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and for all others similarly situated*

**SUPREME COURT OF NEW YORK  
FOR THE COUNTY OF NEW YORK**

ALEXANDRA GOMEZ-JIMENEZ,  
SCOTT TIEDKE,  
KATHERINE COOPER,  
MATTHEW CRAWFORD,  
GEOFFREY CORISDEO,  
SOLINE McLAIN, RENEE  
RIVAS, GERGAN MITEVA,  
and CHLOE GILGAN,  
on behalf of themselves and  
all others similarly situated,

Plaintiffs,

v.

NEW YORK LAW SCHOOL, and  
DOES 1-20,

Defendants.

**Index No.** 652226/2011

**AMENDED COMPLAINT**

**JURY TRIAL DEMANDED**

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Plaintiffs, acting for themselves and for all persons who currently attend or graduated from New York Law School during the relevant time period (collectively “Plaintiffs”), allege as follows. Plaintiffs’ allegations are based on the investigation of counsel, including but not limited to reviews of advertising and marketing material, various publicly available information and interviews of former students, and are thus made on information and belief, except as to individual actions of Plaintiffs, as to which Plaintiffs have personal knowledge. Upon information and belief, more than two-thirds of all members of the putative class, at all material times relevant to the allegations of this Complaint, were residents of the State of New York and all are current or former students of Defendant New York Law School (“New York Law,” “NYLS” or “Defendants”).

### **PRELIMINARY STATEMENT**

*“Sunlight is the Best Disinfectant”* – Justice Louis Brandeis

1. This action seeks to remedy a systemic, ongoing fraud that is ubiquitous in the legal education industry and threatens to leave a generation of law students in dire financial straits. Essentially, Plaintiffs want to bring an element of “sunlight” or transparency to the way law schools report post-graduate employment data and salary information, by requiring that they make critical, material disclosures that will give both prospective and current students a more accurate picture of their post-graduate financial situation, as opposed to the *status quo* where law schools are incentivized to engage in all sorts of legerdemain when tabulating employment statistics.

2. Indeed, New York Law’s Dean, Richard Matasar, publicly recognized this problem, when, during a program sponsored by the Association of American Law Schools, he acknowledged that “[w]e [law school deans] should be ashamed of ourselves. We own our

students' outcomes. We took them. We took their money....And if they don't have a good outcome in life, we're exploiting them. It's our responsibility to own the outcomes of our institutions. If they're not doing well ... it's gotta be fixed. Or we should shut the damn place down. And that's a moral responsibility that we bear in the academy.”

3. However, far from heeding his own advice by taking “ownership” of his students’ outcomes, Mr. Matasar’s school consigns the majority of them to years of indentured servitude, saddling them with tens of thousands of dollars in crushing, non-dischargeable debt that will take literally decades to pay off. New York Law has done this while blatantly misrepresenting and manipulating its employment statistics to prospective students, employing the type of “Enron-style” accounting techniques that would leave most for-profit companies facing the long barrel of a government investigation and the prospect of paying a substantial civil fine. These deceptions are perpetuated so as to prevent prospective students from realizing the obvious -- that attending NYLS and forking over nearly \$150,000 in tuition payments is a terrible investment which makes little economic sense and, most likely, will never pay off.

4. Specifically, New York Law, through both print and internet marketing materials it produced and disseminated, makes **two uniform, written misrepresentations**:

a. First, from August 11, 2005 to the present (“Class Period”), NYLS reported with “Madoff”-like consistency that, depending on the year, between 90 and 92 percent of its graduates secured employment within nine months of graduation. The context of these representations make it appear to reasonable consumers, such as Plaintiffs, that the jobs reported are full-time, permanent positions for which a law degree is required or preferred. These numbers are false because New York Law’s reported employment numbers include *any* type of employment, including jobs that have absolutely nothing to do with the legal industry, do not

require a JD degree or are temporary or part-time in nature. If NYLS was to disclose the number of graduates who have secured full-time, permanent positions for which a JD degree is required or preferred, the numbers would drop dramatically, and could be well below *40 percent*, if not even lower.

b. Second, during the Class Period, NYLS grossly inflated its graduates' reported mean salaries, by calculating them based on a small, deliberately selected subset of graduates who submit their salary information. Indeed, the salary information for the Class of 2010 which was recently posted is based on a scant response rate of 22 percent of the entire class, while the salary information for the Class of 2009 is based on a miniscule 20 percent. If the Defendants were to disclose salary data based on a broad, statistically meaningful representation of its graduates, by including more graduates who have failed to secure full-time, permanent employment, the reported mean salaries would decline precipitously.

5. New York Law's representations are demonstrably false for the following reasons:

a. NYLS's reported placement rates and salary information have remained eerily steady during the "Great Recession," as the placement rates for the Class of 2009 were an impressive 90 percent and 92 percent for the Class of 2010. Currently, the legal employment market is highly oversaturated, with law schools churning out 43,000 JD degrees each year, even though roughly half as many jobs are available (26,000). Yet, with legal jobs becoming increasingly scarce, NYLS, instead of telling the sobering truth to prospective and current students, continues to make the fantastical claim that the overwhelming majority of its graduates are gainfully employed.

b. The fact that only 22 percent of NYLS's 2010 class, 20 percent of its 2009 class and 25 percent of its 2007 class supplied salary information strongly suggests that the school's true employment rate is far below 50, let alone, 90 percent. After all, given that New York Law's employment survey is confidential and highly secretive, a graduate would have every incentive to be as fulsome as possible in reporting all relevant employment and salary information.

c. Despite steadily increasing its student body by approximately 20 percent throughout the past decade, NYLS has still somehow maintained its stellar employment rates of over 90 percent.

d. As set forth in painstaking detail below, the employment and salary data reported by New York Law are at odds with employment statistics reported by NALP, meaning that for NYLS's statistics to be accurate it would likely need to be placing students well above the 40 percent of law school graduates nationally who secure full-time, permanent legal employment, despite its relatively lenient admission standards and being ranked 135<sup>th</sup> of all accredited law schools by *U.S. News & World Report* ("US News").

6. Defendants' deceptions are all the more shocking considering that the school has functioned as a veritable "JD-factory", enrolling in 2009 1,596 total students, an increase of 270 students from 2000. In 2009, at the height of the "Great Recession" and while the legal industry was experiencing historic job cuts, NYLS enrolled its largest first-year class ever -- 736 students -- which was an astounding 30 percent increase from the previous year. As detailed in a recent *New York Times* exposé, these increases can largely be explained by the school's desire to maintain the AAA rating that Moody's had given the school's \$135 million bond offering which was floated to finance the construction of a brand new 235,000-square-foot complex.

7. Unfortunately, NYLS's false and fraudulent representations and omissions are endemic in the law school industry, as nearly every school to a certain degree blatantly manipulates their employment data to make themselves more attractive to prospective students. It is a dirty industry secret that law schools employ a variety of deceptive practices and accounting legerdemain to "pretty up" or "cook" the job numbers, including, among other things, hiring recent unemployed graduates as "research assistants" or providing them with "public interest" stipends so as to classify them as employed, excluding graduates who do not supply employment information from employment surveys, refusing to categorize unemployed graduates who are not "actively" seeking employment as unemployed, and classifying graduates who have only secured temporary, part-time employment as being "fully" employed.

8. Compounding problems, there is no place where prospective students can find NYLS's real employment numbers. The school provides the same dubious statistics to the *US News* and the American Bar Association ("ABA"), the two primary sources of information for law school employment data. Like NYLS, these sources count as "employed" those who have secured employment in *any* capacity in *any* kind of job, no matter how unrelated to the legal field.

9. By playing fast and loose with its employment data, New York Law creates an impression of bountiful employment opportunity that in reality does not exist and bamboozles Plaintiffs into taking on substantial debt to finance their NYLS education. According to *US News*, NYLS students graduate on average with a whopping \$119,437 in loans, placing them in the top 17<sup>th</sup> percentile of indebtedness among all law school graduates. The current tuition for NYLS is almost \$50,000, excluding living expenses, making it one of the most expensive law schools in the country, despite its lackluster ranking and reputation.

10. To a remarkable degree, NYLS and the law school industry in general have been astonishingly successful in deceiving prospective students about the value of a law degree in an effort to maintain and increase both enrollment and tuition. Last year, a record 51,426 first-year students enrolled in law schools, up by over 60 percent from 1971, while NYLS enrolls approximately 1,500 students annually. Additionally, tuition at New York Law -- much like the rest of the law school industry -- has risen exponentially over the past two decades, far exceeding both inflation and any increase in attorneys' starting salaries, and since 2000 alone has more than doubled from \$22,900 to its current sticker price of \$47,000.

11. The dramatic increase in law school tuition has dovetailed with the dramatic increase in faculty compensation, a fact which is especially true at NYLS where the faculty have handsomely profited at their students' expense. For example, for the fiscal year 2009, Dean Matasar earned a staggering \$543,738 in total compensation, up over 30 percent from a mere six years ago, making him one of the highest paid law school deans in the country, while Vice President for Finance, Fred DeJohn, earned \$453,500 in total compensation, a whopping 50 percent increase from the fiscal year 2003.

12. After much public hand-wringing and increased scrutiny, the legal profession has finally begun to recognize the systemic fraud the law school industry has been perpetuating. Senator Barbara Boxer of California and Senator Charles Grassley of Iowa have each sent multiple letters to the President of the ABA, taking the organization to task for failing to properly police the law school industry. Additionally, a coalition of 55 law school student body presidents have sent to Congress proposed legislation that would, among other things, create new reporting standards for employment data, require law schools to submit annual employment reports to the Department of Education ("DOE"), and empower the DOE to audit these reports.

The problem has grown so acute that even both the current and past presidents of the California Bar Association in much publicized op-ed pieces each separately implored law school deans to adopt more rigorous reporting standards by disclosing the type of detailed employment and salary information that would allow students to get a more realistic picture of their post-graduate financial situation.

13. These entreaties had fallen mostly on deaf ears until now, as the ABA's committee on accrediting law schools has just recently enacted guidelines that would expressly require law schools to report their true post-graduate employment rate, by disclosing the type of information Plaintiffs are seeking here: the exact percentage of graduates who have obtained permanent, full-time legal employment. Specifically, law schools will be required to break down their employment data so as to indicate whether a position is full-time or part-time, permanent or temporary, funded by the law school or an affiliated university, and whether bar passage or a JD degree is required or preferred. Unfortunately, these changes come too late for Plaintiffs since they have already taken on tens of thousands of dollars in non-dischargeable debt based on NYLS's deceptive and misleading statements. Moreover, there is no means by which Plaintiffs can obtain relief from the ABA because the organization will not entertain disputes between individuals and approved law schools, and the Federal Department of Education has no mechanism in place to entertain such concerns, nor are such statutorily authorized.

14. Accordingly, Plaintiffs now seek to vindicate their interests through the judicial system and hold NYLS accountable for its deceptive and misleading practices. This action asserts claims: a) under New York's Deceptive Acts and Practices Law, NY General Business Law §349, *et seq.*; b) for Fraud; and c) for Negligent Misrepresentation. Plaintiffs seek damages and equitable relief on behalf of the Class, which includes but is not limited to the following:

refunding and reimbursing current and former students for tuition paid to NYLS; an order enjoining NYLS from continuing to market its false and inaccurate employment data and salary information; an order requiring that NYLS retains a third party to independently audit all employment and salary data; costs and expenses, including attorneys' and experts' fees; and any additional relief that this Court determines to be necessary or appropriate to provide complete relief to Plaintiffs and the class.

### **JURISDICTION AND VENUE**

15. This Court has jurisdiction over this action pursuant to NY CPLR §301 because Defendants transacted business and committed the alleged acts in New York. Defendants are headquartered in New York and have systematically and continually conducted business in Manhattan and throughout the State of New York.

16. At all relevant times, Defendants have done and continue to do business in New York County, and venue is proper under NY CPLR §7502. The circumstances giving rise to this action occurred whole or in part in the county in which this Court sits.

