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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

STEVEN ZWERIN, On his own behalf and  
on Behalf of all others similarly situated,

Plaintiff,

v.

LAWLINE, a New York corporation; ALM  
MEDIA HOLDINGS, a Delaware  
corporation; and TRT CLE, a New York  
corporation,

Defendants.

No. 2:21-cv-00780

CLASS ACTION COMPLAINT FOR  
DECLARATORY AND INJUNCTIVE  
RELIEF UNDER THE AMERICANS WITH  
DISABILITIES ACT

**I.**

**INTRODUCTION**

Attorneys licensed in 46 states are subject to mandatory Continuing Legal Education (CLE) requirements as a condition of maintaining their licenses. At least in part because of that mandated patronage, providing CLE courses accepted by various state bars is a thriving business, and has attracted many entrants, including Defendants. Many of those courses are offered online, either live in real time or recorded. Because of convenience and flexibility, the online format is attractive to many attorneys. Online offerings are generally less expensive than many live CLE courses.

Plaintiff Zwerin has a significant hearing loss, as do many other attorneys, and he is unable to fully understand and benefit from online CLE courses using the online audio. He requires captioning, in which the spoken material is put into written form displayed in synch

1 with the oral presentation. None of the Defendants offer captioning, and they therefore deny  
2 Zwerin and all members of the putative class the benefit of their course offerings.

3 As is set forth in this Complaint, the Americans with Disabilities Act (ADA) requires  
4 CLE providers to make those accommodations available. The Complaint seeks 1) a declaratory  
5 judgment stating that Defendants must provide those accommodations, 2) a nationwide  
6 injunction requiring Defendants to offer those accommodations to Mr. Zwerin and to any other  
7 similarly situated attorneys who wish to take Defendants' CLE courses, and to publicize the  
8 availability of those accommodation, and 3) for attorneys' fees and litigation costs and  
9 expenses.

10 **II.**

11 **JURISDICTION AND VENUE**

12 1. This Court has jurisdiction over the subject matter of this case pursuant to 28  
13 U.S.C. § 1331 because the claims are made under the federal Americans with Disabilities Act,  
14 42 U.S.C. § 12101 et seq., and specifically 42 U.S.C. § 12189, which applies to person that  
15 offer courses related to licensing. This Court may grant equitable relief pursuant to 42 U.S.C. §  
16 12188(a)(1) and (2), and may award fees, costs and expenses to a prevailing party pursuant to  
17 42 U.S.C. § 12205.

18 2. This Court has personal jurisdiction over non-resident Defendants because all of  
19 them actively solicit business in Washington, advertise that their courses will fulfill Washington  
20 CLE requirements and have undertaken the necessary steps to qualify as approved CLE  
21 providers in Washington. This case arises out of those purposeful acts by Defendants.

22 3. Venue is proper in this district and division because plaintiff Zwerin is a resident  
23 and some of the acts and omissions giving rise to this case occurred here.

1 **III.**

2 **THE PARTIES**

3 4. Plaintiff Steven Zwerin is an attorney licenses in Washington and a resident of  
4 Seattle, Washington. He is employed by the City of Seattle as the Director of Human Resources  
5 Investigations, leading workplace investigations, and providing conflict-resolution programs  
6 and training to Human Resources personnel and management for the City of Seattle’s 12,000  
7 employees. He graduated from Seattle University’s School of Law in 1998.

8 5. Defendant Lawline, <https://www.lawline.com/>, is a New York for-profit  
9 corporation headquartered in New York City. Lawline is an accredited Washington CLE  
10 provider, #9113811.

11 6. Defendant ALM Media Holdings is a Delaware corporation headquartered in New  
12 York City offering CLE courses under the name of CLE Center, <https://clecenter.com/>. CLE  
13 Center is an approved Washington provider.

14 7. Defendant TRT CLE, <https://www.trtcle.com/>, is a private New York corporation  
15 headquartered in New York City. TRT CLE is an approved Washington provider.

16 **IV.**

17 **OPERATIVE FACTS**

18 8. Washington requires attorneys to complete and report 45 hours of CLE every  
19 three years. Washington permits some of those hours to be obtained through online, on-demand  
20 courses, and during the Covid quarantine, permits all 45 hours to be earned through on-demand  
21 online courses.

22 9. All Defendants offer individual courses approved for CLE credit by the  
23 Washington State Bar. All Defendants also offer both annual individual CLE passes and  
24 “bundles” of pre-approved Washington courses sufficient to satisfy the full 45-hour CLE  
25 requirement with a single purchase. Both the unlimited annual package and the Washington  
26 bundle are offered at a very substantial savings over the individually purchased courses.

