2000 WL 34510621
United States District Court,
N.D. California.

Mark BREIMHORST, Plaintiff,

v.

EDUCATIONAL TESTING SERVICE, Defendant.

No. C–99–CV–3387.
March 27, 2000.

Attorneys and Law Firms

Jacqueline M. Jauregui, Peter J. Laufenberg, Crosby Heafey Roach & May, for Defendant.

MEMORANDUM DECISION AND ORDER

ORRICK, J.

In this disability rights action against the Educational Testing Service ("ETS"), plaintiffs challenge the ETS' practice of "flagging" test score reports for test takers who obtained accommodations for their disabilities to indicate that the scores were obtained under special conditions. Plaintiffs contend that this policy discriminates against disabled test takers because ETS has no basis for concluding that the scores for tests taken with accommodations are not comparable to those taken under standard conditions. Essentially, plaintiffs complain that ETS forces test takers who obtain accommodations for their disabilities to wear a "scarlet letter" that calls into question the validity of their test scores for no reason.

ETS now moves for judgment on the pleadings. For the reasons set forth hereinafter, the Court grants ETS' motion with respect to plaintiffs' claim for violation of § 302 of the Americans with Disabilities Act ("ADA"), but denies it in all other respects.

I.

The following statement of facts is summarized from the allegations of the first amended complaint.

ETS administers the Scholastic Aptitude Test ("SAT"), the Graduate Records Exam ("GRE"), the Graduate Management Admissions Test ("GMAT"), and some 500 other high stakes screening exams. ETS is responsible for preparing, administering and scoring these exams, and also for reporting the scores to school admissions offices and other interested entities.

Whenever a disabled individual receives an accommodation to take one of ETS' tests, ETS brands the test score report with the prominent mark

“SCORES OBTAINED UNDER SPECIAL CONDITIONS” (hereinafter “flag” or “flagging”). ETS publishes and distributes information test bulletins in which it states that its policy is to include this flag with the score report because, when standardized tests are taken under nonstandard conditions, the scores may not accurately reflect the test taker's educational ability. Plaintiffs contend that ETS has no factual basis for its conclusion that the scores of disabled people who received test-taking accommodations are any less reliable or valid than the scores of people who took the same test without accommodations.

Plaintiffs allege that the purpose of the accommodations provided to disabled test takers is to “level the playing field” so that tests will in fact measure their abilities, rather than reflect their disabilities. Plaintiffs contend that the flag communicates a stigmatizing message that people with disabilities obtain an unfair advantage when they receive accommodations, and that their scores should be viewed with skepticism. Plaintiffs allege that this practice violates §§ 302, 309, and 503(b) of the Americans with Disabilities Act, § 504 of the Rehabilitation Act, § 54 of the California Civil Code, the California Unruh Civil Rights Act, and constitutes an unfair business practice in violation of § 17200 of the California Business and Professions Code.

Plaintiffs in this action are Mark Breimhorst (“Breimhorst”), the International Dyslexia Association (“IDA”), and Californians for Disability Rights (“CDR”). Breimhorst wants to go to business school. He does not have hands, so he took the GMAT on a computer with a track ball and with twenty-five per cent additional test taking time to accommodate his disability. ETS branded his score report: “Scores obtained under special conditions.” Breimhorst asked the ETS to remove this flag from his score reports, and to stop its flagging policy, but ETS denied Breimhorst's requests.

IDA is a nonprofit organization dedicated to the removal of social, institutional, and cultural barriers currently preventing people with learning disabilities from obtaining their potential. IDA has over 12,000 members and forty-three branches in the United States, including four branches in California, and one branch in the Northern District of California. IDA's members include people with disabilities who have allegedly been denied equal access to ETS' tests due to its policy and practice of flagging. IDA joins this action to represent the interests of its members and because the flagging policy allegedly interferes with the organization's goals and mission.

CDR is a grass roots coalition of people with disabilities that works and advocates for full compliance with the ADA. CDR has chapters throughout

California. Its membership includes people with disabilities who have allegedly been denied equal access to ETS' tests due to its policy and practice of flagging. CDR joins this action to represent the interests of its members and because the flagging policy allegedly interferes with the organization's goals and mission.