### **PARTIES**

#### **A. Plaintiffs**

17. Alexandra Gomez-Jimenez is a practicing attorney in Manhattan who is currently a member in good standing of the New York Bar. Mrs. Gomez-Jimenez attended NYLS between 2004 and 2007, and in total paid tens of thousands of dollars in tuition and fees to the school while incurring tens of thousands of dollars more in debt. In applying and deciding to remain enrolled at NYLS, Mrs. Gomez-Jimenez relied on salary data and employment information posted on New York Law's website, marketing material and/or disseminated to third-party data clearinghouses and publications, such as the ABA and *US News*, and specifically

relied on NYLS's representations that, depending on the year, approximately 90 percent of its graduates were employed within nine months of graduation. Indeed, prior to Mrs. Gomez-Jimenez enrolling in NYLS, the school posted on its website employment reports asserting that 97 percent of 2002 graduates and 91 percent of 2003 graduates secured employment within nine months of graduation, and while Mrs. Gomez-Jimenez was enrolled in NYLS the school posted on its website employment reports asserting that 90 percent of 2004 graduates and 92 percent of 2005 graduates secured employment within nine months of graduation. Furthermore, Mrs. Gomez-Jimenez when applying and deciding to remain enrolled in NYLS was unaware that the school's reported placement rates included temporary and part-time employment and/or employment for which a JD was not required or preferred -- employment Mrs. Gomez-Jimenez would have been eligible for even without obtaining a JD degree and paying New York Law's tuition. Had Mrs. Gomez-Jimenez been aware that NYLS's reported placement rates included temporary and part-time employment and/or employment for which a JD was not required or preferred, she would have elected to either pay less to NYLS or perhaps not attend the school at all. Immediately following her graduation from law school, Mrs. Gomez-Jimenez could not find a permanent position in the legal industry, despite sending out tens of resumes, and was forced to take a series of temporary positions. Mrs. Gomez-Jimenez finally secured full-time, permanent employment in April 2008. In 2009, she opened up her own firm, and now enjoys a thriving practice as an immigration attorney.

18. Scott Tiedke is a practicing attorney in Manhattan who is currently a member in good standing of the New York Bar. Mr. Tiedke attended NYLS between 2006 and 2009, and in total paid tens of thousands of dollars in tuition and fees to the school while incurring tens of thousands of dollars more in debt. In applying and deciding to remain enrolled at NYLS, Mr.

Tiedke relied on salary data and employment information posted on New York Law's website, marketing material and/or disseminated to third-party data clearinghouses and publications, such as the ABA and *US News*, and specifically relied on NYLS's representations that, depending on the year, approximately 90 percent of its graduates were employed within nine months of graduation. Indeed, prior to Mr. Tiedke enrolling in NYLS, the school posted on its website employment reports asserting that 90 percent of 2004 graduates and 92 percent of 2005 graduates secured employment within nine months of graduation, and while Mr. Tiedke was enrolled in NYLS the school posted on its website employment reports asserting that 92 percent of 2006 graduates and 2007 graduates secured employment within nine months of graduation.

Furthermore, Mr. Tiedke when applying and deciding to remain enrolled in NYLS was unaware that the school's reported placement rates included temporary and part-time employment and/or employment for which a JD was not required or preferred -- employment Mr. Tiedke would have been eligible for even without obtaining a JD degree and paying New York Law's tuition. Had Mr. Tiedke been aware that NYLS's reported placement rates included temporary and part-time employment and/or employment for which a JD was not required or preferred, he would have elected to either pay less to NYLS or perhaps not attend the school at all. Since graduating from law school, Mr. Tiedke has worked as a legal and compliance officer at an investment management firm.

19. Katherine Cooper is licensed to practice in New York and is currently a member in good standing of the New York Bar. Mrs. Cooper attended NYLS between 2007 and 2010, and in total paid tens of thousands of dollars in tuition and fees to the school while incurring tens of thousands of dollars more in debt. In applying and deciding to remain enrolled at NYLS, Mrs. Cooper relied on salary data and employment information posted on New York Law's website,

marketing material and/or disseminated to third-party data clearinghouses and publications, such as the ABA and *US News*, and specifically relied on NYLS's representations that, depending on the year, approximately 90 percent of its graduates were employed within nine months of graduation. Indeed, prior to Mrs. Cooper enrolling in NYLS, the school posted on its website employment reports asserting that 92 percent of 2005 and 2006 graduates secured employment within nine months of graduation, and while Mrs. Cooper was enrolled in NYLS the school posted on its website employment reports asserting that 92 percent of 2007 graduates and 2008 graduates secured employment within nine months of graduation. Furthermore, Mrs. Cooper when applying and deciding to remain enrolled in NYLS was unaware that the school's reported placement rates included temporary and part-time employment and/or employment for which a JD was not required or preferred -- employment Mrs. Cooper would have been eligible for even without obtaining a JD degree and paying New York Law's tuition. Had Mrs. Cooper been aware that NYLS's reported placement rates included temporary and part-time employment and/or employment for which a JD was not required or preferred, she would have elected to either pay less to NYLS or perhaps not attend the school at all. Following her graduation from law school, Mrs. Cooper was unable to find any type of legal position for well over a year, despite sending out hundreds of resumes, and since August 2011 has only been able to find temporary, contract work.

20. Mathew Crawford has passed the New York Bar Exam and is currently waiting to be admitted into the New York Bar. Mr. Crawford attended NYLS between 2007 and 2010, and in total paid tens of thousands of dollars in tuition and fees to the school while incurring tens of thousands of dollars more in debt. In applying and deciding to remain enrolled at NYLS, Mr. Crawford relied on salary data and employment information posted on New York Law's website,

marketing material and/or disseminated to third-party data clearinghouses and publications, such as the ABA and *US News*, and specifically relied on NYLS's representations that, depending on the year, approximately 90 percent of its graduates were employed within nine months of graduation. Indeed, prior to Mr. Crawford enrolling in NYLS, the school posted on its website employment reports asserting that 92 percent of 2005 and 2006 graduates secured employment within nine months of graduation, and while Mr. Crawford was enrolled in NYLS the school posted on its website employment reports asserting that 92 percent of 2007 graduates and 2008 graduates secured employment within nine months of graduation. Furthermore, Mr. Crawford when applying and deciding to remain enrolled in NYLS was unaware that the school's reported placement rates included temporary and part-time employment and/or employment for which a JD was not required or preferred -- employment Mr. Crawford would have been eligible for even without obtaining a JD degree and paying New York Law's tuition. Had Mr. Crawford been aware that NYLS's reported placement rates included temporary and part-time employment and/or employment for which a JD was not required or preferred, he would have elected to either pay less to NYLS or perhaps not attend the school at all. Following his graduation from law school, Mr. Crawford has been unable to find a permanent position in the legal industry, despite sending out hundreds of resumes, and has been unable to secure any type of legal employment.

21. Geoffrey Corisdeo is a practicing attorney in New Jersey who is currently a member in good standing of both the New York and New Jersey Bars. Mr. Corisdeo attended NYLS between 2007 and 2010, and in total paid tens of thousands of dollars in tuition and fees to the school while incurring tens of thousands of dollars more in debt. In applying and deciding to remain enrolled at NYLS, Mr. Corisdeo relied on salary data and employment information posted on New York Law's website, marketing material and/or disseminated to third-party data

clearinghouses and publications, such as the ABA and *US News*, and specifically relied on NYLS's representations that, depending on the year, approximately 90 percent of its graduates were employed within nine months of graduation. Indeed, prior to Mr. Corisdeo enrolling in NYLS, the school posted on its website employment reports asserting that 92 percent of 2005 and 2006 graduates secured employment within nine months of graduation, and while Mr. Corisdeo was enrolled in NYLS the school posted on its website employment reports asserting that 92 percent of 2007 graduates and 2008 graduates secured employment within nine months of graduation. Furthermore, Mr. Corisdeo when applying and deciding to remain enrolled in NYLS was unaware that the school's reported placement rates included temporary and part-time employment and/or employment for which a JD was not required or preferred -- employment Mr. Corisdeo would have been eligible for even without obtaining a JD degree and paying New York Law's tuition. Had Mr. Corisdeo been aware that NYLS's reported placement rates included temporary and part-time employment and/or employment for which a JD was not required or preferred, he would have elected to either pay less to NYLS or perhaps not attend the school at all. After graduating from law school, Mr. Corisdeo was unable to secure full-time, permanent employment for an extended period of time. Currently, he works as an associate at a New Jersey law firm doing mostly bankruptcy and foreclosure defense work.

22. Soline McLain works in Manhattan and is currently a member in good standing of the Louisiana Bar. Ms. McLain has passed the New York Bar Exam and is currently waiting to be admitted into the New York Bar. Ms. McLain attended NYLS between 2007 and 2010, and in total paid tens of thousands of dollars in tuition and fees to the school while incurring tens of thousands of dollars more in debt. In applying and deciding to remain enrolled at NYLS, Ms. McLain relied on salary data and employment information posted on New York Law's website,

marketing material and/or disseminated to third-party data clearinghouses and publications, such as the ABA and *US News*, and specifically relied on NYLS's representations that, depending on the year, approximately 90 percent of its graduates over the years were employed within nine months of graduation. Indeed, prior to Ms. McLain enrolling in NYLS, the school posted on its website employment reports asserting that 92 percent of 2005 and 2006 graduates secured employment within nine months of graduation, and while Ms. McLain was enrolled in NYLS the school posted on its website employment reports asserting that 92 percent of 2007 graduates and 2008 graduates secured employment within nine months of graduation. Furthermore, Ms. McLain when applying and deciding to remain enrolled in NYLS was unaware that the school's reported placement rates included temporary and part-time employment and/or employment for which a JD was not required or preferred -- employment Ms. McLain would have been eligible for even without obtaining a JD degree and paying New York Law's tuition. Had Ms. McLain been aware that NYLS's reported placement rates included temporary and part-time employment and/or employment for which a JD was not required or preferred, she would have elected to either pay less to NYLS or perhaps not attend the school at all. During law school Ms. McLain was on the NYLS Law Review and was a Dean's Scholar and John Marshall Harlan Scholar, which is "a rigorous academic program designed for students who have performed at the top of their law school class." Following her graduation from law school, Ms. McLain was unable to find steady employment for approximately seven months. Currently, she is an operations manager and clearance officer at a title insurance company.

23. Renee Rivas is a 2011 graduate of New York Law School and took the New York bar in July 2011. Ms. Rivas attended NYLS between 2008 and 2011, and in total paid tens of thousands of dollars in tuition and fees to the school while incurring tens of thousands of dollars

more in debt. In applying and deciding to remain enrolled at NYLS, Ms. Rivas relied on salary data and employment information posted on New York Law's website, marketing material and/or disseminated to third-party data clearinghouses and publications, such as the ABA and *US News*, and specifically relied on NYLS's representations that, depending on the year, approximately 90 percent of its graduates were employed within nine months of graduation. Indeed, prior to Ms. Rivas enrolling in NYLS, the school posted on its website employment reports asserting that 92 percent of 2006 and 2007 graduates secured employment within nine months of graduation, and while Ms. Rivas was enrolled in NYLS the school posted on its website employment reports asserting that 92 percent of 2008 graduates and 90 percent of 2009 graduates secured employment within nine months of graduation. Furthermore, Ms. Rivas when applying and deciding to remain enrolled in NYLS was unaware that the school's reported placement rates included temporary and part-time employment and/or employment for which a JD was not required or preferred -- employment Ms. Rivas would have been eligible for even without obtaining a JD degree and paying New York Law's tuition. Had Ms. Rivas been aware that NYLS's reported placement rates included temporary and part-time employment and/or employment for which a JD was not required or preferred, she would have elected to either pay less to NYLS or perhaps not attend the school at all. Currently Ms. Rivas is working as a paralegal at a small Manhattan firm, a position she could have obtained without a JD degree.