1           10. Plaintiff Zwerin has been deaf in his right ear since infancy, and had a severe-to-  
2 profound impairment in his left ear, in which he wore a hearing aid. He now has cochlear  
3 implants (CIs) in both ears, and when he removes his external processors, he is totally deaf.

4           11. Zwerin estimates that with his two CIs, he is now able to understand between 50  
5 and 60% of material transmitted through online feeds, but reports that the concentration  
6 required to comprehend even that portion of the aural material is exhausting.

7           12. Zwerin watches television with the captions engaged, and the captions enable him  
8 to enjoy television. Similarly, he could gain the benefit of online CLE if the video feed included  
9 captions that could be activated by the viewer.

10           13. On January 10, 2021, Zwerin sent an email to the customer support desk at  
11 Lawline asking if a course entitled “Ethical Issues in Employment Law” was or could be  
12 captioned. He received a response from Cherisse Franklin on Jan. 11 stating that while some  
13 new courses might be captioned, the archived material, which makes up the vast majority of  
14 Lawline’s offerings, was not captioned. Zwerin then asked whether captions for archived  
15 material and for the Washington bundle could be provided on demand. Ms. Franklin said she  
16 would investigate, but Zwerin received no further responses.

17           14. On January 10, 2021, Zwerin sent an email to the CLE Counselor support desk at  
18 CLE Center asking if the Washington bundle is captioned. He has received no response.

19           15. On April 23, counsel sent letters by email attachment to all Defendants on behalf  
20 of Zwerin and seven other deaf and hard of hearing attorneys asking whether captioning was or  
21 could be provided, asking for a response on or before May 14 and stating that a failure to  
22 respond would be construed as a denial of those requests. While several recipients of the letter  
23 responded positively, stating either that captioning was in fact available or would be provided in  
24 the future, Defendants did not respond, and have not done so.

25           16. Zwerin has checked the websites of all Defendants, and while he has located  
26 courses he would be interested in considering, he has found no indication that the courses are

1 captioned and therefore accessible to him. He would therefore have to buy those courses  
2 without any way of knowing whether he could benefit from them.

3 17. Zwerin and other members of the putative class of deaf and hard of hearing  
4 attorneys are entitled to the same range of CLE options available to attorneys without hearing  
5 impairments.

6 18. If the Defendants provided captioning and made that availability known, Zwerin  
7 and other members of the putative class would be able to at least consider those courses as  
8 possible means of satisfying their CLE requirements in Washington and other states where  
9 Defendants are approved CLE providers.

10 **V.**

11 **CAUSE OF ACTION**

12 19. The Americans with Disabilities Act is a “national mandate for the elimination of  
13 discrimination against individuals with disabilities,” 42 U.S.C. § 12101 (b)(1).

14 20. The ADA has a specific provision dealing addressing the issue presented by this  
15 lawsuit, as follows:

16 Any person that offers examinations or courses related to  
17 applications, licensing, certification, or credentialing for secondary  
18 or postsecondary education, professional, or trade purposes shall  
19 offer such examinations or courses in a place and manner  
20 accessible to persons with disabilities or offer alternative  
21 accessible arrangements for such individuals.

22 42 U.S.C. § 12189.

23 21. Courses that satisfy requirements necessary to maintain an active license to  
24 practice law are related to licensing for professional purposes, and must therefore be offered in  
25 a manner accessible to persons with disabilities.

26 22. The ADA defines “disability” as “a physical or mental impairment that  
substantially limits one or more major life activities of such individual,” 42 U.S.C. § 12102  
(1)(A), and lists hearing, learning and working as among “major life activities,” 42 U.S.C. §

1 12102(2)(A). The existence of a disability is to be determined “without regard to the  
2 ameliorative effects of mitigating measures such as ... hearing aids and cochlear implants,” 42  
3 U.S.C. § 12102(4)(E)(i)(I). Because his hearing impairment prevents Zwerin from  
4 understanding and therefore learning from online CLE courses that lack captioning, he is a  
5 person with a disability within the meaning of the ADA as it applies to online CLE courses.

6 23. The regulations specifically implementing § 12189 state that providing courses in  
7 an accessible format may require the provider to offer “auxiliary aids and services,” 28 C.F.R. §  
8 36.309(c)(3), which are defined by example as “interpreters or other effective methods of  
9 making orally delivered materials available to individuals with hearing impairments,” *id.*  
10 Regulations generally implementing Title III of the ADA, of which § 12189 is a part, explicitly  
11 list “open and closed captioning” as examples of auxiliary aids and services. 28 C.F.R. §  
12 36.303(b)(1).

