UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
Austin Division

C. MICHAEL KAMPS
Plaintiff,

v.
BAYLOR UNIVERSITY, KENNETH WINSTON STARR, in his official capacity as President of Baylor University, ELIZABETH DAVIS, in her official capacity as Executive Vice President and Provost of Baylor University, DAVID SWENSON, in his official capacity as Chair of the Admissions Committee and Chair of the Scholarship Committee of Baylor Law School, and Members of those Committees
Defendants

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CIVIL ACTION NUMBER:

A12CV 657 LY

PLAINTIFF'S ORIGINAL COMPLAINT

TO THE HONORABLE COURT:

NOW COMES Plaintiff, C. Michael Kamps ("Plaintiff" herein), complaining of Baylor University ("Baylor"); Kenneth Winston Starr, in his official capacity as President of Baylor University; Elizabeth Davis, in her official capacities as Executive Vice President and Provost of Baylor University; David Swenson, in his official capacities as Chair of the Admissions Committee and Chair of the Scholarship Committee of Baylor Law School; and each member of the Admissions and Scholarship Committees

("Member" or collectively, "Members"); collectively "Defendants," and for cause of action would respectfully show this Honorable Court as follows:

I. INTRODUCTION

1. Plaintiff, more than thirty years ago, graduated from a major and well-respected university in the top quarter of his class comprising primarily his similarly aged peers. Plaintiff first applied to Defendant Baylor University's Law School in 2009, for the fall quarter commencing in 2010. Plaintiff also applied for a specific merit based scholarship with published and long-established qualifying criteria which Plaintiff met. The candidate pool for this class, and for the scholarship, generally consisted of applicants substantially younger than Plaintiff.

2. Plaintiff expected to be, and insists that he be, allowed to compete on an equal footing with the much younger candidates for admission to Law School and access to merit based scholarships. Plaintiff expects, and insists, that Defendants judge and evaluate his application as one submitted by a top quarter graduate of a major and well-respected university.

3. Defendants refuse and insist upon applying disparate standards to older vs. younger candidates. Defendants pretend that these are not disparate standards at all, but rather one facially neutral and uniform standard. These standards, as applied by Defendants, are biased with respect to age and are therefore in violation of the Age Discrimination Act of 1975, 42 U.S.C. § 6101 *et seq.*, ("the Act") and its implementing Regulations at 34 C.F.R. Part 110 ("Regulations"). Defendants persist in this practice even while faced with overwhelming evidence of, and while actually acknowledging, the bias.

4. In response to Plaintiff's application for admission, one or more Defendants acted to increase the weight accorded the disparate standards in the award of merit based scholarship assistance – a move calculated to mortally injure Plaintiff's scholarship candidacy and simultaneously breathe life into the candidacies of three, much younger, applicants.

5. In response to Plaintiff's complaint, Defendants, collectively and each individually in turn, have failed or refused their (its, his or her) duty imposed by the Act and Regulations upon Recipients of Federal financial assistance to ensure that its program is in compliance with the Act and to take steps to eliminate violations of the Act.

6. In response to Plaintiff's complaint to the U.S. Department of Education, Office of Civil Rights, Defendants have engaged in retaliatory action against Plaintiff in violation of the Act and Regulations.

7. Plaintiff therefore sues, seeking injunctive and declaratory relief; actual, nominal, exemplary and/or punitive damages as this Court may find to be just and right; reasonable attorney fees, to the extent that any be incurred; recovery of costs of court; and such other relief as this Court may find Plaintiff to be entitled.

II. PARTIES

8. Plaintiff is an individual, over the age of 50 at all times relevant herein, residing in the City of Rockwall, Rockwall County, Texas.[1]

9. Baylor University is a domestic non-profit corporation organized and existing under the laws of the State of Texas, with its principal place of business One Bear Place #97043, Waco, McLennan County, Texas 76798. Baylor operates its Law School as an operating unit, with the Law School's principal place of business 1114 South University

Parks Drive, One Bear Place #97288, Waco, McLennan County, Texas 76798. Baylor also resides in Dallas, Dallas County, Texas by virtue of the fact that its operating unit, Louise Herrington School of Nursing, has its principal place of business at 3700 Worth Street, Dallas, Dallas County, Texas;[2] additionally, its operating unit, the Hankamer School of Business, operates an Executive MBA Program at 12230 Preston Road, Dallas, Dallas County, Texas.[3] Baylor also resides in Austin, Travis County, Texas by virtue of the fact that its operating unit, the Hankamer School of Business, operates an Executive MBA Program at 3107 Oak Creek Drive, Suite 240, Austin, Travis County, Texas 78727[4] and by virtue of the fact that Baylor owns real property in downtown Austin at 807 Brazos Street, Austin, Travis County, Texas 78701, valued for tax purposes in excess of four and one quarter million dollars ($4,250,000).[5] Baylor University is a Recipient of Federal financial assistance as defined by the Act and the Regulations.

10. Kenneth Winston Starr is an individual, residing, based on information and belief, in McLennan County, Texas. Mr. Starr is sued in his official capacity as President of Baylor University.

11. Elizabeth Davis is an individual, residing, based on information and belief, in McLennan County Texas. Ms. Davis is sued in her official capacity as Executive Vice President, and in her official capacity as Provost, of Baylor University.

12. David Swenson is an individual, residing, based on information and belief, in McLennan County Texas. Mr. Swenson is sued in his official capacity as Chair of the Admissions Committee, and in his official capacity as Chair of the Scholarship Committee, of Baylor Law School.

13. The as yet unnamed members of the Law School's Admissions Committee and of the Law School's Scholarship Committee, based on knowledge and belief, are individuals residing in McLennan County, Texas. Leave to amend will be requested from the Court once the Members' names are acquired through discovery or Court order, as Defendant Baylor declines to provide the names voluntarily. Each member is sued in his or her official capacity as a member of the referenced Committees.

14. Each defendant herein may be served through the Office of General Counsel of Baylor University, Doug Welch, Assistant General Counsel, One Bear Place #76798-7034, Waco, Texas 76798 (if by US Postal Service or Federal Express) or 1320 7th Street #213, Waco, Texas 76706 (if by any other carrier).

III.

JURISDICTION, VENUE, CONDITIONS PRECEDENT, COSTS

15. The federal question arising under federal statutory law, particularly 42 U.S.C. § 6101 *et seq.*, Age Discrimination Act of 1975, vests original jurisdiction in this Court pursuant to the operation of 28 U.S.C. § 1331.

16. Venue is proper in this District by operation of 28 U.S.C. § 1391. Defendant Baylor resides in the District. Based on information and belief, all other Defendants reside in the District. All actions complained of herein occurred in the District. Venue is proper in this Division as Defendant Baylor resides in Travis County, a county served by this Division.