24. Gergana Miteva is a practicing attorney in Manhattan who is currently a member in good standing of the New York Bar. Ms. Miteva attended NYLS between 2006 and 2009, and in total paid tens of thousands of dollars in tuition and fees to the school while incurring tens of thousands of dollars more in debt. In applying and deciding to remain enrolled at NYLS, Ms. Miteva relied on salary data and employment information posted on New York Law's website,

marketing material and/or disseminated to third-party data clearinghouses and publications, such as the ABA and *US News*, and specifically relied on NYLS's representations that, depending on the year, approximately 90 percent of its graduates were employed within nine months of graduation. Indeed, prior to Ms. Miteva enrolling in NYLS, the school posted on its website employment reports asserting that 90 percent of 2004 graduates and 92 percent of 2005 graduates secured employment within nine months of graduation, and while Ms. Miteva was enrolled in NYLS the school posted on its website employment reports asserting that 92 percent of 2006 graduates and 2007 graduates secured employment within nine months of graduation.

Furthermore, Ms. Miteva when applying and deciding to remain enrolled in NYLS was unaware that the school's reported placement rates included temporary and part-time employment and/or employment for which a JD was not required or preferred -- employment Ms. Miteva would have been eligible for even without obtaining a JD degree and paying New York Law's tuition. Had Ms. Miteva been aware that NYLS's reported placement rates included temporary and part-time employment and/or employment for which a JD was not required or preferred, she would have elected to either pay less to NYLS or perhaps not attend the school at all. Following her graduation from law school, Ms. Miteva has worked as a contract attorney and has recently found permanent employment.

25. Chloe Gilgan currently lives in England and does not practice law, even though she has passed the New York Bar Exam and used to be a member in good standing of the New York Bar until she voluntarily assumed inactive status due to the fact that she was unable to obtain gainful employment in the legal industry. Mrs. Gilgan attended NYLS between 2005 and 2008, and in total paid tens of thousands of dollars in tuition and fees to the school while incurring tens of thousands of dollars more in debt. In applying and deciding to remain enrolled

at NYLS, Mrs. Gilgan relied on salary data and employment information posted on New York Law's website, marketing material and/or disseminated to third-party data clearinghouses and publications, such as the ABA and *US News*, and specifically relied on NYLS's representations that, depending on the year, approximately 90 percent of its graduates were employed within nine months of graduation. Indeed, prior to Ms. Gilgan enrolling in NYLS, the school posted on its website employment reports asserting that 90 percent of 2004 graduates and 91 percent of 2003 graduates secured employment within nine months of graduation, and while Mrs. Gilgan was enrolled in NYLS the school posted on its website employment reports asserting that 92 percent of 2005 graduates and 2006 graduates secured employment within nine months of graduation. Furthermore, Ms. Gilgan when applying and deciding to remain enrolled in NYLS was unaware that the school's reported placement rates included temporary and part-time employment and/or employment for which a JD was not required or preferred -- employment Mrs. Gilgan would have been eligible for even without obtaining a JD degree and paying New York Law's tuition. Had Mrs. Gilgan been aware that NYLS's reported placement rates included temporary and part-time employment and/or employment for which a JD was not required or preferred, she would have elected to either pay less to NYLS or perhaps not attend the school at all. Following her graduation from law school, Mrs. Gilgan, despite graduating in the top 15 percent of her class and being admitted to the New York Bar, was unable to secure any type of legal employment for 14 months and was forced to work as a saleswoman in a department store. Following that, she worked as a legal secretary in a law firm specializing in immigration law. Currently, she does not work as an attorney.

## **II. Defendants**

26. Defendant NYLS is an ABA-accredited law school and a New York not-for-profit corporation with its principal place of business located on 57 Worth St., New York, NY 10013. For the 2010-2011 academic year, it enrolled nearly 1,500 students, making it one of the largest law schools in the country, while in 2009-2010 it enrolled nearly 1,600 students.

27. Tuition at NYLS for the 2011-2012 academic year is \$47,800, while room and board is estimated to be about \$23,000, if not more, bringing the total annual cost for attending NYLS to nearly \$70,000. For the fiscal year 2009, NYLS's total operating revenue was \$115,869,668, including \$80,926,836 in tuition fees, and its total operating costs were \$82,828,941, including \$40,340,537 in monies paid for employees' salaries. For the fiscal year 2009, the school paid its Dean, Richard Matasar, \$543,738 in total compensation, while paying Vice President for Finance, Fred DeJohn, \$453,500, and Professors Richard Chused, Gerald Korngold, Jethro Lieberman, Marshall Tracht and James Simon between \$299,678 and \$400,800 respectively. Dean Matasar is also currently board chairman of Access Group Loans, a private loan originator and servicer which enjoys a special business relationship with NYLS. Just recently, Dean Matasar announced that beginning in January 2012 he will become Vice President of University Enterprise Initiatives for New York University.

28. The true names and capacities (whether individual, corporate, associate or otherwise) of Defendants Does 1 through 20, inclusive, are unknown to Plaintiffs. Plaintiffs sue these Defendants by fictitious names and will seek leave to amend this Complaint after their identities are learned. Each fictitious Defendant contributed to the acts and practices alleged herein. Plaintiffs are informed and believe that the fictitiously named Defendants proximately caused Plaintiffs' damages.

## FACTUAL ALLEGATIONS

### **I. Background Information**

29. Enrolling roughly 1,500 students annually, NYLS is a veritable “JD-factory”, its size having risen by 270 students between 2000 and 2009. Along these lines, NYLS is one of the most expensive law schools in the country, with a sticker price of \$47,800, above that of even Harvard Law School.

30. In 2009 alone, NYLS increased its first-year class by over 30 percent, enrolling an astounding 736 students, by far its largest class ever, and the second largest class in the country outside of the Thomas M. Cooley School of Law.

31. As detailed in a recent *New York Times* exposé, these increases can largely be explained by the school’s desire to maintain the AAA rating that Moody’s had given the school’s \$135 million bond offering which was floated to finance the construction of a brand new 235,000-square-foot complex. *See* David Siegel, “Law School Economics: Ka-Ching!” *New York Times*, July 16, 2011 (attaching Ex. 1). Specifically, in May 2009, right at the height of the recession, Moody’s issued a new report on the offering which threatened to downgrade its sterling AAA rating, because, among other things, applications to the school had decreased by 28 percent for the upcoming class. *Id.* Yet, just three months later, the school had enrolled a blockbuster class of 736 students, which led Moody’s in August 2010 to maintain its AAA rating, and change its outlook on the offering from negative to largely positive. *Id.*

32. It is estimated that NYLS’s decision to increase its class size by such a staggering amount added an additional \$6.7 million in revenue, while the school, at most, had to spend an additional \$500,000 more that year on teaching, bringing the overall profit to over \$6 million. *Id.* Such singular focus on the bottom line has left even faculty members at NYLS embarrassed

by their school's wanton greed, leading one professor, Randolph N. Jonakait, to conclude ruefully: "At a school like New York Law, which is toward the bottom of the pecking order, it's long been difficult for our students to find high-paying jobs...Adding more than 100 students to an incoming class harms their employment prospects. It's always been tough for our graduates. Now it's tougher." *Id.*

## **II. Underlying Fraud Claims**

33. NYLS is accredited by the ABA's Section of Legal Education and Admissions to the Bar. As mandated by Section 509(a) of the ABA's 2010-2011 Standards for Approval of Law Schools ("Section 509(a)"), an accredited law school must "publish basic consumer information" in a "fair and accurate manner reflective of actual practice." As of now and throughout the Class Period, law schools would satisfy this virtually meaningless and non-existent criterion by reporting jobs that are temporary or part-time or have absolutely nothing to do with obtaining a JD degree as "employment."

34. Pursuant to this requirement, NYLS publishes its employment statistics on its website under the "Career Services" tab. In posting the data, the school boasts that it "offers a wide range of programs, resources and support to assist students to identify a career that meets their goals intellectually, financially and emotionally. Staff counselors provide individual counseling to help students develop career interests and goals, write resumes and cover letters, formulate job search strategies, and learn interviewing techniques, networking, and other related skills. In addition, the office works closely with our many alumni to foster relationships and provide opportunities for our students." Regarding its ability to train students as lawyers and prepare them for the marketplace, NYLS makes a number of grandiose representations, including that it "has launched an innovative curriculum integrating strategic and ethical issues into the

traditional academic study of law. This approach provides students with a head start in building productive, rewarding, and responsible professional lives. While the course of study leading to the Juris Doctor degree is designed to prepare students to become practicing lawyers, the program is also ideal preparation for anyone whose work in other professions, in business, or in public service involves understanding law and lawyers.”

**A. Statements Constituting Fraud**

35. Currently and for the past four months, NYLS has posted the employment data and salary information for the graduating Class of 2010. *See* NYLS’s 2010 Employment and Salary Statistics (the “2010 Employment Report”) (attaching Ex. 2). This information is obtained by job surveys that NYLS sends out to all recent graduates, and all information contained in this report is unaudited, unverified and self-reported. According to this information, based on a response rate of 95 percent, approximately 92 percent of the 2010 Class were employed nine months after graduation, 42 percent of whom were allegedly working in private practice, 27 percent in “business,” 17 percent in government, three percent in public interest, and three percent both in judicial clerkships and academics.<sup>1</sup> The data lists a scant five percent as “seeking employment,” with an additional three percent who are unemployed and “not seeking employment.” Also, 5.6 percent of employed graduates were in positions funded by the “NYLS Fellowship” program, while allegedly 80 percent of graduates were in positions that either required or preferred a JD degree. Based on a response rate of 26 percent of those graduates who actually are employed -- or 22 percent of the entire class -- the average salary for graduates in

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<sup>1</sup> NYLS concedes that its reported placement rate differs slightly from the numbers tabulated by other third-party data clearinghouses and publications. For example, according to the ABA, NYLS’s placement rate is 89 percent, while according to *US News* it is 85 percent. There are a number of factors for this discrepancy, chief amongst is that NYLS counts graduates who pursue further education as “employed” and does not include graduates whose status is unknown in their calculations.

private practice is \$107,343, \$86,667 for those in “business,” and \$56,910 for those in government.

36. Until July 2011, NYLS posted the employment data and salary information for the Class of 2009. *See* NYLS’s 2009 Employment and Salary Statistics (the “2009 Employment Report”) (attaching Ex. 3). According to this information, based on a response rate of 94 percent, approximately 90 percent of the 2009 Class were employed nine months after graduation, 46 percent of whom were allegedly working in private practice, 24 percent in “business,” eight percent in government, 16 percent in public interest, and three percent both in judicial clerkship and academics. Based on 20 percent of the entire class who actually reported salary information, the average salary for graduates in private practice was \$120,197, \$75,167 for those in “business,” and \$56,054 for those in government.

37. For the Class of 2007, NYLS claims that, based on a response rate of 96 percent, approximately 92 percent of the class were employed, including 48 percent of whom were allegedly working in private practice, 22 percent in “business,” 12.5 percent in government, five percent in public interest, three percent in judicial clerkships and 2.4 percent in academics. NYLS’s 2007 Employment and Salary Statistics (the “2007 Employment Report”) (attaching Ex. 4).<sup>2</sup> Based on the 25 percent of the entire class who actually reported salary information the median salary for graduates in private practice was \$160,000, \$85,000 for those in “business,” \$53,000 for those in government and \$45,000 for those in public interest.

38. Similarly, for the Class of 2006, NYLS claims that approximately 92 percent of the class were employed, including 52 percent of whom were allegedly working in private practice, 18 percent in “business,” 11 percent in government, four percent in public interest, five

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<sup>2</sup> Upon information and belief, Defendants posted on its website the 2007 Employment Report between 2008 and 2009.

percent in judicial clerkships and two percent in academics. NYLS's 2006 Employment and Salary Statistics (the "2006 Employment Report") (attaching Ex. 5).<sup>3</sup> NYLS does not disclose the percent of the class who actually reported salary information. The school nevertheless claims that for those graduates working in firms with more than 100 attorneys the median salary is \$128,000, while the reported median salary for those in "business" is \$74,000, \$53,500 for those in government and \$45,000 for those in public interest. NYLS does not disclose the percent of the class who actually reported salary information.

39. For the Class of 2005, NYLS claims that approximately 92 percent of the class were employed, including 51 percent of whom were allegedly working in private practice, 17 percent in "business," nine percent in government, three percent in public interest, seven percent in judicial clerkships and one percent in academics. NYLS's 2005 Employment and Salary Statistics (the "2005 Employment Report") (attaching Ex. 6).<sup>4</sup>

40. Upon information and belief, NYLS's placement rate between 2000 and 2004 never dipped below 90 percent and hovered between 90 and 97 percent.