13 24. The regulations specifically implementing § 12189 state that providing courses in  
14 an accessible format may require the provider to offer “auxiliary aids and services,” 28 C.F.R. §  
15 36.309(c)(3), which are defined by example as “interpreters or other effective methods of  
16 making orally delivered materials available to individuals with hearing impairments,” *id.*  
17 Regulations generally implementing Title III of the ADA explicitly list “open and closed  
18 captioning” as examples of auxiliary aids and services. 28 C.F.R. § 36.303(b)(1).

19 25. By failing to provide captioning or any other effective method of making orally  
20 delivered material available to Zwerin or other members of the putative class of similarly  
21 situated attorneys, Defendants are violating the ADA.

22 26. Captioning online CLE content is feasible. The Practicing Law Institute has been  
23 offering captioning since at least 2018, <https://www.pli.edu/accessibility> (last visited May 16,  
24 2021). Attorney Credits captions its streaming videos.  
25 <https://www.attorneycredits.com/features/feature-faq> (last visited May 16, 2021). In response to  
26 the April 23 letter, the National Business Institute, <https://www.nbi-sems.com/>, MyLawCLE,

1 <https://mylawcle.com/> (which shares CLE content with the Federal Bar Association) and the  
2 National Academy of Continuing Legal Education <https://www.nacle.com/> all committed both  
3 to providing captions and to indicating that captioning is available. It is presently doing that, as  
4 indicated by a recent online advertisement for an upcoming course.

5 [https://mylawcle.com/products/how-the-ada-impacts-websites-and-mobile-apps-and-what-  
6 businesses-should-do-about-it/](https://mylawcle.com/products/how-the-ada-impacts-websites-and-mobile-apps-and-what-businesses-should-do-about-it/) (last visited June 4, 2021).

7 27. The ADA permits private individuals to bring an action for injunctive relief to  
8 prevent further violations, 42 U.S.C. § 12188(a)(1) (incorporating remedies available under 42  
9 U.S.C. § 2000a-3), including an order that necessary auxiliary aids and services be provided, 42  
10 U.S.C. § 12188(a)(2).

11 28. The Federal Declaratory Judgment Act, 28 U.S.C. § 2201, and Rule 57, Fed. R.  
12 Civ. P., empower this Court to declare the rights of interested parties.

13 29. Plaintiff Zwerin is entitled to a declaratory judgment that Defendants must  
14 provide captioning and other auxiliary aids and services to make its courses accessible to him  
15 and to other members of the putative class of similarly situated attorneys, and to an injunction  
16 requiring all Defendants to do so.

17 30. Additionally, Zwerin is entitled to a declaratory judgment that the Defendants  
18 must indicate on their websites and in any other advertising that captioning or other auxiliary  
19 aids and services can be provided for its courses, and if captioning is provided for fewer than all  
20 courses, must indicate the courses for which captioning is available through such designation as  
21 a [cc] icon placed next to each course title.

22 **V.**

23 **CLASS ALLEGATIONS**

24 31. Plaintiff brings this action pursuant to Rule 23(b)(2), Federal Rules of Civil  
25 Procedure, and ask this Court to certify a class defined as follows:  
26

1 All attorneys subject to mandatory Continuing Legal Education  
2 requirements who, because of their hearing losses, need captioning  
3 or other auxiliary aids and services to understand and therefore  
benefit from the courses offered by Defendants.

4 32. Based on objective data from a random sample of the adult population, Lin et al.  
5 from Johns Hopkins University estimate that some 15 million Americans between the ages of  
6 20 and 70 have an impairing hearing loss, which is roughly 7% of the overall population in that  
7 age range. <https://www.statista.com/statistics/241488/population-of-the-us-by-sex-and-age/> (last  
8 visited May 15, 2021).

9 33. There are roughly 1.33 million lawyers in the United States as of 2020,  
10 [https://www.statista.com/statistics/740222/number-of-lawyers-](https://www.statista.com/statistics/740222/number-of-lawyers-us/The_total_number_of_lawyers,2015_figure_of_1.3_million)  
11 [us/The\\_total\\_number\\_of\\_lawyers,2015\\_figure\\_of\\_1.3\\_million](https://www.statista.com/statistics/740222/number-of-lawyers-us/The_total_number_of_lawyers,2015_figure_of_1.3_million). (last visited May 15, 2021). If  
12 lawyers sustain impairing hearing loss at the same rate as the general population aged 20-70,  
13 these numbers would suggest that over 90,000 U.S. attorneys have an impairing hearing loss,  
14 and many would benefit from captioning or other auxiliary aids and services.

