

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Angelo Binno,

Plaintiff,

v

The American Bar Association,

Defendant.

No. 2:11-cv-12247

HON. DENISE PAGE HOOD

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**MICHIGAN ATTORNEY GENERAL BILL SCHUETTE'S
MOTION TO FILE BRIEF AS AMICUS CURIAE**

NOW COMES Michigan Attorney General Bill Schuette and, pursuant to Fed. R. Civ. P. 7, L.R. 7.1, and Fed. R. App. P. 29, moves for leave to file the attached proposed brief as *amicus curiae*.

1. Plaintiff Angelo Binno alleges that the Law School Admissions Test (LSAT) discriminates against blind and visually-impaired students.

2. Mr. Binno further alleges that the accreditation standards of the American Bar Association (ABA) effectively compel law schools in Michigan to consider the LSAT for admission.

3. If proven, these allegations would establish a violation of both the Americans with Disabilities Act, 42 U.S.C. § 12111 *et seq.*, and the Michigan Persons with Disabilities Civil Rights Act, Mich. Comp. Laws § 37.1401 *et seq.*

4. As Attorney General for the State of Michigan, Bill Schuette is authorized to intervene and appear on behalf of the people of Michigan in any cause or matter in which the people may have an interest. Mich. Comp. Laws § 14.28. *See also Associated Builders & Contractors v. Perry*, 115 F.3d 386, 390-92 (6th Cir. 1997).

5. Whether the LSAT is in fact discriminatory, and whether law schools in Michigan are compelled to consider a discriminatory examination, are issues of substantial consequence to the people, universities, and government agencies of Michigan.

6. In accordance with Local Rule 7.1, concurrence was requested and received from Plaintiff's counsel on November 1, 2011. Defendant's counsel declined to concur on November 2, 2011.

WHEREFORE, Michigan Attorney General Bill Schuette moves for leave to file the attached proposed brief as *amicus curiae*.

Respectfully submitted,

Bill Schuette
Attorney General

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Dated: November 2, 2011

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**MICHIGAN ATTORNEY GENERAL BILL SCHUETTE'S
BRIEF IN SUPPORT OF MOTION FOR LEAVE**

Pursuant to Fed. R. Civ. P. 7, L. R. 7.1, and Fed. R. App. P. 29, Michigan Attorney General Bill Schuette respectfully moves for leave to file the attached proposed brief as *amicus curiae* urging the Court to deny summary judgment and allow discovery.

Plaintiff Angelo Binno alleges that every law school in Michigan is basing admission in part on the results of a discriminatory examination in violation of the Americans with Disabilities Act (ADA). 42 U.S.C. § 12111 *et seq.* Specifically, he alleges that the Law School Admissions Test (LSAT) discriminates against blind and visually-impaired students by needlessly requiring diagramming to assist with

answering questions. Further, Mr. Binno alleges that the accreditation standards of the American Bar Association (ABA) effectively *compel* law schools in Michigan to consider the LSAT for admission. If proven, Mr. Binno's allegations would establish a violation of both the ADA and Michigan Persons with Disabilities Civil Rights Act (MDCRA). Mich. Comp. Laws § 37.1401 *et seq.*

As Attorney General for the State of Michigan, Bill Schuette is authorized to intervene and appear on behalf of the people of Michigan in any cause or matter in which the people may have an interest. Mich. Comp. Laws § 14.28. *See also Associated Builders & Contractors v. Perry*, 115 F.3d 386, 390-92 (6th Cir. 1997). Whether the LSAT is in fact discriminatory, and whether law schools in Michigan are effectively required to consider a discriminatory examination, are issues of substantial consequence to the people, universities, and government agencies of Michigan. It could mean that Michigan's blind and visually-impaired residents are inhibited from obtaining a legal education and future employment as attorneys. As discussed in the attached proposed brief, discovery will assist in assessing the factual support for Mr. Binno's allegations and whether intervention by the Attorney General is necessary.

This Court has full discretion over whether to grant *amicus* status. *Hoptowitz v. Ray*, 682 F.2d 1237, 1261 (9th Cir. 1982); *Silver v. Babbitt*, 166 F.R.D. 418, 434 (D. Ariz. 1994). Because the State plays an important role in the enforcement of civil rights and brings a perspective that is unique from the parties, the proposed brief will serve the important role of "bring[ing] relevant matter[s]" to the attention

of the Court that have not already been brought to its attention by the parties.
Funbus Systems, Inc. v. Cal. Pub. Util. Comm'n, 801 F.2d 1120, 1124-25 (9th Cir. 1986); *see also Neonatology Assocs. v. Commissioner*, 293 F.3d 128, 132-33 (3d Cir. 2002) (Alito, J.) (discussing standards for acceptance of *amicus* briefs).

CONCLUSION

WHEREFORE, Michigan Attorney General Bill Schuette moves for leave to file the attached proposed brief as *amicus curiae*.

Respectfully submitted,

Bill Schuette
Attorney General

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Dated: November 2, 2011

CERTIFICATE OF SERVICE (e-file)

I hereby certify that on November 2, 2011, I electronically filed the above document(s) with the Clerk of the Court using the ECF System, which will provide electronic copies to counsel of record.

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