41. The 2005-2009 Employment Reports are emblematic of the kind of employment data NYLS disclosed to prospective students during the class period, and differs in certain critical respects from the 2010 Employment Report. For example, these reports do not disclose the percentage of graduates who held positions that required or preferred a JD degree, or were funded by the "NYLS Fellowship" program. Most likely, these discrepancies are a result of a much publicized dispute between NYLS and the Law School Transparency ("LST") project, which is a Tennessee non-profit "dedicated to encouraging and facilitating the transparent flow

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<sup>3</sup> Upon information and belief, Defendants posted on its website the 2006 Employment Report between 2007 and 2008.

<sup>4</sup> Upon information and belief, Defendants posted on its website the 2005 Employment Report between 2006 and 2007.

of law school employment information.” In particular, the LST issued a blistering report on its website critiquing NYLS for the deceptive way it reports and markets employment data and salary information to prospective students, charging, among other things, that the school’s salary information is based on a skewed dataset and its placement rates do not sufficiently account for students who fail to provide any employment data.<sup>5</sup>

42. The posted data makes a number of startling factual omissions that would give prospective students a more accurate picture of their post-graduation employment prospects. For example, NYLS simply presents an overall employment number, and fails to break down what percentage of graduates were employed in either part-time or temporary positions . Accordingly, based on these classifications, a graduate could be working as a barista in Starbucks -- or toiling away in *any* capacity in *any* kind of job, no matter how menial or poorly compensated or unrelated to law -- and would be deemed employed and working in “business,” even though such employment is clearly temporary in nature and obviously does not require a JD degree.<sup>6</sup> Similarly, a contract attorney who has yet to secure permanent employment and is forced to toil away in transitory document review projects would be deemed “employed” under NYLS’s broad guidelines.

43. NYLS also grossly inflates its graduates’ reported mean salaries, by calculating them based on a small, deliberately selected subset of graduates who actually submit their salary information, thereby presenting statistically meaningless data that is not an emblematic representation of the entire class. In fact, if the 22-percent sample rate for the Class of 2010, 20-percent sample rate for the Class of 2009 and 25-percent sample rate for the Class of 2007 are

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<sup>5</sup> See <http://www.lawschooltransparency.com/page/2/?s=new+york+law+school>.

<sup>6</sup>In fact, one of the Plaintiffs, Mathew Crawford, actually works as a Starbucks barista, a job he has been forced to take due to his inability to secure any type of legal employment.

even remotely similar to those for the entire class period, then the responses of just a handful of students employed in poorly-compensated, menial jobs could substantially affect both the median and mean salaries.

**B. Disseminating False Information to Third Parties**

44. The school also disseminates employment data and salary information to other sources that are readily available to prospective students. In general, there are three primary sources that NYLS -- along with all other accredited law schools -- provides such information to: *US News*, the ABA and the National Association of Law Placement (“NALP”).<sup>7</sup> However, the *US News* and the ABA simply require law schools to report an overall employment number, and do not require schools to distinguish between part-time and full-time jobs or temporary and permanent employment. Consequently, the data contained in these sources is riddled with the same legerdemain, dubious calculations and deliberate omissions as found in the employment information posted and marketed by NYLS on its website and brochures.

45. In a letter sent to the deans of all accredited law schools, Brian Kelly, the editor-in-chief of the *US News*, essentially conceded this point, acidly noting that the “entire law school sector is perceived to be less than candid” when reporting employment data, and that many schools appear “not to treat the ABA reporting rules with the seriousness one would assume.” Robert Morse, “U.S. News Urges Law School Deans to Improve Employment Data,” *U.S. News & World Report*, March 9, 2011 (attaching Ex. 7). Acknowledging the obvious, Kelly concludes, “Perhaps we need metrics besides total employment rates to evaluate a successful law program.” *Id.*

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<sup>7</sup> All ABA-accredited and provisionally-accredited law schools are required to provide employment data to the ABA, but only submit such data to *U.S. News* and NALP on a voluntary basis.

46. Nonetheless, despite knowing full well of the deficiencies in law school-supplied employment data, such information constitutes a whopping 18 percent (four percent for the employment rate upon graduation and 14 percent for the rate nine months after graduation) of a law school's ranking in *US News*, the second most important factor after a law school's peer assessment.

47. As for NALP, law schools, when responding to their questionnaires, must not simply report an overall employment number, but specifically break down the exact type of employment their graduates have obtained, differentiating between part-time and full-time jobs or whether a position requires a JD degree. Unfortunately, NALP does not either publish or make available to the public these questionnaires, and instead compiles and tabulates their data into a single document which contains aggregate statistical information from all ABA-approved law schools. *See* NALP Class of 2009 National Summary Report ("2009 NALP Employment Report") & NALP Class of 2010 National Summary Report ("2010 NALP Employment Report") (attaching Ex. 8).

48. In other words, NYLS, by virtue of its participation in NALP's annual employment survey, clearly has the means to, and actually does, distinguish between various degrees of employment, and breaks down the exact percentage of its recent graduates who have secured part-time employment. Yet, rather than including this number on its website and marketing material and making this information available to the public at large, the school continues to present highly misleading data to prospective and current students that grossly inflate post-graduation employment rates while depicting an unrealistic, if not entirely inaccurate picture of bountiful career prospects that do not exist.

### **III. Manipulating Employment Data**

49. In reality, the employment data reported and marketed by NYLS bears little resemblance to the actual experiences and dim employment opportunities encountered by their recent graduates. Based on interviews with former students and other investigatory work, Plaintiffs believe that perhaps fewer than *40 percent* -- if not even fewer -- of recent NYLS graduates secure full-time, permanent employment for which a JD degree is required or preferred within nine months of graduating, and that the majority of them work in either part-time or temporary positions.

**A. Proof of Fraud**

50. Indeed, perhaps there is no better proof that New York Law grossly inflates its placement rates than the fact that these rates have remained eerily similar, never falling below 90 percent, since the onset of the “Great Recession” which has decimated the legal industry, leading to tens of thousands of mass layoffs. Likewise, NYLS has maintained its sterling 90 percent placement throughout the past decade, despite increasing its student body by approximately 20 percent since 2000.

51. For that matter, the fact that only 22 percent of NYLS’s 2010 Class, 20 percent of its 2009 Class and 25 percent of its 2007 Class supplied salary information strongly suggests that the school’s true employment rate is far below 50, let alone, 90 percent. After all, given that New York Law’s employment survey is confidential and highly secretive, a graduate would have every incentive to be as fulsome as possible in reporting all relevant employment and salary information. *See Exs. 2-4.*

52. Moreover, an examination of the 2009 NALP Employment Report confirms the obvious -- i.e. that NYLS blatantly manipulates employment data, and that substantially fewer than 92 percent of 2010 graduates and 90 percent of 2009 graduates are gainfully employed.

53. According to NALP, 88.2 percent of all law school graduates are “employed” within nine months of graduation. However, upon greater scrutiny, this number is virtually meaningless, as it includes *any* kind of employment, no matter how unrelated to the legal field. *See* Ex. 8.

54. Rather, the 2009 NALP Employment Report further breaks down this number into specific percentages of graduates who are working either part-time or in non-legal jobs. By doing this, it appears that, in actuality, only 62.9 percent of all graduates have secured some kind of full-time legal employment.

55. Still, even that number is grossly inflated, as the 2009 NALP Employment Report does not distinguish between temporary and permanent employment, and, thus, does not expressly exclude temporary positions. If the report was to exclude temporary employment, most likely the employment number would fall well below 50 percent.<sup>8</sup>

56. Still, even that number is probably significantly inflated, since the NALP data is based on unaudited, unverified, self-reported information. In actuality, if law schools were required to employ proper accounting methodologies to ascertain the true employment status of all of their graduates -- i.e. by actually speaking to each graduate instead of relying on self-reported data from those who actually supply it -- the employment number would be much lower.

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<sup>8</sup> For greater analysis on the accuracy -- or inaccuracy -- of law school employment data see Professor Paul Campos’s article in the *New Republic*, “Served: How Law Schools Completely Misrepresent Their Job Numbers” (April 25, 2011), where he admonishes law schools for adopting dubious accounting methods in tabulating and reporting recent graduates’ employment data. (Attached as Ex. 9). In particular, he deftly demonstrates through some impressive deductive reasoning how for one highly ranked state school the actual percentage of graduates who have secured full-time, permanent legal positions could be as low as 33 percent. (*Id.*).

57. Moreover, upon information and belief, NYLS, much like many other law schools, tabulates, calculates and tallies the raw data inputted in the job surveys filled out by recent graduates in a shoddy, slipshod manner, cynically choosing to omit or ignore critical statistical data that would substantially lower both placement rates and salary information reported both in its employment reports and distributed to third-party data clearinghouses.<sup>9</sup>

58. One must also bear in mind that the NALP employment number includes data supplied by all law schools, many of which are ranked higher and have considerable more prestige than NYLS, which is currently ranked by *US News* in the bottom tier -- the 135<sup>th</sup> best -- of all accredited law schools. As such, logic dictates that NYLS's true employment rate would be below the statistical mean of the bell curve.

59. NYLS has also employed a limited program to further "pretty up" their employment numbers, by, among other things, hiring unemployed graduates as "research assistants" or other "make work" positions for a specified period of time, so as to classify them as "employed" in various employment surveys. Indeed, in its 2010 Employment Report, NYLS admits that 5.6 percent of all employed graduates are in positions funded by the "NYLS Fellowship" program, but fails to disclose the percentage of graduates employed in positions funded by NYLS for 2009 and other years. *See* Ex. 2 at p. 2 as compared to Exs. 3-6. In some instances, these internships or fellowships begin in the ninth month following graduation, right before NYLS would be required to report its employment data to the ABA, NALP and *US News*.

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<sup>9</sup> For example, one law school, the University of California-Davis School of Law, was found to be classifying students who were studying for the bar exam as being "employed at the time of graduation," even though they obviously were not earning any money for their studies and did not have a job lined up following taking the bar. Joel Murray, "Professional Dishonesty: Do U.S. Law Schools Who that Report False or Misleading Employment Statistics Violate Consumer Protection Laws?" Working Paper at pp. 12, fn. 49, June 7, 2011 (available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1854709](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1854709)).

60. This practice is emblematic of the extreme measures many law schools across the country have undertaken recently to paper over the devastation that the Great Recession has wrought. According to NALP, 42 percent of all law schools have created post-graduate “jobs programs” into which they hired their own recently graduated students. In particular, for the class of 2009, it is estimated that these programs provided over 800 jobs, accounting for a full two percentage points in the NALP overall employment rate. For the class of 2010, this number has jumped to 1,200 jobs, or approximately 2.7 percent of all jobs taken by law school graduates. *See* “Selected NALP Findings for the Class of 2010” (attaching Ex. 10). Thus, instead of coming clean to prospective and current students and acknowledging the steep odds that graduates face in securing gainful employment, law schools continue to bury their heads in the sand like nothing is wrong, as if they can somehow wish away the brutal reality of the current economic environment.

61. NYLS’s manipulation of employment data is all the more galling considering that its students are graduating in one of the grimmest legal job markets in decades. Since 2008 alone, the largest 250 law firms in the country have eliminated 10,000 positions, while commoditized, legal-entry work such as document review is increasingly being outsourced to countries outside the US, such as India. The entry-level employment offer rate for 2009 summer associates was at a historic low of 69 percent, as compared to 90 percent in 2008 and 93 percent in 2007. Scores of law firms have cancelled summer programs, and in a recent survey 55 percent of law schools reported a decrease of 30 percent or more of the number of firms doing on-campus interviews, an unprecedented decline. In another survey, only 3 percent of on-campus recruiters indicated that they were looking to hire third-year law students, as compared to 25 percent in 2008 and 42 percent in 2007.

