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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

THE DEPARTMENT OF FAIR EMPLOYMENT)
AND HOUSING,)
Plaintiff,)
v.)
LAW SCHOOL ADMISSION COUNCIL, INC.,)
Defendant.)

Case No. CV 12-1830-EMC

THE UNITED STATES OF AMERICA,)
Plaintiff-Intervenor,)
v.)
LAW SCHOOL ADMISSION COUNCIL, INC.,)
Defendant.)

~~[PROPOSED]~~ CONSENT DECREE

ANDREW QUAN, NICHOLAS JONES, and)
ELIZABETH HENNESSEY-SEVERSON,)
Plaintiff-Intervenors,)
v.)
LAW SCHOOL ADMISSION COUNCIL, INC.,)
Defendant.)

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INTRODUCTION

This matter is before the Court for entry of a consent decree agreed upon by the Parties – Plaintiff California Department of Fair Employment and Housing (“DFEH”); Plaintiff-Intervenor the United States of America (“United States”); individual Plaintiff-Intervenors Andrew Quan, Nicholas Jones, and Elizabeth Hennessey-Severson (“individual Plaintiff-Intervenors”) (each a “Plaintiff” and collectively “Plaintiffs”); and the Law School Admission Council, Inc. (“LSAC”). Plaintiffs allege that LSAC discriminates against individuals with disabilities who take, or seek to take, the Law School Admission Test (“LSAT”) with testing accommodations, in violation of the Americans with Disabilities Act (“ADA”), 42 U.S.C. §§ 12101 *et seq.*,¹ based on LSAC’s alleged failure to offer the LSAT in a manner accessible to individuals with disabilities and on LSAC’s policy of annotating, or “flagging,” test scores achieved with the testing accommodation of extended time.² LSAC denies all of Plaintiffs’ allegations.

Prior to the commencement of this litigation, the United States and the DFEH had not issued a regulation or technical assistance publication explicitly addressing score annotation by any private entity that offers examinations or courses related to applications, licensing, certification, or credentialing for secondary or post-secondary education, professional or trade purposes. However, the United States and the DFEH maintain that 42 U.S.C. § 12189 and 28 C.F.R. § 36.309 prohibit score annotation. LSAC disputes the position of the United States and the DFEH on this issue. The United States and the DFEH further maintain that, under 42 U.S.C.

¹ A violation of the ADA constitutes a violation of the Unruh Act, Cal. Civ. Code section 51(f). All references to the ADA are intended to include alleged ADA violations that by incorporation would violate California law. Nothing in this Consent Decree is intended to waive California law.

² The DFEH and the individual Plaintiff-Intervenors additionally allege violations of the California Unruh Civil Rights Act (California Civil Code section 51 *et seq.*) and California Education Code section 99161.5. The individual Plaintiff-Intervenors also allege violations of the Unfair Competition Act (California Business and Professions Code section 17200 *et seq.*).

1 § 12206(e), LSAC is not excused from compliance with the requirements of the ADA because of
2 any failure to receive technical assistance.

3 Plaintiffs and LSAC agree that it is in the Parties' best interests, the DFEH believes it is
4 in the public interest of California, and the United States believes it is in the public interest, to
5 fully and finally resolve this matter on mutually agreeable terms without trial of any issues of
6 fact or law raised in any of the Plaintiffs' complaints, and without resort to protracted litigation.
7 Further, the Parties acknowledge and agree that there has been no adjudication as to the merits of
8 any of the claims raised herein, and the fact that LSAC has entered into this Consent Decree
9 should in no way be considered evidence of guilt or liability that it has violated the law in any
10 way. The Parties hereby agree and stipulate to the Court's entry of this Consent Decree,
11 including the Order and Permanent Injunction, resolving the Plaintiffs' complaints against
12 LSAC.

13 Now it is hereby ORDERED AND DECREED as follows:

14 **PARTIES**

15 1. Plaintiffs are: (1) the DFEH, a California state agency charged with enforcing the
16 rights of all Californians under the California Unruh Civil Rights Act ("Unruh Act"), Cal. Civ.
17 Code §§ 51 *et seq.*; (2) the United States of America; and (3) Andrew Quan, Nicholas Jones, and
18 Elizabeth Hennessey-Severson, individuals with alleged disabilities who claim that they were
19 subjected to discrimination by LSAC.

20 2. Defendant LSAC is a Delaware non-profit corporation headquartered at 662 Penn
21 Street, Newtown, Pennsylvania 18940. LSAC administers the LSAT multiple times each year
22 across the United States.

23 3. LSAC is a "person" that offers examinations related to applications for post-
24 secondary education within the meaning of 42 U.S.C. § 12189 and a "private entity" that offers
25 examinations related to applications for post-secondary education within the meaning of
26

1 28 C.F.R. § 36.309. The LSAT is a secure examination, and LSAC routinely takes steps to
2 protect the security of LSAT examination content.

3 **INJUNCTIVE RELIEF**

4 4. General Obligations. LSAC shall comply with the requirements of 42 U.S.C.
5 § 12189 of the ADA and its implementing regulation at 28 C.F.R. § 36.309 (and California law
6 where applicable), including, *inter alia*, the obligation to offer the LSAT in a place and manner
7 accessible to persons with disabilities.

8 a. Pursuant to 28 C.F.R. § 36.309(b)(1)(i), LSAC shall select and administer
9 the LSAT so as to best ensure that, when the LSAT is administered to an individual with a
10 disability that impairs sensory, manual, or speaking skills, the LSAT results accurately reflect the
11 individual's aptitude or achievement level or whatever other factor the examination purports to
12 measure, rather than reflecting the individual's impaired sensory, manual, or speaking skills
13 (except where those skills are the factors that the LSAT purports to measure).

14 b. Pursuant to 28 C.F.R. § 36.309(b)(3), LSAC shall provide appropriate
15 auxiliary aids for persons with impaired sensory, manual, or speaking skills, unless LSAC can
16 demonstrate that offering a particular auxiliary aid would fundamentally alter the measurement
17 of the skills or knowledge the examination is intended to test or would result in an undue burden.

18 5. LSAC Shall Ensure That Documentation Requests Are Reasonable And Limited
19 To The Need For The Testing Accommodation³ Requested.

20 a. For those candidates whose documentation establishes that they previously
21 were approved to receive testing accommodations on any standardized examination offered in
22 the United States related to applications for post-secondary admission,⁴ and with respect to the

23 ³ The commonly used term "testing accommodation" refers, collectively, to "modifications,
24 accommodations, or auxiliary aids or services" as referenced in 28 C.F.R. § 36.309.

25 ⁴ For purposes of Paragraph 5(a), these examinations are the LSAT, SAT I and II, ACT, GED, GRE,
26 GMAT, DAT, and MCAT examinations, unless this list is modified by agreement of the Parties.

1 testing accommodations for which they were previously approved, LSAC shall require no more
2 documentation than proof of the approval for such testing accommodations, and certification by
3 the candidate through a checkmark box on the candidate form that the candidate is still
4 experiencing the functional limitations caused by the disability(ies) for which testing
5 accommodations were approved. Acceptable proof of prior testing accommodations shall consist
6 of a letter or similar documentation from the other test sponsor confirming that testing
7 accommodations were approved and specifically identifying what those approved testing
8 accommodations were. Upon receipt of such proof in accordance with LSAC's established
9 deadlines, without further inquiry or request for additional documentation, LSAC shall grant
10 those previously approved testing accommodations, or the equivalent testing accommodation
11 offered on the LSAT,⁵ with respect to requests for extended time up to double time⁶ as well as
12 certain other testing accommodations that are listed in Exhibit 1. Testing accommodations will
13 only be provided in accordance with this Paragraph 5(a) if the testing can be administered on one
14 day. If the requested testing accommodations cannot be administered on one day, they will be
15 evaluated in accordance with Paragraphs 5(b)-(d). If the requested testing accommodation is one
16 that is not covered by this Paragraph 5(a) and Exhibit 1, it will be evaluated in accordance with
17 Paragraphs 5(b)-(d).

18
19 _____
20 ⁵ For example, LSAC shall provide a candidate who submits appropriate documentation that she received
21 double time for the GRE with extended time for both the multiple choice sections and the writing section
22 of the LSAT – despite the fact that the GRE may not specify the sections on which a candidate received
23 extended time. Likewise, a candidate may submit appropriate documentation showing that she previously
24 received the testing accommodation of “large block answer sheet” on the ACT. If that exact testing
25 accommodation is not offered for the LSAT, LSAC shall grant the closest equivalent testing
26 accommodation provided for the LSAT – such as an alternate non-Scantron answer sheet.

27 ⁶ Although candidates who previously received in excess of double time will be granted double time
28 under this provision, LSAC will consider the balance of requested extended time, and any other testing
accommodations not previously received on a standardized examination related to applications for post-
secondary admission, under the provisions of Paragraphs 5(b)-(d).

1 b. For those requests that do not meet the requirements of Paragraph 5(a) in
2 whole or in part, any request from LSAC for documentation with respect to any part of a request
3 not covered by Paragraph 5(a) shall be reasonable and limited to the need for the testing
4 accommodation requested.

5 c. Subject to any further direction from the Panel as set forth in
6 Paragraph 7(c)(ii):

7 i. Requests by candidates who were previously approved to receive
8 extended time in excess of double time,⁷ or any testing accommodation not covered by
9 Paragraph 5(a) and Exhibit 1, for any standardized examination related to applications for post-
10 secondary admission, and who seek the same testing accommodations on the LSAT, will be
11 subject to LSAC's then-applicable documentation requirements, as revised herein.

12 ii. Requests by candidates who seek more extended test time or break
13 time than they previously were approved to receive as a testing accommodation for any
14 standardized examination related to applications for post-secondary admission⁸ will be subject to
15 LSAC's then-applicable documentation requirements, as revised herein.

16 iii. When reviewing the requests identified in this Paragraph 5(c),
17 LSAC will not re-evaluate whether the candidate has a covered disability within the meaning of
18 the ADA.

19 d. In evaluating testing accommodation requests under Paragraphs 5(b)-(c):

20 i. LSAC shall consider all facts and explanations offered by the
21 candidate regarding his or her history or the need for the requested testing accommodations,
22

23 ⁷ For such requests, LSAC shall automatically grant double time on the LSAT, consistent with the
24 provisions of Paragraph 5(a).