17. Although not required, all avenues of complaint and appeal within the Defendant institution have been exhausted.[6]

18. As required, Plaintiff filed his complaint with the United States Department of Education, Office of Civil Rights within 60 days after completion of his grievance process[7] under Defendant Baylor's Policies and Procedures. All administrative remedies have been exhausted pursuant to the Act. Plaintiff filed his complaint October 27, 2011 and the Department acknowledged receipt of same November 4, 2011.[8] Administrative remedies are deemed to be exhausted due to the expiration of one hundred eighty (180) days from the filing of Plaintiff's administrative complaint during which time the Department of Education has made no final determination with regard to the complaint, pursuant to 42 U.S.C. § 6104 (f).

19. At least 30 days have passed since notice by Registered Mail has been given to the Secretary of Education, the Secretary of Health and Human Resources, the Attorney General of the United States, Baylor University, Kenneth Winston Starr in his capacity as President of Baylor University, Elizabeth Davis in her dual capacities as Executive Vice President and Provost of Baylor University, David Swenson in his dual capacities as Chair of the Admissions Committee and Chair of the Scholarship Committee of Baylor Law School, and the individual Members of said Committees, as required under 42 U.S.C. § 6104 (e)(1). A courtesy notice has been provided to Assistant General Counsel for Baylor University, Doug Welch.[9]

20. This Court is empowered, by the authority granted pursuant to 42 U.S.C. § 6104 (e)(1), to award the costs of suit, including reasonable attorney's fees (to the extent that any are incurred) to Plaintiff, and Plaintiff elects to recover same.

IV. FACTS

21. The facts alleged in this Petition are grouped under headings solely for ease of reading and understanding. Each fact alleged herein is incorporated, as appropriate, in support of any other fact, or any argument, cause of action or prayer for relief, as if fully set forth therein.

Plaintiff's Credentials and Characteristics

22. Plaintiff graduated from Texas A&M University ("A&M") in 1979, a university specifically cited by this Court as a "competitive universit[y]" (as opposed to others cited as "relatively weak undergraduate institution[s]") *Hopwood v. State of Texas,* 99F. Supp.2d 872 at 893, 894 (W.D. Tex. 1998) ("*Hopwood 1998*"). Plaintiff earned a Bachelor of Business Administration, majoring in Finance, and posting a 3.2 Undergraduate Grade Point Average ("UGPA"). Plaintiff scored at the 97th percentile on the Law School Admissions Test ("LSAT"), with a score of 169. Plaintiff's "Baylor Index," an index calculated by multiplying Plaintiff's UGPA by a factor of 10 and adding that product to Plaintiff's LSAT score, is 201.[10]

23. Plaintiff's UGPA was "set in stone" upon his graduation from A&M, and became at that time an immutable characteristic of Plaintiff with respect to his application for admission to Defendants' Law School.

24. Plaintiff's UGPA ranked him 316th of 1523, solidly within the top quarter of his class at A&M in 1979.[11]

25. Plaintiff is licensed professionally as a Certified Public Accountant,[12] a Residential Mortgage Loan Originator (formerly Mortgage Broker),[13] and has been licensed as a Real Estate Salesperson (since expired).

26. Plaintiff is, and has been at all times subsequent to his application for admission to Defendant Baylor's Law School, over the age of 50.[14]

Plaintiff's Application

27. Plaintiff applied to Defendant Baylor's Law School on or about October 30, 2009, for the Law School class commencing in the fall quarter 2010. The application was submitted within the time period prescribed for consideration for Defendant Baylor's Early Decision Program.

28. Knowing that his aging UGPA, not enjoying the benefit of grade inflation (discussed hereinafter), might unfairly prejudice his candidacy, Plaintiff included in his application package evidence of his class rank.[11]

29. Upon learning of his placement on the waiting list for a seat in the 2010 fall entering class, and the changes in the qualification requirements for consideration for a certain merit based scholarship (discussed below), Plaintiff complained first to A&M's Office of Professional School Advising (the office responsible for nominating recipients of the specific scholarship, discussed below) in February, 2010.[15]

30. Plaintiff also protested to Defendant Baylor in April, 2010, in a meeting with (then) Assistant Dean of Admissions, Becky Beck-Chollett, in her office. Ms. Beck-Chollett assured Plaintiff that she would work diligently to get Plaintiff admitted to the fall 2010 entering class and would then "work with [Plaintiff]" regarding the scholarship. Plaintiff relied on the word of the Assistant Dean of Admissions.[16]

31. Failing to gain admission to the class commencing in the fall quarter 2010, Plaintiff requested that his application be re-activated for the fall quarter 2011.[17]

32. Upon notification of further changes to scholarship qualifications (discussed below), compounding the injury to Plaintiff and all similarly situated applicants, Plaintiff complained by letter to the Scholarship Committee,[18] and requested that a copy of the letter be placed in his Admissions file for consideration by the Admissions Committee.[19]

33. Upon notification that his application had again been placed on the waiting list for the fall 2011 entering class, Plaintiff requested information from Baylor's Law School on how to escalate his complaint to the University, and promptly formalized his complaint under Baylor University Policy and Procedures number 028 ("BU-PP 028").[20]

34. For a variety of reasons, Plaintiff applied to Baylor's Law School, and only to Baylor's Law School, for admission in 2010 and 2011.

Defendant Baylor's Law School Admission Process

35. Baylor's Law School operates on a quarter system, and admits classes in the fall, spring and summer quarters.

36. Baylor uses "two primary quantitative indicators" in its Law School admissions process,[21] the candidate's UGPA and LSAT score.

37. Until recently, Baylor bundled these two primary quantitative indicators into a "Baylor Index," much like the "Texas Index" contained in the *Hopwood 1998* record.

38. Baylor now uses each quantitative indicator independently in its admissions process.

39. Based on knowledge and belief, much like the University of Texas Law School's admissions process as discussed in *Hopwood* 1998, Baylor's Law School divides candidates into three groups, presumptive admit, presumptive deny and discretionary

zone. Upon review of the individual files, applicants can be downgraded from the presumptive admit group or upgraded from presumptive deny.

40. Based on Baylor Law School's report to the American Bar Association ("ABA"),[22] the Law School's presumptive admit line for fall 2010 appears to be those candidates with UGPA at or above 3.50 *and* LSAT score at or above 165. From this group of one hundred forty-six (146) candidates, one hundred forty-three (143), or 98%, received offers of admission.