62. The job statistics for the class of 2010 are equally grim, if not more so.

According to NALP, the overall employment rate for new law school graduates is the lowest it has been since 1996. *See* Ex. 10. Only 68.4 percent of the class has obtained employment for which a JD degree is required, while barely over 50 percent of the class is working in private practice, a five-percent drop from the previous year. *Id.* A paltry 71 percent of the class has obtained a job that is both full-time and permanent. *Id.* The number of graduates working as solo practitioners has similarly soared, rising to 5.7 percent of all graduates employed in private practice, which is most likely a result of graduates, faced with negligible job prospects, being forced to hang up their own shingle. *Id.*

63. The starting salaries of newly minted lawyers have likewise dropped precipitously over the past few years. The national median salary for the class of 2010 was \$63,000, a \$9000 - - or 13 percent -- decline from the previous year, while the national mean salary was \$84,111, an almost \$10,000 -- or ten percent -- decline from the previous year.<sup>10</sup> Moreover, because many large law firm salaries cluster around \$145,000 and \$160,000, whereas most other smaller firm salaries hover in the \$40,000 to \$65,000 range, relatively few salaries were actually near the overall median or mean.

64. A recent study by the consulting company Economic Modeling Specialist, Inc. (“EMSI”) confirms the historically weak job market and dire employment prospects facing current law school graduates.<sup>11</sup> According to the study, every state besides Nebraska and Wisconsin are producing more attorneys than they need for the foreseeable future. Across the country, there were twice as many people who passed the bar in 2009 -- 53,508 -- as there were job openings -- 26,239. In New York the numbers are particularly daunting, with 9,787 people

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<sup>10</sup> *See* [http://www.nalp.org/classof2010\\_salpressrel](http://www.nalp.org/classof2010_salpressrel).

<sup>11</sup> *See* <http://economix.blogs.nytimes.com/2011/06/27/the-lawyer-surplus-state-by-state/>.

having passed the bar, even though the state is estimated to only need 2,100 new lawyers for each year through 2015, leaving an annual surplus of 7,687 attorneys. The Bureau of Labor Statistics projects the creation of 28,000 new lawyer positions annually, well below the roughly 43,000 freshly-minted JDs pumped out in 2009.

**B. Intent to Defraud**

65. NYLS, as with any law school, has every incentive to perpetuate this mass deception, because they are not required by the ABA, Department of Education or any other governing body to independently audit or verify their employment data. The incentive to cheat is so great that one law school dean, Phillip J. Closius of the University of Baltimore School of Law, in a *New York Times* exposé about the manipulation of placement rates went to the extent of publicly conceding that “[t]here are millions of dollars riding on students’ decisions about where to go to law school, and that creates real institutional pressures [to manipulate data].”<sup>12</sup>

66. New York Law’s tuition has risen dramatically over the past decade, with annual increases that far exceed the level of inflation, and its current tuition is \$47,800, as compared to \$22,900 in 2000, making it one of the most expensive law schools in the country, despite its relatively low standing in the *US News* law school rankings. This sharp increase mirrors the

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<sup>12</sup> On July 29, 2011, Mr. Closius formally resigned as dean from the University of Baltimore. In stepping down, Mr. Closius circulated a highly controversial -- and surprisingly frank -- resignation letter in which he conceded that the University of Baltimore president had asked for his resignation, and that the tensions between them had largely stemmed from the law school’s rapidly rising tuition and the fact that the University was essentially using the school to subsidize the undergraduate program, retaining an astounding 45 percent of all revenue generated by law tuition, fees and state subsidies. See <http://abovethelaw.com/2011/07/a-law-dean-resigns-and-spills-the-beans-on-how-his-university-has-been-taking-advantage-of-law-students/#more-85162>. The problem had grown so acute that the ABA’s Accreditation Committee requested that the University submit a report by March 2012 “which provides in part a rationale for the School of Law’s share of costs for non-law school activities and central administration services and information about any agreement between the Law School and the University regarding a fair process by which the Law School’s contribution to the University for direct and indirect costs will be determined.” *Id.*

tuition trend in the legal education industry in general. Over the past two decades, law school tuition has risen exponentially, far exceeding any increase in lawyers' starting salaries, and at many private institutions can exceed well over \$40,000 annually, excluding living expenses. Between 1989 and 2009 alone, tuition rates have shot up by 317 percent, well above the 71 percent seen at the undergraduate level, and last year law students spent a mind-boggling \$3.6 billion on tuition.

67. The dramatic increase in law school tuition has dovetailed with the dramatic increase in faculty compensation and size. The total number of law school faculty positions has grown rapidly over the past two decades, rising from 7,241 full-time faculty members in 1990 to 10,965 full-time positions in 2008. Law school professors and deans are perhaps the best remunerated in academia today, enjoying both lavish perks and exorbitant salaries that rival those of Fortune 500 executives. For example, for the fiscal year 2009 the school paid its Dean, Richard Matasar, \$543,738 in total compensation, a 30 percent increase from the fiscal 2003 year, while paying Vice President for Finance, Fred DeJohn, \$453,500, a whopping 50 percent increase from the fiscal 2003 year, and professors Richard Chused, Gerald Korngold, Jethro Lieberman, Marshall Tracht and James Simon between \$299,678 and \$400,800 respectively.

68. More disturbingly, NYLS misleads and defrauds its students while saddling them with tens of thousands of dollars in crushing, non-dischargeable debt. According to *US News*, NYLS students graduate on average with a staggering \$119,437 in loans, placing them well within the top fifth percentile of indebtedness among all law school graduates, with a stunning 93 percent of them taking out loans to attend the school.<sup>13</sup> Nationwide, the debt burden of law

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<sup>13</sup>According to FinAid.org, a graduate needs to make at least \$138,000 annually to repay \$100,000 without enduring financial hardship, or \$92,000 annually to repay the debt with financial difficulty. See <http://www.finaid.org/calculators/loanpayments/phtml>.

school graduates continues to rise unabated, and the average debt burden for all law school graduates is almost \$100,000, up sharply from \$16,000 in 1987.

69. To that end, not content with saddling its students with tens of thousands of dollars in loans, NYLS directs its students to take out private, non-federally subsidized loans from Access Group Loans (“Access Group”), an originator and servicer of education loans whose board chairman is Dean Matasar. Upon information and belief, NYLS does not disclose Dean Matasar’s financial and fiduciary relationship with Access Group to its students and the attendant conflicts of interests it represents.<sup>14</sup>

70. Worse yet, NYLS is primarily marketing its product to naïve, relatively unsophisticated consumers -- many of whom are barely removed from college -- who are often making their first “big-ticket” purchase based on asymmetrical information. These prospective students are applying to law school with one objective in mind: to attain the kind of job that provides compensation and a lifestyle that is commensurate with and worthy of the enormous time, money and personal sacrifice invested in a legal education. However, if NYLS was to disclose accurate employment data and the steep odds its graduates face in securing gainful employment, it would become abundantly clear to any rational purchaser how poor of an investment attending NYLS is.

71. To a remarkable extent, NYLS -- like most law schools -- has been astonishingly successful in pulling the wool over prospective students. Currently, NYLS enrolls nearly 1,500 students, a number which has remained remarkably constant even since the onset of the “Great

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<sup>14</sup>In October 2011, Access Group announced, due to a change in federal student loan policy, that it was essentially exiting the law school loan market and shedding most of its 260-persons staff, and that it would only disburse loans for a semester to a small group of international students. *See e.g.* Karen Sloan, “Big Law School Loan Provider Getting Out of Market,” *The National Law Journal*. October 21, 2011, <http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202519769027&rss=nlj&slreturn=1>.

Recession”. Law schools awarded over 43,000 JD degrees last year (an additional 41,156 this year), an increase of 11 percent from a decade earlier, while the number of students taking the law school entrance examination (LSAT) increased by over 20 percent between 2007 and 2009. For the 2009-2010 academic year, a record 154,549 students were enrolled in American law schools, including a record 51,426 first-year students, up by over 60 percent from the 91,225 students who enrolled in ABA accredited law schools in 1971. The total number of law schools has increased by nine percent over the past decade and by over 25 percent over the past four decades, and, despite the ominous employment trends and dearth of available jobs, there are a handful of new law schools that are slated to open their doors in the next few years. Allowing the *status quo* to persist will almost certainly ensure that tens of thousands of law school graduates -- a whole “lost” generation of lawyers -- will continue to be churned out over the next decade with absolutely no realistic chance of ever earning back their investment.<sup>15</sup>

72. Perhaps most troubling, NYLS’s dean, Richard Matasar, has publicly recognized that the system is fundamentally broken, when, during a program sponsored by the Association of American Law Schools, he took his fellow deans and administrators to task by stating that:

We should be ashamed of ourselves. We own our students' outcomes. We took them. We took their money. We live on their money to pay to come to San Diego. And if they don't have a good outcome in life, we're exploiting them. It's our responsibility to own the outcomes of our institutions. If they're not doing well ... it's gotta be fixed. Or we should shut the damn place down. And that's a moral responsibility that we bear in the academy. It's a leadership responsibility that each of us has. And damn the *U.S. News* if it affects our rankings. The kids are not gonna show up. Do you know that LSAT registrations are flat to down this

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<sup>15</sup> Finally, after years of double-digit growth, law school applications for the 2011-2012 academic year dropped by 10 percent. See Nathan Koppel, “Bloom’s Off Law School Rope,” *Wall Street Journal Law Blog*, September 28, 2011, <http://blogs.wsj.com/law/2011/09/28/bloom-remains-off-law-school-rose/>. Undoubtedly, this stems from the recent upsurge in media scrutiny on the inability of law school graduates to obtain gainful employment and the overall grim reality of one of the worst legal job market in decades. See e.g. David Segal, “Is Law School a Losing Game?” *New York Times*, January 8, 2011.

year. That students' applications to law school are flat to down in a substantial number of law schools. That's never happened in a downturn in the economy before. They're catching on. Maybe this thing they are doing is not so valuable. Maybe the chance at being in the top 10% is not a good enough lottery shot in order to effectively spend \$120,000 and see it blow up at the end of three years of law school.<sup>16</sup>

(Emphasis added).

#### **IV. Manipulating Salary Information**

73. Further, NYLS grossly inflates its graduates' reported mean salaries, by calculating them based on a small, deliberately selected subset of graduates who actually reported their salary information, and not on a broad, statistically meaningful representation of its graduates.

74. Indeed, an examination of NYLS's published mean salary information confirms its dubious value and deceptive nature. *See* Ex. 2 at p.1. For example, only 22 percent -- or 105 graduates -- from the Class of 2010 reported any type salary information, meaning that the overwhelming majority of the class failed to report such information. *Id.* For the Class of 2009, the numbers are even worse, with a paltry 20 percent reporting salary information, while for the Class of 2007 only 25 percent of graduates reported salary information. *See* Exs. 3-4. For the remainder of the 2000s, the school failed to disclose the percentage of graduates who reported salary information.

75. Moreover, the reported salary information is based on a skewed and non-representative sampling of the class. Thus, despite the fact that 169 graduates from the Class of 2010 allegedly work in private practice, only 54 -- or less than a third -- reported salary information, with graduates working in large law firms with more than 501 attorneys being

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<sup>16</sup> Dean Matasar's comments were reported verbatim by Professor Paul Caron of the University of Cincinnati College of Law in his blog, *TaxProf Blog*, in January 2009. *See* [http://taxprof.typepad.com/taxprof\\_blog/2009/01/is-the-law-professor.html](http://taxprof.typepad.com/taxprof_blog/2009/01/is-the-law-professor.html).

disproportionately represented. *See* Ex. 2 at p. 2 (accounting for 16 of the 54 graduates, despite constituting 13.1 percent of all graduates working in private practice). The mean salaries for such graduates are \$155,111, well above the overall mean of \$107,343. *Id.*

76. Likewise, even though 56 percent of NYLS graduates in private practice work in firms with fewer than 10 attorneys, a scant nine percent of them reported salary information. In such firms, graduates' mean salaries are \$57,625, substantially less than both the overall mean salary and the mean salary of graduates' working in firms with more than 501 attorneys. *Id.* Had more of these graduates' salaries been included in defendants' statistical computations, NYLS's reported mean salary information would have been reduced correspondingly.