25 ⁸ For such requests, LSAC shall automatically grant the amount of extended test time or break time
26 previously approved by the other testing entity, subject to the requirements of Paragraph 5(a).

1 including factors such as late-in-life diagnosis of disability, recent onset of a disability,
2 progression of a disability, lack of resources, or having a non-traditional educational background.

3 ii. LSAC shall give considerable weight to documentation of past
4 testing accommodations received in similar testing situations not covered by Paragraph 5(a), as
5 well as such testing accommodations provided in response to an Individualized Education
6 Program (IEP)⁹ or a Section 504 Plan.¹⁰

7 iii. LSAC shall consider documentation provided by a qualified
8 professional¹¹ who has made an individualized assessment of the candidate.

9 iv. LSAC agrees to update the information and forms provided to
10 candidates regarding the recency of testing used in support of a testing accommodation request
11 based on a mental or cognitive impairment to permit such candidates to submit testing conducted
12 within five years of the date of the request for testing accommodations on the LSAT in support
13 of their testing accommodation request, instead of within three years as currently required for
14 certain candidates.

15 v. LSAC may consider objective evidence relating to the candidate's
16 diagnosed impairment and its impact on the candidate.

17 vi. LSAC shall not reject or deny a candidate's application for a
18 particular testing accommodation based solely on the candidate's average or above average IQ
19 score and/or high level of academic success.

20 _____
21 ⁹ An IEP describes the special education and related aids and services provided under the Individuals with
22 Disabilities Education Act (IDEA).

23 ¹⁰ A Section 504 Plan describes special or regular education and related aids and services provided
24 pursuant to section 504 of the Rehabilitation Act of 1973.

25 ¹¹ A "qualified professional," as that term is used throughout this Decree, is "licensed or otherwise
26 properly credentialed and possess[es] expertise in the disability for which modifications or
27 accommodations are sought." 28 C.F.R. pt. 36, app. A, at 784.

1 Barring unforeseen circumstances, LSAC will respond to each request for testing
2 accommodations within 14 business days of its receipt. Therefore, if a request is received within
3 two weeks of the deadline, you may not have the opportunity to supplement your file if, after
4 review of your request, we determine that additional information is needed to make a decision.
5 Additionally, you may not be able to request reconsideration of our decision.” This language is
6 subject to further direction from the Panel regarding the need for and availability of an appeals
7 process and, if needed, what that process should be, as set forth in Paragraph 7(c)(iii)(7).

8 g. LSAC agrees to revise its Guidelines for Documentation of Cognitive
9 Impairments to eliminate the following language: “Please note that if you are currently taking
10 medication, you should consider being evaluated while on your medication. Any deviation from
11 this practice must be explained by your evaluator.” LSAC further agrees to revise its Evaluator
12 Form to eliminate the request for an “explanation” if a candidate was not on his or her prescribed
13 medication during the evaluation. LSAC may continue to ask evaluators whether a candidate
14 was on his or her prescribed medication during the evaluation, followed by the words, “If
15 relevant and appropriate, please comment.”

16 h. The provisions of Paragraph 5, including any changes to LSAC’s policies
17 or practices required by Paragraph 5, shall be implemented for the next administration of the
18 LSAT following entry of this Decree by the Court (“Effective Date”). However, if the next
19 administration of the LSAT is less than two months away from the Effective Date, LSAC shall
20 implement the changes for the second administration of the LSAT following the Effective Date
21 of this Decree.

22 6. LSAC Shall Diversify The Expert Consultants It Uses To Review Requests For
23 Testing Accommodations. LSAC shall increase the number of expert consultants and diversify
24 the areas of expertise of the expert consultants it uses to review and evaluate requests for testing
25 accommodations.

1 7. LSAC Shall Implement Best Practices As Established By A Panel Of Experts To
2 Be Agreed Upon By The Parties¹² To Comply With 28 C.F.R. § 36.309.

3 a. Panel. The Panel shall be comprised of five experts: two selected by
4 LSAC; two selected by the United States and the DFEH; and a fifth selected by those four
5 experts from a list prepared by the United States and the DFEH. For their two selections, the
6 United States/DFEH and LSAC will each select one individual with expertise in the provision of
7 testing accommodations within the context of standardized test administration and one individual
8 with expertise in cognitive disabilities. The Parties will select their experts within ten (10) days
9 of the Effective Date. Within five (5) days of confirmation of service by all the selected experts,
10 the United States and the DFEH will give to the four experts a list of three additional experts,
11 each of whom shall have expertise in ADA compliance. The individuals listed for possible
12 selection as this fifth Panel member shall not have previously assisted or consulted with any
13 Party (including the individual Plaintiff-Intervenors) for purposes of this litigation. No Panel
14 member can be an attorney who has previously personally represented a party adverse to LSAC
15 or the United States in a lawsuit or government agency proceeding involving LSAC; LSAC shall
16 provide a list of all such attorneys to the United States and the DFEH by the Effective Date of
17 the Decree. Within five (5) days, the four selected experts will choose a fifth expert from the list
18 provided by the United States and the DFEH. Within five (5) days of the fifth expert confirming
19 his or her willingness to serve on the Panel, all of the chosen experts will be notified of the final
20 composition of the Panel by joint letter from the Parties. During the period of their service under
21 this Consent Decree and through conclusion of any reconvening of the Panel (or expiration of the
22 time period for reconvening the Panel) pursuant to Paragraph 7(d)(vi), members of the Panel
23
24

25 ¹² All references to the “Parties” in Paragraph 7 refer solely to the United States, the DFEH, and LSAC.
26

1 may not personally represent anyone, or serve as expert witnesses for anyone, who is adverse to
2 LSAC in any pending lawsuit or government agency proceeding.

3 b. Duties. It shall be the Panel's duty to prepare a written report establishing
4 Best Practices that comport with the requirements of 28 C.F.R. § 36.309, all of which LSAC
5 shall implement to the extent that it is not already following such Best Practices. When
6 establishing the Best Practices, the Panel shall clearly and expressly state in writing whether
7 each Best Practice is already being followed by LSAC or needs to be implemented by LSAC.
8 The Best Practices shall be consistent with the provisions of this Decree and shall not violate the
9 ADA or its implementing regulations, or California law where applicable. The United States
10 and the DFEH agree that, for the four-year term of this Decree, neither the United States nor the
11 DFEH will assert in any forum that LSAC has violated the ADA, its implementing regulations,
12 or any provision of California law by taking actions in compliance with any of the Best
13 Practices that have not been challenged by a Party pursuant to Paragraphs 7(d)(iv)-7(d)(vii)
14 below or, if challenged, have not been invalidated by the Court. The Panel shall determine how
15 many of the five Panel members must agree on each Best Practice in order for it to be imposed
16 as a Best Practice.

17 c. Issues To Be Addressed By Panel.

18 i. Diversification. The Panel shall provide LSAC with
19 recommendations on how to diversify its expert consultants, in terms of numbers and areas of
20 expertise, which LSAC shall implement.

21 ii. Documentation. The Panel shall consider and establish the type
22 and scope of appropriate documentation that may be requested from candidates whose requests
23 fall under Paragraphs 5(b)-(d) above. The Panel shall include in its consideration the
24 documentation requirements for candidates who have received some of their requested testing
25 accommodations for a standardized examination related to applications for post-secondary
26

1 admission but who request additional testing accommodations, or in excess of double time, for
2 the LSAT,¹³ consistent with the terms of Paragraph 5(b) above.

3 iii. Review of Testing Accommodation Requests. The Panel shall
4 address the following elements of the process for reviewing and evaluating testing
5 accommodation requests:

- 6 1) Reviewers. The Panel shall consider and establish the appropriate
7 qualifications for persons, such as LSAC staff and/or outside
8 consultants, who make substantive adverse decisions on requests
9 for testing accommodations.
- 10 2) Qualified Professionals. The Panel shall determine whether more
11 than one qualified professional should review a documented
12 request for testing accommodations before LSAC may deny the
13 request in whole or in part.
- 14 3) Criteria and guidelines for reviewers. The Panel shall consider and
15 establish criteria and guidelines for use by persons who review or
16 evaluate testing accommodation requests.
- 17 4) Written recommendations from reviewers. The Panel shall
18 consider whether there should be particular parameters for written
19 recommendations from any outside consultant who reviews or
20 evaluates requests for testing accommodations and, if so, what
21 those parameters should be. The Panel shall also consider whether
22 there should be particular parameters for internally documenting
23 written decisions by LSAC personnel who make substantive
24 decisions on requests for testing accommodations and, if so, what
25 those parameters should be.
- 26 5) Written explanations for denials of testing accommodation
27 requests. The Panel shall consider whether there should be
28 particular parameters for written explanations provided by LSAC
29 to candidates whose requests for testing accommodations are
30 partially or fully denied and, if so, what those parameters should
31 be.
- 32 6) Automatic review of partial and full denials. The Panel shall
33 consider whether an automatic review of partial and/or full denials

13 For example, a candidate may have received 50% extended time previously (to which he or she is entitled under Paragraph 5(a)) but may request 100% additional time for the LSAT (where the additional extended time is subject to Paragraphs 5(b)-(d)).

1 is warranted and, if warranted, how such a review should be
2 conducted.

3 7) Timely/streamlined appeals process. The Panel shall consider
4 whether there should be a process available, beyond that already
5 provided by LSAC, to candidates who wish to seek review of
6 LSAC's decision to deny a candidate's request and, if so, what that
7 process should be relative to LSAC's existing registration
8 deadlines.

9 8) Training. The Panel shall consider and establish the parameters,
10 such as content and timing of, training for persons (both LSAC
11 staff and outside consultants) who evaluate or review testing
12 accommodation requests.

13 iv. Other. The Best Practices shall not invalidate or conflict with any
14 other provisions of this Decree.

15 d. Process. The Panel shall complete its written report within six (6) months
16 after the fifth Panel member has been appointed in accordance with Paragraph 7(a). Upon
17 agreement of the Parties, the Panel may be granted additional time if necessary to complete its
18 report. Except as otherwise explicitly stated in this Decree, LSAC is not required by this
19 Decree to implement changes to its policies or forms prior to the Panel's completion of its
20 written report.

21 i. At its first meeting, the Panel shall establish a process with
22 measurable benchmarks to effectuate its duties herein and a time frame for achieving those
23 benchmarks.

24 ii. At the Panel's first meeting, the Parties shall have the opportunity
25 to present their views on the issues addressed herein to the full Panel.

