

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

Jane Doe	—	
)	
Plaintiff, Debtor)	Bankruptcy Judge
)	Honorable Dave Trout
v.)	Chapter 7
)	
)	Trustee Dan Smith
U.S. Department of Education, Educational)	
Credit Management Corporation, Sallie Mae,)	Bankr. No. 11-67894
Apollo Education Group Inc., Navient,)	Adv. Proc. No. 11-45321
University Accounting Service.)	
Defendants, Creditors	—	

MOTION
REQUESTING ACCOMMODATIONS FOR PLAINTIFF’S DISABILITY

1. **NOW COMES, Jane Doe, debtor**, Plaintiff, pursuant to Volume 5 § 255 of the Guide to Judiciary Policy, Services to the Hearing Impaired and Others with Communication Disabilities plaintiff request accommodations for plaintiff’s disability.

FEDERAL STATUTES

Volume 5 § 255 of the Guide to Judiciary Policy, Services to the Hearing Impaired and Others with Communication Disabilities

(a) Under Judicial Conference policy, a court must provide sign language interpreters or other auxiliary aids and services to participants in federal court proceedings who are deaf, hearing impaired, or have communication disabilities, and may provide these services to spectators when the court deems appropriate (JCUS-SEP 95, p. 75). This policy provides for services in addition to those required by the Court Interpreters Act (28 U.S.C. § 1827).

(b) The court should honor a participant’s choice of auxiliary aid or service unless it can show that:

1. another equally effective means of communication is available, or

2. use of the means chosen would result in: a fundamental change in the nature of the court proceeding, or an undue financial or administrative burden.

2. Pursuant to Federal Rules of Evidence Rule 401, Rule 1004, Rule 803, and Rule 902

plaintiff is allowed to submit the following information into evidence and for trial.

Rule 401 – Test for Relevant Evidence

Evidence is relevant if:

- (a) it has any tendency to make a fact more or less probable than it would be without the evidence; and
- (b) the fact is of consequence in determining the action.

Rule 1004 – Admissibility of Other Evidence of Content

An original is not required and other evidence of the content of a writing, recording, or photograph is admissible if:

- (a) all the originals are lost or destroyed, and not by the proponent acting in bad faith;
- (b) an original cannot be obtained by any available judicial process.

Rule 902 – Evidence That Is Self-Authenticating

The following items of evidence are self-authenticating; they require no extrinsic evidence of authenticity in order to be admitted:

- (6) Newspapers and Periodicals. Printed material purporting to be a newspaper or periodical.
- (5) **Official Publications.** A book, pamphlet, or other publication purporting to be issued by a public authority.
- (10) *Presumptions Under a Federal Statute.* A signature, document, or anything else that a federal statute declares to be presumptively or prima facie genuine or authentic.

Rule 803 – Exceptions to the Rule Against Hearsay

The following are not excluded by the rule against hearsay, regardless of whether the declarant is available as a witness:

(1) Present Sense Impression. A statement describing or explaining an event or condition, made while or immediately after the declarant perceived it.

(2) Excited Utterance. A statement relating to a startling event or condition, made while the declarant was under the stress of excitement that it caused.

(3) Then-Existing Mental, Emotional, or Physical Condition. A statement of the declarant's then-existing state of mind (such as motive, intent, or plan) or emotional, sensory, or physical condition (such as mental feeling, pain, or bodily health), but not including a statement of memory or belief to prove the fact remembered or believed unless it relates to the validity or terms of the declarant's will.

(4) Statement Made for Medical Diagnosis or Treatment. A statement that:

(A) is made for — and is reasonably pertinent to — medical diagnosis or treatment; and

(B) describes medical history; past or present symptoms or sensations; their inception; or their general cause.

(17) Market Reports and Similar Commercial Publications. Market quotations, lists, directories, or other compilations that are generally relied on by the public or by persons in particular occupations.

ARGUMENT

3. Exhibit 1, The National Institutes of Health (NIH), a part of the U.S. Department of Health and Human Services, is the nation's medical research agency. They list on their website LD OnLine (Exhibit 2), National Center for Learning Disabilities (Exhibit 3), and Learning Disabilities Association of America (Exhibit 4) as reputable sources of information.

4. Exhibit 2, WETA Washington, D.C., is the third-largest producing station for PBS. LD OnLine provides accurate information about learning disabilities and ADHD to over 200,000 people each month.

5. Consequently, Exhibit 1, Exhibit 2, Exhibit 3, and Exhibit 4 fulfill Rule 401, Rule 902, and Rule 803 (17).

6. Referencing Exhibit 2, Exhibit 3 (page 26 of this report), and Exhibit 4 all state that a learning disability can't be cured or fixed; it's a lifelong issue.