77. NYLS's reported salary information for graduates working in non-private practice fields, such as "business" or government, is equally deficient. For example, a mere nine of the 108 graduates allegedly working in "business" reported salary information, while only 23 of the 70 graduates allegedly working in government and less than five of the 23 graduates allegedly working in public interest reported salary information. *Id.*

78. For the Classes of 2007 and 2009 -- and for all other classes in the class period -- NYLS does not even bother breaking down the exact job descriptions for graduates reporting salary information, instead simply disclosing that a flat rate of 20 and 25 percent reported such information. *See* Exs. 3-4. As such, there is no possible way to gauge whether graduates working in larger firms making significantly more money than the mean salary are disproportionately represented, or, whether, for that matter, the reported salary information reflects an accurate and representative cross-section of the class.

79. Additionally, logic and basic common sense dictate that the salary information for the Classes of 2007 and 2009 are equally skewed. For example, the school claims that the

mean salary for those in private practice from the Class of 2009 is \$120,197, even though nearly 65 percent work in firms with fewer than 50 attorneys, where the mean salary is well less than \$60,000. *See* Ex. 3. For the Class of 2007, the school claims that the median salary for those in private practice is \$160,000, even though approximately 51 percent work in firms with fewer than 25 attorneys, where the median salaries between \$58,000 and \$62,500. *See* Ex. 4.

80. NYLS also inflates salary information by specifically directing -- through a barrage of phone calls and follow-up emails -- the choice few graduates in high-paying jobs to respond to its job survey while ignoring all other graduates. This has the effect of ensuring that well-compensated graduates are disproportionately represented in its reported salary information, and that underemployed or unemployed graduates are disproportionately excluded

81. Upon information and belief, Plaintiffs believe that a substantial portion of recent NYLS graduates make significantly less than the reported mean salaries, and that NYLS has intentionally failed to include these salaries in any statistical analysis or calculations. NYLS knowingly and purposely omits the salaries of graduates who have secured only temporary or part-time employment from its official marketing material. This material nondisclosure has the effect of “goosing” the numbers, making it appear their graduates earn substantially more money than the reality of the situation.

82. In actuality, many NYLS graduates are in dire financial straits, living paycheck to paycheck, barely able to pay off their tens of thousands of dollars in non-dischargeable debt, much less save enough money for down payments for homes or other major purchases that signify one’s entrance into adulthood. They are working in mostly dead-end jobs, doing document review and other menial, mindless drudgery, essentially functioning as glorified paralegals or secretaries with little control over their careers. In short, they do not earn -- and

most likely will never earn -- the kind of money that could possibly make attending NYLS a worthwhile investment.

**V. Challenging the Status Quo**

83. Fortunately, after much public hand-wringing and increased media scrutiny, the tectonic plates in the legal profession have finally begun to shift, as practitioners and politicians alike are starting to roundly demand that law schools change their deceptive ways and accurately report all available employment information.

84. For example, Senator Barbara Boxer of California has sent three separate letters to the ABA taking them to task for failing to properly police the law school industry. *See* Letters from Senator Barbara Boxer to Stephen Zack, dated March 31, 2011 & May 20, 2011 (attaching Ex. 11). In her May 20th letter, she directly implored the ABA to require that all law schools independently audit and verify employment data and salary information that are either included in marketing material to prospective students or disseminated to third-party information clearinghouses and publications, such as *US News* and the ABA. In her third letter sent on October 6, 2011, she further admonished the organization for “resorting to half measures instead of tackling a major problem head on” despite the deafening public outcry for greater scrutiny in the way law schools disclose placement rates. *See* Letter from Senator Barbara Boxer to Wm. T. Robinson III, dated October 6, 2011 (attaching Ex. 12). Senator Boxer has even reached across the aisle with her colleague Senator Tom Coburn of Oklahoma to ask the Department of Education to step in and investigate the law school industry for its systemic failure to properly disclose employment prospects to prospective and current students. *See* Letter from Senator Barbara Boxer & Senator Tom Coburn to Kathleen Tighe, dated October 13, 2011 (attaching Ex. 13).

85. Senator Charles Grassley of Iowa has sent his own letter to the ABA, demanding that the organization answer 31 detailed questions pertaining to the ABA's regulation of the law school industry. *See* Letter from Senator Charles Grassley to Stephen Zack, dated July 11, 2011 (attaching Ex. 14). In particular, Senator Grassley references the questionable practices employed by law schools when offering merit-based scholarships (i.e. they extend substantially more scholarships than they can possibly renew), the supersaturated job market facing new graduates, and the increased debt burden assumed by law school students as raising serious concerns whether tax payers will ultimately be on the hook for the billions of dollars in federally-backed loans that ultimately flow into law school coffers each year. Following an inadequate response by the ABA to his queries, Senator Grassley has sent a second letter, dated August 8, 2011, challenging the ABA's apparent confidence that law students will be able to pay back their government-backed, non-dischargeable loans despite the dearth of available job opportunities. *See* Letter from Senator Charles Grassley to Stephen Zack, dated August 8, 2011, & accompanying Press Release (the "Second Grassley Letter;" attaching Ex. 15).<sup>17</sup>

86. Similarly, a coalition of 55 law school student body presidents, fed up with the ABA's inability to properly police law schools, have sent to Congress proposed legislation that would ensure "enhanced accuracy, accountability and transparency in the reporting of data pertaining to legal education." *See* Student Bar Association's Proposed Bill ("SBA Bill") & accompanying Press Release (attaching Ex. 16). Among other things, the proposed legislation

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<sup>17</sup>Just recently, the *Wall Street Journal* reported that U.S. Senate staff members were in the process of gathering a "trove" of information about the law school industry, including the way schools report post-graduate employment data. Joe Palazzolo, "Congress Gives Law Schools the Stink Eye," *Wall Street Journal Law Blog*, November 14, 2011, <http://blogs.wsj.com/law/2011/11/14/congress-gives-law-schools-the-stink-eye/>. One anonymous congressional staffer was quoted as saying that the Senate would likely hold hearings into the law school industry's failure to report accurate placement rates and salary information and air concerns over the amount of debt being racked up by law students. *Id.*

creates a new standard for reporting employment data, requires law schools to submit annual employment reports to the Department of Education, mandates that law school deans personally endorse such reports, and empowers the DOE to audit the reports. The SBA Bill expressly aims to parallel federal securities laws, where publicly-held companies must submit annual reports to the SEC disclosing material financial information.

87. The problem has gotten so far out of hand that Bill Hebert, President of the California Bar Association, in a much-publicized article in the California Bar Journal exhorts law school deans to adopt more rigorous reporting standards by disclosing the type of detailed employment and salary data that would allow students to get a realistic picture of their post-graduate financial situation. Bill Hebert, “What is the Value of the Law Degree?” California Bar Journal, February 2011 (attaching Ex. 17). Hebert chides schools for “hiding employment outcomes in aggregate statistical forms,” and impresses upon them the need to reveal the exact percentage of their graduates who have actually obtained full-time, permanent employment -- the type of information Plaintiffs are now seeking. *Id.*

88. Along these lines, Howard B. Miller, the previous President of the California Bar, went so far as to all but accuse law schools of committing fraud in the way they tabulate and report employment information to third party data clearinghouses like the ABA and *U.S. News*. Specifically, he wrote in the California Bar Journal: “There is notoriously unreliable self-reporting by law schools and their graduates of employment statistics. They are unreliable in only one direction, since the self reporting by law schools of ‘employment’ of graduates at graduation and then nine months after graduation are, together, a significant factor in the *U.S. News* rankings -- which are obsessed over, despite denials, by law schools and their constituencies. The anecdotes are as telling as the statistics: prestigious lawyers in the state are

hiring their own children to work in their firms because even with their connections they were unable to find employment elsewhere.” Howard B. Miller, “Truth in Lending and Careers,” California Bar Journal, May 2010 (attaching Ex. 18).

## **VI. Role of the ABA**

89. The ABA’s Section of Legal Education and Admissions to the Bar is responsible for accrediting and regulating all accredited legal institutions. Unfortunately, despite years of vociferous complaints by industry insiders regarding the pervasive practice that law schools blatantly manipulate employment data, the ABA has been largely derelict in its duties, essentially allowing law schools to behave with impunity as they bamboozle their students.

90. In general, the ABA has absolutely no mechanism by which to address Plaintiffs’ claims, since law school students and graduates are strictly prohibited from bringing such claims before the organization. Indeed, Rule 24 of the ABA Standards for Approval of Law Schools expressly states:

This process is not available to serve as a mediating or dispute-resolving process for persons with complaints about the policies or actions of an approved law school. The Council, Accreditation Committee and the Consultant on Legal Education will not intervene with an approved law school on behalf of an individual with a complaint against or concern about action taken by a law school that adversely affects that individual. The outcome of this process will not be the ordering of any individual relief for any person or specific action by a law school with respect to any individual.

(Emphasis added).<sup>18</sup>

91. Considering the makeup of the two ABA committees that regulate law schools, it is not surprising that the ABA has consistently acted on the law school industry’s behalf at the

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<sup>18</sup> Similarly, Plaintiffs cannot seek redress from the Department of Education, which administers Federal financial assistance to students, since the DOE only authorizes suits against the Secretary of Education, not against individual schools. *See* 20 U.S.C. § 1082(a)(2).

expense of students and graduates. The ABA's Legal Education Council is dominated by law school deans, as both its current chair, John O'Brien of the New England School of Law, and chair-elect, Kent Syverud of the Washington University School of Law, are deans of large, prominent law schools. Likewise, the committee of the Legal Education Council which is directly responsible for regulating the reporting of post-graduate placement data -- i.e. the Questionnaire Committee -- is dominated by law school deans and professors, including its current chair, Dean Art Gaudio of the Western New England College School of Law. *See in general* Ex. 15 (Second Grassley Letter) at p. 2 (noting that legal academics and university presidents and vice presidents comprise approximately 48, 52 and 64 percent of the three accreditation-related committees).

92. The undue influence exerted by the legal academy over the ABA has led the National Advisory Committee on Institutional Quality and Integrity, which advises the Department of Education on accreditation issues, to question the ABA's overall competency as an accrediting body. Specifically, the committee found that the ABA had failed to comply with 17 regulations, including, among others, failing "to set a standard for job placement by its member institutions." *See* [http://taxprof.typepad.com/taxprof\\_blog/2011/06/aba-is.html](http://taxprof.typepad.com/taxprof_blog/2011/06/aba-is.html). One of the members on the committee, Arthur Keiser, publicly accused the ABA of "not getting it," noting that an accrediting agency would never accredit an institution with 17 outstanding issues. *Id*; *see also* Ex. 14 (First Grassley Letter) at p.1 (quoting June 11, 2011 article from *The Chronicle of Higher Education* which describes the committee's members as expressing "frustration that they could not take stronger actions or at least state their concerns [regarding the ABA's lackluster accreditation process] with stronger language.")

93. It is only until recently that the ABA has finally adopted measures that would require greater reporting transparency, by mandating that law schools “unbundle” employment data. *See* “Questionnaire Committee’s Memo on Reporting Placement Data on Annual Questionnaire,” dated July 27, 2011 (attaching Ex. 19). Admittedly, these new guidelines mark a positive first step forward and at least attempts to rectify the most egregious deceptive practices, by, among other things, expressly mandating that law schools distinguish between various degrees of employment, such as permanent or temporary, JD-required and not requiring a JD degree, and whether a position is funded by a law school.

94. Nonetheless, the ABA has not gone nearly far enough in disincentivizing schools from “cooking” the data. First, the guidelines will not go into effect for at least another year, thereby allowing law schools to continue deceiving prospective students. For example, the ABA will not require that law schools publicly disclose the true employment data for the class of 2010, even though it is retroactively requiring that school obtain such data for bookkeeping purposes.<sup>19</sup> Second, the guidelines still permit schools to continue self-reporting all employment data and salary information, and do not require that they retain unrelated, independent third-parties to

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<sup>19</sup>Robert Morse, “ABA Falls Short in Efforts to Improve Law School Placement Data,” *U.S. News & World Report*, September 1, 2011 (“The ABA says it will not publish school specific salary data [for the class of 2010], but instead will publish salaries by state and region not linked to the performance of any school. These state and region results are not limited to the data from any particular law school. Prospective students want to know the average salaries of the graduates from each law school as part of being able to determine the economic viability of earning a J.D. degree from that school. The ABA should have the power to get law schools to report accurate salary data on a school-by-school basis and should trust law students to be able to understand the meaning and limits of such data.”); *see also* Karen Sloan, “ABA Stalls on Honing Law Schools’ Job Placement Reports,” *The National Law Journal*, September 26, 2011 (“The ABA Section of Legal Education and Admission to the Bar ‘has done a huge disservice to prospective law students, law schools and the legal profession,’ said Law School Transparency Executive Director Kyle McEntee. ‘The legal employment rate is a basic yet crucial part of informing prospective law students. The failure to require law schools to disclose this rate legitimizes questions about whether *the section is a body captured by special interests.*’”) (emphasis added).

audit and verify such data. Finally, these changes come too late for Plaintiffs and thousands of NYLS graduates like them who have already taken on tens of thousands of dollars in non-dischargeable debt based on New York Law's deceptive and misleading statements.

