

Exhibit A

Mathis, Jo, *Test of Wills:
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has sued the ABA, claiming
the LSAT discriminates
against blind applicants,*
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TEST of WILLS

Attorney Richard Bernstein has sued the ABA, claiming the LSAT discriminates against blind applicants

By Jo MATRUS
Legal News

Richard Bernstein may be a proud University of Michigan graduate who teaches a political science course in social activism at U-M.

But that didn't stop him from representing the Paralyzed Veterans of America in an action against U.M.'s plans for disabled seating in Michigan Stadium.

He may be a member of the American Bar Association. But that didn't stop him from filing a suit against the ABA for requiring that law school candidates take the Law School Admission Test (LSAT), which Bernstein argues is inherently discriminatory against the blind.

For this deaf Michigan man and attorney, nothing comes before persons with disabilities.

Blind since birth, Bernstein understands what it's like to navigate with a big strike against him. And so he's dedicated his life to helping the disabled—whether that's by traveling to third world countries to meet parents who keep their blind children hidden from society, or by running marathons to remind people not to underestimate those with disabilities, or by taking on yet another pro bono case for the disabled that no other attorney would touch.

The case that most excites him right now — and the one he believes is the most important case he'll ever try — is the one against the ABA. He believes the ABA has failed to comply with the Americans with Disabilities Act of 1990 by denying the blind and visually impaired access to a legal education by requiring applicants to take the LSAT.



After the second time Angelo Birnos (left), who is blind since birth, did poorly on the portion of the LSAT that involves diagrams, he turned to Richard Bernstein for help in getting the ABA to waive the LSAT requirement. The ABA says it does not require law schools to use the LSAT.

Seeking a level playing field

Angelo Birnos graduated in 2000 from West Bloomfield High School, after just three years. He got a year-long scholarship with Richard Bernstein's father, Sam, and he also worked for attorney Marsa Charvat of Royal Oak, who said Birnos has what it takes to be an exceptional attorney.

"He has a great analytic mind and his memory is fantastic — almost to the point of unbelievable," Charvat said. "I've been extremely impressed with his demeanor, his articulation, and his ability to see right to the core of the problem."

Quinn said she hopes a solution is found soon so Birnos can do what she's encouraged him to do for years: attend law school.

"He is more than qualified, and would be a fine addition to the profession," she said.

Birnos said graduating from Wayne State University with a degree in political science wasn't a problem because he taped lectures, and took his sports-related laptop to class.

After college, Birnos got a job in the immigration section of U. S. Department of Homeland Security in downtown Detroit. He was laid off in April of 2008, and has been unable to find work since then. He lives with his father and brothers.

Bernstein took his case pro bono after he was rejected by other lawyers who encouraged him to keep taking the LSAT.

"I believe God sent me an angel," he said of Bernstein. "He's an amazing person who's making the world a better place for disabled people."

Like Bernstein, he wants to be a lawyer fighting for inclusion and the rights of people with disabilities.

"My whole life, I've been at a disadvantage," Birnos said. "I understand the pain. I understand the agony a disabled person goes through when things are not right for them."

"This is a necessary case," he adds. "I won't accept a settlement. I won't accept a compromise. I'm going to keep fighting until the ABA gets it right. I'm just asking for a level playing field."

He would look much more carefully at the student's undergraduate record, where they went to school, how they did at that school, what their work experience has been both while in college and post-college if they have any," he said.

Eight law schools, including the University of Michigan and Northwestern, have waivers that permit them to use a test other than the LSAT, according to ABA spokeswoman Anne Nicholas.

When Bernstein applied to law school at Northwestern University Law School in 1996, the LSAT was waived, and he was admitted based on his grades, extracurricular activities, and overall ability.

After that, the ABA threatened to withdraw accreditation of any law school that admitted a student who hadn't taken the LSAT, Bernstein claims.

The ABA refutes that.

But Bernstein says no one from the ABA has responded to the suit, which was filed more than 60 days ago.

"If they've changed their policy in the last 60 days, then we win," he said. "We'll enter into a consent decree right away if the LSAT is not required for admission. If they're allowing other exams, I want to know what they are. I haven't heard a word from them."

Because he relies so much on others and doesn't have the option to be a lawyer, Bernstein said it's a blessing that he generally likes people.