II.

ETS now moves for judgment on the pleadings, pursuant to Rule 12(c) of the Federal Rules of Civil Procedure. ETS contends that accurately flagging a reported test score to indicate that it was not taken under standardized testing conditions does not violate any applicable law.

A.

Rule 12(c) of the Federal Rules of Civil Procedure provides in relevant part, "[a]fter the pleadings are closed but within such time as not to delay the trial, any party may move for judgment on the pleadings." Fed.R.Civ.P. 12(c). In ruling on a motion for judgment on the pleadings, the allegations of the nonmoving party must be accepted as true, and the allegations of the moving party that have been denied are presumed false. *Hal Roach Studios, Inc. v. Richard Feiner & Co.,* 896 F.2d 1542, 1550 (9th Cir.1990). Judgment on the pleadings is appropriate only when the moving party clearly establishes on the face of the pleadings that no material issue of fact remains to be resolved and that it is entitled to judgment as a matter of law. *Enron Oil Trading & Transp. Co. v. Walbrook Ins. Co.,* 132 F.3d 526, 529 (9th Cir.1997). Judgment may only be granted when the pleadings show beyond doubt that the plaintiffs can prove no set of facts in support of their claims that would entitle them to relief. *Id.*

B.

ETS' first argument is that none of the plaintiffs have standing because they have not shown that they have been injured by ETS' flagging of their test scores.

This argument was rejected recently by the Third Circuit, in what both parties agree is the only federal appellate opinion to have consider the legality of flagging under the ADA. *Doe v. National Bd. of Med. Examiners,* 199 F.3d 146, 152–53 (3d Cir.1999). Although the court vacated a preliminary injunction because the plaintiff had not demonstrated, on the record before the Third Circuit, that he was likely to prevail on the merits, the Third Circuit did find that he had standing to raise his claims. *Id.* at 152–53, 158.

In *Doe,* the plaintiff was a medical student with multiple sclerosis. *Id.* at 148. He received extra time from the National Board of Medical Examiners ("NBME") to take the United States Medical Licensing Examination, as an

accommodation for his disability. *Id.* The NBME followed a practice of annotating the scores of test takers who received testing accommodations if, in its judgment, the accommodations affected the comparability of the accommodated score to nonaccommodated scores. *Id.* Doe sued the NBME to enjoin it from annotating his scores to reflect that he received testing accommodations. *Id.*

The Third Circuit rejected the NBME's argument that Doe lacked standing. *Id.* at 152–53. The court first cited the familiar constitutional requirements for standing: "The 'irreducible constitutional minimum of standing' has three parts: injury in fact (a concrete harm suffered by the plaintiff that is actual or imminent), causation, and redressability." *Id.* at 152 (citing *Lujan v. Defenders of Wildlife,* 504 U.S. 555, 560, 112 S.Ct. 2130, 119 L.Ed.2d 351 (1992)). The court found that Doe had established a concrete injury in that flagging his test scores identified him as a disabled person against his will. *Id.* at 153. "Being so identified harms him in the sense that, because of justifiable and reasonable concern as a disabled person with how people who can affect his future and his livelihood, and whose judgment may be informed by the information, will perceive him, he has actively sought to avoid being so identified." *Id.* The court also found that "[b]ecause the injury complained of is an injury fairly traceable to the NBME that would be redressed by the relief Doe seeks, we conclude that Doe has met the constitutional standing requirement." *Id.* at 153.

Similarly, Breimhorst and the members of the IDA and CDR complain that ETS' flagging policy identifies and stigmatizes them as disabled, against their will, and prevents people with disabilities from competing in the application process on an equal basis with nondisabled people.

In addition, plaintiffs allege that they have been injured because the scores they receive from the ETS are less valuable than scores received by test takers who have not requested accommodations for disabilities. The scores of test takers who have received accommodations for their disabilities are flagged to indicate that they were taken under special conditions, because ETS believes that when standardized tests are taken under nonstandard conditions, the scores may not accurately reflect the test taker's educational ability. Thus, the scores of disabled test takers who received accommodations are automatically cast under a cloud of suspicion. This is also a concrete injury caused by ETS' policy, which would be entirely redressed by cessation of that policy.

