

The following are copies of documents not available online, external to the motion, but cited to in the motion, for the convenience of the court and all parties. Each is delimited by a separate page describing the document and the reason for its inclusion.

Equal Protection Clause.

Appellant received no protection from Appellant Board of Trustees of Northern Illinois University, when the university under its care failed to offer assistance for his mental illness, refused him accommodations, and did not even respond to his e-mail to Leonard B. Mandell, Assistant Dean of Student Services, asking for consideration of his medical withdrawal.

“No state shall . . . deny to any person within its jurisdiction the equal protection of the laws.”

Civil Cover Sheet at 1, Lush v. Bd. Trs. N. Ill. Univ., No. 3:20-cv-50421,
ECF No. 2; Defendant's Exhibit A at 2, Lush v. Bd. Trs. N. Ill. Univ.,
No. 3:20-cv-50421, ECF No. 6-2; Defendant's Exhibit G at 1, Lush v. Bd.
Trs. N. Ill. Univ., No. 3:20-cv-50421, ECF No. 6-8.

The amount demanded. It is over twenty dollars, so Appellant has a
right to a jury trial. U.S. Const. amend. VII.

CIVIL COVER SHEET

The ILND 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (See instructions on next page of this form.)

I. (a) PLAINTIFFS

WILLIAM STEPHEN LUSH, II

DEFENDANTS

BOARD OF TRUSTEES OF NORTHERN ILLINOIS UNIVERSITY & STATE OF ILLINOIS

(b) County of Residence of First Listed Plaintiff DANE

(Except in U.S. plaintiff cases)

County of Residence of First Listed Defendant DE KALB

(In U.S. plaintiff cases only)

Note: In land condemnation cases, use the location of the tract of land involved.

(c) Attorneys (firm name, address, and telephone number)

Attorneys (if known)

PRO SE, 6418 UNIVERSITY AVENUE, APARTMENT 1E, MIDDLETON, WISCONSIN 53562-3487, (608)-698-8143 CELLULAR (NO VOICEMAIL)

GREGORY ALAN BRADY & KWAME Y. RAOUL, SEE ATTACHED ADDENDUM

II. BASIS OF JURISDICTION (Check one box, only.)

- 1 U.S. Government Plaintiff
- 2 U.S. Government Defendant
- 3 Federal Question (U.S. Government not a party)
- 4 Diversity (Indicate citizenship of parties in Item III.)

III. CITY

(Check

Citizen

Citizen

Citizen of foreign or Foreign Country

20 cv 50421

Judge Iain D. Johnston

Magistrate Judge Lisa A. Jensen

DEF 4

5

6

IV. NATURE OF SUIT (Check one box, only.)

CONTRACT	TORTS	PRISONER PETITIONS	LABOR	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 350 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 530 General <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> Habeas Corpus: <input type="checkbox"/> 540 Habeas Corpus & Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Labor/Management Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 5729 (a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act (TCPA) <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 830 Securities/Commodities Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157	PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 845 Abbreviated New Drug Application	FOREFEITURE/PENALTY <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 865 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
		IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition) <input type="checkbox"/> 465 Other Immigration Actions	FEDERAL TAXES <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609		

FILED

NOV 02 2020

THOMAS G. BRUDEN
CLERK, U.S. DISTRICT COURT

V. ORIGIN (Check one box, only.)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District (specify)
- 6 Multidistrict Litigation
- 8 Multidistrict Litigation Direct File

VI. CAUSE OF ACTION (Enter U.S. Civil Statute under which you are filing and write a brief statement of cause.)

42 USC 1983, AMER. W/DISABILITIES ACT IN EDU.

VII. PREVIOUS BANKRUPTCY MATTERS (For nature of suit 422 and 423, enter the case number and judge for any associated bankruptcy matter previously adjudicated by a judge of this Court. Use a separate attachment if necessary.)

VIII. REQUESTED IN COMPLAINT:

Check if this is a class action Under rule 23. Demand \$ 22,385.09 F.R.C.V.P.

Check Yes only if demanded in complaint. Jury Demand: Yes No

IX. RELATED CASE(S) (See instructions).

IF ANY LUSH V. MANDELL Judge ZAGEL

Case Number 1:2010-CV-04711

X. Is this a previously dismissed or remanded case? Yes No If yes, Case

Name of Judge

Date
OCTOBER 26, 2020

Signature of attorney of record
W. Stephen Lush

that it may affect his grades. This explanation was made before he made application for medical withdrawal.

6. Student attests that the medical condition went into remission in the second semester, which is the reason why his grades improved and no further classes were failed. Student attempted to inform the Assistant Dean as to this fact in making his medical withdrawal, but was told by the Assistant Dean to leave his office and in effect leave NIUCOL.

STATEMENT OF CLAIM

Student alleges BREACH OF CONTRACT by NIUCOL. This is based on NIUCOL not following the American Bar Association's (ABA) standards, the minimum required for accreditation by the ABA:

1. Standard 303 states that a law school not inculcate false hope of a student that they will succeed.
2. Council Statement 10 states that an instructor return grades within thirty days of their final examination.

Statement 1 occurred when they admitted Plaintiff, continued his enrollment into the spring, and in their failure to allow a medical withdrawal although at no point until the end of the semester was the medical withdrawal refused. The failure to allow a medical withdrawal specifically was an act of ending hope, but its use was voluntary by the school. No reason was given for the school to decline a medical withdrawal. Plaintiff had a documented and identifiable medical condition on the first day of attending NIUCOL, and the school acted in bad faith for not taking heed of this fact in Plaintiff's own admission application. According to the Assistant Dean Mandell, Plaintiff was capable of a B (3.0) average based on his LSAT score. His average was below C (1.0) with no explanation given other than a crippling mental illness that was recognized and being treated by University Health Services at Northern Illinois University. No accommodations were offered nor any given for the admitted condition in Plaintiff's application, as required by Federal law. The school, an ABA-accredited institution, attempted to keep the Student enrolled while collecting tuition with little hope of completing law school or passing the bar.

PRAYER FOR RELIEF

Student took out \$27,500 in loans to attend. Student prays to this court for this amount in relief as he is the unwitting victim of being misled into thinking he could graduate. Student seeks damages in this amount as he was taken advantage of by the faculty and administration. This is even illustrated in the student organizations. More than a year after his academic dismissal, the student had to contact the Student Bar Association to be

IN THE CIRCUIT COURT FOR THE TWENTY-THIRD JUDICIAL CIRCUIT
DEKALB COUNTY, ILLINOIS

WILLIAM STEPHEN LUSH, II)
Plaintiff,)
vs.)
ILLINOIS COURT OF CLAIMS &)
NORTHERN ILLINOIS UNIVERSITY)
Defendants.)

CASE NO.: 18 CH 94

Amount Claimed: \$51,296

Plaintiff's Attorney: W. Stephen Lush, II

SERVE THE DEFENDANT AT:

Address: 6418 University Ave., Apt. 1E
Middleton, WI 53562

WHEELER G. COLEMAN
EC-UNITED
321 N. CLARK ST., STE. 505T
CHICAGO, IL 60654

Telephone: (608) 698-8143

TELEPHONE: (815) 753-1000

SUMMONS

To the above-named Defendant:

You are hereby Summonsed and required to appear before this Court, located at 133 WEST STATE STREET, SYCAMORE, ILLINOIS AT 9 A.M. ON NOVEMBER 6TH to answer the Complaint in this case, a copy of which is hereto attached. If you fail to do so, a judgment by default may be taken against you for the relief asked in the Complaint.

TO THE OFFICER:

This Summons must be returned by the Officer or other person to whom it was given service, with endorsement thereon of Service and fees, if any, immediately after the service. This Summons may not be served less than three (3) days before the day of appearance. If service cannot be made, this Summons shall be returned so endorsed.

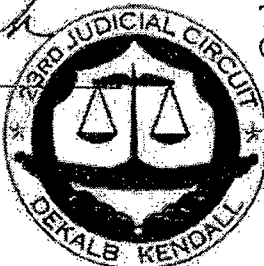
Witness this date, 9/17/2018 2:15 PM

Date of Service: _____

Maureen A. Jask

Time of Service: _____
(to be inserted by Officer on copy left with Defendant.)

Clerk of Court



Attorney Appearance Form, Lush v. Bd. Trs. N. Ill. Univ., No. 3:20-cv-50421, ECF No. 9; Plaintiff's Motion to Recuse, Lush v. Bd. Trs. N. Ill. Univ., No. 3:20-cv-50421, ECF No. 25; Motion for Change of Venue at 2, Lush v. Bd. Trs. N. Ill. Univ., No. 3:20-cv-50421, ECF No. 38.

Prima facie evidence of judicial impropriety.

**U.S. District Court for the Northern District Of Illinois
Attorney Appearance Form**

Case Title: Lush v. Board of Trustees of Northern Illinois University et al. Case Number: 20-cv-50421

An appearance is hereby filed by the undersigned as attorney for:
State of Illinois

Attorney name (type or print): Mary A. Johnston

Firm: Office of the Illinois Attorney General

Street address: 100 W. Randolph St., 13th Floor

City/State/Zip: Chicago, IL 60601

Bar ID Number: 6320865
(See item 3 in instructions)

Telephone Number: 312-814-3739

Email Address: mjohnston@atg.state.il.us

Are you acting as lead counsel in this case? Yes No

Are you acting as local counsel in this case? Yes No

Are you a member of the court's trial bar? Yes No

If this case reaches trial, will you act as the trial attorney? Yes No

If this is a criminal case, check your status.

Retained Counsel

Appointed Counsel
If appointed counsel, are you

Federal Defender

CJA Panel Attorney

In order to appear before this Court an attorney must either be a member in good standing of this Court's general bar or be granted leave to appear *pro hac vice* as provided for by local rules 83.12 through 83.14. I declare under penalty of perjury that the foregoing is true and correct. Under 28 U.S.C. §1746, this statement under perjury has the same force and effect as a sworn statement made under oath.

Executed on December 2, 2020

Attorney signature: S/ Mary A. Johnston
(Use electronic signature if the appearance form is filed electronically.)

FILED
FEB 24 2021

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION**

THOMAS G. BRUTON
CLERK, U.S. DISTRICT COURT

Mr. William Stephen Lush, II,
Plaintiff,

)
)
) Case Number: 3:20-CV-50421
)
)

v.

Board of Trustees of Northern Illinois University,
State of Illinois, *et al*,
Defendants.

)
) Honorable Judge: Mr. Iain D. Johnston
)
)

PLAINTIFF'S MOTION TO RECUSE

I, the above captioned Plaintiff, *pro se*, respectfully move the Honorable Judge, Mr. Iain D. Johnston, recuse himself, as he is able, because he has the same last name as the counsel that entered an appearance from the Illinois Attorney General's Office, thus there is the appearance of impropriety. 28 U.S.C. § 455(a) and Code of Conduct for United States Judges, Canon 2(B). Counsel for the State of Illinois, Ms. Mary Alice Johnston, works for the State of Illinois, and thus she stands to benefit by a ruling in its favor. Mr. Johnston can state he is not within the third degree of relationship of Ms. Johnston, in any denial of recusal, but there is already the appearance of impropriety, and either party failed to address this fact. 28 U.S.C. § 455(b)(5)(ii).

If Honorable Judge Mr. Johnston can humbly recuse himself, the notification of docket entry shall be stricken, the pleadings with the entire case read by a new judge, and whomever presides should give their own, personal legal reasoning to dismiss in accordance with the need for recusal, U.S. Const. amend. V, cl. 3 and Ill. Const. art. I, § 2 (due process)), if they too choose to dismiss. Without sound legal reasoning refuting my pleadings by an impartial judge, there are grounds for appeal, which I wish to avoid at all costs. I believe there is no cause to dismiss; it is

hypocritical of the courts to hold for the statute of limitations, as the Illinois Court of Claims took years to decide. Ill. Const. art. I, § 12, "Every person. . .shall obtain justice by law, freely, completely, and promptly", and the Eastern Division should not have dismissed the case, causing the filing with the De Kalb County Court, 23rd Judicial Circuit, because the statute of limitations were tolled in the Illinois Court of Claims. Nevertheless, I must accept whatever the judge decides if there is clear elucidated reasoning given, based on law.

I ask this motion please be considered judiciously, with fairness to both parties, because it took forever to get a forum to take this case seriously. See U.S. Const. amend. I, cl. 3 and Ill. Const. art. I, § 5 (right to petition the government), Ill. Const. art. I, § 12 (right to remedy and justice), U.S. Const. amend. VII (right to jury trial when suit is for more than \$20), and Ill. Const. art. I, § 13 (right to a trial by jury).

By signing this, I, the undersigned Plaintiff, *pro se*, certify that the facts stated in this motion are true to the best of my knowledge, information and belief. I understand that if this certification is not correct, I may be subject to sanctions by the Court. Fed. R. Civ. P. 11(c).



Mr. William Stephen Lush, II, *pro se*
6418 University Avenue, Apartment 1E
Middleton, Wisconsin 53562
StephenLush2@Gmail.COM e-mail

arguendo no familial connection, the Referring Judge, also, the Honorable Judge Lisa A. Jensen, was solicited and denied Appellant assistance while the case was pending in the Illinois Court of Claims. *Lush v. Mandell*, Case No. 1:10-CV-04711 (N.D. Ill. December 10, 2010) (Zagel, J.), ECF No. 1-3, Pp. 22-26. This latter connection is true, and thus has prejudiced Appellant's case. Also, the preceding Eastern Division of the Northern District of Illinois' is biased by denying Appellant a fair jury trial, addressed to greater extent later in point 2, P. 4 of this motion. Any action can be transferred to a district where it might have been brought, in the interest of fairness. *Stewart Org., Inc. v. Ricoh Corp.*, 487 U.S. 22, 29, 108 S. Ct. 2239, 2244, 1988 U.S. LEXIS 2791, 14-15 (1988).

There are serious defenses and argument advanced by Appellees. In consideration of this motion, before kicking back to a district court, they are addressed. If they are not sufficient to the Seventh Circuit, it may deny this motion, after a response from opposing counsel.

Appellant's case is not limited to these rebuttals:

1. Appellees' and the Honorable Judge Zagel's statute of limitations defense made in the Eastern Division of the Northern

Plaintiff's Motion for Appointment of Counsel, *Lush v. Bd. Trs. N. Ill. Univ.*, No. 3:20-cv-50421, ECF No. 20.

Motion for appointment of counsel, which was denied for the reason of not satisfying *Pruitt v. Mote*, 503 F.3d 647 (7th Cir. 2007) (Sykes, J.). Appellant disagrees with this finding, given his knowledge of the case holding as he believes it applies to his own case.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION**

William Stephen Lush, II,
Plaintiff,

Case Number: 3:20-cv-50421

v.

Board of Trustees of Northern Illinois University,
President of Northern Illinois University, the Dean
of the Northern Illinois University College of Law,
Director of Admissions of Northern Illinois
University College of Law, Director of
Registration and Records of Northern Illinois
University, University Ombudsman of Northern
Illinois University, Director of the Disability
Resource Center of Northern Illinois University,
Professor at Northern Illinois University College
of Law, and Agent for Northwestern Medicine Ben
Gordon Center, & State of Illinois,
Defendants.

Honorable Judge: Lisa A. Jensen

FILED
JAN 11 2021
THOMAS G. BRUTON
CLERK, U.S. DISTRICT COURT

PLAINTIFF'S MOTION FOR APPOINTMENT OF COUNSEL

Plaintiff, William Stephen Lush, II, *pro se*, hereby makes this motion to the Court to appoint himself counsel. To this end, he says now:

1. Plaintiff filed a complaint regarding Northern Illinois University College of Law (N. Ill. Univ. Coll. L.) with the American Bar Association (Am. Bar Assoc.) Section of Legal Education and Admissions to the Bar in 2004 because N. Ill. Univ. Coll. L. "inculcate[d] false hopes", in violation of Am. Bar Assoc. Standards and Rs. of Proc. for Approval of Law Schools, Standard 303(c) (2003). N. Ill. Univ. Coll. L. let Plaintiff continue into a second semester after failing two courses, when he did not have a chance of completing his first year and attending a second. Am. Bar Assoc. did not respond. Plaintiff then filed a complaint regarding the Am. Bar Assoc.'s lack of response with the United States Department of Education Office of Postsecondary Education (U.S. Dep't. Educ. Off. of Postsecondary Educ.). The Am. Bar Assoc. acknowledged the complaint, but no known action was taken, no inquiry, investigation,

discipline or threat to the accreditation of N. Ill. Univ. Coll. L., which Plaintiff complains is educational malpractice by N. Ill. Univ. Coll. L. Plaintiff began his career in the U.S. Navy in Sept. 2004, in the middle of this complaint, and ceased further action after receiving the U.S. Dep't. Educ. Off. of Postsecondary Educ. mailed response to his address at Naval Station Great Lakes, in Great Lakes, Ill., as he believed no further action was possible. Thus, Plaintiff, *pro se*, exhausted all administrative remedies known to him. Then, after his naval discharge, Plaintiff filed with the Illinois Court of Claims (Ill. Ct. of Claims) on July 6, 2006, stating in his complaint the violation of Standard 303 and also Council Statement 10, the latter saying that instructors return grades within thirty days, which was violated by former contracts law professor Daniel S. Reynolds. Standard 303(c) has since been stricken. Am. Bar Assoc. Standards and Rs. of Proc. for Approval of L. Schools (2020). This is evidence of *mens rea*.