26 iii. The Panel shall also give each of the Parties an opportunity to
27 comment in writing on the Panel's draft Best Practices at least two (2) weeks prior to the
28 issuance of a final report.

iv. Within two (2) months of the issuance of the Panel's final report,
any Party may appeal to the Court for appropriate relief if any of the Panel's final Best Practices,

1 as written, are believed to violate the ADA or its implementing regulations, or California law
2 where applicable, or to conflict with the provisions of this Decree. If any Party intends to file
3 such an appeal with the Court, the Party must first notify all other Parties of its intent in writing
4 within one (1) month of the issuance of the final report. Such notice must include a list of the
5 Best Practice(s) the Party intends to challenge, as well as the Best Practice(s) for which
6 implementation will, and will not, be stayed during the pendency of the appeal, subject to the
7 dispute-resolution provisions set out in Paragraph 7(d)(v).

8 v. LSAC shall implement the Best Practices no later than six (6)
9 months following either the expiration of the one (1) month notice period required under
10 Paragraph 7(d)(iv) or LSAC's receipt of a written agreement by all Parties not to challenge the
11 Best Practices pursuant to Paragraph 7(d)(iv), whichever comes first. If, however, any Party
12 submits notification that it intends to appeal to the Court with respect to any of the Panel's final
13 Best Practices pursuant to Paragraph 7(d)(iv), LSAC's implementation of the Best Practice(s)
14 subject to appeal, as well as any other Best Practice(s) identified by the appealing Party as
15 subject to the stay in its notice under Paragraph 7(d)(iv), are stayed pending a final determination
16 by the Court with respect to the appealed Best Practice(s). During the duration of any such stay,
17 LSAC shall continue to implement all other Best Practices. If a dispute arises as to whether
18 implementation of any of the other Best Practices should be stayed pending appeal, the Parties
19 shall meet and confer, and a good faith effort shall be made by the Parties to resolve such
20 differences promptly. If the United States, the DFEH, or LSAC believes that resolution cannot
21 be achieved, it shall promptly notify the other two Parties in writing and shall specify its final
22 position with regard to the dispute. Thereafter, any of these Parties may pursue the issue with
23 the Court.¹⁴

24
25 ¹⁴ The provisions of Paragraph 21(b) do not apply to any pursuit by the DFEH of relief from the Court
26 under this Paragraph 7(d)(v) or Paragraph 7(d)(vii), and the DFEH will not be entitled to payment of any

1 vi. Within two (2) months of the United States' and the DFEH's
2 receipt, pursuant to Paragraph 23, of LSAC's first annual report after LSAC's implementation of
3 the Best Practices for at least one test administration, or at any time prior to that, any of the
4 Parties may request in writing that the Panel be reconvened to consider revising the Best
5 Practices, in which event the Panel shall be reconvened to make recommendations regarding
6 whether revisions are necessary to the applicable Best Practice(s). For purposes of this
7 paragraph, the Panel will only consider "revisions" to the Best Practices that fall within the ten
8 (10) topics for consideration by the Panel defined in Paragraphs 7(c)(i)-7(c)(iii) above. The
9 Panel shall provide its recommendations in a written report to be completed within three (3)
10 months of the Panel being reconvened; provided, however, that with the agreement of all the
11 Parties, the Panel may be granted additional time to issue this report. The Panel shall give the
12 Parties an opportunity to comment in writing on the Panel's draft revised Best Practices at least
13 two (2) weeks prior to the issuance of the final revised Best Practices.

14 vii. The Parties shall have two (2) months from the issuance of the
15 final revised Best Practices to appeal to the Court for appropriate relief if any of the Panel's final
16 revised Best Practices, as written, are believed to violate the ADA or its implementing
17 regulations, or California law where applicable, or to conflict with the provisions of this Decree.
18 If any Party intends to file such an appeal with the Court, the Party must first notify all other
19 Parties of its intent in writing within one (1) month of the issuance of the final revised Best
20 Practices. Such notice must include a list of the Best Practice(s) the Party intends to challenge,
21 as well as the Best Practice(s) for which implementation will, and will not, be stayed during the
22 pendency of the appeal, subject to the dispute-resolution provisions discussed in this paragraph,
23 below. LSAC shall implement any final revised Best Practices no later than four (4) months

24 _____
25 attorneys' fees or costs by LSAC if it prevails on any issue brought before the Court under Paragraphs
26 7(d)(v) or 7(d)(vii).

1 following either the expiration of the one-month notice period required under this paragraph or
2 LSAC's receipt of a written agreement by all Parties not to challenge the final revised Best
3 Practices pursuant to this paragraph, whichever comes first. If, however, any Party provides
4 notification of its intent to appeal to the Court with respect to any of the Panel's final revised
5 Best Practices under this paragraph, implementation of the revised Best Practice(s) subject to
6 appeal, as well as any other Best Practice(s) identified by the appealing Party as subject to the
7 stay in its notice under this paragraph, are stayed pending a final determination by the Court with
8 respect to the appealed Best Practice(s). During the duration of any such stay, LSAC shall
9 continue to implement all other Best Practices. If a dispute arises as to whether implementation
10 of any of the other Best Practices should be stayed pending appeal, the Parties shall meet and
11 confer, and a good faith effort shall be made by the Parties to resolve such differences promptly.
12 If the United States, the DFEH, or LSAC believes that resolution cannot be achieved, it shall
13 promptly notify the other two Parties in writing and shall specify its final position with regard to
14 the dispute. Thereafter, any of these Parties may pursue the issue with the Court.

15 e. Communications. The Panel may:

16 i. Have ex parte communications at any time with the Parties,
17 including counsel for the Parties and employees, agents, contractors, and all others working for
18 or on behalf of the Parties. Any such communications with employees, agents, or contractors of
19 LSAC must be arranged through in-house counsel for LSAC, and counsel for LSAC may be
20 present for such communications if counsel's presence is requested by the Panel or any LSAC
21 employee, agent, or contractor involved in such communication.

22 ii. Request meetings with the Parties, individually or in combination.
23 The purpose of these meetings shall include, among other things, prioritizing areas for the Panel
24 to review and discussing areas of concern.

1 the DFEH, or LSAC. The Panel shall provide sufficiently detailed monthly invoices justifying
2 any fees, costs, and expenses. Panel members shall be paid a standard reasonable rate, to be
3 determined by the Parties following identification of the proposed Panel members. If the Parties
4 cannot reach agreement on the rate to be paid, the issue shall be submitted to Magistrate Judge
5 Joseph Spero for resolution. LSAC shall reimburse all reasonable expenses incurred by the
6 Panel, or any of its members, in the course of the performance of the duties of the Panel in
7 accordance with LSAC's current applicable policies, practices, and procedures for
8 reimbursement of employee travel and expenses, excluding the approval process applicable to
9 LSAC staff and employees and the requirement that air travel be charged to LSAC's corporate
10 account or an LSAC corporate credit card. The Court retains the authority to resolve any dispute
11 that may arise regarding the reimbursement of fees and costs charged by the Panel. The Court
12 shall be the final arbiter of what costs and expenses shall be reimbursed by LSAC.

13 8. Tracking and/or Maintenance of Testing Accommodation Data.

14 a. For each candidate who requests testing accommodations subsequent to
15 the Effective Date of this Decree, LSAC shall maintain for the term of the Decree and track in a
16 readily searchable format the following information for each specific request by that candidate:
17 (a) date the candidate requested testing accommodations; (b) candidate's date of birth; (c) LSAC
18 account number; (d) test date requested; (e) disabilities for which the candidate requested testing
19 accommodations; (f) each testing accommodation requested; (g) each testing accommodation
20 previously received on standardized tests (if documented by the candidate); (h) whether the
21 candidate ever had a Section 504 Plan (if documented by the candidate); (i) whether the
22 candidate ever had an IEP (if documented by the candidate); (j) whether LSAC requested
23 additional documentation from the candidate; (k) for each testing accommodation requested,
24 whether the request was granted in full or denied in full or denied in part; (l) date of LSAC's
25 decision letter for each requested testing accommodation; (m) the name of any outside

1 consultant(s) who reviewed the request; (n) the name(s) of all other individual(s) who reviewed
2 the request for the purpose of making a substantive decision whether to grant or deny the request;
3 (o) reasons each requested testing accommodation was denied in full or denied in part, if
4 applicable; and (p) fees paid to LSAC by the candidate relating to the LSAT. LSAC shall have
5 eight (8) weeks after the Effective Date of this Decree to have such database(s) in place.

6 b. For any lawsuit or any complaint filed with a government agency alleging
7 that LSAC improperly failed to provide testing accommodations following LSAC's final
8 determination regarding a test taker's request for testing accommodations for the LSAT, LSAC
9 shall maintain the complaint and documentation reflecting any response by LSAC and the
10 resolution (if any) for the term of the Decree and track in a readily searchable format the
11 following information: (1) the nature of the complaint, (2) the name of the candidate on whose
12 behalf the complaint was sent, and (3) the outcome of the complaint (if any). LSAC shall have
13 eight (8) weeks after the Effective Date of this Decree to have such database in place. For the
14 term of the Decree, LSAC shall maintain appropriate supporting documentation for the
15 information being tracked pursuant to this paragraph.

16 c. Subject to its standard document retention schedule, but at minimum for
17 the term of the Decree, LSAC agrees to maintain in the candidates' accommodated testing files
18 copies of correspondence received by LSAC on behalf of candidates whose testing
19 accommodation requests have been denied, in whole or in part, by LSAC.

20 d. LSAC agrees to establish a separate electronic mailbox and corresponding
21 email address dedicated to the receipt of complaints (other than complaints filed with courts or
22 government agencies) alleging that LSAC improperly failed to provide testing accommodations
23 following LSAC's final determination regarding a test taker's request for testing
24 accommodations on the LSAT. LSAC shall post this email address on the accommodated testing
25 webpage (currently located at <http://lsac.org/jd/lsat/accommodated-testing>), to remain posted for
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1 the term of this Decree. LSAC will instruct candidates that the subject line of emails sent to this
2 email address should contain the candidate's LSAC account number and that a copy of any
3 complaints sent by mail or facsimile should also be sent to this email address. LSAC shall have
4 four (4) weeks after the Effective Date of this Decree to have such an electronic mailbox in
5 place. LSAC will maintain any correspondence sent to this email address for the term of this
6 Decree and shall provide such documents and/or information in a timely manner to the United
7 States, and to the DFEH (to the extent that such documents and information pertain to
8 individuals who tested in California), upon reasonable request.