"I don't connect with people, I don't function," he said. Much of his career has focused on fighting for the rights of the disabled in the United States. At the same time, he's been shocked again and again by how poorly the disabled are treated in other countries.

Last October, Bernstein was asked by the government of Ecuador to visit the country to help develop rights for the disabled. When he got there, he realized that not only were those with disabilities not supported, they were viewed as cursed.

So he traveled the country, speaking about how he's compensated 13 marionettes and one Iron Man tradition despite his disability. He also agreed to compete in an upcoming election in the Galapagos Islands.

Bernstein has also met with survivors of terrorist attacks

in Jerusalem, where he talked about how they can still reach their potential, and where he talked about his advocacy work for the disabled.

As he spoke with a reporter recently, Bernstein was jet-lagged following a 14-hour flight from Africa. He'd just spent 10 days visiting third world countries to show parents of blind children — who sometimes believe the disability is a punishment — that it's possible for them to live full lives.

"They're absolutely shocked," he said. "For the most part, they've never seen a blind person doing anything ... and then to see one very enthusiastic and energetic and upbeat and talking about making this and that happen ... They can't believe it."

When he gets calls from distraught parents who've just given birth to a blind baby, he agrees that their child's life will not be ordinary, but, rather, extraordinary.

Bernstein sees his challenges as a blessing and a curse.

He takes on cases for the disabled on a pro bono basis, and wants nothing more than to know that more and more people with disabilities are reaching their potential.

"I live, breathe and eat this stuff," he said. "Because I really do believe we can change the world."

Though everything is more work, success is that much sweeter, he said. Bernstein said it's important for the blind to keep the right perspective in the face of challenges, and to accept that they'll have to work harder than everyone else, and be an expert planner and organizer.

Bernstein would love to be married, and says when he does find someone willing to take on the extra challenge of his disability, he'll know he's found someone exceptional.

"Like everything else, you have to work harder, you have to overcome stereotypes and prejudice and all that," he said of dating. "That's the curse. The blessing is that when the time is right, and you finally find that person, you get the most loving, kind, compassionate person."

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Bernstein wants the ABA to allow a law school to waive the LSAT requirement for the blind and visually impaired because the LSAT includes a section that requires drawing.

"What the ABA has done has cost us an entire generation of civil rights," said Bernstein, 17, an attorney with the Sam Bernstein Law Firm in Farmington Hills. "Their behavior is so disrespectful to the blind. They are ashamed."

Bernstein is representing Sergio Binnio, 28, who has also been blind since birth. The West Bloomfield resident has twice done poorly on the section of the LSAT that requires perceiving spatial relationships and drawing diagrams.

Binnio, who scored 133 and 134 out of 180 on the LSAT, has been denied admission to the University of Detroit-Mercy Law School three times and the WSU Law School and Thomas Cooley Law School once each.

Binnio believes he can excel in a top ranking law school in Michigan — if he could only get admitted.

"I should have been in law school five years ago," said Binnio, who has wanted to be a lawyer helping those with disabilities since he was a child. "I should be done with law school."

The only way to have more disability rights in this country is to have more disabled attorneys taking on these cases," said Bernstein. "We have to win this case for the greater civil rights movement."

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The letter also said that the ABA Standards and Rules of Procedure for the Approval of Law Schools requires ABA-accredited schools to operate their programs, including their admissions processes, in conformity with the Americans with Disabilities Act and other federal laws which prohibit discrimination against the disabled.

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The question of whether the ABA does or does not require the LSAT is mooted, said David Moss, a faculty member at Wayne State Law School and former member of its admissions committee.

A law school that wants to use an alternative test on a widespread basis or for particular applicants such as the blind would have to justify to the ABA why that test is valid and reliable, and the amount of statistical data needed to prove that would be difficult to obtain, said Moss.

Moss said the problem is not the ABA, but the makers of the LSAT.

The Law School Admissions Council has created a test that irregularly discriminates against blind applicants," he said, adding that even with the accommodations, the design and the administration of the test does not provide a level playing field for anyone with a disability.

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Alvarez Richard Bernstein packs 15 students at Coptic Airway station in Cairo in an attempt to help blind people find their way home.

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