Accordingly, the Court finds that plaintiffs have established that they have standing to bring this lawsuit against ETS.[1]

C.

Plaintiffs' first claim is that the ETS' flagging policy violates § 309 of the ADA. That section provides:

> Any person that offers examinations or courses related to applications, licensing, certification, or credentialing for secondary or post-secondary education, professional, or trade purposes shall offer such examinations or courses in a place and manner accessible to persons with disabilities or offer alternative arrangements for such individuals.

42 U.S.C. § 12189 (ADA § 309). A federal regulation adopted by the Department of Justice to implement this section of the ADA requires private entities who offer such examinations to ensure that:

> The examination is selected and administered so as to best ensure that, when the examination is administered to an individual with a disability that impairs sensory, manual, or speaking skills, the examination results accurately reflect the individual's aptitude or achievement level or whatever other factor the examination purports to measure, rather than reflecting the individual's impaired sensory, manual, or speaking skills (except where those skills are the factors that the examination purports to measure) [.]

28 C.F.R. § 36.309(b)(1)(i).

The Third Circuit found, on the record before it, that the plaintiff had not demonstrated that flagging was barred by these provisions. *Doe,* 199 F.3d at 155–57. It found that although these provisions require testing organizations to accommodate disabled test takers, there is no "requirement that the resulting scores be declared psychometrically comparable to the scores of examinees who take the test under standard conditions." *Id.* at 156.

The notion of accessibility, or best ensuring that examination results accurately reflect "aptitude or achievement level," see 28 C.F.R. § 36.309(b)(1)(i), does not mandate that the NBME provide examinations to the disabled that yield technically equal results; it mandates changes to the examinations—"alternative accessible arrangements," 42 U.S.C. § 12189—so that disabled people who are disadvantaged by certain features of standardized examinations may take the examinations without those features that disadvantage them.

Id.

It is true that the plain language of § 12189 of the ADA addresses the place and manner in which the test is given; it does not address the scoring of the test. Similarly, most of 28 C.F.R. § 36.309 also addresses the place and manner in which the test is given, to ensure that disabled test takers can take the test with accommodations for their disabilities. One of the key goals of the ADA, however, is to assure equality of opportunity for disabled

people. 42 U.S.C. § 12101(8). Thus, the Court will not focus narrowly on the ability of disabled people to take the test. To fulfill the goals of the ADA, the test itself must allow disabled people to demonstrate their true abilities. Section 36.309(b)(1) specifically addresses that goal. That section requires the test provider to assure that the examination "is *selected and administered* so as to *best ensure* that ... the examination *results* accurately reflect" the individual's ability, rather than his or her disability. 28 C.F.R. § 36.309(b)(1)(i) (emphases added). Read together, 28 U.S.C. § 12189 and 28 C.F.R § 36.309 require the test provider to provide accommodations for disabled test takers *and* to select and administer the test to best ensure that the test results for disabled test takers reflect their actual abilities. Thus, while the Third Circuit is correct that § 36.309(b)(1) does not require that the test results be exactly psychometrically equivalent, it does require the test provider to take steps to *best ensure* that the tests equally measure the skills of disabled and nondisabled test takers. This requirement is imposed regardless of the burden it causes the test provider. A different subsection of § 36.309 requires test providers to provide "appropriate auxiliary aids" for disabled test takers unless "offering a particular auxiliary aid would fundamentally alter the measurement of the skills or knowledge the examination is intended to test *or* would result in an undue burden." 28 C.F.R. § 36.309(b)(3). The "fundamental alteration" and "undue burden" defenses were deliberately excluded from the requirement of § 36.309(b)(1) that the tests be selected and administered so as to equally measure the abilities of disabled and nondisabled test takers. 28 C.F.R. Pt. 36, App. B at 651.

Section § 36.309(b)(1) imposes a duty on test providers to best ensure that their tests are selected and administered to equally measure the abilities of disabled and nondisabled test takers. If test providers meet this burden, then there would be no reason to flag the test results of disabled test takers who receive accommodations. It may be that there is no way to ensure that the test results are precisely equivalent. Then, even though ETS may have taken steps to best ensure that the results are equal, the results may still differ so significantly that flagging is appropriate. That is an issue of fact, however, and not a matter to be decided on a motion for judgment on the pleadings.