9 e. To the extent that any of the documents, information, and/or data
10 described in Paragraph 8 is provided to the United States pursuant to this Decree (and/or to the
11 DFEH for individuals testing in California), LSAC may redact the names, addresses, and any
12 other personally identifiable information, unless otherwise expressly stated herein, of any current
13 or past test-takers before providing the documents, information, and/or data.

14 **PERMANENT INJUNCTION ON SCORE ANNOTATIONS**

15 9. Permanently Discontinue Score Annotating. LSAC shall permanently discontinue
16 all forms of the practice of annotating score reports of candidates who receive the testing
17 accommodation of extended test time due to disability. For candidates applying to law school
18 after the Effective Date of this Decree, LSAC shall henceforth provide the same information on
19 test score reports for all candidates for whom score reports are provided.

20 All relief provided for in this Decree with respect to LSAT test score reports and/or score
21 annotations is solely prospective in nature. No monetary relief is being paid by LSAC on the
22 basis of its prior score annotation practices.

23 **CIVIL PENALTY**

24 10. Civil Penalty (\$55,000). The ADA authorizes the Attorney General to seek, and
25 the Court to award, civil penalties of fifty-five thousand dollars (\$55,000) for a first violation of
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1 Title III of the ADA. 42 U.S.C. §§ 12188(b)(2)(C) & (b)(3); 28 C.F.R. §§ 36.504(a)(3) & (b).
2 The United States believes the imposition of a civil penalty in this case is warranted to vindicate
3 the public interest in eliminating discrimination on the basis of disability. LSAC denies that a
4 civil penalty is warranted in this case, but, in the interest of settling this litigation and without
5 admitting any wrongdoing, LSAC shall pay the amount of fifty-five thousand dollars (\$55,000)
6 to the United States as a civil penalty. LSAC shall issue a check in the amount of fifty-five
7 thousand dollars (\$55,000), payable to the “United States Treasury,” to be delivered by counsel
8 for LSAC to counsel for the United States identified in Paragraph 29 within five (5) days of the
9 Effective Date of this Decree.

10 **MONETARY RELIEF**

11 11. Payments To Individuals (\$7,675,000.00). LSAC agrees to pay seven million, six
12 hundred and seventy-five thousand dollars (\$7,675,000.00) in compensatory damages, to be
13 apportioned as detailed below. None of the payments provided for in this Decree, other than
14 those set forth in Paragraph 10, constitute payment of exemplary or punitive damages. LSAC is
15 making these payments without conceding either liability or entitlement to claimed damages.

16 a. Monetary Relief To Individuals Named In The United States’ And The
17 DFEH’s Complaints (\$945,000). LSAC agrees to pay a sum of nine hundred and forty-five
18 thousand dollars (\$945,000) to the Plaintiffs for compensation of the individuals named in
19 Plaintiffs’ complaints, as follows: five hundred and eighty-five thousand dollars (\$585,000) to
20 the DFEH; two hundred and twenty-five thousand dollars (\$225,000) to the United States; and
21 one hundred and thirty-five thousand dollars (\$135,000) to be distributed to individual Plaintiff-
22 Intervenors Andrew Quan, Nicholas Jones, and Elizabeth Hennessey-Severson. Payment of
23 these sums shall be rendered to respective counsel for the United States, the DFEH, and the
24 individual Plaintiff-Intervenors within fourteen (14) days after LSAC’s receipt of all signed
25 releases. For all individuals named in the United States’ and the DFEH’s complaints, other than
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1 the individual Plaintiff-Intervenors, these releases will be in the form of Exhibit 3. The United
 2 States and the DFEH shall have thirty (30) days after the Effective Date of this Decree to obtain
 3 releases from all of the individuals named in their complaints (other than the individual Plaintiff-
 4 Intervenors) and/or to inform LSAC of those individuals who have not provided releases. If any
 5 individual named in the United States' or the DFEH's complaint does not execute his or her
 6 release during this thirty (30) day period, his or her payment amount will be added to the
 7 Residual Amount referenced in Paragraph 17 of this Decree. Payment shall be made by LSAC
 8 through checks issued in the name of each individual¹⁵ named in the Plaintiffs' complaints who
 9 has provided a signed release, to be delivered by LSAC to the applicable counsel identified in
 10 Paragraph 29 and footnote 18.¹⁶ All individuals entitled to payment under this Paragraph 11(a)
 11 will provide completed and executed W-9 Forms to LSAC as a condition precedent to receiving
 12 payment under the terms of this Decree.

13 b. Compensation Fund For Individuals Who Requested Testing
 14 Accommodations For The LSAT Between January 1, 2009 And May 20, 2014 And Who Are
 15 Eligible Persons Under This Decree (\$6,730,000). Within forty-five (45) days after the Effective
 16 Date of this Decree, LSAC shall deposit the sum of six million, seven hundred and thirty
 17 thousand dollars (\$6,730,000) in an interest-bearing qualified settlement account for Eligible
 18 Persons under this Decree ("Compensation Fund"). This account shall be established within ten
 19 (10) days of retention of the Third-Party Claims Administrator (described in Paragraph 11(b)(iii))
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21 ¹⁵ The Plaintiffs anticipate that some checks may need to be issued for the benefit of a named individual
 22 and, in such instances, LSAC shall issue the check as designated by Plaintiffs' counsel for one or more
 23 particular individuals named in their complaints.

24 ¹⁶ For those individuals named solely in the DFEH's complaint, checks will be delivered to counsel for
 25 the DFEH at the address listed in Paragraph 29(b). For those individuals named solely in the United
 26 States' complaint, checks will be delivered to counsel for the United States at the address listed in
 27 Paragraph 29(a). For the individual Plaintiff-Intervenors, checks shall be sent to their attorneys at the
 28 Legal Aid Society – Employment Law Center at the address listed in footnote 18.

1 below). This account shall be established, maintained, and administered by the Administrator,
2 and shall be identified on payment checks using the short-hand title, "LSAC Consent Decree."
3 Title to this account shall be in the name of "LSAC for the benefit of aggrieved individuals
4 pursuant to Order of the Court in Civil Action 3:12-cv-01830-EMC." LSAC shall submit written
5 verification to the United States and the DFEH that the funds have been deposited. The initial
6 deposit, and all interest accrued on that amount, shall make up the Compensation Fund and be
7 available for compensation of Eligible Persons under this Decree. LSAC shall bear all costs of
8 administering the Compensation Fund, including costs associated with establishing the account,
9 maintaining it, and issuing payments. On written request to the Administrator, copies of account
10 statements shall be provided within seven (7) days to the United States and the DFEH.

11 i. Potential Eligible Persons. "Potential Eligible Persons" are
12 individuals who requested testing accommodations on the LSAT between January 1, 2009 and
13 May 20, 2014, provided that they have not entered into a prior written release agreement with
14 LSAC that applies to the request(s) for testing accommodations for which they would otherwise
15 be eligible to submit a claim under this Decree. An individual who executed such a prior written
16 release shall nonetheless be potentially eligible if he or she requested a testing accommodation
17 for an administration of the LSAT that was not the subject of the release. LSAC agrees to
18 provide the United States and the DFEH a list of the individuals who both requested testing
19 accommodations on the LSAT between January 1, 2009 and May 20, 2014 and signed a release
20 of claims against LSAC, with the dates of the releases, within ten (10) days of the Effective Date
21 of this Decree.

22 ii. Eligible Persons. "Eligible Persons" are those Potential Eligible
23 Persons who timely submit completed claims forms and properly executed releases in the form
24 of Exhibit 3 ("Release") to the Administrator within the Claims Period. Any Potential Eligible
25 Person may decline all monetary benefits from this Decree by not returning a signed Release.

1 The Decree does not limit the legal rights of any Potential Eligible Person who does not return a
2 signed Release within the Claims Period or any individual who is not a Potential Eligible Person
3 under this Decree.

4 iii. Retention Of Claims Administrator. A Third-Party Claims
5 Administrator (“Administrator”) will have access to and control of the Compensation Fund for
6 the purpose of compensating Eligible Persons. Within twenty (20) days of the Effective Date,
7 LSAC, the United States, and the DFEH will agree upon a third-party organization to serve as
8 Administrator. Within thirty (30) days of the Effective Date, LSAC will contract to retain the
9 Administrator to conduct the activities set forth in this Decree (“Retention Date”). LSAC will
10 obtain the United States’ consent to the contract prior to its execution. The United States shall
11 consult with the DFEH regarding any provisions specific to California claimants or processes, if
12 any, prior to consenting to such contract. LSAC will bear all costs associated with the claims
13 administration. LSAC’s contract with the Administrator will require that the Administrator
14 comply with the provisions of this Decree, as applicable to the Administrator, and with all
15 confidentiality and privacy restrictions applicable to the Parties in this matter, including the
16 Protective Order (ECF No. 123). The Administrator’s contract will also require the
17 Administrator to work cooperatively with the United States and the DFEH in the conduct of the
18 Administrator’s activities, including reporting regularly to and providing all requested
19 information to the United States and the DFEH. All information and data provided to the
20 Administrator pursuant to this Decree shall be used by the Parties and the Administrator only for
21 the purposes of implementing this Decree.

22 iv. Duties Of The Claims Administrator. The duties of the
23 Administrator shall include: (1) locating current addresses of Potential Eligible Persons; (2)
24 communicating with Potential Eligible Persons; (3) distributing documents to Potential Eligible
25 Persons; (4) tracking the return of claim forms, releases, and other documents; (5) tracing
26

1 Potential Eligible Persons whose notices are returned as undeliverable; (6) reviewing documents
 2 provided by the Parties and Potential Eligible Persons; (7) compiling a list of Eligible Persons
 3 pursuant to the criteria set forth in this Decree and any further reasonable instructions provided
 4 by the United States that would not result in significant additional administration costs; (8)
 5 distributing payments to Eligible Persons; (9) reporting to the United States, the DFEH, and
 6 LSAC on the distribution process; (10) verifying fund balances; (11) filing tax returns as
 7 required by law; (12) establishing and maintaining an accessible¹⁷ website providing information
 8 about the claims process; (13) establishing cost-free means for Potential Eligible Persons to
 9 contact it, including both email and a toll-free number (and accompanying TTY text telephone
 10 number); and (14) such other duties that are reasonably necessary to carry out the provisions of
 11 this Decree as set forth in the contract with the Administrator. In no event shall the
 12 Administrator send payment to any Eligible Person for whom the Administrator does not have a
 13 properly executed Release.