7. Exhibit 5, Plaintiff's 2000 Psychological Evaluation and Plaintiff 2020 Neuropsychological Assessment states that Plaintiff has a learning disability. It is made for and is reasonably pertinent to medical diagnosis or treatment. Plus, it describes some of the Plaintiff's medical history; past or present symptoms or sensations. It also includes information about Plaintiff's employment history.
8. Consequently, these reports are relevant and cannot be considered outdated. Therefore, fulfills Rule 401, Rule 803 (3), and Rule 803 (4).
9. Plaintiff's 2020 Psychological Assessment states the following:
- Page 6 *"He displayed variable processing speed with a reduction in speed over time."*
 - Page 7 *"Overall, his language index score fell in the low average range."*
 - Page 9 *"he demonstrated variable processing speed and moderated to severely impaired novel problem-solving skills."*
 - Page 9 *"Specific Learning Disorder with reading fluency impairment. Specific Learning Disorder in written expression (spelling accuracy, clarity, and organization of written expression)"*.
10. Processing speed is the pace at which you take in information, make sense of it, and begin to respond.
11. This means that as time progresses, and depending on the environment, it becomes harder for Plaintiff to think and respond appropriately.

Example 1.

When any of us feel anxious, we freeze for a moment. During that time, we're not processing the information as fast as we might otherwise be. We may take longer to respond, make decisions, or size up situations.

Telling people with slow processing speed to "hurry up" can add to their anxiety and make them take longer to complete a task. Being in court can increase one's anxiety, which slows their processing speed.

Example 2.

A person with slow processing speed might not immediately know what those letters say. They have to figure out what strategy to use to understand the meaning of the letters in

front of them. It's not that they can't read. It's just that a process that's quick and automatic for others will take longer for them.

Example 3.

Saying too many things at once can also pose a challenge. If you give multi-step directions—"When you come downstairs, bring your notebook. And can you also bring down the dirty glasses and put them in the dishwasher?"—a child with slow processing speed may not follow all of them. Having slow processing speed makes it hard to digest all that information quickly enough to do what was asked.

12. Processing speed is not apparent just by observing you.
13. All of this indicates why in some environments and situations, information gets stuck in Plaintiff's head, why sometimes Plaintiff cannot get the information out, or remember what Plaintiff should have said.
14. Exhibit 1 states that "The NICHD is one of several federal agencies that support and conduct research on learning disabilities and disorders."
15. Because they are still discovering new information about learning disabilities, indicating why Plaintiff did not know how to describe or address the issues of processing speed or problem-solving skills until he had his Psychological Assessment. It also indicates why past Psychological Assessment never indicated these issues.

IF YOU DO NOT LIKE THE TOP ARGUMENT, YOU CAN ALSO USE SOMETHING LIKE THE FOLLOWING:

16. From plaintiff's medical records, doctor's letter, doctor's AFFIDAVIT, Neuropsychological Assessment, Psychological Evaluation, which was made for medical diagnosis or treatment, and describes plaintiff's medical history; past or present symptoms or sensations; their inception; or their general cause.

17. Then under Federal Rules of Evidence Rule 401, and Rule 803 (3) and (4) plaintiff is allowed to submit this information into evidence.

18. My disability or medical issue includes speech, hearing, concentration, focus, reading, writing, attention, processing speed, problem solving skills, double vision can make you lose focus on what is going on around you. These symptoms do not happen all the time, and I have no control when it happens.

19. Plus, my condition or symptoms are not always apparent just by observing me.

20. Sometimes information gets stuck in my head and it does not come out fully or correctly. Because of this, I make mistakes that are not apparent at the time.

21. From the following online periodicals which includes

A. WebMD,

B. Learning Disabilities Association of America. <https://ldaamerica.org/>

C. National Center for Learning Disabilities. <https://www.ncld.org>

D. LD OnLine. <http://www.ldonline.org/> LD OnLine is the National Educational Service of WETA-TV, the PBS station in Washington, D.C. WETA

22. Shows that my condition or disability (learning disability) is something you are born with, thus never goes away.

23. LD OnLine state the following:

24. *“People with learning disabilities are generally of average or above average intelligence, and struggle in one or two areas where they need remedial educational help. Learning disabilities, by definition, mean that a person's skills in a particular area (reading, math, visual/auditory processing, etc.) are lower than would be expected by looking at the person's overall IQ.”* <http://www.ldonline.org/questions/aboutld>.

25. *“Learning disabilities affect individuals across the life span. Adults with learning disabilities face challenges in finding the right college and succeeding while there, as well as challenges in preparing for and succeeding in the work world and in social settings.”*

<http://www.ldonline.org/indepth/adults>

26. Pursuant to the Federal Rules of Evidence Rule 401, and Rule 902 (5), (6) and (10), Evidence That s Self-Authenticating, plaintiff is allowed to submit articles from these online periodicals into evidence.