41. Based on that same report, the presumptive deny line for 2010 appears to be those candidates with UGPA below 3.25 *or* LSAT score below 160. From this group of two thousand two hundred seventy (2,270) applicants, only seven (7), or less than one half of one percent, were offered admission.

42. Fifty-eight percent (58%) of those in the apparent discretionary zone were offered admission.

43. The Law School admitted three (3) of thirty-three (33), or 9 percent (9%) of those candidates with no reportable UGPA.

44. Plaintiff's UGPA placed his candidacy in the presumptive deny category.

Grade Inflation Is, and Has Been, Rampant

45. Substantial and pervasive grade inflation, "a rise in the average grade assigned to students; *especially* the assigning of grades higher than previously assigned for given levels of achievement,"[23] has been the norm in virtually all U.S. undergraduate institutions even before Plaintiff's UGPA was set in stone in 1979, and has continued unabated since. It has been the norm at A&M as well. This has been communicated to Defendants by Plaintiff, citing a variety of authorities:

- A study of grading trends at eighty (80) major universities, including A&M and the flagship State and/or Land Grant universities of Texas, States throughout the South, up the Eastern Seaboard, across the Midwest and on the West Coast, as well as such private institutions as Harvard, Northwestern, Duke, Cornell and Wake Forest, found grades inflating at an average rate of 0.14 points per decade.[24]
- The same study showed A&M's grades increased at a rate of 0.135 points per decade from 1985-2004.
- A 2010 graduate of A&M's Mays Business School posting a 3.6 UGPA would place at the 80th percentile of his or her class,[25] a virtually identical ranking to Plaintiff's 79th percentile with a 3.2 UGPA – while a 3.2 UGPA, were it earned at A&M's Mays Business School in 2010, would place that student in the bottom half of his or her class.[26]

46. As early as 1978, immediately before Plaintiff's graduation from A&M, the Court for the Western District of Pennsylvania recognized that grades had little probative value when comparing "individuals who are not members of the same academic generation" because "[t]he Court would have to discount the grades of more recent graduates due to the documented phenomenon of grade inflation." *Lombard v. School Dist. of the City of Erie, Pa.*, 463 F. Supp. 566 at 572 (W.D. Pa. 1978) ("*Lombard*")

47. Grade inflation has spawned policy changes at Princeton[27] and been bemoaned by the President of Harvard.[28]

48. The A&M Committee responsible for nominating candidates for the Joseph Milton Nance Presidential Scholarship, discussed hereinafter, brought the matter to the

attention of the Law School relative to Plaintiff's application for said scholarship, finding Plaintiff's grade inflation argument "compelling."[29]

49. In short, the issue of grade inflation is so well documented, and so universally accepted in all areas of society – our courts, academia, the media and the general public – as to qualify as undisputed fact.

50. Defendants do not disagree, but assert that adjustments are made "for persons like [Plaintiff] whose grades may be somewhat lower than they would be if he were a current student," during the individualized review of wait listed files;[30] and also explicitly "do not deny that grade inflation exists."[31] Defendants assert that they were unable to make adjustments in Plaintiff's case (at least for 2010), because no waitlisted applicants were ultimately accepted;[30] however, but for the age related bias in Defendants' admissions process, Plaintiff would have been admitted as a regular, not waitlisted, decision.

51. Although Defendants do not dispute Plaintiff's assertions of grade inflation, they manage to assert with a straight face that the UGPA, clearly biased with respect to age, is somehow useful in conducting the admissions and scholarship award process "in a fair and equitable manner,"[32] when faced with the task of evaluating and ranking competing candidates who are not members of the same academic generation.

52. Plaintiff's focus herein on grading trends at A&M in particular is important for several reasons: the data from A&M are readily available to any interested party due to the operation of Texas Government Code, Chapter 552, the Texas Open Records Act; Plaintiff graduated from A&M, so the trend at A&M is particularly illustrative of the problem in this case; A&M's grading trends closely track the national averages (0.135 points per decade at A&M versus 0.14 points per decade nationally); and, in the financial

aid controversy, the only relevant grade inflation is that which occurred at A&M, because only A&M graduates are eligible for the scholarship.

UGPA Biased With Respect To Age

53. Grade inflation, by the operation of its defining characteristics, renders the UGPA, which masquerades as one uniform and facially neutral standard, actually a series of disparate standards when earned by members of different academic generations.

54. The concept of grade inflation is not radically different than that of currency inflation. Just as a value expressed "in 1979 Dollars" is different than the value expressed by the same number of "today's Dollars," so, too, the UGPA earned in 1979 expresses a different level of academic performance than the same UGPA value earned today.

55. Of those individuals who acquire an undergraduate degree, approximately seventy percent (70%) do so at age 22 or 23, over ninety percent (90%) between their 21st and 25th birthdays, and less than two percent (2%) after the age of 30.[33]

56. The UGPA becomes an immutable characteristic of each graduate; the collective level of UGPAs awarded at any given level of academic performance, therefore, becomes an immutable characteristic of each age group.

57. It is axiomatic that grade inflation renders the UGPA a series of disparate standards, biased with respect to age.

58. The UGPA, as used by Defendants, are standards within the meaning of the Regulations.

59. Defendants' practice of using these standards in order to qualify or disqualify candidates for admissions and scholarship assistance is a policy, a rule, or a method of administration within the meaning of the Regulations.

60. Defendant(s), through its, his, her or their use of the UGPA when the candidate pool, as in this case, comprises applicants of substantially dissimilar ages, take(s) actions that have the effect, on the basis of age, of (1) excluding individuals from, denying them the benefits of, or subjecting them to discrimination under a program or activity receiving Federal financial assistance and/or (2) denying or limiting individuals in their opportunity to participate in any program or activity receiving Federal financial assistance.

Alternative, Non-Discriminatory, Evaluation Methods Available

61. Baylor asserts that "there is no practical solution to account for grade inflation on a systematic basis, even if it is calculable."[34] This statement does not comport with reason. Several solutions have been suggested to Defendants. For instance, a time adjustment could be made based on the documented rate of grade inflation across the spectrum of U.S. institutions; a time adjustment could be made based on the rate of grade inflation at the candidate's undergraduate institution, or the candidate's particular college within the institution. A time adjustment is the approach suggested in *Lombard*.

62. The statement also is not consistent with the judgment of this Court, which, when finding the UGPA merely "unreliable" to a "certain degree," on bases other than the discriminatory aspect complained of herein, had no trouble shifting its focus from the nominal UGPA of the candidates to consideration of each candidate's relative class rank and the relative strength of their respective undergraduate institutions. *Hopwood 1998* at 893, 894.