14 v. Dispute Resolution. In the event the United States or the DFEH
 15 has reason to believe that the Administrator is not materially complying with the terms of its
 16 contract with LSAC, the United States and LSAC will meet and confer for the purpose of
 17 agreeing on a course of action to effect the Administrator's material compliance with its contract.
 18 In the event that the United States and LSAC are unable to so agree, the United States or LSAC
 19 may present the matter to the Court. To the extent any dispute involves California claimants or
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21 ¹⁷ For the purposes of this Consent Decree, websites will be considered "accessible" if they comply with
 22 the Level A and Level AA Success Criteria and Conformance Requirements of the Web Content
 23 Accessibility Guidelines 2.0 (Dec. 11, 2008) ("WCAG 2.0 Level AA"), published by the World Wide
 24 Web Consortium ("W3C"), Web Accessibility Initiative ("WAI"), available at www.w3.org/TR/WCAG/.
 25 "Websites," as used herein, includes: (i) all web pages, web applications, resources, and services within
 26 the website domain, its subdomains, and related domains; and (ii) all of the information, resources, files,
 27 databases, images, graphics, text, audio, video, multimedia, services, code, and any other communications
 28 sent by or retrieved from the website to members of the public accessing it.

1 processes, the United States will consult with the DFEH regarding such disputes prior to
2 reaching agreement with LSAC or presenting the matter to the Court.

3 vi. Potential Eligible Persons List To Administrator. Within ten (10)
4 days of the Retention Date, LSAC shall deliver to the Administrator a “Potential Eligible Persons
5 List” that includes the following information, if known to LSAC, in electronic format for every
6 individual who requested testing accommodations for the LSAT from January 1, 2009 through
7 May 20, 2014:

- 8 1) name;
- 9 2) LSAC identification number; and
- 10 3) contact information, including permanent address, last known
addresses, phone numbers, and email addresses.

11 This information shall be provided in a computerized format. LSAC will provide the
12 Administrator any additional information reasonably requested by the Administrator in
13 furtherance of any aspect of the claims process pursuant to this Decree, including social security
14 numbers for particular individuals if known to LSAC and if provision of such information is
15 legally permitted.

16 vii. Notice By LSAC.

- 17 1) LSAC Website. Within ten (10) days after the Retention
18 Date, and through the start of the Claims Period (as defined
19 in Paragraph 11(b)(x)), LSAC will publish the Notice in the
20 form of Exhibit 2(a). Within ten (10) days of the start of
21 the Claims Period, LSAC will replace the Exhibit 2(a)
22 Notice with the Notice in the form of Exhibit 2(b), which it
23 will publish for the remainder of the Claims Period. For
24 purposes of this paragraph, “publish” means to maintain on
25 LSAC’s website in an accessible and conspicuous location
(*i.e.*, directly linked from the primary web portals used by
26 customers, with the description “Americans with
Disabilities Act Claims Fund”). Such Notice (and all
27 LSAC content linked to the Notice, if any) shall be in an
28 accessible format to individuals who are blind or have low
vision, as described in footnote 17.

1 (“Claims Period”) within which to submit a claim and all required documentation to the
2 Administrator in connection with this Decree.

3 12. Establishment Of Standards. Subject to the terms of this Decree, the
4 Administrator shall create a notice and claim form in consultation with LSAC and the United
5 States, and propose standards to: (1) distribute and collect claim forms from Potential Eligible
6 Persons; (2) distribute and collect Releases from Potential Eligible Persons; (3) fix deadlines for
7 all required processes; and (4) address any other considerations associated with establishing,
8 maintaining, and distributing payment to Eligible Persons. Within thirty (30) days of the
9 Retention Date, the Administrator shall send the proposed notice, claim form, and standards to
10 LSAC, the DFEH, and the United States. Within fifteen (15) days of receipt of the proposed
11 notice, claim form, and standards, the United States, following consultation with LSAC and the
12 DFEH regarding California claimants and processes, shall communicate its approval of or any
13 changes to the notice, claim form, and standards to the Administrator, who shall accept and
14 implement any such changes. No procedures beyond those in this Decree or approved by the
15 United States pursuant to this paragraph shall be imposed on any Eligible Person.

16 13. Claims Reporting. At regular intervals, but in no event less frequently than every
17 thirty (30) days after the Notice Package is sent to all Potential Eligible Persons, the
18 Administrator shall send the United States and the DFEH a list containing: (1) the names of all
19 Potential Eligible Persons who submitted a claim form and/or Release; (2) identification of all
20 Eligible Persons; and (3) if applicable, a brief description of why any Potential Eligible Person
21 was deemed not eligible. Within thirty (30) days of the close of the Claims Period, the
22 Administrator shall provide the United States, the DFEH, and LSAC with a proposed distribution
23 list that includes the information referenced above in this paragraph plus the proposed amount of
24 compensation to be awarded to each Eligible Person. The proposed compensation per Eligible
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1 Person shall be determined by dividing the Compensation Fund (\$6,730,000) by the total number
2 of Eligible Persons, with each Eligible Person receiving the same payment amount.

3 The United States shall have thirty (30) days after receiving the proposed final list from
4 the Administrator to submit any corrections. Before submitting any such corrections, the United
5 States shall consult with the DFEH regarding any California claimants. The Administrator shall
6 make any changes or corrections submitted by the United States and, no later than ninety (90)
7 days after the close of the Claims Period, the Administrator shall issue to the United States, the
8 DFEH, and LSAC the final list containing the names of Eligible Persons and amounts to be paid
9 (“Final Distribution List”).

10 The determination of Eligible Persons and the amount awarded as contained in the Final
11 Distribution List are final and non-appealable. No individual or Party may request a review by
12 the Court or the Administrator of these determinations.

13 14. Payment. The Administrator’s contract shall require the Administrator to set forth
14 deadlines, subject to approval of the United States in consultation with the DFEH, so that
15 payments are promptly sent within a reasonable amount of time after the date the Administrator
16 issues the Final Distribution List in accordance with Paragraph 13. All such payments shall be
17 void if not cashed or deposited within ninety (90) days after the date of issue. If a check is
18 returned as undeliverable and/or goes uncashed after ninety (90) days from the date of issue, the
19 Administrator shall make reasonable attempts to contact and reissue checks to such individuals
20 for the next thirty (30) days.

21 15. No Set-Off. LSAC will not be entitled to a set-off, or any other reduction, of the
22 amount of payments to Eligible Persons, resulting from unpaid debts or otherwise, except as
23 expressly provided herein.

24 16. Notification Of Final Payment. The Administrator will notify LSAC, the United
25 States, and the DFEH in writing on the day when all payments of monetary relief to Eligible
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1 Persons required by this Decree have been sent.

2 17. Residual Amount In Compensation Fund. Within thirty (30) days after the
3 mailing of the last payment to an individual on the Final Distribution List, the Administrator
4 shall notify the United States, the DFEH, and LSAC in writing of the remaining balance of the
5 Compensation Fund (the “Residual Amount”). Any payments made to Eligible Persons that are
6 returned or not cashed or deposited within the applicable ninety (90) day period, subject to the
7 procedures set forth in Paragraph 14 for reissuing checks, will be added to the Residual Amount,
8 as will any remaining interest accrued on the Compensation Fund.

9 The entire Residual Amount shall be distributed in equal amounts to the DFEH Fair
10 Employment and Housing Enforcement and Litigation Fund, and LSAC, to be used by each for
11 purposes of implementing this Decree.

12 18. Taxes. Eligible Persons shall be solely responsible for paying any taxes they owe
13 resulting from payments they receive under this Decree. LSAC shall be solely responsible for
14 paying any applicable federal, state, and/or local taxes owed by the Compensation Fund, if any
15 (*i.e.*, any such tax payments shall not be deducted from the Compensation Fund or from any
16 monetary award to Eligible Persons).

17 **OTHER RELIEF**

18 19. Renewed Requests For Testing Accommodations. Individuals who requested
19 testing accommodations from LSAC between January 1, 2009 and the Effective Date of the
20 Decree, and who were denied their requested testing accommodations in whole or in part, shall
21 be entitled to reregister to take the LSAT and to reapply for testing accommodations under the
22 revised policies and procedures established by this Decree that are in effect at the time of their
23 renewed testing accommodation request. Standard fees shall apply.

24 20. Specific Testing Accommodations For Named Individuals. The individuals
25 named in Plaintiffs’ complaints shall be entitled to take one (1) free administration of the LSAT
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1 with their request for testing accommodations handled in accordance with the revised policies
2 and procedures established under this Decree, as in effect at the time of their renewed request for
3 testing accommodations.

4 **ATTORNEY FEES AND COSTS FOR THE DFEH AND**
5 **INDIVIDUAL PLAINTIFF-INTERVENORS**

6 21. The DFEH, individual Plaintiff-Intervenors, and LSAC agree that:

7 a. Within five (5) days of the Effective Date of this Decree, LSAC shall pay
8 to the DFEH nine hundred thousand dollars (\$900,000) and to the Legal Aid Society –
9 Employment Law Center, attorneys for individual Plaintiff-Intervenors Quan, Jones, and
10 Hennessey-Severson,¹⁸ one hundred thousand dollars (\$100,000) in full settlement of any claim
11 by the DFEH and/or the individual Plaintiff-Intervenors or their attorneys for attorney fees and
12 costs for work on or relating to the litigation up through the term of the Decree, subject only to
13 Paragraph 21(b) below.

14 b. The DFEH shall be entitled to reasonable attorney fees and costs for work
15 performed on any prevailing motion to enforce the Consent Decree. If the DFEH is entitled to
16 seek payment of such fees and costs hereunder, the DFEH agrees to send LSAC a statement of
17 its work on any such motion, which shall include a list of hours worked by each DFEH staff
18 person, hourly rate, and any costs incurred. In the event LSAC disagrees with the DFEH's
19 statement of work or its requested payment amounts or rates, it shall notify the DFEH in writing
20 within five (5) days after receipt of the statement, and LSAC and the DFEH will attempt to
21 informally resolve any dispute over the statement. In the event LSAC and the DFEH cannot
22 reach an informal resolution of any such dispute, they shall submit the matter to this Court for
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24 ¹⁸ Payment to these three named individual Plaintiff-Intervenors shall be made to their attorneys, Legal
25 Aid Society – Employment Law Center, attention Jinny Kim, 180 Montgomery Street, Suite 600, San
26 Francisco, CA 94104.