2. After Illinois Court of Claims (Ill. Ct. of Claims) Honorable Judge Jann issued her Order on May 20, 2010, Plaintiff then filed a civil rights lawsuit in the Northern District of Illinois (N.D. Ill.) in *Lush v. Mandell*, on July 28, 2010, based on *stare decisis* created by the N.D. Ill.'s own court in *Doe v. Bd. Trus. Univ. Ill.*, 429 Fed. Supp. 2d 930, 2006 U.S. Dist. LEXIS 26154 (N.D. Ill. Apr. 20, 2006). This case was decided before Plaintiff filed in the Ill. Ct. of Claims on July 6, 2006. Then, in *Lush v. Mandell*, before the Honorable Judge Zagel issued his Order on Dec. 14, 2010, Plaintiff moved for appointment of counsel on Nov. 2, 2010. Given the text of his motion for appointment references searching for counsel and indigency, in accordance with *Jackson v. Cnty. of McLean*, 953 F.2d 1070, 1073 (7th Cir. 1992) (Kanne, J.), Plaintiff submits this past motion for appointment of counsel as the initial proof he was precluded from making efforts to retain counsel. Plaintiff's Exhibit J, *Lush v. Mandell*, Motion for Appointment of Counsel. After Hon. J. Zagel's Ord., Plaintiff, continuing *pro se*, made three motions for reconsideration. All were denied without a legal reason that Plaintiff could argue against in federal appellate court. The second motion for reconsideration contained the

argument, which would support his case of educational malpractice, that an educational institution can be reviewed by a court, citing *Dalton v. Educational Testing Svc.*, 87 N.Y.2d 384 (1995). Plaintiff's Exhibit M, *Lush v. Mandell*, Plaintiff's Second Motion for Reconsideration Under 28 U.S.C. § 2104, Pp. 2-3. The third motion for reconsideration outright declared Plaintiff wished to amend his complaint to one of educational malpractice. Plaintiff's Exhibit N, *Lush v. Mandell*, Rule 35 Motion for Reconsideration by Both Single-Judge and Panel, Pp. 1, says, "Plaintiff wishes to alter his case to one of educational malpractice". Both motions were denied by the Hon. J. Zagel, but the third was denied by the Hon. J. Elaine E. Bucklo instead, saying, "If plaintiff thought Judge Zagel's decision was incorrect, his remedy was to timely appeal the decision to the Seventh Circuit." This is incorrect, although Fed. R. Civ. Proc. 15(a)-(c)(B) gives the district courts power to give or deny a plaintiff permission to amend a their complaint more than once, the N.D. Ill. should have ruled specifically on this amendment, and if denying, give Plaintiff legal reasoning from which he could appeal. Then Plaintiff could proceed with an appeal. If the N.D. Ill. wishes to deny a motion by a plaintiff, it should state why it denies the motion so a plaintiff can first move to reconsider with his argument based on law, then if still refused, give notice to appeal based on the disagreement of law, as that is what appeal courts are for. If the N.D. Ill. gives a legal reasoning for its denial and it is argued by the Plaintiff with no result, the appeal case is then perfected at the district court level, before taking the extraordinary step of an appellate court. This promotes economy, avoids excess litigation and saves the courts time. After these multiple denials without reason, Plaintiff then decided to have the Ill. Ct. of Claims decision reviewed by Ill.'s own courts before utilizing U.S. Const. art. III, § 2, cl. 1 and *Fitzpatrick v. Bitzer*, 427 U.S. 445 (1976), which permits suits between a state and its own citizens. In *Fitzpatrick*, U.S. Congressional legislation authorizes federal courts to award damages to enforce the substantive guarantees of U.S. Const. amend. XIV. Under Am. with Disabilities Act, Title II, prevailing plaintiffs are allowed attorney's fees, and compensatory damages, if a plaintiff can prove that the discrimination by the public entity was intentional, resulting from deliberate indifference to the rights of the

individual. 28 C.F.R. § 35.172(d) (2020). *Cf.* U.S. Const. amend. XI and *Hans v. Louisiana*, 134 U.S. 1 (1890). Strictly reading, the Eleventh Amendment does not prohibit suits between a state and its own citizens. Plaintiff's suit is regarding his time as a citizen of Illinois. He paid sales taxes, lived, and voted there. So, as Plaintiff wanted to have his Ill. Ct. of Claims decision reviewed, 8 U.S.C. §§ 2101 and 2104 govern U.S. Supreme Court reviews of state court decisions, he sought review from the Ill. Ct. of Claims decision on May 16, 2018 in De Kalb Cnty. Cir. Ct. in a chancery case, to the Second Appellate Court of Ill, to the Ill. Supreme Ct., which was denied in the Ill. Supreme Ct. on Sept. 30, 2020, before Plaintiff filed his federal Complaint with the N.D. Ill. on Nov. 2, 2020. Neither the De Kalb Cnty. Cir. Ct., the Second App. Ct. of Illinois, or the Ill. Supreme Ct. reviewed the Ill. Ct. of Claims Ord., the Ord. of the Hon. J. Zagel, or the Plaintiff's motions for reconsideration before the Eastern Division, and all their claims of educational malpractice, breach of implied contract, and civil rights violation of 42 U.S.C. § 12132 of the Ams. with Disabilities Act. If the statute of limitations is to be enforced regardless of equitable tolling, his complaint in De Kalb Cnty. Cir. Ct. and in *Lush v. Mandell* relate back to his Ill. Ct. of Claims complaint, where he alleged civil rights, educational malpractice and breach of contract. Fed R. Civ. Proc. 15(c)(A)-(B) and 735 Ill. Comp. Stat. 5/2-616(a)-(c). Malpractice is a tort which the Ill. Ct. of Claims has jurisdiction if against Bd. Trus. N. Ill. Univ. 705 Ill. Comp. Stat. 505/8(d).

2. The Plaintiff has made reasonable attempts to retain counsel as required for appointment of counsel under *Jackson v. Cnty. of McLean*, 953 F.2d 1070, 1073 (7th Cir. 1992) (Kanne, J.). When Plaintiff was considering and litigating this case, he contacted many attorneys admitted to practice in Illinois across the Internet, especially with those listed with the Illinois State Bar Association as practicing in civil rights and education law. Plaintiff received no response. Plaintiff was referred to Prairie State Legal Services, physically located at 31W001 North Avenue, Suite 200, West Chicago, Illinois 60185, by the Honorable Judge Waller in De Kalb County Circuit Court, but Prairie State Legal Services did not

respond when requested on its website. <http://www.pslegal.org> . Prairie State Legal Services now refers to the website Illinois State Bar Association - Lawyer Finder. Plaintiff also read the Land of Lincoln Legal Assistant Foundation Offices website and found they do not represent his claims. <http://www.lollaf.org> . Plaintiff was finally able to convince local attorney Lisa C. Goldman, Davey & Goldman Law Firm, in Madison, Wisconsin, to review the Complaint he filed with the Northern District of Illinois on November 2, 2020, but she refused to do anything after reviewing his complaint.

3. Plaintiff checked with the updated Illinois State Bar Association website and ran a basic Google search for *pro bono publico* attorneys admitted to the trial bar of the Northern District of Illinois. Plaintiff submits the following list of attorneys he sent a copy of his complaint to for response:

Daniel A. Edelman

Edelman, Combs, Lattuner & Goodwin, L.L.C.

20 South Clark Street, Suite 1500

Chicago, Illinois 60603-1824

(312) 739-4200

Lawrence Anthony Wojcik

McDermott Will & Emery LLP

444 West Lake Street

Chicago, IL 60606-0029

(312) 984-2057

George M. Sachs, Attorney at Law

121 South Wilke Road, Suite 301

Arlington Heights, Illinois 60005-1533

(847) 362-2800

Sheni H. Djurisc

Djurisc P.C.

1330-B West 127th Street

Calumet Park, Illinois 60827

(708) 389-4003

Brian Joseph Massimino

Lavelle Law, Ltd.

141 West Jackson Boulevard, Suite 2800

Chicago, Illinois 60604-3306

(312) 332-7555

David M. Adler

Adler Law Group

300 Saunders Road, Suite 100

Riverwoods, Illinois 60015-5708

(866) 734-2568

Janet Ruth Randle

Law Offices of Janet R. Randle

3534 West 198th Street

Flossmoor, Illinois 60422-1268

(214) 923-5356

Daniel A. Saeedi

Taft Stettinius & Hollister LLP

111 East Wacker Drive, Suite 2800

Chicago, Illinois 60601

(312) 840-4316

None of them agree to represent Plaintiff, which should satisfy *Jackson*. These are the only lawyers listed as *pro bono*, licensed to practice in Illinois, and admitted to both the general and trial bars in the Northern District of Illinois.

By signing this, Plaintiff's Motion for Appointment of Counsel, Plaintiff certifies that the facts stated in this pleading are true to the best of my knowledge, information and belief. Plaintiff understands that if this certification is not correct, I may be subject to sanctions by the Court. Fed. R. Civ. P. 11(c).



William Stephen Lush, II
6418 University Avenue, Apartment 1E
Middleton, Wisconsin 53562-3487
(608) 698-8143 cellular (no voicemail)
StephenLush2@Gmail.COM e-mail

Application at 1, Lush v. Bd. Trus. N. Ill. Univ., No. 3:20-cv-50421, ECF No. 3; Request for Waiver of PACER Fees, Lush v. Bd. Trus. N. Ill. Univ, No. 21-1394 (7th Cir. April 11, 2022), ECF No. 16.

Appellant's application for *in forma pauperis* status requesting counsel, of which *pauperis* status was approved, but counsel was denied. Also included is the approved waiver of PACER fees letter by the Seventh Circuit.

FILED
NOV 02 2020

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

WILLIAM STEPHEN LUSH, II
(full name of plaintiff or petitioner)

vs.

BD. OF TRUSTEES OF NIU, ET AL.
(full name of defendant(s) or respondent(s))

THOMAS G. BRUTON
CLERK, U.S. DISTRICT COURT
APPLICATION TO PROCEED
WITHOUT PREPAYING FEES OR
COSTS / FINANCIAL AFFIDAVIT

20 cv 50421
Judge Iain D. Johnston
Magistrate Judge Lisa A. Jensen

Instructions: Please answer every question. Do not leave blanks.
If the answer is "0" or "none," say so.

Application: I am one of the parties in this case. I believe that I am entitled to the relief I am requesting in this case. I am providing the following information under penalty of perjury in support of my request (check all that apply):

- to proceed *in forma pauperis* (IFP) (without prepaying fees or costs)
- to request an attorney

1. Are you employed?

Yes Name and address of employer: _____

Total amount of monthly take-home pay: _____

No Date(s) of last employment: Feb. 18, 2020 Last monthly take-home pay: \$101.00

2. If married, is your spouse employed? Not married

Yes Name and address of spouse's employer: _____

Total amount of spouse's monthly take-home pay: _____

No Date(s) of spouse's last employment: _____ Spouse's last monthly take-home pay: _____

3. Other sources of income / money: For the past 12 months, list the amount of money that you and/or your spouse have received from any of the following sources:

(list the 12-month total for each)

Self-employment, business, or profession:	\$ _____
Income from interest or dividends:	\$ 59.70
Income from rent payments:	\$ _____
Pensions, annuities, or life insurance:	\$ _____
Disability or worker's compensation:	\$ 16,341.35
Gifts (including deposits into any accounts in your name):	\$ 475.00
Unemployment, public assistance, or welfare:	\$ _____
Settlements or judgments (include any that are expected):	\$ _____
Any other source of money:	\$ _____

4. Cash and bank accounts: Do you and/or your spouse have any money in cash or in a checking or savings account? Yes No If yes, how much? \$2,239.21

5. Other assets: Do you and/or your spouse own or have an interest in any real estate (including your home), stocks, bonds, other securities, retirement plans, automobiles, jewelry, or other valuable property (not including ordinary household furnishings and clothing)? Yes No

If yes, list each item of property and state its approximate value:

VEHICLE \$8,140.00

STOCK \$390.50

6. Dependents: Is anyone dependent on you and/or your spouse for support? Yes No

If yes, please list their names (for minor children, use only initials); relationship to you; and how much you and/or your spouse contribute toward their support each month:

7. Debts and financial obligations: List any amounts you owe to others:

VEHICLE LOAN \$6,799.41

SMALL BUSINESS ADMINISTRATION LOAN \$4,500.00

CREDIT CARDS \$3,509.77

8. Provide any other information that will help explain why you cannot afford to pay court fees / hire an attorney:

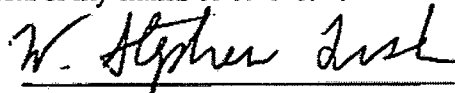
LIVE ON FOOD STAMPS, SOCIAL SECURITY DISABILITY AND VETERANS' AFFAIRS

DISABILITY BENEFITS.

Declaration: I declare under penalty of perjury that all of the information listed above is true and correct.

I understand that a false statement may result in dismissal of my claims or other sanctions.

Date: 10/26/2020



Applicant's signature

WILLIAM STEPHEN LUSH, II

Printed name

U.S.C.A. - 7th Circuit
RECEIVED

SEP 03 2021 MLM

W. Stephen Lush, II
6418 University Ave., Apartment 1E
Middleton, Wisc. 53562
(608) 698-8143
StephenLush2@Gmail.COM

August 30th, 2021

Regarding Case No. 21-1394

Dear United States Court of Appeals for the Seventh Circuit,

appellant/
I am the plaintiff in the above numbered case. I am poor, and do not feel I should have to pay this cost. I presently have less than \$1,000 in my personal account, am below the poverty line, and was granted *in forma pauperis* status. Please waive my PACER balance for account number 3581645. I have recently received a delinquency notice.

I may require more PACER usage later. If there is a better way of requesting PACER balance waiver, you may tell me by e-mail in case I need to repeat this request in the future.

Please e-mail me if there is a problem with this request.

Yours truly,

W. Stephen Lush

Motion for Change of Venue, Lush v. Bd. Trs. N. Ill. Univ., Case No. 21-1394 (7th Cir. April 11, 2022), ECF No. 38.

Denied without specified cause.

**UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT**

Mr. W. Stephen Lush, II, <i>pro se</i> ,)	
Plaintiff-Appellant,)	Appeal
)	
)	Case Number: 21-1394
)	
v.)	(Attempted Appeal of
)	3:20-CV-50421 and
)	1:10-CV-04711)
Board of Trustees of Northern Illinois)	
University, <i>et al.</i> ,)	The Honorable Chief Judge
Defendant-Appellees.)	Diane S. Sykes
)	

Appellant's 28 U.S.C. § 1404(a) Motion for Change of Venue and Fed. R. Civ. Proc. 60(b)(6) Reconsideration of Dismissal, and Stipulation to Dismiss Motion to Appoint Counsel

Appellant, W. Stephen Lush, II, *pro se*, motions for a change of venue in *Lush v. Bd. Trus. N. Ill. Univ.*, Case No. 3:20-CV-50421, from the Northern District of Illinois to the Western District of Wisconsin, or Eastern, if preferable, and asks that different district to reconsider its dismissal, under 28 U.S.C. § 1404(a) and Fed. R. Civ. Proc. 60(b)(6).

It is undisputed the Western Division's Presiding Judge in the district court has the same last name as one of the attorneys of record. ECF No. 5, P. 1, Appellant's Showing of Cause, Memorandum to Reconsider Appeal, and Motion for Appointment of Counsel. Accepting

arguendo no familial connection, the Referring Judge, also, the Honorable Judge Lisa A. Jensen, was solicited and denied Appellant assistance while the case was pending in the Illinois Court of Claims. *Lush v. Mandell*, Case No. 1:10-CV-04711 (N.D. Ill. December 10, 2010) (Zagel, J.), ECF No. 1-3, Pp. 22-26. This latter connection is true, and thus has prejudiced Appellant's case. Also, the preceding Eastern Division of the Northern District of Illinois' is biased by denying Appellant a fair jury trial, addressed to greater extent later in point 2, P. 4 of this motion. Any action can be transferred to a district where it might have been brought, in the interest of fairness. *Stewart Org., Inc. v. Ricoh Corp.*, 487 U.S. 22, 29, 108 S. Ct. 2239, 2244, 1988 U.S. LEXIS 2791, 14-15 (1988).

There are serious defenses and argument advanced by Appellees. In consideration of this motion, before kicking back to a district court, they are addressed. If they are not sufficient to the Seventh Circuit, it may deny this motion, after a response from opposing counsel.

Appellant's case is not limited to these rebuttals:

1. Appellees' and the Honorable Judge Zagel's statute of limitations defense made in the Eastern Division of the Northern

District of Illinois, De Kalb County, and all subsequent Illinois courts.

It is important to consider the procedural history in this case, so it is recited here. This cause of action was filed with the Illinois Court of Claims in 2006, just two years after being refused a medical withdrawal and rendered not in good standing. This was originally attempted filing in 2004, but was denied for lack of a filing fee. This claim was based on breach of contract based on (1) violation of an American Bar Association standard for inculcating false hope of success and (2) various discrepancies in his education noted in the court of claims record.

Mandell, ECF No. 1-4, P. 37-39. Then Appellant motioned for a stay to have the court of claims' cause heard in Federal court because the school was in violation of the Americans with Disabilities Act (ADA).

Mandell, ECF No. 1-4, P. 63-64. *See Doe v. Bd. Trus. Univ. Ill.*, 429 F. Supp. 2d 930, 2006 U.S. LEXIS 26154 (N.D. Ill. 2006) (Kennelly, J.) (precedential case upon which Appellant's Title II ADA claim is based), cited in *Mandell*, ECF No. 1-3, Pp. 1-15. Illinois courts can hear this Federal civil rights claim. *See Illinois Human Rights Act*, 775 ILCS 5/5-101(A)(11). Nevertheless, the motion for stay was never ruled upon, no reason given. The Illinois Court of Claims finally decided the case in

2010, four years later. It is unknown the backlog of the court of claims then, but there is no excuse for the lack of response within that time it had to deliberate on everything filed by Appellant, other than perhaps the argument it is within the court's discretion to do so. *See* ILL.

CONST. art. I, § 12; *People v. Busch*, 228 Ill. App. 11, 18, 1923 Ill. App. LEXIS 190, 11 (Ill. App. Ct. 1923) (prompt justice). There is no reason given by the court commissioner for ignoring everything filed by Appellant, he paid the filing fee, it was his case. In the court of claims' final order, it cited no statute of limitations, did not address the inculcation of false hope, and all else Appellant stated as the facts for his claim, other than it did not amount to a breach of contract.