Even the Third Circuit expressly noted that Doe might have had a claim if he had shown "that his scores are comparable to non-accommodated scores, and thus that, by flagging, the NBME has imposed an inequality on him by treating the same thing differently." *Doe,* 199 F.3d at 156. That is precisely what the plaintiffs allege here. Plaintiffs allege that ETS has no

legitimate grounds to conclude that the accommodations provided to Breimhorst and other disabled examinees compromised the validity or reliability of their test scores. (First Amended Compl. ¶¶ 13, 34–36.) Accordingly, the Court finds that plaintiffs have stated a claim against ETS for violation of § 309 of the ADA.

D.

Plaintiffs also allege that ETS is violating § 302 of the ADA. That section sets forth a general rule that:

No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation.

42 U.S.C. § 12182(a). The Third Circuit, in *Doe,* found this section to be inapplicable because § 309 specifically defined the duties of testing providers under the ADA. *Doe,* 199 F.3d at 154–55. The court based its analysis on the canon of statutory construction that "the specific governs the general." *Id.* at 155. " 'The law is settled that however inclusive may be the general language of a statute, it will not be held to apply to a matter specifically dealt with in another part of the same enactment." ' *Id.* (quoting *Fourco Glass Co. v. Transmirra Prods. Corp.,* 353 U.S. 222, 228, 77 S.Ct. 787, 1 L.Ed.2d 786 (1957)). The Third Circuit found that "although applying section 302 would not necessarily undermine limitations created by section 309 (neither section explicitly mentions flagging), it would render 309 superfluous." *Id.* at 155. "If section 302 settled the question, there would have been no need to enact section 309." *Id.*

The Court agrees with the Third Circuit's analysis on this point. In addition, the implementing regulations for § 302 and § 309 of the ADA also support the Third Circuit's holding that only § 309 sets forth the ADA's requirements for testing providers.

The implementing regulations for Title III of the ADA, which includes §§ 302 and 309, are set forth in 28 C.F.R. Part 36 (§§ 36.101 though 36.608). Sections 36.201 and 36.202 set forth regulations that restate the requirements of § 302 of the ADA. Section 36.102(d) provides, however, that "[t]he requirements of this part applicable to private entities that offer examinations ... are set forth in § 36.309." 28 C.F.R. § 36.102(d). Section 36.102(d) thus quite clearly suggests that the remainder of the regulations, including those that restate the general prohibitions of § 302 of the ADA, are *not* applicable to testing providers.

Appendix B to Part 36 also suggests that § 302 does not apply to testing

providers. As the Court has already noted, § 36.309(b)(3) provides a "fundamental alteration" or "undue burden" defense to the provision of auxiliary aids for disabled test takers. Those defenses are not incorporated into § 36.309(b)(1)'s requirement that the test be selected and administered to equally measure the actual abilities of disabled and nondisabled test takers. Appendix B to Part 36 states that the "fundamental alteration" and "undue burden" defenses were imported into § 36.309(b)(3) from § 302 of the ADA. 28 C.F.R. Pt. 36, App. B at 651 (1999). It goes on to state that "[o]ne commenter argued that similar limitations should apply to all of the requirements of § 36.309, but the Department did not consider this extension appropriate." *Id.* Thus, the Department of Justice imported part of § 302 into the regulations for testing providers, but not all of it. This also strongly suggests that § 309 of the ADA and 28 C.F.R. § 36.309 define the ADA's requirements for testing providers, and that § 302 of the ADA does not apply.

Accordingly, for the reasons stated by the Third Circuit in *Doe,* and for the reasons stated above, the Court finds that plaintiffs have not stated a claim against ETS under § 302 of the ADA. ETS' motion for judgment on the pleadings is granted with respect to plaintiffs' claim for violation of § 302 of the ADA.

E.

Plaintiffs' third claim is for violation of § 503(b) of the ADA, which provides:

> It shall be unlawful to coerce, intimidate, threaten or interfere with any individual in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by this chapter.