1 binding determination. LSAC shall deliver payment to the DFEH no later than ten (10) days
2 after receiving the DFEH's statement or five (5) days after the resolution of any dispute.

3 c. Except as expressly provided herein, no Plaintiff shall be entitled to
4 recover attorney fees or costs related to this litigation.

5 **ADA MONITOR AND REPORTING**

6 22. Notice By LSAC. Within forty-five (45) days of the Effective Date of this
7 Decree, LSAC shall publish and maintain this Decree on its website by providing a link to the
8 Decree, with the following language: "LSAC has entered into a Consent Decree with the
9 California Department of Fair Employment and Housing and the United States regarding testing
10 accommodations for individuals with disabilities nationwide. For further information and to read
11 the text of the Decree, please visit http://www.ada.gov/lsac_consentdecree.htm." This language
12 and a link to the Decree shall be prominently posted on the main company webpage (currently
13 located at <http://lsac.org/>) and on the accommodated testing webpage (currently located at
14 <http://lsac.org/jd/lsat/accommodated-testing>), to remain posted for the term of this Decree. This
15 language, link, and Consent Decree shall be in an accessible format to individuals who are blind
16 or have low vision, as described in footnote 17.

17 LSAC further agrees to revise the information on its website to notify candidates that it
18 does not annotate scores, with the following language: "LSAC does not annotate the score
19 reports of individuals with disabilities who take the LSAT with testing accommodations,
20 including the testing accommodation of extended time. All accommodated scores are reported in
21 the same manner as non-accommodated scores." This language will be included in the
22 accommodated testing information currently found at [http://www.lsac.org/jd/lsat/accommodated-](http://www.lsac.org/jd/lsat/accommodated-testing)
23 [testing](http://www.lsac.org/jd/lsat/accommodated-testing). LSAC will also include the following question and answer on the "Frequently Asked
24 Questions" section of its website (currently found at [http://www.lsac.org/docs/default-source/jd-](http://www.lsac.org/docs/default-source/jd-docs/faq-non.pdf)
25 [docs/faq-non.pdf](http://www.lsac.org/docs/default-source/jd-docs/faq-non.pdf)): (Question) "How are accommodated scores reported to law schools?"
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1 (Answer) “Scores earned with testing accommodations, including the testing accommodation of
2 extended time, are reported in the same manner as non-accommodated scores.” These changes
3 to the website shall be made within thirty (30) days of the Effective Date of this Decree.

4 23. Reporting By LSAC. Within forty-five (45) days after each national
5 administration of the LSAT during the term of this Decree, beginning with the first
6 administration of the LSAT at least two (2) months after the Effective Date of this Decree,
7 LSAC will provide a written report (“Report”) to the ADA Monitor, the United States, and the
8 DFEH. Each Report shall provide the data required to be tracked in Paragraph 8 for the prior
9 administration of the LSAT. Eighteen (18) months after the Effective Date of this Decree, and
10 annually thereafter, LSAC shall also report to the ADA Monitor, the United States, and the
11 DFEH: (a) LSAC’s actions taken to comply with this Decree; (b) any further actions LSAC plans
12 to take to comply with this Decree; (c) if applicable, the timeline for implementation of any
13 further actions LSAC plans to take to comply with this Decree; and (d) if applicable, any
14 difficulties LSAC has had, or anticipates having, in complying with this Decree. If any Report
15 contains confidential information, as defined in the Protective Order, it shall be treated in
16 accordance with the terms of the Protective Order (ECF No. 123).

17 LSAC shall maintain appropriate supporting records for the information contained in the
18 Reports, including, but not limited to, those described in Paragraph 8, and give access to such
19 information to the United States, the DFEH (to the extent that such information pertains to
20 individuals who tested in California), and/or the ADA Monitor, upon reasonable request.

21 “Access” in this paragraph is defined as access to the supporting records in LSAC’s office in
22 Newtown, Pennsylvania, for a period of no longer than five (5) business days and during
23 LSAC’s regular business hours, following at least ten (10) days’ written notice to LSAC.

24 24. ADA Monitor. Within sixty (60) days after the Effective Date of this Decree,
25 LSAC shall retain an independent ADA Monitor, to be mutually agreed upon by the United
26

1 States, the DFEH, and LSAC. The purpose of the ADA Monitor is to assist the United States,
2 the DFEH, and the Court in evaluating LSAC's compliance with the Decree. No Party, nor any
3 employee or agent of any Party, shall have any supervisory authority over the ADA Monitor's
4 activities or interfere with the independent functions of the ADA Monitor (although LSAC shall
5 have authority to supervise the ADA Monitor's movements and access if the ADA Monitor is on
6 site at LSAC's offices). The ADA Monitor shall not be an employee or current contractor of any
7 Party. The ADA Monitor shall not be affiliated with any Party and shall not be an individual
8 who has assisted or consulted with any Party for purposes of this litigation. Except upon
9 approval of the other Parties, neither the Disability Rights Section of the Civil Rights Division in
10 the United States Department of Justice, the DFEH, nor LSAC shall offer or guarantee the ADA
11 Monitor employment or future benefits, in any form, including a position as a consultant or
12 independent contractor, during the term of the Consent Decree and for a period of two (2) years
13 following expiration of this Decree. During the term of this Consent Decree, the ADA Monitor
14 may not personally represent anyone, or serve as an expert witness for anyone, who is adverse to
15 LSAC or any of the Plaintiffs in any pending lawsuit or government agency proceeding.

16 25. Audits By ADA Monitor. The ADA Monitor shall conduct audits of LSAC's
17 compliance with this Decree, by first evaluating LSAC's Reports described in Paragraph 23, and
18 then by requesting access to additional information, such as LSAC data and personnel, and
19 independently observing LSAC operations, to the extent reasonable and deemed necessary by the
20 ADA Monitor in order to evaluate LSAC's compliance with those provisions of the Decree
21 subject to the audit, as set out in this paragraph. The ADA Monitor will audit LSAC's
22 compliance at the following intervals after the Effective Date of this Decree: one (1) year; two
23 (2) years; and four (4) years. The one (1) year audit will address LSAC's compliance with the
24 reporting requirements contained in Paragraphs 8 and 23. The two (2) year and four (4) year
25 audits will address LSAC's compliance with the reporting requirements contained in Paragraphs

1 8 and 23 and LSAC's implementation of the Best Practices discussed in Paragraph 7. LSAC
2 shall maintain the data described in Paragraph 8 throughout the term of this Consent Decree.

3 26. Audit Reports By ADA Monitor. At the conclusion of each audit, the ADA
4 Monitor will provide a written report ("Audit Report") to LSAC, the United States, and the
5 DFEH regarding LSAC's compliance with those provisions of the Decree subject to the audit, as
6 set out in Paragraph 25. Each Audit Report shall provide: (a) the scope of the audit; (b) a
7 detailed list of the data collected and interviews conducted, if any, in the course of the audit; (c)
8 any difficulties with conducting the audit; (d) an itemized assessment as to whether LSAC is
9 complying with those provisions of the Decree subject to the audit; (e) what data the ADA
10 Monitor relied upon in reaching this assessment, and what data contradicts this assessment, if
11 any; and (f) the ADA Monitor's recommendations for further remediation if he or she determines
12 that compliance is deficient.

13 a. Access. LSAC shall provide the ADA Monitor with reasonable access, as
14 needed, to all LSAC staff, facilities, and documents that are relevant to evaluate compliance with
15 the reporting requirements contained in Paragraphs 8 and 23 and LSAC's implementation of the
16 Best Practices discussed in Paragraph 7. LSAC shall direct all employees to cooperate fully with
17 the ADA Monitor. LSAC will request that its contractors cooperate fully with the ADA
18 Monitor. All non-public information obtained by the ADA Monitor shall be maintained in a
19 confidential manner, and all information obtained by the ADA Monitor shall be used only for the
20 purposes of implementing this Decree. The ADA Monitor shall also be subject to the terms of
21 the Protective Order (ECF No. 123). Upon request from the United States, or the DFEH (with
22 respect to documents and information pertaining to individuals who tested in California), LSAC
23 will provide the requesting Party with access to the data underlying the ADA Monitor's Audit
24 Reports and may provide the United States, and the DFEH (to the extent that such documents
25 and information pertain to individuals who tested in California), with access to additional
26

1 information as reasonably requested. Such information and data shall be used by the Parties only
2 for the purposes of implementing this Decree. "Access" in this paragraph and Paragraph 25 is
3 defined as access to LSAC's materials in LSAC's office in Newtown, Pennsylvania, for a period
4 of no longer than five (5) business days and during LSAC's regular business hours, following at
5 least ten (10) days' written notice to LSAC.

6 27. Communications. The ADA Monitor may:

7 a. Have ex parte communications at any time with the Parties, including
8 counsel for the Parties and employees, agents, contractors, and all others working for or on
9 behalf of the Parties. Any such communications with employees, agents, or contractors of LSAC
10 must be arranged through in-house counsel for LSAC, and counsel for LSAC may be present for
11 such communications if counsel's presence is requested by the ADA Monitor or by any LSAC
12 employee, agent, or contractor involved in such communications.

13 b. Speak with anyone else the ADA Monitor deems necessary for
14 accomplishing its duties under this Decree.

15 28. Cost. All reasonable fees, costs, and expenses of the ADA Monitor shall be
16 borne by LSAC, but the ADA Monitor is not an agent or contractor of the United States, the
17 DFEH, or LSAC. The ADA Monitor shall provide sufficiently detailed monthly invoices
18 justifying any fees, costs, and expenses. The ADA Monitor shall be paid on the basis of a
19 standard reasonable rate to be agreed upon by the United States, the DFEH, and LSAC. If the
20 Parties cannot agree on a reasonable rate, the issue shall be presented to Magistrate Judge Joseph
21 Spero for resolution. LSAC shall reimburse all reasonable expenses incurred by the ADA
22 Monitor in the course of the performance of the duties of the ADA Monitor in accordance with
23 LSAC's current applicable policies, practices, and procedures for reimbursement of employee
24 travel and expenses, excluding the approval process applicable to LSAC staff and employees and
25 the requirement that air travel be charged to LSAC's corporate account or an LSAC corporate
26

1 credit card. The Court retains the authority to resolve any dispute that may arise regarding the
2 reimbursement of fees and costs charged by the ADA Monitor. The Court shall be the final
3 arbiter of what costs and expenses shall be reimbursed by LSAC.

