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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

MICHAEL J. HASON,

Case No. 4:06cv105-RH/WCS

Plaintiff,

PLAINTIFF'S OPPOSITION TO
MOTION TO DISMISS

vs.

FLORIDA BOARD OF BAR EXAMINERS,
et al.,

Defendants

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TALLAHASSEE, FLA.

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AFFIDAVIT

1. Dr. Hason is a member of the N.Y. Bar in good standing, but he has not taken a client in about twenty years (while developing his medical career). However, he has been involved in much litigation concerning licensing and civil rights over the last ten years. About five and a half years ago, he started the process of admissions with the Florida Board of Bar Examiners (hereafter FBBE). He prepared for about three months, with Barbri, costing about \$1500. He paid an exorbitant application fee to the Bar of about \$5000. The Bar has no mechanism of reducing the fee secondary to financial hardship, long unemployment, or special circumstances. Dr. Hason passed the bar exam with above average scores in every category, perhaps consistent with the fact that he was twice first in his class at St. John's University School of Law (in Remedies and Conflict of Laws). Dr. Hason is also a graduate of Yale College, Cum Laude and was second in his class after two years (the basic sciences) at N.Y. Medical College. In about 1995, Dr. Hason applied for a medical license in California and was denied due to alleged disability. This led to litigation in the federal court system that is still pending. Due to denial based on disability, Dr. Hason was unnecessarily and dishonestly sanctioned with respect to his N.Y. medical license and is currently on probation, but inactive with respect to that license. Dr. Hason applied for a medical license in Florida, in about 1998, but despite numerous positive psychological evaluations was denied licensure by the Florida Board of Medicine in about Oct. 2003, which denial is the subject of ongoing litigation in the federal court system, Southern District for Florida.

2. After indicating that he was in continuing psychotherapy on his Florida bar

application, Dr. Hason was put through the hoops, but the FBBE went beyond the rest. Dr. Hason, first, was improperly asked for all his medical-psychiatric-psychological records of treatment. After a strong written protest, this was modified by Defendant Hunter, Executive Director of the FBBE, to ten years of records. Strong written protests did not move her to shorten the period to conform with the American's with Disabilities Act requirement that I be evaluated on best "current objective medical evidence." In addition, besides reports, Ms. Hunter insisted that Dr. Hason would have to submit to the Bar actual psychiatric session notes. She had no good faith basis for insisting on these notes, as by then there were reports from several treating professionals indicating that Dr. Hason was well, stable and compliant with treatment since 1997 and which explicitly opined that Dr. Hason was safe to practice law. Such reports were written by professionals with substantial experience in their fields, such as Robert Perovich, M.D., psychiatrist and Marcia Schultz, PsyD., psychologist, both of whom knew Dr. Hason extremely well based on professional relationships with each over several years. Dr. Hason eventually filed the requested session records, despite his protest against the unnecessary and gross invasion of his privacy and the other negative effect that such a filing would have, chilling his willingness to communicate openly with his treating professionals. As an aside, for others, the FBBE's demands suggests that they should avoid contact with treating professionals and/or not communicated openly with them should they be in treatment.

3. Simultaneously, the FBBE incessantly demanded documents from Dr. Hason's several civil rights lawsuits, initially requesting *all* documents, then after protest, requested the docket sheets, complaints, decisions, etc. Dr. Hason repeatedly protested

that their search through his litigation documents was not only a time consuming and costly burden, but was severely chilling his willingness to litigate and vindicated his civil rights. Dr. Hason further argued that the FBBE's approach would also chill any applicant's willingness to litigate, for fear of extra scrutiny by the Bar. In fact, staff admitted to Dr. Hason that the Bar does not usually scrutinize work done by an applicant if he has been the Plaintiff in his cases. This scrutiny resulted in a bad faith specification against Dr. Hason, with scraping the bottom of the barrel accusations, such as he asked for too high an amount of damages in several cases. As an aside, Dr. Hason apparently values his life more than does the Bar who objects to figures like millions for pain and suffering. In fact and in addition, Dr. Hason was trained in N.Y., at St. John's University School of Law, to plead high ad damnum to avoid a claim of surprise by defense, when the damages later turn out to be in the millions.

4. Simultaneously, the Bar incessantly asked about details of several alleged debts listed by Dr. Hason. In each situation with an alleged creditor, Dr. Hason articulated good defenses and reasons for not paying and for disputing charges. Dr. Hason welcomed litigation by these alleged creditors so that through due process he could make his legal points and seek to prevail. These alleged creditors did little, except those with power, who interfered with Dr. Hason's credit, the system they prefer to use in order to circumvent an objective determination under due process. During the first few years of the Bar application, Dr. Hason repeatedly informed the FBBE that he was a little at a loss on how to handle these financial conflicts, which together totaled about \$5000 and asked for the Bar's advice. Dr. Hason repeatedly indicated that if the Bar wished, he would just pay everybody. The FBBE consistently remained mute as far as advice. In the second

specification, the FBBE describes these debts, some of which had been settled then, all of which were settled shortly after. Dr. Hason also routinely protested the Bar's stance with respect to the investigation and charging concerning these alleged debts, indicating that not only would he pay them, if the Bar so desired, but that the Bar's approach was anti-consumer and chilled the willingness of individuals to oppose improper claims for payment-for fear that they would not be licensed. In fact, the alleged creditors tried to extort exorbitant payment in exchange for not writing critical letters to the Bar. An example was Legal Photocopy Service, in Redding, CA, who wanted about \$700 and when realized that Dr. Hason had returned to California (and could sue them?), offered to settle for \$50, the reasonable amount due as a settlement under all of the circumstances.