63. Relative class rank has been suggested to Defendants as an alternative standard free from age related bias.

64. Any of these measures would render Plaintiff's 3.2 UGPA earned in 1979 generally comparable to a 3.6 UGPA earned today, or alternatively, solidly within the range of current UGPAs between 3.50 and 3.749, as shown by the following:

- applying systemic grade inflation factor over 3 decades [3.2 + (0.14*3) = 3.62]

- applying A&M grade inflation factor [3.2 + (0.135*3) = 3.605]

- applying Mays Business School comparable class rank

- comparing Plaintiff's class rank (79th percentile) with the class rank of spring 2010 graduates earning UGPAs of 3.50 to 3.749 from Plaintiff's alma mater, where a graduate with a 3.50 UGPA would place at the 72nd percentile, while a 3.75 would place a graduate at the 88th percentile[35]

- comparing Plaintiff's class rank with the class rankings of spring 2010 graduates in the 3.50 – 3.749 UGPA range at any number of competitive universities from across the nation. Plaintiff's class rank would be within this range at Colorado State, Texas Tech, UCLA, University of Michigan and the University of North Carolina, as examples.[35]

65. As reported to the A.B.A., Baylor admitted, to its fall 2010 Law School class, each and every candidate within that UGPA range whose LSAT score was between 165 and 169 (Plaintiff's is 169).[22]

66. Any of these methods would remove Plaintiff's candidacy from the presumptive deny category and place it within the presumptive admit category in the admissions process.

67. As an observation, Defendants somehow manage to evaluate the academic performance of, and grant admission to, candidates with no reportable UGPA at all.[22]

Joseph Milton Nance Presidential Scholarship

68. The Law School annually awards, or until 2011 awarded, a full tuition merit scholarship known as the Joseph Milton Nance Presidential Scholarship ("Nance") to a maximum of three qualified individuals.

69. This scholarship is "the highest level scholarship available"[36] at the Law School.

70. There are four main areas of qualification – the successful candidate(s) must (1) earn a bachelor's degree from A&M, completing a substantial portion of his or her degree requirements at A&M, (2) have the required UGPA/LSAT qualifications, (3) be nominated by A&M's Office of Professional School Advising Committee, and (4) be admitted to the following fall quarter entering class of Baylor Law School.

71. For the Nance awards prior to 2010, the UGPA/LSAT qualifications were stated with respect to the Baylor Index. The required index value prior to 2005 was 196, and from 2005 to 2009, 200.

72. The merit qualifications were stated with respect to the Baylor Index for as long as anyone seems to remember, and documentation of this fact is available from 1996, forward.

73. Plaintiff knew that his UGPA, unlike those of the competing candidates, did not benefit from the grade inflation over the past three decades. He therefore determined to score higher on the LSAT than would be required of those candidates not similarly disadvantaged, and thereby overcome the bias inherent in the Baylor Index.

74. Plaintiff did score high enough on the LSAT to qualify for the Nance award under this published and long-established criterion, earning a Baylor Index of 201.

75. Plaintiff met the requirement that he be a graduate of A&M, having graduated in 1979.

76. Plaintiff was the only candidate meeting those qualifications for 2010; however, three much younger candidates from A&M had received offers of admission from the Law school, having Baylor Index values of 199.6, 197.2 and 196.9.[37]

77. On February 15, 2010, or at some prior time, the Law School's Scholarship Committee, or one or more members thereof, decided to abandon the Baylor Index entirely in favor of separate qualifying standards for the UGPA and LSAT score.

78. Defendant David Swenson testified before Defendant Baylor's Civil Rights Committee that there was no official record of this action by the Scholarship Committee.[31]

79. Defendant David Swenson testified before the Civil Rights Committee that he could find no record at all of the decision prior to its communication to the A&M nominating committee on or about February 15, 2010, though he had made a search for such record.[31]

80. Prior to the earliest date of any record of this decision, Defendants knew the credentials of the applicant pool, knew that Plaintiff was the only qualified applicant under the existing qualifying criteria and knew that there were three other, much younger, potential applicants who, though not qualifying under the existing and long-established terms, had been offered admission to the Law School.

81. The UGPA requirement was set at 3.4 and the LSAT requirement at 162.

82. The new requirements effectively lowered the required Baylor Index to 196, from 200.

83. Defendants assert that the new requirements were set at those levels because of Defendants' belief that "it is fair to expect recipients to be at or above the median for each of the two primary quantitative indicators used in the Law School admission process."[38]

84. This assertion is false. The median UGPA for the fall entering class at Baylor Law School has not been below 3.65 since at least 2004, save 2007, when it was 3.58. Further, since the earliest known record of the decision to change the qualifying criteria is February 2010, the Law School was already substantially in possession of the credentials of those who would make up the fall 2010 class, a class which ultimately boasted a median UGPA of 3.73.

85. None of the potential candidates for the Nance scholarship, those graduating from A&M, had UGPAs at or above the median for *any* fall entering class since at least 2004.

86. The new qualifications were tailored specifically to accommodate the aforementioned younger candidates.

87. The UGPA requirement was set at 3.4 to accommodate the younger candidates' UGPAs of 3.56, 3.52, and 3.49.[37]

88. The LSAT requirement was set at 162 to accommodate the younger candidates' LSAT scores of 164, 162, and 162.[37]

90. The qualifications were changed, and the new qualifications set at levels to accommodate the younger candidates' inability to meet the formidable 200 Baylor Index

requirement, and to fatally injure Plaintiff's candidacy, the only one which had been able to meet the former standard.

91. The younger candidates graduated from A&M in 2010, 2003, and 2010.[37]

92. Plaintiff first learned of these candidates' credentials in May, 2011 through a Texas Open Records request to A&M.[39]

93. But for this change, none of the favored candidates would have been eligible for the scholarship that they were ultimately awarded, and which two accepted.

94. The new qualifications were tailored specifically to exclude Plaintiff through the use of his 1979 UGPA of 3.2, which did not benefit from the grade inflation enjoyed by the younger candidates, though his LSAT score of 169 far surpassed those of the younger candidates and his Baylor Index was the highest of any potential applicant.

95. But for this change, including tailoring the new qualifications to suit their aims, Defendants would not have been able to discriminate against Plaintiff to a degree sufficient to disqualify his Nance candidacy, nor would they have been able to discriminate in favor of the younger candidates to a degree sufficient to qualify their candidacies.

96. On or about February 17, 2010, the Admissions Committee, or one or more members thereof, placed Plaintiff's application on the waiting list.

97. Applications for the Nance were due to A&M's Office of Professional School Advising on March 4, 2010, with A&M's recommendations for the scholarship due shortly thereafter.

98. The nominating committee at A&M requested leave of one or more Defendants to nominate Plaintiff for the Nance scholarship, noting that Plaintiff was "a favorite of the Committee," and finding Plaintiff's argument concerning the UGPA bias "compelling."[29]

99. One or more Defendants denied the committee's request, but did allow the committee to name Plaintiff as an alternate.[40]

100. One of the three favored candidates, in fact, did not attend Baylor Law School, leaving Plaintiff eligible for the award, but only if he were admitted to the fall quarter, 2010 class.[41]

101. On or about August 23, 2010, Defendant Baylor commenced the fall quarter of its Law School without admitting Plaintiff, thus closing the door on his Nance candidacy for 2010.

102. A&M's committee, without Plaintiff's knowledge, continued to urge Defendant(s) to award a substantial part (8 quarters rather than 9) of the Nance scholarship to Plaintiff, should he accept Defendants' offer of admission to the class commencing in the spring quarter of 2011.[42] Plaintiff first learned of these efforts August 2, 2011, through A&M's response to his Open Records request.

103. Based on knowledge and belief, defendants did not respond to this request of A&M's committee.

104. The Scholarship Committee, or one or more members thereof, then "doubled down" on the use of the disparate standards as one of two primary quantitative qualifiers for the Nance. They raised, for 2011, the minimum to 3.6, then again, to 3.7 for the 2012 fall quarter class, compounding the injury to older candidates. Remarkably, Defendants

did not mandate any corresponding increase to the non-discriminatory LSAT score requirement.

105. The value of the Nance scholarship is approximately one hundred thirty-seven thousand, four hundred four dollars and 17/100 ($137,404.17), or nine times the total quarterly estimate of tuition and fees posted on Baylor's website.

Defendants Judged Plaintiff Fit Candidate

106. In spite of the disparate standard applied to Plaintiff's application *vis-à-vis* the standard applied to younger applicants' applications, Plaintiff's application was strong enough – despite the unequal footing on which he was required to compete – to demonstrate his fitness for law school, and specifically for Defendants' Law School's fall entering class. The Law School's Admissions Committee, or one or more members thereof, found this to be true on at least three separate occasions: (1) on or about February 17, 2010 Defendants placed Plaintiff on the waiting list, citing "an unexpectedly high applicant pool," expressing such sentiment as, "[i]f this had not happened we would offer you admission right now to our fall entering class," and offering plaintiff admission to the quarters commencing in the summer of 2010 or spring of 2011; (2) on or about March 3, 2011 Defendants again placed Plaintiff on the waiting list for the fall 2011 quarter, again citing a shortage of seats and expressing such sentiment as,"[w]e want you at Baylor," and offering Plaintiff admission to the spring 2012 class; and (3) on or about March 31, 2012 Defendants again placed Plaintiff on the waiting list where Plaintiff's application remains to this day.[43]

107. Ultimately, the unequal footing on which Plaintiff was required to compete doomed his candidacy due to the unexpectedly high number of applicants not similarly disadvantaged.

"But for"

108. Had Plaintiff's application been placed on an equal footing, through the use of a non-discriminatory standard instead of the disparate standards used in comparing it with those of the younger candidates, Plaintiff's application, undoubtedly, would have been placed in the presumptive admit category; Plaintiff, undoubtedly, would have been offered admission to the fall 2010 entering law school class; and Plaintiff, undoubtedly, would have been offered the Nance Scholarship.

Classes Separate, but Not Equal

109. Defendants noted that Plaintiff was only denied admission to those classes entering in the fall quarter, but was offered admission to classes entering in other quarters, and attempt an updated "separate but equal" argument.[44] The courts have, however, for more than half a century consistently ruled that separate is not ever equal, even if the tangible factors may be equal. Inherent inequality has been found due to "specific benefits enjoyed," "those qualities which are incapable of objective measurement," "intangible considerations," or "feelings of inferiority" due to the separation. *Brown v Board of Education,* 347 U.S. 483 (1954) ("*Brown*"); *Sweatt v Painter,* 339 U.S. 629 (1950) ("*Sweatt*"); *McLaurin v Oklahoma State Regents* 39 U.S. 637 (1950) ("*McLaurin*").

110. Defendants do not believe that the classes are equal, but rather expect the fall entering classes to represent the most competitive of the three available classes each year. They evidence this in a variety of ways.

111. Defendants, following the sentence wherein they assert that Plaintiff's "negative attitude toward the spring entering class is completely inappropriate," note that "the quantitative credentials of the [spring] entering students are slightly lower [than those entering in the fall]."[44]

112. Defendants routinely offer, or during 2010 and 2011 offered, wait-listed fall candidates admission to spring or summer entering classes.[43]

113. Defendants reserve, or during 2010 and 2011 reserved, the highest level scholarships available for award to students entering in the fall quarter. Disparate access to scholarship funds was specifically cited in *Sweatt* (at 633) as indicating inequality.

Defendants Are, and Have Been, Fully Aware Of the Problem

114. Defendants, collectively and individually, are aware of the problem.

115. Defendants, collectively and individually, are educators; the problem of grade inflation has been the subject of discussion in the academic community for years. Defendants knew, or should have known, the effect that grade inflation would have when comparing UGPAs earned in different eras.

116. One or more Defendants are attorneys; Defendant attorneys realized, or should have realized that this effect constituted age discrimination under the Act and Regulations.

117. One or more Defendants knew, or should have known, that Plaintiff's class rank, evidence of which was contained in his application, indicated that his UGPA was not a

valid standard for comparing his candidacy with the candidacies of the younger applicants.

118. One or more Defendants was (were) alerted by communication from A&M that, not only did a bias problem exist, but that A&M had evaluated Plaintiff's argument and found it compelling.

119. Defendant Baylor was alerted through face-to-face meetings with Plaintiff, through Plaintiff's complaints in writing, through a Civil Rights Committee hearing and through communications from A&M.

120. Defendant members of the Scholarship Committee were alerted through Plaintiff's protest in writing addressed to the Scholarship Committee.

121. Defendant members of the Admissions Committee were alerted, or should have been alerted, through Plaintiff's request that his letter to the Scholarship Committee be included in his Admissions file.

122. Defendant Davis was made aware by handling Plaintiff's BU-PP 028 complaint.

123. Defendant Swenson was made aware through discharging his responsibilities as Chair of the Admissions Committee and Chair of the Scholarship Committee, and by his preparation for, and participation in, the Civil Rights Hearing conducted pursuant to Plaintiff's BU-PP 028 complaint.

124. Defendant Starr has been made aware through Plaintiff's appeal of the decision rendered by Defendant Davis.

Defendants Are Aware Of Duty Owed Under the Act

125. One or more Defendants is (are) required by 34 C.F.R Part 110.23 to sign a written assurance that the program or activity will be operated in compliance with the Regulations.

126. Defendants, collectively and individually, have been reminded by Plaintiff of their, its, his or her duty to ensure that the program is in compliance with the Act and to take steps to eliminate violations of the Act.

Discriminatory Actions Intentional and Taken Knowingly

127. Defendants offered admission, for fall 2010, to every candidate, except Plaintiff, with LSAT scores and documented academic performance similar to Plaintiff, while possessing knowledge of the inherent bias in the disparate standards Defendants used to disqualify Plaintiff. Based on reasonable belief, all, or the overwhelming majority, of the admitted candidates are younger than Plaintiff.

128. Defendants offered admission to scores of candidates with inferior LSAT scores and documented academic performance, while possessing knowledge of the inherent bias in the disparate standards Defendants used to disqualify Plaintiff. Based on reasonable belief, all, or the overwhelming majority, of these admitted candidates are younger than Plaintiff.

129. One or more Defendants changed the qualifying criteria for Nance consideration with full knowledge of the fact that the change would disqualify Plaintiff and suddenly qualify three previously unqualified candidates. This action was taken while Defendant(s) was (were) in possession of the relative ages of the candidates.

Retaliatory Action

130. Plaintiff filed his complaint against Defendants with the U.S. Department of Education October 27, 2011.

131. On or about that same day, Plaintiff provided Defendant Baylor's Office of General Counsel with a courtesy copy of said complaint.

132. At some later date, Defendants admitted its Law School class for fall 2012 entrance.

133. Plaintiff's application was active at the time Defendants admitted the class, and Plaintiff's application was placed on the wait list for this class.

134. On or about April 3, 2012, Defendants sent to each member of the admitted class, as an attachment to an e-mail, a spreadsheet containing, among other things, the credentials of each and every admitted member of that class, approximately four hundred forty-two (442) students.

135. The Law School Admission Council ("LSAC") has, over the last half century, commissioned studies to support the value of its LSAT as a predictive indicator of success in law school. These studies consistently show that a combination of the LSAT and UGPA (such as the Baylor Index) provides better prediction than either the LSAT or UGPA alone. They further show that the LSAT alone is a better predictor than the UGPA alone.[45]

136. Based on the information sent out by Defendants, and available on the internet,[46] one or more Defendants retaliated against Plaintiff by denying him admission to the Fall 2012 class, while admitting those with markedly inferior credentials.

138. Judged with respect to the best indicator of academic success, a combination approach such as the Baylor Index, Plaintiff's credentials are equal or superior to three hundred two (302), or sixty-eight percent (68%) of the admitted class.

139. Judged with respect to the second best indicator, Plaintiff's LSAT score is equal to or superior to four hundred nine (409), or ninety-seven percent (97%) of the admitted class.

140. The UGPA, used alone, is "typically . . . a fairly poor predictor of academic achievement in law school."[47] Laying that aside, for the moment, as well as the main thrust of Plaintiff's complaint herein – and assuming *arguendo* that the UGPA is a facially neutral standard – the data show Plaintiff's UGPA to be superior to eighty-six (86) admitted candidates ,or more than twenty percent (20%) of the admitted class.

141. The inescapable conclusion is that Defendants, in retaliation for Plaintiff's complaint, admitted scores, even hundreds, of candidates with inferior credentials while retaining Plaintiff's application on the wait list.

V. CAUSES OF ACTION

142. Plaintiff is entitled to be free from subjection to any action by a recipient of Federal financial assistance which, on the basis of age, (1) excludes Plaintiff from participation in, denies Plaintiff the benefits of, or subjects Plaintiff to discrimination under any of a recipient's programs or activities, or (2) denies or limits Plaintiff in his opportunity to participate in any program or activity receiving Federal financial assistance (the Act and Regulations). The Regulations define an action to include a policy, rule, standard or method of administration, or the use of same, 34 C.F.R. Part

110.3. Each recipient is charged with the duty to ensure that its program is in compliance with the Act and to take steps to eliminate violations of the Act, 34 C.F.R. Part 110.20.

143. Plaintiff is entitled to be free from retaliation by a recipient due to Plaintiff's attempt to assert a right protected by the Act or Regulations, 34 C.F.R. Part 110.34.

144. Baylor and its Law School are recipients of Federal financial assistance.

145. Plaintiff is a member of the class protected by the Act and Regulations, being at all relevant times over the age of fifty (50) and substantially older than the vast majority of other candidates.

146. Plaintiff's application was active for the 2010 and 2011 fall entering class, and Defendants judged Plaintiff to be qualified for admission to each of these classes. Further, but for the use of disparate standards, Plaintiff would have been admitted to either of these classes.

147. Plaintiff's application was active for each Nance Scholarship award during this period, and was judged qualified by the nominating committee at Texas A&M, in spite of the fact that one or more Defendants acted to change the qualifying criteria in order to disqualify Plaintiff. Further, but for the use of disparate standards, Plaintiff was qualified, and the applicant most qualified (at least for 2010), under the new criteria for the awards.

148. Despite Plaintiff's qualifications, he was treated differently than other, less qualified applicants through the application of disparate standards, and was thereby denied entrance to both classes, and denied access to merit based scholarship funds.

A. COUNT ONE – Preventing Plaintiff from "Competing on an Equal Footing"

149. This Court recognized in *Hopwood 1998*, at 883, as well as in its prior *Hopwood* decision, the "intangible injury resulting from [discriminatory action] which prevents a plaintiff from 'competing on an equal footing' with other applicants." As the Court noted, all similarly disadvantaged candidates, whether or not admitted and whether or not afforded access to financial assistance scholarships, suffer that type of injury. Plaintiff requests that the Court, as in *Hopwood 1998,* "not ignore the gravity of the noneconomic injury to persons denied equal treatment," and award Plaintiff such actual, nominal, exemplary and/or punitive damages to which he may be entitled.

B. COUNT TWO – Exclusion from participation in Baylor's 2010 fall Law School class.

150. Defendants' actions constituted age related discrimination in violation of the Act and the Regulations.

151. Defendants discriminated against Plaintiff by and through the application of disparate standards which are biased with respect to age.

152. But for Defendants' application of these disparate standards, Plaintiff would clearly have been offered admission to the class and would have secured his participation in the class.

153. Plaintiff requests that the Court order him admitted to the first fall entering class of Baylor's Law School which commences subsequent to adjudication of this case.

C. COUNT THREE – Denial of Benefit of Scholarship Assistance – 2010

154. Defendants' actions in Count Two also denied Plaintiff the benefit of scholarship assistance – specifically the Nance scholarship – for 2010.

155. But for Defendants' actions, Plaintiff would have been admitted to the fall 2010 entering class and would have been awarded, as second alternate, the Nance scholarship.

156. Plaintiff's injury-in-fact under Count Three is approximately one hundred thirty-seven thousand, four hundred four dollars and 17/100 ($137,404.17).

157. Plaintiff requests that the Court declare him a Joseph Milton Nance Presidential Scholar and award him the attendant financial assistance.

D. COUNT FOUR – Denial of Benefit of Scholarship Assistance – 2010

158. Defendants' actions constituted age related discrimination in violation of the Act and the Regulations.

159. Defendants discriminated against Plaintiff by and through the application of disparate standards which are biased with respect to age.

160. But for Defendants' application of these disparate standards, Plaintiff would have been awarded the Nance Scholarship - not as second alternate, but as the top ranked candidate in terms of academic performance as well as the top ranked candidate in terms of LSAT score.

161. Plaintiff's injury-in-fact under Count Three is approximately one hundred thirty-seven thousand, four hundred four dollars and 17/100 ($137,404.17).

162. Plaintiff requests that the Court declare him a Joseph Milton Nance Presidential Scholar and award him the attendant financial assistance.

COUNT FIVE – Intentional Denial of Benefit of Scholarship Assistance – 2010

163. Defendants intentionally changed the rules for qualification for the Nance scholarship after receipt of Plaintiff's, and other potential candidates', applications for admission.

164. Defendants intentionally tailored the new qualifications to disqualify Plaintiff who, but for the change, would have been the only qualified applicant; and simultaneously to qualify three, much younger, candidates who, but for the change, would have been unqualified even to be considered for the scholarship.

165. Defendants intentionally discriminated against Plaintiff by increasing the weight accorded the age-biased disparate standards complained of herein to the injury of Plaintiff.

166. But for Defendants' actions, Plaintiff would have been awarded the Nance scholarship – not simply as the top ranked, but as the only qualified candidate.

167. Plaintiff's injury-in-fact under Count Three is approximately one hundred thirty-seven thousand, four hundred four dollars and 17/100 ($137,404.17).

168. Plaintiff requests that the Court declare him a Joseph Milton Nance Presidential Scholar and award him the attendant financial assistance.

169. Due to the intentional infliction of injury by Defendants, Plaintiff pleads for exemplary and/or punitive damages in an amount the Court finds right and just.

COUNT SIX - Exclusion from participation in Baylor's 2011 fall Law School class.

170. Defendants' actions constituted age related discrimination in violation of the Act and the Regulations.

171. Defendants discriminated against Plaintiff by and through the application of disparate standards which are biased with respect to age.

172. But for Defendants' application of these disparate standards, Plaintiff would have been offered admission to the class and would have secured his participation in the class.

173. Plaintiff requests that the Court order him admitted to the first fall entering class of Baylor's Law School which commences subsequent to adjudication of this case.

COUNT SEVEN – Denial of Benefit of Scholarship Assistance – 2011

174. Defendants' actions constituted age related discrimination in violation of the Act and the Regulations.

175. Defendants discriminated against Plaintiff by and through the application of disparate standards which are biased with respect to age.

176. But for Defendants' actions, Plaintiff would have been awarded the Nance Scholarship.

177. Plaintiff's injury-in-fact under Count Three is approximately one hundred thirty-seven thousand, four hundred four dollars and 17/100 ($137,404.17).

178. Plaintiff requests that the Court declare him a Joseph Milton Nance Presidential Scholar and award him the attendant financial assistance.

COUNT EIGHT – Retaliation against Plaintiff for His Attempt to Assert a Right Under the Act and Regulations

179. Defendants' actions constituted retaliation against Plaintiff for his attempt to assert a right protected by the Act or Regulations.

180. Defendants' actions were outrageous and intentional.

181. Plaintiff requests that the Court award him such nominal and actual damages to which he may be entitled, together with such punitive and/or exemplary damages as the Court may find sufficient to deter similar future actions against Plaintiff or others attempting to assert a right against Defendants.

182. Plaintiff further requests that the Court enjoin Defendants from further retaliation while Plaintiff studies at Defendants' Law School.

COUNT NINE – Willful Disregard for Duty Imposed by Federal Statute

183. In *Hopwood v State of Texas,* 861 F. Supp. 551 (W.D.Tex. 1994) ("*Hopwood 1994*"), the Court (at 582) noted that the University of Texas Law School had "substantially modified its admissions procedure," and the Court therefore declined to enter a permanent injunction. The appellate Court agreed, confident that the conscientious administration at the school would not require an injunction.

184. Defendants here have shown no such proclivity toward fair dealings; no good faith efforts to comply with the law have been evidenced. Defendants, collectively and individually, display a continuing and total disregard for their (its, his or her) duty under the Act and Regulations.

185. Defendants here apply disparate standards which are biased with respect to age. Defendants have applied these standards in the past; apply them today even in the face of controversy and even while acknowledging the bias; retaliate against those challenging the practice; and will, absent restraint by this Court continue to apply these standards to the injury of older candidates.

186. Plaintiff accordingly requests that the Court declare the UGPA a series of disparate standards, biased with respect to age, and unlawful for use when the candidate

pool comprises applicants from different academic generations. Plaintiff further requests that the Court enjoin Defendants from the use of the UGPA in these situations.

VI. PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that:

A. This matter be set for hearing;

B. Upon final hearing, judgment be entered for Plaintiff;

C. That the Court order Plaintiff admitted to the next fall entering class of Baylor's Law School commencing after adjudication of this Action;

D. That the Court declare Plaintiff a Joseph Milton Nance Presidential Scholar;

E. That the Court award Plaintiff the full tuition waiver attendant his designation as a Joseph Milton Nance Presidential Scholar;

F. That the Court award Plaintiff exemplary and/or punitive damages in light of Defendants' discriminatory and retaliatory actions;

G. That the Court declare the UGPA a series of disparate standards, unlawful for use when the candidate pool comprises applicants from different academic generations;

H. That the Court enjoin Defendants from use of the UGPA when the candidate pool comprises applicants from different academic generations;

I. That the Court enjoin Defendants from further retaliation against Plaintiff;

J. That Plaintiff recover his costs of Court;

K. That Plaintiff recover his reasonable attorney fees (to the extent incurred);

L. That Plaintiff recover such other relief for actual, nominal, exemplary and/or punitive damages as this Court may find Plaintiff justly entitled.

Respectfully submitted,

BY: _____

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[1] Affidavit of C. Michael Kamps, attached hereto as EXHIBIT A (at paragraph 2)

[2] Baylor website at http://www.baylor.edu/nursing/index.php?id=27541

[3] Baylor website at http://www.baylor.edu/business/demba/index.php?id=86786

[4] Baylor website at http://www.baylor.edu/business/awemba/index.php?id=87702

[5] 2012 Preliminary Value as appraised by the Travis Central Appraisal District, http://www.traviscad.org/travisdetail.php?theKey=194479

[6] E-mail from Doug Welch, Assistant General Counsel Baylor University, Attached as Exhibit B

[7] http://www2.ed.gov/about/offices/list/ocr/docs/howto.html

[8] Letter from US Department of Education, Office for Civil Rights, Attached as Exhibit C

[9] US Postal Service proof of mailing and receipt, attached as Exhibit D

[10] Plaintiff's Law School Report prepared by the LSAC, redacted in accordance with Rule 5.2 and attached as Exhibit E

[11] Letter from the Office of Admissions and Records, Registrar, Texas A&M, attached as EXHIBIT F

[12] Texas CPA License 26683, initially issued November 1981, reinstated March, 2011.

[13] Nationwide Mortgage Licensing System & Registry License 204466, transferred from Texas Mortgage Broker License MB2181, initially issued September 1999.

[14] Affidavit of C Michael Kamps, Attached hereto as EXHIBIT A (at paragraph 7)

[15] Ibid. (at paragraph 9,10)

[16] Ibid. (at paragraph 11)

[17] Ibid. (at paragraph 12)

[18] C Michael Kamps letter to Baylor Law School's Scholarship Committee, attached

hereto as EXHIBIT G

[19] C Michael Kamps e-mail to Suzy Daniel, attached hereto as EXHIBIT H

[20] C Michael Kamps letter to Elizabeth Davis to formalize BU-PP 028 complaint, attached as EXHIBIT I.

[21] Memorandum response of Law School to Bruce Evans, Chair, Civil Rights Issues Resolution Committee, Baylor University, Subject: Charles Michael Kamps' Complaint, attached hereto as EXHIBIT J. (at paragraph 14)

[22] Applicant Profile Grid – Baylor University School of Law, attached hereto as EXHIBIT K.

[23] "grade inflation." Merriam-Webster.com. 2012. http://www.merriam-webster.com (27 February 2012), emphasis in original

[24] Stuart Rojstaczer, *Grade Inflation at American Colleges and Universities*, March 10, 2009, http://www.gradeinflation.com/

[25] E-mail chain between C Michael Kamps and Pam Wiley, Director of Communications and Public Relations, Mays Business School, Texas A&M University, attached hereto as EXHIBIT L.

[26] http://admissions.tamu.edu/Registrar/FacultyStaff/Report/

[27] Eric Quiñones, *Princeton achieves marked progress in curbing grade inflaton*, September 21, 2009, http://www.princeton.edu/main/news/archive/S25/35/65G93/

[28] Elisabeth S. Theodore, *Summers Addresses Grade Inflation*, January 18, 2002, http://www.thecrimson.harvard.edu/article/2002/1/18/summers-addresses-grade-inflation-grade-inflation/

[29] E-mail from Karen Severn of A&M to Becky Beck-Chollett of the Law School, March 22, 2010, redacted in accordance with Attorney General Open Records Decision 684 and the Family Educational Rights and Privacy Act (FERPA) and attached hereto as EXHIBIT M.

[30] Memorandum response of Law School to Bruce Evans, Chair, Civil Rights Issues Resolution Committee, Baylor University, Subject: Charles Michael Kamps' Complaint, attached hereto as EXHIBIT J. (at paragraphs 9,10)

[31] Affidavit of C. Michael Kamps, attached hereto as EXHIBIT A. (at paragraph 14)

[32] Memorandum response of Law School to Bruce Evans, Chair, Civil Rights Issues Resolution Committee, Baylor University, Subject: Charles Michael Kamps' Complaint, attached hereto as EXHIBIT J. (at paragraph 19)

[33] Texas A&M's response to Plaintiff's Public Information Request 12-002, attached hereto as EXHIBIT N (at page 2)

[34] Memorandum response of Law School to Bruce Evans, Chair, Civil Rights Issues Resolution Committee, Baylor University, Subject: Charles Michael Kamps' Complaint, attached hereto as EXHIBIT J. (at Paragraph 8)

[35] Responses to Plaintiff's information requests from Texas A&M University, Colorado State, Texas Tech, UCLA, the University of Michigan and the University of North Carolina, Attached hereto as EXHIBIT O

[36] Memorandum response of Law School to Bruce Evans, Chair, Civil Rights Issues Resolution Committee, Baylor University, Subject: Charles Michael Kamps' Complaint, attached hereto as EXHIBIT J. (at paragraph 19)

[37] Texas A&M's response to Plaintiff's Public Information Request 11-302, attached hereto as EXHIBIT P (at page 2)

[38] Memorandum response of Law School to Bruce Evans, Chair, Civil Rights Issues Resolution Committee, Baylor University, Subject: Charles Michael Kamps' Complaint, attached hereto as EXHIBIT J. (at paragraph 14)

[39] Texas A&M's response to Plaintiff's Public Information Request 11-302, attached hereto as EXHIBIT P (at page 1)

[40] E-mail from Karen Severn of Texas A&M to C Michael Kamps, attached hereto as EXHIBIT Q.

[41] E-mail from Karen Severn of Texas A&M to Becky Beck-Chollett of Baylor, redacted in accordance with Attorney General Open Records Decision 684 and the Family Educational Rights and Privacy Act (FERPA) and attached hereto as EXHIBIT R.

[42] E-mail from Becky Beck-Chollett of Baylor to Karen Severn of Texas A&M, redacted in accordance with Attorney General Open Records Decision 684 and the Family Educational Rights and Privacy Act (FERPA) and attached hereto as EXHIBIT S.

[43] Decision letters, attached hereto as EXHIBIT T.

[44] Memorandum response of Law School to Bruce Evans, Chair, Civil Rights Issues Resolution Committee, Baylor University, Subject: Charles Michael Kamps' Complaint, attached hereto as EXHIBIT J. (at paragraph 12)

[45] Stilwell, L.A., Dalessandro, S. P. & Reese, L. M. (2011). *Predictive Validity of the LSAT: A National Summary of the 2009 and 2010 LSAT Correlation Studies* LSAT Technical Report 11-02). Newtown, PA: Law School Admission Council. p. 18

[46] Elie Mystal, *Baylor Law Screw-Up Reveals Personal Data of Entire Admitted Class: Data That We've Got*, April 04, 2012, http://abovethelaw.com/2012/04/baylor-law-screw-up-reveals-personal-data-of-entire-admitted-class-data-that-weve-got/

[47] Stilwell, *et al,* p. 6