Mandell, ECF No. 1-6, Pp. 28-30. Then again, this was an Illinois institution, an instrumentality created by the Illinois legislature, being sued in an Illinois court. Although it is hoped one would have an impartial court there, it is not likely, in retrospect, Appellant can receive a fair trial. The jury would be residents of Illinois, it would be been their tax dollars at stake. There was no bench or jury trial offered, no hearing, or similar proceeding therein, by the Illinois Court of Claims. Appellant states for disclosure that he could not physically

attend one scheduled hearing due to searching for work in Houston, Texas at the time, and owned no telephone. He attempted to reschedule it by filing, but was denied by virtue of silence. After its dismissal, the Appellant filed immediately with the Northern District of Illinois in the same year, 2010, after attempting to contact Mr. Leonard Mandell, associate dean of student services. This immediate subsequent Federal action was dismissed by the former Honorable Judge Zagel and upheld by the overseeing judge in the Eastern Division without the appearance of counsel or even a hearing based on the statute of limitations. The Illinois state statute of limitations for breach of contract not involving the sale of goods is ten years. 735 ILCS 5/13-206 (2021). Including the ADA Title II claim, the state personal injury statute of limitations is two years. 735 ILCS 5/13-202 (2021). It is the right of opposing counsel to waive this defense. Fed. R. Civ. Proc. 8(c)(1). Please note the Appellant sent this to the Illinois Court of Claims in 2004. Appellant argues it is opposing counsels' sole right to waive this defense. *See also* 735 ILCS 5/2-613 (2021); *Musacchio v. United States*, 577 U.S. 237, 246, 136 S. Ct. 709, 717-718, 2016 U.S. LEXIS 972, 15-16 (2016). It is said with some reservation, the Eastern Division, however well-meaning,

improperly acted as opposing counsel. This shows bias. Appellant pleads he was waiting for the Illinois Court of Claims to decide, as it was capable of acting on the complaint, and he did so. There is a legal principle that a Federal court does not intervene during a state proceeding, generally known as *lis pendens*. *E.g. Younger v. Harris*, 401 U.S. 37, 45, 91 S. Ct. 746, 751, 1971 U.S. LEXIS 136, 14 (1971). Judge Zagel did not consider Appellant's complaint in the best light to Appellant, as shown in the record, by Appellant's treatment there in the Eastern Division. *See Saucier v. Katz*, 533 U.S. 194, 201, 121 S. Ct. 2151, 2156, 2001 U.S. LEXIS 4664, 13 (9th Cir. 2001) (Kennedy, J.) (complaints considered in "light most favorable to party asserting injury"). The factual issue used in dismissal, whether Appellant's mental disability equitably tolled the statute of limitations, was never heard before a jury. Indeed, not even a bench trial was given with opposing counsel present. In fact, the case had never even been granted a hearing until Appellant sought review of the Illinois Court of Claims case in De Kalb County Court. Appellant made several motions for reconsideration in the Northern District of Illinois, Eastern Division on these bases, before losing all faith in the process. The case record in

Lush v. Mandell shows Appellant made several gallant attempts to save his case, pleading everything he could, though he concedes he did not appeal. *Mandell*, Civil Docket. Regardless of what has occurred, Appellant argues limitations are still equitably tolled, even now, because he is still not in good standing at Northern Illinois University College of Law, thus is deprived of a perceivable liberty interest. Based on this, he will not be accepted to at least one other, if not most, law schools. This academic status prevented Appellant from receiving further student loans to finance any further education. If Northern Illinois University College of Law, specifically Mr. Mandell, gave Appellant due process for his medical withdrawal of two courses, the result of which could have been his continuation in law school, then no lawsuit would have been filed. It was an arbitrary act. And it is further argued suits for ongoing violations can be maintained.

Levenstein v. Salafsky, 414 F.3d 767, 772 (7th Cir. 2005) (Wood, J.).

2. Appellees' *res judicata* defense made in the De Kalb County and all subsequent Illinois courts. The Illinois Court of Claims case cannot possibly be precedential or constitutional because it did not grant prompt justice, ignored all filings other than the complaint, and taking

four years to decide. ILL. CONST. art. I, § 12; *People v. Busch*, 228 Ill. App. 11, 18, 1923 Ill. App. LEXIS 190, 11 (Ill. App. Ct. 1923) (prompt justice). *Also* ILL. CONST. art. I, § 2 (due process). Appellant argues this makes the ruling unconstitutional, thus all other rulings based upon it as well. The factual issues have never been tried by a jury of laypersons, important because the primary defendant is a college of law. U.S. CONST. amend. VII (civil right to jury trial for suits over \$20). *See also* ILL. CONST. art. I, § 13 (right to trial by jury is inviolate). Schools of law are bound to receive favoritism by the courts, as said in Appellant's brief. ECF No. 11, P. 18. This is not only because they share the same profession, but receives protection as an institution of higher education. Furthermore, the state judge denying review in De Kalb County, the Honorable Judge Waller, upholding the decision of the Illinois Court of Claims, is a graduate of the Appellee's law school, Northern Illinois University College of Law. It is unknown how many other judges involved also have Appellee law school as their *alma mater*, so it would be fairer to have a new judge hear the case, not of this school. Judge Waller's decision was appealed to the Illinois Supreme Court so that it is ripe for review in Federal court. Given this

history in Illinois state courts, and its treatment in the Northern District of Illinois, Appellant believes he will never receive a fair trial in Illinois. Wisconsin is the next best venue because of its proximity to all parties, and is where Appellant resides.

3. Board of Trustees of Northern Illinois University's argument.

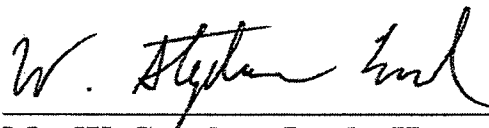
The Appellant has sued a State of Illinois university, the State of Illinois itself, and many of the universities' officials individually, beginning with Mr. Leonard Mandell, assistant dean of student services. Under case law, monetary relief may not be obtained retroactively from the State of Illinois treasury, so the State of Illinois can be dismissed as a party by the Seventh Circuit before this motion is heard. Monetary relief is had from state officials personally, which have been named, here and in *Mandell*. Appellant's tuition was paid mostly from Federal student loan disbursements, so in any case, the State of Illinois and its university should not be immune to suit, willingly consenting to participation in a program of Federal funding. Aside from money, relief is proposed in the form of equitably vacating Appellant's academic record at Appellee. This remedy may be seen as highly constructive, but would give greater chance of being accepted at

another law school, thus is a liberty interest protected by substantive due process. U.S. CONST. amends. V, cl. 3 & XIV, § 1, cl. 3; *Bd. Curators Univ. Miss. v. Horowitz*, 435 U.S. 78, 98 S. Ct. 948, 1978 U.S. LEXIS 64 (1978). *See also* ILL. CONST. art. I, § 2. Appellant's primary case for these remedies is inaction amounting to discrimination against for having a disability. Appellee schools, Northern Illinois University and its college of law, have not offered or provided accommodations, such as in the form of testing accommodations. *Bd. Trus. N. Ill. Univ.*, ECF No. 1, complaint, & ECF No. 16, amended complaint. Appellant was not given medical care that alleviated his disability's symptoms. If it did, there would have been a different outcome, which is the argument for equitable relief, but any claim of medical malpractice is withdrawn. If Appellee offered both accommodation and effective medical care, as it was aware of disability in Appellant's law school application, this may have allowed Appellee to succeed in school. Instead of being offered assistance, he was denied at every avenue. When Appellant as a last resort sought medical withdrawal at Northern Illinois University College of Law, it was denied. He only said and wrote that the withdrawal was "selective", but a complete withdrawal of

all grades could have been offered. Vacation of the academic record does not penalize Appellee, other than a minor slight to dignity. Appellant argues either or both of these pleaded reliefs is within the capability of the Court, and since accommodation was never offered or received, the medical withdrawal never been given due process, this is a claim upon which relief may be granted.

Hereby, Appellant respectfully motions the United States Court of Appeals for the Seventh Circuit for change of venue for *Lush v. Bd. Trus. N. Ill. Univ*, Case No. 3:20-CV-50421, to the Western District of Wisconsin. The time to file the reply brief should be temporarily stayed pending response or oral argument of this motion. If granted this motion, Appellant stipulates to go without counsel, and will not raise this motion again. A judge in Wisconsin can then reconsider the case. It is asked that whomever consider the filings in the Eastern Division, *Lush v. Mandell*, Case No. 1:10-CV-04711, as well, as that case relates back to this, and contains copious submitted exhibits which never saw the light of day. The most relevant documents are the complaint and amended complaint in the present action in the Western Division.

This motion complies with Fed. R. App. Proc. 27(d).

A handwritten signature in black ink that reads "W. Stephen Lush". The signature is written in a cursive style with a horizontal line underneath it.

Mr. W. Stephen Lush, II, *pro se*
6418 University Avenue, Apartment 1E
Middleton, Wisconsin 53562
(608) 400-3240
StephenLush2@Gmail.COM e-mail

Lush v. Mandell, Case No. 1:10-cv-04711, ECF No. 16.

Motion for psychiatric examination, denied, no explanation given.

FILED

MAY 10 2018

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

THOMAS G. BRUTON
CLERK, U.S. DISTRICT COURT

2018 MAY 10 AM 9:38

WILLIAM STEPHEN LUSH, II,

Plaintiff,

v.

LEONARD MANDELL, ET AL.

Defendants.

Case Number 10 C 4711

Judge Zagel

RULE 35 MOTION FOR RECONSIDERATION BY BOTH SINGLE-JUDGE AND PANEL

The District Court denied Plaintiff his claim because the Judge Zagel acted as opposing counsel in this case and Plaintiff objects, and believes the Judge's Statement to be a misapplication of the law. In this, Plaintiff addresses the Honorable Judge Zagel's Statement's points and refutes them accordingly:


1. Judge Zagel makes a distinction between mental illness and mental incompetence, but Judge Zagel is not a psychiatrist nor even a psychologist and is not qualified to make any conclusion. Judge Zagel cites Plaintiff's naval experience, but during such experience Plaintiff did not suffer any symptoms of schizophrenia. Plaintiff was unable to pursue any petition while he was enlisted due to its demands, could not find an attorney in Illinois willing to take his case, nor was any counsel offered or appointed to him, which would have alleviated the need for his direct participation. Furthermore, Federal Rule of Civil Procedure 35 states if a party's mental or physical condition is in controversy, a license or certified examiner should be appointed.
2. Judge Zagel equivocates by saying Plaintiff was admitted to law school therefore he understood his legal rights. Nothing in the admission to any law school, anywhere on earth, requires legal knowledge. At the most basic level, most American Bar Association law schools require only an LSAT score and a bachelor's degree. Some schools do not even require this. Also, if Plaintiff has pursued a legal remedy, and failed, that does not speak well to the issue of competence. If it behooves the District Court, counsel should be appointed.
3. Plaintiff was denied due process because he was denied a hearing in the Illinois Court of Claims, and in all other forums, a violation of Section 2 of the Illinois Constitution as well as the Fifth Amendment to the United States Constitution by virtue of incorporation, thus giving the District Court jurisdiction over the case under Federal Question.

Plaintiff wishes to alter his case to one of educational malpractice, and again strenuously expresses that limitations should be equitably tolled, not only due to mental illness, which caused Plaintiff to fail law school, but poverty, and his poverty affects his ability to litigate his own case even now.

Objections to Northern Illinois University were made and/or filed with the school, at the county and state levels, with federal agency (Dept. of Education Office for Civil Rights) and the American Bar Association, none of which act upon the complaint, so equitable tolling is justified.

The Plaintiff requests a subpoena of his academic records at Northern Illinois University, such as examinations, submitted papers and anything else retained.

Plaintiff continues to plead for reimbursement of his tuition and specific performance of the medical withdrawal which should have expunged his grades due to mental disability.

A handwritten signature in black ink, appearing to read "W. Stephen Lush, II". The signature is written in a cursive style and is positioned above a horizontal line.

William Stephen Lush, II, *pro se*
6418 University Avenue, Apt. 1E
Middleton, Wisconsin 53562-3487

Cc: Judge Zagel

Plaintiff's Exhibit B, Lush v. Bd. Trs. N. Ill. Univ., Case No. 3:20-cv-50421, ECF Nos. 15-3; Plaintiff's Exhibit E at 3-4, Lush v. Bd. Trs. N. Ill. Univ., Case No. 3:20-cv-50421, ECF No. 15-6; Plaintiff's Exhibit F, Lush v. Bd. Trs. N. Ill. Univ., Case No. 3:20-cv-50421, ECF No. 15-7.

Unresponded to filings by Appellant in the Illinois Court of Claims, demonstrating lack of due process on their part.

FILED
COURT OF CLAIMS

JAN 20 2009

Secretary of State and
Ex-Officio Clerk Court of Claims

STATE OF ILLINOIS
COURT OF CLAIMS

WILLIAM STEPHEN LUSH, II

V

NORTHERN ILLINOIS UNIVERSITY

CLAIM NUMBER

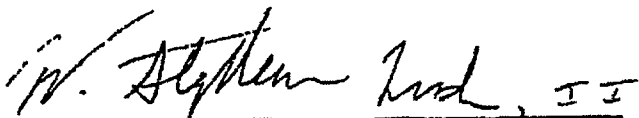
07CC0032

Motion For Reset of Hearing

HEREBY, I William Stephen Lush, II, petition this court FOR RESET OF HEARING in a teleconference call on the earliest date possible, to voice ALL OBJECTIONS to my request for medical withdrawal based on the diagnosed condition of paranoid schizophrenia in the fall of 2003, when I was treated and the time period which medical withdrawal was made. A teleconference call is requested due to the difficulty of making a personal appearance in Illinois presently, though if any party wishes to I could wait until I have sufficient funds to travel

I ask all failing grades be nullified in the specific performance of returning my grade point average to reflect what would have happened had I not been disabled. If the court, having proper jurisdiction over contract actions involving Northern Illinois University, feels it is convinced there is an academic reason for not granting the specific performance instead of a medical one, then I ask for a reason be given for this ruling. I did and arguably still do suffer from mental illness and this prohibited me from performing to my full potential in law school. This was disclosed on my application.

If hearing is granted please contact me via telephone at (713) 302-7224, not another telephone number. If the court does choose, contact me via mail to ensure the date of teleconference is remitted. If the contact information below my signature is different than what you have on file, please change it and consider this a formal change of address and/or phone as well as MOTION FOR RESET OF HEARING.


William Stephen Lush, II, pro se
15727 Cutten Road #1122
Houston, Texas 77070-3953

Leonard B. Mandell, Associate Dean
Swen Parson Hall, Room 181
DeKalb, Illinois 60115

Individual most responsible for refusing medical withdrawal without cause. His reasoning was convoluted, he did not believe it was legitimate because Plaintiff only submitted a withdrawal for the two courses he failed. Also listened in on Plaintiff's Torts class from time to time.

Gordon B. Shneider, Professor Emeritus
Swen Parson Hall, Room 199C
DeKalb, Illinois 60115

Torts teacher who failed Plaintiff.

Walgreen's
1939 Indianapolis Boulevard
Whiting, Indiana 46394

Drug store's location.

Liquor Store 100, Inc.
1022 West Lincoln Highway
DeKalb, Illinois 60115

Liquor store.

Social Security Administration
Office of Public Inquiries
6401 Security Boulevard
Baltimore, Maryland 21235

Recognizes Plaintiff's disability status.

MOTION FOR STAY

Plaintiff, William Stephen Lush, II, finding himself not without other means of resolving dispute, requests STAY of proceedings until such time the complaint is resolved in his favor or all means exist are exhausted. In light of discovering other means exist, Plaintiff

lists them all:

1. Affirmative Action & Diversity Resources
Northern Illinois University
1515 West Lincoln Highway
DeKalb, Illinois 60115
Left voicemail, sent complaint.

2. Office for Civil Rights
U.S. Department of Education
500 West Madison Street, Suite 1475
Chicago, Illinois 60661
Could not follow through on complaint before.

3. U.S. Department of Justice
Civil Rights Division
950 Pennsylvania Avenue, Northwest
Washington, District of Columbia 20530
Refused as was lis pendens in Court Of Claims at time.

Upon disclosing all possible offices that hold themselves out to resolve this dispute in an administrative manner, such as what Plaintiff believes it to be, if none can do what Plaintiff asks, then it is acceptable to have the Court Of Claims as the forum, but if specific performance of a medical withdrawal is not granted, there is ground for appeal. Northern Illinois University College Of Law, part of Northern Illinois University, denies Plaintiff a process created for those with medical problems and thus disabled in some way. The process limits academic damage to a person who would have been able to do the work had they been healthy, and thus can be a service to those who are disabled. The Defendant is a public institution, which allowed almost every other student in Plaintiff's class to continue law school, and it can be assumed none or few had Plaintiff's disability as only 1 in 100 people develop a schizo- disorder. Because the denial of a medical withdrawal prevents him from continuing law school solely for having a disability, unless Defendant can prove Plaintiff had/has no disability it is guilty of discrimination against him (Illinois Human Rights Act, 775 ILCS 5/; Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq.).

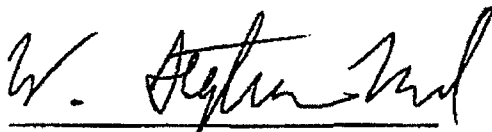
6. At all other law schools Plaintiff applied, he did not disclose his mental illness and was denied.
7. Northern Illinois University's law school is placed in tier 4, and as is, is unranked.
8. Wanting to remain in good medical treatment, Plaintiff obtained and took medication from Dr. Kraft at Northern Illinois University Health Services.
9. Plaintiff took to drinking profusely every night because the medication did not stop the symptoms.
10. The symptoms, hallucinations and anxiety, made it impossible to recall anything learned and Plaintiff feels if it were not for them he would have made better grades.
11. Medication other than free samples were only obtained through traveling to another state where he had coverage as otherwise he could not afford them.
12. Plaintiff applied for Medicaid where he now resided and was denied financial means to treat his ailment in the state.
13. Due to his dire circumstances, but not for a medical reason as the faculty member had no knowledge of it at the time, the Associate Dean for Student Services authorized a course load reduction in Plaintiff's second semester.
14. Due to his dire circumstances, but not for a medical reason as the professor had no knowledge of it at the time, Plaintiff was granted a grade change.