5. Dr. Hason takes the position that the two specifications are actually intricately related to the FBBE's concerns about Dr. Hason's prior licensing difficulties and their concern about his disability. In part the specifications are trumped up and/or unfair, but in part they stand in for the Bar's concern about Dr. Hason's overall ability that might be affected by his disability. The first question asked at the investigative interview was "is it true that you have been unemployed for seven years," the second was "why did you sue the Florida Board of Medicine." The investigators were throughout not in a search for truth or accommodation, but were simply trying to gather some dirt to throw at Dr. Hason. They were not interested in finding out if Dr. Hason would be a good attorney, trustworthy and responsible. They were interested in the fact that Dr. Hason mentioned that he would monitor his workload, so as not to be overwhelmed with work and insisted that there must be some doubt as to whether Dr. Hason was bipolar or had been depressed. In fact, they were hostile throughout and belittled Dr. Hason in "subtle" ways,

such as asking if he thought he could comport himself appropriately before a judge. Dr. Hason did not even answer this ridiculous question, as he had successfully appeared before judges hundreds of times, had been successful on many appeals and even successful at trial for many thousands of dollars.

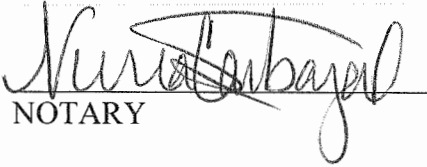
6. The investigative hearing was held about two and a half years after the commencement of the application/passing of the Bar exam and just after Dr. Hason was informed that specifications would not be drawn until later, because the three year mark was approaching and Dr. Hason's application was going to become stale. Dr. Hason indicated in writing to the Bar that he was uncomfortable about writing a new application and the \$500 fee that had to be paid. Dr. Hason also indicated that he was reluctant to pay for the investigative hearing transcript. Shortly after three years, the FBBE served the specifications on Dr. Hason. After reviewing the specifications, Dr. Hason concluded that he had suffered enough discrimination at the hands of the Bar and was not interesting in a formal hearing (although he consulted first with an attorney who regularly represents applicants to the Bar). At that time the application was more or less de facto terminated. Dr. Hason and the FBBE allowed the application or the lack of any active application to continue for about a year and a half. Dr. Hason was about ready to sue, but wrote to Ms. Hunter one more time. Since the response changed nothing, Dr. Hason did sue at which time the application or the lack of an active application was de facto terminated. Two months later, at five years, Dr. Hason's passing of the Bar exam became a nullity on the FBBE's books. The Bar apparently abandoned its responsibility to proceed on the specifications and Dr. Hason was not interested in such a hearing, so at the time of the commencement of the lawsuit, also keeping in mind that there was no active application

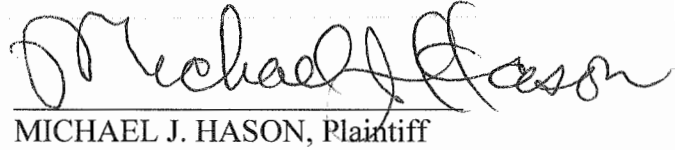
in front of the FBBE and that Dr. Hason knew that in just two months his passing score on the Bar exam would be erased, there was no active or real proceeding ongoing with the Bar concerning Dr. Hason, by the time of the filing of the within case. It was over, definitely over, by then. Regardless of these circumstances, Dr. Hason seeks damages, as well as prospective relief, under the ADA and 42 U.S.C. 1983, one, or both of which may be available outside of the *Younger* abstention parameters, especially since Dr. Hason makes out a prima facie case of bad faith, in addition to discrimination under the ADA and violation of rights under color of state law.. These latter topics, of course, will be addressed further in the attached Memorandum of Law.

7. Dr. Hason was a resident in Florida for seven years, before forced out by the Bar's behavior, which was also supportive of the Florida Board of Medicine's illegal behavior and loves Florida. Dr. Hason will return to apply again for licenses from the Bar and the Board. His parents live in Ft. Lauderdale. More than 50% of his possessions are still in his old room there. He should not be forced to stay away from Florida, in order to work professionally, but rather granted all forms of relief that will prevent the Bar from delaying and denying licensure on a second application. After all, it will take another \$6500 or more to re-apply and pass the Bar exam again and this commitment of time and money cannot be made without prior adjustments to the Bar's methods and policies.

WHEREFORE, Dr. Hason requests that this Court deny the Defendants motion to dismiss and proceed to trial on all of the Plaintiff's claims and grant any further or different relief just in the premises.

Sworn to and signed before me under penalties of perjury on June 1, 2006, at Santa Monica, State of California, by Michael J. Hason, who produced his California driver's license with photo identification.


NOTARY


MICHAEL J. HASON, Plaintiff

