

for the July sitting of the Massachusetts bar examination. The Rhode Island Board has not considered the testing accommodations that Massachusetts granted to Mr. Sinapi.

Under the familiar temporary restraining order standard, Mr. Sinapi must show that, without injunctive relief, he has a significant risk of irreparable harm; he has a substantial likelihood of succeeding on the merits of his claims; when balancing the equities, the scales tip in his favor; and an injunction will not injure the public interest. *Narragansett Indian Tribe v. Guilbert*, 934 F.2d 4, 6 (1st Cir. 1991). The first factor, likelihood of success on the merits, is the “critical” factor of the court’s analysis. *Id.* at 6. The Court finds, based on the limited record before it, that Mr. Sinapi meets this standard.

The ADA regulations on nondiscrimination based on disability provide that “testing entities shall give considerable weight to documentation of past modifications, accommodations, or auxiliary aids or services received in similar testing situations.” 28 C.F.R. § 36.309(b)(1)(v) (2011). Despite this mandate, the Board did not consider the accommodations that Massachusetts gave to Mr. Sinapi. The Board had ten days to give consideration to this accommodation, yet it did not meet and confer. Failure to give any weight (let alone considerable weight) to the Massachusetts Board’s adjudication appears to violate the ADA regulations. Mr. Sinapi has satisfied the first requirement that he is likely to succeed on the merits on this issue.

He will certainly be irreparably harmed because, without the reasonable accommodations that he was granted to take the Massachusetts bar exam, he does not have an equal opportunity to take and pass the Massachusetts¹ or Rhode Island bar exams. This harm will directly result from

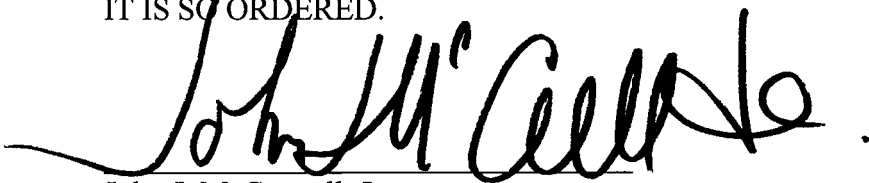
¹ Because Mr. Sinapi is registered to sit for the multistate portion of the test in Rhode Island, Rhode Island’s failure to accommodate him would functionally deny him the benefit of

the applicant's not receiving accommodations requested in accordance with the ADA. The applicant has received accommodations in school based upon his disability, and the State has failed to provide any evidence to the contrary. Absent a sufficient alternative remedy that significantly reduces the risk of injury, the Court finds injunctive relief necessary and appropriate.

The Court articulated at the hearing on this matter that there were issues weighing in favor of success on the merits of his due process and ADA claims. When faced with a plaintiff who will essentially lose his opportunity to take the Massachusetts bar exam on a level playing field, utilizing the accommodations granted by the Commonwealth's board, and balancing the Board's interest in maintaining the integrity of the test, the Court finds that the scales tip in Mr. Sinapi's favor. And, finally, an injunction will not injure the public interest.

The Court GRANTS Plaintiff's Motion for a Temporary Restraining Order. (ECF No. 2).

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "John J. McConnell, Jr.", written over a horizontal line.

John J. McConnell, Jr.
United States District Judge

July 27, 2015

Massachusetts's accommodation on the multistate portion even as it applies to his total Massachusetts score.