15. In the second semester at Northern Illinois, Plaintiff submitted a medical withdrawal for grades he received in his first semester. This means that Plaintiff would not be penalized for the grades he received, of which he made medical withdrawal for two.
16. If medical withdrawal is granted then he would be able to continue law school, but it is important to also say that while a law student's grade point average affects the ability to get a job immediately out of school, apply for a LL. M., obtain class honors, and overall prestige, Plaintiff was only requesting withdrawal of two grades, composing 5 credit hours in sum.
17. Plaintiff sought help from local court in Sycamore, Illinois, as he sensed he was being discriminated against but was refused a petition forma pauperis.
18. Plaintiff has been granted three petitions in forma pauperis since then as he has been without much means for survival and essentially destitute since attending law school.
19. Medical documentation was requested from two health clinics at two different schools, including the Defendant, Northern Illinois University.
20. At no time was it suggested by anyone, including health professionals, that a medical withdrawal was not appropriate given Plaintiff's situation.
21. As time was spent in requesting from health clinics proof and there was no way Plaintiff could continue school without a medical withdrawal, he approached the Associate Dean for Student Services about the withdrawal before he left campus.

28. The claim of breach of contract, due to the negative discrimination by Northern Illinois University vis-à-vis Leonard Mandell, was filed with the Court Of Claims in 2006.

29. The Court Of Claims commissioner offered a hearing that Plaintiff could not attend, and Plaintiff more than likely offered little to no reason for his absence but told the Court Clerk on the phone.

Plaintiff gives NOTICE OF APPEAL so that he can receive a hearing or other forms of justice as that actions might endow, as the Illinois Court Of Claims is incapable of scheduling a new one let alone reading what is filed and acting upon it for reasons unknown to the Plaintiff, just as his medical withdrawal is being denied, reason unknown. Plaintiff asks for all these things, and if not granted, then he will file an appeal in the Federal Courthouse located in Madison, Wisconsin, as that is the closest building neutral to the State of Illinois and Plaintiff capable of holding a hearing or commencing any other such judiciable claims. Plaintiff also sends copy of this NOTICE OF APPEAL to Leonard Mandell, for he knows him to retain the power of granting a medical withdrawal and will make him part of this litigation, and will require the power of the federal courts as he will make his best attempt at an ex parte Young proceeding.



William Stephen Lush, II, *pro se*
Castle Rock Apts.
6418 University Ave. #1E
Middleton, WI 53562-3487
1-608-833-2894

Complaint, Lush v. Bd. Trs. N. Ill. Univ., Case No. 3:20-cv-50421, ECF
No. 1; Plaintiff's Amended Complaint, Lush v. Bd. Trs. N. Ill. Univ.,
Case No. 3:20-cv-50421, ECF No. 16.

Appellant's later, and presently maintained cause of action for
discrimination.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION

RECEIVED

NOV 02 2020

William Stephen Lush, II,
Plaintiff

v.

Board of Trustees of Northern Illinois University
& State of Illinois
Defendants

THOMAS G BRITTON
CLERK, U.S. DISTRICT COURT

Case Number:

20 cv 50421

Judge Iain D. Johnston
Magistrate Judge Lisa A. Jensen

~~HONORABLE JUDGE:~~

**42 U.S.C. § 1983 COMPLAINT FOR AMERICANS WITH DISABILITIES ACT
DISCRIMINATION BY A PUBLIC ENTITY**

Statement of Jurisdiction

This case is for violation of federal statute against a university located in De Kalb County, Illinois.

This institution of higher education is located in the Northern District of Illinois, Western Division, and it is an instrumentality of the State of Illinois. Federal courts have jurisdiction over all cases involving federal statutes. There is no pending case with this subject, nor is it being reviewed by an administrative authority.

Procedural History

This is a response to Supreme Court of Illinois case number 126147 to sue for their and all previous Illinois' actions under federal law. This is not a removal from state court. The Illinois Supreme Court denied a Petition for Leave to Appeal on September 30, 2020 without opinion. Before this, the case was before the Illinois Second District Appellate Court No. 2-19-0182. They denied due to lack of jurisdiction. Before, the appellate state court. In De Kalb County Circuit Court Trial Court Case No. 2018-CH-000094, which was filed on May 16, 2018, was denied on February 15, 2019. That denial is

based on *res judicata* and statute of limitations. And before this, Illinois Court of Claims No. 2007-CC-0032, which was denied for reasoning discussed later. The Illinois Court of Claims case specifically was filed in 2004 but not decided until 2010. Also, this entire matter is referred to in federal case number 1:2010-CV-04711, *Lush v. Mandell* (N.D. Illinois Dec. 14, 2010) (Zagel, J.), but that case was prematurely filed before State of Illinois appeals were exhausted. That case was also filed in the Chicago Office, but this was a mistake and it should have been filed with the Rockford Office, as that is the federal trial court with jurisdiction over the school. Plaintiff has also attempted to resolve the matter with the Office for Civil Rights with the U.S. Department of Education and American Bar Association, but they refused to do anything about the complaint at the time and refuse to do anything about the complaint now.

Primary Legal Basis, Relevant Laws

This suit is based upon 42 U.S.C. § 1983 (2020), the federal Americans with Disabilities Act, and the Equal Protection Clause of the United States Constitution against Northern Illinois University College of Law, in and part of the State of Illinois, for violation of civil rights under color of state law. The College of Law is part of Northern Illinois University, though it appears to have some independence. The Plaintiff alleges ongoing discrimination for him having a disability by the university as a whole and former law school assistant dean of Northern Illinois University College of Law, specifically. Plaintiff says this violates the Americans with Disabilities Act, 42 U.S.C. § 12132 (2020). *Ex parte Young*, 209 U.S. 123 (1908) allows suits in federal courts for injunctions against officials acting on behalf of states, abrogating sovereign immunity when a state acts contrary to federal law. The trial, appellate and supreme courts of the State of Illinois refuse to act on Plaintiff's complaint, citing state law and procedure, but Plaintiff has maintained his case since 2006 to the best of his ability, as his mental illness, which is the source of his civil rights complaint, affects his ability to live. Plaintiff is

destitute and has been since starting college. Plaintiff cites his poverty and mental illness as why *res judicata* and the statute of limitations does not apply, because his mental state affected his ability to litigate and his lack of funds prevents him from hiring his own attorney. These will be supported later in the argument sections of this complaint. Plaintiff also cites Article I, Section 2 of the Illinois Constitution, "Due Process and Equal Protection", as Plaintiff has been denied equal protection of the laws, and this is duplicated in the Federal Constitution. Plaintiff avers for this complaint that constitutional rights are not subject to any statute of limitations because there is no article or section in the constitutions specifically that limit the invocation of their equal protection clauses.

Statement of Facts

Northern Illinois University College of Law (NIUCOL) was made abundantly aware of Plaintiff's disability. This was first to the school's own admissions department before enrollment, as NIUCOL admits. Plaintiff's move to DeKalb, Illinois was made at great expense and trouble. He racked up thousands in student loans and required a private loan for the second semester. Due to severe mental disturbances at night, Plaintiff made failing grades in two courses in the first semester. He attempted to gain assistance through the campus disability accommodation resource center. He told two professors about his problem and they offered no help. He sent a letter to his criminal law teacher about it all and she did not respond. The Plaintiff was even disciplined by the campus career office for sending résumés, but he was poor and needed to pay his tuition. The symptoms abated in the second semester and Plaintiff applied for a medical withdrawal of the two failing courses to continue school. The withdrawal would have allowed him to continue, without which he would be dismissed. The withdrawal was refused without a chance to be heard by the former assistant dean and the school at large, although medical evidence was submitted as required. This was in the form of the records of two doctors. When asked about it specifically, the former assistant dean did not believe Plaintiff had a

disability or that had anything to do with his grades, although as said the disability had been disclosed and had effected his undergraduate grades, which was clear on his transcript. During undergraduate, he had to petition his alma mater, Indiana University, just to continue. But in regard to Northern Illinois University, Plaintiff was seen by their campus doctor and was taking prescriptions, so he had established a medical record there. The medication he was prescribed, however, had little effect, but this is not necessarily the fault of their doctor. When symptoms occurred at night they prevented Plaintiff from studying and sleeping. Plaintiff respectfully submits under penalty of perjury, 18 U.S.C. § 1621, this mental interference increased dramatically when he started the fall semester and abated over the Christmas holiday break before the fall semester. This is demonstrated on Plaintiff's much repeated transcript as his grades improved significantly in the second semester, he failed no classes. If Plaintiff was able to study and sleep normally for the first semester he undoubtedly would have been able to concentrate on assignments and better prepare for exams. He would have had a clear mind and understood what he was doing. He probably would have participated in class more because he was better prepared. He notified the school, asked for help, but received none, nothing, not even an offer.

No official at Northern Illinois University provided accommodation for Plaintiff's disability, whatsoever. There is a "Disability Resource Center" on campus. Northern Illinois University Law, 110 Illinois Compiled Statutes 685/30-170 (2001) even promotes disability history and awareness. Although the university as a whole, through its officials, the law school faculty and administration, were aware of Plaintiff's disability when he was admitted, it offered nothing to compensate for a horrible affliction, before, during, or after his attendance, even after Plaintiff pleaded to multiple campus employees for help. Plaintiff even attempted to obtain an injunction from the De Kalb County Court while in school but his petition for indignity was refused although Plaintiff demonstrated indignity. The refusal of the school by virtue of its president and the dean of the College of Law to

admit that it violated Plaintiff's rights under the Americans with Disabilities Act is the source of this § 1983 action. NIUCOL then dismissed the Plaintiff for academic performance.

Plaintiff then sued the school in the Illinois Court of Claims. He was denied initially for lack of a filing fee, even though he was still indigent. It held no hearing, did not respond when he asked for one, and ruled for the school six years after the initial filing date. Plaintiff had moved far away and could not appear initially, but relocated and then asked for a hearing. There is no ruling on the request for a hearing found in the Court of Claims' file, strangely. Its final basis for ruling was based on defendant's testimony that Plaintiff applied for a medical withdrawal too late (according to its Student Handbook), but this ignores the response of the former assistant dean when he accused Plaintiff of applying for a medical withdrawal dishonestly, which is *prima facie* evidence of disability discrimination. This was mentioned on Plaintiff's initial complaint when the former assistant dean ordered Plaintiff from his office. "No reason was given for the school to decline a medical withdrawal," in Plaintiff's words in his complaint in the Illinois Court of Claims. The school's doctor recommended Plaintiff receive a medical withdrawal. It, NIUCOL, simply did not act on the request, other than the former assistant dean claiming Plaintiff's dishonesty when medical evidence was submitted. The former assistant dean's blatant refusal is in line with the inaction of the faculty to help. Plaintiff filed with the regular State of Illinois courts to attempt to resolve his claim there only after being unable to resolve things with the school. The Court of Claims found no problem with the law school's actions, even though there was a pattern of discrimination in his pleadings, and he specifically cited the Americans with Disabilities Act in his Mandatory Discovery Disclosure, Notice of Appeal, and Response to Motion for Summary Judgment filed with the Court of Claims. He had the right to appeal the Court of Claims case, and did so. The trial court in Illinois refused to address the merits of Plaintiff's claim of discrimination under the Americans with Disabilities Act. The order in the trial court offered little

explanation as to why the merits were ignored in favor of defendant's claims of *res judicata* and statute of limitations defenses, and judge (Judge Waller) stated factual discrepancies in his deliberation. Plaintiff's request for counsel was never ruled upon. He was never granted a hearing by the Court of Claims, though they took years to rule, and he was never appointed counsel by any court, a very important point. Acting *pro se*, his appellate filings were reviewed repeatedly for format by the state clerks, and accepted because, in their words, he satisfied civil procedure in terms of format. The Plaintiff read and applied Illinois civil procedure to the best of his ability. He knows of no error of civil procedure on his filings. He read the laws, organized his filings and the clerks had no complaint. At the same time he has been under the best care of the experienced staff at the psychiatric unit at the Veterans' Affairs hospital in Madison, Wisconsin, and this has helped him be able to think about things, relax, and has eradicated the symptoms. The illness is currently classified as being in remission. He regularly sees a neurologist and she has prescribed new medication that helps him live.

Statement Regarding Previously Filed Federal Case

Plaintiff sued the former assistant dean specifically in the Northern District of Illinois. He believed the only way he would be heard is in federal court, based on a similar court case he read which had the same facts, *Doe v. Bd. of Trustees of the Univ. of Ill.*, 429 Fed. Supp. 2d 930 (N.D. Illinois 2006) (Kennelly, J.). The judge that read Plaintiff's complaint, the Honorable Judge Zagel, refused to be bound by the case and ruled against Plaintiff without even having the law school served, the presence of opposing counsel, and without appointing Plaintiff counsel as requested. The dismissal was based on the statute of limitations not being tolled because Plaintiff was capable of "managing his affairs" in the words of Judge Zagel. He based this on Plaintiff being admitted to law school and the U.S. Navy, however Plaintiff was discharged from the Navy after learning of his mental illness, and the duties Plaintiff had in the Navy were nothing more than menial labor. As with most enlisted servicemembers,

the only requirement is the ability to follow orders. Judge Zagel attributes false credit to the value of being admitted to either. There is no logical connection between the facts and his the application of the law, being admitted, and appearing and attending law school classes has little to do with managing affairs. All that is required is relocating to school, and walking back and forth to classes. And if Plaintiff was struggling and failed classes, as he did, even though he held a bachelor's degree, there was definitely no basis to automatically conclude he is competent. To wit, Plaintiff was on Medicaid in Indiana for his mental illness before moving to Illinois. He barely held a job as a taxicab driver to maintain a residence. Then, he was dismissed from law school. Judge Zagel's logic is that because Plaintiff graduated from a university and was admitted to a law school, he was competent. If it serves to understand his condition, Plaintiff has schizophrenia, as diagnosed by multiple psychiatrists since 2002. He has been diagnosed with depression on several occasions since 1993. Plaintiff was hospitalized twice for his schizophrenia. The last time around 2008 at the Harris County Psychiatric Center resulted in being deemed unable to obtain a driver's license without signing a waiver. He has also been on disability from the Social Security Administration since June 24, 2008, both well before Judge Zagel's ruling. Plaintiff has been deemed unemployable, totally and permanently disabled by the U.S. Department of Education. Plaintiff has been in this state since 2002. All these indisputable facts seem to indicate Plaintiff at the very least may be incompetent or unable to manage his affairs. Judge Zagel's opinion was based on a selective interpretation of the facts, which notably lacked the input of a doctor. One could been ordered under Federal Rule of Civil Procedure Rule 35, so Plaintiff made this motion but it was denied. Plaintiff complains the judge acted inappropriately because jurisprudence dictates the defense of statute of limitations is one to be raised by the defendants of a civil action. After dismissal from Northern Illinois University College of Law, but before living at his present address, Plaintiff moved often in search of work he could perform, forced to live with relatives and friends, and live in motels working temporary jobs. He could not maintain a stable residence and could not

factually maintain his suit in any court by any stretch of the imagination, and his dismissal from law school continued this state of existence. What additional influence his mental illness has upon his ability to think and act in his own right is unknown, but the doctor at Northern Illinois University recommended Plaintiff receive the medical withdrawal, so there is positive proof that Plaintiff's condition at least affected his grades. And as stated, the defense of statute of limitations is the right of defense counsel, not a jurisdictional defense to be employed by judges. See *Musacchio v. United States*, 136 S.Ct. 709, 718 (2016) (Thomas, J.). Additionally, Judge Zagel had no jurisdiction and should have dismissed the case for lack thereof because it was not against a person located in his Eastern Division. Plaintiff felt at the time the Eastern Division's decision could not be appealed because he submitted the best facts he could recall at the time, so he did not. Plaintiff's Rule 35 order motion, however, would have provided the evidence to settle all dispute over whether Plaintiff is capable of managing his own affairs. Plaintiff's allegation that Defendant discriminated against him is still unheard, and the managing his own affairs or competency issue could have been given better treatment especially since Plaintiff was forced to pay the filing fee even though he is well below the poverty line. After Plaintiff pressed his federal case, he brought the case in Illinois' trial state court and the school's general counsel finally appeared (it had not in the Illinois Court of Claims case, although the school was named as that case's defendant). Regardless, Plaintiff should never have had to file in federal court.

Argument

The thrust of Northern Illinois University and thus, the State of Illinois' case, is that Plaintiff's suit fails to follow Illinois rules of procedure, the statute of limitations, and is excluded by *res judicata*. First, Plaintiff followed procedure to the best of his ability. His Illinois appellate filings were reviewed repeatedly for format by the state clerks, and accepted by them solely because he satisfied procedure,

so the law was satisfied. Also, a *pro se* complaint should not require strict adherence to format beyond those procedural or local rules governing the form of a complaint, so the substance of the complaint should have been considered. *Haines v. Kerner*, 404 U.S. 519, 520 (1972) (per curiam). Plaintiff is not an attorney with close and unlimited access to all current legal cases and rulings such as the Illinois Attorney General or other attorneys who have worked on this case. The Court of Claims and trial court in Illinois refused to address the merits of Plaintiff's claim of discrimination under the Americans with Disabilities Act, and the order in the trial court is based on factual discrepancies and is generally an unequivocal acceptance of Defendant's version of the law, which act as a refusal to try the issue whether Plaintiff was discriminated against, as the Illinois Court of Claims had done. Second, the Illinois Court of Claims was not subject to any statute of limitations when it delayed action on the case for more than a couple years, and was itself defective because it refused even hearing, violating Plaintiff's due process and trial rights, and should it have appointed Plaintiff counsel based on his complaint of civil right discrimination and demonstrated poverty. The discrimination is technically ongoing because the discrimination continues, the university refuses to admit fault. This continued when the whole State of Illinois refused to acknowledge error, as shown by Plaintiff's petitions to the Illinois Appellate and Supreme Court being denied. The State of Illinois (vis-à-vis Northern Illinois University) has not shown it did not discriminate against Plaintiff, and if it offers evidence contradicting Plaintiff, then the issue is one for the trier of fact. There was no trial of fact with the Illinois Court of Claims, and Plaintiff's appeal should have cured that error. Third, the federal *Mandell* case should not subject the Plaintiff to *res judicata* because the judge in that case did not decide on the merits, but used the defective Court of Claims' case and a thin rebuttal based on equitable tolling law. The judge in *Mandell* should have seen the Plaintiff was bringing a different type of action, based on the Equal Protection Clause, cited in his case, but the judge ruled against Plaintiff *ex parte* without accepting the complaint's allegations as true, treating them in the best light for the Plaintiff, and at least

had a hearing with all parties present before taking action. He strictly read the facts and applied his own judgment, which is human, but does not mean the decision was necessarily right. He did not prove that Plaintiff failed to make his best attempts to maintain his lawsuit and he did not prove that Plaintiff's disability had no impact on his capability. A doctor, preferably a psychiatrist's testimony should have been called and admitted, at the least, if the judge honestly wanted to decide the case. The job of litigating against Plaintiff is opposing counsel's. Judge Zagel had a novel opportunity because the true problem is there is a conflict of interest between litigating in state courts when one of the parties is one of its own institutions. The chance was squandered. That federal court was not open to evidence disputing Judge Zagel's order as shown because it refused to order a doctor's examination, which would have concluded the matter of equitable tolling, based on a medical condition, affirmatively. Since the issue was the evidence, an appeal was essentially foreclosed when that court refused to allow medical testimony, as the court refused to reconsider Judge Zagel's application of facts to law. And it turns out that court should have rejected jurisdiction, it was the wrong division, so its ruling is not binding retroactively. New evidence, such as Plaintiff's somewhat successful treatment at a Veterans' Affairs hospital, and decision by the U.S. Department of Education that he is totally and permanently disabled certainly calls that decision into question now.