LIST OF EXHIBITS

Exhibit 1, Printout(s) from the website NIH: National Institute of Child Health and Human Development.

- [Who We Are](#)
- [Research Information](#)
- [Learning Disabilities Information Page](#)

The National Institutes of Health (NIH), a part of the U.S. Department of Health and Human Services, is the nation’s medical research agency.

The National Institute of Child Health and Human Development (NICHD) is one of several federal agencies that support and conduct research on learning disabilities and disorders. The institute’s research portfolio includes studies investigating the causes, development, neurobiology, prevention, and remediation of learning disabilities. In addition, the NICHD provides funding to train researchers in this field.

Click here for all 5 pdf(s). [NICHD1](#), [NICHD2](#), [NICHD3](#), [NICHD4](#), [NICHD5](#)

Enforcement Guidance: Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act provides all the requirements on how to Request Accommodations for employment, State court, school, etc. **Read This First!**

Exhibit 2, Printout(s) from the website LD OnLine. www.ldonline.org LD OnLine is the National Educational Service of WETA-TV, the PBS station in Washington, D.C. WETA

WETA Washington, D.C., is the third-largest producing station for PBS. LD OnLine provides accurate information about learning disabilities and ADHD to over 200,000 people each month.

The National Institutes of Health (NIH), list on their website, under the page titled “*About Learning Disabilities*,” in the Citations area (Citation 1), LD OnLine.

Click here for all 3 pdf(s). [LD OnLine1](#), [LD OnLine2](#), [LD OnLine3](#)

Exhibit 3, National Center for Learning Disabilities. The state of learning disabilities: Facts, trends, and emerging issues (3rd ed.). New York: National Center for Learning Disabilities. Retrieved March 8, 2017, from <http://www.ncld.org/wp-content/uploads/2014/11/2014-State-of-LD.pdf>

The National Institutes of Health (NIH), list on their website, under the page titled “[*What causes learning disabilities?*](#),” in the Citations area (Citation 3), the document called “[*State of Learning Disabilities*](#),” which is from the National Center for Learning Disabilities.

The National Institutes of Health (NIH), list on their website, under the page titled “*How are learning disabilities diagnosed?*,” in the Citations area (Citation 2) Learning Disabilities Association of America.

Click here for the [pdf](#)

Exhibit 5, Plaintiff’s 2000 Psychological Evaluation, and Plaintiff’s 2020 Neuropsychological Assessment.

LIST OF EXHIBITS

Please find attached the following exhibits.

Exhibits 1, Medical records

Exhibits 2, Doctor letter or AFFIDAVIT

Exhibits 3, Neuropsychological Assessment, Psychological Evaluation

Exhibits 4, Articles from these online periodicals

Wherefore,

27. Plaintiff is requesting the following accommodations for plaintiff’s disability.

28. Plaintiff's condition or symptoms are not always apparent just by observing plaintiff.
29. Plaintiff ask the court to allow plaintiff to read from plaintiff's notes or other documents at trial.
30. Plaintiff may need to write a brief that goes past the maximum page limits.
31. Plaintiff does not have access to the rehabilitation technology he had access to in college.
32. Plaintiff may need 30 to 60 days to write his briefs, response brief, or reply brief.
33. Plaintiff's disability or medical condition causes plaintiff to become mentally fatigued, confused, or lose focus. This is not apparent just by observing plaintiff.

Jane Doe
1234 Cat Street
Wood Park, PA 15003
(504) 555-1212
Email: Janedoe@gmail.com
Debtor, Plaintiff signature: _____
Date: July 23, 2016

CERTIFICATE OF SERVICE

I Jane Doe, Debtor, Plaintiff, hereby certify that a true and correct copy of **MOTION REQUESTING ACCOMMODATIONS FOR PLAINTIFF'S DISABILITY** and **NOTICE OF FILING OF MOTION REQUESTING ACCOMMODATIONS FOR PLAINTIFF'S DISABILITY** and **NOTICE OF MOTION REQUESTING ACCOMMODATIONS FOR PLAINTIFF'S DISABILITY** and **ORDER** was served on Defendants at

To:

Lawyer for the U.S. Department of Education (Name and address)

Lawyer for the Educational Credit Management Corporation (Name and address)

by first class mail, postage pre-paid, and depositing the same in the U.S. Mail at 123 Wood Blvd, Wood Park, PA 15003 Mailed on July 23, 2016. 4:00 pm.

Jane Doe
1234 Cat Street
Wood Park, PA 15003

(504) 555-1212

Email: Janedoe@gmail.com

Debtor, Plaintiff signature: _____

Date: July 23, 2016