95. Indeed, based on the ABA's recent behavior one wonders how serious the organization is in implementing these reforms. After initially agreeing to rely on the independent-minded and industry gold-standard NALP to gather the relevant employment data, the ABA, in a complete 180-degree turn, attempted to cut NALP out of the process entirely, expressly rejecting the recommendation of the Questionnaire Committee that NALP and the ABA work jointly together. *See e.g.*, "Letter from James Leipold and Marcelyn Cox to Christine Durham," dated July 28, 2011 (attaching Ex. 20). In assessing the reason for this apparent about-face, James Leipold, NALP's Executive Director, in an interview with the *National Law Journal* stressed, "I think they [the ABA] see NALP's candor about the state of the legal job market as harmful to the industry. I believe their intent is to recapture their ability to control the message to the public about the status of the job market. There's a conflict of interest here."<sup>20</sup>

While the two organizations, for the time being, have articulated a desire "to move forward" and

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<sup>20</sup> Karen Sloan, "NALP Clashes with ABA over Jobs Data – and Hints at Legal Action," *National Law Journal*, August 1, 2011; *see also*, Professor William D. Henderson, "More Data but Less Transparency," *National Law Journal*, August 2, 2011, (noting that ABA's proposal would undermine NALP's ability to collect, analyze and publish accurate employment data; "In a nutshell, here is the problem. Law schools are heavily burdened by information requests. The law schools will comply with any information request from the ABA because the ABA is their accrediting agency. If the ABA and NALP cover much of the same ground but use different terminology -- the ABA will have to invent its own to avoid infringing on NALP's detailed classification system -- then some schools may forgo the voluntary submission to NALP. Unfortunately, NALP cannot publish reliable industry-level statistics if law schools cannot spare the time and expense to fill out a duplicative information request.").

“discuss ways to address the needs of all parties,” no official compromise has been reached on this issue.<sup>21</sup>

96. The sobering reality of the situation is that law schools are no different than the proverbial fox guarding the henhouse, and when given the opportunity and incentive to act within their self-interests by making themselves look better, they almost certainly will. Earlier this year, the Dean of Villanova Law School was forced to come clean and admit that the school in the past “knowingly” reported false and inaccurate information to the ABA.<sup>22</sup> Likewise, the University of Illinois College of Law has recently admitted to grossly inflating their reported median LSAT score and grade point average that were posted on its website and fired an assistant dean as a result of this malfeasance.<sup>23</sup> Rather, just as publicly-held companies must independently audit their financial statements so as to ensure the integrity of the marketplace, the same must be demanded of law schools so as to ensure that prospective students -- i.e. consumers

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<sup>21</sup> Rachel Zahorsky, “NALP Backs Off Threat to Sue ABA, Renews Spirit of Collaboration,” *ABA Journal*, August 5, 2011, [http://www.abajournal.com/news/article/aba\\_and\\_nalp\\_renew\\_collaboration\\_efforts\\_at\\_aba\\_annual\\_meeting/](http://www.abajournal.com/news/article/aba_and_nalp_renew_collaboration_efforts_at_aba_annual_meeting/).

<sup>22</sup> Incredibly, the ABA, despite Villanova’s acknowledgment that it systematically misrepresented its students’ median LSATs and GPAs for an extended period of time, essentially slapped the school on the wrist, requiring that it merely post a “public censure” on its website for the next two years. *See e.g.*, Elie Mystal, “Villanova Might Need A Kiss From Mommy Since The ABA Slapped Their Wrist Wreally Wreally Whard,” *AbovetheLaw.com*, August 15, 2011, <http://abovethelaw.com/2011/08/villanova-might-need-a-kiss-from-mommy-since-the-aba-slapped-their-wrist-wreally-wreally-whard/> (“We shouldn’t be surprised that the American Bar Association barely cares about law schools misleading prospective law students when the organization doesn’t even really seem to mind when law school lie directly to the ABA itself. The Villanova Law LSAT scandal has been resolved, and boy are you going to be underwhelmed by the penalties associated with lying to the ABA for four years.”)

<sup>23</sup> Karen Sloan, “Illinois Acknowledges Goosing Credentials of Incoming Students,” *National Law Journal*, September 19, 2011, <http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202514918155&src=EMC-Email&et=editorial&bu=National%20Law%20Journal&pt=NLJ.com-%20Daily%20Headlines&cn=20110920nl>; Christine Des Garennes, “UI Law School Official Resigns; Investigation Ends,” *The News-Gazette*, November 7, 2011, <http://www.news-gazette.com/news/education/2011-11-07/ui-law-school-official-resigns-investigation-ends.html>.

-- are making well-informed, carefully-considered decisions based on 100-percent accurate information.

### **CLASS ACTION ALLEGATIONS**

97. This action is brought and may properly be maintained as a class action pursuant to Article 9 of the New York Civil Practice Law and Rules. Plaintiffs bring this action, on behalf of themselves and all other similarly situated, as representative members of the following proposed class (the “Class”):

All persons who are either presently enrolled or have attended New York Law School to obtain a JD degree within a six-year period prior to August 10, 2011.

98. For the foregoing reasons, this action fulfills the standards and requirements as outlined by Article 9 of the CPLR.

#### **A. The Parties are Numerous and Easily Ascertainable**

99. The proposed Class is so numerous that it is manifestly impracticable to bring them all before the court. Though the exact number and identities of the Class is unknown at this time, they can be ascertained through appropriate discovery, and likely contain thousands of people, as nearly 500 students graduate from NYLS each year. The number and identities of other Class members may be determined from Defendants’ records and files, and potential Class members may easily be notified about the pendency of this action.

#### **B. Common Questions of Law and Facts Predominate**

100. This action presents questions of law and facts common to the Class, including, but not limited to, the following:

a. Whether Defendants are engaged in deceptive, misleading, unfair, fraudulent and/or otherwise unlawful practices through their non-disclosure of material facts and

affirmative misleading statements regarding post-graduate employment data and salary information, and by specifically representing that approximately 90-92 percent of their graduates secure employment within nine months of graduation;

b. Whether Defendants know the true and real percentage of recent graduates who secure full-time, permanent employment for which a JD degree is required or preferred and are, therefore, gainfully employed, and if that number is substantially lower than 90-92 percent;

c. Whether Defendants' conduct violated New York's Deceptive Acts and Practices Law, and constitute fraud, constructive fraud and/or negligent misrepresentation, as alleged herein;

d. Whether Plaintiffs and Class members are entitled to recover actual damages as a result of the actions alleged herein;

e. Whether Plaintiffs and members of the Class are entitled to recover restitution of tuition monies remitted to Defendants as a result of the actions alleged herein;

f. Whether Plaintiffs and members of the Class are entitled to ancillary relief, including the disgorgement of unearned profits, as a result of the actions alleged herein;

g. Whether Plaintiffs and Class members of the Class are entitled to recover punitive damages as a result of the actions alleged herein;

h. Whether Plaintiff and Class members are entitled to an award of reasonable attorneys' fees, pre-judgment interest and costs of this suit;

i. Whether Defendants should be forced to retain independent, non-related third-parties to audit and verify their post-graduate employment data and salary information;

j. Whether Defendants should be enjoined from continuing to make false and misleading representations and omissions regarding their post-graduate employment data and salary information; and

k. Whether Plaintiffs and Class members paid inflated tuition based on material misleading statements, representations and omissions.

**C. Plaintiffs' Claims Are Typical of the Class**

101. Plaintiffs' claims are typical of the claims and of the members of the Class because they have all been damaged in the same manner and way as a result of Defendants' failure to disclose material facts and policies of misrepresentation and omissions. Accordingly, the interests of the representative Plaintiffs are co-extensive with the interests of each Class member, and all have a common right of recovery based upon the same facts.

**D. The Class Representatives Can Adequately Represent the Class**

102. Plaintiffs are adequate representatives of the Class because Plaintiffs are members of the Class and their interests do not conflict with the interests of the Class. The interests of the Class will be fairly and adequately protected by Plaintiffs and their undersigned counsel, who are competent and experienced in the prosecution of class action litigation.

**E. A Class Action Provides a Substantial Benefit to the Courts and Litigants**

103. Should individual Class members be required to bring separate actions, courts throughout New York would be confronted by a multiplicity of lawsuits, thus burdening the court system while also creating the risk of inconsistent rulings and contradictory judgments. In contrast to proceeding on a case-by-case basis, in which inconsistent results would magnify the delay and expense to all parties and the court system, this class action will present far fewer

management difficulties while providing unitary adjudication, economies of scale and comprehensive supervision by a single court.

104. Members of the Class almost invariably lack the means to pay attorneys to prosecute their claims individually. Given the complexity of the issues presented here, individual claims are not sufficiently sizeable to attract the interests of highly able and dedicated attorneys who will prosecute them on a contingency basis. Only by aggregating claims can Plaintiffs gain the leverage necessary to pursue a just and global resolution of the issues raised in this Complaint.

105. WHEREFORE, Plaintiffs, on behalf of themselves and the Class, pray for an order certifying the Class and appointing Plaintiffs and their counsel of record to represent the Class.

### **FIRST CAUSE OF ACTION**

#### **(Against All Defendants for Violations of NY General Business Law §349, *et seq.*)**

106. Plaintiffs incorporate by reference each and every allegation set forth above as if fully stated herein.

107. Defendants' actions constitute unlawful, unfair, deceptive and fraudulent practices as defined by New York's Deceptive Acts and Practices Law, NY General Business Law §349, *et seq.*

108. As part of its fraudulent marketing practices and recruitment program, NYLS engaged in a pattern and practice of knowingly and intentionally making numerous false representations and omissions of material facts, with the intent to deceive and fraudulently induce reliance by Plaintiffs and the members of the Class. These false representations and omissions were uniform and identical in nature, and include, without limitation, the following:

- a. Stating false placement rates during the recruitment and retention process, including that approximately 90-92 percent of NYLS graduates secured employment within nine months of graduation;
- b. Manipulating post-graduate employment data, so as to give the appearance that the overwhelming majority of recent graduates secure full-time, permanent employment for which a JD degree is required or preferred;
- c. Grossly inflating the salaries earned by recent graduates, by reporting that graduates employed in private practice earned between \$120,000 and \$160,000 and those employed in “business” earned between \$68,000 and \$85,000, even though only a small subset of graduates earned such wages;
- d. Disseminating false post-graduate employment data and salary information to various third-party data clearinghouses and publications, such as the ABA and *US News*;
- e. Making deceptive and misleading statements, representations and omissions concerning the value of a NYLS law degree;
- f. Making deceptive and misleading statements, representations and omissions concerning the pace at which recent graduates can obtain gainful employment in their chosen field;
- g. Causing students to pay inflated tuition based on materially misleading statements, representations and omissions, including, specifically that approximately 90-92 percent of NYLS graduates secure gainful employment.

109. In general, Plaintiffs and members of the Class enrolled at NYLS for the purpose of securing upon graduation full-time, permanent employment for which a JD degree is required

or preferred. Defendants' acts, practices and omissions, therefore, were material to Plaintiffs' decision to enroll and attend NYLS, and were justifiably relied upon by Plaintiffs.

110. The Defendants' above-alleged actions constitute unfair business practices since the actions were deceptive, immoral, unethical, oppressive, unscrupulous, substantially injurious, and operate to the competitive disadvantage of other law schools. They are also likely to deceive the public. Moreover, the injury to the Plaintiffs was substantial and outweighs the utility of the Defendants' practices.