Argument Summary

1. Plaintiff was suffering from a debilitating and unimaginable mental illness while attending a federally funded public institution of higher education of which it was on notice.
2. He applied for testing accommodations by the law school and was denied. He informed multiple faculty, and they offered no advice or assistance, even though ostensibly that was their job, to educate or help students learn.

3. He then applied for a medical withdrawal as this was the last resort offered by the school. He was denied because, as the assistant dean at the school verbally told him, he believed Plaintiff's medical withdrawal to be lying or dishonest about his mental illness causing those grades. The accusation is prejudicial and discriminatory. The own school's clinic had documentation the illness affected the Plaintiff's grades, and the doctor directly provided that evidence to the assistant dean, so it should have been without question. This should have at the minimum have entitled Plaintiff to a written response to his withdrawal, especially before he left school. The school later offered the reason in court pleadings, that the medical withdrawal did not apply to the Plaintiff's situation, but this ignores the discrimination by the former assistant dean.

4. Plaintiff was actively seeing a campus doctor and taking all prescribed medication. It is unknown what else he could have done. Plaintiff followed the same regimen that allowed him to finish his undergraduate degree, but the added stress of law school probably initiated negative symptoms and there was no medication known to Plaintiff that could have reduced them at the time.

Thus, there was no reasonable way the Plaintiff could have continued attendance and graduated law school with his disability. As this was a result of the school's actions or inaction, so it is a violation of the Americans with Disabilities Act.

The above has never been honestly and sufficiently responded to by any opposing party within the State of Illinois, nor addressed by any of its courts. Plaintiff brought a timely suit in the Illinois Court of Claims, but this was not ruled on until many, many years later. He was never appointed counsel as was his guaranteed right under the Illinois Human Rights Act, 775 Illinois Compiled Statues 5/10-

102(B) (2001). The Court of Claims clerks refused to simply enter in a demand amount for his claim. Then, there was a lack of response by the court commissioner to written requests for a hearing. Plaintiff also attempted to appeal to the Illinois Attorney General's office directly, in person with the *Doe* case he had found. He did nothing. Plaintiff was left with filing paper litigation remotely with the Court of Claims until it made a decision. The opposing party made a motion for summary judgment three years after the case was filed and it was granted, although clearly there was some disagreement about whether there was discrimination. One would imagine if any plaintiff has any case, and their case had not been shown false, disproven, or had its facts refuted, then they should be granted at least a trial as there is an issue. Illinois Constitution Article I, Section 13 guarantees the right to a jury trial. Finally, no reason for the years of delay was given. If the court took this long to decide, then it had time to allow Plaintiff a trial. Plaintiff was not granted any semblance of a trial, which should have been guaranteed by the Seventh Amendment to the U.S. Constitution, as well as Article I, Section 12 of the Illinois Constitution. Plaintiff was not even an appointed attorney to appear on his behalf, if the court had a particular objection to Plaintiff appearing before it, as it seemed. Hence, Plaintiff is being discriminated, and that discrimination is occurring under the guise of state law, which should be ignored in favor of the merit of Plaintiff's action.

A person who has failed law school, unable to maintain employment, and suffering an incurable mental illness suffering visual and auditory hallucinations cannot reasonably handle a regular, let alone a complex case by themselves, even if they devoted every waking hour to the task. Northern Illinois University has far more resources and is relevantly responsible for Plaintiff's status. Plaintiff was working and able to maintain a residence before starting law school. Any subsequent inability to maintain a difficult lawsuit in another state while traveling around looking for work should not be held against him by the same university which caused his plight. The law school's own career assistance

office even criticized him for looking for work, even though it was his legal right to look for work. Such is not the behavior of a school of law. The university, part of the State of Illinois, has received favorable treatment in their courts at every stage. This itself is a violation of Plaintiff's constitutional right to due process. Plaintiff argues that since such a lawsuit is probably difficult for a person of normal cognition, the passage of time should not be held against him based on the aforementioned statements regarding the federal case, *res judicata*, and the statements refuting the statute of limitations. The statute of limitations arguably should be tolled ever since the Plaintiff told former Northern Illinois University General Counsel, Ken Davidson, by e-mail to return his tuition months after his dismissal in spring 2004. The school knew he had a legal dispute then.

As the Plaintiff brought the same case in the De Kalb County Court, the Second District Appellate Court, and the Supreme Court of Illinois, all which refuse to acknowledge the discrimination of the university, and cloak it in the statute of limitations and *res judicata* to avoid liability. The proper avenue is to sue under 42 U.S.C. § 1983 since the discrimination falls under the Americans with Disabilities Act, and the discrimination by the State is *in toto* now. The State was on notice of the claim in 2004 and has yet to resolve it. The Plaintiff strongly argues discrimination is not discrete or completed – it is ongoing. The discrimination has continued under color of state law, from at the first step when the College of Law ignored Plaintiff's pleas for assistance, to the last, when the Supreme Court of Illinois' refused to even entertain his appeal. Courts and law schools are not immune to suit simply because they are official, legal bodies. One does not get to cite rules in the student handbook when they contribute to discrimination. All these actions and litigation have required substantial time and resources from the Plaintiff. He has traveled to Illinois' county court and appeared several times. He paid filing fees when required. He attempted administrative resolution with the U.S. Department of Education and university. He is open to even alternative dispute resolution. But Northern Illinois

University has never offered help, just as it never offered accommodations under the federal law, and this has never been disproven by any person or body since Plaintiff's academic dismissal.

Relief

Plaintiff humbly asks for relief only in a judgment against the Board of Trustees of Northern Illinois University, Defendant, without award or further action. The appointed judge in this federal trial court can take any other action it deems fit if he or she wishes. The Plaintiff does not claim to know of the proper remedy and leaves it to the Court. Though he has read that money damages for a suit against a state is prohibited under the Eleventh Amendment unless the state waives its sovereign immunity, *Doe v. Bd. of Trustees of the Univ. of Ill.* shows that money damages are possible, so for the sake of this suit Plaintiff enters in a demand for the amount of \$22,385.09, the private loan Plaintiff was disbursed in law school plus interest.

Plaintiff also complains, specifically and separately, that the Illinois Court of Claims, trial, appellate and supreme courts of Illinois failed and refused to appoint Plaintiff counsel even though it is required under the Illinois Human Rights Act, 775 ILCS 5/10-102. Plaintiff asked for appointment of counsel in his pleadings in Illinois courts. The Human Rights Act only requires a civil rights allegation and inability to afford counsel. Plaintiff alleged and alleges a civil rights complaint and is unable to afford counsel, therefore without question this Illinois Act applies. The Plaintiff has been denied all requests for appointment of counsel, which could have been cured by the De Kalb County Court, Second District Appellate Court, or Illinois Supreme Court. Even if all the judges and justices disagree with, or firmly believe Plaintiff's case to be baseless, it is not their place to contramand Illinois Statutes, only the Illinois Legislature has that power. Plaintiff could be granted an order to appoint him counsel in the De Kalb County Court so that they could have a reasonably fair process there, or here in this Federal

Court. There are many skilled attorneys within the area which handle discrimination complaints in education. The U.S. Attorney General is authorized to handle such claims, but otherwise attorney Vickie Ann Gillio, located in DeKalb, Illinois, advertises specializing in education law on Martindale.

Plaintiff humbly asks his appointed federal judge not be a graduate or be affiliated with Northern Illinois University. Plaintiff also believes a jury trial would be more fair, if things progress this far, as then he would be heard by peers rather than someone sympathetic or seeking to impress a law school in their jurisdiction.

The Plaintiff will produce whatever filings this Court asks for that exist in the courts, but the sum and substance of those have been documented here, and all documents are available with the courts mentioned in the procedural history. As those filings are numerous and add little, he does not include them. Opposing counsel may file what documents it wishes from this reservoir, as it shall.

By signing this Complaint, I certify that the facts stated in this Complaint are true to the best of my knowledge, information and belief. I understand that if this certification is not correct, I may be subject to sanctions by the Court.



William Stephen Lush, II
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FILED

DEC 23 2020

**THOMAS G. BRUTON
CLERK, U.S. DISTRICT COURT**

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION**

William Stephen Lush, II,)
 Plaintiff,)
)
 v.)
)
 Board of Trustees of Northern Illinois University,)
 President of Northern Illinois University, the Dean)
 of the Northern Illinois University College of Law,)
 Director of Admissions of Northern Illinois)
 University College of Law, Director of)
 Registration and Records of Northern Illinois)
 University, University Ombudsman of Northern)
 Illinois University, Director of the Disability)
 Resource Center of Northern Illinois University,)
 Professor at Northern Illinois University College)
 of Law, and Agent for Northwestern Medicine Ben)
 Gordon Center, & State of Illinois,)
 Defendants.)
)

Case Number 3:20-CV-50421

Honorable Magistrate Judge Lisa A. Jensen

PLAINTIFF'S AMENDED COMPLAINT

His first Complaint objectionable to the Defendant Board of Trustees of Northern Illinois University, Mr. William Stephen Lush, II, *pro se*, files his, Plaintiff's Amended Complaint.

1. Additional Parties. Plaintiff adds the President of Northern Illinois University, Dean of Northern Illinois University College of Law, Director of Admissions of Northern Illinois University College of Law, Director of Registration and Records of Northern Illinois University, University Ombudsman of Northern Illinois University, Director of the Disability Resource Center of Northern Illinois University, Professor at Northern University College of Law, and Agent for Northwestern Medicine Ben Gordon Center as additional defendants, along with the original defendants of the Board of Trustees of Northern Illinois University and the State of Illinois.

2. Charges Clarified and Added:

a. Violation of 42 U.S.C. §§ 12131-12165, Title II of the Americans with Disabilities Act, and 42 U.S.C. § 1985, “Conspiracy to interfere with civil rights”, for which civil claims may be brought under 42 U.S.C. § 1986, “Action for neglect to prevent”, and 42 U.S.C. § 1983, “Civil action for deprivation of rights”, by the Board of Trustees of Northern Illinois University and State of Illinois.

b. Violation of 42 U.S.C. §§ 12181-12189, Title III of the Americans with Disabilities Act, and 42 U.S.C. § 1985, “Conspiracy to interfere with civil rights”, for which civil claims may be brought under 42 U.S.C. §§ 1986 and 1983, by the President of Northern Illinois University, Dean of Northern Illinois University College of Law, Director of Admissions of Northern Illinois University College of Law, Director of Registration and Records of Northern Illinois University, University Ombudsman of Northern Illinois University, Director of the Disability Resource Center of Northern Illinois University, Professor at Northern Illinois University College of Law, and Agent for Northwestern Medicine Ben Gordon Center.

c. Violation of 18 U.S.C. § 242, “Deprivation of rights under color of law”, by the State of Illinois’ Attorney General, President of Northern Illinois University, Dean of Northern Illinois University College of Law, and the Director of the Disability Resource Center of Northern Illinois University, for they use and have used Illinois statutes, university policies, codes, handbooks and decisions made under the above to discriminate against Plaintiff in violation of the Americans with Disabilities Act and thus depriving him of rights under color of law.

c. Tort of educational malpractice founded upon negligence and simultaneous breach of an implied contract by the Board of Trustees of Northern Illinois University, representing its College of Law, specifically for willful violation of American Bar Association Standards and Rules of Procedure for Approval of Law Schools, Standard 303(c)(2003), “A law school shall not continue the enrollment of a student whose inability to do satisfactory work is sufficiently manifest so that the student’s continuation in school would inculcate false hopes, constitute economic exploitation”, disregard of

American Bar Association Council Statement 10, "Timely Grading of Law School Examinations", and other repeated cited conduct not befitting its College of Law. Such standards are proof of a duty the law school owes toward its students, and along with individual deficiencies elaborated in point 3 below, they show negligent education and breach of an implied contract. *Ross v. Creighton Univ.*, 957 F.2d 410, 416-417 (7th Cir. 1992).

3. Facts in Support of Charges:

a. On his mental disability, in chronological order: Plaintiff was first diagnosed with depression during high school, circa 1993,. He was diagnosed with schizophrenia in 2002, with auditory and visual hallucinations. This was confirmed by several doctors. He has difficulty concentrating and sleeping at night. Plaintiff was on Medicaid for the illness. The diagnosis of depression was confirmed circa 2005. Plaintiff was diagnosed with borderline personality disorder and was discharged from the United States Navy for having schizophrenia in 2006. He was then diagnosed with bipolar II disorder circa 2008. Based on his medical condition, he had to sign a waiver to be issued a driver license. He has been deemed disabled by the United States Social Security Administration for his mental illness. Plaintiff is now on Medicare. He has also been deemed totally and permanently disabled by the United States Department of Education. He is currently under treatment by the Veterans Affairs (VA) in Madison, Wisconsin. Plaintiff has been administered a wide range of antipsychotic medications for schizophrenia, sometimes ineffective, as well as welbutrin, lithium and sertraline for his depression and bipolar II disorder.

b. Plaintiff applied and was accepted to Northern Illinois University College of Law while fully disclosing his mental disability. No disability services were offered by the admissions office before or after his admission. Plaintiff independently sought treatment by Dr. Diana M. Kraft at Northern Illinois' campus health services. It is unknown what psychiatric qualifications she possesses, but the prescriptions she prescribed did not work, nor did she refer him to a doctor with psychiatric

qualifications, a disability service on campus, or a psychologist, any of which may have helped. Plaintiff had and has trouble sleeping, studying and maintaining a regular schedule outside of merely attending classes. Needing legal help while in attendance, he sent a complaint to De Kalb County Circuit Court, and although he qualified and applied for a waiver of the filing fee, it was refused without comment. Plaintiff raised problems with one of his legal research professor, Susan Maureen Boland's, assignments, but she did not respond. Plaintiff attempted to do the best he could. He was having trouble focusing on a legal writing assignments, so he visited his legal writing teacher in person, Meredith Anne Geller, but she did not help him. She directed him to a campus writing workshop which did not exist. He made an appointment to see his contracts teacher, Daniel S. Reynolds, outside of class, but when he came to see him, he was not in his office. Plaintiff failed legal writing and his torts classes in his first semester. Plaintiff has never before and does not dispute now he failed to meet academic standards. He needed help, so he asked about testing accommodations from two law school professors, one of which was Elvia R. Arriola, his constitutional law professor, but these attempts were ignored. He went and applied for testing accommodation at the campus disability resource center, but this was refused because, according to the lady who worked there, it was too close to his final examinations' dates to do anything. The resource center did not offer anything further. He went to see the dean of the college of law, LeRoy Pernell, but he either would or could do nothing for Plaintiff, although he at least seemed to care. He asked for help with the campus ombudsman, but this did not help either. As Plaintiff was in his second semester, and fearing being academically dismissed, he applied for a medical withdrawal of his first semester's grades based on proof of his mental disability by two doctors. His previous doctor, Maleakal Mathews, at Indiana University's student health center, and the aforementioned Dr. Kraft. This application was refused without a chance to be heard by the assistant dean, Leonard B. Mandell, and Mr. Mandell accused Plaintiff of dishonestly applying for the withdrawal because he only sought withdrawal of two courses, although Plaintiff would have withdrew from them all, if that helped. Plaintiff was suffering from a severe psychiatric disability of which he

had no control. Plaintiff received no written response considering his application for medical withdrawal. No longer having any option, Plaintiff left a letter complaining about the entire situation with his criminal law professor, Susan S. Kuo, before he was forced to leave campus, since he could no longer stay in his dormitory in Neptune Hall after May 2004.

c. Plaintiff attempted the following actions after he left Northern Illinois University:

i. He asked Northern Illinois University General Counsel, Kenneth Lawrence Davidson, for the return of his tuition by e-mail, and although Mr. Davidson said he would return Plaintiff's tuition in reply, he stopped communicating afterward. This request was based on the Plaintiff having a disability he has no control over, and feeling being taken advantage of by the university.

ii. He sent complaint regarding the school to the Illinois Court of Claims, and after his filing fee check bounced there, the Illinois Court of Claims did not offer him its application form to sue as a poor person, although the Plaintiff was *pro se*, and a bounced check is evidence of indigence. He filed a complaint about the law school with the American Bar Association, based on not meeting accreditation standards. It did not respond, although by its very own rules it is required to acknowledge complaints with a receipt. He then asked the United States Department of Education to have the American Bar Association send him a receipt, and the American Bar Association finally sent it, after Plaintiff had enlisted in the United States Navy, in September 2004. Thus, Plaintiff exhausted all remedies known to him at the time, and was now preoccupied with his new duty.