42 U.S.C. § 12203(b) (ADA § 503(b)). Plaintiffs allege that ETS' flagging policy interferes with their right to reasonable testing accommodations by discouraging them from requesting such accommodations. Plaintiffs also allege that it interferes with their right to maintain the confidentiality of their disabilities from third parties, such as school admissions offices.

Case law interpreting § 503(b) is sparse. The plain words of the statute, however, preclude a party from intimidating or coercing another party *not* to exercise his rights under the ADA, as well as barring interference against a person who has exercised his rights under the ADA. *See, e.g., Doe v. Kohn Nast & Graf,* 866 F.Supp. 190, 197 (E.D.Pa.1994) (lawyer stated a claim under § 503(b) when his law firm asked him to leave because it learned he intended to file an ADA complaint against them); *Bingham v. Oregon Sch. Activities Ass'n,* 24 F.Supp.2d 1110, 1118–19 (D.Ore.1998) (policy that

discouraged disabled students from making requests for accommodation violated § 503(b)).

Plaintiffs assert both types of claims: ETS' flagging policies intimidate them not to request accommodations, and ETS punishes them for doing so by flagging their test results even though ETS has no reason to believe that their scores are any less valid or reliable than those of test takers who took the test without accommodations. Plaintiffs have thus stated a claim for violation of § 503(b) of the ADA, and ETS' motion for judgment on the pleadings on this claim is denied.

F.

Plaintiffs' next claim is for violation of § 504 of the Rehabilitation Act. Section 504 of the Rehabilitation Act, 29 U.S.C. § 794, provides in relevant part:

> No otherwise qualified person with a disability in the United States ... shall, solely by reason of her or his disability, be excluded from the participation in, denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance[.]

29 U.S.C. § 794(a).

ETS argues that flagging is expressly permitted under the Department of Education's interpretation of regulations promulgated under the Rehabilitation Act. ETS' citations to authority do not support that argument. Section 104.42(b)(4) of Title 34 of the Code of Federal Regulations provides that postsecondary education programs and activities generally "may not make preadmission inquiry as to whether an applicant for admission is a handicapped person but, after admission, may make inquiries on a confidential basis as to handicaps that may require accommodation." The Department of Education Office for Civil Rights ("OCR") has stated that a postsecondary education institution does not violate this regulation by "using test scores indicating that the test was taken under nonstandard conditions, so long as the test score is not the only criterion used for admission, and a person with a disability is not denied admission because the person with a disability took the test under nonstandard testing conditions." *Duke University,* 4 Nat. Disability Law Rep. ¶ 87, Com pl. No. 04–91–2124 (OCR Apr. 2, 1993). The OCR has also stated that a postsecondary educational institution violates the regulation by adopting "a practice of devaluing the [test] scores of individuals with disabilities who have taken the [test] under nonstandard conditions, thereby subjecting these individuals to differential treatment on the basis of disability." *SUNY Health Science Ctr. at Brooklyn—College of Medicine (N.Y.),* 5 Nat. Disability Law Rep. ¶ 77, Compl. No. 02–92–2004

(OCR Aug. 18, 1993). In other words, a university can use flagged test scores in the admission process as long as it does not deny admission to disabled applicants because they took the test under nonstandard conditions.

This regulation and the OCR's interpretation of it says nothing about whether a testing provider can be liable for discriminatorily flagging test scores. By its terms, 34 C.F.R. § 104.42 applies to postsecondary schools, not to testing providers.[2] Underlying the OCR's interpretation of that regulation seems to be an assumption that flagged test scores are not in themselves discriminatory because they reflect a real difference between test scores taken under nonstandard conditions and those taken with accommodations. Plaintiffs expressly challenge that assumption in this action.

Testing providers are required to best ensure that "examination results accurately reflect the individual's aptitude or achievement level or whatever other factor the examination purports to measure, rather than reflecting the individual's impaired sensory, manual or speaking skills[.]" 28 C.F.R. § 36.309(b)(i). Although that regulation was enacted under the ADA, it is intended to mimic the liability for test providers under the Rehabilitation Act. 28 C.F.R. Pt. 36, App. B at 651 (1999). The notes to 28 C.F.R. § 36.309 state that § 309 of the ADA was enacted "to fill the gap that is created when licensing, certification, and other testing authorities are not covered by section 504 of the Rehabilitation Act or title II of the ADA." 28 C.F.R. Pt. 36, App. B at 651 (1999).