4 **ADDITIONAL TERMS**

5 29. Notification. All documents and communications required to be sent to one or
6 more Parties under the terms of this Decree shall be sent to the following individuals by
7 overnight courier or, where practicable, by e-mail (at the election of the sending party) to:

8 a. For the United States:

9 Chief
10 ATTN: US v. LSAC – DJ # 202-62-342
11 Disability Rights Section
12 Civil Rights Division
13 United States Department of Justice
14 1425 New York Avenue, NW, 4th Floor
15 Washington, DC 20005
16 nabina.sinha@usdoj.gov

14 b. For the DFEH:

15 ATTN: DFEH v. LSAC
16 Department of Fair Employment and Housing
17 2218 Kausen Drive, Suite 100
18 Elk Grove, CA 95758
19 mari.mayeda@dfeh.ca.gov

18 c. For LSAC:

19 Joan Van Tol
20 General Counsel
21 Law School Admission Council, Inc.
22 662 Penn Street
23 Newtown, PA 19640
24 jvantol@lsac.org

25 Bob Burgoyne
26 Fulbright & Jaworski LLP
27 801 Pennsylvania Avenue, NW
28 Washington, DC 20004
robert.burgoyne@nortonrosefulbright.com

1 30. Term Of This Decree. This Decree shall become effective as of the date that it is
2 entered by the Court and shall remain in effect for four (4) years from that date. However,
3 LSAC's agreement to discontinue score annotations as stated in Paragraph 9 shall continue in
4 perpetuity beyond the term of this Decree, absent agreement of the United States and the DFEH.
5 The Court shall retain continuing and exclusive jurisdiction for the duration of the Decree to
6 enforce the terms of the Decree. The United States, the DFEH, and/or LSAC may apply to the
7 Court for such further orders as may be necessary for, or consistent with, the enforcement of this
8 Decree.

9 31. Disputes. If a dispute arises with respect to the United States', the DFEH's, or
10 LSAC's compliance with, interpretation of, or implementation of, the terms of this Decree, a
11 good faith effort shall be made by the Parties to the dispute to resolve such differences promptly
12 in accordance with the following procedure.

13 If the United States, the DFEH, or LSAC believes a dispute must be resolved, it shall
14 promptly notify the other two Parties in writing of the issue together with relevant facts and
15 analysis. The Party against whom the complaint is issued shall be given a reasonable period of
16 time (not to exceed thirty (30) days) to provide a response. Within a reasonable time thereafter
17 (not to exceed fifteen (15) days), the Parties to the dispute shall meet and confer by telephone
18 and attempt to resolve the issue informally. If the United States, the DFEH, or LSAC believes
19 that resolution cannot be achieved, it shall promptly notify the other two Parties in writing and
20 shall specify its final position with regard to the dispute. Thereafter, any of these Parties may
21 pursue the issue with the Court.

22 Nothing in this procedure shall prevent the United States, the DFEH, or LSAC from
23 promptly bringing an issue before the Court when, in the moving Party's view, the facts and
24 circumstances require immediate court attention. The moving Party's papers shall explain the
25 facts and circumstances that necessitate immediate court action. In any enforcement motion

1 brought by any Party, no Party will object to the admissibility, on hearsay grounds, of the ADA
2 Monitor's Audit Reports.

3 32. Use of Information. All Parties agree that any documents or information acquired
4 through performance of this Consent Decree may be used solely for the purpose of implementing
5 and enforcing this Consent Decree, and not for any other purpose. The provisions of the
6 Protective Order (ECF No. 123) remain in effect and applicable to all Parties throughout the term
7 of this Decree.

8 33. Scope. This Decree does not purport to remedy any violations or potential
9 violations of the ADA or the Unruh Act, other than as set forth in Paragraph 34 below. Except
10 as explicitly provided herein, this Decree does not affect LSAC's continuing responsibility to
11 comply with the ADA.

12 34. Releases. Each Plaintiff hereby releases, acquits, and forever discharges LSAC
13 and its attorneys, agents, administrators, officers, employees, directors, members, and
14 contractors, from any and all claims, demands, and causes of action, if any, under the ADA, the
15 California Unruh Civil Rights Act, the California Education Code (§ 99161.5), and/or the
16 California Unfair Competition Law, as each law is in effect on the Effective Date of the Decree,
17 that are known or reasonably could have been known (whether asserted or unasserted), and that
18 arise out of or relate to any dealings, actions, or events involving LSAC's review or evaluation of
19 requests for testing accommodations on the LSAT and/or its reporting of accommodated test
20 scores, from January 1, 2009 until the Effective Date of this Consent Decree, specifically
21 including, but not limited to, all causes of action that were or could have been asserted in any of
22 the complaints filed by the Plaintiffs or any other controversy arising from or relating to any
23 individual's request for testing accommodations on the LSAT and/or LSAT score reports.

1 If applicable, Plaintiffs waive any rights he/she/it has, or after signing this Decree
2 becomes aware that he/she/it may have had, under California Civil Code section 1542, which
3 provides as follows:

4 A general release does not extend to claims which the creditor does not know or
5 suspect to exist in his or her favor at the time of executing the release, which if
6 known by him or her must have materially affected his or her settlement with the
debtor.

7 The consideration recited herein is accepted by each Plaintiff in full satisfaction of all
8 claimed and unclaimed damages and losses arising out of or related to any of the complaints filed
9 by the Plaintiffs or any other controversy arising from or relating to any individual's request for
10 testing accommodations on the LSAT and/or LSAT score reports during the time referenced
above.

11 35. Pending Complaints. The United States and the DFEH will close their
12 investigations of all complaints received by the United States Department of Justice or the
13 DFEH, respectively, against LSAC that allege disability discrimination in its provision of testing
14 accommodations and/or its reporting of accommodated test scores under the ADA (or California
15 law where applicable) for the time period of January 1, 2009 to the Effective Date of the Decree.
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17 36. Binding. This Decree shall be binding on the United States, the DFEH, Andrew
18 Quan, Nicholas Jones, Elizabeth Hennessey-Severson, and LSAC, including all principals,
19 agents, executors, administrators, representatives, employees, successors in interest,
20 beneficiaries, assigns, and legal representatives thereof. LSAC shall have a duty to notify all of
21 its successors in interest of the existence and terms of this Decree.

22 37. Non-Waiver. Failure by any Party to seek enforcement of this Decree pursuant to
23 its terms with respect to any instance or provision will not be construed as a waiver of such
24 enforcement with regard to other instances or provisions.

1 38. Severability. If any provision of this Decree is determined by any court to be
2 unenforceable, the other provisions of this Decree shall nonetheless remain in full force and
3 effect, provided, however, that if the severance of any such provision materially alters the rights
4 or obligations of the Parties, the Plaintiffs and LSAC shall engage in good faith negotiations in
5 order to adopt mutually agreeable amendments to this Decree as may be necessary to restore the
6 Parties as closely as possible to the initially agreed upon relative rights and obligations.

7 39. Litigation Holds. The Parties agree that, as of the Effective Date of this Decree,
8 for purposes of the Parties’ preservation obligations pursuant to Federal Rule of Civil Procedure
9 26 and/or common law, litigation is not “reasonably foreseeable” concerning the claims raised in
10 any of the Plaintiffs’ complaints. To the extent that any Party previously implemented a
11 litigation hold to preserve documents and/or electronically stored information related to the
12 claims asserted in any of the Plaintiffs’ complaints, the Party is no longer required to maintain
13 such a litigation hold. Nothing in this paragraph relieves the Parties of their obligations to
14 maintain documents, information, and/or data as imposed by this Decree.

15 40. Authority. The signatories represent that they have the authority to bind the
16 respective Parties identified below to the terms of this Decree.

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1 By their signatures below, the Parties respectfully consent to the entry of this Consent

2 Decree, including the Order and Permanent Injunction.

3 **FOR THE CALIFORNIA**
4 **DEPARTMENT OF FAIR**
5 **EMPLOYMENT AND HOUSING:**

FOR THE UNITED STATES
OF AMERICA:

6 PHYLLIS W. CHENG
7 Director

JOCELYN SAMUELS
Acting Assistant Attorney General
Civil Rights Division

8 JON ICHINAGA
9 Chief Counsel

EVE L. HILL
Deputy Assistant Attorney General
Civil Rights Division

10 REBECCA B. BOND
11 Chief
12 ROBERTA KIRKENDALL
13 Special Legal Counsel
14 KATHLEEN P. WOLFE
15 Special Litigation Counsel
16 Disability Rights Section
17 Civil Rights Division

Mari Mayeda

Nabina Sinha

16 MARI MAYEDA
17 PHOEBE LIU
18 JULIA MONTGOMERY
19 JONI CARRASCO
20 SAMI HASAN
21 IRINA TRASOVAN
22 Attorneys
23 Department of Fair
24 Employment and Housing
25 2218 Kausen Drive, Suite 100
26 Elk Grove, CA 95758

NABINA SINHA
MEGAN E. SCHULLER
Attorneys
Disability Rights Section
Civil Rights Division
U.S. Department of Justice
950 Pennsylvania Avenue, N.W. – NYA
Washington, D.C. 20530
Telephone: (202) 307-0663
Facsimile: (202) 305-9775
Nabina.Sinha@usdoj.gov

23 5-19-14

5-19-14

24 Date

Date

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**FOR THE UNITED STATES
OF AMERICA, CONTINUED:**

MELINDA HAAG
United States Attorney
Northern District of California

ALEX G. TSE
Chief, Civil Division
Assistant United States Attorney

Melanie L. Proctor

MELANIE L. PROCTOR
Assistant United States Attorney
United States Attorney's Office
Northern District of California
450 Golden Gate Avenue
San Francisco, CA 94102
Telephone: (415) 436-6730
Facsimile: (415) 436-6748
Melanie.Proctor@usdoj.gov