iii. After his discharge from the military in March 2006, he sent the complaint again to the Illinois Court of Claims. He alleged breach of contract and violation of the Americans with Disabilities and Illinois Human Rights Acts in his pleadings, but the complaint also makes a case for educational malpractice. He cited specifically American Bar Association Standard 303(c) (2003), and Plaintiff said "the law school violated a Standard by inculcating false hope that he would be able to continue to graduate with a law degree", which was based upon events such as, "difficulties with an instructor" after "repeated meetings", "student made an appointment and the instructor failed to show

up”, the failure of the same professor, his contracts teacher to return grades within 30 days after exams, contrary to American Bar Association Council Statement 10, and also having “evident difficulty” “to get information on what his exam grade was for the course”, in the Illinois Court of Claims. The allegations of violation of civil rights and educational malpractice have yet to be answered, and Plaintiff disputes that court’s Order finding there was no breach of an implied contract.

iv. The Plaintiff had many problems dealing with the Illinois Court of Claims, none of which were or have ever been explained by that court. Plaintiff sent them a motion for a hearing. This was unanswered. He sent a motion for stay, so he could pursue administrative remedies for his civil rights. This was unanswered. He filed a notice of appeal, because he was being denied hearing in the Illinois Court of Claims. This was unanswered. The Illinois Attorney General’s moved for summary judgment, and in response the Plaintiff said he “seeks accommodations for a diagnosed mental disability.” The Illinois Court of Claims ignored this request for help made under civil rights law, as well as his specific educational complaints, and the Illinois Court of Claims, which had not said or issued any filings up to this point, issued an order approximately four years after the claim was filed, without addressing Plaintiff’s issues with Northern Illinois University College of Law. Judge Norma F. Jann’s Order in the Illinois Court of Claims said Plaintiff made “incoherent procedural demands”, but she never asked Plaintiff to clarify his procedural demands, nor did she or its commissioner express any interest in hearing them. Judge Jann said, “No allegations of legal disability are made. . .that Claimant was incapable of seeking assistance if he was struggling in his course work before he received poor grades”, but this ignores Plaintiff had sought assistance, even directly from his teachers, and it was exactly the inability to receive assistance of which he complained. She said, “Claimant has alleged no breach of duty”, which alludes also to a tort, but Plaintiff had specifically alleged violation of educational standards, which standards imply a duty, as well as his civil rights claim, which also creates a duty to students with a disability. Plaintiff never wanted special treatment over other law students at all, contrary to what Judge Jann’s Order says, he only wanted just enough sufficient accommodation so

that he could continue law school, some semblance of federally guaranteed accommodation, to do what he likely could have been capable of had he not been mentally ill. He applied for a medical withdrawal only for the bare minimum, to pass and continue law school. Her Order also says, almost jokingly, "All are pleadings taken in the light most favorable to Claimant under 735 ILCS 5 et seq., and the Court Rules adopting same." The Illinois Court of Claims took no pleadings in light favorable to him, there is no proof the Illinois Court of Claims took Plaintiff's pleadings at all.

v. Shortly thereafter, Plaintiff attempted to negotiate with the same assistant dean who refused his medical withdrawal, Mr. Mandell, asking him for resolution before he filed in federal court. Not receiving a response, and the case tolled by action in the Illinois Court of Claims, Plaintiff filed with the Northern District of Illinois, Eastern Division. He alleged the Americans with Disabilities Act claim specifically, based on the unwillingness of the school to help him, that it "violated American Bar Association standards to inculcate false hope of completing school". This was part of the same case in the Illinois Court of Claims, which also asked for complete expungement of his academic record at the school, perceived as an allowable injunction under Americans with Disabilities Act case law. Plaintiff, sensing he was having trouble pleading his case, motioned for appointment of counsel before the Honorable Judge Zagel issued his Opinion, but his motion for counsel went unanswered. After Judge Zagel's Opinion, which relied on the statute of limitations, Plaintiff filed three more motions for reconsideration, all which were unaddressed. The first cited the continuing violation principle to equitably toll the statute of limitations for American with Disabilities Act violations in *Doe v. Bd. of Trus. of the Univ. of Ill.*, 429 Fed. Supp. 2d 930, 940 (N.D. Ill. 2006), by which opinion relies on a Seventh Circuit case. The second and third motions for reconsideration raise the allegation of educational malpractice, but the third motion calls for a mental examination, as Judge Zagel disputed Plaintiff's mental state. Judge Zagel's Opinion is based on his lay medical belief Plaintiff was or is competent enough to litigate an Illinois Court of Claims and federal case, *pro se*, at the same time, *in forma pauperis*, while mentally disabled, moving around often and looking for work. Or perhaps Judge

Zagel wanted Plaintiff to file a federal case while he was in the United States Navy, when Plaintiff was subject to work demands of his superiors, working twelve hours a day, sometimes at sea, and had no time to even consider a *pro se* petition. Depressed and not having a forum in the Northern District of Illinois, he ceased further filings.

vi. Plaintiff decided to seek review of the Illinois Court of Claims Order in Illinois courts superior to the Court of Claims, starting May 16, 2018, and concluding September 30, 2020. On the basis of the cited federal case *Doe* at 940, and other cited cases, the statute of limitations is equitably tolled for a continuing violation of civil rights. This was not applied by the De Kalb County Court of Illinois for consideration of an equitable remedy. Plaintiff cited Illinois Constitution art. I, § 13, "Trial by Jury", in his petition with the De Kalb County Court, because he did not receive a trial by jury in the Illinois Court of Claims. Upon rejection by the De Kalb County Court, the Plaintiff told the Second District of Illinois Appellate Court he had questions about the county court's order because the judge there, Judge Waller, his *alma mater* is Northern Illinois University College of Law, so there clearly is a conflict of interest. Plaintiff also mentioned to the Second District there was a factual defect in that judge's deliberation, Judge Waller thought Plaintiff had not moved for reconsideration in his prior federal case, when he had, multiple times. Both the state appellate court and supreme court denied Plaintiff's complaint, upholding Judge Waller's Order, and he now Plaintiff files a new federal complaint as an appeal from all state court actions, on the grounds of not receiving a fair trial, due process, or remedy.

4. To any objection that Plaintiff is barred by *res judicata* and the statute of limitations:

a. *Res judicata* applies when the facts giving rise to a legal claim is tried between all parties, on the merits, which then bars further action in another court. The case has never been tried before a jury, and jury was demanded. The Plaintiff alleges defects in the Illinois Court of Claims Order, which is why he appealed to the Northern District of Illinois. The Illinois Court of Claims did not consider

Plaintiff's allegations of a civil rights case or an implied claim of educational malpractice, and if they honestly claim to be a fair court, it must hear complaints, and said court did not respond to Plaintiff's multiple separate motions for a hearing or stay of proceedings, which motions Plaintiff filed because he believed they served that court. Judge Zagel did not consider the allegations either, dismissing the complaint. He cited futility, but the defendants were not served and did not have a chance to respond, and so whether the action was truly futile was unknown at the time, and his opinion is based on a misapplication of the statute of limitations. Judge Zagel's case is entirely *ex parte*, so whether it was or is actually futile is unknown, that is an objection the defendants could have made, similar to the defense of statute of limitations.

b. Judge Zagel and the De Kalb County Court cited the statute of limitations. They do so in ignorance of *Doe* at 940, "when an individual's termination or dismissal directly violates a federal constitutional or statutory guarantee, he may maintain a suit for reinstatement", citing *Levenstein v. Salafsky*, 414 F.3d 767, 772 (7th Cir. 2005). This also ignores that the Plaintiff first attempted to file with the De Kalb County Court while in school, which county court could have assumed authority to resolve any civil rights complaint in Plaintiff's mind. The General Counsel for Northern Illinois University was notified of Plaintiff's problem immediately after his academic dismissal in 2004, so effectively the State of Illinois was also served notice of a claim then. Plaintiff then filed a lawsuit with the Illinois Court of Claims, and when that ended, with the Northern District of Illinois, because the civil rights complaint was unheard by the claims court. Judge Zagel's opinion seems to indicate Plaintiff should have filed in federal court before or during the Illinois Court of Claims case, but *Doe* at 940 allows a civil rights allegation at any time before reinstatement for dismissal, Plaintiff did give a chance for the federal United States Department of Education in complaints to them, and nevertheless it makes more sense to begin litigation in the lowest state court having any jurisdiction, when state courts are empowered with the same jurisdiction over federal civil rights complaints as federal district courts. Plaintiff deeply questions the wisdom and legality of litigating a complaint for the same incident in two

factual statements, as well as exhibits, all to which they have never attempted to respond. In the De Kalb County Circuit Court, Diane K. Moshman, Assistant Attorney General for the Court of Claims, and Gregory Alan Brady, General Counsel for Northern Illinois University, deprived Plaintiff of his civil rights by supporting the Order of the Illinois Court of Claims dismissing his claim, and continuing to oppose his claim now. Hence, Mr. Rocks, Ms. Moshman and Mr. Brady are all acting in concert under color of Illinois' state law to deprive Plaintiff of his civil rights, so as such he has named the State of Illinois as a party, of which the Illinois Attorney General Kwame Y. Raoul represents. Mr. Brady could be named specifically as a party as well, but he has already appeared, and is able to speak for himself.

7. Prayer for relief:

a. Prayer for relief from the State of Illinois, by virtue of its attorney general's office, various attorneys within that office, and Mr. Brady, Plaintiff prays for an order to the State of Illinois to cease using state statutes, regulations, customs or usages to continue to violate Plaintiff's civil right under Title III of the Americans with Disabilities Act. Their unified action also constitutes violation of 42 U.S.C. § 1985, "Conspiracy to interfere with civil rights". The Illinois Attorney General had and has the power to stop this violation, but does not, and so it is also a violation of 42 U.S.C. § 1986, "Action for neglect to prevent", and all these actions should be enjoined.

b. Prayer for relief from the President of Northern Illinois University, Dean of Northern Illinois University College of Law, Director of Admissions of Northern Illinois University College of Law, and Director of Registration and Records of Northern Illinois University, whomever having the authority, Plaintiff prays for relief in an order to vacate Plaintiff's academic transcript or alternatively offer him unconditional readmission, with no expiration date, for their continuing violation of Title III of the Americans with Disabilities Act, 42 U.S.C. §§ 1985, and 1986.

c. Prayer for relief from the Board of Trustees of Northern Illinois University, Plaintiff prays for award for actual damages in the amount of \$22,385.09, but this for compensatory damages for intentional discrimination by a public entity resulting from deliberate indifference to the rights of the individual, as allowed under 28 C.F.R. § 35.172(d), allowed if the Board of Trustees of Northern Illinois University does not respond to Plaintiff's claims of violation of his civil rights. The actual damages also include the tort of educational malpractice and breach of an implied contract by the Board of Trustees of Northern Illinois University. The Plaintiff suffers from a severe mental disability, the university had and has knowledge of it, and his symptoms and refusal of any accommodation caused Plaintiff to be unfairly academically dismissed without cause. Cited deficiencies in the school's educational practices only made it more difficult, resultantly insurmountable to the Plaintiff. Law school is supposed to be hard, not impossible, and certainly not impossible for a disabled person who could otherwise succeed, as proven by the difference between Plaintiff's grades in the first semester to the second, when his symptoms went into remission. Thus, it is patently unjust for the Board of Trustees of Northern Illinois University to have profited from Plaintiff's disability, when that person also received nothing in return, thus the Plaintiff's demand in excess of actual damages, plus applicable attorney fees and court costs.

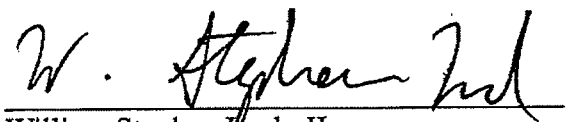
d. Prayer for relief from the Director of the Disability Resource Center of Northern Illinois University, Plaintiff prays for an order for this party to provide accommodations for Plaintiff and any other disabled student as they may require, and to inform the student body of the Disability Resource Center in either the school newspaper or mailed notices to all students.

e. Prayer for relief from the President of Northern Illinois University, Dean of Northern Illinois University College of Law, Director of Admissions of Northern Illinois University College of Law, Ombudsman of Northern Illinois University, and Professor at Northern Illinois University College of Law, Plaintiff prays for an order for all these parties to inform students that are mentally ill of the Northwestern Medicine Student Health Center, Disability Resource Center and the Ethics and

Compliance Office of Northern Illinois University's services for the mentally ill on campus, the rules regarding medical withdrawals and course load reductions, as well as of the Illinois Human Rights Commission, United States Department of Education Office of Civil Rights, and United States Department of Justice, and their ability to act on discrimination complaints unresolved by the university.

f. And prayer for relief from the Agent for Northwestern Medicine Ben Gordon Center, Plaintiff prays for an order to its employees, to inform student patients that have mental illnesses of the Disability Resource Center and the Ethics and Compliance Office of Northern Illinois University's services on campus, the rules regarding medical withdrawals and course load reductions, as well as of the Illinois Human Rights Commission, United States Department of Education Office of Civil Rights, and United States Department of Justice, and their ability to act on discrimination complaints unresolved by the university.

For all the above, Plaintiff humbly and respectfully submits this amended complaint to this great District Court of the United States of America for relief.



William Stephen Lush, II
6418 University Avenue, Apartment 1E
Middleton, Wisconsin 53562-3487
(608) 698-8143 cellular (no voicemail)
StephenLush2@Gmail.COM e-mail

Defendant's Exhibit at 34, Lush v. Mandell, No. 1:10-cv-04711

(December 14, 2010), ECF No. 1-4.

Academic transcript, the reason upon which Appellant complains and asks for remedy, which causes a loss of liberty.

LUSH, WILLIAM STEPHEN

HIGH SCHOOL

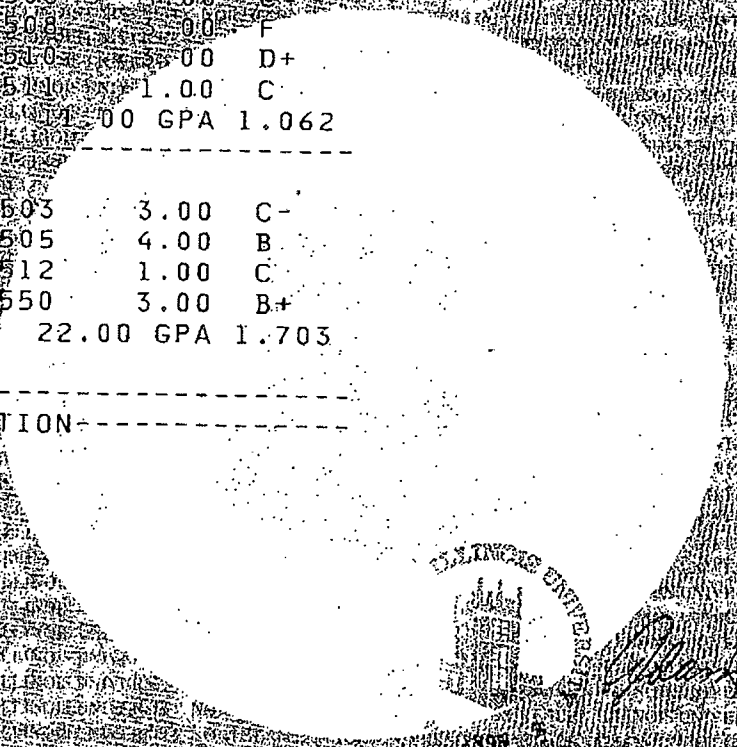
DEGREES EARNED AT NORTHERN ILLINOIS UNIVERSITY

COURSE TITLE	DEPT.	COURSE	CREDIT	GRADE	COURSE TITLE	DEPT.	COURSE	CREDIT
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ADMITTED TO COLLEGE OF LAW AUGUST 19, 2003
 BASIC COURSE ADMISSION IN BROADENED COURSE
 INDIANA UNIVERSITY, BLOOMINGTON, INDIANA
 MAY 2003
 FALL 2003
 LEGAL WRITING & ADVOCACY LAW 500 3.00
 CONTRACTS LAW 502 3.00
 CIVIL PROCEDURE LAW 506 4.00
 TORTS LAW 508 3.00
 CRIMINAL LAW LAW 510 3.00
 BASIC LEGAL RESEARCH LAW 511 1.00
 LAW TERM HRS 11.00 GPA 1.062 CUM HRS 11.00 GPA 1.062

SPRING 2004
 CONTRACTS LAW 503 3.00
 PROPERTY LAW 505 4.00
 BASIC LEGAL RESEARCH LAW 512 1.00
 CONSTITUTIONAL LAW LAW 550 3.00
 LAW TERM HRS 11.00 GPA 2.635 CUM HRS 22.00 GPA 1.703

ACADEMIC STATUS: DISMISSAL
 END OF COURSE INFORMATION



William Stephen Lush

Case: 1:00-cv-01477 Document 1-1 Filed 07/28/10 Page 1 of 1 PageID #: 230

Plaintiff's Exhibit at 22-26, 37-40, 66-71, Lush v. Mandell, No. 1:10-cv-04711, ECF No. 1-2.

Appellant searched for representation prior to motioning for appointment.

From: Steve Whitmore (SWhitmore@jensenlawofficellc.com)
To: st_lush@yahoo.com;
Date: Thu, October 15, 2009 10:11:44 AM
Cc:
Subject: RE: Refused Case

Mr. Lush,

Thank you for your follow-up inquiry regarding your potential claims against NIU. I spoke with you regarding your situation. As we expressed initially, we did not wish to take your case, and we re-affirm that decision now.

As we mentioned in our denial letter initially, resources to assist your search for an attorney include the Illinois State Bar Association's Illinois Lawyer Finder Service that can be found at <http://www.illinoislawyerfinder.com/> or by phone 217/525-5297 or (toll free) 800/922-8757 as well as the National Employment Lawyer Association, Illinois Chapter, with their searchable member directory found at www.nela-illinois.org

Please keep in mind that statutes exist which limit the amount of time that you have to pursue this matter, should you wish to pursue it on your own or with another attorney. Feel free to discuss your cited case and any other case that you may find with any other attorney that you contact.