Many licensing, certification, and testing authorities are not covered by section 504, because no Federal money is received; nor are they covered by title II of the ADA because they are not State or local agencies. However, States often require the licenses provided by such authorities in order for an individual to practice a particular profession or trade. Thus, the provision was included in the ADA to assure that persons with disabilities are not foreclosed from educational, professional, or trade opportunities because an examination or course is conducted in an inaccessible site or without needed modifications.

Id. This language strongly suggests that liability for testing providers is intended to be the same under the Rehabilitation Act and the ADA.

As the Court has already noted, if the testing provider complies fully with the requirement that its tests measure equally the abilities of disabled and nondisabled test takers, there would be no need for flagging. All test scores would accurately reflect the abilities of the test taker, regardless of whether the test was taken with accommodations for the test taker's disability.

On the pleadings before the Court, plaintiffs allege that ETS discriminates against disabled test takers by flagging their scores without any justification for doing so. These allegations state a claim. Whether that claim can be proven is a factual matter to be determined later in these proceedings. ETS' motion for judgment on plaintiffs' claims for violation of the Rehabilitation Act is denied.

G.

Plaintiffs also assert state law claims against ETS for violation of the Unruh Civil Rights Act, the Disabled Persons Act, and the Unfair Competition Act.

1.

The Unruh Civil Rights Act provides: “All persons within the jurisdiction of this state are free and equal, and no matter what their ... disability are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever.” Cal. Civ.Code § 51. The statute expressly provides that a violation of the ADA is also a violation of the Unruh Civil Rights Act. Cal. Civ.Code § 51 (“A violation of the right of any individual under the Americans with Disabilities Act of 1990 (Public Law 101–336) shall also constitute a violation of this section.”). Because plaintiffs have stated a claim against ETS for violation of the ADA, they have also stated a claim under the Unruh Civil Rights Act.

2.

The Disabled Persons Act provides that: “Individuals with disabilities shall be entitled to full and equal access, as other members of the general public, ... to places of public accommodation ... and other places to which the general public is invited[.]” Cal. Civ.Code § 54.1(a)(1). The statute expressly provides that a violation of the ADA is also a violation of the Disabled Persons Act. *Id.* Because plaintiffs have stated a claim against ETS under the ADA, they have also stated a claim under the Disabled Persons Act.

3.

Section 17200 of the California Business and Professions Code defines “unfair competition” to include “any unlawful, unfair or fraudulent business act or practice.” Cal. Bus. & Prof.Code § 17200. The Legislature intended this sweeping language to include anything that can properly be called a business practice and that at the same time is forbidden by law. *Bank of the West v. Superior Court,* 2 Cal.4th 1254, 1266, 10 Cal.Rptr.2d 538, 546, 833 P.2d 545 (1992). “Virtually any law—federal, state or local—can serve as a predicate for a section 17200 action.” *State Farm Fire & Cas. Co. v. Superior Court,* 45 Cal.App.4th 1093, 1102–03, 53 Cal.Rptr.2d 229, 234

(1996). Because plaintiffs have stated a claim against ETS under the ADA, they have also stated a claim for unfair competition under § 17200 of the California Business and Professions Code.

4.

The Court need not reach the parties' arguments about the extent to which the scope of the state laws may or may not extend beyond the scope of the ADA or Rehabilitation Act.

III.

Accordingly,

IT IS HEREBY ORDERED that:

1. ETS' motion for judgment on the pleadings is GRANTED with respect to plaintiffs' claim for violation of § 302 of the ADA.

2. ETS' motion for judgment on the pleadings is DENIED in all other respects.

3. The claims remaining to be litigated are plaintiffs' claims that ETS' flagging policy violates § 309 of the ADA, § 504 of the Rehabilitation Act, the Unruh Civil Rights Act, the Disabled Persons Act, and § 17200 of the California Business and Professions Code.

4. The parties will appear before the Court for a status conference on Thursday, May 25, 2000, at 2:00 p.m. A joint status conference statement will be filed no later than May 18, 2000.

* * CERTIFICATE OF SERVICE * *

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on March 27, 2000, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.