural barriers" and thus injunctive relief is necessary to remove said barriers. However, Plaintiff has not established by his Complaint the requisite "case or controversy" that would support standing under Article III

of the U.S. Constitution for the injunctive relief sought. Accordingly, as more fully described in Defendants accompanying Memorandum of Law, dismissal of Plaintiff's Complaint is warranted.

WHEREFORE, the Defendants requests this Court to grant this motion and provide such other and further relief that is deemed to be just and proper under the circumstances.

Done at Bridgeport, Connecticut this 29<sup>th</sup> day of November, 2007.

/s/ \_\_\_\_\_  
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**CERTIFICATION**

This shall certify that a copy of the foregoing was caused to be served via electronic mail upon the following counsel of record and pro se parties of record on this 29th day of November, 2007.

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/s/ \_\_\_\_\_  
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