Very Truly Yours,
Steve Whitmore

-----Original Message-----

From: Lisa Jensen
Sent: Thursday, October 15, 2009 9:51 AM
To: Steve Whitmore
Subject: FW: Refused Case

-----Original Message-----

From: William Stephen Lush, II [mailto:st_lush@yahoo.com]
Sent: Monday, September 28, 2009 2:01 PM
To: Lisa Jensen
Subject: Refused Case

To Sir or Madam:

I know your firm already had a chance to review the potential of taking my case, but I was wondering if the person who helped me (whose name escapes) look at the case I suggested, who had the same claim. The case mentions that the injured party, as part of their claim, escaped the statute of limitations because they stated there was a cause of action as long as the school refused to readmit them, just as Northern Illinois refuses to readmit me now.

I mention it because it addresses the statute of limitations bar to a claim, and since as far as I know the person was allowed to pursue regardless.

The citation is Doe v. Bd. of Trustees of the Univ. of Illinois, 429 F. Supp. 2d 930, 2006 U.S. Dist. Lexis (April 20, 2006).

Sincerely,
Stephen Lush

From: Steve Whitmore (SWhitmore@jensenlawofficellc.com)
To: st_lush@yahoo.com;
Date: Thu, October 15, 2009 11:22:06 AM
Cc:
Subject: RE: Refused Case

Mr. Lush,

I apologize if there has been a misunderstanding in my tone. E-mail is not the best way to understand the person's tone, and I was definitely not trying to be arrogant.

I was merely stating that our office is standing by its decision to not pursue your case for our own reasons, some having absolutely nothing to do with any merit of the case. We do not go into specific detail, providing only a general reasoning, with individuals that contact us regarding our reasoning for not taking their case.

As you correctly note, we have the right to refuse a case for any reason we wish. In your case we have done so.

We do wish you nothing but the best of luck, and continue to encourage you to contact other attorneys to discuss your matter. Our file has been and is closed in this matter.

Thank you for your inquiry,
Steven Whitmore

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Sent: Thursday, October 15, 2009 11:01 AM
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Mr. Whitmore,

Like I said, you have the right to refuse a case for any reason you wish, or even if you have no reason at all. My only reason for re-contacting you was because I did not understand your reasoning to refuse the case for the reason you gave, based on the case I gave you and what I understand of the law. The statute of limitations regarding cases of disability discrimination do not toll from discovery, but exist as long as the offending party refuses to provide accomodation for that disability. In my case this is a medical withdrawal that permits me a very specific exception and this exception only exists in cases such as mine, as evidenced in the case I provided you that involved litigating Univ. of Illinois. If you do not want to take a case due to your selective reading of the law, that is your prerogative, not mine.

Do not get me wrong. I am not angry or bitter about your decision and I am not disappointed. You just cannot expect a person "to believe it's raining when you pee on their leg" if you don't mind the saying. I've already moved on and I can speak to other attorneys through the same means I found you, or through the referral service specifically. I hope you are not taking all of this personally, but words like "we re-affirm" sounds as if you're putting yourself in the position of a court, which you do not represent either.

Sincerely,
Stephen Lush

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Please keep in mind that statutes exist which limit the amount of time that you have to pursue this matter, should you wish to pursue it on your own or with another attorney. Feel free to discuss your cited case and any other case that you may find with any other attorney that you contact.

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Sincerely,
Stephen Lush

From: William Stephen Lush, II (st_lush@yahoo.com)
To: Dlemmon@gkwwlaw.com;
Date: Wed, January 20, 2010 8:18:47 AM
Cc:
Subject: Re: Discrimination Case

At one time I had the complaint, but since it has been several years and after several moves I would be happy to request a copy of the complaint from the clerk. The complaint was basically that if it wasn't for the medical condition (diagnosed before, during and after attendance), and the lack of accommodation by the school, as the disability was stated in the application, then I never would have made the grades I had.

My main point is that the symptoms or negative effects disappeared after the first semester, and the grades that I made improved dramatically between semesters. For your own information, the symptoms that interfered with my studies, such as hallucinations, anxiety and the inability to sleep normally, have remained subsided since then, however mental health care professionals have agreed that I am generally now bipolar, not paranoid schizophrenic.

I was diagnosed at Bloomington Hospital in Indiana, and continued to receive treatment at NIU, though the treatment consisting of medication and therapy, was ineffective at that time.

Again, I would be happy to request the complaint since you may want to review it and it does go into more detail. The most recent filing, and the only filing in opposition to my complaint, was recently received from the Illinois Attorney General.

Sincerely yours,
Stephen Lush

----- Original Message -----

From: Daniel Lemmon <Dlemmon@gkwwlaw.com>
To: st_lush@yahoo.com
Sent: Mon, January 18, 2010 12:05:17 PM
Subject: Discrimination Case

Dear Mr. Lush:

I received your email regarding a possible discrimination suit against Northern Illinois. Have you filed a claim in court yet? Have you consulted the IDHR? If you already have a copy of your complaint, would it be possible to send over a copy via fax or as a .PDF file?

Please feel free to call should you have any questions.

Best regards,

Daniel Lemmon
Referral and Intake Department

Gardiner Koch Weisberg & Wrona
53 W. Jackson Suite 950
Chicago, IL 60604
312-362-0000 ex. 210
312-362-0440 - fax

From: William Stephen Lush, II (st_lush@yahoo.com)
To: Dlemmon@gkwwlaw.com;
Date: Wed, January 20, 2010 2:22:45 PM
Cc:
Subject: Re: Discrimination Case

I was given a letter saying that I lacked academic standing i.e. "not in good standing" months after, even though I had not re-applied. I was still attempting to figure out why my medical withdrawal went unconsidered. I was there one year, and no one questioned my illness but I was treated like I was taking unfair advantage or that I wasn't suffering a real problem that I could not help.

I have plenty of medical records that I submitted to them along with the form attempting to remain at NIU. I never received any response on paper to that request, even though I had to make requests to multiple doctors during my semester to do so, while I was studying.

I do not think the veracity of my disability was disputed, just what I claimed it affected, like what I said it did or what it affected was rejected without reason even though it did and no evidence was provided to the contrary.

Sincerely yours,
Stephen Lush

----- Original Message -----

From: Daniel Lemmon <Dlemmon@gkwwlaw.com>
To: "William Stephen Lush, II" <st_lush@yahoo.com>
Sent: Wed, January 20, 2010 1:19:46 PM
Subject: RE: Discrimination Case

Were you expelled from Northern IL? How long were you at the institution? Did they ever question your mental disability ex. asking for a doctor's note? Medical records? Anything similar to that?

Daniel

-----Original Message-----

From: William Stephen Lush, II [mailto:st_lush@yahoo.com]
Sent: Wednesday, January 20, 2010 8:19 AM
To: Daniel Lemmon
Subject: Re: Discrimination Case

At one time I had the complaint, but since it has been several years and after several moves I would be happy to request a copy of the complaint from the clerk. The complaint was basically that if it wasn't for the medical condition (diagnosed before, during and after attendance), and the lack of accommodation by the school, as the disability was stated in the application, then I never would have made the grades I had.

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Again, I would be happy to request the complaint since you may want to review it and it does go into more detail. The most recent filing, and the only filing in opposition to my complaint, was recently received from the Illinois Attorney General.

Sincerely yours,
Stephen Lush

----- Original Message -----

From: Daniel Lemmon <Dlemmon@gkwwlaw.com>

To: st_lush@yahoo.com

Sent: Mon, January 18, 2010 12:05:17 PM

Subject: Discrimination Case

Dear Mr. Lush:

I received your email regarding a possible discrimination suit against Northern Illinois. Have you filed a claim in court yet? Have you consulted the IDHR? If you already have a copy of you complaint, would it be possible to send over a copy via fax or as a .PDF file?

Please feel free to call should you have any questions.

Best regards,

Daniel Lemmon
Referral and Intake Department
Gardiner Koch Weisberg & Wrona
53 W. Jackson Suite 950
Chicago, IL 60604
312-362-0000 ex. 210
312-362-0440 - fax

From: William Stephen Lush, II (st_lush@yahoo.com)
To: tgardiner@gkwwlaw.com;
Date: Tue, May 11, 2010 9:10:21 PM
Cc:
Subject: Re: Request For Representation

I started law school at Northern Illinois University with a mental disorder. I made no attempt to hide it, disclosing it on my application and sought treatment at the school's health clinic. I received prescriptions for it, but had to fill them in Indiana (where I moved from) since Illinois refused to cover me. I found it impossible to study and made only passing grades in most my classes, except two where I failed, Legal Writing and Torts I. I had been seeking help and taking all possible prescriptions but at night I could only feel the bizarre anxiety accompanied by a schizoaffective disorder, and it made impossible all study that semester. I think it was because of the stress of moving from Indiana, because after the first semester the symptoms all but disappeared. I was able to study and concentrate for once and made B's this time around, doing decently in all my classes. Since I had a logical connection between my psychiatric problem and school, I petitioned for a medical withdrawal. I thought it was the route that anyone who had a medical problem would take to request accommodation for an illness that prevented an honest effort in school. I applied for the medical withdrawal before the end of the second semester, and much to my chagrin I had to ask about the status of the withdrawal to even learn that it was not at all considered. I had to send medical records from my psychiatrist in Bloomington, Indiana as well as at DeKalb to make the request, and at no time was I told that it was an inappropriate way to request that the two failing grades I received the semester before be overturned. I was not requesting a return of tuition and understood that I would still have to retake those courses.

I went to both the Dean, LeRoy Pernel and Lenny Mandell's offices and was in so many words told to leave their offices, they accused me of trying to try to gain an unfair advantage. After leaving the school, I was later informed, of course, that I was in poor standing. I made a complaint to the American Bar Association and had some problems doing this, even though my complaint was based on the standards of the ABA stating that a school should not inculcate false hope of success in a student to their financial detriment. I then promoted my cause to the Department of Education's Office of Civil Rights and filed a petition with the Court of Claims, but neither has given much luck in doing so. The case has languished in the Court of Claims for years, for no reason given by them. I seek due consideration of the medical withdrawal, and due to the fact I felt discriminated against, that I had a mental illness I made many professors aware of, I then sought compensation in the amount of the tuition. This was around \$27,000, for the one year.

I happened upon a case in the northern District of Illinois that is almost identical to my own. I merely wish to continue study someday and with the mark of "poor standing" I cannot foresee doing so in any place east of California, where they have correspondence schools, and even there to some degree I imagine I should be rejected. I had, and still arguably now, have a mental disorder that at its worst makes the symptoms so great I cannot concentrate on my work. It does not affect me now like it did in the first semester of law school, and I take medication to alleviate the symptoms and it works now. I just have no recourse for what happened to me, back there, and I would be willing to go as far as file a federal suit if that is what it takes to get a response from the school. As of now, they have prohibited me from entering campus and requested I not communicate with them because of my attempts to get them to respond to the initial withdrawal. It is an ongoing affair, and I spoke to the school as recently as last April without any luck. It may be better

to have my own attorney, to have someone who represents me and that way acts as an intermediary between the school and myself, but really I think I need representation because I am too entwined in the issue to properly file a federal action. The case I referred to above was met with success, and had to be filed in federal court.

I am able, and have made it clear to the Court of Claims (which has offices in both Chicago and Springfield) that I would be able and willing to put forth all medical records that show that I indeed suffer from the illness from which I asked for accommodation and assistance for. I sought assistance from the department at Northern Illinois University for exams but was denied that as well, even though I had a history of being seen at the campus doctor. The illness began long ago, as well, and was a reason for the difficulties of my study at Indiana University at Bloomington, however they had no problem allowing me to resume school for the reasons above. I explored the option of suing in Sycamore, Illinois but was refused a pauperis petition even though I had no funds, talked to the Ombudsman at NIU and he refused to get involved even though I thought his role was to help mediate disputes.

I am running out of options as it is and would go to great lengths to try to have a chance to resume my studies, as I believe I should be able to, if not now then sometime in the future. I do not care if I have to reapply to a different school, one that I am more assured about their ability to serve those who are disabled. I receive a veteran's benefit (I was in the Navy) and am currently living on social security. I would prefer to have an attorney serve me on a contingency basis as I am seeking tuition, but if I have to try to come up with a retainer I will do my best to be able to do so.

Please consider my case and tell me what you need from me.

/s/ Stephen Lush
6418 University Avenue
Apartment 1E
Middleton, Wisconsin 53562-3487
(608) 833-2894
st_lush@yahoo.com

----- Original Message -----

From: Thomas Gardiner <tgardiner@gkwwlaw.com>
To: "William Stephen Lush, II" <st_lush@yahoo.com>
Sent: Tue, May 11, 2010 9:14:45 AM
Subject: RE: Request For Representation

We potentially could help, but we need to know the facts.

-----Original Message-----

From: William Stephen Lush, II [mailto:st_lush@yahoo.com]
Sent: Tuesday, May 11, 2010 7:40 AM
To: Thomas Gardiner
Subject: Request For Representation

May 11, 2010

To Whom It May Concern:

I am a disabled person seeking a lawyer who can help with federal litigation of a case against a university.

If you cannot or are otherwise unable to handle a claim of this nature, I would appreciate it if you referred me to someone who can, either in your group or elsewhere.

I would like to promise that I can advance a retainer now, but right now all I am seeking is approval by an attorney, that they are willing to help, either in drawing up litigation or any other work related that I cannot handle due to the increased scope of making a federal case. I believe the proper course of action is to make a complaint including an In Re Young motion.

The case is currently stale in the Court of Claims in the State of Illinois and if further efforts are filed, they will be refiled in federal court. This is what I will need a lawyer for, this is what I am asking for help with. Please help.

/s/ Stephen Lush
6418 University Ave., Apt. 1E
Middleton, WI 53562-3487
(608) 833-2894

From: Thomas Gardiner (tgardiner@gkwwlaw.com)
To: st_lush@yahoo.com;
Date: Wed, May 12, 2010 7:41:59 AM
Cc: avillasenor@gkwwlaw.com;
Subject: RE: Request For Representation

We are unable to take your case on a contingent fee basis.

Thomas G. Gardiner, Partner
Gardiner Koch Weisberg & Wrona
53 West Jackson Blvd., Suite 950
Chicago, IL 60604
tgardiner@gkwwlaw.com
312.362.0000 (office)
312.371.6279 (cell)
312.362.0440 (fax)
www.gkwwlaw.com

From: William Stephen Lush, II [mailto:st_lush@yahoo.com]
Sent: Tue 5/11/2010 9:10 PM
To: Thomas Gardiner
Subject: Re: Request For Representation

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Middleton, WI 53562-3487
(608) 833-2894

Plaintiff's Amended Complaint at 8, Lush v. Bd. Trs. N. Ill. Univ., ECF No. 16; Civil Cover Sheet at 1, Lush v. Bd. Trs. N. Ill. Univ., Case No. 3:20-cv-50421, ECF No. 2; Defendant's Exhibit G at 2, Lush v. Bd. Trs. N. Ill. Univ., Case No. 3:20-cv-50421, ECF No. 6-8; Complaint at 4, Lush v. Mandell, Case No. 1:10-cv-04711, ECF No. 1; Civil Cover Sheet at 1, Lush v. Mandell, Case No. 1:10-cv-04711, ECF No. 2.

Appellant demanded a jury trial.

Zagel wanted Plaintiff to file a federal case while he was in the United States Navy, when Plaintiff was subject to work demands of his superiors, working twelve hours a day, sometimes at sea, and had no time to even consider a *pro se* petition. Depressed and not having a forum in the Northern District of Illinois, he ceased further filings.

vi. Plaintiff decided to seek review of the Illinois Court of Claims Order in Illinois courts superior to the Court of Claims, starting May 16, 2018, and concluding September 30, 2020. On the basis of the cited federal case *Doe* at 940, and other cited cases, the statute of limitations is equitably tolled for a continuing violation of civil rights. This was not applied by the De Kalb County Court of Illinois for consideration of an equitable remedy. Plaintiff cited Illinois Constitution art. I, § 13, "Trial by Jury", in his petition with the De Kalb County Court, because he did not receive a trial by jury in the Illinois Court of Claims. Upon rejection by the De Kalb County Court, the Plaintiff told the Second District of Illinois Appellate Court he had questions about the county court's order because the judge there, Judge Waller, his *alma mater* is Northern Illinois University College of Law, so there clearly is a conflict of interest. Plaintiff also mentioned to the Second District there was a factual defect in that judge's deliberation, Judge Waller thought Plaintiff had not moved for reconsideration in his prior federal case, when he had, multiple times. Both the state appellate court and supreme court denied Plaintiff's complaint, upholding Judge Waller's Order, and he now Plaintiff files a new federal complaint as an appeal from all state court actions, on the grounds of not receiving a fair trial, due process, or remedy.

4. To any objection that Plaintiff is barred by *res judicata* and the statute of limitations:

a. *Res judicata* applies when the facts giving rise to a legal claim is tried between all parties, on the merits, which then bars further action in another court. The case has never been tried before a jury, and jury was demanded. The Plaintiff alleges defects in the Illinois Court of Claims Order, which is why he appealed to the Northern District of Illinois. The Illinois Court of Claims did not consider

CIVIL COVER SHEET

The ILND 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (See instructions on next page of this form.)