111. The unfair and deceptive trade acts and practices have directly, foreseeably and proximately caused damage to Plaintiffs and other members of the Class by forcing them to have paid inflated tuition based on the material misrepresentation that approximately 90-92 of NYLS graduates secure gainful employment.

112. The Defendants' practices, in addition, are unfair and deceptive because they have caused Plaintiffs and the Class substantial harm, which is not outweighed by any countervailing benefits to consumers or competition, and is not an injury consumers themselves could have reasonably avoided.

113. The Defendants' acts and practices have misled and deceived the general public in the past, and will continue to mislead and deceive the general public into the future, by, among other things, causing them to apply to and enroll at NYLS under false pretenses.

114. Plaintiffs are entitled to preliminary and permanent injunctive relief ordering the Defendants to immediately cease these unfair business practices, as well as disgorgement and restitution to Plaintiffs of all revenue associated with their unfair practices, or such revenues as the Court may find equitable and just. Plaintiffs further request that the Court enters a declaratory judgment that New York Law's representation that approximately 90-92 percent of

their graduates are employed constitutes violations of New York's Deceptive Acts and Practices Law, inasmuch as most of these graduates have not secured full-time, permanent employment for which a JD degree is required or preferred. Plaintiffs also request that they be awarded all attorneys to the extent permitted by the New York's Deceptive Acts and Practices Law.

## **SECOND CAUSE OF ACTION**

### **(Against All Defendants for Fraud)**

115. Plaintiffs incorporate by reference each and every allegation set forth above as if fully stated herein.

116. As part of its fraudulent marketing practices and recruitment program, NYLS engaged in a pattern and practice of knowingly and intentionally making numerous false representations and omissions of material facts, with the intent to deceive and fraudulently induce reliance by Plaintiffs and the members of the Class. These false representations and omissions were uniform and identical in nature, and include, without limitation, the following:

- a. Stating false placement rates during the recruitment and retention process, including that approximately 90-92 percent of NYLS graduates secured employment within nine months of graduation;
- b. Manipulating post-graduate employment data, so as to give the appearance that the overwhelming majority of recent graduates secure full-time, permanent employment for which a JD degree is required or preferred;
- c. Grossly inflating the salaries earned by recent graduates, by reporting that graduates employed in private practice earned between \$120,000 and \$160,000 and those employed in "business" earned between \$68,000 and \$85,000, even though only a small subset of graduates earned such wages;

- d. Disseminating false post-graduate employment data and salary information to various third-party data clearinghouses and publications, such as the ABA and *US News*;
- e. Making deceptive and misleading statements, representations and omissions concerning the value of a NYLS law degree;
- f. Making deceptive and misleading statements, representations and omissions concerning the pace at which recent graduates can obtain gainful employment in their chosen field; and
- g. Causing students to pay inflated tuition based on materially misleading statements, representations and omissions, including, specifically that approximately 90-92 percent of NYLS graduates secure gainful employment.

117. In general, Plaintiffs and members of the Class enrolled at NYLS for the purpose of securing full-time, permanent employment upon graduation. Defendants' acts and practices, therefore, were material to Plaintiffs' decision to enroll and attend NYLS, and were justifiably relied upon by Plaintiffs, and further proximately caused Plaintiffs and other members of the Class to pay inflated tuition.

118. Plaintiffs and members of the Class did in fact justifiably rely on these material representations and omissions when deciding to enroll at NYLS. Specifically, Plaintiffs reviewed and relied upon post-graduate employment data and salary information posted on New York Law's website and included in marketing brochures, as well as all such information disseminated to third-party data clearinghouses and publications, such as the ABA and *US News*, and specifically relied on New York Law's representations that approximately between 90 and 92 percent of its graduates over the years were employed within nine months of graduation.

119. The material representations and omissions were part of a common scheme, practice and plan conceived and executed by NYLS to mislead, deceive and defraud Plaintiffs and members of the Class. Defendants made these statements and representations regarding their graduates' employment data and salary information, including their graduates' ability to secure full-time, permanent employment for which a JD degree is required or preferred, knowing full well they were false, untrue, fraudulent and deceptive. In fact, Defendants know that the overwhelming majority of their graduates fail to secure gainful employment following graduation and are forced to take jobs incommensurate to their education level.

120. Plaintiffs were, at all relevant times, ignorant of the true facts and did not know that in actuality few NYLS graduates secure full-time, permanent employment for which a JD degree is required or preferred. Had Plaintiffs known of the dire financial straits faced by the overwhelming majority of NYLS students following graduation, and that substantially fewer than 90-92 percent of NYLS graduates secure full-time, permanent employment for which a JD degree is required or preferred, they would never have enrolled at New York Law and incurred tens of thousands of dollars in non-dischargeable debt.

121. In addition, NYLS occupies a fiduciary position as educators, and owes a heightened duty of care to Plaintiffs and members of the Class to act in good faith and engage in fair dealings. Likewise, by virtue of the fact that many of NYLS's staff and faculty are attorneys and members of the New York Bar, they have certain ethical obligations and responsibilities to Plaintiffs and members of the Class. Similarly, the existence of a Financial Aid Office and the fact that NYLS provides advice and assistance to students on how to procure the necessary financing to fund their education, establishes a fiduciary duty to act in good faith and engage in fair dealings. Defendants breached these heightened duties of care by making a series of

material misstatements and omissions regarding their graduates' employment data and salary information.

122. The above-referenced material misstatements and omissions were knowingly, willfully, intentionally, maliciously, oppressively, and fraudulently undertaken with the express purpose and intention of defrauding Plaintiffs and the members of the Class, as well as to the substantial benefit of the Defendants. Consequently, Plaintiffs and members of the Class are entitled to punitive damages, the disgorgement of tuition monies, the reimbursement of attorneys' fees and all other monetary and equitable relief as the Court may find equitable and just.

### **THIRD CAUSE OF ACTION**

#### **(Against All Defendants for Negligent Misrepresentation)**

123. Plaintiffs incorporate by reference each and every allegation set forth above as if fully stated herein.

124. As part of its fraudulent marketing practices and recruitment program, NYLS engaged in a pattern and practice of knowingly and intentionally making numerous false representations and omissions of material facts, with the intent to deceive and fraudulently induce reliance by Plaintiffs and the members of the Class. These false representations and omissions were uniform and identical in nature, and include, without limitation, the following:

- a. Stating false placement rates during the recruitment and retention process, including that approximately 90-92 percent of NYLS graduates secured employment within nine months of graduation;

- b. Manipulating post-graduate employment data, so as to give the appearance that the overwhelming majority of recent graduates secure full-time, permanent employment for which a JD degree is required or preferred;
- c. Grossly inflating the salaries earned by recent graduates, by reporting that graduates employed in private practice earned between \$120,000 and \$160,000 and those employed in “business” earned between \$68,000 and \$85,000, even though only a small subset of graduates earned such wages;
- d. Disseminating false post-graduate employment data and salary information to various third-party data clearinghouses and publications, such as the ABA and *US News*;
- e. Making deceptive and misleading statements, representations and omissions concerning the value of a NYLS law degree;
- f. Making deceptive and misleading statements, representations and omissions concerning the pace at which recent graduates can obtain gainful employment in their chosen field; and
- g. Causing students to pay inflated tuition based on materially misleading statements, representations and omissions, including, specifically that approximately 90-92 percent of NYLS graduates secure gainful employment.

125. In general, Plaintiffs and members of the Class enrolled at NYLS for the purpose of securing full-time, permanent employment upon graduation. Defendants’ acts and practices, therefore, were material to Plaintiffs’ decision to enroll and attend NYLS, and were justifiably relied upon by Plaintiffs, and further proximately caused Plaintiffs and other members of the Class to pay inflated tuition.

126. Plaintiffs and members of the Class did in fact justifiably rely on these material representations and omissions when deciding to enroll at NYLS. Specifically, Plaintiffs reviewed and relied upon post-graduate employment data and salary information posted on New York Law's website and included in marketing brochures, as well as all such information disseminated to third-party data clearinghouses and publications, such as the ABA and *US News*, and specifically relied on New York Law's representations that approximately between 90 and 92 percent of its graduates over the years were employed within nine months of graduation.

127. The material representations and omissions were part of a common scheme, practice and plan conceived and executed by NYLS to mislead, deceive and defraud Plaintiffs and members of the Class. Defendants made these statements and representations regarding their graduates' employment data and salary information, including their graduates' ability to secure full-time, permanent employment for which a JD degree is required or preferred, knowing full well they were false, untrue, fraudulent and deceptive. In fact, Defendants know that the overwhelming majority of their graduates fail to secure gainful employment following graduation and are forced to take jobs incommensurate to their education level.

128. Plaintiffs were, at all relevant times, ignorant of the true facts and did not know that in actuality few NYLS graduates secure full-time, permanent employment for which a JD degree is required or preferred. Had Plaintiffs known of the dire financial straits faced by the overwhelming majority of NYLS students following graduation, and that substantially fewer than 90-92 percent of NYLS graduates secure full-time, permanent employment for which a JD degree is required or preferred, they would never have enrolled at New York Law and incurred tens of thousands of dollars in non-dischargeable debt.

129. In addition, NYLS occupies a fiduciary position as educators, and owes a heightened duty of care to Plaintiffs and members of the Class to act in good faith and engage in fair dealings. Likewise, by virtue of the fact that many of NYLS's staff and faculty are attorneys and members of the New York Bar, they have certain ethical obligations and responsibilities to Plaintiffs and members of the Class. Similarly, the existence of a Financial Aid Office and the fact that NYLS provides advice and assistance to students on how to procure the necessary financing to fund their education, establishes a fiduciary duty to act in good faith and engage in fair dealings. Defendants breached these heightened duties of care by making a series of material misstatements and omissions regarding their graduates' employment data and salary information.

130. The above-referenced material misstatements and omissions were knowingly, willfully, intentionally, maliciously, oppressively, and fraudulently undertaken with the express purpose and intention of defrauding Plaintiffs and the members of the Class, as well as to the substantial benefit of the Defendants. Consequently, Plaintiffs and members of the Class are entitled to punitive damages, the disgorgement of tuition monies, the reimbursement of attorneys' fees and all other monetary and equitable relief as the Court may find equitable and just.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs, on behalf of themselves and members of the Class, pray for relief and judgment against Defendants NYLS and Does 1 through 20 as follows:

1. For preliminary and injunctive relief enjoining Defendants, their agents, servants, employees and all persons acting in concert with them from continuing to engage in their unlawful recruitment program and manipulation of post-graduate employment

- data and salary information, and all other unfair, unlawful and /or fraudulent business practices alleged above and that may yet be discovered in the prosecution of this action;
2. For certification of the Class;
  3. For restitution and disgorgement of all tuition monies remitted to NYLS, totaling \$225 million, which is the difference between the inflated tuition paid by Class members based on the material misrepresentations that approximately 90-92 percent of graduates are employed within nine months of graduation and the true value of a NYLS degree;
  4. For damages;
  5. For punitive damages;
  6. For an accounting by Defendants for any and all profits derived by them from the herein-alleged unlawful, unfair, and/or fraudulent conduct and/or business practices;
  7. For injunctive relief ordering that NYLS retains unrelated, independent third-parties to audit and verify post-graduate employment data and salary information, and that NYLS disclose the true percentage of graduates who secure full-time, permanent employment for which a JD degree is required or preferred;
  8. For attorneys' fees and expenses pursuant to all applicable laws;
  9. For prejudgment interest; and
  10. For such other and further relief as the Court may deem just and proper.

DATED: November 21, 2011

RESPECTFULLY SUBMITTED,

**STRAUSS LAW, PLLC**

By: /s/ Jesse Strauss

Jesse Strauss

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*Counsel for Plaintiffs, individually  
and for all others similarly situated*

**DEMAND FOR JURY TRIAL**

Plaintiffs hereby demand a jury trial on all causes of action so triable.

DATED: November 21, 2011

RESPECTFULLY SUBMITTED,

**STRAUSS LAW, PLLC**

By: /s/ Jesse Strauss \_\_\_\_\_

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