15 34. The requirements of Rule 23(a), Fed. R. Civ. P., are satisfied for the following  
16 reasons:

17 **Numerosity:** As stated in Paragraphs 26 and 27, the putative class members are too  
18 numerous to be joined and impossible to identify.

19 **Commonality and Typicality:** The questions of law and fact raised by Zwerin's  
20 complaint would be common to the issues raised by any other attorney with hearing loss  
21 concerning Defendants' courses, and the requested relief would benefit all members of the  
22 putative class. Because the claim is being brought under Title III of the ADA, which does not  
23 permit individuals to recover monetary damages, there are no individual issues, although  
24 members of the putative injunction class could still seek damages under any state or local law  
25 that might provider for such relief.  
26





1 c. For all costs of court, including reasonable attorneys' fees, pursuant to 42  
2 U.S.C. § 12205;

3 d. For such other and further relief as may be appropriate.

4 DATED: June 10, 2021.

**LOCAL COUNSEL:**

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CIVIL COVER SHEET

The JS 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
STEVEN ZWERIN
(b) County of Residence of First Listed Plaintiff KING
(c) Attorneys (Firm Name, Address, and Telephone Number)
Breskin Johnson Townsend, 1000 Second Ave, Ste 3670, Seattle WA 98104 (206) 652-8660

DEFENDANTS
LAWLINE, ALM MEDIA HOLDINGS, TRT CLE
County of Residence of First Listed Defendant
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
Attorneys (If Known)

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)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
PTF DEF
Citizen of This State 1 1
Citizen of Another State 2 2
Citizen or Subject of a Foreign Country 3 3
Incorporated or Principal Place of Business In This State 4 4
Incorporated and Principal Place of Business In Another State 5 5
Foreign Nation 6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)
CONTRACT: 110 Insurance, 120 Marine, 130 Miller Act, 140 Negotiable Instrument, 150 Recovery of Overpayment & Enforcement of Judgment, 151 Medicare Act, 152 Recovery of Defaulted Student Loans (Excludes Veterans), 153 Recovery of Overpayment of Veteran's Benefits, 160 Stockholders' Suits, 190 Other Contract, 195 Contract Product Liability, 196 Franchise.
REAL PROPERTY: 210 Land Condemnation, 220 Foreclosure, 230 Rent Lease & Ejectment, 240 Torts to Land, 245 Tort Product Liability, 290 All Other Real Property.
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.
PRISONER PETITIONS: Habeas Corpus: 463 Alien Detainee, 510 Motions to Vacate Sentence, 530 General, 535 Death Penalty. Other: 540 Mandamus & Other, 550 Civil Rights, 555 Prison Condition, 560 Civil Detainee - Conditions of Confinement.
FORFEITURE/PENALTY: 625 Drug Related Seizure of Property 21 USC 881, 690 Other.
LABOR: 710 Fair Labor Standards Act, 720 Labor/Management Relations, 740 Railway Labor Act, 751 Family and Medical Leave Act, 790 Other Labor Litigation, 791 Employee Retirement Income Security Act.
IMMIGRATION: 462 Naturalization Application, 465 Other Immigration Actions.
BANKRUPTCY: 422 Appeal 28 USC 158, 423 Withdrawal 28 USC 157.
INTELLECTUAL PROPERTY RIGHTS: 820 Copyrights, 830 Patent, 835 Patent - Abbreviated New Drug Application, 840 Trademark, 880 Defend Trade Secrets Act of 2016.
SOCIAL SECURITY: 861 HIA (1395ff), 862 Black Lung (923), 863 DIWC/DIWW (405(g)), 864 SSID Title XVI, 865 RSI (405(g)).
FEDERAL TAX SUITS: 870 Taxes (U.S. Plaintiff or Defendant), 871 IRS—Third Party 26 USC 7609.
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 (15 USC 1681 or 1692), 485 Telephone Consumer Protection Act, 490 Cable/Sat TV, 850 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.

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 - Transfer
8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 usc 12189
Brief description of cause:
Violation of Americans with Disabilities Act

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$
CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions):
JUDGE DOCKET NUMBER

DATE: Jun 10, 2021
SIGNATURE OF ATTORNEY OF RECORD: s/Roger Townsend

FOR OFFICE USE ONLY
RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Deaf Attorney Claims Lawline, CLE Center, TRT CLE Failed to Provide Captioning for Online Courses](#)

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