I. (a) PLAINTIFFS: WILLIAM STEPHEN LUSH, II; (b) County of Residence of First Listed Plaintiff: DANE; (c) Attorneys: PRO SE, 6418 UNIVERSITY AVENUE, APARTMENT 1E, MIDDLETON, WISCONSIN 53562-3487, (608) 698-8143 CELLULAR (NO VOICEMAIL); DEFENDANTS: BOARD OF TRUSTEES OF NORTHERN ILLINOIS UNIVERSITY & STATE (ILLINOIS); County of Residence of First Listed Defendant: DE KALB; Attorneys: GREGORY ALAN BRADY & KWAME Y. RAOUL, SEE ATTACHED ADDENDUM

II. BASIS OF JURISDICTION (Check one box, only.); III. CITY (Check): 20 cv 50421, Judge Iain D. Johnston, Magistrate Judge Lisa A. Jensen; Citizen of Plaintiff: []; Citizen of Defendant: []; Citizen of Subject: []; Foreign Country: []

IV. NATURE OF SUIT (Check one box, only.); CONTRACT: []; TORTS: PERSONAL INJURY (310 Airplane, 315 Airplane Product Liability, 320 Assault, Libel & Slander, 330 Federal Employers' Liability, 340 Marine, 345 Marine Product Liability, 350 Motor Vehicle, 355 Motor Vehicle Product Liability, 360 Other Personal Injury, 362 Personal Injury - Medical Malpractice); PERSONAL INJURY (530 General, 367 Health Care/Pharmaceutical Personal Injury Product Liability, 368 Asbestos Personal Injury Product Liability); PERSONAL PROPERTY (370 Other Fraud, 371 Truth in Lending, 380 Other Personal Property Damage, 385 Property Damage Product Liability); PRISONER PETITIONS (510 Motions to Vacate Sentence, 530 General, 535 Death Penalty, Habeas Corpus, 560 Civil Detainee - Conditions of Confinement); LABOR (710 Fair Labor Standards Act, 720 Labor/Management Relations, 740 Railway Labor Act, 751 Family and Medical Leave Act, 790 Labor for Litigation, 791 Unemployment Compensation Income Security Act); OTHER STATUTES (375 False Claims Act, 376 Qui Tam (31 USC 3729 (a)), 400 State Reapportionment, 410 Antitrust, 430 Banks and Banking, 450 Commerce, 460 Deportation, 470 Racketeer Influenced and Corrupt Organizations, 480 Consumer Credit, 485 Telephone Consumer Protection Act (TCPA), 490 Cable/Sat TV, 830 Securities/Commodities/Exchange, 890 Other Statutory Actions, 891 Agricultural Acts, 893 Environmental Matters, 895 Freedom of Information Act, 896 Arbitration, 899 Administrative Procedure Act/Review or Appeal of Agency Decision, 950 Constitutionality of State Statutes); REAL PROPERTY (210 Land Condemnation, 220 Foreclosure, 230 Rent Lease & Ejectment, 240 Tenants to Land, 245 Tort Product Liability, 290 All Other Real Property); CIVIL RIGHTS (440 Other Civil Rights, 441 Voting, 442 Employment, 443 Housing/Accommodations, 445 Amer. w/Disabilities - Employment, 446 Amer. w/Disabilities - Other, 448 Education); BANKRUPTCY (422 Appeal 28 USC 158, 423 Withdrawal 28 USC 157); IMMIGRATION (462 Naturalization Application, 463 Habeas Corpus - Alien Detainee (Prisoner Petition), 465 Other Immigration Actions); FORFEITURE/PENALTY (625 Drug Related Seizure of Property 21 USC 881, 690 Other); SOCIAL SECURITY (861 HIA (1395D), 862 Black Lung (923), 865 DIWC/DIWW (105(g)), 864 SSD Title XVI, 865 RSI (405(g))); FEDERAL TAXES (870 Taxes (U.S. Plaintiff or Defendant), 871 IRS - Third Party 26 USC 7609); PROPERTY RIGHTS (820 Copyrights, 825 Patent, 840 Trademark)

FILED NOV 02 2020 THOMAS G BRUDEN CLERK, U.S. DISTRICT COURT

V. ORIGIN (Check one box, only.): 1 Original Proceeding [checked]; 2 Removed from State Court []; 3 Remanded from Appellate Court []; 4 Reinstated or Reopened []; 5 Transferred from Another District (specify) []; 6 Multidistrict Litigation []; 8 Multidistrict Litigation Direct File []

VI. CAUSE OF ACTION (Enter U.S. Civil Statute under which you are filing and write a brief statement of cause.): 42 USC 1983, AMER. W/DISABILITIES ACT IN EDU.

VII. PREVIOUS BANKRUPTCY MATTERS (For nature of suit 422 and 423, enter the case number and judge for any associated bankruptcy matter previously adjudicated by a judge of this Court. Use a separate attachment if necessary.):

VIII. REQUESTED IN COMPLAINT: [] Check if this is a class action Under rule 23. Demand \$ 22,385.09. F.R.C.V.P. Check Yes only if demanded in complaint. Jury Demand: [checked] Yes [] No

IX. RELATED CASE(S) (See instructions) IF ANY LUSH V. MANDELL Judge ZAGEL Case Number 1:2010-CV-04711

X. Is this a previously dismissed or remanded case? [] Yes [checked] No If yes, Case # Name of Judge Date Signature of attorney of record Name of Judge OCTOBER 26, 2020 W. Stephen Lush

18CH94

**STATE OF ILLINOIS
DEKALB COUNTY COURT, 23D JUDICIAL CIRCUIT**

Maureen A. Josh
Electronically Filed
DeKalb County, Illinois
Transaction ID : 1703730709
18CH94
FILEDATE : 05/16/2018

WILLIAM STEPHEN LUSH, II,
Plaintiff,

v.

**NORTHERN ILLINOIS UNIVERSITY
COLLEGE OF LAW & ILLINOIS COURT
OF CLAIMS,**
Defendants.

COMPLAINT IN EQUITY

IN CHANCERY

18CH94

NOTICE
BY ORDER OF COURT THIS CASE IS
HEREBY SET FOR CASE MANAGEMENT
CONFERENCE TO BE CONDUCTED AT
THE DEKALB COUNTY COURTHOUSE,
BYCAMORE, IL IN ACCORDANCE WITH
SUPREME COURT RULE 213 BEFORE
JUDGE BRADY
ON 8/14/18 AT 9AM
FAILURE TO APPEAR MAY RESULT IN
THE CASE BEING DISMISSED OR AN
ORDER OF DEFAULT BEING ENTERED
1703730709

PETITION FOR REVIEW OF THE JUDGEMENT OF THE ILLINOIS COURT OF CLAIMS

WILLIAM STEPHEN LUSH, II, the herein PLAINTIFF *PRO SE*, petitions the DeKalb County Court, in the 23^d Judicial Circuit, having jurisdiction over the primary DEFENDANT, NORTHERN ILLINOIS UNIVERSITY COLLEGE OF LAW, located in DeKalb County, for review of the Final Judgment of the Illinois Court of Claims, also a named Defendant, for Docket Number 07CC0032. Plaintiff's rights to due process, remedy for injury to reputation and property and fair trial are presently in violation under Sections 2, 12, 13 of the Illinois Constitution of 1970.

Plaintiff applied for relief to the 23^d Judicial Circuit and the Illinois Court of Claims both when he was attending Northern Illinois University College of Law between 2003-2004, and afterward in 2004, respectively. The DeKalb County Court refused to hear his claim by refusing a waiver of filing fee while Plaintiff was in school between 2003-2004 and also in 2012, even though Plaintiff has been below the poverty line and disabled since 2001.

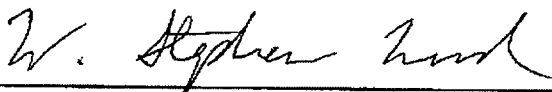
After paying \$35 to the Illinois Court of Claims and waiting a significant time, Plaintiff was denied a hearing and thusly ruled against. The specific defendant in that action, Northern Illinois University did not produce any evidence that Plaintiff did not suffer schizophrenia, or if it accepts the fact, that the University provided Plaintiff with any accommodation for his mental illness. Plaintiff specifically notified the school of his illness repeatedly, before and during his attendance, and also went to the length of proving it in an application for medical withdrawal of classes while he was suffering this mental illness.

Plaintiff believes he is entitled to relief based upon a denial of his civil rights, educational malpractice, and breach of an implied contract to provide an education, based on the following:

1. The disability was reported to the school and the school did nothing.
2. The disability prevented Plaintiff from being able to study normally, accomplish assignments, and prepare for examinations.
3. Plaintiff reported the disability to the Assistant Dean Leonard Mandell, the campus Ombudsman, two law school professors (property and constitutional law), as well as the

PRAYER FOR RELIEF

The Illinois Court Of Claims, now with the Defendants Leonard B. Mandell and Northern Illinois University, have ordered the disregarding of the *Doe* opinion and Plaintiff *pro se* prays for relief in the form of specific performance. Expungement of all relevant records to his name at Northern Illinois University, located within this District Court's jurisdiction at Registration and Records, 1425 West Lincoln Highway, Williston 220, DeKalb, Illinois 60115. If this is not the correct remedy, relief by the courts in alternative is welcomed, but Plaintiff does not offer any alternatives as he does not know what else to offer, except to suggest alternative dispute resolution. Reimbursement of tuition is improper under *Young*. Plaintiff demands a trial by jury if trial is to be had.



William Stephen Lush, II
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(608) 833-2894
st_lush@yahoo.com

CIVIL COVER SHEET

The civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (See INSTRUCTIONS ON THE REVERSE OF THE FORM.)

(a) PLAINTIFFS

William Stephen Lush, II
6418 University Avenue, Apartment 1E
Middleton, Wisconsin 53562-3487

(b) County of Residence of First Listed Plaintiff Dane

(EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANTS

Leonard B. Mandell and Northern Illinois University
1425 West Lincoln Highway, Swen Parson Hall, Room 181
De Kalb, Illinois 60115

County of Residence of First Listed Defendant DeKalb

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)
Self-representing (in forma pauperis enclosed)

FILED
JUL 28 2010
Jul 28, 2010
MICHAEL W. DOBBINS

Attorneys (If Known)

Kenneth Lawrence Davidson at Northern Illinois University
Altgeld Hall 335, De Kalb, Illinois 60115-2854

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 2 U.S. Government Defendant
- 3 Federal Question (U.S. Government Not a Party)
- 4 Diversity (Indicate Citizenship of Parties in Item III)

CLERK U.S. DISTRICT COURT

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Citizen 1:10-cv-04711

Citizen Judge James B. Zagel

Citizen Magistrate Judge Nan R. Nolan

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (excl. vet.) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Inj.	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Satellite TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Security/Commodity/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization / <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 ADA—Employment <input type="checkbox"/> 446 ADA—Other <input checked="" type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt Relations <input type="checkbox"/> 730 Labor/Mgmt Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION (Enter U.S. Civil Statute under which you are filing and write a brief statement of cause.)

42 U.S.C. 12101 et seq.; denial of accomodation

VII. PREVIOUS BANKRUPTCY MATTERS (For nature of suit 422 and 423, enter the case number and judge for any associated bankruptcy matter previously adjudicated by a judge of this Court. Use a separate attachment if necessary)

VIII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

IX. This case

is not a refiling of a previously dismissed action.

is a refiling of case number 007CC0032, previously dismissed by Judge

Norma F. Jann

DATE

July 2, 2010

SIGNATURE OF ATTORNEY OF RECORD

W. Stephen Lush

Order by Seventh Circuit denying motion for stay on June 13, 2022.

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen
United States Courthouse
Room 2722 - 219 S. Dearborn Street
Chicago, Illinois 60604



Office of the Clerk
Phone: (312) 435-5850
www.ca7.uscourts.gov

ORDER

June 13, 2022

By the Court:

No. 21-1394	WILLIAM S. LUSH, II, Plaintiff - Appellant v. BOARD OF TRUSTEES OF NORTHERN ILLINOIS UNIVERSITY, et al., Defendants - Appellees
Originating Case Information:	
District Court No: 3:20-cv-50421 Northern District of Illinois, Western Division District Judge Iain D. Johnston	

On June 10, 2022, this court received a letter from the appellant. The clerk's office shall return the document to the appellant without further court action. The mandate issued in this appeal on April 19, 2022, and the only filing that will be accepted for filing is a motion to recall the mandate.

Opinion by Seventh Circuit denying appointment of counsel on March 29, 2022.

In the
United States Court of Appeals
For the Seventh Circuit

No. 21-1394

W. STEPHEN LUSH, II,

Plaintiff-Appellant,

v.

BOARD OF TRUSTEES OF NORTHERN ILLINOIS UNIVERSITY, *et al.*,

Defendants-Appellees.

Appeal from the United States District Court for the
Northern District of Illinois, Western Division.

No. 3:20-cv-50421 — **Iain D. Johnston**, *Judge.*

SUBMITTED MARCH 10, 2022* — DECIDED MARCH 29, 2022

Before WOOD, SCUDDER, and JACKSON-AKIWUMI, *Circuit Judges.*

SCUDDER, *Circuit Judge.* Stephen Lush II brought claims in federal court after unsuccessfully pursuing many of those

*We have agreed to decide this case without oral argument because the brief and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. *See* FED. R. APP. P. 34(a)(2)(C)

same claims in Illinois state court. When the district court informed him that his complaint failed to state claims, faced jurisdictional barriers, and may indeed warrant sanctions, Lush agreed to a voluntary dismissal. But he then appealed, wishing to challenge prior rulings the district court made denying his requests for the recruitment of counsel and to seal everything filed in the case. What Lush fails to recognize is that his voluntary dismissal—his walking away from the case he brought—leaves us with no appellate jurisdiction to consider these interlocutory rulings. This outcome reflects the harsh reality that can accompany an uninformed decision made by someone doing his best to represent himself but without the legal training to do so effectively. We have no choice but to dismiss the appeal.

I

Lush started at the Northern Illinois University College of Law in 2003. Poor academic performance, perhaps owing to mental-health struggles, resulted in the University dismissing Lush after his first year. Lush responded with litigation, suing the University in state court to recover his tuition and other alleged damages, and to purge his academic transcript. He also sought injunctive relief to prescribe the way the University handles matters relating to the mental health of its students.

The state court litigation did not go well for Lush. The first of Lush's lawsuits ended with an Illinois court entering judgment for the defendants. In time Lush brought additional lawsuits advancing similar claims, and those other cases ended the same way.

No. 21-1394

3

In 2020 Lush turned again to federal court. He sued the University's Board of Trustees, individual trustees, and the State of Illinois, alleging a range of violations under the Americans with Disabilities Act and provisions of other federal laws, civil and criminal. Lush accompanied his complaint with a request for the recruitment of counsel. For its part, the Board moved to dismiss the complaint as not only untimely, but also barred by principles of claim preclusion based on the prior cases Lush brought in state and federal court. Lush responded by filing an amended complaint which, in turn, prompted the district court to deny the Board's motion to dismiss as moot.

Fulfilling the screening obligation imposed by 28 U.S.C. § 1915(e)(2), the district court entered an order observing that the claims in the amended complaint were precluded by the *Rooker-Feldman* doctrine and, in any event, untimely given that Lush brought the federal action some 16 years after the events in question. So, too, did the district court observe that Lush's allegations fell short of stating any claim for relief. The district court then ordered Lush to show cause why the amended complaint should not be dismissed, while alternatively giving him the option of voluntarily dismissing the action to avoid potential sanctions under Federal Rule of Civil Procedure 11.

Lush's initial response was to renew his request for counsel, which the district court denied. From there Lush responded by agreeing to voluntarily dismiss his amended complaint and asking the district court to seal the entire case. The district court denied the request to seal and dismissed the case. The dismissal was "with prejudice," undoubtedly reflecting the district court's view that Lush's renewed effort to

relitigate his claims faced multiple insurmountable barriers that rendered futile any wish Lush may have had to further litigate.

This appeal followed, with Lush limiting his challenge to the district court's denials of his motions to appoint counsel and to seal the case file.

II

Lush's appeal is a prime example of a pro se litigant struggling to navigate the judicial system. To our eye, Lush seems intent on taking another shot at litigation—assisted by recruited counsel—without understanding that too many legal barriers stand in the way of any attempt to renew his prior claims.

His prior efforts to litigate in Illinois state court ended in adverse judgments against him. As the district court observed, the *Rooker-Feldman* doctrine almost surely prevents those judgments from being collaterally challenged or set aside through subsequent federal court litigation. See *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462, 476 (1983); *Rooker v. Fid. Tr. Co.*, 263 U.S. 413, 415–16 (1923). Nor is it clear that Lush appreciates other barriers that would stand immediately behind clearing the *Rooker-Feldman* hurdle including, for example, showing that his claims were timely and not barred by principles of claim preclusion. See *Daza v. State*, 2 F.4th 681, 683–84 (7th Cir. 2021) (explaining that a prior judgment on the merits precludes a subsequent action advancing the same claims and ones that could have been brought in the first action).

Even more, though, Lush took an affirmative step in the district court that precludes any appeal of the two

No. 21-1394

5

interlocutory rulings he presses in his brief. He agreed to a voluntary dismissal of his lawsuit, thereby dropping and walking away from his case in the district court. And once he received that dismissal and saw that the district court entered it “with prejudice,” he took no step under Federal Rule of Civil Procedure 60 or otherwise to challenge the court’s order.

Lush’s voluntary dismissal had a jurisdictional consequence: the voluntary dismissal did not result in an adverse final judgment from which Lush may appeal the interlocutory rulings he now wishes to challenge. See *Palka v. City of Chicago*, 662 F.3d 428, 436 (7th Cir. 2011) (citing other cases reaching the same conclusion and explaining that “it makes no difference whether the dismissal under Rule 41(a) was with or without prejudice” because “when the district court granted [the plaintiff’s] motion for voluntary dismissal, [he] received the precise relief he requested” and thus “may not appeal”); see also 8 James Wm. Moore, *Moore’s Federal Practice* § 41.40[11][b] n.129 (3d ed. 2021) (collecting cases likewise concluding that the voluntary dismissal of a civil action precludes an appeal); accord *Microsoft Corp. v. Baker*, 137 S. Ct. 1702, 1707 (2017) (employing similar reasoning and holding in the class action context that voluntary dismissals are not appealable as a way of challenging an adverse interlocutory ruling on one or another aspect of Rule 23’s class certification requirements).

Because Lush received the precise relief he requested—dismissal—he cannot now challenge the district court’s non-dispositive interlocutory rulings denying his requests for counsel and to seal all case filings. See *Palka*, 662 F.3d at 436.

Today’s outcome may be difficult for Lush to accept, as he may have been of a mind that a voluntary dismissal would

permit future litigation, including on appeal— not preclude it. That view was uninformed, though, and almost surely reflects the reality and limitations of his proceeding without the benefit of a lawyer able to explain to him that jurisdictional and other barriers identified by the district court preclude any further effort to litigate (indeed, relitigate) his claims. Lush had no legal right to counsel, though, and every day district courts face the consequential task of deciding what circumstances warrant the appointment of counsel. See *Pruitt v. Mote*, 503 F.3d 647, 649, 654 (7th Cir. 2007) (en banc). It is clear that the district court denied Lush's request for counsel because of the futility of allowing another federal pleading on the matters alleged in this most recent complaint.

We therefore DISMISS Lush's appeal for lack of appellate jurisdiction.