May 19, 2014
Date

1 **FOR ANDREW QUAN, NICHOLAS JONES, AND ELIZABETH HENNESSEY-**
2 **SEVERSON:**

3 Date: _____

_____ ANDREW QUAN

5 Date: _____

_____ NICHOLAS JONES

7 Date: _____

_____ ELIZABETH HENNESSEY-SEVERSON

10 APPROVED AS TO FORM:

11 
12 _____

JINNY KIM
The Legal Aid Society – Employment Law Center
180 Montgomery Street, Suite 600
San Francisco, CA 94104
Attorneys for Plaintiff-Intervenors Andrew Quan,
Nicholas Jones, and Elizabeth Hennessey-Severson

16 5/13/14

17 _____
18 Date

1 FOR ANDREW QUAN, NICHOLAS JONES, AND ELIZABETH HENNESSEY-
2 SEVERSON:

3 Date: 5-13-2014

Andrew Quan
ANDREW QUAN

5 Date: _____

6 _____
NICHOLAS JONES

7 Date: _____

8 _____
ELIZABETH HENNESSEY-SEVERSON

9
10
11 APPROVED AS TO FORM:

12 _____
JINNY KIM
The Legal Aid Society – Employment Law Center
13 180 Montgomery Street, Suite 600
14 San Francisco, CA 94104
15 Attorneys for Plaintiff-Intervenors Andrew Quan,
16 Nicholas Jones, and Elizabeth Hennessey-Severson

17 _____
18 Date

1 FOR ANDREW QUAN, NICHOLAS JONES, AND ELIZABETH HENNESSEY-
2 SEVERSON:

3 Date: _____

4 ANDREW QUAN

DocuSigned by:



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5 Date: 5/15/2014
6 _____

7 NICHOLAS JONES

8 Date: _____

9 ELIZABETH HENNESSEY-SEVERSON

10
11 APPROVED AS TO FORM:

12 JINNY KIM

13 The Legal Aid Society – Employment Law Center

14 180 Montgomery Street, Suite 600

15 San Francisco, CA 94104

16 Attorneys for Plaintiff-Intervenors Andrew Quan,

17 Nicholas Jones, and Elizabeth Hennessey-Severson

18 _____
19 Date

1 FOR ANDREW QUAN, NICHOLAS JONES, AND ELIZABETH HENNESSEY-
2 SEVERSON:

3 Date: _____

4 _____
ANDREW QUAN

5 Date: _____

6 _____
NICHOLAS JONES

7 Date: 05/13/2014

8 
9 _____
ELIZABETH HENNESSEY SEVERSON

10 APPROVED AS TO FORM:

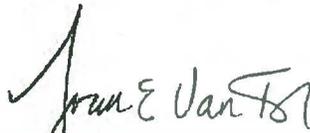
11 _____
12 JINNY KIM
13 The Legal Aid Society – Employment Law Center
14 180 Montgomery Street, Suite 600
15 San Francisco, CA 94104
16 Attorneys for Plaintiff-Intervenors Andrew Quan,
17 Nicholas Jones, and Elizabeth Hennessey-Severson

18 _____
Date

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FOR THE LAW SCHOOL ADMISSION COUNCIL, INC.:



JOAN E. VAN TOL
General Counsel
Law School Admission Council, Inc.
662 Penn Street
Newtown, PA 18940

5/19/2014

Date

APPROVED AS TO FORM:



ROBERT A. BURGOYNE
CAROLINE MEW
Fulbright & Jaworski LLP
801 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

5/19/14

Date

ORDER AND PERMANENT INJUNCTION

IT IS SO ORDERED, and LSAC is accordingly permanently enjoined from all forms of the practice of annotating score reports of candidates who receive the testing accommodation of extended test time due to disability, and, for candidates applying to law school after entry of this Order, LSAC shall henceforth provide the same information on test score reports for all candidates for whom score reports are provided, this 29th day of May, 2014.



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EXHIBIT 1

TESTING ACCOMMODATIONS AVAILABLE
UNDER CONSENT DECREE
PARAGRAPH 5(a)

1. Braille version of LSAT
2. Large-print (18 pt.) test book
3. Screen-readable HTML test (including, where applicable, use of screen reader software (e.g., JAWS))
4. Extended time up to double time
5. Use of computer and printer for the Writing Sample
6. Use of spell check
7. Alternate non-Scantron answer sheet
8. Use of a reader
9. Use of an amanuensis (scribe)
10. Additional rest time during breaks (standard break is 10-15 minutes between third and fourth sections)
11. Breaks between sections
12. Sit/stand with a podium
13. Wheelchair accessibility (if table is requested, specify height)
14. Separate room (e.g., small group testing)
15. Private testing room (e.g., low-distraction test setting)
16. Stop-the-clock breaks
17. Scratch paper
18. Voice recognition software (e.g., Dragon)
19. Physical prompts (e.g., for test-takers with hearing impairments)
20. Reserved or assigned seating location (e.g., seating near the exam proctor)
21. Bring and eat food
22. Permission to bring insulin, check blood sugar
23. Permission to bring and take medications
24. Earplugs
25. Use of line marker
26. Use of magnification devices (e.g., magnification reading glasses, handheld video magnifier, closed circuit television (CCTV), ZoomText)
27. Ability to pace (walk around)
28. Marking answer choices in the test book
29. Book stand

EXHIBIT 2(a)



NOTICE OF NATIONWIDE SETTLEMENT



IF YOU APPLIED FOR TESTING ACCOMMODATIONS FOR THE LAW SCHOOL ADMISSION TEST (LSAT) YOU MAY BE ELIGIBLE FOR A MONETARY AWARD FROM A \$6.73 MILLION NATIONWIDE COMPENSATION FUND

The **Law School Admission Council (LSAC)** has entered into a Consent Decree with the **California Department of Fair Employment and Housing (DFEH)** to settle a statewide lawsuit and with the **U.S. Department of Justice (DOJ)** to settle a nationwide lawsuit. This resolution addresses alleged violations of the Americans with Disabilities Act (ADA) and the California Unruh Civil Rights Act, including LSAC's alleged failure to offer the LSAT in a manner accessible to individuals with disabilities.

If you applied for testing accommodations from LSAC between January 1, 2009 and May 20, 2014, you may be eligible to receive a payment from a \$6.73 million nationwide compensation fund.

TO BE ELIGIBLE FOR CONSIDERATION FOR PAYMENT, YOU MUST SUBMIT A CLAIM. THE DEADLINE TO SUBMIT A CLAIM HAS YET TO BE DETERMINED AND WILL BE POSTED HERE WITHIN FOUR MONTHS OF **[INSERT DATE OF ENTRY OF CONSENT DECREE]**.

You may obtain information on how to submit a claim by:

1. Sending an e-mail with your name, address, and telephone number to **[insert email address to be designated by Claims Administrator]**, or
2. Calling the Claims Administrator at **[insert toll free voice and TTY telephone numbers to be designated by Claims Administrator]**.

Claimants who receive a payment from this fund must sign a release of any related claims against LSAC.

For more information or for a copy of the Consent Decree, visit www.dfeh.ca.gov or www.ada.gov.

EXHIBIT 2(b)



NOTICE OF NATIONWIDE SETTLEMENT

**IF YOU APPLIED FOR TESTING ACCOMMODATIONS
FOR THE LAW SCHOOL ADMISSION TEST (LSAT)
YOU MAY BE ELIGIBLE FOR A MONETARY AWARD FROM A
\$6.73 MILLION NATIONWIDE COMPENSATION FUND**

► DEADLINE TO RESPOND IS [INSERT DATE], 2014 ◀

The **Law School Admission Council (LSAC)** has entered into a Consent Decree with the **California Department of Fair Employment and Housing (DFEH)** to settle a statewide lawsuit and with the **U.S. Department of Justice (DOJ)** to settle a nationwide lawsuit. This resolution addresses alleged violations of the Americans with Disabilities Act (ADA) and the California Unruh Civil Rights Act, including LSAC's alleged failure to offer the LSAT in a manner accessible to individuals with disabilities.

If you applied for testing accommodations from LSAC between January 1, 2009 and May 20, 2014, you may be eligible to receive a payment from a \$6.73 million nationwide compensation fund.

TO BE ELIGIBLE FOR CONSIDERATION FOR PAYMENT, YOU MUST SUBMIT A CLAIM BY [INSERT DATE WHICH IS 180 DAYS AFTER DATE WHEN ALL NOTICE PACKAGES ARE SENT TO POTENTIAL ELIGIBLE PERSONS].

You may obtain information on how to submit a claim by:

1. Sending an e-mail with your name, address, and telephone number to [insert email address to be designated by Claims Administrator], or
2. Calling the Claims Administrator at [insert toll free voice and TTY telephone numbers to be designated by Claims Administrator].

Claimants who receive a payment from this fund must sign a release of any related claims against LSAC.

For more information or for a copy of the Consent Decree, visit www.dfeh.ca.gov or www.ada.gov.

EXHIBIT 3

RELEASE OF CLAIMS

For and in consideration of acceptance of the relief offered to me by the Law School Admission Council, Inc. ("LSAC"), pursuant to a Consent Decree between LSAC, the California Department of Fair Employment and Housing ("DFEH"), and the United States of America, arising out of Civil Action 3:12-cv-01830-EMC (the "Consent Decree"):

I, _____ (print name), hereby release and forever discharge LSAC and its current, past, and future officers, directors, shareholders, employees, and agents, of and from any legal and/or equitable claims arising out of the facts identified in the DFEH's and the United States' respective Complaints, as amended, filed in the United States District Court for the Northern District of California, Case No. 3:12-cv-01830-EMC, and any other claims, known or unknown, relating to my request(s) for testing accommodations on the Law School Admission Test ("LSAT") and/or the reporting of my scores on any administration of the LSAT preceding the date of this Release. Excluded from this Release are any rights and claims that cannot be waived by law.

This Release constitutes the entire agreement between myself and LSAC with regard to the claims identified above, without exception or exclusion.

I acknowledge that a copy of the Consent Decree has been made available to me. By signing this Release, I acknowledge that I have been provided the opportunity to review the Consent Decree with an attorney of my choosing, and that I understand that I am solely responsible for paying any applicable federal, state and local taxes I owe as a result of receiving payment under this Consent Decree.

In signing this Release, I hereby waive any rights that I have, or after signing this Release become aware that I may have had, under California Civil Code section 1542, which provides as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

I HAVE READ THIS RELEASE AND UNDERSTAND THE CONTENTS THEREOF, AND I EXECUTE THIS RELEASE OF MY OWN FREE ACT AND DEED.

Date: _____
Signature

Full Mailing Address: