STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF INGHAM

THOMAS M. COOLEY LAW SCHOOL,

Plaintiff,

Case No. 11-781-CZ
Hon. Clinton Canady III

v.

JOHN DOE 1, JOHN DOE 2, JOHN DOE 3, and JOHN DOE4, unknown individuals,

Defendant.

MICHAEL P. COAKLEY (P34578)
Attorney for Plaintiff
150 West Jefferson, Suite 2500
Detroit, MI 48226
(313) 963-6420

JOHN T. HERMANN (P-52858)
Attorney for Doe Defendant Number One
2684 West Eleven Mile Road
Berkley, MI 48072
(248) 591-9291

ATTORNEY APPEARANCE

PLEASE TAKE NOTICE that I am the will be appearing as counsel on behalf of Defendant JOHN DOE 1 in connection with the above captioned civil case. Please provide me with copies of all pertinent pleadings, notices and/or materials.

Dated: August 5, 2011

JOHN T. HERMANN (P52858)
Attorney for John Doe 1
2684 West Eleven Mile Road
Berkley, MI 48072
(248) 591-9291

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JOHN DOE 1'S MOTION TO QUASH SUBPOENA

Defendant JOHN DOE 1, by and through his attorney John T. Hermann, as the moving party brings this motion pursuant to MCR 2.506(H) and MCR 2.302(C) in response to a series of Subpoenas seeking to compel the weblog host (i.e. Weebly, Inc./The Huffington Post/AOL, Inc.) to disclose the identity of an internet blogger using the pseudonym "Rockstar05." In support of his motion, Defendant JOHN DOE 1 states as follows:

Defendant JOHN DOE 1, by and through his attorney John T. Hermann, as the moving party brings this motion pursuant to MCR 2.506(H) in response to a Subpoena seeking to compel the a weblog host to disclose the identity of an internet blogger using the pseudonym "Rockstar05." In support of his motion, Defendant JOHN DOE 1 states as follows:

1. This is an action to quash a subpoena issued by Plaintiff, Cooley Law School, for the disclosure of the name, identity, and location of individual (i.e. "Rockstar05") who is alleged to have posted false, misleading and disparaging information on an internet chat room and/or forum site.

2. Plaintiffs served a copy of the subpoena[1] upon the internet weblog host Weebly, Inc. ("Weebly") whose address and/or information is as follows: 447 Battery Street Suite 250 San Francisco, CA 94111.

3. John Doe 1 is seeking to quash said subpoena or, in the alternative, issue a protective order prohibiting Weebly from revealing the name, identity, or location of the individual associated with the username "Rockstar05".

4. In support of its position, John Doe 1 states that (1) Plaintiff has failed to show that its need for the information requested outweighs his/her constitutional rights as an anonymous speaker under the First Amendment; (2) his/her protections of free speech and/or association under the First Amendment outweigh the Plaintiff's need to be granted access to the requested information (i.e. name, identity, and location of Doe Defendant) (3) the comments identified in Plaintiff's complaint that were allegedly made by John Doe 1 fail to support a legally actionable claim(s) (4) Plaintiff has failed to establish that exposing the identity of John Doe is centrally needed to advance any legally recognizable claim(s); (5) Plaintiff has failed to establish that the contents of comments posted by John Doe 1 exceed the realm of mere expression of personal opinion (i.e. constitutionally protected speech) or that the contents of the allegedly defamatory comments are false and/or untrue.

5. In support of said motion, defendants relies on MCR 2.506(H) and/or MCR 2.302(C/

WHEREFORE, for the reasons set forth above, Defendant JOHN DOE 1 respectfully requests this Honorable Court enter an order quashing the subpoena or, in the alternative, to issue a protective

[1]Counsel for Defendant has requested a copy of the subpoena; however, Plaintiffs have refused to provide counsel a copy of the subpoena choosing instead to conduct discovery in under cloak of darkness hoping to open the discovery before counsel and/or John Doe 1 have an opportunity to contest the legitimacy of the subpoena or the methods used to in order to obtain the requested information.

order preventing Weebly, Inc. from divulging the name, identity, location or other personal information of Defendant JOHN DOE 1 without adequate and/or proper protections.

Dated: August 5, 2011

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Attorney for John Doe 1
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BRIEF IN SUPPORT OF JOHN DOE 1'S MOTION TO QUASH SUBPOENA

I. INTRODUCTION TO CASE

The present case is a textbook example of a SLAPP (Strategic Lawsuit Against Public Participation)[2] suit brought by Plaintiffs against the above captioned Doe Defendants for

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[2]SLAPP suits are common tools utilized by businesses or other powerful organizations to threaten, scare, intimidate, and burden a private party with endless litigation in retaliation for an exercise of a public right to freedom of expression and/or free speech. Defendants in SLAPP suits are usually sued based on a variety legal theories (i.e. defamation, tortuous interference, conspiracy etc.) for communicating in a public forum. SLAPPers are not interested in the eventual outcome of the litigation, but use the suit as a mechanism to silence their opposition. Judge J. Nicholas Colabella a New York Supreme Court Judge commented on the recent emergence of SLAPP suits:

> "Those who lack the financial resources and emotional stamina to play out the 'game' face the difficult choice of defaulting despite meritorious defenses or being brought to their knees to settle. . . . Short of a gun to the head, a greater threat to First Amendment expression can scarcely be imagined...The longer the litigation can be stretched out . . . the closer the SLAPP filer moves to success."

Other recent examples of other SLAPP suit which demonstrate the potential for abuse of the judicial system include examples where:

participating in hosting an internet blog forum in which the blogger identified as "Rockstar05" expressing his personal opinion as to Thomas M Cooley Law School's ("Coolely Law School") (1) open door admission policies; (2) high attrition rates and unfriendly administrative policies; (3) law school ranking system; (4) employment rates of recent graduates. (Exhibit 1; Rockstar05 Forum Blog Site) In the blog, Rockstar05 explicitly states that the commentary contained in the blog an "expression of his own personal opinion," based on his personal experience and views. (Exhibit 1; Rockstar05 Forum Posts) [Emphasis Added]. Throughout his forum site "Rockstar05" relied on his a variety of independent sources of information including data from the American Bar criticizing Coolely's performance standards among other law schools. In particular, "Rocstar05" citied various ABA and other news reports questioning the legitimacy of Cooley Law Schools rating system that

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- A doctor was sued over his statement to administrators that the city hospital was violating the state's cost containments laws;
- Members of a local community group faced a $52 million lawsuit after circulating a letter questioning the property-buying practices of a local housing developer;
- An environmental activist faced a $200,000 lawsuit for criticizing a coal mining company's activities that were poisoning a local river;
- A farmer was sued after testifying to his township supervisors that a low-flying helicopter owned by a local landfill operator caused a stampede that killed several of his cows;
- A homeowner found that she could not get a mortgage because her real estate company had failed to pay taxes owed on her house. She uncovered hundreds of similar cases, and the company was forced to pay hundreds of thousands of dollars in back taxes. In retaliation, it dragged her through six years of legal harassment before a jury finally found her innocent of slander;
- A city resident wrote a letter complaining about contamination of the local drinking water from a nearby landfill and spent the next five years defending herself against the landfill owner's attorneys, who charged her with "defamation" and "interference with prospective business contracts."
- An animal rights activist was sued for $4 million after writing a letter to an obscure research journal protesting an Austrian company's plans to use chimpanzees in hepatitis research.
- A high school English teacher was hit with a $1 million libel suit after complaining to a weekly newspaper that an incinerator burning hospital waste was a health hazard. John C. Stauber and Sheldon Rampton "*SLAPP Happy: Corporations That Sue to Shut You Up*," PR Watch, Volume 4, No. 3, 2nd Quarter 1997

ranked itself as the second best law school in the country behind only Harvard Law School.[3] In other materials Cooley Law School claims that it is the number one law school (according to its own ranking criteria) in the state of Michigan ahead even the University of Michigan. (Exhibit 2)

Cooley Law School's rating criteria have recently become a lightning rod for criticism among other ranking officials and/or agencies. (Exhibit 3; Tax Prof Blog – a member of the Law Professor Blogs Network, "*Size Matters: Thomas Cooley's 2011 Law School Rankings*, Paul L. Caron; February 9, 2011; Above the Law, "*Latest Cooley Law School Rankings Achieve new heights of Intellectual Dishonesty*," Elie Mystal; February 8, 2011; See also Above the Law, "*Cooley Law School Develops More useless Than Normal School Rankings*" Elie Mystal; February 5, 2009. Cooley ranking system, specifically, it's self-ranking holding itself out to the general public as the second best law school in the nation (and best law school in the state of Michigan) is not a fair and accurate portrayal of the quality of the Cooley Law School "brand name" in the legal community and seeks to deliberately hide its status as a 4th tier school that is often characterized as "the school of last choice" throughout the nation. Furthermore, the re-branding as the second best law school in the nation also seeks to hide the negative stigma that Cooley graduates face upon graduation along with other hurdles including statistically lower employment rates and earning potential. Accordingly to Cooley's own statistics, the employment rates for graduates one year out of law school ranked 181st for all 193 law schools in the country.

Despite the abysmal employment statistics, Cooley law school own rating system utilized multiplies and indices which discounted negative information which is commonly utilized by other reputable rating organizations such as the American Bar Association and/or US News and World

[3] In 2010, Cooley Law School and/or its paid marketing consultants authored its own supposedly authoritative work entitled "Judging The Law Schools," Twelfth Edition, 2010, which is depicted on the website for Cooley Law School see http://www.cooley.edu/rankings/_docs/Judging_12th_Ed_2010.pdf and attached hereto as exhibit 2. The article is described as an "extensive, objective comparison of American Law schools by a distinguished jurist and a law school president who (sic) challenge the subjectivity of the U.S. News and World Report Rankings."

Report. In addition, Cooley also gave greater weight to other factors such as physical square footage of the actual school, size of student population, etc. (Exhibit 2) Cooley's rating system gave these factors more weight than other more traditional hallmarks of performance such as student to faculty ration (where Cooley ranked #190), and first-time bar passage rate (where Cooley ranked #160). The arbitrary methodology of the ranking system is perhaps most apparent in the decision to include the number chairs in the library and classrooms at the at the institutions four campuses.

Plaintiff clearly uses its self-published rankings as a shameless marketing tool where any large institution with four campuses (which is virtually unheard of for a law school) would be inclined to do score better comparatively. Plaintiff then proceeds to openly boast about integrity and ethics at the core of its institution of higher learning. John Doe 1 has confined his blog post to his personal opinions, and experiences identifying the institutional hypocrisy evident in Cooley's business practices which involve millions of federally backed student loan dollars. These factors and others call into question the institutional integrity of Cooley. In attempting to "whitewash" its status as a "school of last resort" through manipulative statistics, Cooley is attempting to lure potential students into one of its several campuses thorough questionable practices. Exercising one's right to criticize these practices should be applauded. The origin of our nation (and our constitution) is premised on the commitment to strong public discourse – including disagreement. Voltaire is widely attributable as having expressed a similar concept of free speech adopted by our founding fathers and incorporated in the constitution when he stated, *"I disapprove of what you say, but I will defend to the death your right to say it."*

Cooley Law School is no stranger to criticism regarding its performance standards. In 2002 and 2003 Cooley law school opened two new satellite branches in Auburn Hills and in Grand Rapids without obtaining permission from the ABA's Accreditation Committee ("Committee"). The ABA had previously expressed concern regarding Cooley's compliance with Standard 501, requiring that

the school only admit students who appear capable of being admitted to the Bar. In their review, the Committee felt that adding new campuses, and thus more students, would exacerbate this problem. In February of 2003, Cooley Law School received notification that its application was denied, but continued to operate the locations despite the ABA's directives. In November of 2003, the Committee concluded that Cooley was operating satellite campuses in violation of the ABA standards.

On March 20, 2004, Cooley responded by filing a lawsuit in the United States District Court of the Western District of Michigan (Case No. 04-00221) In their suit Cooley claims that the ABA denied them their right of due process by failing to accredit the two proposed satellite campuses and imposing sanctions for operating the satellites without the prior acquiescence of the ABA . The district court denied Cooley's claims. Upon appeal, the Sixth Circuit Court of Appeals upheld the trial court after determining that the ABA had afforded Cooley all due process in making its rulings. *Thomas M. Cooley Law School v The American Bar Association*, 459 F 3d 705 (2006), *cert den* 49 US 1116, 127 S Ct 985, 166 L Ed 2d 710 (2007) (Exhibit 4)

II. JOHN DOE LAWSUIT FILED BY THOMAS M. COOLEY LAW SCHOOL

On July 14, 2011, Cooley Law School filed suit against John Does 1-4 alleging, "Defendant John Doe 1 has posted tortuous and defamatory statements about Cooley on internet weblogs as and message boards under the pseudonym "Rockstar05." (Plaintiff's Complaint ¶ 2) (Plaintiff's Complaint ¶ 2) The Complaint alleged two causes of action: Defamation and Tortious Interference with Business Relations. According to their complaint, the sole purpose of the suit is "to determine the identity of John Doe 1." (Plaintiff's Complaint ¶ 2) Plaintiffs recognize and concede that the allegedly defamatory statements (attached to Plaintiff's complaint as attachment B) are to "bring truth and awareness" about Cooley based on his "personal knowledge and research." (Plaintiff's Complaint ¶ 14) Surprisingly, Plaintiff has yet to identify what, if any, portions of the blog post

exceeded the scope of mere opinion (i.e. constitutionally protected speech) or what, if any, portions were false and/or untrue. In its pleadings, Plaintiff attached the blog post, which specifically states that the contents of the post were an expression of his own personal opinion. (Exhibit 1)

To date, Plaintiff has failed to contest any of the allegations contained in the blog post or differentiate the commentary from other journalistic news sources that have provided commentary. Rather it appears that Plaintiff and/or its owner is simply "upset" about its students speaking critically of its rating criteria and admission policies. Cooley Law school takes great pride in criticizing other law school "elites" for the subjective nature of the methods that consistently place Cooley in the lower half of the fourth tier of the evaluation category for the nation's 193 law schools. In contrast to their own mission statement, Cooley Law School is now seeking to use its power to stymie the constitutional right of free speech of its own students - albeit speech that they negatively portrays the school consistent with other empirical data. Ironically, Cooley is now the emperor who appears angry at being told the he is not wearing any clothes.

III. SUBPOENAS ISSUED SEEKING IDENTITY OF DOE 1 A/K/A "ROCKSTAR05"

Plaintiffs have issued a subpoena to a weblog hosts (i.e. Weebly, Inc.) forcing the organization to divulge the name and/or personal information of the individual using the pseudonym "Rockstar05;" Weebly is used by over 7 million people to create a wide range of webpage's, from businesses wanting to have an online presence to individuals who wish to create personal pages for their own use. Defendant utilized Weebly to create a personal blog in which to share his own personal opinion concerning Plaintiff's practice of manipulating and/or whitewashing negative information about the law school's (1) open door admission policies; (2) high attrition rates and unfriendly administrative policies; (3) law school ranking system; (4) employment rates of recent graduates. (Exhibit 1)

IV. STANDARD OF REVIEW

Presumably, Plaintiff seeks information about the Doe defendant because of certain postings that are critical of its business practices. In *McIntyre v Ohio Elections Comm.*, 514 U.S. 334 (1995), the court stated that there is a First Amendment right to speak anonymously. Plaintiff has made no showing to justify destroying this right of these internet users and instead has relied on a conclusory pleading as the basis for its subpoena. Without sufficient allegations or evidence to establish a *prima facie* case, the First Amendment demands that Defendant's right to speak anonymously be preserved. "People who have committed no wrong should be able to participate online without fear that someone who wishes to harass or embarrass them can file a frivolous lawsuit and thereby gain the power of the court's order to discover their identities." *Columbia Ins Co v Seescandy.com,* 185 FRD 573, 578 (ND Cal 1999).

V. ARGUMENT

John Doe 1 would lose his/her fundamental right to speak anonymously if this subpoena is enforced. Yet, Plaintiff has issued the subpoena with nothing more than a conclusory pleading that fails to set forth legitimate claims against any of the Doe Defendants much less provide factual support for these claims. The court should require the Plaintiff to demonstrate legitimate claims against John Doe 1so that it can balance Plaintiffs need for the requested information with Defendant's First Amendment right.

A. Doe Defendant Has a First Amendment Right to Speak Anonymously

Plaintiff seeks to enforce a subpoena for information that would destroy John Doe 1 right to speak anonymously. In this case, Plaintiff can demonstrate no compelling interest why that First Amendment right should be breached. The Supreme Court has held that the right to speak anonymously is protected under the First Amendment and has recognized the important historical role of anonymous writings, including the literature of Mark Twain and the advocacy of the Federalist Papers. *Buckley v Am. Constitutional Law Found.,* 525 US 182 (1999); *McIntyre v. Ohio*

Elections Comm, 514 US 334 (1995); *Talley v California*, 362 U.S. 60 (1960). As the Court noted in *Talley,* "[T]he Federalist Papers, written in favor of the adoption of our Constitution, were published under fictitious names. It is plain that anonymity has sometimes been assumed for the most constructive purposes." Id.at 65. The Court expanded on this in *McIntyre,* stating, "The decision in favor of anonymity may be motivated by fear of economic or official retaliation, by concern about social ostracism, or merely by a desire to preserve as much of one's privacy as possible." 514 US at 341-42. The Court went on to say, "[T]he interest in having anonymous works enter the marketplace of ideas unquestionably outweighs any public interest requiring disclosure as a condition of entry. Accordingly, an author's decision to remain anonymous, like other decisions concerning the content of a publication, is an aspect of the freedom of speech protected by the First Amendment." *Id.* at 342.

The Supreme Court also recognizes that the Internet is fully protected by the First Amendment. *Reno v. ACLU*, 521 U.S. 844 (1997). In analyzing the Internet as a medium the Court noted, "...[the Internet] constitutes a vast platform from which to address and hear from a worldwide audience of millions ... Through the use of chat rooms, any person with a phone line can become a town crier with a voice that resonates farther than it could from any soapbox. Through the use of Web pages ... the same individual can become a pamphleteer." *Id.* at 870. Consequently, the Court stated, "that our cases provide no basis for qualifying the level of First Amendment scrutiny that should be applied to this medium." *Id.* at 870. As a component of free speech, the right to speak anonymously over the Internet has also been upheld by several courts. *Columbia Ins. v. Seescandy.com*, 185 FRD 573 (ND Cal. 1999); *ACLU v Johnson*, 4 F Supp. 2d 1029 (Dist NM. 1999), *affd* 194 F.3d 1149 (10th Cir 1999); *ACLU v. Miller*, 977 F Supp. 1228 (ND Ga. 1997).

B. Plaintiff Has not Demonstrated A Compelling Need

Based upon the course of events, it is clear that Plaintiff's actions are part of a deliberate strategy to silence certain individuals who have posted unflattering comments regarding Cooley's

admission, employment and rating statistics. Rather than pursuing a demonstrable cause of action against a real individual, Plaintiff is utilizing the legal fiction of a John Doe proceeding in order to discover information that may be helpful in suing other individuals under other possible legal theories. Without any established connection between its claims and the anonymous usernames, Plaintiff has subpoenaed Weebly to provide Defendant's personal and private account information. Compelling this disclosure violates Doe's First Amendment right to speak anonymously. Thus, Doe Defendant respectfully requests that this Court quash the subpoena.

A court order to compel production of individuals' identities "is subject to the closest scrutiny" when it impinges on fundamental rights. *NAACP v Alabama*, 357 US 449, 461 (1958); Bates v City of Little Rock, 361 US 516, 524 (1960). Furthermore, the abridgement of the rights to speech and press, "even though unintended, may inevitably follow from varied forms of governmental action," such as the production of names. *NAACP,* 357 US at 461. Due process requires the showing of a "subordinating interest which is compelling" where disclosure threatens to significantly impair fundamental rights. *Bates*, 361 US at 524; *NAACP*, 357 U.S. at 463.

Anonymity on the Internet is itself a fundamental right that must be protected absent a "compelling" need. *Bates*, 361 US at 524; *NAACP,* 357 US at 463. "The free exchange of ideas on the Internet is driven in large part by the ability of Internet users to communicate anonymously. If Internet users could be stripped of that anonymity by a civil subpoena enforces under the liberal rules of civil discovery, this would have a significant chilling effect on Internet communications and thus on basic First Amendment rights." *Doe v. 2TheMart.com Inc,* 140 F Supp2d 1088, 1093 (WD Wash. 2001). In holding that a corporation's need was not compelling enough to warrant disclosure when compared to the First Amendment right of an anonymous poster, the court in *2TheMart.com* stated, "discovery requests seeking to identify anonymous Internet users must be subjected to careful scrutiny by the courts." *Id.* at 1093.

Recent cases have required plaintiffs to demonstrate a compelling need for anonymous Internet users' private information. In *Columbia Ins. v. Seescandy.com,* 185 FRD 573 (ND Cal 1999), the plaintiffs sued several defendants based on registration of Internet domains that used the plaintiffs' trademark. Summarizing the chilling effects of discovery, the court noted, "[p]eople who have committed no wrong should be able to participate online without fear that someone who wishes to harass or embarrass them can file a frivolous lawsuit and thereby gain the power of the court's order to discover their identity." *Id.* at 578. The *Seescandy.com* court required the plaintiff to do four things before authorizing discovery against anonymous defendants: (1) identify the individual defendants "with sufficient specificity" in order for the court to determine jurisdictional requirements are met; second; (2) identify all previous steps taken to locate the elusive defendant in order to determine that a good faith effort had been made; (3) demonstrate to the court that there are viable claims against the defendants, including the ability to survive a motion to dismiss; (4) justify the need for the information requested, including a identification of a limited number of people who might be served as well as how such discovery will lead to identifying information about the defendant that would make service of process possible. *Id.* at 578-581.

Interpreting *Seescandy.com i*n a case that involved anonymous speech on a Yahoo! bulletin board, the court in *Dendrite International, Inc. v John Doe, No.3* 342 NJ Super 134 775 A 2d 756 (App. Div. 2001) focused on what the plaintiff must do to demonstrate that its need for the information is strong enough to justify discovery. (Exhibit 6) The *Dendrite* court interpreted *Seescandy.com* as establishing "a flexible, non-technical, fact-sensitive mechanism for courts to use as a means of ensuring that plaintiffs do not use discovery procedures to ascertain the identities of unknown defendants in order to harass, intimidate or silence critics in the public forum opportunities presented by the Internet." *Id.* at 770. Rejecting the notion that plaintiffs need only be able to survive a motion to dismiss, the *Dendrite* court specifically focused on probable cause as mentioned in the third-prong of the *Seescandy.com* test, concluding that "by equating this prong to the probable cause

for warrants, `plaintiff *must make some showing* that an act giving rise to civil liability actually occurred and that the discovery is aimed at revealing the specific identifying features of the person or entity who committed the act.'" Id. at 770 (quoting *Seescandy.com,* 185 FRD at 580) (emphasis of *Dendrite* court). Such a showing is required to demonstrate a "subordinating interest which is compelling" under *Bates*. 361 U.S. at 524.

C. Plaintiff Has not Demonstrated A Compelling Interest That Would Warrant Destroying Defendant's First Amendment Right

Plaintiff has only provided only a weak, confusing, conclusory pleading. Under *Bates*, the court should require Plaintiff to demonstrate that the strength of its case is "a subordinating interest compelling" enough to justify abridging defendants First Amendment right. 361 US at 524. The pleading does not even set forth a prima facie case,[4] much less a compelling one, that any rights of the plaintiff have been violated by Defendant or anyone else. Both proper allegations and some evidence are required to show a compelling need. Neither one is presented by the Plaintiff

First, Plaintiff has failed to identify Defendant with specificity as required in *Seescandy.com*. Plaintiff's complaint refers to "Doe Defendants," but fails to present any identifying characteristics of these defendants. As such, Plaintiff's complaint fails to distinguish the different legal standard that may apply to each poster. Plaintiff should not be allowed to utilize the process of the court to facilitate a fishing expedition in the hopes that it may be able to identify someone against whom a demonstrable cause of action could be asserted especially when a Defendant's fundamental rights are at stake. Second, Plaintiff has not identified any efforts it has made to contact Defendant or other posters to rebut the allegations that it claims are false. Plaintiff could attempt to e-mail Defendants, post messages on the message boards, or contact them through the other "various computers, servers, and Internet Bulletin Boards" mentioned in the Complaint. Third, Plaintiff must demonstrate it has a viable and compelling case. A conclusory pleading is not sufficient. Plaintiff should set forth specific

actionable harm and the specific parties involved in a detailed fashion. Plaintiff fails to properly allege defamation. To state a cause of action for defamation, Plaintiff must allege what statements were made, allege what statements were false, state when and where they were published, and describe how *they* harmed the Plaintiff, explaining the nature of that harm. 5 Witkin, Summary 9th (1990) Torts, § 480, p. 564. Plaintiff alleges only that "John Doe 1 made false and defamatory statements," about Plaintiff. (See Plaintiff's Complaint at ¶ 16) Yet the Complaint says nothing about the statements allegedly made or the authors. The reader cannot tell whether there were any false statements of fact or merely non-actionable statements of opinion. Furthermore, Plaintiff offers no statements or evidence to support its claims that the postings were made maliciously.

Plaintiff also fails to properly support claims of tortious interference. Plaintiff must describe how the underlying act interfered with its right to contract and how Plaintiff was harmed, including the nature of the harm. The complaint should describe the wrongdoing with sufficient particularity that defendant can assess and assert his or her defenses. Finally, once the underlying act and the interference caused have been stated, Plaintiff must still describe how that interference was intentional. Beyond Plaintiff's conclusory pleading, there is nothing to support that Defendant's were intentional. Fourth, Plaintiff has not explained why the requested discovery is necessary. Nowhere in the Complaint does Plaintiff link any specific wrongs to the identifying information requested. Plaintiff has not provided any reason to believe that the subpoena for Defendant's information is likely to yield information identifying the defendants. Additionally, the subpoena used by Plaintiff is excessively broad and goes beyond the purpose of identifying Defendants. Each item requested under the subpoena must be specifically justified and limited to avoid abuse of the discovery process and violation of Defendant's rights.

In the event that the court fails to quash Plaintiffs subpoena and/or Notice to Appear for Deposition in their entirety, movant alternatively request that any discovery shall be subject to an appropriate protective order. Pursuant to MCR 2.302(C) the person from whom discovery is sought may upon motion issue any order that justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following orders (1) that the discovery not be had; (2) that the discovery may be had only on specified terms and conditions, including a designation of the time or place; (3) that the discovery may be had only by a method of discovery other than that selected by the party seeking discovery; (4) that certain matters not be inquired into, or that the scope of the discovery be limited to certain matters; (5) that discovery be conducted with no one present except persons designated by the court; (6) that a deposition, after being sealed, be opened only by order of the court; (7) that a deposition shall be taken only for the purpose of discovery and shall not be admissible in evidence except for the purpose of impeachment; (8) that a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way; (8) that the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the court. If the motion for a protective order is denied in whole or in part, the court may, on terms and conditions as are just, order that a party or person provide or permit discovery. In the present case, Plaintiff expressed its desire to utilize the judicial process in a Kafkaesque manner to identify and eliminate all sources of critical thought and/or discussion. Once the identity of "Rockstar05" is known or disclosed, it is entirely likely that anyone (which may include current students and/or faculty) associated with "Rockstar05" blog site will end up as another target of Cooley's wrath. Such Orwellian tactics are an abuse of the legal system and constitute a reckless disregard for the constitutional protections of the First Amendment. In seeking to undermine these protections, Cooley is attempting to place itself above the very law that it is attempting to teach its

students. Perhaps, it could be teaching its students a better lesson by following the example of the law rather than seeking to undermine it.

V. CONCLUSION

Plaintiff needs to demonstrate a compelling interest to destroy the right to speak anonymously. Even if Plaintiff established some actionable claim against Defendants, the Court must weigh the strength and viability of that claim against Defendant's First Amendment right. Here, Plaintiff has not even provided information to support the conclusion that Defendant did anything wrong or defamatory at all. Since Plaintiff's need is not compelling, this Court should not abridge the fundamental right to speak anonymously. Alternatively, should the court fail to quash the subpoena, Defendant requests that the court adopt a less intrusive means of accommodating Plaintiffs request while at the same time balancing the privacy interest of the John Doe 1.

Dated: August 5, 2011

JOHN T. HERMANN (P-52858)
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NOTICE OF HEARING

PLEASE TAKE NOTICE that Movant's MOTION TO QUASH SUBPOENAS AND/OR ISSUE A PROTECTIVE ORDER DENYING DISCOVERY will be heard before the Honorable Clinton Canady III on Wednesday September 7, 2011, at 3:00 P.M., or as soon thereafter as counsel may be heard.

Dated: August 5, 2011

JOHN T. HERMANN (P-52858)
Attorney for John Doe 1
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THOMAS M. COOLEY LAW SCHOOL,

Plaintiff,

Case No. 11-781-CZ
Hon. Clinton Canady III

v.

JOHN DOE 1, JOHN DOE 2, JOHN DOE 3, and JOHN DOE4, unknown individuals,

Defendant.

MICHAEL P. COAKLEY (P34578)
Attorney for Plaintiff
150 West Jefferson, Suite 2500
Detroit, MI 48226
(313) 963-6420

JOHN T. HERMANN (P-52858)
Attorney for Doe Defendant Number One
2684 West Eleven Mile Road
Berkley, MI 48072
(248) 591-9291

PROOF OF SERVICE

STATE OF MICHIGAN)
) SS.
COUNTY OF OAKLAND)

JOHN T. HERMANN, being first duly sworn, deposes and says that on August 5, 2011, he served via U.S. Mail a copy of Defendant John Doe 1's Appearance along with his Motion to Quash Subpoena along with a copy of this Proof of Service on Plaintiff 's counsel at the address listed above along with the interested party (i.e. Weebly, Inc.) at the following address 447 Battery Street, Ste 250 San Francisco, CA 94111.

Dated: August 5, 2011

JOHN T. HERMANN (P-52858)
Attorney for John Doe 1
2684 West Eleven Mile Road
Berkley, MI 48072
(248) 591-9291

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF INGHAM

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At a session of said Court
Held in the Court House in the City of Lansing,
Ingham County, State of Michigan, on this 7th Day
of September, 2011

Present the Honorable Clinton Canady III

[PROPOSED] ORDER QUASHING SUBPOENA AS TO JOHN DOE 1

This matter having come before the court upon motion by Plaintiffs and the court being otherwise fully informed:

IT IS HEREBY ORDERED THAT the Subpoena issued to internet web log host Weebly, Inc. regarding the account and/or username associated "Rockstar05" is hereby quashed.

CIRCUIT COURT JUDGE

Dated:

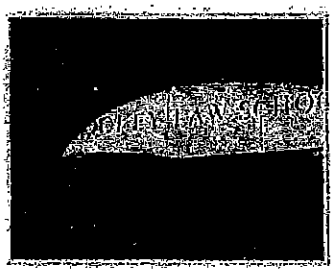
EXHIBIT 1

Thomas M. Cooley, Thomas Cooley, Thomas Cooley Law School, Thomas M. Cooley Law School, Worst Law School, TTT Law School, Cooley, Cooley Law School, Cooley edu, Cooley portal, SCAM, LAW SCHOOL SCAM, fraud

THOMAS M. COOLEY LAW SCHOOL SCAM

THE THOMAS M. COOLEY LAW SCHOOL SCAM

02/14/2011 73 Comments



Consider this a PUBLIC SERVICE FOR ANYONE CONSIDERING THOMAS M. COOLEY LAW SCHOOL. In fact, I am probably doing YOU THE BIGGEST FAVOR OF YOUR LIFE by raising public awareness and offering you this advice....all free of charge! As a prior student who was fortunate enough to GET OUT OF COOLEY let me lay a SMACKDOWN on this PIECE OF SHIT (POS) TTTT (Third Tier Toilet Trash) school.

Sorry to say there are little to no job prospects graduating from this school. Most graduates or people planning to attend do not have a shot in hell of actually practicing law, unless they either have GUARANTEED EMPLOYMENT, or believe that hanging a shingle in a dingy rented office post-graduation will provide the returns necessary to justify the 50k cost per year for attendance at this joke of a law school.

Cooley is without a doubt one of the three worst law schools in the United States. Given that there are 193 ABA Approved Law Schools, this is QUITE AN ACCOMPLISHMENT. In addition to the horrendous ranking of this commode, Cooley is also a "punching bag" favorite in legal forums and ridiculed and considered THE BIGGEST JOKE of all law schools amongst other law students and the legal community at large. There are multiple reasons for this:

1) AN OPEN DOOR POLICY- They accept just about anybody. Go write the LSAT without studying, send Cooley a free application with no recent Felony convictions, and YOU WILL GET ACCEPTED

2) ATTRITION RATE AND ADMINISTRATIVE POLICIES- The first year attrition rate is about 26%. On your WAY OUT Cooley thanks you for your first year tuition payment, now have a nice life!

3) THE "COOLEY RANKINGS"- Contrary to the US NEWS that ranks the school amongst the fourth-tier trash of America, Cooley begs to differ as they publish their own "Cooley Rankings" on their website ranking it as the SECOND BEST school in

Author

I am Rockstar05, a former student of the Thomas M. Cooley Law School Scam who was smart and fortunate enough to GET OUT to a better law school. I am here to bring truth and awareness to the students getting suckered in by this despicable excuse for a law school.

Archives

February 2011

Categories

All

RSS Feed

America (no words to describe this deceptive scam)

4) THE COOLEY "BUSINESS SCHOOL" IS A DIPLOMA MILL- A day and evening program, approximately 64% of enrolment on a part-time basis, a full-time weekend law program....basically creating ANY WAY you can think of to earn a degree from their school EXCEPT AN ONLINE J.D. PROGRAM (an honor that until this point I believe only Florida Coastal has achieved- still awaiting a formal announcement from Thomas M. Cooley regarding a new online program).

5) THE NON-EMPLOYMENT OF ITS GRADS- I can say I knew no one who 1) was about to graduate and had found any employment prior to graduation OR 2) anyone who had graduated and eventually found a job

I will elaborate and address each of these in order, backed by statistics and facts, painting a real picture of what Cooley really is, and what your career prospects will likely be post-Cooley.

I. **AN "OPEN DOOR POLICY"**

From Top Law Schools:

http://www.top-law-schools.com/thomas-cooley-school-of-law.html

"...with an acceptance rate of nearly 80%, admissions at Cooley are hardly selective – last year, 4,570 out of 5,775 received acceptance letters. The admissions office is very forthcoming about its use of an index to streamline their decision-making process: a candidate is scored via the formula (LSDAS GPA*15) + LSAT. The full-time JD class of 2012's middle 50th percentile LSAT scores ranged from 146-152, with a median of 148; Cooley's official policy is to accept only the applicant's highest LSAT score. LSDAS GPA scores varied from a 25th percentile of 2.60 to a 75th of 3.42. The part-time program was less competitive with an LSAT range of 143 to 149, with a median of 145. Its GPA range was 2.58 to 3.34, with a median of 2.97."

What the fuck???? Are these stats real you might ask yourself? 4570 acceptance letters? It's a shame that the American Bar Association (ABA) doesn't require GPA or LSAT minimums scores for law schools. Generally speaking someone with an LSAT score or GPA that low should NOT be attending law school. However, there are some of us who just do not do well on standardized tests and may have been more focused on partying and state football in our undergrad years. I for believe that an LSAT score DOES NOT accurately reflect on one's intelligence or is a good indicator or predictor of law school performance. THAT BEING SAID, someone who scores lower than a 145 is still probably not anyone you would want representing you or adding prestige to your law school. OK, so I guess Cooley does give a SELECT FEW an opportunity to attempt law school that are potentially more worthy of law school and the profession than those in more prestigious law schools with higher entrance credentials. I will give Cooley credit on this point, and this point alone.

Let's face it is, law school is very elitist. Any school that strips the profession of the elitism is bound to get ragged on. Thomas M. Cooley is the biggest offender. By defying this law school norm they have taken a huge beating to their reputation. Also, it is very difficult for firms to take a law school like this which accepts some students with absolutely pathetic entrance credentials very seriously.

Don't worry.... you WILL GET ACCEPTED...but that should not be your biggest concern if you read on. If you get rejected by this school you should probably a) either kill yourself or b) settle for sweeping the hallways at a REAL LAW SCHOOL.

II. **ATTRITION RATE**

From Top Law Schools

"The curve at Cooley is very tough - so much so that 22.4% of 1Ls and 14.5% of 2Ls either choose to leave or flunk out. Even 3Ls are not safe, as 14 of them were forced to leave last year."

http://www.top-law-schools.com/thomas-cooley-school-of-law.html

"I would suggest adding another category "Attrition rate" where Cooley would surely be number "1" : 1st Year – 26%; 2nd Year – 10.4%. Cooley wants people to believe that it can accept a host of people with the worst statistics (independent indicators) and come out thinking they are a top law school."

http://politicalcortel.org/2010/03/03/thomas-cooley-law-school-is-an-embarrassment/

What makes Cooley so bad is not the fact that it is a horrible fourth-tier school, but the fact that it is a fourth ranked school that acts like it is 1st tier school. The window is absolutely HUGE to get in but STAYING IN RIDICULOUSLY HARD....not to mention the BULLSHIT ADMINISTRATIVE POLICIES at Cooley which are UNHEARD OF AT REAL LAW SCHOOLS:

- The GPA grading curve is amongst the worst in the country. Making it virtually IMPOSSIBLE TO TRANSFER OUT.

http://en.wikipedia.org/wiki/List_of_law_school_GPA_curves

The above website lists the law school GPA curve at 2.00-2.40. This GPA at any other school would put you at the DEAD BOTTOM of the class and probably suggest that you did not open a book all term. For Cooley you would still need to work for this disgusting GPA. Therefore DON'T EXPECT YOUR GRADES AT COOLEY to be attractive to any law schools in your goals to transfer out if that's your reason for attending. Here is a typical admission office response to your transfer application "Not only did you attend the worst law school in the country but say what????!!!! You couldn't even get a 3.0 at that POS law school?" with the individual immediately proceeding to throw your transfer application (which can cost upward of $100 per school) in the trash bin, next to all the other poor Cooley students trying to get out. They don't give a shit that a 3.0 or above at this shitty school would put you in the top 25% of your class. The only marks that will get you to transfer out or will be respectable to any employer coming outta Cooley are A's....and unfortunately out of 100 people in your class maybe only 7-9 will get them! Oh and there are no +'s at this school either....Just the letter or a minus. So best of luck getting good grades!

All it takes is a little bit of research to establish that at the majority of other better ranked law schools, a 3.0 is a mediocre mark whereas that is an all-star mark at Cooley. So hey, you might be "the shit" at Cooley...but how does this all play out in reality??? Employers not familiar with Cooley's grading policies will see this and be like "WHATT ARE U SERIOUS THIS KID IS A JOKE, 2.85 FROM COOLEY AND HE WANTS TO WORK HERE???". You will be forced to put your class rank instead of your GPA on your resume out of fear of embarrassment or going directly to the trash. This will also limit your applications as most law jobs that accept applications through their website ask you for your GPA, NOT YOUR CLASS RANK. In other words, this school makes sure your fucked. Kind of works against you don't you think? You pay all this money just to have your own school limit your potential? But hey this is THOMAS COOLEY...nothing really makes sense here.

Believe it or not a SEXY 3.0 will put you on the Dean's List if you got it for the term and the Honor Roll if your cumulative is a 3.0 or above. Try explaining that to an employer...how your mediocre GPA sounding number put you on the honor roll at a bullshit school???!!!

- Part time and full time students are ranked together

Yep, so when you see your class rank out of 1000 students and think HEY I know people from all the sections in 1L...add em all up and there is no more than 300 people, this should explain why there are such a large number of students ranked. Also from the link below we can see that 84% of the students are part time students:

http://thirdtierreality.blogspot.com/2010/03/smoldering-steaming-pile-of-excrement.html#links

The website above also offers a realistic picture at the very top of what your career prospects will look like. So that rich spoiled son of a bitch who was too stupid to get in anywhere else can afford to take 1-2 classes a term and live off daddy's money or a trust fund and just coast through life can FOCUS ALL HIS EFFORTS ON TWO CLASSES and get straight A's while simultaneously degrading your legitimate efforts at 5 courses to a mediocre class rank!!! Such are the just policies of this prestigious 2nd BEST law school.

- Up to two-three weeks prior to the beginning of the term one may not add or change courses

So your only option if you want to change professors or courses when the year starts is to DROP. This is HARDLY the type of policies you would expect at the LARGEST LAW SCHOOL IN THE COUNTRY with by far the most students and largest selection of courses and sections for those courses. This policy is in effect to make sure it takes you longer and is more difficult to obtain a degree from this poor excuse of a law school.

- IT IS IMPOSSIBLE TO GRADUATE ON TIME

This school requires a mandatory externship that firms take as free labor then byeh ye! Cooley has four campuses that supply graduates endlessly, do you really think firms give a shit? Additionally after your core required courses almost ALL courses are worth only 2 credits...meaning you will have to stack up 6-7 classes a term to graduate without spending longer at Cooley than you want to. This is clearly not realistic.

- In some cases students must wait SEVEN WEEKS FOR THEIR MARKS!!

Marks are due on the fourth Monday of the following term plus add the three weeks off! Further proof the professors get paid to do fuck all. To make matters worse this joke of a law school couldn't even follow through on this promise for the Fall 2010 marks, with some marks taking an additional 48 hours past the deadline to be posted. Guess the school allots additional time for the professors

to get trashed over the holidays and celebrate their high paid salaries all the while laughing at the students dumb enough to attend this waste site.

- Cooley does NOT let you pick your own courses

Other law schools allow a lot of latitude in choosing courses and specializing. Not Cooley- your first three terms are PRE-SET and almost 2/3 of your entire degree is composed of REQUIRED COURSES. So much for taking courses you want to. But hell, COOLEY KNOWS BEST. After all, they did build this STELLAR REPUTATION in the legal community that keeps employers RACING TO EMPLOY COOLEY GRADS.

- Exams are all closed book

Other schools have open-book exams, meaning you can bring your textbooks and ANY NOTES you please. Cooley reinforces its reputation as a hard-core law school by not allowing this under the pretext that "hey, the bar exam is not open book". Correct Cooley, I'll give you that. But what about fucking courses like Tax which are not tested at all on the bar. How do you justify that? Further proof the faculty, staff, executive committee, and administration are all morons including the students for putting up with this shit. How do you expect someone who is not well versed in tax (which is REQUIRED at this school by the way....which makes no sense at all) to memorize all of that? I have a business background so that is just as good as giving me a 4.0 by closing the books for other students....but boy do I feel bad for the people who find tax challenging. Also in real life, what tax lawyer is not allowed to use a handbook in conducting their practice?

- There is no Spring Break

Hey other schools get breaks. Cooley? NO WAY- hey this is a top school, we don't take breaks. You want the BigLaw experience right? Well the hard work ethic and no-life part you will DEFINITELY GET...in fact this is the closest you will ever get to the BigLaw experience with a degree from this shithole.

- There is no reading week prior to exams

That's right. You go straight from Week 14 of classes to Week 15 of exams. Class on Friday where you are REQUIRED TO ATTEND and exam on Monday. No room to breathe. You are still studying and doing readings to be prepared for class so you don't get verbally annihilated by your professor in front of the class and you must simultaneously balance studying for your finals while completing your weekly course readings. Exactly what you'd expect from a fourth-tier school right? Other law school students at different schools would scream over policies such as these.

- All Exams Must be Completed in one week

Most exams are so CRAMMED IN so you will be at the library until 4 am having panic attacks a few weeks before exams and entering cardiac arrest each night before an exam. Yessir, it is not uncommon for most 1L students taking 5 courses to write all 5 in 5 days. Pretty crazy don't you think? Considering the exams are all worth 100% that would probably give anyone a panic attack. Exam schedules are a nightmare to anyone who attends this school. You will be lucky if you are taking 5 exams in 5 days....or 4 exams in 5 days. At other law schools this is unheard of!

- Unfriendly transfer policies

At this garbage school they frequently encourage students NOT to take a full course load. They encourage taking 3-4 classes a term. But seeing as schools like to see 24-30 credits over your first year (meaning two semesters) to transfer, by taking fewer courses it will likely take 3-4 semesters before you reach this number of credits making it IMPOSSIBLE to transfer! NO SCHOOL WILL TAKE YOU SERIOUSLY.

Also, this did not happen with me but I have heard of it happening to "friends of friends" and the internet is flooded with reports of the registrar's office at Cooley fucking them over. Examples are not sending required items by the deadline required at other schools and sending letters saying students are in bad standing when in fact they are not. Good luck getting into a different school when your own school is going out of its way to fuck you over.

III. THE COOLEY RANKINGS

HEY GUESS WHAT????? DID YOU KNOW THAT ALMOST 5000 STUDENTS GOT ACCEPTED INTO THE SECOND BEST LAW SCHOOL IN THE STATES???? ALL YOU HAVE TO DO IS APPLY....80% OF APPLICATIONS WERE ACCEPTED!!!!

Did you know this? Neither did I. In its NEW RANKINGS, Cooley ranks itself the 2nd best school in the United States, RIGHT AFTER HARVARD. WOW, are you surprised? FUCK, I CAN'T BELIEVE I TRANSFERRED OUT OF THE SECOND BEST LAW

SCHOOL IN AMERICA!!! I'm such a dumbass! Bet you didn't think that a 143 on the LSAT and a 2.6 GPA (low rangee from their open door policy from above) from undergrad would get you into the second best law school in the country!!!

THE LINK TO THE SHAM:

http://www.cooley.edu/rankings/overall2010.html

HERE ARE SOME TIPS FOR YOU UNDERGRADS WANTING TO GET INTO THE 2ND BEST SCHOOL IN THE COUNTRY. DO the following and make your parents PROUD BY getting accepted into the SECOND BEST LAW SCHOOL IN THE COUNTRY:

1) Do not attend class, ever.

2) Blow all your money on women and booze! Try developing an addiction to crack while you are at it... if you can pull it all off and get into the best law school with the best job prospects and have it all, why not?? Charlie Sheen does it right? Look how rich he is! He's the highest paid actor on TV!!! And damn is he cool.....all that money and the finest women....damn!!!

3) Drink every night, literally every night during undergrad.

4) Midterm exam tomorrow? Make sure you drink even more the night before and attend the exam with a hangover. Throw in some unprotected drunken sex just to be even more reckless....also you will have something to think about while drawing doodles on your midterm exam the next day.

5) Literally do nothing for the LSAT. Walk in and shade in any letter you want. Go "A,B,C,D" then start from the beginning for the entire 100 question multiple choice exam. This is to ensure you don't get any freebees by using any decent strategy such as shading in "B" for all responses (you may actually receive a 146 on the LSAT... and who wants to work harder than you should to get into the second best law school in the country right????)

THIS IS THE MOST PATHETIC THING I HAVE SEEN IN MY LIFE!!! YOU WILL LEARN ABOUT MISREPRESENTATION AND LIABILITY FOR RECKLESS REPORTING IN YOUR TORTS CLASS. I am shocked and dumbfounded the school has not been sued for its misrepresentation on its website as the SECOND BEST LAW SCHOOL IN THE NATION BEHIND HARVARD.

I have no fucking words to describe how angry this makes me. Proof that the executive committee and administration at this school do not have a shred of integrity or decency. We should ask them if they would send their kids to the prestigious Thomas M. Cooley Law School! I do not know how they can sleep at night publishing this shit. The audacity of these people just leaves me speechless. Whoever is responsible for this atrocity and public deception should be executed IMMEDIATELY.

In addition to being addressed and ridiculed in several law school forums as well as legal professional communities the "Cooley Rankings" are also referenced to in the following:

1) The Top Law Schools website

The Cooley Rankings
Each year, Judge Thomas E. Brennen (who, by pure coincidence, happens to be dean of Cooley Law School) publishes his own rankings in response to the *USNWR*, which he sees as flawed. Also by pure coincidence, Cooley tends to land in the top 20 law schools in the country in these rankings, ahead of notables such as Duke, UC Berkeley, and Stanford. These rankings are often critiqued as being highly biased due to the importance they place on factors such as student body size (a third coincidence: Cooley is the nation's largest law school) and law library square footage. Though the *USNWR* rankings have received their fair share of criticism over the years, and alternative rankings (such as the Leiter report) can often be credible alternatives, Judge Brennen's rankings are generally considered (at best) to be little more than a marketing tool for Cooley Law.

http://www.top-law-schools.com/thomas-cooley-school-of-law.html

2) This intelligent Blogger who devoted an ENTIRE PAGE to the ranking system

http://politicalcartel.org/2010/03/03/thomas-cooley-law-school-is-an-embarrassment/

3) Third Tier Reality

http://thirdtierreality.blogspot.com/2010/03/smoldering-steaming-pile-of-excrement.html#links

4) Wikipedia

"In the twelfth edition of *Judging the Law Schools*, a publication authored by Cooley Law, Cooley ranks itself second (above law schools such as Yale Law School, Stanford Law School, University of Chicago Law School, and Duke University School of Law). The ranking system advocated by the school has come under heavy criticism for the methodology used to determine placement.[The school maintains that judging a legal education by what caliber of students enter will not adequately address the quality of lawyers which come out. However, the Cooley ranking system has been criticized for never actually mathematically addressing this issue. Instead, a host of less determinative criteria, like volumes in library, total applications, total law school square footage, total minority faculty (notably ignoring ratio), total enrollment, total titles in library, and total serial subscriptions."

http://en.wikipedia.org/wiki/Thomas_M._Cooley_Law_School

I find it EXTREMELY FUNNY AND WEIRD THAT investors in the stock market require audited financial statements before investing in companies that must be validated and attested to by public accountants working all those long hours to verify the internal data meanwhile no one cares to audit or check these self-reported statistics from law schools that generate BILLIONS IN REVENUE EACH YEAR! HOW DO U THINK THE PRICE OF STOCKS ARE MEASURED? THE PRESENT VALUE OF FUTURE RETURNS. THE PRICE IS REFLECTIVE OF THE EARNINGS POTENTIAL OF THE STOCK. If the stock market provides shitty returns, negative returns, or NO returns there will be negative publicity, the stock will become less desirable, and no one will buy till it shrivels up and the company dissolves! The average investor lets say has 10-20k invested in stocks. What about the young, innocent, and ambitious law school student who is about to invest 3 years of his life including 150k+ in non-dischargeable debt into a future that could have NO RETURN in this shitty job market????!!! There is no one to audit or verify where all this money is going, or to verify there will be any return at all. The ABA does not regulate or verify ANYTHING the law school reports. How the fuck can you justify attending this POS law school when graduating with 150k+ in debt may not even get you a job paying 35k!!!!!!!

IV. COOLEY BUSINESS SCHOOL- A.K.A "DEGREE MILL"

"... in the most recent USNWR rankings, the school received a peer-review score of 1.4, and a lawyers/judges-review score of 1.8 (both out of 5). The school also has one of the highest student-to-faculty ratios in the country, at 23.5. This last statistic contributes to the idea of Cooley as a "degree mill".

At $28,740 per year for a full-time student, Cooley is actually one of the country's cheaper private law schools. The school also offers generous LSAT-based scholarships – any candidate who scores 163+ is eligible for a 100% honors scholarship, with correspondingly lower dollar amounts offered for lower scores. Michigan residents are automatically eligible to receive a 10% increase on an honors scholarship.

http://www.top-law-schools.com/thomas-cooley-school-of-law.html

I checked the Cooley website as I was ABSOLUTELY SURE regular tuition is NOT that low and found this:

http://www.cooley.edu/overview/tuition.html

OUCH. $28,740...damn so I was wrong....right? NOPE. In fact it turns out I'm almost 100% right when it comes to almost everything....most women who have had the pleasure of meeting my acquaintance would disagree but HEY all men know we cannot win arguments there. So I'll settle for this...besides my decision to attend this trash pit which was by far the worst decision in my life, and all my dealings with women, I am always right. I dug a little further (in fact just clicked on a link on the same page) to uncover this:

http://www.cooley.edu/prospective/expenses.html

Wait.....and YES I AM RIGHT!!! 32k in tuition alone ....THIRTY TWO THOUSAND $$$ IS ALL YOU NEED TO ATTEND THE SECOND BEST LAW SCHOOL IN THE COUNTRY!!! Why go to those 40k+ top ranked law schools called Stanford and Yale when you can go this prestigious institute of higher learning??

Nice deceit once again. Just 4k. When your students receive their tuition bill after rejecting all other acceptance letters and it is too late to turn back I am sure they won't figure $4000 which is 1/7 of the entire advertised tuition is that big of a deal. Plus you are getting a FIRST RATE tuition....you do realize it is a PRIVILEGE to attend Cooley right? There are 20% of the other original applicants who would KILL TO BE IN YOUR POSITION. Way to prey on the trusting yet less-than-smart candidates for your prestigious law schools you fucking bloodsuckers!

So this is more of a summary of the whole "open door" and attrition rate combination. This private law school is essentially a multi-million dollar business. In fact, in Lansing Michigan where the school is located they are the HIGHEST TAXPAYER....I'm sure the City of Lansing would do ANYTHING for this disgusting mess. HERE IS HOW IT WORKS IN LAYMANS TERMS IN CASE YOU DON'T UNDERSTAND THE DYNAMICS:

- Cooley take lotsa students, any student with $$, Cooley take
- Cooley fail out lotta students
- BUT Cooley keep first year money, become more rich
- By flunking out dumber of dumb students; Cooley only keep smarter ones
- half "smarter" students either get out 2 better law school
- other half stay at Cooley and improve Cooleys bar passage rate
- This make Cooley look good
- Cooley get 2 keep its ABA accreditation and still operate as an ABA law school to make more $$
- Cooley bar pass rate is semi-decent not reflective of the horrible reputation and the horrible school it really is becuz they kick out all dumber suckers that accept admission
- This keep Cooley look good and as lucrative investment to new gullable kiddies
- Cooley lure more kids and get more money
- More, more, money

The whole process is just sickening. Most of these students should not have been in law school in the first place. Sure Cooley, you are giving them a shot....but at what cost? Those without scholarships will waste a year of their life at your school and total estimated expenses of 48K according to your site!!! What says being ethical or having integrity than taking 50k from a poor debt-ridden kid who doesn't have a shot in hell at practicing law??? The website above provides the 2010-2011 figures....so it is likely that COSTS HAVE ONLY GONE UP to attend this prestigious "business school". Congrats you criminals, you have accomplished robbery!

100% scholarships to attract students to give your school more credibility and tuition-paying dumbasses who have nowhere else to go in addition to the caveman breakdown above....GREAT BUSINESS MODEL!!! If John Dillinger were alive he would probably quit robbing banks and just decide to run Thomas M. Cooley Law School....seeing as both are essentially same things....only difference is that no one is going after these criminals over at Cooley!!!

V. THE NON-EMPLOYMENT OF COOLEY GRADS

Yes you read it right. Not unemployment, not under-employment, NON-EMPLOYMENT.

From: TOP LAW SCHOOLS:

Life After Graduation

Like many who earn degrees from Tier 4 schools, Cooley graduates do not tend to finish school with job offers falling into their laps, especially after the recent economic downturn. Graduates are prepared for the Michigan bar only slightly worse than at other schools, passing at a rate of 80%, compared with the state average of 82%. Graduates do not fare well on other bar exams, however. Other popular choices were New York (28 percentage points below average), Illinois (16 below), and California (44 below). Nine months after graduation, only 77.8% of Cooley alumni responding to a school survey have managed to find employment – meaning nearly a quarter remains unemployed; this statistic does not factor in the number of graduates responding to the school's employment survey, so the real employment figures may be lower. The majority of graduates remain in Michigan to practice law, and go into the private sector – thus putting to good use the hard skills Cooley considers so important.

I am SURPRISED that Cooley publishes its private sector starting salary for at 51k on their site....which seems relatively honest in comparison to publishing their own rankings putting them at the top of the law school pack. Let me also remind you that PRIVATE PRACTICE IS GENERALLY THE BEST PAYING.....WOW SO YOU CAN PAY 50K/YEAR FOR THREE YEARS TO HAVE AN AVERAGE STARTING SALARY OF 50K???? WHAT AN AMAZING INVESTMENT!!! I was making more than that figure PRIOR to attending law school. Also, Cooley's response rate is extremely extremely low so it is likely that grads working at McDonalds and Walmart are not responding or the average salary of a "grad" would be much much lower...but hey even they are still employed RIGHT?? All it took was thousands upon thousands of dollars and years of time, effort, and hard-work.

DO NOT ATTEND THIS SCHOOL unless you have guaranteed employment, such as through family or very close friends. Beware

the current job market- a job that is promised to you prior to law school may NOT BE THERE after three years through no fault of the promisor. At that point you will be in the same pool of Cooley grads that were 1) intelligent but too dumb to do their research before accepting an offer an admission from Cooley or 2) smart enough that Thomas Cooley was the only school willing to admit them. The value of a Cooley J.D. is virtually worthless. Additionally, the opportunities of even being UNDER-EMPLOYED are very slim. Any diligent employer would be wary of *hiring* someone for under $15 an hour knowing that individual is being severely under-employed for their "training" as a lawyer. Nothing screams FLIGHT RISK like a J.D. of Law making $11.50. You are kidding yourself and must not take either yourself or the possibility of actually practicing law for a firm very seriously at all if you plan on attending this institution.

THE WORST OF THE LOT are people who come from all over the US come to Cooley to get a law degree. This include LOTS of people from California, Illinois, and the good state of New York. I would go as far to say that approximately 70% of the students at Cooley's main Lansing campus are from out of state. If you ever are unfortunate enough to ever be in Lansing, Michigan and take a stroll around you will see that virtually EVERY license plate you see in the downtown area immediately surrounding Cooley is filled with out of state plates (By the way living in LANSING felt like I was doing time in the state pen). These are the "rejects" from almost each and every state who could not get into law school in their own state so all the rejects seek refuge from the harsh reality that they should not be practicing law at the Thomas M. Cooley Law School....which SLOGAN SHOULD BE "WHERE DEGENERATES UNITE". The idea for these ass-clowns is to attend out of state with the intention of taking their prized Cooley J.D. back to their home state, write the bar, and find employment. I need to ask these people, ARE YOU RETARDED? When mediocre law schools in your own state are having trouble finding jobs for their grads or even paid internships do you think your out of state TTTT degree from one of the worst schools in the country will do any better? NO. NYLS grads are finding things tough and Touro grads literally can't do shit in New York...you think a TTTT Cooley degree in one of the most saturated markets in America will do you any good at all??? If you think any differently you are in denial. You probably won't show me your face in four years post-graduation when reality kicks in and all my warnings come true in so I can tell you I TOLD YOU SO.

FINAL WORDS

If you are attending due to a scholarship or affordable tuition, or even a FREE EDUCATION I would not attend here. When applying to firms after graduation would you really say in an interview (assuming you actually get one), "ya they gave me a 100% scholarship, I really am a genius and scored over a 163 on the LSAT"???? Do you think the employer could or will verify any of these statistics to give you any credibility???? ABSOLUTELY NOT. Also the Cooley name is just toxic in the legal community, if they see Cooley anywhere on an app it is likely it is going straight into the garbage. I would not be surprised if partners or hiring managers advise their secretary, HR person, or whoever is screening applications to just dump all the Cooley apps in the trash bin! If you are like me, use your better marks that got you a scholarship for at Cooley and pay full tuition at reputable regional T1 or T2 school....you will not regret it!!

If you are attending with the intention of transferring out ASAP please rethink this option. Yes, top students DO TRANSFER OUT. However, it seems every student enters thinking they will be a part of these top students. If you think you will transfer and be in the top 20% of a class, keep in mind that everyone else is thinking that too....that means 80% of students who think this way will be disappointed. Law school is NOT LIKE UNDERGRAD....In fact it makes undergrad look like a joke! If you didn't apply yourself then and think you will step it up now....based on no prior law school performance HOW CAN YOU POSSIBLY GAUGE your future law school performance???? Do yourself a favor and do not attend with this mentality. In fact do not attend any law school where you would not want to graduate from...other law schools are also difficult to transfer from. However, the stigma associated with Cooley along with the NASTY GRADE CURVE discussed above will make it virtuously impossible to transfer.

If this is your ONLY OPTION to attend law school I would probably re-consider law school as a whole. Either retake the LSAT and do better or find a different career altogether. Imagine life as a straight male with your goal of attending law school being analogized to a goal of being rich without working for a living or doing anything remotely notable or worthwhile ala Paris Hilton. Your options are to create a sex tape with Snooki from the Jersey Shore, Screech from Saved by the Bell, or to choose to actually work for a living. Now if this was a reality, and I was DEADSET on being famous I would probably re-consider my sexual orientation and go with Screech or choose death as an option. Jokes aside, I know you would like to be a lawyer- but hell, it isn't for all of us. If everyone could be a doctor or lawyer, don't you think everyone would be? You want to spend years of your life that you cannot get back, likely get into 150K or more of non-dischargeable debt, for a degree with a ZERO RETURN ON INVESTMENT????!!! LISTEN TO ME, YOU WILL RUIN YOUR LIFE BY ATTENDING THIS SCHOOL. You can work at Wal-Mart without the Cooley J.D....take my word for it. Listen to my advice, it is the best return on your investment for reading this and quite possibly the best return on investment in your life if you are considering attending the Thomas M. Cooley Law School!

RockStar05

P.S. Cooley considers almost 6000 applications a year, so I am certain that at least 6000 people a year do consider this as an option or look into it. I have done the research and experienced most of this for you, providing the lowdown and exposing one of the

biggest scams in modern American history. I tell it EXACTLY HOW IT IS. I will be accepting thanks for devoting my entire day to this 12 page paper creating public awareness while ignoring my studies at my new law school to do the public a service that is LONG OVERDUE! Your welcome.

This is your new blog post. Click here and start typing, or drag in elements from the top bar.

0 Like '36

Comments

Rockstar05 *Tue, 15 Feb 2011 12:53:31 am*

Thanks for the comment John. Generally, the definition of a FRAUD is an 1) intentional 2) misrepresentation of material fact 3) to induce another 4) actual reliance, and 5) damages.

It's only a matter of time I HOPE before an unemployed Cooley grad uses their Cooley Education to certify a class of these poor unemployed bastards and sue those criminals at Cooley to get their money back PLUS interest and hopefully enough punitive damages to shut this shithole down! Again, LONG OVERDUE.

Nando *Tue, 15 Feb 2011 2:45:00 pm*

That was an EPIC post. I posted the link to this entry, over on JD Underground.

http://thomas-cooley-law-school-scam.weebly.com/1/post/2011/02/the-thomas-m-cooley-law-school-scam3.html

Here is a follow-up post on Cooley. It is directed toward shill Nelson P. Miller. This patently dishonest academic had the gall to write the following piece:

http://www.michbar.org/journal/pdf/pdf4article1761.pdf

"In the October 2010 edition of the Michigan Bar Journal, associate dean at TTTT homa$ M. Cooley Law $chool, Nelson P. Miller wrote a piece entitled, "Legal Education as a Pie-Maker: Why Michigan Benefits from Accessible Law Schools."

Thank you for DECIMATING this foul and rank pile of excrement. I have visited the economic dead zone known as Michigan. Congratulations on transferring out of the 2nd best law school in the land.

Nando, graduate of Third Tier Drake

jdpainterguy *Tue, 15 Feb 2011 5:26:55 pm*

I started my second semester at Touro Law School paid in full with Federally backed Student Loans.

I had to pay that tuition for the second semester in advance, or I would not have been allowed to attend classes.

However, I still did not have all of my grades from the first semester.

The grades I did have already were terrible, and I walked around for two weeks wondering if I had in fact flunked out.

It turned out I had a GPA that was around 1.8 or 1.9, which placed me on academic probation.

It wasn't until after the third semester, and after taking some 2nd year "joke" elective classes for an easy A or B+ that I was able to pull my gpa above 2.0 (passing).

How stressful and miserable those first two weeks of my second semester were. Looking back, I think I almost had a nervous breakdown over it all.

I checked for my grades by telephone every day, and at the same time was terrified of being called on in class, to see if I had briefed a case that was among a 100 page reading assignment for the night before. The same scenario for some of my other

classes.

How bitterly do I resent the way I was forced to pay my tuition in full with Federally Backed loans, without even the courtesy of having all of my grades, and knowing where I stood academically.

Surely that was illegal.

You say a lot about Cooley, and I identify with a lot of it because I experienced very similar things at Touro.

I could go on and on.

Rockstar05 *Tue, 15 Feb 2011 5:28:10 pm*

Thank-you Nando for your kind words. Coming from the creator and author of the Third Tier Reality blog which I have referred to several times in my post above, in addition to being an inspiration for me to expose the reality of this fraud of a law school, it does truly mean a lot.

For those who don't know, Nando is one of the most famous bloggers who is leading the movement against law schools in America which have nothing to provide Americans besides J.D.'s that will never be put toward their intended use and SIX DIGITS OF DEBT to be by your side FOR LIFE. He has profiled SEVERAL other schools in a much more concise fashion on his general blog which also contains links to several other useful sites.

Since I can only speak from experience at this shithole, if you are considering any law school I would suggest taking a look at Mr. Nando's site to see if any of your "potential" law schools are profiled there. I am certain that you will find the authors down to earth, fact-based, realistic, no-nonsense approach to the law school game incredibly informative. Here is the link:

http://thirdtierreality.blogspot.com/

Additionally, the NY Times has also quoted Nando in the article above addressing the law school pandemic in America:

http://www.nytimes.com/2011/01/09/business/09law.html

The truth is out there folks!!! The NY TIMES article addressing this issue is hopefully just the beginning of the war against these blood sucking money making scam machines. Cooley is still BY FAR the WORST culprit, but there are still others that are not too far behind.

Rockstar05 *Tue, 15 Feb 2011 5:42:59 pm*

@JDPainterGuy

I am sorry to hear your story. I am aware of similar occurences and the same policy at Cooley.

Perhaps I did not adequately address the implications of wastebuckets like COOLEY giving back your grades so late.

1) You could find out that you've been kicked out in week 4 of the following semester. Say bye bye tuition. Yes, you will blindly pay funds and carry on without any feedback of where you stand academically. Seeing as the attrition rate is SO LARGE and the grade curve so low I can imagine that a HUGE amount of students are stuck awaiting their financial and academic fate for weeks, with no other option to wait like sitting ducks. FROM YOUR FRIENDS @THOMAS COOLEY AND SHITHOLES LIKE TOURO: Enjoy the post-exam break kiddies!!!

2) If you are like every other Cooley student and are attempting to transfer to a legitimate school you will have to wait until WEEK 4 for your grades (IF YOUR LUCKY AND THESE JERKOFFS ACTUALLY COME THROUGH ON ONE OF THEIR EMPTY PROMISES) and until WEEK 7 or WEEK 8 of the next semester for your class rank due to grade appeals....this leaves the total anticipation for grades for a transfer app at 11 weeks!!! With them bragging about the largest student body, why doesnt the largest administrative body try to do their fucking jobs properly? Yes this will set you back TREMENDOUSLY in determining where it is worth it to apply and getting your applications out before deadlines. Additionally, this will all be conveniently happening during the middle of the term crunch where everyone is starting to study for finals again while doing weekly readings to try to have a shot at getting out of Cooley.

How on earth can any shithole justify doing this to their ambitious, tuition paying students? It is still beyond me.

jdpainterguy *Tue, 15 Feb 2011 5:51:00 pm*

If practices like these are illegal, and Schools like Cooley and Touro are, all the while, playing around with Federally backed Student Loan money (in whole or in part),

then doesn't that make it a Federal Offense?

Rockstar05 *Tue, 15 Feb 2011 6:14:04 pm*

While I cannot speak from experience or knowledge, as I am not well-versed in the laws regarding Federal loans and the public and private institutions such as Cooley and Touro that administer them, I can speak from common sense, logic, and what intuitively seems reasonable.

I would imagine that the availability of federally backed student loan funds is dependent solely on your registration at an academic institute and a confirmation of that enrollment and corresponding fees to the federal government. As far as the institutions go, what happened to you at Touro and what happens at Cooley seems to be more of a administrative and academic policies that are screwing students over. Unfortunately, as far as the federal government goes, they advanced the funds in good-faith of your continuing education, fulfilling their obligation to providing the means to education for America.

The decision of when funds are due to stay enrolled in classes is ONLY set by the private (or public I guess) institutions. The government has done its job and provided the funds by that point assuming your timely application and fulfillment of their requirements. When tuition is due and when grades are distributed are purely academic and administrative decisions of the school you are attending. So unfortunately I see these as totally different and unrelated issues, and unfortunately, as far as the federal government goes you WILL OWE THOSE FUNDS. As far as the "educational institute" goes they will have THOSE FUNDS FOR PROVIDING YOU WITH ABSOLUTELY NOTHING but a lot of sorrow and regret for attending schools of such character.

A school that actually gave a shit about its students would likely take these factors into consideration and may postpone payment of fees to coincide with the release of grades. This again would be assuming that these schools have a shred of dignity. Hope this helps. Anyone else who is more educated or more knowledgeable on the issues JDPAINTER speaks of, please feel free to help out our friend (and another victim of trash receptacles like Cooley and Toro) by posting. Thanks.

J-dog *Tue, 15 Feb 2011 6:55:20 pm*

I didn't even know some of the stuff about the grading curve, lack of breaks, 1-week exam period, no reading time off, etc.

That's absurd and surely mentally taxing.

What a ridiculous monster our system has created.

Rockstar05 *Tue, 15 Feb 2011 7:10:36 pm*

Yes, the fourth tier monster that approaches law school like the first tier monster that never was.

I have also heard of HORRIBLE GRADE CURVES at the other shitholes of America such as Touro, and the Thomas Jefferson School of Law in California. This is all very surprising since these schools listed are the shittiest of the shitty. You would think in return for fooling students out of hundreds of thousands of dollars, and actually having students ATTEND THESE COCKROACH SITES, they would AT LEAST GRADE NORMALLY, let alone go all out and inflate their graduates marks so they actually have a shot in the job market of getting employed also boosting the prestige of their business institutions!!! This is the only thing of the fourth tier trash business model I have yet to figure out. AND I HOPE THAT BY POSTING THIS I HAVE NOT GIVEN ANY COOLEY EXECUTIVE OR ADMINISTRATIVE PERSON THE FINAL KEY TO PERFECTING THEIR BUSINESS MODEL!!!!

I'm glad that this is creating awareness that people in Cooley do have it REALLY REALLY BAD. That's why I can't say ONLY morons graduate from there besides being morons for sticking around to graduate from an unethical pathetic school. Otherwise I just feel really SORRY for them. Yes they do have the work-ethic, they have survived an atrocious attrition rate and have worked hard to excel under the policies and system outlined above.

However, I pity them because no-one will ever acknowledge or appreciate this fact. Hence I have started this to attack the root of the problem, don't attend BLOOD SUCKING PARASITE CAMPS like this school or YOU WILL RUIN YOUR LIFE DESPITE YOUR BEST EFFORTS TO EMERGE A WINNER.

Rockstar05 *Wed, 16 Feb 2011 12:58:44 am*

Here is a link to an established blog for a similar cause that was appreciative enough of my work on this blog exposing the truth and reality of this sham of a law school to create a link to my site. They also have included a link to their own public broadcast weighing-in on the Thomas M. Cooley Law School and their ranking system. Listening to this should give you some input and perspective on the OUTSIDE IMPRESSION OF THE COOLEY AND IT'S STELLAR REPUTATION (just in case you doubt what I am telling you or think for even a millisecond that I am some disgruntled student telling lies about the 2nd best law school in America).

http://shillingmeoutly.blogspot.com/2011/02/attention-cooley-you-got-served.html

After their audio broadcast loads skip to 27:57 as they instruct to hear the Cooley stuff.

EscapedCooleyStudent *Wed, 16 Feb 2011 1:22:58 am*

I did a year at this trash School! They did exactly what you said they do, they failed out a large portion of us!

I had a property Prof even tells us the admin told her she was passing too many students, and to warn us the curve was going to be even worse that year. Surprise that was lowest grade by far!

I ended up getting C's in most of my classes, but they were C-s. So that means under 2.0. I almost managed to get a B in one class, but I missed it by 1 point! There is no C+ so lowered it to C so that means a 2.0. Like I said, scam!

End of the day I ended with slightly below a 2.0 and was killing myself for this. At this point I was up the creek, no ABA school would touch me. I had another ABA school pre-accepted me as a transfer, but when they found out I wound up with under a 2.0 it was over. Cooley Scammed me again!

Thankfully I found an unaccredited law school out west. I am doing well there now. Having to repeat my 1st year was horrid, and taking a test called the baby bar almost killed me. (That's another rant, 62% failure rate on that test) but I made it.

End of story I am doing fine. But no thanks to Cooley. Run, Run, Run away from this school. Rock Star Thanks you for posting this, you are my hero!

Rockstar05 *Wed, 16 Feb 2011 2:17:20 am*

Thank-you for sharing your experiences with us EscapedCooleyStudent.

Perhaps I should re-title the name of this blog as Cooley vs. Unaccredited but there might be too much debate.

Let's stick to the sure things in life and we should do just fine!! For example, Cooley is the biggest piece of shit in North America. I would rather get a "J.D." from a culinary school in Mexico than this "law school" as at least I would be more likely to find a paying job in the American job market(sorry if I offended any culinary schools by being compared to Cooley).

I created this blog so EVERYONE could make an INFORMED DECISION with respect to this and other "scam" schools. I have made all this information publicly available to ensure future prospective students are COMPLETELY INFORMED, and therefore attend these TTTT at their own peril. It is my wish and goal that this reaches the MAXIMUM AUDIENCE and is spread TO ALL THE NAIVE PROSPECTIVE LAW STUDENTS OF AMERICA FROM ALL ACROSS THE WORLD. Don't say no-one told you so...

Cooley Defender *Wed, 16 Feb 2011 12:06:20 pm*

Look, I am going to make a mild defense of Cooley, just based on what I have read. I am not a lawyer and did not ever attend Cooley, so you can certainly take issue with my points.

First, the reputation of Cooley is horrible. The "Cooley rankings" are a complete joke and should be immediately discontinued.

However, as you have pointed out, Cooley operates under a different premise than other law schools, they admit more students and they fail more. This model is not going to get you points in the rankings. However, it certainly seems as reasonable as only admitting a select group of students and passing them all. I am not defending the Cooley model - it's just different.

And Cooley does a decent job in getting graduates to pass the Michigan bar. So a Cooley education does appear to be helpful

in getting the marginal law student to bar passage.

Having said that, any student should be aware that there chances of actually finding employment with a school of this reputation is virtually nil. The only reason to go would be that you can't get in anywhere else and passing the bar (but not getting a job) is useful. That shouldn't be too many people, but I suppose they exist.

Joe *Wed, 16 Feb 2011 12:21:03 pm*

Ok, I'm sure I'm going to get flamed, but...

Because cooley makes it hard to get an A on exam by having closed-book exams, it is a shitty law school? I get the whole financial aspect of this, and I agree that the cost of cooley (and all other law schools) is ridiculously high, but does that mean cooley provides a bad education? It seems like the other way around. They give everyone a chance, and many dont make it, but some do.

As for the 2.0 curve - why is that bad? Shouldn't a C be average? Half above and half below?

Rockstar05 *Wed, 16 Feb 2011 2:00:50 pm*

STAY TUNED WHILE I FINISH MY LUNCH THEN PROCEED TO FLAME THE ABOVE TWO POSTERS FOR THEIR SILLY POSTS!

Actually you know what, MY LUNCH CAN WAIT!

In all fairness I was expecting MUCH MUCH worse from Cooley defenders. These two aren't completely clueless and sheltered from the reality of the Thomas Cooley shithole. 36 hours of being live and over 800 unique visitors... I KNEW IT WOULD ONLY BE A MATTER OF TIME before some COOLEY DEFENDERS popped up.....as they have on several other forums then get sent into oblivion for their nonsensical lame and irrational attempts to defend the school or justify their individual attendance. These posts are far less idiotic than what I expected.

First things first, I will deal with Cooley Defender . Before reading the link below that I will rely on as "accurate" and "truthful", I would like to bring to everyone's attention that these are SELF REPORTED STATISTICS from the most unethical and deceptive law school in the nation, known as the Thomas M. Cooley Law School. Also keep in mind there are reports all over the internet that the true attrition rate over all three years leaves only 25% of the entering class to write the bar.

http://www.cooley.edu/overview/barresults.html

YOU WOULD HOPE THAT THE WORST LAW SCHOOL IN NORTH AMERICA WOULD BY ACCEPTING LITERALLY EVERY CANDIDATE THAT APPLIES TO IT AND BY FLUNKING OUT ¾ (75%) OF IT'S STARTING CLASS WHEN ALL IS SAID AND DONE, THAT THE TOP 25% OF THE ENTERING CLASS INCLUDING THE 100% SCHOLARSHIP STUDENTS MANAGE A BAR PASSAGE RATE ONLY A FEW POINTS BEHIND THE STATE AVERAGE!!!! Their bar passage rate is ABSOLUTELY PATHETIC when you look at it from this CORRECT perspective.

Imagine taking the top 25% writers at another school that DOESN'T have a policy of FLUNKING OUT 75% of its starting class. They bar passage rate for those schools would probably me in the 95%+ range!!!! Cooley is pathetic for this same reason....and THEY FLUNK PPL OUT so more people PASS THE BAR LEADING TO A HIGHER BAR PASSAGE RATE...to lead INNOCENT FOOLS LIKE YOU WHO DON'T KNOW ANY BETTER TO THINK..."WOW I DON'T KNOW WHY EVERYONE IS SO NEGATIVE ABOUT COOLEY, THEIR BAR PASS IS RIGHT AROUND AVERAGE, YOU KNOW WHAT (either because of a lucrative scholarship because you are semi-intelligent, OR because you have virtually no other options) I WILL ATTEND HERE". YOU FOOLISH LEMMING, if you read my article above properly you would see that this is THE COOLEY BUSINESS MODEL AT WORK! I broke down that business model in caveman terms and YOU PEOPLE STILL DON'T UNDERSTAND??? They do this to attract and retain more students, keeping the better, and rejecting the worse and pocketing money from 75% of the naive fools who attend, do the math lemming:

Imagine you have inelastic demand....regardless of how many seats you have they WILL FILL, and at WHATEVER COST, because HEY, EVERYONE WANTS TO BE A LAWYER! Assuming the 75% who flunk out are the same dumbasses who couldn't get a scholarship at this waste bucket:

Yearly Cost of Attending (Tuition and Books)- $35000

Entering Cooley Class:
Out of the 5000 acceptance letters let us assume that 4000 poor suckers actually accept an offer to go here. 3000/4000 of these guys will flunk out, meaning only 1000/4000 of these guys will actually graduate
3000*36,000=108,000,000
3000*full cost of attending to students 50K per year=150,000,000
COOLEY POCKETS $108M/YEAR ON THIS SCAM!!! ALL THE WHILE THESE POOR STUDENTS RACK UP 150M ON DEBT!!! Ok I will say that due to inaccurate attrition rates everywhere that these numbers may be inflated. But NOONE can argue with the fact that the attrition rate here is HUGE and AMONG THE WORST IN THE COUNTRY. SO NO, THIS MODEL IS NOT RESPECTABLE AT ALL COOLEY DEFENDER.

Thank-you for conceding the following and giving yourself any sense of intellectual credibility:

"Having said that, any student should be aware that there chances of actually finding employment with a school of this reputation is virtually nil. The only reason to go would be that you cant get in anywhere else.... That shouldnt be too many people, but I suppose they exist."

As for your earlier comments, if you aren't considering law school or cannot understand simple business concepts or my spelling out of the Cooley scam in the lengthy blog post above please refrain from making silly comments. Just read and you might learn a few things! You can drop me a thank-you later.

LEMMING #2 Mr. JOE (clearly the bigger lemming)

I AM FINDING IT DIFFICULT TO BELIEVE THAT YOU READ MY ENTIRE POST AND THE FOLLOWING COMMENTS, ARE YOU FOR REAL??
I won't address WHAT MAKES COOLEY a shitty law school. I believe I have hit every point in a persuasive manner, as well as provided links and insight into the "Cooley factor" to the outside world. The difficulty of achievin

Rockstar05 *Wed, 16 Feb 2011 2:15:26 pm*

LEMMING #2 Mr. JOE (clearly the bigger lemming)

I AM FINDING IT DIFFICULT TO BELIEVE THAT YOU READ MY ENTIRE POST AND THE FOLLOWING COMMENTS, ARE YOU FOR REAL??
I won't address WHAT MAKES COOLEY a shitty law school. I believe I have hit every point in a persuasive manner, as well as provided links and insight into the "Cooley factor" to the outside world. The difficulty of achieving good grades at this school does play a part. Graduating from this school is bad enough....the grades come into play because on a 4.0 scale, NO EMPLOYER WILL TAKE YOU SERIOUSLY given the grade curve. This is Cooley's last laugh going all the way to the bank while making sure they fuck you over for the rest of your life: all that debt, and literally no means to a job to pay it off.
There are MUCH BETTER SCHOOLS were 3.00 is the "average"....at Cooley I would estimate that is around a 2.50....NOW THINK ABOUT A SCHOOL WITH A REPUTATION AS THE WORST LAW SCHOOL IN THE COUNTRY, AND THE AVERAGE GRAD HAS A 2.5???? YOU WOULD KICK THAT JOB APPLICANT OUT OF YOUR OFFICE. Who would hire someone like that? That GPA is not reflective of law school performance. Hence, PART of the reason why Cooley is a bad school.

And no, think about it, in this depressed legal job market do u think the bottom 50% of the class, C- and below will actually get hired, especially from this fourth-rate TTTT???!!!

Finally, further proof you either a) did not read my blog or b) have HORRIBLE reading comprehension, you have missed the point of my blog. I never insulted the quality of education. Just expressed my empathy and pity for the grads who do work hard and graduate from this school to never get a job, any respect, recognition, or a salary that matches the level of effort they put into law school.

Next time you post please read carefully and THINK BEFORE POSTING Mr. Joe. I will not be so nice to repeat offenders.

Cooley Defender *Wed, 16 Feb 2011 2:43:22 pm*

Okay, I already hate my name because I'm not really defending Cooley.

Rockstar05 (much better choice) you have a logical problem in your argument. You say:

1. Cooley is a money making machine.
2. Cooley fails 75% of the students.

Which is it? You can't be both, they would obviously make more money if they didn't fail everyone.

I remember my grandfather telling me that when he went to law school after WWI (yes WWI - my grandpappy was old) they took everyone and failed a bunch out. Or at least I think he did. So maybe Cooley is just old school.

Rockstar05 *Wed, 16 Feb 2011 3:31:37 pm*

When you look for logic, look no further than my posts.

Your post is CLEARLY INDICATIVE of AGAIN, NOT UNDERSTANDING THE BUSINESS MODEL.

Think about it this way....LOGICALLY, THROUGH SHEER NUMBERS, COOLEY ACCOMPLISHES BOTH. They send out almost 5000 acceptance letters!!! THIS WAY THEY CAN AFFORD TO BANK FIRST YEAR TUITION FOR 75% OF THOSE WHO ATTEND THE SCHOOL, FLUNK THOSE OUT, YET STILL RETAIN A STUDENT BODY THAT IS LIKELY THREE TIMES A REGULAR LAW SCHOOLS ENROLLMENT AND CONTINUE MAKING MONEY!!! IN THE MEANTIME THEY RETAIN THE "BEST" STUDENTS TO INCREASE BAR PASSAGE RATES AND KEEP COOLEY LOOKING LIKE A GOOD INVESTMENT!!!

I DONT KNOW HOW MUCH MORE SIMPLER I CAN EXPLAIN THE ABOVE.

They advertise themselves as one of the private schools with the LOWEST tuition. Sure we can give them that...but due to the volume of students and multiple campuses (currently 4), I would not be suprised if they were in the MOST WEALTHIEST law school school as well....if not, then certainly in the top ten I would assume.

Fetch *Wed, 16 Feb 2011 3:47:50 pm*

Iknow three kids from NY who recently uprooted, and traveled to Lansing to attend this 4T dump. These kids are graduates from 4T UGC toilets and performed miserably on the LSAT. Cooley was the "only" law school they would get accepted into.

But here's the deal...these kids think they could transfer to a better ranked law school after one year at Cooley. Why the ABA does not do the responsible thing in pulling the plug in accrediting Cooley is beyond me. This school is really doing a great disservice to these kids. Some of these kids didn't perform that well in UGC. What makes this school administration think that these kids have what it takes in being an attorney?

Most of the student body is not there because they want to go to Cooley; they are there because they can't get accepted into any other law school. And it's egregious that the ABA allows this low ranked school to accept applicants and charge such an outrageous amount of tuition. There has to be some cut off point in which people should not be admitted into law school. Not everyone is cut out to be an attorney, just as not everyone is cut out to be a doctor. It's shocking that the ABA is more concerned about generating money from school accreditation than being concerned about upholding standards and integrity in this field, and that sickens me.

Rockstar05 *Wed, 16 Feb 2011 3:54:09 pm*

Excellent post Fetch. You reinforced what I said and added additional constructive insight.

This blog post/article now serves MULTIPLE PURPOSES:

1) Prospective Law School Students- avoid Cooley at all costs. If this is your ONLY option, retake the LSAT or find a different career.

2) The intervention of the ABA and regulation of reporting standards to uphold the integrity of "law schools" as institutions and the profession itself

Looking forward to more posts like the above.

EscapedCooleyStudent *Wed, 16 Feb 2011 4:12:50 pm*

Yes the unaccredited law school experience has definitely been a hard road. Most unaccredited LS's are diploma mills that would put Cooley to shame on the % they fail out. The only difference between most unaccredited schools and Cooley is they

do their "scam" on a smaller scale. These places charge between 4-8k a year for their 4 year programs, and have smaller student bodies. So you are not left a debt slave like at Cooley, but you are left without a JD in most cases, or without any real chance of ever passing the bar.

The Baby Bar claims most 1st year students with an 82% failure rate, it is merciless. There are people that have take the exam 10 times and never passed. It is a test designed by the state of California to fail you. For instance, having aced one class I figured my BB exam for that subject would be cake, surprise I ended up with a score in the mid 80's in it. Like I said, its a brutal test, only by selling your soul to your law books will you have any hope. Only by the grace of God did I pass that test.

One prominent example of trash unaccredited school is Peoples College of Law. A place with its only noteworthy accomplishment is it had 1 person finally pass the bar in the last few years, that's right 1 person! Out of countless others that failed out!

Either because of failing the Baby Bar or flunking out academically you are not going to become a JD at most non ABA unaccredited schools or at Peoples. And even if they do get to take the Cali Bar, most Peoples Students fail it time and again! For instance the mayor of LA went there, and failed the bar 3 times before calling it quits!

Oh and here is a great picture of their campus, you will get a laugh out of this one. I just hope this is not one of their students!

http://www.top-law-schools.com/forums/viewtopic.php?f=22&t=66431

As for my unaccredited LS it is at the other end of the spectrum. Its sort of a T1 unaccredited, if such a thing exists, lol. Kind of an oxymoron I know, but I am getting a great education. Highest Baby Bar passage in the state more or less. The only negative aspect is tough curve, not as bad as Cooley's by any means, but when you have to kill yourself for 2.5ish you know your in trouble, especially when a lot ABA LS' have a B+ curve. If I am lucky employers will just assume my school is accredited when I apply for a job, and not ask about my GPA. If I have passed the bar, they don't need to know my school isn't accredited why does it matter even matter at the end of the day if I have passed the bar anyway?

Did I mention closed book exams, that's standard for the Baby Bar and every unaccredited LS I have ever heard of. But in the end I will be able to take the bar in a few years, and practice. And at only 4-5k a year its a deal, compared to Cooley's 30k+!

As for the Cooley Defender, do you have no shame!? The place took my 30k, didn't give me any credit hours, kept me from transferring to a real ABA school because of the curve. Then sent me a we are sorry but you can't come back next year because you got a C- in a few classes, and thus have below a 2.0 letter! Thankfully I had already been accepted to my unaccredited school so I didn't go nuts.

Cooley has no shame, and neither do most of the unaccredited schools out there. Some of them are even for profit, following Cooley's business model in a lot of respects, except they get to keep the cash at the end of the day, instead of funneling it into Prof salaries and huge libraries no body really uses. But is there really that big of a difference? A scam is a scam!

Cooley Defender *Wed, 16 Feb 2011 5:38:00 pm*

Okay, this is my last post because the argument I was trying to make (and I think is still valid) is pretty limited. I was just saying that Cooley has a different model. And that different model is the main reason it is ranked so poorly. It is not because of the GPA curve, large library or pathetic administration. Cooley would be right up there in the rankings with the right LSAT/GPA mix and we all know it.

But if you're thinking of going to Cooley, don't use my posts as justification. As we have seen, you will probably either fail out or be an unemployed lawyer with debt. Not so great, eh? Also read Nando's entry where he talks about a Cooley graduate who was forced into solo and is now facing malpractice complaints - this is a real problem for new attorneys forced to be solos.

Even with there dubious stats, the claimed starting salary is only 50K. Look, I busted out of law school myself many years ago and I make 200K and don't even work that hard. You don't have to be a lawyer to make money.

Rockstar05 *Thu, 17 Feb 2011 4:31:44 pm*

ATTENTION COOLEY DEFENDER:

"Cooley would be right up there in the rankings with the right LSAT/GPA mix and we all know it."

Doubtful. That is a very bold statement. Alas, I am tired and do not feel like addressing it or tearing your logic to shreds. If Cooley ever becomes "right up there" and out of the fourth tier trash of America even if it COMPLETELY OVERHAULS its

model, I will provide a handgun and my personal address and let you do the honors good sir.

Congrats on the 200k/year. Mind sharing what you did post law school to achieve that?

You can give any potential Cooley student and Cooley grad hope that there are options beyond a "useless Cooley J.D." and plus I am also personally curious.

jdpainterguy *Thu, 17 Feb 2011 5:18:49 pm*

Rockstar 05:

I am no match for your analytical abilities, but even so, I feel you have done an excellent job here.

My experience, though short, with blogging is that the very first page and most recent post gets all of the views by far.

Also, there is a need to repeat the blogger's messages, and be redundant, because prior posts get buried and read much less often.

I would love to possibly refer to this post on my blog in a future post, and compare Touro to Cooley.

You have made, and brought to light some very keen observations about a very cunning industry that has been ripping many people off, and very badly, for far too long.

Informant *Thu, 17 Feb 2011 10:59:09 pm*

Great Great Great Post! So great that I'd like to solve the Cooley enigma for everyone. Thomas M. Cooley is a sham Corporation. Their sole operational goal is using their students to make and create (pay close attention to my use of the word 'creating') securities that they can offer, and sell to banks, student loan servicers, guaranty agencies, investment banks, and institutional investors. In fact, a good portion of Cooley's 'Administrators' and 'Executive Officers' are actually full time employees at banks, investment firms, private equity firms and securities dealers. Cooley has been able to get away with this for years by misspelling names, omitting letters from names, and/or using maiden names on their website, literature, etc. Hopefully, when you add this information to RockStar05's brilliant explanation the Cooley scheme will make more and more sense. I will post more when I get more info from my insider at Cooley!

You know who *Thu, 17 Feb 2011 11:24:07 pm*

Just Started my own law school scam blog. Its got to be a first. Its dedicated to exposing the scam that is the ABA law school system, centering on places like the trash bin that is Thomas Cooley. Also it highlights the alternative unaccredited law schools.

Believe it or not you can go to law school for 4k or less a year! Take that Cooley, and you ABA chumps!

http://abanoway.wordpress.com/

guest *Wed, 02 Mar 2011 1:34:12 am*

http://erinmpitcher.blogspot.com/2011/02/jobs-blogs-and-other-things.html

Check out this idiot's blog. The girl writes at an 8th grade level. And she has the nerve to attack a scamblogger who backs up his case with the facts? Have fun at Florida Coastal Law.

Running Shoes *Wed, 02 Mar 2011 2:48:08 am*

Art is much less important than life, but what a poor life without it !

Nike Duck Shoes *Fri, 04 Mar 2011 3:25:52 am*

your website is so great that i love it very much. thank you for sharing it with us.

Rockstar05 *Mon, 07 Mar 2011 3:03:09 pm*

@JD Painter Guy- thank you for your kind words. Feel free to refer to my post as you wish. I look forward to reading your post on Touro. Please be sure to post a link here so I can take a look

@Informant- anything new??

@You Know Who- Instead of spending 100-200k on a JD from an ABA approved school (such as Cooley) to start at 35K or spend 15k-20k on a non-ABA approved school to start at 30-35k the non-aba route SURE SEEMS SOLID. Unlikely that most will take that route as it is inherently risky and ppl in TTTT tend to be optimists

@guest- looks like nando ripped her accordingly followed up by a supporting thrashing from J-Dog

@Running Shoes and @Nike Duck Shoes

what the fuck? are you spamming on my blog post? Get lost motherfuckers.

Jay Daniels *Wed, 09 Mar 2011 12:57:07 pm*

Cooley is the worst dump of life. I went there thinking the 75% scholarship was worth it. Luckily I was able to survive and now i'm a 2L at Seton Hall. FUCK THAT PLACE!!!

guest *Sun, 13 Mar 2011 6:16:08 pm*

http://thirdtierreality.blogspot.com/2010/03/smoldering-steaming-pile-of-excrement.html

Good entry over here. Why does this guy attract so many Cooley defenders?? Do you suspect the school hires cocksuckers to defend it on the internet?

yiwu cinema *Wed, 16 Mar 2011 11:13:04 pm*

It's a nice post!Thanks for your good work,it helps me a lot!I will come back again!blogging is spreading its wings rapidly. Your write up is often a fine example of it.

Informant *Fri, 25 Mar 2011 2:42:54 am*

Rockstar05,

As of right now, I'm unable to share the most recent events. Hopefully, I'll be able to spill the beans soon.

Asset Protection *Fri, 25 Mar 2011 3:33:49 am*

Asset protection refers to a set of legal techniques that protect a person's property from creditors and judgments. While there have always been protective measures available to persons to protect their assets, there has never been as great an interest in asset protection until recent years.

MSULawSparten *Mon, 28 Mar 2011 8:27:05 pm*

As a student at MSU Law, located 5 miles east of Cooley Law, it is frustrating as fuck to have this diploma mill so close by. Michigan has a real shitty economy to begin with, and with Cooley and its 4 campuses, the market here is completely flooded. Not to mention there is University of Detroit Mercy (which isn't that much better) that isn't far behind Cooley. I realize MSU isn't that highly ranked (at least we are top 100 woohoo!), but our curve isn't that harsh, our attrition rate is low, and although the tuition is high, there are generous scholarships being handed out. Cooley is the butt of many jokes here on campus, both with the students and the professors. I think we had one professor teaching here from Cooley, but she was an adjunct writing prof.

A Cooley degree is like a scarlet letter in the legal world: you have whored yourself out to the school that lets everyone in. If you had a bad LSAT/UGPA, then maybe you just weren't cut out for law school. Don't give me this bullshit about being a bad test taker or partying too much. If you can't hack it in undergrad, you shouldn't go to law school. A lawyer is a professional, not a recovering fuck-up. If you can't score above a 155 on your LSAT, just give up and go back to watching Judge Judy.

Unfortunately, being from Michigan, Cooley is well known throughout the state with laymen, and in a good way. They associate the name with the legal community (in fact, when I tell people I go to MSU Law, many laymen say "Oh, so you go to Cooley?"). Some of my former classmates from high school are enrolled at that piece of crap school, and let's just say they weren't the kids who were spending time in debate club or pushing themselves to score 5's on their AP tests. And whenever I have to go downtown to the courthouse (located a block away from Cooley) to file something for work, I always see the shadiest motherfuckers with backpacks making their way to Colley Law School. High caliber of students they let in there.

And lastly, who the heck comes up with an arbitrary rankings system and doesn't even place themselves first?

jdpainterguy@gmail.com *Thu, 31 Mar 2011 7:26:34 am*

Hey Rockstar05:

Would you mind if I put a link to this article on my most recent post?

I mention the way in which Touro withheld grades into the second semester, and I want to indicate that Touro is not the only school to do this, and then mention where you state that Cooley has done so.

I'll check back later tonight after work, or you can e-mail me at jdpainterguy@gmail.com

In my mind, after everything else gets said by the scambloggers, the most damning thing is the withholding of the grades, which nobody can deny.

And it is rendered more egregious because of the source of the funds (Federally backed Student Loans)

Rockstar05 *Thu, 31 Mar 2011 9:51:14 am*

Hey JD Painter Guy,

I did reply to you about seven posts up. Feel free to post a link to this article. The truth about these scam schools needs to be spread. Also, post a link here to your blog post. Would like to check it out.

Good day,

Rockstar05

Rockstar05 *Thu, 31 Mar 2011 10:27:16 am*

http://lawschooltuitionbubble.wordpress.com/2011/03/29/law-graduate-overproduction-by-state-aka-%e2%80%9cthe-holy-grail%e2%80%9d/

This site is absolutely incredible. It uses practical hard numbers (through raw data and projections) to illustrate the state of the U.S. legal job market. Note that Cooley is probably single handedly accounting for 50% of Michigan's lawyer production...leading to the flooded market in what is already an ECONOMICALLY DECIMATED state to begin with. Again, fuck you Cooley.

Former Top Student at Cooley *Thu, 31 Mar 2011 3:12:27 pm*

Here are some more comments about transferring:

1. Cooley will hinder you from transferring by refusing to provide documents to schools that request them. Cooley will say it cannot release information it received from third parties because it cannot verify its accuracy. A: Cooley thought it was accurate enough to base its admission decisions on it, and B: The schools requesting information obviously aren't concerned about its accuracy, otherwise they wouldn't request LSDAS info.

2. I was the top student at Cooley and had incoming an incoming LSAT score that was in the 80th percentile. My first semester at Cooley, I was ranked no. 1 overall and received the top score (book award) on every exam I wrote.

I wanted to transfer to schools in Florida. I got in at 1 st-tier schools there, but University of Miami tabled my admission decision

and requested an extra letter of recommendation--despite having incoming credentials that would have placed me easily within the top 20% of Miami law 1Ls.

3. It may be tough to get a letter of recommendation. Many Cooley professors refuse to give them and take it as an insult that you want to leave their school. My response to them was, what more do I have to prove here?

jdpainterguy@gmail.com *Thu, 31 Mar 2011 5:24:01 pm*

Rockster05:

Thanks. Here is the link to my recent Post where I likewise link to this Post.

http://esquirepainting.blogspot.com/2011/03/here-is-my-law-school-transcript.html

A lot of hits today, and hopefully a lot more to come, so maybe you will see it reflected in the # of views on your blog.

Cooley Pride *Thu, 31 Mar 2011 5:34:04 pm*

I scored low on the LSAT (142,) and only had a 2.4 from the University of Kansas. Cooley was the only school to accept me, and thus offered me a spot in their AAMPLE program. If I pass, I am admitted into their school! Although the AAMPLE program is costly, I believe it is well worth it. Cooley sees through the numbers, and realizes that the LSAT is racially biased. They know that LSAT and GPA are in no way good predictors of law school success.

I have learned a lot about Cooley through their website, which is the only source of information one should use when choosing a law school due to the fact that the law school knows itself better then anyone else.

If Cooley is so horrible, why would the ABA accredit them? Furthermore, if it is so bad, why are they ranked 2nd in another objective but more obscure set of rankings?

My goal is to be a lawyer, and Cooley will give me the skills I need to be successful. At the end of the day, law school is law school, and a degree is a degree. No one cares where you went. As long as you pass the bar, you will be in demand. This blog is full of lies. I am going to be a lawyer, naisayers be damned! Cooley has a superb reputation in the state of Michigan, and once I graduate, it should be quite easy to find a job.

Anna Sanchez *Fri, 01 Apr 2011 1:26:29 am*

HAHAHA, thank you for a good laugh...nothing I enjoy more than hearing about students that couldnt hack it at Cooley, getting pissed off and talking trash about the school. If Cooley was sooo easy for you then you should have been booking every class right??? and I promise you, you dont even have one book award. If it was sooo easy the fail out rate wouldnt be as high as it is now right???? If you know the law inside and out then you are going to pass. Cooley does not fail you because you know the material, they fail you because you DONT!!!! Which is exactly the reason why Cooley is a great law school. At Cooley the standards and requirements are much much higher than other schools. We have to take exams with time restraints, they are all closed books, we dont get a "reading week" to study, we have classes all the way up to exams. The final grade is based on our final exam. So yes, if you want to do well at Cooley then you better know the law inside and out or you will fail out...isnt that what you want in a lawyer??? someone that knows the law???? and just to point out the obvious, Cooley grads have to take AND PASS the exact same BAR exam as everyone else. And only someone who is failing out or has failed out is concerned about the 4 weeks until grades get posted to know if you're allowed back the next term, if you know your law you wont be facing that problem. So the day you can come back to this school and succeed will be the day I listen to your ignorant and inaccurate accusations...and its very sad to see someone that I have to share a profession with, sit behind a computer screen like a big badass and talk trash about a school they failed out of. Clearly you learned nothing at Cooley because at Cooley they stress ethics and class, and carrying yourself as a cut above. So its very clear to see you just couldnt cut it at Cooley. Dont beat urself up, its not for everyone. Just the best of the best.

Anna Sanchez is an Idiot *Fri, 01 Apr 2011 3:15:11 pm*

Let me address this moronic post.

First off, Cooley fails out so many people because these people had NO business being in law school to begin with. Think about it. Do you really think that someone who earned a 2.5 ugpa in, and an LSAT of 143 has any chance in hell at passing the

bar? Undergrad is a cakewalk compared to law school, and if you cannot excel there, then you stand no chance in law school.

Cooley realizes that they accept morons such as yourself. To compensate for that, they flunk most of them in order to keep their bar rate respectable. Law school is certainly not for everybody, regardless of what Cooley would have you think. Cooley is by far the biggest laughing stock in the country, and no employer in their right mind would hire a Cooley grad.

Anna, you are on your high horse right now, but talk to me a year after you graduate when you are making $8.45 an hour greeting people at WAL-MART. You are obviously an idiot, because you were unable to get into any other school besides Cooley. Doesn't that tell you something? If no respectable law school wants you, do you really have the aptitude needed to be a successful lawyer?

Cooley preys on idiots like Sanchez, takes their money, then flunks them after a year. Cooley knows these kids do not belong in law school, but it takes them anyway. You want to talk ethics Anna? Tell me, what is so ethical about taking 35 grand from someone who is not qualified for law school, and then flunking them out after a year?

You and your school are both pathetic. Have fun finding ANY law firm ANYWHERE that will hire you.

Anna Sanchez *Fri, 01 Apr 2011 11:26:01 pm*

so clearly you didnt get into any place either to begin with, which is exactly why you went to Cooley in the first place. Because im sure you would have done your research before choosing a school as your final decision and im sure if you would have looked into it you would have chosen somewhere else. its pretty clear to see your bitter about your failures. its ok, like you said; Cooley isnt for everyone, and that included you. Best of Luck to you!!!!!!!!

Anna Sanchez is an idiot *Fri, 01 Apr 2011 11:55:48 pm*

I didn't go to Cooley, you dumb bitch. I attend a tier school, because unlike you, I had a decent LSAT score and ugpa. My school is far from Harvard, but it is a respectable regional school that will hopefully help land me a decent job. Have fun finding employment with your Cooley degree!!

Anna Sanchez is an idiot *Fri, 01 Apr 2011 11:57:18 pm*

Had a typo in the above post. I attend a tier two school.

anna sanchez *Mon, 04 Apr 2011 12:55:13 am*

so you didnt go to Cooley, then you have no grounds to stand on. I refuse to visit this page any more. Ive clearly defeated your arguments.

Rockstar05 *Wed, 06 Apr 2011 10:58:34 pm*

@Cooley Pride

"I have learned a lot about Cooley through their website, which is the only source of information one should use when choosing a law school due to the fact that the law school knows itself better than anyone else."

"If Cooley is so horrible, why would the ABA accredit them? Furthermore, if it is so bad, why are they ranked 2nd in another objective but more obscure set of rankings?"

Have you not read any of the blog before leaving your comments? Cooley is nationally ridiculed for providing their own rankings! These rankings in addition to their website are used as marketing tools! Law schools are run as businesses, especially low-ranked private schools.

Additionally, did you claim my blog is full of lies? Such a generalized claim has ZERO CREDIBILITY. Especially when you have not identified ONE PART of my blog that remotely distorts the truth. Your unsubstantiated claims are a clear indication of your foolishness, and likely, your poor LSAT score. All the best with Cooley chump, and finding "easy employment" in the state of Michigan. Don't say you weren't warned lemming.

Rockstar05

Wed, 06 Apr 2011 11:25:21 pm

@Anna Sanchez

Congratulations, you seem to have the reading comprehension skills of a 4th grader. Is that why you did poorly on the LSAT and no option BUT Cooley? I'm surprised it took over 6 weeks for a retarded moron such as yourself to post something stupid on here. It was inevitable I admit, but I expected something a bit more credible or worthwhile. Most Pro-Cooley bloggers have avoided leaving comments on my blog after I have TRUTFULLY ANNHILATED the school for what it is on every level imaginable;...all using first hand knowledge and experience. But anyways, I'll just provide a summary of why you are an idiot.

• Couldn't hack it? You clearly cannot read...I state several times in the blog post that I transferred to a school that is MUCH BETTER than Cooley

• Never said Cooley was easy, in fact, I said it was the exact opposite. This makes it more difficult to transfer out (which is what 95% of 1L's are trying to do), and for graduates who rank in the top 25% but only have a 3.0 GPA to show from one of the ABA law schools with the WORST REPUTATION in the country which does very little to help the employability of Cooley Grads

• You claim I do not have a book award? How can you substantiate this claim? Do you know my name? Or did you personally know everyone who has booked a class AT EACH OF THE FOUR COOLEY CAMPUSES? I never did claim that I "owned" Cooley...but I did do well enough to transfer out

• "We have to take exams with time restraints, they are all closed books, we dont get a "reading week" to study, we have classes all the way up to exams. The final grade is based on our final exam."

You clearly cannot read because I have pointed out everything you have stated above WITHIN THE BLOG.

• You claim I am "talking trash" about the school....but you have not pointed out one mistake, fallacy, or inaccuracy in my the scam that is the Thomas M. Cooley Law School... UNSUBSTANTIATED CLAIMS ARE FOR MORONS LIKE YOURSELF ONLY, NO WONDER YOU'RE STILL AT COOLEY

• I never stated Cooley students who passed the bar were more or less qualified than other law students....THIS MUST BE YOUR INFERIORITY COMPLEX LASHING OUT... ,its okay, several Cooley students tend to react like this, completely off-topic , trying to put any irrelevant point into play to give their school any credibility

• "And only someone who is failing out or has failed out is concerned about the 4 weeks until grades get posted to know if you're allowed back the next term, if you know your law you wont be facing that problem."

WHAT ABOUT TRANSFER APPLICATIONS YOU DUMBASS? That was the reason why I pointed out the delay in grades. But yes, as JD Painterguy has pointed out, for students on the brink of academic dismissal this can also pose significant issues.

• "So the day you can come back to this school and succeed will be the day I listen to your ignorant and inaccurate accusations...and its very sad to see someone that I have to share a profession with, sit behind a computer screen like a big badass...."

AGAIN UNSUBSTANTIATED CLAIMS.....calling my claims ignorant and inaccurate when you have not pointed out ANYTHING that is remotely inaccurate or untrue. You deserve a moron of the year award! Also, me come back to Cooley??? Couldn't pay me to do it. Even if my new law school failed me out, I would rather change careers then come back to Cooley! As for sitting behind a computer, I've verbally shredded illiterate morons like to the extent they have cried themselves to sleep. Want to meet for coffee sometime?

• The truly ethically bankrupt BUSINESS that is the Thomas M. Cooley Law School has been aptly described by myself, followed up by a concise run through by "Anna Sanchez is an idiot" (thanks btw), please refer above.

• A school I failed out of? Couldn't cut it at Cooley? OK Superstar, why don't I post my offer letter and registration at MY NEWER HIGHER RANKED SCHOOL so you can eat ALL YOUR WORDS? I'll do ALL THIS just to show that unlike you and your disgusting school, I am honest and do have both ETHICS AND INTEGRITY. But I would also like to expose you for the stupid moronic bitch that you are. Please post your Cooley photo ID card as well as a personal statement saying that "COOLEY IS THE WORST LAW SCHOOL IN THE COUNTRY AS EXPOSED BY THIS TRUTHFUL REVOLUTIONARY BLOG, AND I AM ONE OF THE IDIOTS WHO HAS BOUGHT INTO AND BELIEVED THIS SCAM: AVOID COOLEY AT ALL COSTS". Do we have a deal????

Rockstar05 *Wed, 06 Apr 2011 11:26:35 pm*

@Anna Sanchez

I SAVED THE BEST FOR LAST, QUOTE ANNA SANCHEZ "....[Cooley]its not for everyone. just the best of the best "

I will not even bother to address the absurdity of that comment or on how delusional you really are. Go say that in ANY legal forum, in front of ANY other law student attending a different school, or in front of ANYONE in the legal community and witness their response for yourself.

jdpainterguy *Mon, 11 Apr 2011 8:01:35 am*

Hey Rockstar05;

My Post has had a huge swell in traffic (for my blog anyway) so you might see more views this week, since I linked to here.

Keep up the good work! I can only wish I had your analytical skills.

http://esquirepainting.blogspot.com/2011/03/here-is-my-law-school-transcript.html

Rockstar05 *Mon, 11 Apr 2011 2:36:27 pm*

Thanks for the comment JDPainterguy. Seems like there was also a spike of multiple posters lately who all "happened" to be from the same IP address leaving stupid and irrelevant comments on this blog. So henceforth comments will be filtered and any stupid or irrelevant comments or personal attacks which add nothing insightful to the topic of this blog will be delated.

I also just skimmed through the postings and wanted to correct my post above in my quickly typed but lengthy response to Anna Sanchez. I spelled TRUTHFULLY" wrong.

Caribbea *Tue, 19 Apr 2011 9:58:14 pm*

In defense of the People's College of Law, it is not your typical school. It is intended to provide a legal education to the disadvantaged for the express purpose of doing public interest law. ("PCL's goals are to advocate people before property, human rights, women's rights, tenants' rights, consumer rights, workers' rights; to fight discrimination, economic and political oppression; and to enable and empower those who have been historically denied legal resources and protections.") It charges almost nothing to attend (currently $223 per credit). Its faculty and staff are primarily volunteers. I don't go there, have never been there, and have nothing to do with it, but do know that it is a unique place. To compare it to any other law school is just unfair. It's almost like the old Mickey Rooney/Judy Garland movies where a bunch of kids get together and put on a show. Here, a bunch of community organizers got together and created a law school.

Anonymous *Thu, 21 Apr 2011 2:21:04 am*

@Anna Sanchez I respectfully disagree with your posts and the assertions made therein. An acquaintance of mine has been involved in an undercover investigation of Cooley for the past two years and here's what he and his team uncovered:

1.Cooley with holds grades and information to conceal their federal student loan fraud. Cooley administrators also operate the Michigan Higher Education Student Loan Authority's student secondary market program, a student loan program that exists solely for the purpose of purchasing secondary market student loans for securitization.

2. Cooley, through the student secondary market program it operates purchases the college loans of incoming students. Cooley then uses your personal information to execute consolidation loans for the undergrad loans and the loans you take out to pay for Cooley's law program. Cooley then changes your 'Anticipated Completion Date' to match the maturity date on the fraudulent consolidation loan; thus the reason COOLEY'S ATTRITION RATE IS RIDICULOUSLY AND CRIMINALLY HIGH! (BTW this is FRAUD so ALL of the LOANS they consolidated are FRAUDULENT)

3. The 'consolidation' or FRAUD loans are then packaged into pre-1993 or pre-2004 student loan revenue bonds and represented as being eligible for the 9.5 percent special allowance payment. The MI Student Loan Authority municipal revenue bonds are sold to bank/servicer created special purpose entities. The revenue bonds are then sold as Student Loan Auction Rate Securities to investment firms, investors, banks, servicers the special purpose entities, and guaranty agencies. Guess

what Cooley flunks/fails you because they change your 'Anticipated Completion Date' to match the fraudulent consolidation loan they created and sold was sold!

Oh it gets MUCH MUCH BETTER

4. The entities that purchases the student loan auction rated securities then illegally and repeatedly access students' by representing that our reports were being accessed for 'Promotional Purposes'. (Check your credit reports from 2007-present I bet you have 3 pages of "Promotional Inquiries) However, they're really verifying the personal information listed on the fraudulent consolidation loan promissory note that Cooley created (the Dept of Education req. verification of personal information). They verify the info/access your credit report every time the student loan auction rate securities were purchased by a new investment bank, bank, or servicer through its' special purpose entity. After the information is verified they re-securitize the loans and sell them as SLABS or enter into SLARS swap agreements with other banks, investment firms, and servicer/guaranty agencies. However in both cases the loans are misrepresented as being 9.5 percent eligible.

5. A good portion of Cooley's 'Administrators' and 'Executive Officers' are actually full time employees at banks, investment firms, private equity firms and securities dealers. Cooley misspell names, omits letters from names, and/or uses maiden names for the Administrators on their website, literature, etc. to conceal their true employment because many of their names are also listed in their banks' SEC filings. As a consequence, the School makes it look as though those students' whose loans were manipulated and used to collect special interest were dismissed for academic reasons, 'honor code violations', or suffer from a 'learning disability diagnosed by their specified psychologists who only accept cash payments and pay the School a patient referral fee, thus, extending their 'Anticipated Completion Date' to the date the lender changed it to in order to collect the 9.5% SAP.

AND THIS IS WHY COOLEY IS A SCAM!

Rockstar05 *Thu, 21 Apr 2011 2:14:01 pm*

^^^^ This is even over my head. Buddy you got enough there to start your own blog posting on Cooley LOLLLL

Anonymous *Fri, 22 Apr 2011 12:33:14 am*

LOL...well from what I understand it's been a two-year multi-agency undercover investigation/sting operation...that's about over. The big guys involved are pleading out one by one so I hear some of the Cooley folks are trying to turn state evidence to get immunity; but that could just be hearsay ;-)

He also said that they're going to push for a civil penalty or settlement that will include loan forgiveness/discharge of the Cooley fraud loans. If that happens the student loan debt bubble is gonna shrink by a few hundred million.

Here's the most recent indictment and plea deal.

http://www.justice.gov/opa/pr/2011/March/11-at-398.html

@jdpainterguy Heard that they're doing the same thing at Touro, and a few other 'un-ranked' TTTT law schools.

Ghost Face *Fri, 22 Apr 2011 3:29:01 am*

What is the actual numbers of people going on academic probation at this school? Has to be crazy high?

xAVIER *Wed, 27 Apr 2011 10:47:19 pm*

you prob flunked out and are sweeping fucking floors urself u hostile LOSER

E.L. Adkins *Fri, 29 Apr 2011 1:01:17 am*

Went to cooley. The tuition was actually much lower than other schools. Got an llm which cost waaay too much. Had no trouble getting a job first with a firm then onto a nonprofit policy organization where I now supervise columbia and nyu and other top school grads. I work hard am thoughtful of others and learned enough at cooley to figure out the answers to what I don't know. I am ethical. Make 6 figures. You rockster have dedicated alot of time and effort to your "cause"...cheers I guess but I feel you are bitter and angry..your life is what you made it. Blame blame crazy man rant...boring and pathetic. Best of luck to you. Really being a lawyer kinda sucks whether from cooley or yale. But hey I live up to my choices.

lawschoolexperience *Wed, 04 May 2011 2:02:34 am*

Law School Experience – An Oswego based leading law education experience provide you legal education, law courses, law degree and online law programs with Socratic method. We bring the unique challenges – challenges you've never encountered.

considering law school

ryan *Fri, 06 May 2011 11:00:26 am*

I want out. What school accepted you??

Curious2011 *Tue, 17 May 2011 3:38:32 pm*

I loved your original blog post. I could literally feel the bitterness and anger just seeping out of you. Its the kind of unrelenting hate and unbashed vengeful attitude that brings out the mentally unstable of the virtual world. You have created quite the hate site, my friend, and my hat is off to you. Any future plans/targets? You have a talent, and can definitely use it to spread "the right" kind of information. What law school did you attend?

HumbleMe *Wed, 18 May 2011 11:50:26 am*

Well, I am one of those who flunked this school. I only had two miserable years in my entire life, and those were in Cooley. Still paying my student loans unfortunately. May be Cooley should repay it. Administration was terrible. Talked to NYU students and was shocked that they had open book exams. And Cooley did not. I did not even dare to mention Cooley.
What do I do with two years down the drain and load of loans on my shoulders. None of my credits will be counted towards anything. Have to start from scratch all over again. Will do Ivy League Just to prove Cooley wrong.

Lucky you, you transferred. I could not do it. School made it too complicated. Perhaps that's why the grading was too tough. Every time I wanted to appeal my grade, all other professors did not recommend doing it, told us it was waste of time. What a scam. Should have appealed all grades.

Na-Cher *Wed, 18 May 2011 11:52:44 am*

You all are ridiculous! The curriculum is the same regardless of what law school you attend. It's not hard to figure out where the author of this blog went (and failed out of). Funny stuff...

Rockstar05 *Wed, 18 May 2011 1:50:16 pm*

@Ghost Face- no idea. The schools administration would probably never let the real figure out anyway.

@Xavier- LOL you are a funny guy. There is more of a chance of me sweeping floors if I had graduated with a JD from this piece of shit school. So I am a loser for spreading facts and awareness? You sound like more of a loser defending this trash pit with NO facts or insight whatsoever and leaving a stupid comment implying that I flunked out....what exactly are your motives posting an irrelevant comment on here a hostile fucking faggot? Did you get bitter because you're sleeping floors with your prized Cooley J.D.???

@E.L. Adkins- I am actually pretty happy guy u moron. I was bitter when I posted this after realizing I wasted over 20k on 3 terms at this school and an entire year of my life. At my new school people when people found out I went to Cooley they were shocked and looked at me as though I was retarded. Time has passed now I could give a fuck less about people who go there or whatever. I was bitter because I didn't know any better when I started and felt people should know the facts before they started....I was lucky enough to transfer out of that hell-hole that made it so difficult to do so...but I am quite happy and doing well in life. All the best to you as a lawyer....although you feel it sucks you should live up to your choice...hey at least you are

one cooley grad who actually has a job right?

@Ryan- I still know a lot of people at cooley and if I give the name of the school I transferred to I am pretty sure it would identify who I am. Seeing as a lot of Cooley kids feel undermined by this blog post as I am exposing the scam of their already hopeless J.D. and legitimate 3 years of hard work they probably would not react very well with me....thousands of dollars and hard work and effort being downgraded...despite everything I said being true. Go look up ABA approved schools there are 193...which means there are 192 better options. Best of luck.

@Curious2011- yes. For the reasons I posted above in my response to E.L. Adkins I was bitter and pissed I wasted a year of my life and my good money at that shithole. Plus at my new school I could not apply for internships without putting that my GPA was IMPORTED FROM COOLEY which truly fucked me over at my new school because Cooley is the laughing stock of the nation.

Nando of third tier reality has a very similar tone and knack for telling it how is in a hilarious and convincing fashion backed entirely by facts... he has done a write-up on almost every trashpit law school in America and I have referenced him and his work throughout this post but I prefer to bash targets where I have first-hand experience so this will likely be my only post in terms of law schools.

I am content at my new law school and currently working on another accreditation simultaneously. I use my facebook to blast out people, day-to-day bullshit, and as a platform to spread the right kind of information but obviously will not share that here...

@Humble Me- sorry to hear. You are not alone...I'm sure one day when this school is exposed there will be thousands of others who stand up as well.

@Na-Cl-er- You are an idiot. First, the curriculum is NOT the same at every law school. First year is pretty standard but otherwise you are incorrect. As for me failing out of it...even if I did what is it to you? Did I lie about your precious school? At times I'm tempted to post my credentials up here just to shut haters like u the fuck up....but for some idiot who comes here making unsubstantiated claims that I've failed out of this shithole (which is completely untrue and even if it was true it would be irrelevant]....and that the "curriculum is the same everywhere" without knowing any better I strongly doubt it is worth it. Hope your time at Cooley is paying off for you buddy. Next time post something with facts or something that is remotely relevant or worthwhile you fucking moronic douchebag.

I see your point . . . *Sat, 28 May 2011 10:46:28 pm*

I wouldn't necessarily say that I am a "Cooley defender" but I went to Cooley, graduated in two years, and never got below a B. Most importantly, I got a great job right after graduation. With that being said, Cooley has its fair share of problems. While I am sure there is exceptions, anyone who goes to Cooley and believes they are going to work at a top firm out of law school needs a reality check. Also, it is beyond me why people would move to Michigan to come to Cooley.

Before starting Cooley, I liked that Cooley "let anyone in" and then would kick them out after a semester or two if they couldn't get the grades. However, my view on that has changed. The reality is, if you have a poor LSAT score, a bad undergrad GPA, and can only get in at Cooley, you shouldn't be going to law school.

Cooley Grad *Fri, 03 Jun 2011 3:44:42 pm*

I don't understand why people want to ridicule Cooley - especially those that never attended.

I went to Cooley, not because I wasn't able to get accepted to another school, but because I was offered a Scholarship and it provide what I was looking for in a law school. I was a traditional student - I did not go part time.

During my time at Cooley I did well in class and participated in Law Review and Moot Court. I volunteered at many Law Offices and externed at a large firm. Comments from all my supervisors were positive. In fact, contrary to what people on this blog state, Cooley grads, particularly in the Mid-West, are highly sought. I have many Cooley grad friends who are now employed at firms in Detroit and Chicago.

The only thing that concerned me about attending Cooley, is that it is a regional school. I am from the west coast, and everyone I spoke to would ask "Where is Cooley?"

However, I've found that there are many Cooley grads on the west coast who are either partners or associates at large-to-mid-sized firms. I am not too worried about finding employment because I graduated from Cooley. I'm worried however, because of the current market trend.

Nonetheless, I agree that Cooley's "ranking" system is a joke. Students do not take these rankings seriously- nor should they. My friends and I would joke about this all the time. But, that is irrelevant. Everyone knows that Cooley is a Tier 3 borderline 4 Law School. All school have their way of proclaiming "We are the best, attend our school."

Also, Cooley does have its share of idiot students - students who should never have attended. But those students are not the majority. Nonetheless, all schools have these types of students. The only difference is, Cooley will flunk them out, as opposed to them staying and finishing their J.D. Friends of mine at other law school tell me all the time there are kids in their classes that should not be there.

People who have not attended Cooley really have no basis to ridicule it. Granted you are looking at it objectively, but again, no one cares about Cooley's Judging the Law Schools Ranking system.

To those who attended, and flunked out. Stop blaming your short-comings on others. You all knew, before attending, that Cooley demanded a lot. It is your fault, and only yours for not meeting the requirements.

A Cooley degree is not going to prevent you from finding employment. In my experience with interviews, employers look at the substance not where you graduated from. It is obvious that those who graduated from Harvard will have an easier time, and I am dumbfounded by those who attempt to compare Cooley with Harvard. Harvard is one of the best institutions in the world. Compare Cooley with the likes of Michigan State, Oregon, Seattle-Pacific, or Willamette Law Schools.

Today the market for the legal profession is in a downswing - so don't come in thinking you'll get that high-paying attorney job. But, if you put in the work, and your resume reflects that, I am certain you will find meaningful employment as a Cooley grad.

Tired of Whiners *Tue, 07 Jun 2011 6:58:13 am*

You guys really need a reality check. The curriculum is the same no matter what school you go to. Duhll! The test is whether or not you can pass the bar exam. To go along with rankings based on arbitrary nonsense is silly. If you take the time to actually research Michigan's top law firms you will see that Cooley grads are represented in ALL of them. How about you check out Martindale Hubbell to see where the grads are and how many of them are actually working. Do some thinking on your own, don't just keep regurgitating the same nonsense you heard from somebody else.
Cooley (like ALL other schools) has its share of issues. Don't however, make the mistake of thinking that all the people who attend the school do so because they couldn't go anywhere else. Unlike some people, others have lives and need flexibility in scheduling.
I will remind you that the Detroit College of Law was also a low ranked, part-time/evening law school back in the day. Today, some of the most prestigous and successful people (including those running some of those BIG LAW firms) graduated from the "shameful" last resort law school.
At the end of the day, the LAW is what matters and your subjective emotions as the result of your obviously unpleasant experience with the school is irrelevant.

Tired of Whiners *Tue, 07 Jun 2011 7:11:03 am*

Oh yeah. Did I neglect to mention that only 68% OF ALL law grads ACROSS THE NATION are working between 1 and 9 months after graduation? Did I also neglect to mention that quite a few of those out of work are from from Ivy League schools as well as 3rd and 4th tier schools?
Address the bigger issue---law schools IN GENERAL are pumping out too many lawyers for the market to employ.

Rockstar05 *Tue, 07 Jun 2011 12:55:11 pm*

There are several blogs devoted to the fact that law schools IN GENERAL are pumping out way too many lawyers. That is not my job here, but I have alluded to the problem several times within my post. It was my duty to slam the biggest culprit and morally bankrupt institution of all charging exorbitant amounts for the one of the most toxic law degrees on the market!

It seems only I had the first-hand experience and the intelligence to see Cooley for what it is and give it the bashing it deserved. Certainly other Cooley students see it too but what sets me apart is having the integrity and balls to stand up and call someone out. In fact Cooley has continued to haunt me as I've had extreme difficulty applying for jobs, externships, and in general at my new transfer school due to the "Cooley Stigma".

When I chose to attend this shithole completely naive to the U.S. law school game I just viewed it as another unranked school according to US news. Little did I know this putrid waste site was the worst school in the entire goddamn country. Good job Cooley for suckering in students by marketing your website and ranking system advertised on your website solely as published by a "Justice Brennan" with a seemingly unbiased title "Judging the Law Schools" as if it is an alternative authoritative ranking

system.

This blog post is to COMPLETELY inform everyone regarding the dead honest truth about attending this manure site in addition to probable job prospects (almost none) and the ridicule and stigma that comes with attending Thomas Cooley in addition to the crushing debt.

SEEING AS THIS BLOG POST IS NOW ON THE FIRST PASE OF GOOGLE WHEN YOU TYPE "THOMAS M. COOLEY LAW SCHOOL" I AM OFFICIALLY PROUD AND FEEL ACCOMPLISHED AS THE ENTIRE TRUTH CAN BE REACHED BY A MERE AND SIMPLE GOOGLE SEARCH.

I would like to personally thank everyone that has made this possible and would really appreciate anyone who has changed their mind from attending Cooley because of this blog to drop a line here.

Cheap Soccer jerseys *Sat, 11 Jun 2011 4:49:47 am*

Thank you for taking this opportunity to talk about this, I feel strongly about it and I benefit from learning about this topic.

Bangbus *Fri, 17 Jun 2011 7:33:52 pm*

Good work.

Not sure if the scambloggers have already done this, but have you considered editing the law school's wiki page to include the sky-high tuition costs, excessive forced drop-out rates, and the current dismal employment statistics for recent grads? Then place that information right next to the unbelievable compensation packages these cronies get?

Your comment will be posted after it is approved.

Leave a Reply

Name (required)
Email (not published)
Website

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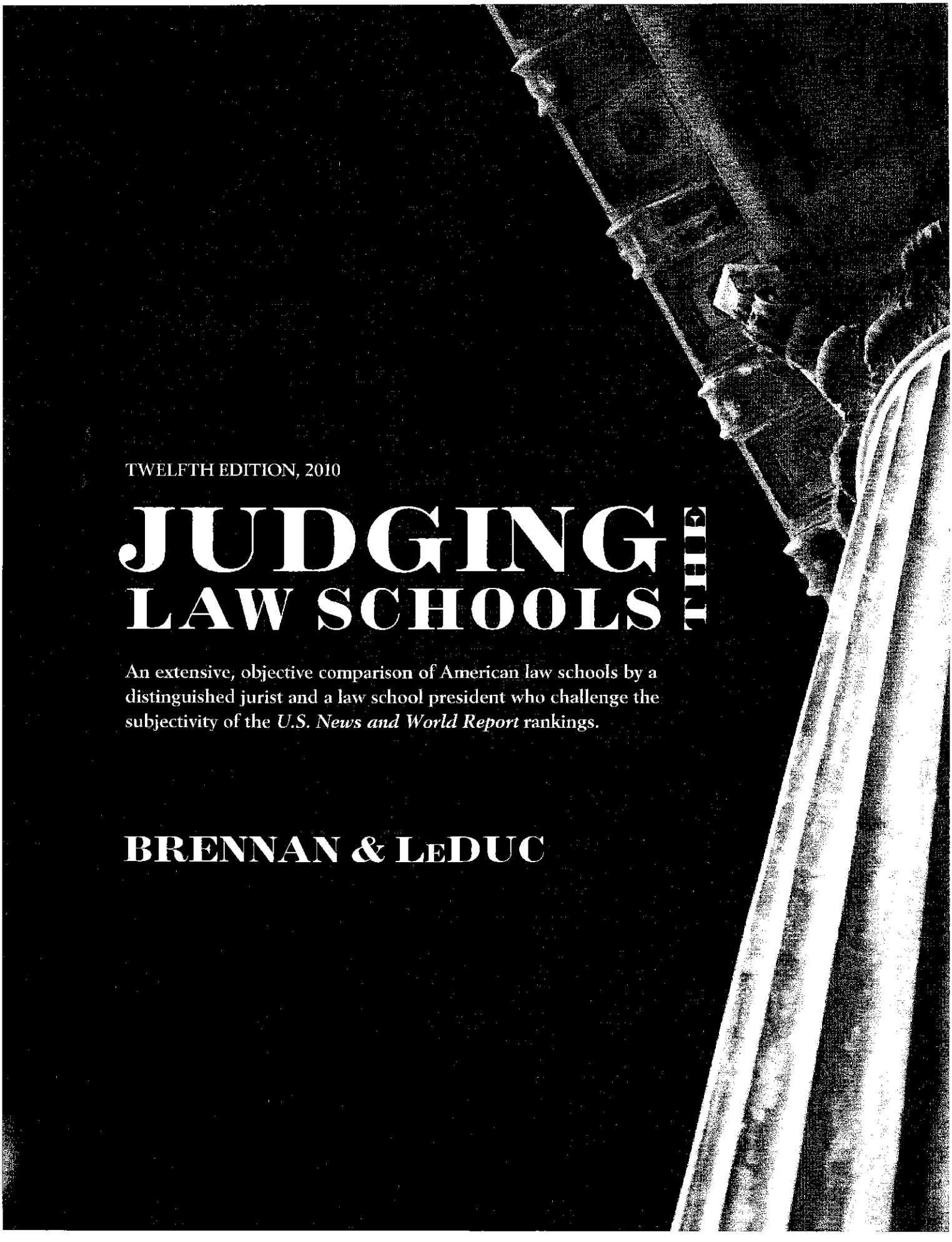
EXHIBIT 2



TWELFTH EDITION, 2010

JUDGING THE LAW SCHOOLS

An extensive, objective comparison of American law schools by a distinguished jurist and a law school president who challenge the subjectivity of the *U.S. News and World Report* rankings.

BRENNAN & LEDUC

FOREWORD TO THE TWELFTH EDITION

Thomas E. Brennan, Founder and Former President, Thomas M. Cooley Law School
Don LeDuc, President and Dean, Thomas M. Cooley Law School

The English nobility and the Indian caste system represent outdated notions of entitlement and reflect the evils of cultural discrimination. Indeed, Americans overthrew their former government largely because of the abuses of the self-perpetuating nobility that reserved for itself the privileges of participation in the English political and social systems. Americans inherently reject elitism and discrimination in favor of opportunity and have replaced the caste system with equal protection under law.

Except in education, where elitism still dominates.

Law schools allow themselves to be victimized by a pecking order based on elitism, which values scholarship over teaching, legal theory over practice preparation, faculty prerogatives over student services, and exclusion over access. How many law review articles are published in elite law reviews is more important to the faculty than how many students they help to learn the law and how many good lawyers they produce. Protecting faculty governance, academic freedom, and tenure is more important than working with student groups, assisting students with problems, and providing community service. And the number of students not admitted is more important than how well those who are admitted are taught the law and how to practice it.

Rankings produced by *US News* perpetuate the elitism rampant in the legal education culture. *US News* has created a four-tier caste system that even its victims use as a frame of reference. Elitism in its most insidious form is found in the so-called reputation survey of law schools among academics and "hiring partners," most of whom are graduates of the elite schools and recognize only elite schools as worthy.

Among the suggestions to counter the pernicious influence of *US News* was one that proposed creating competing ranking systems, so that *US News* would become just one of many ranking systems. Indeed, one notion was that the data displayed in the *ABA's Official Guide to ABA-Approved Law Schools* be made accessible in an online format that allowed a visitor to compare law schools according to any combination of the data the ABA already reports. The ABA website now allows this to be done, at least in part.

We, of course, wholeheartedly agree with that suggestion, because it is precisely what we have been doing for several years and do again in this twelfth edition of *Judging the Law Schools* using the data from the *2011 ABA-LSAC Official Guide*. Seven years ago, we put that information on Cooley's website. Anyone wishing to do what some law school deans suggested can simply go to www.cooley.edu, and click on "Rankings." There the visitor can compare schools by state, by individual schools, or by any combination of 40 factors, all taken directly from the ABA's consumer information publication and presented by the ABA as important to students in making their law school selection.

We again offer some observations. Our rankings are subjective in that we assign value to each factor, such as ranking bigger libraries as better than smaller libraries. And we give each of the 40 factors equal weight (2.5% each), a decision intended to reduce the impact of any single factor on the overall rankings, which is the fundamental flaw in *US News*.

Unfortunately, some bloggers have taken to demeaning our approach, offering criticisms that make it clear that they have read none of the explanatory material we offer and making comments that reinforce their commitment to elitism. And those criticisms universally reject the significance of the factors that the American Bar Association considers most important, if law school applicants are to be informed consumers.

This year, we rank 193 schools, excluding the three Puerto Rican schools because of the inherent difficulty in making comparisons and three schools that have yet to produce bar result and employment data. Over the past two years, we have added eight new factors. Three of these factors relate to access and diversity, values highly esteemed by the American Bar Association that have proven to be very difficult to put into action in the law school setting. Another two were chosen to reflect the increasing significance of globalization. Two others relate to the actual cost of legal education, which has risen exponentially over the past two decades. The eighth was added to offer perspective on each school's commitment to providing adequate library materials.

By ranking according to first-year class size, first-year minority enrollment, and first-year minority enrollment percentage, schools are ranked on their ability to provide access to law school, particularly for minorities. This also demonstrates a school's commitment to access rather than exclusion.

Over the past few years, both the profession and the law schools have recognized and emphasized the impact of globalization on nearly every aspect of American life. To reflect this reality, we have added two factors long-reported in the *ABA-LSAC Official Guides*, the enrollment of foreign national students and the percentage of foreign national students enrolled.

Cost of attendance is perhaps the new leading issue for law schools. We have always included rankings for comparative tuition, rankings for the percentage of students receiving grants and scholarships, and rankings for the median amount of the grants and scholarships awarded. We have introduced rankings that compare the affordability of schools based on the actual attendance costs for resident and non-resident students, using the weighted net tuition for an individual student. The formula used is described on Cooley's website, which can be found at www.cooley.edu.

We agree with *US News* in offering one caution. The data taken from the ABA reports is used by the ABA as submitted by the schools; no audits are performed by the ABA, and the schools are not held accountable for inaccuracies in the reports, which seem to be increasing.

Also, the ABA refuses to make public other data that it collects that would be exceptionally helpful to the public, consumers, and potential applicants. The need for confidentiality of this data is, at best, questionable. Much of it is public information already, very little of it is proprietary, and some of it is information that was once released by the ABA as consumer information, but has since been eliminated from the *ABA-LSAC Official Guides* due to purported limited space in its publication. That hardly means the information about how large each school's facilities are or how many hours of reference service each school provides could not be put on the ABA website for public viewing.

With the growth of the internet, search engines, and blogs, we continue to hope that the days of *US News* dominance are drawing to a close. We hope that *Judging the Law Schools* reduces the influence of the *US News* rankings, as well as the tendency toward elitism in legal education that *US News* perpetuates. So long as *US News* dominates the ratings, the use of the LSAT will continue to be a major roadblock to those whose dream is to have the opportunity to study law, particularly among some minority groups whose LSAT scores continue to be unaccountably lower than others. Sadly, so long as elitism dominates legal education, *US News* in turn will reinforce elitism. Perhaps the recent discussion about ranking law firms will motivate those firms to be more thoughtful about their own subjectivity and to be less involved with and complicit in the ranking of law schools.

In 2007, the Carnegie Foundation for the Advancement of Teaching released its report entitled "Educating Lawyers," which concluded that the elite schools may have things wrong in preparing their graduates for the profession of law. Coupled with the American Bar Foundation reports on dissatisfaction among both elite firms and the graduates of the elite schools from which they hire, the premise that law school quality rests primarily on reputation has been seriously undermined. The self-perpetuating caste system should be replaced with an objective view that considers opportunity and academic rigor to be positives, that treats exclusion as a negative, and that values the production of good lawyers over the production of legal theorists.

Overall Rankings

Law School	Overall Ranking
Harvard Law School	1
Thomas M. Cooley Law School	2
Georgetown University	3
New York University	4
University of Virginia	5
Columbia University	6
Northwestern University	7
University of Texas	8
George Washington University	9
Yale Law School	10
American University	11
University of Michigan	12
University of Pennsylvania	13
Boston University	14
University of Miami	15
University of California - Los Angeles	16
Fordham University	17
Washington University	18
University of Minnesota	19
University of California - Hastings	20
University of Wisconsin	21
University of Maryland	22
Brooklyn Law School	23
University of Houston	24
Temple University	25
Loyola Law School	26
University of California - Berkeley	27
Chicago-Kent College of Law	28
Emory University	29
Stanford University	30
Duke University	31
Suffolk University	32
Benjamin N. Cardozo School of Law	33
Cornell Law School	34
University of North Carolina	35
Stetson University	36
Boston College	37
Indiana University - Bloomington	38
South Texas College of Law	39
John Marshall Law School	40

Judging the Law Schools 12th Edition

In the 12th edition, *Judging* adds eight new factors relating to diversity, access, globalization and affordability.

Compare By Schools | Compare By State | Compare By Rank

<<prev 1 / 2 next>>

Number of **Michigan** Schools Compared to Thomas M. Cooley Law School in this Report: 4

Printable format	Thomas M. Cooley Law School			Michigan State University			University of Detroit Mercy			University of Michigan		
	Data	Rank	National Rank	Data	Rank	National Rank	Data	Rank	National Rank	Data	Rank	National Rank
JD Total Enrollment	3,727	1	1	957	3	41	730	4	74	1,117	2	21
JD Minority Total Enrollment	858	1	1	127	4	100	129	3	97	256	2	40
JD Percentage Minority Students	23.0	1	68	13.3	5	156	17.7	3	107	22.9	2	69
JD First Year Matriculants	1,510	1	1	288	3	53	282	4	55	371	2	28
JD First Year Minority Enrollment	513	1	1	49	3	92	42	4	104	83	2	46
JD First Year Minority Percentage	26.3	1	58	17.3	3	113	14.9	4	139	22.4	2	77
JD Foreign National Enrollment	149	1	1	74	3	4	148	2	2	38	4	14
JD Foreign National Percentage	4.0	3	17	7.7	2	4	20.3	1	1	3.4	4	21
Median Undergraduate Grade Point Average	2.99	5	186	3.36	3	119	3.16	4	172	3.70	1	20
Median LSAT Score	146	5	189	155	3	113	150	4	177	169	1	10
Total Applications	5,775	1	19	2,736	3	85	1,926	4	119	5,414	2	20
Full-Time Faculty	97	1	6	46	3	64	39	4	88	81	2	9
Part-Time Faculty	162	1	3	54	2	41	35	3	78	33	4	88
Total Faculty	286	1	2	124	2	36	87	4	89	120	3	39
Total Minority Faculty	29	1	17	16	2	48	6	5	143	10	3	103
Student Faculty Ratio	23.5	5	190	16.6	4	145	14.1	2	90	11.4	1	37
First-Year Section Size	54	1	24	74	3	105	58	2	39	91	5	167

Course Titles Beyond the First Year	223	1	12	175	3	33	96	4	131	191	2	22
Full-Time Resident Tuition	$28,740	2	80	$33,054	4	110	$32,170	3	102	$43,250	5	175
Full-Time Non-Resident Tuition	$28,740	2	42	$33,054	4	88	$32,170	3	76	$46,250	5	186
Percentage of Students Receiving Grants/Scholarships	100.0	1	1	34.2	4	156	25.1	5	183	57.9	3	63
Median Grant Amount	$7,704	3	117	$23,814	1	2	$5,500	4	143	$11,300	2	85
Full-Time Resident Affordability	$19,132	1	70	$23,608	3	96	$28,910	4	138	$34,957	5	180
Full-Time NonResident Affordability	$19,132	1	18	$23,608	3	51	$28,910	4	114	$37,957	5	186
Library Materials Expenditure	$2,637,051	2	8	$1,083,727	5	109	$1,196,691	4	88	$2,663,457	1	7
Total Volumes in Library	592,374	3	45	291,529	5	165	384,277	4	115	989,117	1	9
Total Titles in Library	336,364	1	18	174,462	5	90	188,027	4	81	322,471	2	24
Total Serial Subscriptions	6,723	2	35	4,088	4	93	2,828	5	154	9,071	1	8
Number of Professional Librarians	25	1	4	9	3	68	6	4	141	12	2	25
Library Hours per Week	124	1	11	109	3	46	92	5	173	112	2	31
Library Hours per Week with Professional Staff	88	2	13	73	3	71	92	1	5	68	5	93
Library Seating Capacity	1,058	1	2	455	3	84	323	5	159	854	2	7
Networked Computers Available	251	1	4	66	3	97	52	4	127	203	2	8
Library Total Square Footage	100,763	1	4	42,000	3	101	23,839	5	178	98,398	2	7
Law School Square Footage Excluding Library	589,932	1	1	60,229	4	109	47,241	5	146	87,933	2	53
Total Law School Square Footage	690,695	1	1	102,229	3	115	71,080	5	167	186,331	2	26
Percentage of Graduates Employed	78.8	4	181	87.1	2	144	74.4	5	187	97.7	1	10
Number of States in which Graduates Employed	39	1	1	32	2	7	19	4	77	31	3	10
First Time Bar Passage Percentage	80.58	4	160	83.72	3	141	71.43	5	182	91.16	2	74

EXHIBIT 3

08 Feb 2011 at 6:23 PM **LAW SCHOOLS, RANK STUPIDITY, RANKINGS, RIDICULOUSNESS, U.S. NEWS**

Latest Cooley Law School Rankings Achieve New Heights of Intellectual Dishonesty

By ELIE MYSTAL

It's Christmas morning here at Above the Law. Thomas M. Cooley Law School has released a new set of law school rankings designed to make Thomas M. Cooley Law School look good. Back in 2009, Cooley incredibly ranked itself the 12th-best law school in the country.

Now the farce reaches new and glorious heights. In this latest edition of Cooley's own Judging the Law Schools rankings, Cooley has rated itself — wait for it, wait for it — the SECOND BEST law school in all that land. That's right, #2! Harvard is #1, so according to Cooley, if you can't get into HLS, you'd be making a wise career decision to go to Cooley instead of, oh, I don't know — YALE. Click over to the Cooley website if you want to see the full list; I don't want to befoul ATL's pages with a breakout of Cooley's top ten.

This, my friends, is funny. But it's also serious. Because there are real people studying at Cooley right now, and I don't think they understand how horrible it makes the school look when the administration publishes things like this....

There are a lot of legal educators who hate the U.S. News law school rankings. There are a lot of people who think that the way U.S. News does things is wrong. But whatever chance you have of making your alternative rankings gain traction flies out of the window when you put yourself at #2 — four tiers higher than where U.S. News has you.

According to Cooley, there is a reasonable explanation for all of this:

> How did Cooley rank #2? Here's how:
>
> First, Judging the Law Schools eliminates the highly subjective criteria found in other well-known ranking systems from consideration. Eliminating subjectivity from the rankings means that:
>
> * "Reputation" of the schools based on the opinions of various individuals and the quality of scholarly publications by faculty are not included; and
>
> * No consideration is given to exclusionary admissions practices in these rankings, although the quality of incoming classes is considered.

Okay, so instead of "subjective" factors like "quality," what is Cooley looking at?

> Judging's rankings are based on the following premises:
>
> * That higher incoming credentials are better than lower;
> * That lower student:teacher ratios and smaller class sizes are better than higher ratios and larger classes;
> * That higher bar passage rates are better than lower;
> * That bigger is better than smaller;
> * That less expensive is better than more expensive; and
> * That more minority enrollment is better than less.

I mean, there's an internal contradiction *within this list of bullet points.* Smaller class sizes are better, but "bigger is better than smaller." Six-year-olds show more internal consistency when they write lists to Santa Claus.

If you actually look at the full methodology behind these rankings, you'll see just how intellectually insulting this exercise is. For instance, many observers have poked fun at U.S. News's insistence on including library statistics in its rankings — but Cooley takes this to the next level. I count ten, (*TEN!*) library based factors, including the total square footage in the library, not to be

confused with the separate input for seats available in the library, or the still separate input that accounts for *how many hours the library is open.*

In fact, the methodology is full of these kinds of raw-number inputs that mean absolutely nothing to anybody who is concerned about getting a degree in law. Cooley counts the total number of applications received, the total amount of money a school spends on its library, the total number of courses in the school's course catalog, the physical square footage of the law school campus itself, and the number of states alumni are employed in.

While these kinds of numbers might be "objective," they are also irrelevant. It would actually be *more honorable* if they picked these factors out of a hat. But they didn't. We know that they didn't because *that's* how Cooley ranked #2. The fact that Harvard ranks #1 according to Cooley is probably something Harvard is ashamed of. I'd bet money there's no HLS press release mentioning this "achievement." It sure seems like Cooley just kept massaging the numbers and making up factors and adjusting the weight of the factors until they came up with something they were happy with.

That's why this ranking is intellectually dishonest. There has been no attempt here to actually put together a list of inputs that mean anything to prospective or current law students. There's only been an attempt to put together a list of things that Cooley scores well on. It. Is. Insulting.

[Breathe.]

Okay, so why am I getting worked up about this? This list is a joke, and everybody knows it's a joke; why am I wasting my time when I could be at home playing NBA 2K11? Well, because there might be a kid out there who believes this crap. There might be a person out there who is listening to all this faux-diversity double-talk Cooley is spouting. There might be a prospective law student who is choosing between Cooley and some other fourth-tier school and chooses Cooley *because* of this disingenuous ranking.

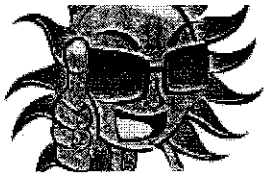
That's really what Cooley wants. This crap isn't going to fool anybody who has diligently prepared for their legal education. It's not even going to fool Cooley students who go into the process with their eyes wide open. It's just designed to catch the eye of some unsuspecting, unprepared person who wants to believe and is all too eager to cut Cooley a check. They just need some "objective" reason to do it. This list represents Cooley's attempt to take advantage of people who don't know any better.

That's not right. You don't take advantage of people just because they don't know that the square footage of the law school campus has no bearing on the quality of legal education they are receiving.

Cooley is not the second-best law school in America and even the Cooley people responsible for putting together this list know it. You have to make your own decisions about what such intellectual dishonesty says about the people who made this list.

Earlier: Cooley Law School Develops More Useless Than Normal Law School Rankings

Breaking: Stephen McDaniel Charged With Murder



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05 Feb 2009 at 11:08 AM **LAW SCHOOLS**

Cooley Law School Develops More Useless Than Normal Law School Rankings

By ELIE MYSTAL

Thomas M. Cooley Law School's tenth annual Judging the Law Schools rankings are available. (Hat tip: ATL commenters.)

I was not aware that this ~~school~~ list existed. But now that I've seen it, I can't stay the same. The rationale behind this list is rigorous and powerful:

> Imagine that college football teams are ranked each year by the quality of the freshman recruits and the pre-season polls of the press and the coaches. Games don't count, only what people expect, based upon the potential of the high school players and the pre-season assessment of two groups with some involvement in football. Imagine as well that the rankings for the year are determined just once, before the season begins and those players are tested by competition.

Dude, totally. Keep talking, I'll roll the next one:

> That unimaginable scenario is pretty much what happens when law schools are ranked. The quality of the incoming class and the reputation of the schools according to the academics and lawyers control the rankings.

This is just like that time when we were on that thing, and we saw all those little dudes. And they were running man, remember? But where? Where were they going, man? So fast:

> Legal education is one of the last places in America where ignorance is used as a basis of judgment (I never heard of it, so how good can it be?) and where subjectivity and bias are actually valued over objectivity and fair-mindedness (this or that school has a good or bad reputation).

I'm totally wigging out.

You will be shocked to learn that Cooley Law School's "objective" and "fair-minded" list ranks Thomas M. Cooley Law School 12th best, among the 197 ABA-accredited law schools.

See the top 20, plus some notes on Cooley's methodology, after the jump.

Here are the top 20 law schools in the nation, according to Cooley:

> 1. Harvard University
> 2. Georgetown University
> 3. New York University
> 4. University of Virginia
> 5. University of Texas
> 6. University of Michigan
> 7. Northwestern University
> 8. Columbia University
> 9. Yale Law School
> 10. George Washington University
> 11. University of Minnesota
> 12. Thomas M. Cooley Law School
> 13. Fordham University
> 14. University of California-Los Angeles
> 15. American University

16. University of Pennsylvania
17. University of California-Hastings
18. Stanford University
19. University of Maryland
20. University of California-Berkeley

I'm all for breaking the monolithic power of U.S. News. There's a lot more to law school than prestige. But a law school ranking that rates Cooley at 12 and Stanford at 18 has zero credibility. I mean, if you're going to tell me that gravity doesn't exist in the way we perceive it, you better drop some M-Theory on me instead of a collection of Superman comics.

If you scroll through Cooley's methodology, you'll notice that the size of a school's law library is really important. Nine of their factors involve the school library. This causes one to wonder if the people at Cooley have ever heard of "the internet."

But, since UT Law ranks fifth on the list, I expect to hear some inspired defense of this list in the comments.

Judging the Law Schools – Overall Rankings 2008 [Thomas M. Cooley Law School]

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all about successful and understaffed US transactional practices in Asia playing catch up on hires that should have been made in a more spread out fashion, going back to mid '09. The global economic crisis caused the strange situation of hiring freeze and them very limited hiring during a bona-fide boom, when more deal flow was coming in to top firms than they had staff to handle (without associates working well over 2500 hours) and when i-banks were starting to recruit again from the best firm's ranks in HK / China.

Now, turning to the title of this post... While the biglaw US associate hiring market will continue to be very strong in Asia, even if slower than first half '11, expect the very flattering and urgent counter offers to continue, especially for US associates moving from NYC to Asia.

The fact is that in this climate US firms really do not like to lose their US based US associates who have Asian background and who are seeking a move to Asia. While many of the same associates may be unable to quickly get a transfer to their firms' Asia office if they asked and while in many cases those offices may not seem like the best fit anyways (keep in mind that the majority of US to Asia biglaw associate moves the past seven years are lateral moves, not transfers), there will inevitably be a lot of pushback in '11 when the associate gives notice they are making a lateral move to another firm's Asia office.

Be forewarned: the inevitable counter offer in '11, to instead transfer with your firm to Asia, comes with all the bells and whistles – including visits to your office and / or phone calls and / or lunch invites by management committee members, the practice head and in some cases even the chairperson of the firm. It can be very flattering and overwhelming.

The flattery in general is sincere. Your firm does value your work and the partners you work with most likely do have very high opinions of you (even if they don't pat you on the back as much as you would like in the heat of pressure packed workflow).

However, you should understand that this type of pushback would not be happening in most years, it is

mostly market related (for example, if you were giving notice in '08, '09 or the first 3 quarters of '10, there would have been most likely no counter offer at all, much less such strong and urgent pushback). Most firms are actively recruiting in Asia now, especially in HK / China, and there is pressure internally to not lose more of the existing pipeline solid Asia background US associates the firm has in its US offices. There is also a lot recruiting competition among peer firms in China and the senior partners of China practices, who are increasingly powerful in their firms globally, do not like losing any of their own, especially those in the pipeline back in the US (which makes perfect sense of course). There is a sense that why should we lose this associate to a competitor when we are the ones who recruited him out of law school and trained the associate for some years? Situations like this get the competitive juices going...

Keep in mind, for example, that 100% of the Asian background US associates we have placed from US to Asia (who hailed from firms with Asia offices) in late '10 and thus far in '11 have, after giving notice, received the very flattering and impressive pushback and counter offer described above. In the previous 6 years, it was less than 10%. No matter how many times we explain that statistic, some associates will continue to feel they are being treated special and that their firm would not be similarly going all out for any or most of their Asian background associate colleagues. Again, it is highly flattering and some associates, especially junior ones, are more impressionable than others.

You can avoid the awkward counter offer after giving notice situation by simply doing one of the following: a) approach your current firm about the other firm's offer you are considering before you actually accept it; or b) simply be prepared to politely turn down the counter offer when you give notice, without allowing a situation to develop where you are reconsidering things for weeks.

In many cases transfers are of course the best way to move to Asia. Although it is not a good business move

for us in the short term, we at Kinney have helped many of our US associate candidate clients come to the conclusion that their best move to Asia is indeed within their own firm. You should obviously complete the process of making that decision before you accept an offer at another firm. Now, this seems like common sense, but many associates do not do this, for a variety of reasons. It can be awkward to ask for a transfer, especially if that transfer request is denied (and the associate thus can feel like a lame duck in the firm, with his partners knowing he is looking to lateral to Asia soon). In many cases associates who consider a counter offer upon giving notice genuinely had no idea their firm had a place for them in Asia (in many of those cases, the firm did not, but it is going to make room because the alternative is to lose the associate altogether).

The biggest problem is that most associates do not want to give notice so quickly after accepting another firm's offer or planning to accept another firm's offer. Of course, if an associate informs their new firm that they are considering another offer, then they are in effect giving notice at that point that very soon they will be making a decision on whether to leave the firm. If they do in fact make the lateral move it will now not be possible to remain at the firm for another month or two or three (2 to 3 months off before start dates are common in US to Asia moves) while they wait to start at their new firm in Asia (or towards end year while they wait for bonus from their current firm).

Whether intended or not, the perception created is a very bad one when an associate waits one to three months (after accepting another offer) to give notice to current firm and then actually considers a counter offer at that time. It can damage one's reputation in what are relatively small communities of US biglaw attorneys in a particular Asia market, such as Hong Kong, Beijing, Shanghai, Singapore and Tokyo.

Keep in mind that your hiring firm would have by then given you a lot of flexibility on your start date and would have been relying on you to join them for months (common in US to Asia moves). Especially at end year,

firms are sometimes very generous and flexible regarding the push back of start dates for four months, so an associate can get a full year-end bonus. Most importantly, the hiring firm has, in a very competitive recruiting market, chosen you over several other very well qualified candidates. Accepting an offer only to turn it down one to four months later creates a situation where the hiring firm no longer has alternate candidates available and has to thus start a search all over again – what can be up to a six-month process. The hiring partner can be embarrassed, frustrated and / or not all that happy with the recruiter involved. There were other candidates who wanted the spot but were turned down because you accepted the offer. Least important, but still something to consider, is that your recruiter's reputation can be negatively affected, she may have been representing the alternate candidates as well, and obviously a placement fee is lost. Basically, a lot of people are affected by your reversal months later.

Whether intended to be or not, the perception is that the associate is acting in a very selfish manner, especially if they wait days or even weeks to notify the hiring firm that they are considering a counter offer by their firm (it has happened) and while considering the counter offer, simply refusing to answer the hiring firm's admin emails re work visa, etc. (it has happened). Sometimes the situation can even rise to the point where an associate is considered to be acting no only selfishly, but in a very immature manner (and this perception is of course not lost on even the current firm partners who are trying to recruit the associate to stay).

How should the hiring firm handle the inevitable counter offer? Although the situation described above has been commonplace in '11, it is still a very new and temporary phenomenon in the market, so there are plenty of US partners in Asia who have not deal with it yet, at least from a hiring firm's point of view.

A hiring partner should keep in mind that nearly 100% of the solid US associates moving from US to Asia receive this counter offer in '11. Thus, if there is no counter offer, that should represent a bigger problem, for obvious

reasons. Also, about 80% of the associates receiving such counter offers, after giving notice, do in fact consider the counter offers. Less than 10% of these actually reverse and revoke the acceptance of their offer to hiring firm and remain at their firm.

So the odds still greatly are in the hiring firm's favor. But commonly and understandably, the hiring partners are dismayed by having to re-recruit the new hire and not at all happy with how things have been handled by the new hire. It is important at this point, though, for the hiring partners to understand that this re-recruitment is simply a part of the process now, at least in '11, and it is going to happen in most cases of US associate US to Asia moves this year. As hard as it may be to do so, the hiring partners will need to enthusiastically re-recruit the new hire, at least for a few days. Of course if the hiring partners feel the situation has been handled so poorly by the new hire, in a way that brings into question their character and maturity, then it is best to revoke the offer.

It is recommended though, if you are a hiring partner in such a situation and do not feel that your new hire has crossed the line where you will question their character, then you should consider the consequences of revoking the offer or not being interested in vigorously re-recruiting your new hire to continue to come on board. It is usually a mistake to assume that the new hire is per se no longer excited about coming on board just because they have allowed their current firm to present a counter offer and promised to at least consider it (it can be hard for an associate, especially junior to mid-level, to refuse to even listen to a counter offer, especially when it is presented in such a flattering way, as has been common in '11).

Keep in mind that the new hire's current firm partners, when giving a post notice counter offer, are counting on the hiring firm's relevant partners in Asia to quickly grow weary of the situation and the new hire process to simply blow up, by default. This is just part of recruiting US to Asia in biglaw in '11. The current firm will have the entire notice period (and inevitably the partners ask the associate to extend a week or more) to recruit the

associate to stay on a daily basis. It can be awkward and difficult turn down such attention and counter offer, one that continues for weeks (alternatively, if the associate had approached their current firm when they received the offer from the hiring firm, then the current firm would have only had until the offer deadline to present its case).

The hiring firm will have to counter this and the hiring partners have a choice to either revoke the offer or enthusiastically re-recruit the new hire to continue to follow through in joining the new firm (if they choose the latter, do it 100%, not half-way, as hard as it may be to not be weary of and frustrated with the situation). It's simply a matter of accepting the way the market is and that re-recruitment is going to be necessary this year in many cases of US to Asia moves (and likely in at least some in '12 and '13). Whether we like it or not, the vast majority of associates in these situations will consider their current firm's flattering counter offer to remain and transfer to Asia with the current firm. Most of these associates genuinely believed there was not a solid spot for them at their current firm in Asia or they would have asked for a transfer (in some cases they already had and were turned down or told it would be a while off in the future, whereas when they give notice they are joining a competitor, magically a very strategic need exists at current firm for the associate in Asia). In most cases, there is a reasonable explanation for the situation and the associate is still very excited to join their new hiring firm and will join their new firm. Their decision in fact had already been made when they accepted their offer.

However, if the current firm has a few weeks to recruit the associate to remain and the hiring firm does very little during that time to re-recruit, then there is, in our estimation (based on what we have seen in the market this year) about a 40% chance the associate, who seriously considers a counter offer upon giving notice, will remain at their current firm and revoke their offer acceptance. While we estimate that the post notice counter offer acceptance rate is less than 10%, it is lower in cases where the hiring firm did take pro-active

steps to re-recruit the new hire.

At Kinney, we have dealt with this situation 22 times this year in US to Asia associate moves (with associates considering their post notice counter offers, at least for a day, in varying degrees of seriousness). Two associates did in fact revoke their offer acceptance and one hiring firm revoked the offer of an associate who decided to consider a counter offer. The fact is most associates in these situations are going to continue to join their new firm.

This post notice counter offer issue of '11 does not come into play nearly as much with lateral moves within Asia. This is due to notice being given much sooner after offer acceptances and also due to the fact that a current firm cannot sell a dreamy ideal situation for the associate way off in Asia because the associate already has experienced that firm's office in his preferred Asia market. It is simply a much harder counter offer to sell, not that the counter offer is an easy sell for US to Asia moves (as is evidenced by, in our estimation, the less than 10% acceptance rate).

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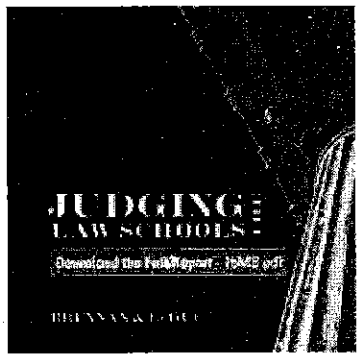
February 9, 2011

Size Matters: Thomas Cooley's 2011 Law School Rankings



Thomas Cooley Law School has released the 12th annual edition of its law school rankings, **Judging the Law Schools**.

The ranking is based an equal (2.5%) weights assigned to **40 objective variables** from the **Official ABA Guide to Approved Law Schools**. Many of these variables favor large law schools:

- J.D. enrollment
- Minority J.D. enrollment
- Foreign J.D. enrollment
- 1L enrollment
- 1L minority enrollment
- Applications
- Number of full-time faculty
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- Total teaching faculty
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- Total volumes in library
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- Number of professional librarians
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- Number of states in which graduates are employed

Here are the Top 50 Law Schools under this methodology (along with the school's U.S. News rank and total J.D. enrollment):

1. Harvard (#2 in U.S. News; 1,765 students)
2. Thomas M. Cooley (Tier 4; 3,727)
3. Georgetown (#14; 1,982)
4. NYU (#6; 1,427)
5. Virginia (#10; 1,122)
6. Columbia (#4; 1,310)
7. Northwestern (#11; 814)
8. Texas (#15; 1,182)
9. George Washington (#20; 1,632)
10. Yale (#1; 613)
11. American (#48; 1,485)
12. Michigan (#9; 1,117)
13. Pennsylvania (#7; 791)
14. Boston University (#22; 830)
15. Miami (#60; 1,384)
16. UCLA (#15; 1,011)
17. Fordham (#34; 1,469)
18. Washington University (#19; 856)
19. Minnesota (#22; 766)
20. UC-Hastings (#42; 1,299)
21. Wisconsin (#28; 825)
22. Maryland (#48; 953)
23. Brooklyn (#67; 1,458)
24. Houston (#60; 898)
25. Temple (#72; 976)
26. Loyola-L.A. (#56; 1,287)
27. UC-Berkeley (#7; 892)
28. Chicago-Kent (#80; 948)
29. Emory (#22; 715)
30. Stanford (#3; 557)
31. Duke (#11; 661)
32. Suffolk (Tier 3; 1,682)
33. Cardozo (#52; 1,121)
34. Cornell (#13; 622)
35. North Carolina (#28; 765)
36. Stetson (Tier 3; 1084)
37. Boston College (#28; 814)
38. Indiana-Bloomington (#27; 622)
39. South Texas (Tier 4; 1,278)
40. John Marshall (Tier 4; 1,377)
41. Chicago (#5; 590)
42. Hofstra (#86; 1,109)
43. Seton Hall (#72; 1,090)
44. Florida (#47; 1,106)
45. St. Louis (Tier 3; 967)
46. Ohio State (#34; 669)
47. SMU (#48; 903)
48. Connecticut (#54; 641)
49. Illinois (#21; 617)
50. Lewis & Clark (#64; 715)

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Note that this is the most extreme example of the phenomenon we observed in **What Law School Can Learn From Billy Beane and the Oakland Athletics**, 82 Tex. L. Rev. 1483, 1524 n.235 (2004): in every alternative ranking of law schools, the ranker's school ranks higher than it does under U.S. News. The spread in Thomas Cooley's ranking (2 v. Tier 4) is by far the largest of any of the alternative rankings we studied.

For more on the Thomas Cooley rankings, see

- Above the Law, **Latest Cooley Law School Rankings Achieve New Heights of Intellectual Dishonesty**
- Balkinization, **Protean Rankings in the Economy of Prestige**

February 9, 2011 in Law School Rankings, Legal Education | Permalink

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Comments

The irony is that size may actually matter. The larger the law school, the more alumni they will have to hire their graduates.

Posted by: anon | Feb 9, 2011 11:30:02 AM

I wish Cooley Law School would just accept that they are a 4th Tier law school and quietly work towards getting better. Every time they release their own law school rankings, and rank their own law school as one of the best in the country, they become the laughing stock of all law schools and earn themselves the title of worst law school in America. The law school does not need to conform, but time after time they humiliate their students, faculty, and general image. For example, it was not too long ago when they decided to spend $1.5 Million for the naming rights of a minor league baseball stadium (http://www.legalnews.com/macomb/1000233). Sadly, it is law schools like this that continue to tarnish the name of the legal

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- Upcoming Meeting
- Publications

Australasian Tax Teachers Ass'n
- Upcoming Meeting
- Publications
- U.S. Members

European Ass'n of Tax Profs
- Upcoming Meeting
- Publications
- U.S. Members

Tax Professor Blogs
- 21st Century Tax'n (Annette Nellen)
- ataxingmatter (Linda Beale)
- Conglomerate (Vic Fleischer)
- From Milan to Mumbai (M. Livingston)
- Jack Bog's Blog (Jack Bogdanski)
- Mauled Again (Jim Maule)
- NYU Law Tax Blog
- Progressive Christianity & the Law
- Start Making Sense (Dan Shaviro)
- Tick Marks (Dan Meyer)
- Understanding Tax (Ted Seto)

Other Tax Blogs
- 409A Dismay (Richard Meisner)
- Another 71 -- A CPA Exam Blog
- AZ Estate Planning Blog
- Benefits Blog (Janell Gernier)
- Bill's Blog (Bill Lowrance)
- BizTaxBuzz

profession.

Posted by: Kona | Feb 9, 2011 1:37:51 PM

seriously? why can't you just say this is absurd? professors are supposed to say what they think. is it because the data speaks for itself?

Posted by: anon | Feb 9, 2011 2:09:14 PM

WOOOO-HOOOO! WUSTTTL is movin' on up!

Posted by: WUSTTTL Student | Feb 9, 2011 2:14:13 PM

Anon, first the alumni have to get jobs themselves.

Posted by: Nick Beat | Feb 9, 2011 2:31:02 PM

This is funny...First of all how does a larger library help when there is the internet. Obsolete. Number of states where graduates are employed?? That makes a better school?. The good thing about these rankings is it shows is the stupidity of the US News report which should be ignored. Some schools have unique programs- like John Marshall LL.M in employee benefits and Thomas Jefferson LL.M in International tax. My law school was ranked number 1 in the U.S. by ME as it had the best beaches and nightlife and good academics 5++ LL.M programs-The University of Miami! A clear No. 1 choice for people who want a life!

Posted by: Nick Paleveda MBA J.D. LL.M | Feb 10, 2011 12:47:31 PM

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- California Tax Atty Blog (Mitchell Port)
- CPA Sense (Milt Baker)
- Death & Taxes (Joel Schoenmeyer)
- Dirty, Sexy Taxes (Tax Vixens)
- Don't Mess With Taxes (Kay Bell)
- Double Taxation
- Estate of Confusion (Forbes)
- Estate Planning Bits
- Everything Tax Law (Kreig Mitchell)
- Federal Tax Crimes (Jack Townsend)
- Frederick Focke Mischler
- From Wall Street to Main Street
- Future of the Federal Estate Tax
- Gina's Tax Blog (Gina Gwozdz)
- Government Bytes (NTU)
- Int'l Tax Blog (Andrew Mitchel)
- IRS and the Law (Howard Levy)
- Linda Keith CPA
- Mass. Estate Planning
- New Jersey Tax Practice Blog
- New York Probate Litigation Blog
- New York Trusts & Estates Law Blog
- Nonprofit Law Prof Blog
- N. Carolina Estate Planning Blog
- Ohio Trusts & Estates Blog
- OMB Watch
- Our Taxing Times (Trish McIntire)
- PA Estate Planning Blog
- Practical Int'l Tax (World Trade Exec.)
- Real Tax Policy (Payson Peabody)
- Roth & Co. CPA (Joe Kristan)
- Talking Taxes (Cit. for Tax Justice)
- Tax & Business Law (Stuart Levine)
- Tax Appellate Blog (Miller & Chevalier)
- Tax Blawg (Chamberlain Hrdlicka)
- Tax Blog (New Zealand)
- Tax Blog (U.S.)
- Tax Controversy
- Tax Girl (Kelly Phillips Erb)
- Tax Grotto (Chris Bale)
- Tax Guru (Kerry Kerstetter)
- Tax Info Blog (Ryan Ellis)
- Tax Justice Network
- Tax Lady Blog (Roni Deutch)
- Tax Law by LexisNexis
- Tax Law Report
- Tax Lawyer's Blog (Peter Pappas)
- Tax Mama (Eva Rosenberg)
- Tax Monkey (Laurence Bernstein)
- Tax Policy Blog (Tax Foundation)

- Tax Precision (Fernando del Canto)
- Tax Prep Source (Justin Musterman)
- Tax Professionals Blog
- Tax Relief Blog (Mike Habib)
- Tax Research UK (Richard Murphy)
- Tax Resolution University
- Tax.com (Tax Analysts)
- Taxable Talk (Russ Fox)
- Taxalicious
- Taxation & Development
- TaxVox Blog
- Texas State & Local Tax Blog
- Thorndike.com (Joe Thorndike)
- Toronto Estate Law Blog
- UT & NV Estate Planning Blog
- The Wandering Tax Pro
- Wills, Trusts & Estates Prof Blog
- You and Yours Blawg

Tax Students

Writing Competitions

- ABA
- ACTEC
- Tannenwald

Moot Court Competitions

- Buffalo (Mugel)
- Florida

Tax Policy Groups

- Americans for Fair Taxation
- Americans for Tax Reform
- American Tax Policy Institute
- Better Way USA Plan
- Burch Center for Tax Policy
- Cato Institute
- Ctr. for Econ. & Policy Research
- Ctr. for the Study of Taxation
- Ctr. on Budget & Policy Priorities
- Citizens for a Sound Economy
- Citizens for an Alt. Tax System
- Citizens for Tax Justice
- Coalition for Tax Fairness
- Concord Coalition
- Deathtax
- Economic Policy Institute
- Fair Taxes for All
- Heritage Foundation
- Institute for Policy Innovation
- Institute on Taxation & Econ Policy
- Internet Fair Tax Coalition
- Mich. Office of Tax Policy
- Nat'l Bureau of Econ. Research
- Nat'l Center for Policy Analysis
- Nat'l Retail Sales Tax Alliance
- Nat'l Taxpayers Union

- Policy & Taxation Group
- Reform AMT
- Tax Executives Institute
- Tax Foundation
- Tax History Project
- Tax Policy Center

Federal Tax Law

Congress
- Internal Revenue Code
- Joint Committee on Tax'n
- Joint Economic Committee
- Senate Finance Committee
- House Ways & Means Com.
- Thomas—Legislative Info
- Congressional Budget Office
- GAO
- GPO Access

Executive Branch
- IRS
- Treasury Department
- Office of Tax Policy
- DOJ Tax Division
- Regulations
- Public Rulings
- Private Rulings
... Actions on Decisions
... Appeals Settlement Guidelines
... Chief Counsel Bulletins
... Exempt Org. Field Memoranda
... General Counsel Memoranda
... Information Letters
... Field Service Advisories
... Private Letter Rulings
... Technical Advice Memoranda
- Electronic Reading Room
- AFR
- Internal Revenue Manual
- Tax Forms and Publications
- Statistics
- Bureau of Labor Statistics
- Census Bureau Statistics
- FedStats
- GPO Access

Courts
- Tax Court
- GPO Access

State Tax Law
- State-Specific Sites
- Forms
- Agencies

• Organizations

Foreign Tax Law
• Treaties
• Country-Specific Sites
• European Union & VAT
• Organizations
• Other Resources

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• CCH
• IBFD
• Int'l Tax Institute
• Kleinrock
• RIA (Thomson)
• Tax Analysts
• World Trade Executive

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• Findlaw
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Notices

EXHIBIT 4

459 F.3d 705, 212 Ed. Law Rep. 85, 2006 Fed.App. 0306P
(Cite as: 459 F.3d 705)

H

United States Court of Appeals,
Sixth Circuit.
THOMAS M. **COOLEY LAW SCHOOL**, Plaintiff–Appellant,
v.
THE **AMERICAN BAR ASSOCIATION**, JOHN SEBERT, Defendants–Appellees.

No. 05–1891.
Argued: March 7, 2006.
Decided and Filed: Aug. 16, 2006.

Background: Law school brought action against the national accrediting agency, alleging that agency denied it due process in failing to accredit two proposed satellite **law school** programs and imposing sanctions. The United States District Court for the Western District of Michigan, David W. McKeague, J., 376 F.Supp.2d 758, granted summary judgment in favor of agency. **Law school** appealed.

Holdings: The Court of Appeals, Julia Smith Gibbons, Circuit Judge, held that:
(1) the Higher Education Act (HEA) did not create an express or implied private right of action for a **school**;
(2) imposition of sanctions did not violate **law school's** common **law** due process rights; and
(3) agency's failure to accredit the satellite programs did not violate common law due process.

Affirmed.

Batchelder, Circuit Judge, filed concurring opinion.

West Headnotes

[1] Federal Courts 170B 714

170B Federal Courts
170BVIII Courts of Appeals
170BVIII(H) Briefs
170Bk714 k. Specification of errors; points and arguments. Most Cited Cases

To preserve a claim of error on appeal, a party is not allowed to incorporate by reference into its appellate brief the documents and pleadings filed in the district court.

[2] Federal Courts 170B 714

170B Federal Courts
170BVIII Courts of Appeals
170BVIII(H) Briefs
170Bk714 k. Specification of errors; points and arguments. Most Cited Cases

Law school failed to preserve on appeal its state law claims against national accrediting agency, challenging agency's failure to accredit two proposed satellite law school programs, where its appellate brief merely incorporated by reference its district court arguments on the state law claims.

[3] Action 13 3

13 Action
13I Grounds and Conditions Precedent
13k3 k. Statutory rights of action. Most Cited Cases

Colleges and Universities 81 10

81 Colleges and Universities
81k10 k. Actions. Most Cited Cases

Higher Education Act (HEA) does not create an express or implied private right of action for a school to enforce any HEA provisions; the HEA was enacted to benefit students, not educational institutions, and it provides for enforcement through administrative action brought by the Secretary of the Department of Education. Higher Education Act, §§ 400(a), 496(f), 20 U.S.C.A. §§ 1070(a), 1099b(f).

[4] Action 13 3

13 Action
13I Grounds and Conditions Precedent

13k3 k. Statutory rights of action. Most Cited Cases

In determining whether a statute creates a private right of action, a court: first, considers whether the plaintiff is one of the class for whose especial benefit the statute was enacted; second, looks at the legislative history to see if the court can discern any intent either to create or to deny a right of action under the statute; third, it weighs whether implying a right of action would be consistent with the purposes of the legislative scheme; and finally, it determines whether the cause of action is one traditionally relegated to state law, so that it would be inappropriate to infer a cause of action based solely on federal law.

[5] Action 13 ⚿3

13 Action
13I Grounds and Conditions Precedent
13k3 k. Statutory rights of action. Most Cited Cases

Courts should imply private rights of action from statutes only if it finds affirmative evidence that Congress intended to create such a right.

[6] Constitutional Law 92 ⚿4227

92 Constitutional Law
92XXVII Due Process
92XXVII(G) Particular Issues and Applications
92XXVII(G)8 Education
92k4227 k. Accreditation and licensure. Most Cited Cases
(Formerly 92k278.5(1))

Quasi-public professional organizations and national accrediting agencies for schools have a common law duty under the due process clause to employ fair procedures when making decisions affecting their members. U.S.C.A. Const.Amend. 14.

[7] Federal Courts 170B ⚿371

170B Federal Courts
170BVI State Laws as Rules of Decision
170BVI(A) In General
170Bk371 k. Nature and extent of authority. Most Cited Cases

A grant of exclusive federal court jurisdiction necessarily implies the application of federal law.

[8] Constitutional Law 92 ⚿4227

92 Constitutional Law
92XXVII Due Process
92XXVII(G) Particular Issues and Applications
92XXVII(G)8 Education
92k4227 k. Accreditation and licensure. Most Cited Cases
(Formerly 92k278.5(1))

In a due process challenge to a decision made by a national accrediting agency for schools, a court reviews only whether the decision of the agency is arbitrary and unreasonable or an abuse of discretion and whether the decision is based on substantial evidence. U.S.C.A. Const.Amend. 14.

[9] Colleges and Universities 81 ⚿16

81 Colleges and Universities
81k16 k. Accreditation; accrediting organizations. Most Cited Cases
(Formerly 81k1)

While the principles of federal administrative law provide guidance in reviewing a decision by a national accrediting agency for educational institutions, the judicial review of accreditation decisions is more limited than review under the Administrative Procedure Act (APA). 5 U.S.C.A. § 706(2)(A).

[10] Colleges and Universities 81 ⚿16

81 Colleges and Universities
81k16 k. Accreditation; accrediting organizations. Most Cited Cases
(Formerly 81k1)

In analyzing whether the national accrediting agency for law schools abused its discretion or reached a decision that was arbitrary or unreasonable, a reviewing court focuses on whether the agency conformed its actions to fundamental principles of fairness.

[11] Colleges and Universities 81 ⚿16

81 Colleges and Universities
81k16 k. Accreditation; accrediting organizations. Most Cited Cases
(Formerly 81k1)

Constitutional Law 92 ⚿4227

92 Constitutional Law
92XXVII Due Process
92XXVII(G) Particular Issues and Applications
92XXVII(G)8 Education
92k4227 k. Accreditation and licensure. Most Cited Cases
(Formerly 92k278.5(1))

Decision of national accrediting agency for law schools to impose sanctions based on law school's operation of satellite campuses without prior acquiescence by the agency did not violate law school's common law due process rights; even though rule upon which agency based its decision authorized imposition of sanctions only where law school was found not to be "currently" in compliance with applicable standard, and law school had ceased operation of satellite campuses before agency held show cause hearing, the law school had continued to operate satellite campuses without agency's acquiescence for 14 months after denial of its applications, and rule permitted sanctions if matters of noncompliance were persistent. U.S.C.A. Const.Amend. 14.

[12] Administrative Law and Procedure 15A ⚿754.1

15A Administrative Law and Procedure
15AV Judicial Review of Administrative Decisions
15AV(D) Scope of Review in General
15Ak754 Discretion of Administrative Agency
15Ak754.1 k. In general. Most Cited Cases

An "abuse of discretion" can only be found if no evidence supports the decision or if the administrative agency misapplied the law.

[13] Colleges and Universities 81 ⚿16

81 Colleges and Universities
81k16 k. Accreditation; accrediting organizations. Most Cited Cases
(Formerly 81k1)

A reviewing court must defer to the interpretation by a national accrediting agency for schools of its own rules unless plainly erroneous.

[14] Colleges and Universities 81 ⚿16

81 Colleges and Universities
81k16 k. Accreditation; accrediting organizations. Most Cited Cases
(Formerly 81k1)

A sanction imposed by a national accrediting agency for schools, if within the bounds of its lawful authority, is subject to very limited judicial review, and the severity of the sanction is not open to review.

[15] Colleges and Universities 81 ⚿16

81 Colleges and Universities
81k16 k. Accreditation; accrediting organizations. Most Cited Cases
(Formerly 81k1)

Law school accrediting agency's failure to accredit law school's satellite programs did not violate common law due process rights of law school; law school was afforded ample process at three different hearings, as it was notified well in advance of each hearing, and afforded the opportunity to present evidence and to appear with counsel, and the agency issued detailed written reports, referencing the applicable rules and standards.

[16] Colleges and Universities 81 ⚿16

81 Colleges and Universities
81k16 k. Accreditation; accrediting organizations. Most Cited Cases
(Formerly 81k1)

A mistake that has no bearing on the ultimate

decision or causes no prejudice shall not be the basis for reversing a determination by a national accrediting agency for schools.

***707 ARGUED:** Michael L. Cioffi, Blank Rome, Cincinnati, Ohio, for Appellant. Anne E. Rea, Sidley Austin, Chicago, Illinois, for Appellees. **ON BRIEF:** Michael L. Cioffi, Blank Rome, Cincinnati, Ohio, Michael W. Hartmann, Larry J. Saylor, Miller, Canfield, Paddock & Stone, Detroit, Michigan, for Appellant. Anne E. Rea, David T. Pritikin, Michael P. Doss, Sidley Austin, Chicago, Illinois, for Appellees.

Before: SILER, BATCHELDER, and GIBBONS, Circuit Judges.

GIBBONS, J., delivered the opinion of the court, in which SILER, J., joined.

BATCHELDER, J. (p. 716), delivered a separate concurring opinion.

OPINION

JULIA SMITH GIBBONS, Circuit Judge.

This case arises from a dispute between the **American Bar Association**, the national accrediting body for **law schools** and its Consultant on Legal Education John Sebert (collectively "ABA"), and the **Thomas M. Cooley Law School** ("**Cooley**" or "the **school**"), an accredited **law school** located in Lansing, Michigan. The dispute centers on **Cooley's** attempts to begin two satellite programs—one at Oakland University in Rochester ("Oakland campus") and one in Grand Rapids ("Grand Rapids campus"). **Cooley** claims that the ABA denied **Cooley** due process in failing to accredit the two proposed satellites and in imposing sanctions on **Cooley** for operating the satellites without ABA prior acquiescence. The district court denied these claims and granted judgment to the defendants. As we find that the ABA afforded **Cooley** all due process in making its rulings, we affirm.

I.

The federal government does not directly accredit institutions of higher education. Rather, the Secretary of Education approves accrediting agencies for different types of educational programs, and these accrediting bodies set independent standards for accreditation. Accreditation is important to a school for a number of reasons, not the least of which is that it allows the students of the school to receive federally-backed financial aid. In addition, the majority of states use ABA accreditation to determine whether an individual applying for admission to the Bar has satisfied the state's legal education requirement.

The ABA's Council on the Section of Legal Education ("Council") is the organization charged with accrediting law schools. The Council makes its decisions following a review and recommendation by the ABA's Accreditation Committee ("Committee"). The process is governed by written Standards, Rules, and Interpretations that are adopted after both public review and comment and review by the ABA House of Delegates ("House"). The Standards describe the requirements that a law school must meet to obtain and retain ABA approval. Standard 105 states: "Before a law school makes a major change in its program of legal education or organizational structure it shall ***708** obtain the acquiescence of the Council for the change." The opening of an additional campus falls under Standard 105. Under ABA rules, a school may offer up to 20% of its legal program at a separate campus without this being a "major change" requiring prior approval. If a school offers more than 20% of its program, however, this does constitute a major change and the ABA must grant acquiescence. Under pre–2003 ABA interpretations, any offering beyond the 20% limit was considered to be the opening of a full "branch campus" and was treated as the creation of a new law school. In December 2001, the Council proposed a new interpretation of Standard 105, which would add an intermediate "satellite campus" option. Under the new interpretation, the opening of a satellite would constitute a major change requiring ABA acquiescence but would not be subject to the same heightened review of a full branch campus. The interpretations were not officially adopted until approved by the House in February 2003.

In 2002, Cooley applied to the ABA to open a satellite at the Oakland campus. The school structured its application to be consistent with the proposed interpretations of Standard 105, despite its acknowledgment that the interpretations "remain[ed] pending" and had not been approved. Under either the old or new interpretations, Cooley's proposal constituted a major change that required ABA acquiescence. While awaiting ABA approval, Cooley began a first-year program at the Oakland campus, which did not require prior acquiescence because it constituted less than 20% of Cooley's official law program. The ABA

conducted a full review of the application, including a site visit, and the findings were reported to the Committee. As the new interpretations of Standard 105 had not been approved, the Committee considered Cooley's application under the existing, more stringent requirements for a branch campus and found it lacking. The Committee summarized its findings in a report, and Cooley responded, expressing its disagreement but stating, "[W]e do not contest that acquiescence is required." The Council did not act on the Committee's recommendations and instead sent the matter back to the Committee for consideration of new information submitted by Cooley. In the interim, Cooley submitted an application for a second satellite campus, this one at Grand Rapids.

In January 2003, the Committee again considered Cooley's proposal using the existing interpretation of Standard 105 and again recommended that the application be denied. The Committee found problems with the proposal's outline of student services, library resources, full-time faculty, and facilities. The ABA also had previously expressed concern regarding **Cooley's** compliance with Standard 501, which mandates that **law schools** should only admit students who appear capable of being admitted to the **Bar**; the Committee felt that adding a new campus, and thus more students, would exacerbate this problem. In February 2003, the Council adopted the Committee's recommendation and denied **Cooley's** application. Two days later, the House adopted the proposed interpretations of Standard 105 relating to satellite campuses.

On the day **Cooley** received the Council's ruling, the **school** informed the ABA that it was increasing its program offering at both campuses above the 20% level, despite the fact that the **school** had been denied acquiescence. **Cooley** attempted to justify this move through its reading of ABA Rule 19(d). Rule 19(d) states:

> An approved **law school** must inform the Consultant prior to implementing any proposed major structural change(s) so ***709** that a site evaluation visit may be promptly scheduled. In the event that the major change in organizational structure is the opening of a branch or an additional location, the site evaluation visit shall take place within six months of the start of classes at the branch or additional location.

Cooley argued that the plain language of Rule 19 dictated that an existing accredited law school must only "inform" the ABA of its decision to implement the major change of opening a branch location, so that a site visit could be scheduled "within six months of the start of classes at the branch or additional location." The school reasoned that it had informed the ABA and thus could operate for six months, allowing the ABA to make the necessary site visit.

The ABA immediately informed Cooley that its reading of Rule 19 was "erroneous" and that ABA regulations clearly required acquiescence prior to making any "major change." The letter cited Standard 105, which states: "*Before* a law school makes a major change in its program of legal education or organizational structure it *shall* obtain the acquiescence of the Council for the change." Rule 19(d), the ABA wrote, dealt only with the scheduling of site visits and provided an exception to the default ABA rule that site visits must occur within two years of approval. The ABA also cited Rule 19(a) [FN1] and Department of Education regulations, 34 C.F.R. § 602.22(a)(1)-(2)(vii), both of which require approval of substantive changes (including adding a location) before the change takes place. The ABA also informed **Cooley** that "operating either of these programs without prior acquiescence of the Council would be a violation of Standard 105 and could subject the **school** to sanctions." The ABA reaffirmed this position in other letters sent in February, March and August of 2003.

> FN1. Rule 19(a) states: "A major change in the organizational structure of an approved **law school** raises concern about the **school's** continued compliance with the Standards. *Before* making a major change in its organizational structure, a provisionally or fully approved **law school** *shall apply for and obtain* acquiescence in the proposed change." (emphasis added).

In October 2003, **Cooley** submitted applications for the opening of full branch campuses at both the Oakland and Grand Rapids locations. In November, **Cooley** appeared before the Committee regarding its applications. The Committee concluded that **Cooley** was operating satellite campuses without prior acquiescence in violation of Standard 105 and recommended that the Council not acquiesce in the propos-

als. The Committee also requested that **Cooley** appear at its next meeting in January to show cause why the **school** should not be sanctioned. The Council concurred both in denying the application and in asking **Cooley** to appear at the show-cause hearing. The Council also informed **Cooley** that no action would be taken on its October 2003 branch applications until the **school's** Oakland and Grand Rapids campuses were in compliance with the Standards.

On March 30, 2004, **Cooley** filed the instant lawsuit. After **Cooley** filed a motion for a preliminary injunction, the parties entered into a Stipulation and Agreed Order, by which **Cooley** agreed to reduce its offerings at Oakland and Grand Rapids to comply with the 20% limit on non-approved programs. **Cooley** further agreed not to expand the programs without ABA approval. The ABA agreed to move the show-cause hearing to June. Both parties complied with the Order.

***710** At the June 2004 show-cause hearing, **Cooley** argued that the ABA did not have the authority to impose sanctions under its own rules, because the **school** had reduced its program offerings and was now "in compliance" with all ABA rules. The Committee disagreed and recommenced sanctions. The Council adopted the Committee's recommendation, censuring **Cooley** for its "substantial and persistent noncompliance" with ABA standards and directives and ruling that the **school** would be ineligible to operate branch or satellite campuses until July 31, 2006. The Council also declined to address the merits of **Cooley's** branch applications, noting its doubts about the **school's** ability to maintain a sound legal educational program and stating that any decision regarding opening a satellite campus in 2006 would have to be made with more current information. The Council informed **Cooley** that it could file a new application for a satellite or branch campus in the summer or fall of 2005.

Following this decision, **Cooley** filed an amended complaint, again challenging the ABA's refusal to acquiesce in its satellite programs and adding claims relating to the imposition of sanctions. Specifically, **Cooley** claimed that the ABA denied its common law right to due process and requested judicial review of the ABA's decision. **Cooley** also brought claims under the Higher Education Act ("HEA"), 20 U.S.C. § 1099b, and under state law. The district court dismissed the HEA claim and state law claims for failure to state a claim, Fed.R.Civ.P. 12(b)(6), and granted summary judgment on the common law due process claim. Cooley filed a timely appeal.

II.

[1][2] Only the common law claims are properly before this court. Cooley makes no argument regarding its state law claims except to "acknowledge [ ] that the district court's holding is consistent with *Foundation [for Interior Design Education Research v. Savannah Coll. of Art & Design*, 244 F.3d 521, 528–29 (6th Cir.2001)], but submit[ ] that *Foundation* is wrongly decided for the reasons set out in Cooley's brief in the district court." This statement is not sufficient to preserve a claim of error, as a party is not allowed to incorporate by reference into its appellate brief the documents and pleadings filed in the district court. *Northland Ins. Co. v. Stewart Title Guar. Co.*, 327 F.3d 448, 452 (6th Cir.2003); *see also United States v. Layne*, 192 F.3d 556, 566–67 (6th Cir.1999) ("[I]ssues adverted to in a perfunctory manner, unaccompanied by some effort at developed argumentation, are deemed waived."). Thus, Cooley has waived any argument of error pertaining to its state law claims.

[3] Additionally, Cooley may not bring a claim under the HEA because the statute does not create a private right of action. Although this court has never addressed the question of whether the HEA creates such a right, "nearly every court to consider the issue in the last twenty-five years has determined that there is no express or implied private right of action to enforce any of the HEA's provisions." *McCulloch v. PNC Bank Inc.*, 298 F.3d 1217, 1221 (11th Cir.2002) (collecting cases); *see also College Loan Corp. v. SLM Corp.*, 396 F.3d 588, 598 (4th Cir.2005); *Parks School of Business, Inc. v. Symington*, 51 F.3d 1480, 1484 (9th Cir.1995); *Labickas v. Ark. State Univ.*, 78 F.3d 333, 334 (8th Cir.1996); *L'ggrke v. Benkula*, 966 F.2d 1346, 1348 (10th Cir.1992).

[4][5] Cooley acknowledges that the HEA does not expressly create a private ***711** right of action but argues that one can be inferred from § 1099b(f), which states:

> Notwithstanding any other provision of law, any civil action brought by an institution of higher education seeking accreditation from, or accredited by, an accrediting agency or association recognized

> by the Secretary ... and involving the denial, withdrawal, or termination of accreditation of the institution of higher education, shall be brought in the appropriate United States district court.

This court has stated that it will "not [ ] infer the existence of private rights of action haphazardly." *Pertuso v. Ford Motor Credit Co.*, 233 F.3d 417, 421 (6th Cir.2000). In determining whether to imply a private right of action, a court looks to four factors.

> First, we consider whether the plaintiff is one of the class for whose especial benefit the statute was enacted. Second, we examine legislative history to see if we can discern any intent either to create or to deny a right of action under the statute. Third, we weigh whether implying a right of action would be consistent with the purposes of the legislative scheme. Finally, we determine whether the cause of action is one traditionally relegated to state law, so that it would be inappropriate to infer a cause of action based solely on federal law.

Parks School, 51 F.3d at 1484 (citing *Cort v. Ash*, 422 U.S. 66, 78, 95 S.Ct. 2080, 45 L.Ed.2d 26 (1975)). In examining these factors, we see no reason not to follow the holdings of our sister circuits. The HEA was passed to benefit students, not educational institutions. *See* 20 U.S.C. § 1070(a). Although educational institutions derive protections from the statute, they are not the group "for whose especial benefit the statute was enacted." Implying a private right also would be contrary to the legislative scheme, as the statute explicitly provides for enforcement through an administrative action brought by the Secretary. *See id.* § 1099b(*l*)(1). Courts should imply private rights of action only if it finds affirmative evidence that Congress intended to create such a right. *See Alexander v. Sandoval*, 532 U.S. 275, 286–87, 121 S.Ct. 1511, 149 L.Ed.2d 517 (2001). No such evidence exists in this statute. Rather, § 1099b(f) is labeled "Jurisdiction." Its purpose is to give federal courts exclusive jurisdiction over disputes involving accreditation, like the present case. Such disputes can be resolved, not through the HEA, but through a common law claim for due process and adequate judicial review.

III.

We thus turn to the only remaining issue—Cooley's claim that the ABA's rejection of its proposals and imposition of sanctions violated the school's common law right to due process. The district court granted summary judgment to the ABA, and we review this ruling *de novo*. *Lautermilch v. Findlay City Sch.*, 314 F.3d 271, 274 (6th Cir.2003).

A.

[6] Many courts, including this one, recognize that "quasi-public" professional organizations and accrediting agencies such as the ABA have a common law duty to employ fair procedures when making decisions affecting their members. *See Foundation for Interior Design Education Research v. Savannah Coll. of Art & Design*, 244 F.3d 521, 527–28 (6th Cir.2001); *Chicago School of Automatic Transmissions, Inc. v. Accreditation Alliance of Career Schools and Colleges*, 44 F.3d 447, 450 (7th Cir.1994); *Wilfred Acad. of Hair & Beauty Culture v. Southern Ass'n of Colls. & Schools*, 957 F.2d 210, 214 (5th Cir.1992); *712*Medical Inst. of Minnesota v. National Ass'n of Trade & Technical Schools*, 817 F.2d 1310, 1314 (8th Cir.1987). Courts developed the right to common law due process as a check on organizations that exercise significant authority in areas of public concern such as accreditation and professional licensing. *See Marjorie Webster Junior Coll., Inc. v. Middle States Ass'n of Colls. & Secondary Sch., Inc.*, 432 F.2d 650, 655–56 (D.C.Cir.1970); *Falcone v. Middlesex County Medical Soc.*, 34 N.J. 582, 170 A.2d 791, 799 (1961); *see also Foundation*, 244 F.3d at 527–28 (recognizing the development of this right). The ABA is such an organization, and we must therefore determine whether the ABA afforded Cooley adequate process in denying the applications for satellite programs and imposing sanctions.

[7] To answer this question, we look to federal law. Although this court in *Foundation* applied state law to resolve a similar dispute, the agency in that case was not at that time approved by the Secretary of Education and thus was not subject to the HEA. Federal courts have exclusive jurisdiction over any action brought by a school challenging an accreditation decision made by an organization approved by the Secretary (such as the ABA). 20 U.S.C. § 1099b(f). This grant of exclusive federal jurisdiction necessarily implies that federal law should govern disputes relating to decisions made by those bodies. It would make little sense for state law to govern claims that could not be heard in any state court. "It is hard enough to be a ventriloquist's dummy in diversity suits under *Erie;* it is all but impossible to see how federal courts could apply state law to the actions of accrediting agencies

when state courts have been silenced by the provision for exclusive jurisdiction." *Chicago School*, 44 F.3d at 449. If a grant of federal jurisdiction can justify the creation of federal common law, *see, e.g., Textile Workers v. Lincoln Mills*, 353 U.S. 448, 456–57, 77 S.Ct. 912, 1 L.Ed.2d 972 (1957), a grant of exclusive jurisdiction necessarily implies the application of federal law.

We must next determine under what principles of federal law we review a decision by an accrediting agency. Both Cooley and the ABA argue that the Administrative Procedure Act ("Act"), 5 U.S.C. § 701, provides the proper framework for reviewing the accreditation process. If the decision was made directly by the Secretary of Education, the presumption would be to review the case under the principles set forth in the Act. The Secretary, however, has delegated his authority regarding law school accreditation to the ABA, which is not a government authority and thus is not governed by the Act. *Id.* §§ 701(b), 702. Despite this delegation, however, the ABA does act on behalf of the Secretary and wields the quasi-governmental power of deciding which law schools are eligible for federal funds. Thus, while the Act does not specifically apply to the ABA, principles of administrative law are useful in determining the standard by which we review the ABA's decision-making process. *See Chicago School*, 44 F.3d at 450.

[8] A number of courts have used these principles in fashioning a standard of review. Though some of the cases applied state law, *see Foundation*, 244 F.3d at 527, and others have left the choice-of-law question unanswered, *see Wilfred Acad.*, 957 F.2d at 214; *Medical Institute of Minnesota*, 817 F.2d at 1314–15, courts have uniformly looked to administrative law in reviewing accreditation decisions. We agree and apply the standard of review that has developed in the common law. This court reviews only whether the decision of an accrediting agency such as the ABA is arbitrary and unreasonable or an abuse of discretion and whether the decision is based on substantial evidence. *See* ***713** *Foundation*, 244 F.3d at 529; *Chicago School*, 44 F.3d at 449.

[9][10] This standard of review resembles the review applied under the Act. *See* 5 U.S.C. § 706(2)(A) ("arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law"). We emphasize, however, that while principles of federal administrative law provide guidance in our analysis, judicial review of accreditation decisions is more limited than review under the Act. Although accrediting agencies perform a quasi-governmental function, they are still private organizations. Courts have made the policy decision to ensure that these organizations act in the public interest and do not abuse their power, but judicial review is limited to protecting the public interest. Recognizing that "the standards of accreditation are not guides for the layman but for professionals in the field of education," *Wilfred Acad.*, 957 F.2d at 214 (quoting *Parsons College v. North Cent. Ass'n of Colleges & Secondary Sch.*, 271 F.Supp. 65, 73 (N.D.Ill.1967)), great deference should be afforded the substantive rules of these bodies and courts should focus on whether an accrediting agency such as the ABA followed a fair procedure in reaching its conclusions. We are not free to conduct a *de novo* review or substitute our judgment for that of the ABA or its Council. Rather, in analyzing whether the ABA abused its discretion or reached a decision that was arbitrary or unreasonable, we focus on whether the agency "conform[ed] its actions to fundamental principles of fairness." *Medical Institute of Minnesota*, 817 F.2d at 1314.

B.

Cooley argues that the ABA abused its discretion in refusing to consider the merits of its satellite application at the 2004 hearing and in imposing sanctions in violation of the ABA's own rules. Cooley also alleges that a number of due process violations occurred during the three rounds of hearings in 2002–2004.

1. Imposition of Sanctions

[11][12] Cooley makes two arguments regarding the ABA's decision to impose sanctions that prevented Cooley from operating a satellite or branch campus until July 31, 2006. First, Cooley argues that the ABA abused its discretion by sanctioning the school in violation of its own rules. Second, Cooley alleges that the sanction was arbitrary and unreasonable and violated due process. An abuse of discretion can only be found if no evidence supports the decision or if the agency misapplied the law. *National Engineering & Contracting Co. v. OSHA*, 928 F.2d 762, 768 (6th Cir.1991).

Cooley argues that the plain language of ABA Rule 13, which outlines hearings on show-cause or-

ders, prohibited the Council from imposing sanctions because, at the time of the hearing, Cooley was in compliance with all ABA governing standards. Rule 13 states in relevant part:

> (b) Representatives of the law school, including legal counsel, may appear at the hearing and submit information to demonstrate that the school is currently in compliance with all the Standards or to present a reliable plan for bringing the school into compliance with all of the Standards within a reasonable time.
>
> (d) After the hearing, the Committee shall determine whether the law school is in compliance with the Standards and, if not, it shall direct the law school to take remedial action or shall impose sanctions as appropriate.
>
> (1) ...
>
> (2) If matters of noncompliance are substantial or have been persistent, ***714** then the Committee may recommend to the Council that the school be subjected to sanctions other than removal from the list of approved law schools regardless of whether the school has presented a reliable plan for bringing the school into compliance.
>
> (3) ...
>
> (e) If the Committee determines that the law school is in compliance, it shall conclude the matter by adopting an appropriate resolution ....

Cooley reads these subsections as stating that the purpose of the show-cause hearing is not to determine whether the school has previously violated ABA rules, but rather to determine whether the school "is currently in compliance" with the Standards. Regardless of its previous actions, Cooley argues it had reduced its course offerings below the 20% level at the time of the show-cause hearing; thus, it was "currently in compliance" and the ABA should have "conclude[d] the matter." By not doing so, Cooley contends, the ABA failed to follow the plain language of its own rules, and thus, the decision is not entitled to deference.

We agree with the ABA that Rule 13 cannot be given such a literal interpretation. Subsections (d) and (e) must be read in conjunction with the remainder of Rule 13, as well as other ABA rules. While not dispositive, subsection (d)(2) has a clear focus on past violations that "have been persistent." More importantly, Rule 11(b), which determines when a school can be called to a show-cause hearing, does not require current noncompliance:

> If, upon a review of the information furnished by the law school in response to the Committee's request and other relevant information, the Committee determines that the school *has not demonstrated compliance* with the Standards, the school may be required to appear at a [show-cause] hearing ... (emphasis added).

The language of this rule exposes the fallacy of Cooley's argument. Under Rule 11, the ABA can require a school that "has not demonstrated compliance" to show cause as to why it should not be sanctioned, regardless of whether the school is currently in compliance with the Standards. It would make little sense for the ABA to require a currently-compliant school to make such a showing if it had no power to sanction that school.

[13] Cooley's interpretation of Rule 13 would also allow schools to come in and out of compliance to avoid sanctions. In this case, the school remained in compliance through the February 2003 acquiescence decision, at which time it increased its course offerings and went out of compliance. Following the Agreed Order and in advance of the June 2004 show-cause hearing, the school quickly reduced its course offerings and came back into compliance. Cooley's actions demonstrate the danger of its reading of Rule 13, which would render the ABA powerless to sanction such blatant disregard of its rules and standards. This court must defer to an agency's interpretation of its own rules unless plainly erroneous. *See A.D. Transport Express, Inc. v. United States*, 290 F.3d 761, 766 (6th Cir.2002). While Cooley's proposed interpretation of Rule 13 is perhaps plausible, the ABA's reading is not clearly erroneous and in fact is more logical. Thus, the ABA's imposition of sanctions despite Cooley's compliance with ABA standards at the time of the hearing does not constitute an abuse of discretion.

[14] Cooley also argues that the sanction itself

was arbitrary and unreasonable and violated due process. An agency sanction, though, "if within the bounds of its lawful authority, is subject to very limited judicial review," and "the severity of the ***715** sanction is not open to review." *Goldstein v. United States*, 9 F.3d 521, 523 (6th Cir.1993) (citation and internal quotation marks omitted); *see also Cobb v. Yeutter*, 889 F.2d 724, 730 (6th Cir.1989) ("We review only to ensure that the chosen penalty is an allowable judgment under the law and the facts.") (citations omitted). In this case, the basis for the sanctioning decision was well-known and well-supported by the evidence. Cooley does not dispute in this court its noncompliance during the February 2003 through April 2004 period. The Committee's report, which was adopted by the Council, carefully details the relevant findings and rationales supporting the sanction. Even though the sanction may have had significant impact on Cooley, it cannot be described as arbitrary and unreasonable, especially given the highly deferential standard of review and the evidence of Cooley's blatant and intentional noncompliance with ABA rules.

2. The Acquiescence and Sanctioning Hearings

[15] Cooley next contends that the district court erred in failing to address its claims that the ABA abused its discretion in denying the satellite applications in 2002 and 2003, before the school's noncompliance. The district court did, however, address these claims, and in any case, they are meritless. Cooley was afforded ample process at each of the ABA hearings—it was notified well in advance, afforded the opportunity to submit evidence to supports its case, and permitted to appear before the body with counsel present. After each group of hearings, the Committee issued a detailed written report outlining its findings and recommendations. The Council in turn wrote a letter outlining its conclusions, referencing the findings of the Committee and the applicable rules and standards.

Cooley's claim that the ABA erred in not using the new interpretations of Standard 105 in the December 2002 and January 2003 evaluations of the school's satellite applications, when those interpretations were not officially adopted until February 2003, is equally baseless. We refuse to hold that an accrediting agency abuses its discretion by following its existing regulations, rather than ones that are proposed but not yet adopted. Such a ruling would turn rulemaking on its head and leave accrediting agencies vulnerable to attack anytime a rule change was in process. The other errors alleged by Cooley—a conflict of interest by one Committee member and the use of an incorrect fact sheet during one of the hearings—do not amount to a due process violation. The supposed conflict of interest arose because one Committee member was the dean of another law school. After considering the matter, the Committee denied the request that the member be replaced, finding no danger of bias and reasoning that Cooley's logic would disqualify almost any member of the Committee. As to the incorrect fact sheet, it was quickly corrected and there is no evidence that the Committee relied on it in reaching its conclusion. As both of these claims of error were duly considered by the ABA and rejected with sufficient reasoning, they do not constitute an abuse of discretion and do not in any way violate Cooley's right to a fair process.

Cooley also argues that the Council abused its discretion in declining to act on its satellite campus applications at the June 2004 hearing. The Council was well within its discretion not to rule on the merits of the applications, as the imposition of sanctions meant that the satellites would not open until 2006, and thus, the Council did not have sufficient information on which to base its decision. The delay allowed the Committee to conduct an additional site visit in the summer of 2005, ***716** giving the ABA the most up-to-date information on which to base the accreditation decision. Cooley has not argued that the decision to delay contradicted ABA rules or established policies. In fact, the focus of Rule 19(d) is to ensure that the ABA makes decisions on satellite and branch campuses based on current information. The decision to delay ruling on the satellite applications did not constitute an abuse of discretion.

[16] Finally, Cooley raises a number of alleged procedural problems with the sanctions hearing: the denial of its request to cross-examine witnesses, the combined prosecutorial and adjudicative functions, and the possible introduction of *ex parte* evidence. As the district court correctly noted, these allegations "do not even hint at the existence of prejudicial error" that would be needed to justify relief. "[A] mistake that has no bearing on the ultimate decision or causes no prejudice shall not be the basis for reversing an agency's determination." *Coalition for Gov't Procurement v. Fed. Prison Ind., Inc.*, 365 F.3d 435, 468 (6th Cir.2004). In light of the undisputed evidence of sub-

stantial and persistent noncompliance, Cooley cannot show that it would not have been sanctioned had these alleged errors not occurred.

IV.

For the foregoing reasons, the decision of the district court is affirmed.

ALICE M. BATCHELDER, Circuit Judge.

I concur in the court's opinion. I write separately because although my point of disagreement does not affect the outcome of this case, I disagree with the majority's interpretation of ABA Rule of Procedure 13(d). Both the plain language and the structure of the rule make plain that the ABA could not sanction Cooley unless Cooley was not in compliance with the ABA Standards at the time of the show cause hearing. At the time of the hearing, the rule, by its plain language, instructed the Committee to determine "whether the law school *is* in compliance with the Standards ...." ABA R. PROC. 13(d) (emphasis added). If so, Rule 13(e) directed the Committee to "conclude the matter by adopting the appropriate resolution ...." If not, Rule 13(d) required the Committee to "direct the law school to take remedial action" or "impose sanctions." The ABA's use of "is" in the flush language of Rule 13(d) required it to make a present-tense determination of compliance. Therefore, the latter courses of action were permitted only if the Committee found that the school was not in compliance at the time of the hearing. In my view any other interpretation of the rule turns grammar on its head.

That the rule required a determination of compliance at the time of the hearing is evident not only from its plain language, but also from its structure. The subsections of Rule 13(d) that penalize persistent noncompliance were available only upon an initial finding of current noncompliance as required by the flush language of the rule. Furthermore, Rule 14, which described the Council's consideration of sanctions at the time of Cooley's hearing, clearly contemplated that sanctions would apply only to schools that were not currently in compliance. Rule 14(a) provided that the Council "may direct the law school to take remedial action or subject it to sanctions ... regardless of whether the school has presented a reliable plan for bringing the school into compliance ...." Rule 14(c) next provided that, if the Council imposed sanctions on a school that had no remedial plan, the "Committee shall monitor the steps taken by the school to come into *717 compliance." By its plain language, then, the rules contemplated sanctions for only two types of schools: those that were not in compliance but had a remedial plan, and those that were not in compliance and had no such plan. If, as Cooley alleges, it was in compliance at the time of the hearing, it fell into neither category and sanctions were inappropriate.

Finally, Rule 14's focus on compliance makes clear that the ABA intended sanctions to be remedial, not punitive, in nature. Accordingly, Rule 14's final section provided that "[a]t any time that the school presents information on which the Committee concludes that the school is in full compliance with the Standards, the Committee shall recommend to the Council that the school be taken off probation." ABA R. PROC. 14(d). When read in light of Rule 14, the already clear instructions of Rule 13 become inescapable. Under Rule 13(d), the Council was not permitted to sanction Cooley unless Cooley was not in compliance with ABA standards at the time of the show cause hearing.

C.A.6 (Mich.),2006.
Thomas M. Cooley Law School v. American Bar Ass'n
459 F.3d 705, 212 Ed. Law Rep. 85, 2006 Fed.App. 0306P

END OF DOCUMENT

EXHIBIT 5

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF INGHAM

THOMAS M. COOLEY LAW SCHOOL,
a Michigan nonprofit corporation,

Plaintiff,

vs.

JOHN DOE 1, JOHN DOE 2, JOHN DOE 3,
and JOHN DOE 4, unknown individuals,

Defendants.
/

Case No. 1178 -CZ

Hon. CLINTON CANADY III

JURY TRIAL DEMANDED

MILLER, CANFIELD, PADDOCK AND STONE, PLC
Michael P. Coakley (P34578)
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(313) 963-6420
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Attorneys for Plaintiff
/

COMPLAINT

There is no other pending or resolved civil action
arising out of the transaction or occurrences alleged in this Complaint.

NOW COMES Plaintiff Thomas M. Cooley Law School, by and through its attorneys, Miller, Canfield, Paddock and Stone PLC, and for its Complaint against Defendants John Doe 1, John Doe 2, John Doe 3, and John Doe 4 states as follows:

THE PARTIES, JURISDICTION, AND VENUE

1. Thomas M. Cooley Law School ("Cooley") is a Michigan nonprofit corporation with its principal place of business in Lansing, Michigan. Cooley is the largest American Bar

Association accredited law school in the United States by total enrollment, with campuses in Lansing, Ann Arbor, Auburn Hills, and Grand Rapids, Michigan.

2. As detailed below, Defendant John Doe 1 has posted tortious and defamatory statements about Cooley on internet weblogs and message boards under the pseudonym "Rockstar05." John Doe 1's identity, residence, and citizenship are unknown at this time. Cooley intends to seek immediate discovery from the website host, Weebly, Inc., to determine the identity of John Doe 1.

3. As detailed below, Defendant John Doe 2 has posted tortious and defamatory statements about Cooley on internet weblogs and message boards under the pseudonym "Informant." John Doe 2's identity, residence, and citizenship are unknown at this time. Cooley intends to seek immediate discovery from the website host, Weebly, Inc., to determine the identity of John Doe 2.

4. As detailed below, Defendant John Doe 3 has posted tortious and defamatory statements about Cooley on internet weblogs and message boards under the pseudonym "Anonymous." John Doe 3's identity, residence, and citizenship are unknown at this time. Cooley intends to seek immediate discovery from the website host, Weebly, Inc., to determine the identity of John Doe 3.

5. As detailed below, Defendant John Doe 4 has posted tortious and defamatory statements about Cooley on internet weblogs and message boards under the pseudonym "Ch Burns." John Doe 4's identity, residence, and citizenship are unknown at this time. Cooley intends to seek immediate discovery from the website host, The Huffington Post/AOL, Inc., to determine the identity of John Doe 4.

6. As detailed in the attached affidavit of James B. Thelen, Esq., Cooley's associate dean for legal affairs and general counsel, Cooley has made diligent inquiry and efforts to

identify and locate John Doe 1, John Doe 2, John Doe 3, and John Doe 4, including by seeking their names, addresses, email addresses, IP addresses, and other identifying information from the website hosts potentially holding that information, and requesting that the website hosts maintain that information. The website hosts to date have declined to provide identifying information without a court subpoena or order. Cooley has also performed various internet searches relating to Defendants' internet usernames/aliases/pseudonyms in an effort to identify and locate Defendants. Despite Cooley's diligent efforts, Cooley has not yet identified or located John Doe 1, John Doe 2, John Doe 3, or John Doe 4. Cooley intends to seek immediate discovery from the website hosts, Weebly, Inc., and The Huffington Post/AOL, Inc. to identify and locate Defendants. (Exhibit A, Affidavit of Jim Thelen.)

7. Cooley's cause of action arose in Ingham County; Cooley has suffered, is suffering, and will continue to suffer harm and original injury from Defendants' tortious conduct in Ingham County and elsewhere; and Cooley and has a place of business and/or conducts business in Ingham County. Venue is proper under MCL 600.1627 and MCL 600.1629.

8. The amount in controversy exceeds $25,000 exclusive of interest and costs, and jurisdiction is otherwise proper in this Court.

FACTUAL ALLEGATIONS

John Doe 1

9. On or about February 14, 2011, John Doe 1 created an internet weblog titled, "THOMAS M. COOLEY LAW SCHOOL SCAM," at http://thomas-cooley-law-school-scam.weebly.com/index.html.

10. The blog is hosted by Weebly, Inc., an internet weblog host.

11. John Doe 1 created the blog under the pseudonym, "Rockstar05."

12. John Doe 1 identifies him/herself on the blog as a former Cooley student.

13. John Doe 1 states on the blog that he/she created the blog "to bring truth and awareness" about Cooley, and claims his statements are based on his personal knowledge and "research."

14. On or about February 14, 2011, John Doe 1 under the pseudonym "Rockstar05" authored a post on the blog titled "THE THOMAS M. COOLEY LAW SCHOOL SCAM." (A true and accurate printout of the post and comments to the post as of July 14, 2011 is attached as Exhibit B.)

15. John Doe 1's blog post is false and defamatory.

16. John Doe 1 made false and defamatory statements concerning Cooley in the blog post and in the comments forum associated with the blog post. (Exhibit B.)

17. Among the false and defamatory statements about Cooley in John Doe 1's blog post and John Doe 1's comments to the blog post are the false, defamatory, and/or per se defamatory accusations that Cooley and its representatives are "criminals" and have committed "fraud." (Exhibit B.) John Doe 1 also falsely states that Cooley has deceived and provided false information to Cooley's current and prospective students in order to "lure" them to Cooley or to induce them to remain at Cooley rather than transfer to another school. (*Id.*) John Doe 1 further falsely states that Cooley is the highest tax payer in Lansing and "essentially a multi-million dollar business" that uses its clout to "prey" on current and prospective students, stealing their tuition money to "become more rich." (*Id.*)

18. As expressed in Exhibit B, John Doe 1 made the false and defamatory statements concerning Cooley for the purpose of convincing current Cooley students to leave Cooley and to convince prospective Cooley students not to apply to and/or enroll at Cooley. John Doe 1 instructs prospective students: "DO NOT ATTEND THIS SCHOOL" and "avoid Cooley at all costs" because it "WILL RUIN YOUR LIFE[.]" (Exhibit B.)

John Doe 2

19. On or about February 17, 2011, John Doe 2 posted a comment to John Doe 1's weblog post in Exhibit B. (*See* Exhibit B at p. 17.)

20. John Doe 2 posted the comment in Exhibit B under the pseudonym, "Informant."

21. John Doe 2 made false and defamatory statements concerning Cooley in the comment in Exhibit B.

22. Among the false and defamatory statements concerning Cooley in John Doe 2's comments in Exhibit B are the false, defamatory, and/or per se defamatory statements that Cooley is a "sham Corporation" whose "sole operational goal is using their students to make and create . . . securities that they can offer and sell to banks, student loan servicers, guaranty agencies, investment banks, and institutional investors." John Doe 2 further falsely states that "a good portion of Cooley's Administrators and 'Executive Officers' are actually full time employees at banks, investment firms, private equity firms and securities dealers" and that "Cooley has been able to get away with this for years by misspelling names, omitting letters from names, and/or using maiden names on their website, literature, etc." (Exhibit B at 17.)

John Doe 3

23. On or about April 21, 2011, John Doe 3 posted comments to John Doe 1's weblog post in Exhibit B. (*See* Exhibit B at pp. 23-24.)

24. John Doe 3 posted the comments under the pseudonym, "Anonymous."

25. John Doe 3 made false and defamatory statements concerning Cooley in the comments in Exhibit B.

26. Among the false and defamatory statements concerning Cooley in John Doe 3's comments in Exhibit B are the false, defamatory, and/or per se defamatory statements that a "two-year multi-agency undercover investigation/sting operation" revealed that "Cooley

withholds grades and information to conceal their federal student loan fraud"; that Cooley "with holds [sic] grades and information to conceal their federal student loan fraud"; that "Cooley administrators also operate the Michigan Higher Education Student Loan Authority's student secondary market program" to commit "fraud"; and that a "good portion of Cooley's 'Administrators' and 'Executive Officers' are actually full time employees at banks, investment firms, private equity firms and securities dealers" and "Cooley misspell [sic] names, omits letters from names, and/or uses maiden names for the Administrators on their website, literature, etc. to conceal their true employment because many of their names are also listed in their banks' SEC filings." (Exhibit B at 23-24.)

John Doe 4

27. On or about April 23 and 26, 2011, John Doe 4 posted comments on the Huffington Post website. (A true and accurate printout of the comments as of July 14, 2011 is attached as Exhibit C.)

28. The website is hosted by The Huffington Post/AOL, Inc.

29. John Doe 4 posted the comments under the pseudonym, "Ch Burns."

30. John Doe 4 made false and defamatory statements concerning Cooley in Exhibit C.

31. Among the false and defamatory statements concerning Cooley in John Doe 4's comments in Exhibit C are the false, defamatory, and/or per se defamatory statements that Cooley is "under investigation for serious Title IV violations and helping student loan companies bilk students, taxpayers, and the government out of billions of dollars"; that "Cooley has been secretly operating their state's student secondary market program" to commit student-loan fraud; and that "[i]nvestigators also discovered that a good portion of Cooley's 'Administrators' and

'Executive Officers' are really employees/-officers [sic] at banks, investment firms, private equity firms and securities dealers." (Exhibit C.)

32. Upon information and belief, John Doe 4 communicated defamatory statements substantively similar to the defamatory statements in Exhibit C to other internet weblogs, which then reposted them.

COUNT I – DEFAMATION

Against John Doe 1

33. Cooley reasserts and incorporates by reference the foregoing allegations as if fully set forth here.

34. John Doe 1 made false and defamatory statements concerning Cooley in Exhibit B.

35. John Doe 1 published and communicated those false and defamatory statements concerning Cooley to third parties without privilege or authorization.

36. John Doe 1 acted with fault amounting at least to negligence in publishing the false and defamatory statements concerning Cooley.

37. John Doe 1's statements concerning Cooley are defamatory per se, including because John Doe 1 accuses Cooley of violating criminal laws, and/or caused Cooley special harm.

38. As a result of John Doe 1's false and defamatory statements concerning Cooley, Cooley has suffered and will continue to suffer damage, including economic damages, damages to its reputation, and/or damage to its current and prospective business relations.

WHEREFORE, Cooley respectfully requests that this Court enter a judgment against John Doe 1, award Cooley damages in excess of $25,000, plus interest, attorneys' fees, and costs, order Defendant to remove and retract all defamatory statements concerning Cooley, order

that Defendant must cease and desist and is enjoined from publishing the defamatory statements concerning Cooley, and order such other and further legal or equitable relief deemed appropriate.

Against John Doe 2

39. Cooley reasserts and incorporates by reference the foregoing allegations as if fully set forth here.

40. John Doe 2 made false and defamatory statements concerning Cooley in Exhibit B.

41. John Doe 2 published and communicated those false and defamatory statements concerning Cooley to third parties without privilege or authorization.

42. John Doe 2 acted with fault amounting at least to negligence in publishing the false and defamatory statements concerning Cooley.

43. John Doe 2's statements concerning Cooley are defamatory per se, including because John Doe 2 accuses Cooley of violating federal student-loan and other criminal laws, and/or caused Cooley special harm.

44. As a result of John Doe 2's false and defamatory statements concerning Cooley, Cooley has suffered and will continue to suffer damage, including economic damages, damages to its reputation, and/or damage to its current and prospective business relations.

WHEREFORE, Cooley respectfully requests that this Court enter a judgment against John Doe 2, award Cooley damages in excess of $25,000, plus interest, attorneys' fees, and costs, order Defendant to remove and retract all defamatory statements concerning Cooley, order that Defendant must cease and desist and is enjoined from publishing the defamatory statements concerning Cooley, and order such other and further legal or equitable relief deemed appropriate.

Against John Doe 3

45. Cooley reasserts and incorporates by reference the foregoing allegations as if fully set forth here.

46. John Doe 3 made false and defamatory statements concerning Cooley in Exhibit B.

47. John Doe 3 published and communicated those false and defamatory statements concerning Cooley to third parties without privilege or authorization.

48. John Doe 3 acted with fault amounting at least to negligence in publishing the false and defamatory statements concerning Cooley.

49. John Doe 3's statements concerning Cooley are defamatory per se, including because John Doe 3 accuses Cooley of violating federal student-loan and other criminal laws, and/or caused Cooley special harm.

50. As a result of John Doe 3's false and defamatory statements concerning Cooley, Cooley has suffered and will continue to suffer damage, including economic damages, damages to its reputation, and/or damage to its current and prospective business relations.

WHEREFORE, Cooley respectfully requests that this Court enter a judgment against John Doe 3, award Cooley damages in excess of $25,000, plus interest, attorneys' fees, and costs, order Defendant to remove and retract all defamatory statements concerning Cooley, order that Defendant must cease and desist and is enjoined from publishing the defamatory statements concerning Cooley, and order such other and further legal or equitable relief deemed appropriate.

Against John Doe 4

51. Cooley reasserts and incorporates by reference the foregoing allegations as if fully set forth here.

52. John Doe 4 made false and defamatory statements concerning Cooley in Exhibit C.

53. John Doe 4 published and communicated those false and defamatory statements concerning Cooley to third parties without privilege or authorization.

54. John Doe 4 acted with fault amounting at least to negligence in publishing the false and defamatory statements concerning Cooley.

55. John Doe 4's statements concerning Cooley are defamatory per se, including because John Doe 4 accuses Cooley of violating federal student-loan and other criminal laws, and/or caused Cooley special harm.

56. As a result of John Doe 4's false and defamatory statements concerning Cooley, Cooley has suffered and will continue to suffer damage, including economic damages, damages to its reputation, and/or damage to its current and prospective business relations.

57. WHEREFORE, Cooley respectfully requests that this Court enter a judgment against John Doe 4, award Cooley damages in excess of $25,000, plus interest, attorneys' fees, and costs, order Defendant to remove and retract all defamatory statements concerning Cooley, order that Defendant must cease and desist and is enjoined from publishing the defamatory statements concerning Cooley, and order such other and further legal or equitable relief deemed appropriate.

COUNT II – TORTIOUS INTERFERENCE WITH BUSINESS RELATIONS

Against John Doe 1

58. Cooley reasserts and incorporates by reference the foregoing allegations as if fully set forth here.

59. Cooley has valid business relationships and business expectancies with its current and prospective students, donors and prospective donors, faculty members, and employers and student externship site hosts, among others.

60. John Doe 1 knew of Cooley's valid business relationships and business expectancies at all relevant times hereto.

61. John Doe 1 intentionally interfered with Cooley's valid business relationships and business expectancies by intentionally making defamatory statements concerning Cooley and/or by intentionally making statements unjustified in law with malice for the purpose of invading Cooley's business relationships and business expectancies, inducing or causing a breach or termination of Cooley's business relationships and business expectancies.

62. As a result of John Doe 1's intentional interference with Cooley's valid business relationships and business expectancies, Cooley has suffered and will continue to suffer damage, including economic damages, damages to its reputation, and/or damage to its current and prospective business relations.

WHEREFORE, Cooley respectfully requests that this Court enter a judgment against John Doe 1, award Cooley damages in excess of $25,000, plus interest, attorneys' fees, and costs, order Defendant to remove and retract all defamatory statements concerning Cooley, order that Defendant must cease and desist and is enjoined from publishing the defamatory statements concerning Cooley, and order such other and further legal or equitable relief deemed appropriate.

Against John Doe 2

63. Cooley reasserts and incorporates by reference the foregoing allegations as if fully set forth here.

64. Cooley has valid business relationships and business expectancies with its current and prospective students, donors and prospective donors, faculty members, and employers and student externship site hosts, among others.

65. John Doe 2 knew of Cooley's valid business relationships and business expectancies at all relevant times hereto.

66. John Doe 2 intentionally interfered with Cooley's valid business relationships and business expectancies by intentionally making defamatory statements concerning Cooley and/or by intentionally making statements unjustified in law with malice for the purpose of invading Cooley's business relationships and business expectancies, inducing or causing a breach or termination of Cooley's business relationships and business expectancies.

67. As a result of John Doe 2's intentional interference with Cooley's valid business relationships and business expectancies, Cooley has suffered and will continue to suffer damage, including economic damages, damages to its reputation, and/or damage to its current and prospective business relations.

WHEREFORE, Cooley respectfully requests that this Court enter a judgment against John Doe 2, award Cooley damages in excess of $25,000, plus interest, attorneys' fees, and costs, order Defendant to remove and retract all defamatory statements concerning Cooley, order that Defendant must cease and desist and is enjoined from publishing the defamatory statements concerning Cooley, and order such other and further legal or equitable relief deemed appropriate.

Against John Doe 3

68. Cooley reasserts and incorporates by reference the foregoing allegations as if fully set forth here.

69. Cooley has valid business relationships and business expectancies with its current and prospective students, donors and prospective donors, faculty members, and employers and student externship site hosts, among others.

70. John Doe 3 knew of Cooley's valid business relationships and business expectancies at all relevant times hereto.

71. John Doe 3 intentionally interfered with Cooley's valid business relationships and business expectancies by intentionally making defamatory statements concerning Cooley and/or by intentionally making statements unjustified in law with malice for the purpose of invading Cooley's business relationships and business expectancies, inducing or causing a breach or termination of Cooley's business relationships and business expectancies.

72. As a result of John Doe 3's intentional interference with Cooley's valid business relationships and business expectancies, Cooley has suffered and will continue to suffer damage, including economic damages, damages to its reputation, and/or damage to its current and prospective business relations.

WHEREFORE, Cooley respectfully requests that this Court enter a judgment against John Doe 3, award Cooley damages in excess of $25,000, plus interest, attorneys' fees, and costs, order Defendant to remove and retract all defamatory statements concerning Cooley, order that Defendant must cease and desist and is enjoined from publishing the defamatory statements concerning Cooley, and order such other and further legal or equitable relief deemed appropriate.

Against John Doe 4

73. Cooley reasserts and incorporates by reference the foregoing allegations as if fully set forth here.

74. Cooley has valid business relationships and business expectancies with its current and prospective students, donors and prospective donors, faculty members, and employers and student externship site hosts, among others.

75. John Doe 4 knew of Cooley's valid business relationships and business expectancies at all relevant times hereto.

76. John Doe 4 intentionally interfered with Cooley's valid business relationships and business expectancies by intentionally making defamatory statements concerning Cooley and/or by intentionally making statements unjustified in law with malice for the purpose of invading Cooley's business relationships and business expectancies, inducing or causing a breach or termination of Cooley's business relationships and business expectancies.

77. As a result of John Doe 4's intentional interference with Cooley's valid business relationships and business expectancies, Cooley has suffered and will continue to suffer damage, including economic damages, damages to its reputation, and/or damage to its current and prospective business relations.

WHEREFORE, Cooley respectfully requests that this Court enter a judgment against John Doe 4, award Cooley damages in excess of $25,000, plus interest, attorneys' fees, and costs, order Defendant to remove and retract all defamatory statements concerning Cooley, order that Defendant must cease and desist and is enjoined from publishing the defamatory statements concerning Cooley, and order such other and further legal or equitable relief deemed appropriate.

Respectfully submitted,

MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.

By: Michael P. Coakley by IZK (P67667)

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Dated: July 14, 2011

JURY DEMAND

Plaintiff hereby demands a trial by jury on all claims in this action triable by jury.

Respectfully submitted,

MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.

By: Michael P. Coakley by ZLK (167667)

Michael P. Coakley (P34578)
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Dated: July 14, 2011

19,239,427.2\018763-00018

EXHIBIT 6

Superior Court of New Jersey,
Appellate Division.

DENDRITE INTERNATIONAL, INC., a New Jersey Corporation, Plaintiff-Appellant,
v.
John DOE, NO. 3, Defendant-Respondent,
John Does Nos. 1, 2 and 4, and **John** Does 5 through 14, inclusive, Defendants.

Argued May 22, 2001.
Decided July 11, 2001.

Corporation brought defamation action against **John Doe** defendants for posting a message on an Internet service provider's (ISP) bulleting board. The corporation sought discovery compelling the ISP to disclose the defendants' identities. The Superior Court, Morris County, Chancery Division, MacKenzie, J., denied the discovery request. Corporation's motion for leave to appeal was granted. The Superior Court, Appellate Division, Fall, J.A.D., held that: (1) the trial court appropriately required the corporation to show harm from the allegedly defamatory statement and was not required to apply a deferential motion-to-dismiss standard, and (2) the corporation was not entitled to the discovery since it failed to show harm from the statement.

Affirmed.

West Headnotes

[1] Constitutional Law 92 ⚿2150

92 Constitutional Law
92XVIII Freedom of Speech, Expression, and Press
92XVIII(W) Telecommunications and Computers
92k2148 Internet
92k2150 k. Service Providers. Most Cited Cases
(Formerly 92k90.1(9))

Pretrial Procedure 307A ⚿40

307A Pretrial Procedure
307AII Depositions and Discovery
307AII(A) Discovery in General
307Ak36 Particular Subjects of Disclosure
307Ak40 k. Identity and Location of Witnesses and Others. Most Cited Cases

When faced with an application for expedited discovery to compel an Internet service provider (ISP) to honor a subpoena and disclose the identity of anonymous Internet poster sued for allegedly violating the rights of individuals, corporations, or businesses, the trial court must strike a balance between the well-established First Amendment right to speak anonymously and the right of the plaintiff to protect its proprietary interests and reputation through the assertion of recognizable claims based on the actionable conduct of the anonymous, fictitiously-named defendant. U.S.C.A. Const.Amend. 1; N.J.S.A. Const. Art. 1, par. 6.

[2] Pretrial Procedure 307A ⚿40

307A Pretrial Procedure
307AII Depositions and Discovery
307AII(A) Discovery in General
307Ak36 Particular Subjects of Disclosure
307Ak40 k. Identity and Location of Witnesses and Others. Most Cited Cases

On an application for expedited discovery to compel an Internet service provider (ISP) to honor a subpoena and disclose the identity of anonymous Internet posters, the trial court should first require the plaintiff to undertake efforts to notify the anonymous posters that they are the subject of a subpoena or application for an order of disclosure and withhold action to afford the fictitiously-named defendants a reasonable opportunity to file and serve opposition to the application; these notification efforts should include posting a message of notification of the identity discovery request to the anonymous user on the ISP's pertinent message board.

[3] Pretrial Procedure 307A 40

307A Pretrial Procedure
307AII Depositions and Discovery
307AII(A) Discovery in General
307Ak36 Particular Subjects of Disclosure
307Ak40 k. Identity and Location of Witnesses and Others. Most Cited Cases

When a plaintiff in a defamation case seeks expedited discovery to compel an Internet service provider (ISP) to honor a subpoena and disclose the identity of an anonymous defendant who posted a message on the ISP's bulletin board, the trial court should require the plaintiff to identify and set forth the exact statements that allegedly constitute actionable speech.

[4] Pretrial Procedure 307A 40

307A Pretrial Procedure
307AII Depositions and Discovery
307AII(A) Discovery in General
307Ak36 Particular Subjects of Disclosure
307Ak40 k. Identity and Location of Witnesses and Others. Most Cited Cases

On an application for expedited discovery to compel an Internet service provider (ISP) to honor a subpoena and disclose the identity of anonymous Internet posters, the trial court should carefully review the complaint and all information provided to the court in order to determine whether the plaintiff has set forth a prima facie cause of action against the fictitiously-named anonymous defendants.

[5] Pretrial Procedure 307A 40

307A Pretrial Procedure
307AII Depositions and Discovery
307AII(A) Discovery in General
307Ak36 Particular Subjects of Disclosure
307Ak40 k. Identity and Location of Witnesses and Others. Most Cited Cases

A plaintiff seeking discovery to compel an Internet service provider (ISP) to disclose the identity of a John Doe defendant who used the ISP's bulleting board must establish that its action can withstand a motion to dismiss for failure to state a claim upon which relief can be granted and must produce sufficient evidence supporting each element of its cause of action, on a prima facie basis, prior to a court ordering the disclosure of the identity of the unnamed defendant. R. 4:6-2(f).

[6] Constitutional Law 92 2150

92 Constitutional Law
92XVIII Freedom of Speech, Expression, and Press
92XVIII(W) Telecommunications and Computers
92k2148 Internet
92k2150 k. Service Providers. Most Cited Cases
(Formerly 92k90.1(9))

Pretrial Procedure 307A 40

307A Pretrial Procedure
307AII Depositions and Discovery
307AII(A) Discovery in General
307Ak36 Particular Subjects of Disclosure
307Ak40 k. Identity and Location of Witnesses and Others. Most Cited Cases

If a plaintiff has presented a prima facie cause of action in connection with a discovery request to compel an Internet service provider (ISP) to honor a subpoena and disclose the identity of a John Doe defendant who posted a message on the ISP's bulletin board, the court must balance the defendant's First Amendment right of anonymous free speech against the strength of the prima facie case presented and the necessity for the disclosure of the anonymous defendant's identity to allow the plaintiff to properly proceed. U.S.C.A. Const.Amend. 1; N.J.S.A. Const. Art. 1, par. 6.

[7] Pretrial Procedure 307A 40

307A Pretrial Procedure
307AII Depositions and Discovery
307AII(A) Discovery in General
307Ak36 Particular Subjects of Disclosure
307Ak40 k. Identity and Location of Witnesses and Others. Most Cited Cases

A trial court must analyze on a case-by-case basis

the procedures and standards applicable to a plaintiff's request for discovery to compel an Internet service provider (ISP) to honor a subpoena and disclose the identity of a John Doe defendant who posted a message on the ISP's bulletin board.

[8] Constitutional Law 92 ⚿1581

92 Constitutional Law
92XVIII Freedom of Speech, Expression, and Press
92XVIII(A) In General
92XVIII(A)3 Particular Issues and Applications in General
92k1581 k. Anonymous Speech. Most Cited Cases
(Formerly 92k90(1))

Rights afforded by the First Amendment remain protected even when engaged in anonymously. U.S.C.A. Const.Amend. 1.

[9] Constitutional Law 92 ⚿1493

92 Constitutional Law
92XVIII Freedom of Speech, Expression, and Press
92XVIII(A) In General
92XVIII(A)1 In General
92k1493 k. Relation Between State and Federal Rights. Most Cited Cases
(Formerly 92k90(1), 92k18)

The state constitution affords greater protection to rights to free speech than does the federal constitution. U.S.C.A. Const.Amend. 1; N.J.S.A. Const. Art. 1, par. 6.

[10] Constitutional Law 92 ⚿1494

92 Constitutional Law
92XVIII Freedom of Speech, Expression, and Press
92XVIII(A) In General
92XVIII(A)1 In General
92k1494 k. Applicability to Governmental or Private Action; State Action. Most Cited Cases
(Formerly 92k90(1))

The state constitutional right of free speech is protected not only from abridgment by government, but also from unreasonably restrictive and oppressive conduct by private entities. N.J.S.A. Const. Art. 1, par. 6.

[11] Constitutional Law 92 ⚿2161

92 Constitutional Law
92XVIII Freedom of Speech, Expression, and Press
92XVIII(X) Defamation
92k2160 In General
92k2161 k. In General. Most Cited Cases
(Formerly 92k90.1(5))

The law of defamation exists to achieve the proper balance between protecting reputation and protecting free speech. U.S.C.A. Const.Amend. 1; N.J.S.A. Const. Art. 1, par. 6.

[12] Pretrial Procedure 307A ⚿40

307A Pretrial Procedure
307AII Depositions and Discovery
307AII(A) Discovery in General
307Ak36 Particular Subjects of Disclosure
307Ak40 k. Identity and Location of Witnesses and Others. Most Cited Cases

In ruling on corporation's discovery request to establish identity of anonymous user of Internet service provider's (ISP) message board, the trial court appropriately required the corporation to show harm from the user's allegedly defamatory statement and was not required to apply a deferential motion-to-dismiss standard; requiring specific proof of harm better balanced the request for disclosure in light of the user's competing right of anonymity in the exercise of his right of free speech. U.S.C.A. Const.Amend. 1; N.J.S.A. Const. Art. 1, par. 6; R. 4:6-2(f).

[13] Pretrial Procedure 307A ⚿40

307A Pretrial Procedure
307AII Depositions and Discovery
307AII(A) Discovery in General
307Ak36 Particular Subjects of Disclosure

307Ak40 k. Identity and Location of Witnesses and Others. Most Cited Cases

A strict application of rules surrounding motions to dismiss is not the appropriate litmus test to apply in evaluating a discovery request requiring an Internet service provider (ISP) to disclose the identity of a bulletin board user. R. 4:6-2(f).

[14] Pretrial Procedure 307A 40

307A Pretrial Procedure
307AII Depositions and Discovery
307AII(A) Discovery in General
307Ak36 Particular Subjects of Disclosure
307Ak40 k. Identity and Location of Witnesses and Others. Most Cited Cases

The test for discovery requests requiring an Internet service provider (ISP) to disclose the identity of a bulletin board user is a flexible, non-technical, fact-sensitive mechanism for courts to use as a means of ensuring that plaintiffs do not use discovery procedures to ascertain the identities of unknown defendants in order to harass, intimidate, or silence critics in the public forum opportunities presented by the Internet.

[15] Constitutional Law 92 2150

92 Constitutional Law
92XVIII Freedom of Speech, Expression, and Press
92XVIII(W) Telecommunications and Computers
92k2148 Internet
92k2150 k. Service Providers. Most Cited Cases
(Formerly 92k90.1(9))

Pretrial Procedure 307A 40

307A Pretrial Procedure
307AII Depositions and Discovery
307AII(A) Discovery in General
307Ak36 Particular Subjects of Disclosure
307Ak40 k. Identity and Location of Witnesses and Others. Most Cited Cases

When evaluating a plaintiff's request to compel an Internet service provider (ISP) to disclose the identity of a John Doe subscriber, courts may depart from traditionally-applied legal standards in analyzing the appropriateness of such disclosure in light of the First Amendment implications. U.S.C.A. Const.Amend. 1.

[16] Libel and Slander 237 6(1)

237 Libel and Slander
237I Words and Acts Actionable, and Liability Therefor
237k6 Actionable Words in General
237k6(1) k. In General. Most Cited Cases

A "defamatory statement" is one that is false and 1) injures another person's reputation; 2) subjects the person to hatred, contempt or ridicule; or 3) causes others to lose good will or confidence in that person.

[17] Libel and Slander 237 6(1)

237 Libel and Slander
237I Words and Acts Actionable, and Liability Therefor
237k6 Actionable Words in General
237k6(1) k. In General. Most Cited Cases

A defamatory statement harms the reputation of another in a way that lowers the estimation of the community about that person or deters third persons from associating or dealing with him.

[18] Libel and Slander 237 6(1)

237 Libel and Slander
237I Words and Acts Actionable, and Liability Therefor
237k6 Actionable Words in General
237k6(1) k. In General. Most Cited Cases

Words that clearly denigrate a person's reputation are defamatory on their face and actionable per se.

[19] Libel and Slander 237 19

237 Libel and Slander
237I Words and Acts Actionable, and Liability Therefor
237k19 k. Construction of Language Used.

Most Cited Cases

When determining if a statement is defamatory on its face a court must scrutinize the language according to the fair and natural meaning which will be given to it by reasonable persons of ordinary intelligence.

[20] Libel and Slander 237 30

237 Libel and Slander
2371 Words and Acts Actionable, and Liability Therefor
237k30 k. Falsity. Most Cited Cases

A plaintiff does not make a prima facie claim of defamation if the contested statement is essentially true.

[21] Pretrial Procedure 307A 40

307A Pretrial Procedure
307AII Depositions and Discovery
307AII(A) Discovery in General
307Ak36 Particular Subjects of Disclosure
307Ak40 k. Identity and Location of Witnesses and Others. Most Cited Cases

Corporation in a defamation suit against an anonymous user of an Internet service provider's (ISP) bulletin board was not entitled to an order compelling the ISP to honor a subpoena and disclose the user's identity, where the corporation failed to show that the user's comments about the corporation negatively affected the stock price or inhibited its hiring practices.

****759 *139** Michael S. Vogel argued the cause for appellant (Allegaert Berger & Vogel and Robert L. Weigel (Gibson, Dunn & Crutcher) of the New York bar, admitted pro hac vice, attorneys; Mr. Vogel, Mr. Weigel, Lee G. Dunst and David A. Zonana, on the brief).

Eugene G. Reynolds argued the cause for respondent (Wacks, Mullen & Kartzman, attorneys; Mr. Reynolds, of counsel and on the brief).

***140** Paul Alan Levy, Trenton, argued the cause for Amici Curiae, Public Citizen Litigation Group (Mr. Levy, on the joint brief) and American Civil Liberties Union of New Jersey Foundation (J.C. Salyer, on the joint brief).

Before Judges STERN, A.A. RODRÍGUEZ and FALL.

The opinion of the court was delivered by

FALL, J.A.D.

In this opinion, we examine the appropriate procedures to be followed and the standards to be applied by courts in evaluating applications for discovery of the identity of anonymous users of Internet Service Provider (ISP) message boards.

Information contained in postings by anonymous users of ISP message boards can form the basis of litigation instituted by an individual, corporation or business entity under an array of causes of action, including breach of employment or confidentiality agreements; breach of a fiduciary****760** duty; misappropriation of trade secrets; interference with a prospective business advantage; defamation; and other causes of action.

Plaintiff, **Dendrite International**, Inc. (**Dendrite**), on leave granted, appeals from an interlocutory order of the trial court denying its request to conduct limited expedited discovery for the purpose of ascertaining the identity of defendant, **John Doe** No. 3, from Yahoo!, an ISP. Here, the posting of certain comments about **Dendrite** on a Yahoo! bulletin board by defendant, **John Doe** No. 3, forms the basis of the dispute in this appeal in the context of a cause of action based on **Dendrite's** claims of defamation.[FN1] We affirm the denial of **Dendrite's** motion based on the conclusion of the motion judge that **Dendrite** failed to establish harm resulting * from **John Doe** No. 3's statements as an element of its defamation claim.

> FN1. The complaint filed by **Dendrite** against a number of fictitiously-named defendants, including **John Doe** No. 3, alleged various claims for breach of contract, defamation and other actionable statements on the Yahoo! bulletin board. Although the trial court issued decisions on **Dendrite's** request for information concerning the identity of all fictitiously-named defendants, this appeal focuses solely on the court's denial of **Dendrite's** application for expedited discovery

disclosing the identity of **John Doe** No. 3.

[1] We offer the following guidelines to trial courts when faced with an application by a plaintiff for expedited discovery seeking an order compelling an ISP to honor a subpoena and disclose the identity of anonymous Internet posters who are sued for allegedly violating the rights of individuals, corporations or businesses. The trial court must consider and decide those applications by striking a balance between the well-established First Amendment right to speak anonymously, and the right of the plaintiff to protect its proprietary interests and reputation through the assertion of recognizable claims based on the actionable conduct of the anonymous, fictitiously-named defendants.

[2] We hold that when such an application is made, the trial court should first require the plaintiff to undertake efforts to notify the anonymous posters that they are the subject of a subpoena or application for an order of disclosure, and withhold action to afford the fictitiously-named defendants a reasonable opportunity to file and serve opposition to the application. These notification efforts should include posting a message of notification of the identity discovery request to the anonymous user on the ISP's pertinent message board.

[3] The court shall also require the plaintiff to identify and set forth the exact statements purportedly made by each anonymous poster that plaintiff alleges constitutes actionable speech.

[4][5] The complaint and all information provided to the court should be carefully reviewed to determine whether plaintiff has set forth a prima facie cause of action against the fictitiously-named anonymous defendants. In addition to establishing that its action can withstand a motion to dismiss for failure to state a claim upon which relief can be granted pursuant to *R.* 4:6-2(f), the plaintiff must produce sufficient evidence supporting each element of its cause of action, on a prima facie basis, prior to a court ordering the disclosure of the identity of the unnamed defendant.

***142** [6] Finally, assuming the court concludes that the plaintiff has presented a prima facie cause of action, the court must balance the defendant's First Amendment right of anonymous free speech against the strength of the prima facie case presented and the necessity for the disclosure of the ****761** anonymous defendant's identity to allow the plaintiff to properly proceed.

[7] The application of these procedures and standards must be undertaken and analyzed on a case-by-case basis. The guiding principle is a result based on a meaningful analysis and a proper balancing of the equities and rights at issue.

With these principles in mind, we now turn to an analysis of **Dendrite's** action against **John Doe** No. 3 and the trial court's decision.

Dendrite is a New Jersey corporation based in Morristown that provides "highly specialized integrated product and service offerings for the Pharmaceutical and Consumer Package Goods (CPG) industries." **Dendrite** is publicly traded and has offices located in 21 countries.

"The Internet is an **international** network of interconnected computers [,]" providing "a unique and wholly new medium of world-wide human communication." *Reno v. American Civil Liberties Union*, 521 *U.S.* 844, 849-50, 117 *S.Ct.* 2329, 2334, 138 *L. Ed.*2d 874, 884 (1997). In further describing the Internet and the services available, the Supreme Court noted, in part:

> Individuals can obtain access to the Internet from many different sources, generally hosts themselves or entities with a host affiliation.... Several major national "online services" ... offer access to their own extensive proprietary networks as well as a link to the much larger resources of the Internet....
>
> Anyone with access to the Internet may take advantage of a wide variety of communication and information retrieval methods....
>
> ....
>
> The best known category of communication over the Internet is the World Wide Web, which allows users to search for and retrieve information stored in remote computers, as well as, in some cases, to communicate back to designated sites. In concrete terms, the Web consists of a vast number of docu-

ments stored in different computers all over the world....

....

***143** The Web is thus comparable, from the reader's viewpoint, to both a vast library including millions of readily available and indexed publications and a sprawling mall offering goods and services.

From the publishers' point of view, it constitutes a vast platform from which to address and hear from a worldwide audience of millions of readers, viewers, researchers, and buyers. Any person or organization with a computer connected to the Internet can "publish" information. Publishers include government agencies, educational institutions, commercial entities, advocacy groups, and individuals. Publishers may either make their material available to the entire pool of Internet users, or confine access to a selected group, such as those willing to pay for the privilege. "No single organization controls any membership in the Web, nor is there any single centralized point from which individual Web sites or services can be blocked from the Web."

[*Id.* 521 *U.S.* at 850-53, 117 *S.Ct.* at 2334-36, 138 *L.Ed.*2d at 884-86. (citations and footnotes omitted).]

Yahoo! is an ISP that, among other things, provides a service where users may post comments on bulletin and message boards related to the financial matters of particular companies. Yahoo! maintains a message board for every publicly-traded company and permits anyone to post messages on it. As such, Yahoo! operates a bulletin board specifically devoted to Dendrite,****762** hosting exchanges of messages and comments about issues related to the company's stock performance. Generally, users of the bulletin boards post messages anonymously under pseudonyms. Yahoo! requires, however, that users provide identifying information, including real names, mailing addresses, and e-mail addresses prior to using the service. Nonetheless, Yahoo! guarantees to a certain extent that information about the identity of their individual subscribers will be kept confidential. Yahoo!'s privacy policy states that:

As a general rule, Yahoo! will not disclose any of your personally identifiable information except when we have your permission or under special circumstances, such as when we believe in good faith that the law requires it or under the circumstances described below.

....

Yahoo! may also disclose account information in special cases when we have reason to believe that disclosing this information is necessary to identify, contact or bring legal action against someone who may be violating Yahoo!'s Terms of Service or may be causing injury to ... anyone ... that could be harmed by such activities.

***144** The postings by John Doe No. 3 on the Yahoo! Dendrite message board must be viewed in the following context. Dendrite filed its Quarterly Report for the second quarter of 1999 with the Securities and Exchange Commission (SEC) in August of 1999. In this report, Dendrite stated:

Historically, we have generally recognized license fees as revenue using the percentage of completion method over a period of time that begins with execution of the license agreement and ends with the completion of initial customization and installation, if any. However, we believe that with some of our newer sales force software products, such as, ForcePharma and SalesPlus, our customers will not require customization and therefore we may be able to recognize license fees from these products upon delivery.

Following the release of this report, several stock analysts commented on the disclosures therein. The Center for Financial Research and Analysis, Inc. (CFRA) issued a report in September 1999 specifically addressing what it characterized as Dendrite's "Change in Revenue Recognition." The CFRA report concluded that due to the apparent change indicated in its Quarterly Report, Dendrite's revenue recognition would provide an earnings boost and was actually one of the reasons for Dendrite's then-improved financial condition. Further, the CFRA report opined that the associated earnings boost may have "masked weaknesses in the company's core segment."

An Internet website, "TheStreet.com," published a similar article concerning Dendrite in September 1999, also responding to Dendrite's Quarterly Report.

There, TheStreet.com noted several "red flags" about Dendrite, including its "more aggressive recognition of revenue." The author of the article stated that this change in Dendrite's revenue recognition policy "could mean more revenue up front."

Thereafter, at least two users of the Yahoo! Dendrite bulletin board mentioned the CFRA report and the article from TheStreet.com in respective postings. On September 21, 1999 one poster, citing the CFRA report, commented on Dendrite's purported accounting and operational problems. On September 22, 1999 another poster, citing TheStreet.com article, noted changes in Dendrite's policy of recognizing revenue. Sometime after the ***145** CFRA report was released Dendrite responded, denying it changed its revenue ****763** recognition policy as asserted in the CFRA report.

During the period from March 14, 2000 through June 2, 2000 John Doe No. 3, posted nine comments on the Yahoo! Dendrite bulletin board under the pseudonym "xxplrr." Three of these comments related to purported changes in Dendrite's revenue recognition accounting. Specifically, these comments included the following:

> John's [(Dendrite president John Bailye)] got his contracts salted away to buy another year of earnings-and note how they're changing revenue recognition accounting to help it.
>
> ....
>
> Bailye has his established contracts structured to provide a nice escalation in revenue. And then he's been changing his revenue-recognition accounting to further boost his earnings (see about 100 posts back).
>
> ....
>
> [Dendrite] signed multi-year deals with built in escalation in their revenue year-over-year (pharma cares most about total price of the contract, so they don't care; nor do they care if the price is in software or services). They also have been able to restructure their contracts with Pfizer and Lilly the same way.

The certification of Dendrite Vice President, R. Bruce Savage, submitted in support of Dendrite's discovery application, asserts that the substance of these statements are categorically false, specifically averring that Dendrite did not change its revenue recognition policy, nor are Dendrite's contracts structured to defer income.

Dendrite also takes issue with the following March 28, 2000 posting by John Doe No. 3:

> [Dendrite] simply does not appear to be competitively moving forward. John [Bailye, Dendrite's president] knows it and is shopping hard. But Siebel and SAP already have turned him down. Hope Oracle does want in bad (and that's why they'll get). But it doesn't help job prospects in Morristown any does it?

Dendrite contends this statement falsely asserts Dendrite was secretly and unsuccessfully "shopping" the company. Dendrite states John Doe No. 3's claims that Dendrite is not competitive, that its president is aware of this and is trying to sell the ***146** company, and that the company is not desirable to potential purchasers, are all false.

In light of these statements, and those posted by other Yahoo! bulletin board users, **Dendrite** filed a verified complaint on May 24, 2000 against numerous fictitiously-named **John Doe** defendants, including **John Doe** No. 3. The complaint alleged that certain postings on the Yahoo! **Dendrite** bulletin board constituted breaches of contract, defamatory statements and misappropriated trade secrets. Relevant to this appeal, the complaint alleged that the aforementioned messages posted by **John Doe** No. 3 defamed **Dendrite** and misappropriated trade secrets.[FN2]

> FN2. In this appeal, **Dendrite** bases its application seeking disclosure of **John Doe** No. 3's identity on its contention that **John Doe** No. 3's posted messages constitute actionable defamation.

Since most participants on the Yahoo! **Dendrite** bulletin board identified themselves through the use of pseudonyms unrelated to their actual identities, **Dendrite** sought an order to show cause why **Dendrite** should not be granted leave to conduct limited discovery for the purpose of ascertaining the true identity of the **John **764 Doe** defendants Nos. 1 through 4.

Accordingly, on June 20, 2000 the trial court issued an order directing these **John Doe** defendants to show cause why the relief requested by **Dendrite** should not be granted. The order further directed that this same notice be posted on the Yahoo! **Dendrite** bulletin board.

In the interim, the Public Citizen Litigation Group of Washington, D.C. filed a motion for leave to file a brief as *amicus curiae.* The trial court granted the motion and permitted the organization's participation.

On July 28, 2000 the motion judge heard argument on the order to show cause. At the close of argument, the judge reserved decision on Dendrite's motion to compel discovery purportedly necessary to identify these John Doe defendants.

On November 23, 2000, the motion judge issued a detailed written opinion, granting Dendrite's motion to conduct limited ***147** discovery to ascertain the identities of John Doe defendants Nos. 1 and 2, but denied the motion as to John Doe defendants Nos. 3 and 4. In reaching his decision, the judge stated, in pertinent part:

> The Court has been called upon to balance an individual's right to anonymously voice their opinions against a plaintiff's right to confront his accusers.... Dendrite has not made a prima facie case of defamation against John Doe No. 3, as Dendrite has failed to demonstrate that it was harmed by any of the posted messages. Dendrite has also failed to provide this Court with ample proof from which to conclude that John Does Nos. 3 and 4 have used their constitutional protections in order to conduct themselves in a manner which is unlawful or that would warrant this Court to revoke their constitutional protections. Therefore, Dendrite's request for limited expedited discovery, including the issuance of a commission to take discovery out-of-state is denied.

The conclusions of the judge were memorialized in an order executed on December 13, 2000.

By order entered on January 31, 2001, we granted Dendrite's motion for leave to appeal from that portion of the December 13, 2000 order denying limited discovery as to John Doe No. 3.

On appeal, Dendrite presents the following arguments for our consideration:

POINT I

DISCOVERY OF THE IDENTITIES OF FICTITIOUS NAMED DEFENDANTS IS PERMISSIBLE UNDER BLACK LETTER NEW JERSEY LAW.

POINT II

PLAINTIFF'S DEFAMATION CLAIM AGAINST JOHN DOE NO. 3 CAN WITHSTAND A DISMISSAL MOTION AND, ACCORDINGLY, DISCOVERY OF HIS IDENTITY IS WARRANTED.

A. Dendrite Adequately Plead Harm to Survive a Motion to Dismiss.

B. As a Matter of Pleading, Dendrite Is Not Required to Allege Harm.

C. The Lower Court Erred to the Extent It Used a De Facto Summary Judgment Standard to Reject Dendrite's Defamation Claim.

POINT III

JOHN DOES ARE NOT ENTITLED TO SPECIAL DISCOVERY RULES TO PREVENT PLAINTIFF FROM DISCOVERING THEIR IDENTITIES.

A. Defendants Are Not Entitled to Imposition of an Unduly Burdensome Proof Standard at the Initial Stage of This Lawsuit.

****765** B. Requests for Disclosure of Defendants' True Identities Are Granted Routinely in Similar Cases Involving Subpoenas to Internet Service Providers.

C. Defendants Receive Little or No Privacy in Exchange for Their Use of Yahoo's Financial Bulletin Board and Other Services.

***148** D. Defendant's Tortious Conduct Is Not Pro-

tected by the First Amendment and Does Not Warrant Imposition of Any Special Discovery Rules.

[8] It is well-established that rights afforded by the First Amendment remain protected even when engaged in anonymously. *Buckley v. American Constitutional Law Found.*, 525 *U.S.* 182, 197-99, 119 *S.Ct.* 636, 645-46, 142 *L. Ed.*2d 599, 609-10 (1999); *McIntyre v. Ohio Elections Comm.*, 514 *U.S.* 334, 115 *S.Ct.* 1511, 131 *L. Ed.*2d 426 (1995); *Talley v. California*, 362 *U.S.* 60, 80 *S.Ct.* 536, 4 *L. Ed.*2d 559 (1960).

> Anonymous pamphlets, leaflets, brochures and even books have played an important role in the progress of mankind. *Talley v. California*, 362 *U.S.*, at 64, 80 *S.Ct.*, at 538. Great works of literature have frequently been produced by authors writing under assumed names. Despite readers' curiosity and the public's interest in identifying the creator of a work of art, an author generally is free to decide whether or not to disclose his or her true identity. The decision in favor of anonymity may be motivated by fear of economic or official retaliation, by concern about social ostracism, or merely by a desire to preserve as much of one's privacy as possible. Whatever the motivation may be, at least in the field of literary endeavor, the interest in having anonymous works enter the marketplace of ideas unquestionably outweighs any public interest in requiring disclosure as a condition of entry. Accordingly, an author's decision to remain anonymous, like other decisions concerning omissions or additions to the content of a publication, is an aspect of the freedom of speech protected by the First Amendment.
>
> [*McIntyre, supra*, 514 *U.S.* at 341-42, 115 *S.Ct.* at 1516, 131 *L.Ed.*2d at 436.]

In *Buckley, supra*, 525 *U.S.* at 197-98, 119 *S.Ct.* at 645-46, 142 *L.Ed.*2d at 606-08, the Court addressed a Colorado statute that required distributors of political petitions campaign materials to wear identifying badges and file affidavits disclosing their identity. There, the Court found the requirement that petitioners wear identifying badges was prohibitively burdensome on a person's right to anonymously exercise First Amendment rights. *Id.*, 525 *U.S.* at 200, 119 *S.Ct.* at 646, 142 *L.Ed.*2d at 614-15. Specifically, the Court concluded that "[t]he badge requirement discourages participation in the petition circulation process by forcing name identification without sufficient cause." *Ibid.*

In *Reno v. American Civil Liberties Union, supra*, the Supreme Court made it clear that First Amendment Protections extend to speech on the Internet. 521 *U.S.* at 885, 117 *S.Ct.* at 2351, 138 *L.Ed.*2d at 906.

***149** [9][10] New Jersey's State Constitution affords even greater protection to persons' rights to free speech than does our federal Constitution, specifically providing:

> Every Person may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right. No law shall be passed to restrain or abridge the liberty of speech or of the press. In all prosecutions or indictments for libel, the truth may be given in evidence to the jury; and if it ****766** shall appear to the jury that the matter charged as libelous is true, and was published with good motives and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact.
>
> [*N.J. Const.*, Art. 1, par. 6.]

Our Supreme Court has held that the rights attendant to this provision are "the most substantial in our constitutional scheme." *Green Party of New Jersey v. Hartz Mountain Indus., Inc.*, 164 *N.J.* 127, 144, 752 *A.*2d 315 (2000) (quoting, *New Jersey Coalition Against War in the Middle East v. J.M.B. Realty*, 138 *N.J.* 326, 364, 650 *A.*2d 757 (1994), *cert. denied*, 516 *U.S.* 812, 116 *S.Ct.* 62, 133 *L.Ed.*2d 25 (1995)). In fact, "the reach of our constitutional provision [is] affirmative. Precedent, text, structure, and history all compel the conclusion that the New Jersey Constitution's right of free speech is broader than the right against governmental abridgement of speech found in the First Amendment." *Coalition, supra*, 138 *N.J.* at 352, 650 *A.*2d 757. Our Supreme Court has further clarified that our "State right of free speech is protected not only from abridgment by government, but also from unreasonably restrictive and oppressive conduct by private entities." *Id.* at 353, 650 *A.*2d 757.

Assuming John Doe No. 3's statements are lawful, they would be afforded Constitutional protection, both under the First Amendment of the Federal Con-

stitution and our New Jersey Constitution. Accordingly, the discovery of John Doe No. 3's identity largely turns on whether his statements were defamatory or not.

[11] "The key principle in defamation/free expression cases is the 'profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open[.]' " ***150***Sedore v. Recorder Pub. Co.*, 315 *N.J.Super.* 137, 146, 716 *A.*2d 1196 (App.Div.1998) (quoting *New York Times Co. v. Sullivan*, 376 *U.S.* 254, 270, 84 *S.Ct.* 710, 721, 11 *L. Ed.*2d 686, 701 (1964)). "The law of defamation exists to achieve the proper balance between protecting reputation and protecting free speech." *Ward v. Zelikovsky*, 136 *N.J.* 516, 528, 643 *A.*2d 972 (1994); *Sedore, supra*, 315 *N.J.Super.* at 146, 716 *A.*2d 1196. "Thus, the purpose of the law of defamation is to strike the right balance between protecting reputation and preserving free speech." *Lynch v. New Jersey Educ. Ass'n*, 161 *N.J.* 152, 166, 735 *A.*2d 1129 (1999).

[12] Dendrite argues on appeal that the motion judge imposed an inappropriate burden of proof when he evaluated whether Dendrite's claim could withstand a motion to dismiss. Dendrite asserts this burden of proof is contrary to the recognized standards applicable to motions to dismiss, which require a judge to look liberally upon a complaint at the pleading stage. Moreover, Dendrite contends harm is not an element that must be pled in a defamation action, and if it is a required element of the pleading, then it has in fact sufficiently pled that element.

In light of free speech and defamation considerations, as well as the fact that the Internet played a role in this dispute, the motion judge relied on the case of *Columbia Ins. Co., v. Seescandy.Com*, 185 *F.R.D.* 573 (N.D.Cal.1999) to resolve whether he should permit Dendrite to conduct discovery to ascertain John Doe No. 3's identity. In *Seescandy.Com*, the Federal District Court for the Northern District of California addressed whether it should authorize limited discovery so that plaintiff could ascertain defendant's identity so as to effectuate service. *Id.* at 575. There, the unknown defendant had registered an Internet domain name, "seescandy.com." *Id.* at 575-76. Plaintiff, the assignee of various****767** trademarks related to the operation of "See's Candy Shops, Inc.", sued the unknown defendants alleging that in registering that domain name the unknown defendant infringed on federally registered trademarks. *Id.* at 576. However, the actual identity of the defendant who registered the domain name was unknown to plaintiff.

***151** Although the *Seescandy.Com* case did not implicate defendant's free speech rights, as alleged here, the District Court recognized the unique circumstances created by the advent of the Internet and noted the following in regards to disclosing the identity of unknown Internet users:

> With the rise of the Internet has come the ability to commit certain tortious acts, such as defamation, copyright infringement, and trademark infringement, entirely on-line. The tortfeasor can act pseudonymously or anonymously and may give fictitious or incomplete identifying information. Parties who have been injured by these acts are likely to find themselves chasing the tortfeasor from Internet Service Provider (ISP) to ISP, with little or no hope of actually discovering the identity of the tortfeasor.
>
> In such cases the traditional reluctance for permitting filings against John Doe defendants or fictitious names and the traditional enforcement of strict compliance with service requirements should be tempered by the need to provide injured parties with a forum in which they may seek redress for grievances. However, this need must be balanced against the legitimate and valuable right to participate in online forums anonymously or pseudonymously. People are permitted to interact pseudonymously and anonymously with each other so long as those acts are not in violation of the law. This ability to speak one's mind without the burden of the other party knowing all the facts about one's identity can foster open communication and robust debate. Furthermore, it permits persons to obtain information relevant to a sensitive or intimate condition without fear of embarrassment. People who have committed no wrong should be able to participate online without fear that someone who wishes to harass or embarrass them can file a frivolous lawsuit and thereby gain the power of the court's order to discover their identity.
>
> [*Id.* at 578 (footnote omitted).]

In light of the particularly unique arena of discussion and communication created by the Internet forum, the District Court imposed certain limiting

principles on "whether discovery to uncover the identity of a defendant is warranted" under such circumstances. *Id.* at 578. The court outlined a four-prong approach to this issue seeking to "ensure that this unusual procedure will only be employed in cases where the plaintiff has in good faith exhausted traditional avenues for identifying a civil defendant pre-service, and will prevent use of this method to harass or intimidate." *Ibid.*

"First, the plaintiff should identify the missing party with sufficient specificity such that the Court can determine that defendant is a real person or entity who could be sued in federal court." *Ibid.* Second, plaintiff must "identify all previous steps taken to ***152** locate the elusive defendant" to demonstrate that plaintiffs have made a good-faith effort to comply with the requirements of service of process. *Id.* at 579. Third, and most relevant to this appeal, "plaintiff should establish to the Court's satisfaction that plaintiff's suit against defendant could withstand a motion to dismiss." *Ibid.* Fourth, the moving "plaintiff should file a request for discovery****768** with the Court, along with a statement of reasons justifying the specific discovery requested as well as identification of a limited number of persons or entities on whom discovery process might be served and for which there is a reasonable likelihood that the discovery process will lead to identifying information about defendant that would make service of process possible." *Id.* at 580.

Relying on *Seescandy.Com,* the motion judge reasoned that Dendrite did not satisfy the third prong-the ability to withstand a motion to dismiss-because it failed to make out a prima facie case of defamation against John Doe No. 3. Accordingly, the judge concluded Dendrite was not entitled to conduct limited discovery to ascertain the identity of John Doe No. 3. Specifically, the judge found Dendrite failed to show that the statements posted by John Doe No. 3 caused Dendrite any harm.[FN3] Dendrite contends the motion judge imposed an excessively demanding burden of proof, generally not required when defending a motion to dismiss.

> FN3. The judge found the first prong satisfied because "the assumption that this court has jurisdiction and that venue is proper is not unfounded, and, without evidence to the contrary, jurisdiction will be presumed." Regarding the second prong he found "Dendrite has not provided the Court with any previously taken steps aimed at locating the defendants [;]" however, the judge reasoned Dendrite could not have been expected to know they were supposed to attempt to identify the defendants on their own since he had just invoked the *Seescandy.Com* test. Lastly, the judge made no findings concerning the fourth prong of the test.

Dendrite cites to *Printing Mart-Morristown v. Sharp Electronics Corp.,* 116 *N.J.* 739, 563 *A.*2d 31 (1989) to support this contention. There, our Supreme Court reviewed, in part, whether we properly upheld dismissal of a plaintiff's defamation claim for a failure to state a cause of action. *Id.* at 744, 563 *A.*2d 31. The ***153** Court initially established that the review of plaintiffs' pleadings on a motion to dismiss are entitled to deference, stating:

> We approach our review of the judgment below mindful of the test for determining the adequacy of a pleading: whether a cause of action is "suggested" by the facts. In reviewing a complaint dismissed under Rule 4:6-2(e) our inquiry is limited to examining the legal sufficiency of the facts alleged on the face of the complaint. However, a reviewing court "searches the complaint in depth and with liberality to ascertain whether the fundament of a cause of action may be gleaned even from an obscure statement of claim, opportunity being given to amend if necessary." At this preliminary stage of the litigation the Court is not concerned with the ability of plaintiffs to prove the allegation contained in the complaint. For purposes of analysis plaintiffs are entitled to every reasonable inference of fact. The examination of a complaint's allegations of fact required by the aforestated principles should be one that is at once painstaking and undertaken with a generous and hospitable approach.
>
> [*Id.* at 746, 563 *A.*2d 31 (citations omitted).]

The Court reversed, finding three of six contested statements made by defendants were "open to a defamatory meaning and actionable on their face." *Id.* at 766, 563 *A.*2d 31. Those three statements asserted plaintiffs were (1) " 'ripping off' " clients; (2) plaintiffs " 'were not qualified to do the work for defendant ... (if stated as fact rather than merely as opinion, an issue to be determined at trial)"; and (3) that plaintiffs

"did unreasonably-priced, inadequate work." *Ibid.* The Court found the import of these statements to be clear, and ****769** concluded "that those statements could not be held as a matter of law to be *not* defamatory." *Id.* at 766-67, 563 *A.*2d 31.

Dendrite's verified complaint alleges, in relevant part, the following:

> 46. Defendants' publication of these statements has caused irreparable harm to Dendrite for which Dendrite has no adequate remedy at law, and will continue to cause such irreparable harm unless restrained by this Court. In addition, as a proximate result of defendants' publication of these statements, Dendrite has sustained harm to its business reputation resulting in damages in an amount to be proven at trial, and Dendrite will continue to suffer additional damages in the future according to proof.
>
> 47. Dendrite is informed and believes, and thereon alleges, that defendants' publication of these statements was willful, malicious and oppressive, in that they intended to harm the business reputation of Dendrite. These acts, therefore, justify awarding of punitive damages.

***154** In addition, the complaint highlights the postings made by John Doe No. 3, which asserted Dendrite had changed its revenue recognition policy and that Dendrite was "shopping" the company.

Dendrite argues that in applying the motion-to-dismiss standard, the motion judge ignored the Court's direction to review pleadings on motions to dismiss with liberality and generosity and, instead, applied a de facto summary judgment standard. Dendrite asserts the judge mistakenly concluded that Dendrite must *prove* "actual reputational injury" in its complaint.

Our review of the motion judge's analysis of the harm/injury element of Dendrite's defamation claim reveals he required more evidentiary support for the pleading than is traditionally required when applying motion-to-dismiss standards. The judge relied on *McLaughlin v. Rosanio, Bailets & Talamo, Inc.*, 331 *N.J.Super.* 303, 751 *A.*2d 1066 (App.Div.2000), as the basis for outlining the requirement for a defamation cause of action. However, it is clear the judge implemented an analysis that relied on more than a motion-to-dismiss standard, stating:

> It is not obvious that the statements at issue are false or that Dendrite has been harmed. Dendrite has *failed to show* that the messages in question in any way harmed Dendrite. Although Dendrite alleges that it has been harmed and that it will continue to be harmed by the defendants' statements, saying it is so does not make the alleged harm a *verifiable reality.* In his reply certification, Michael Vogel, Dendrite's counsel, attempts to link the messages posted in this case to a drop in Dendrite's stock price.... Furthermore, Mr. Vogel has not purported to be an expert in the field of stock valuation and analysis, thus, *he cannot draw the conclusion that the fluctuations in Dendrite's stock prices are anything more than coincidence.*
>
> Despite the fact that Plaintiff is entitled to every reasonable inference of fact in this analysis of whether a case against John Doe No. 3 could survive dismissal, the Court will not take the leap to linking messages posted on an Internet message board regarding individual opinions, albeit incorrect opinions, to a decrease in stock prices *without something more concrete.*
>
> [(Emphasis added).]

This analysis reveals that the motion judge engaged in a more probing review of Dendrite's complaint and pleadings than outlined in *Printing Mart,* requiring specific****770** proof establishing Dendrite's harm as an element of its defamation claim. The judge ***155** found Dendrite had not established that fluctuations in its stock prices were a result of John Doe No. 3's postings, and could not find any nexus between the postings and the drop in Dendrite's stock prices.

"In the case of a complaint charging defamation, plaintiff must plead facts sufficient to identify the defamatory words, their utterer and the fact of their publication." *Zoneraich v. Overlook Hosp.*, 212 *N.J.Super.* 83, 101, 514 *A.*2d 53 (App.Div.), *certif. denied,* 107 *N.J.* 32, 526 *A.*2d 126 (1986). Here, Dendrite has (1) identified the "revenue recognition" and "shopping" statements as purportedly defamatory words, (2) identified "xxplrr" (John Doe No. 3) as the utterer, and (3) established that they were in fact published on Yahoo!'s bulletin board. Accordingly, Dendrite meets the bare minimum requirements for a

defamation cause of action, and would survive a motion to dismiss under the traditional application of *R.* 4:6-2(e).

However, application of our motion-to-dismiss standard in isolation fails to provide a basis for an analysis and balancing of Dendrite's request for disclosure in light of John Doe No. 3's competing right of anonymity in the exercise of his right of free speech.

We first note that the motion judge was not presented with an actual motion to dismiss and, as such, was not necessarily bound to a dogmatic application of the associated rules. Nonetheless, the third prong of the *Seescandy.Com* test requires a showing that plaintiff's claim would survive a motion to dismiss. However, a closer analysis discloses that the District Court distinguished the actual application of the third prong of the test from the traditional application of a motion-to-dismiss standard, stating:

> Pre-service discovery is akin to the process used during criminal investigations to obtain warrants. The requirement that the government show probable cause is, in part, a protection against the misuse of *ex parte* procedures to invade the privacy of one who has done no wrong. A similar requirement is necessary here to prevent abuse of this extraordinary application of the discovery process and to ensure that plaintiff has standing to pursue an action against defendant.
>
> [*Seescandy.Com, supra,* 185 *F.R.D.* at 579-80.]

***156** Probable cause as it relates to obtaining warrants is a non-technical, flexible concept that does not require rigid, "technical demands for specificity and precision[.]" *State v. Boyd,* 44 *N.J.* 390, 392-93, 209 *A.*2d 134 (1965); *Ornelas v. United States,* 517 *U.S.* 690, 695-96, 116 *S.Ct.* 1657, 1661, 134 *L. Ed.*2d 911, 918 (1996). The District Court added that by equating this prong to the probable cause requirement for warrants, "plaintiff *must make some showing* that an act giving rise to civil liability actually occurred and that the discovery is aimed at revealing specific identifying features of the person or entity who committed the act." *Id.* at 580 (emphasis added).

In fact, the literal reading of the third prong of the *Seescandy.Com* test, as worded by the District Court, supports such a flexible, non-technical application of the motion to dismiss standard. Specifically, the third prong provides "plaintiff should establish to *the Court's satisfaction* that plaintiff's suit against defendant could withstand a motion to dismiss." *Seescandy.Com, supra,* 185 *F.R.D.* at 579 (emphasis added). The court characterized the four-prong test as "safeguards," necessary to "prevent [plaintiffs from] harrass[ing] ****771** or intimidat[ing]" anonymous persons on the Internet. *Ibid.*

[13][14] Our review of *Seescandy.Com* discloses that a strict application of our rules surrounding motions to dismiss is not the appropriate litmus test to apply in evaluating the disclosure issue. We conclude that the District Court envisioned this four-part test to act as a flexible, non-technical, fact-sensitive mechanism for courts to use as a means of ensuring that plaintiffs do not use discovery procedures to ascertain the identities of unknown defendants in order to harass, intimidate or silence critics in the public forum opportunities presented by the Internet.

Analogous circumstances were recently presented to the Virginia Circuit Court in *In re Subpoena Duces Tecum to America Online, Inc.,* 2000 WL 1210372, *1 (Va. Cir. Ct. Jan.31, 2000). There, a publicly traded company sought and obtained an order from an Indiana court authorizing plaintiff to conduct discovery in ***157** order to ascertain the identities of certain John Does who posted allegedly defamatory comments on a stock-trading Internet chat room maintained by America Online (AOL). AOL refused to voluntarily comply with the order to disclose its subscribers' identities, contending disclosure of the subscribers' identities pursuant to the subpoena would impair the subscribers' First Amendment rights to speak anonymously. *Id.* at *2. Ultimately, the circuit court ordered AOL to disclose the identities, establishing a test functionally similar to that put forth in *Seescandy.Com,* as follows:

> [A] court should only order a non-party, Internet service provider to provide information concerning the identity of a subscriber (1) when the court is satisfied by the pleadings or evidence supplied to that court (2) that the party requesting the subpoena has a legitimate, good faith basis to contend that it may be the victim of conduct actionable in the jurisdiction where suit was filed and (3) the subpoenaed identity information is centrally needed to advance that claim.

[*Id.* at *8.]

The test created by the Virginia Circuit Court departed from that state's traditional legal standard applied when ruling on a motion to quash a subpoena. *Id.* at *2, *7. Although the Circuit Court ordered disclosure of the identities of the John Doe defendants, it found a more probing evaluation into the "bona fides of [plaintiff's] claim was necessary in order to properly evaluate the reasonableness of the subpoena request in light of all the surrounding circumstances." *Id.* at *8.

[15] The Virginia case supports the notion that when evaluating a plaintiff's request to compel an ISP to disclose the identity of a John Doe subscriber, courts may depart from traditionally-applied legal standards in analyzing the appropriateness of such disclosure in light of the First Amendment implications.

Here, although Dendrite's defamation claims would survive a traditional motion to dismiss for failure to state a cause of action, we conclude the motion judge appropriately reviewed Dendrite's claim with a level of scrutiny consistent with the procedures and standards we adopt here today and, therefore, the judge properly found Dendrite should not be permitted to conduct limited discovery***158** aimed at disclosing John Doe No. 3's identity. Moreover, the motion judge's approach is consistent with the approach by both the District Court in *Seescandy.Com,* and by the Virginia Circuit Court in the *America Online* decision.

[16][17][18][19][20] A defamatory statement is one that is false and 1) injures another person's reputation; 2) subjects the person to hatred, contempt or ridicule; or 3) causes ****772** others to lose good will or confidence in that person. *Romaine v. Kallinger,* 109 *N.J.* 282, 289, 537 *A.*2d 284 (1988). A defamatory statement harms the reputation of another in a way that lowers the estimation of the community about that person or deters third persons from associating or dealing with him. *McLaughlin v. Rosanio, supra,* 331 *N.J.Super.* at 312, 751 *A.*2d 1066; *Restatement (Second) of Torts* § 559 (1977). "Words that clearly denigrate a person's reputation are defamatory on their face and actionable *per se.*" *Printing Mart-Morristown, supra,* 116 *N.J.* at 765, 563 *A.*2d 31. When determining if a statement is defamatory on its face "a court must scrutinize the language 'according to the fair and natural meaning which will be given it by reasonable persons of ordinary intelligence.' " *Ibid.* (quoting *Romaine, supra,* 109 *N.J.* at 290, 537 *A.*2d 284). A plaintiff does not make a prima facie claim of defamation if the contested statement is essentially true. *Hill v. Evening News Co.,* 314 *N.J.Super.* 545, 552, 715 *A.*2d 999 (App.Div.1998).

[21] The motion judge determined that **Dendrite** failed to demonstrate the statements posted by **John Doe** No. 3 caused it any harm. The certification of **Dendrite** Vice President, Bruce Savage alleges **John Doe** No. 3's postings "*may* ... have a significant deleterious effect on **Dendrite's** ability to hire and keep employees." (Emphasis added). **Dendrite** also contends that **John Doe** No. 3's postings caused detrimental fluctuations in its stock prices.

Dendrite's NASDAQ trading records were submitted to the court for the period of March 1, 2000 through June 15, 2000. Those records indicate **Dendrite** experienced gains on 32 days, ***159** losses on 40 days, and no change on two days during that period, which overlaps the period when **John Doe** No. 3 was posting his statements on the Yahoo! bulletin board. **Dendrite's** total loss during this period was 29/32 of a point.

Moreover, **John Doe** No. 3 made nine postings, two on the same day. On three of the days that immediately followed a posting by **John Doe** No. 3, **Dendrite's** stock value decreased. However, on five of the days that immediately followed a posting by **John Doe** No. 3, **Dendrite's** stock value increased. The net change in **Dendrite's** stock value over those seven days was actually an increase of 3 and 5/8 points.

Although the motion judge stated **Dendrite** was "entitled to every reasonable inference of fact in this analysis[,]" he refused to "take the leap to linking messages posted on an internet message board regarding individual opinions, albeit incorrect opinions, to a decrease in stock prices without something more concrete." The record does not support the conclusion that John Doe's postings negatively affected the value of Dendrite's stock, nor does Dendrite offer evidence or information that these postings have actually inhibited its hiring practices, as it alleged they would. Accordingly, the motion judge appropriately con-

cluded that Dendrite failed to establish a sufficient nexus between John Doe No. 3's statements and Dendrite's allegations of harm.

We are satisfied that the analysis and conclusions by Judge MacKenzie set forth in his comprehensive letter opinion dated November 23, 2000 are supported by the record. Dendrite has failed to establish that the judge abused his discretion in entering the December 13, 2000 order.

Accordingly, we affirm.

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