

IN THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Jordan Nott,  
1420 Oak Street, NW, bsmt.  
Washington, DC 20010,

Plaintiff,

v.

The George Washington University  
2121 Eye Street, NW  
Washington, DC 20052,  
Serve: Dennis Blumer  
Office of the Vice President  
and General Counsel  
2100 Pennsylvania Avenue, NW, Suite 250  
Washington, DC 20052  
Phone: (202) 994-6503

Stephen Joel Trachtenberg,  
President, The George Washington University  
2121 Eye Street, NW  
Washington, DC 20052,

Dr. Donald R. Lehman  
Executive Vice President for Academic Affairs,  
The George Washington University,  
2121 Eye Street, NW  
Washington, DC 20052,

Linda Ms. Donnels,  
Associate Vice President and Dean of Students,  
The George Washington University  
2121 Eye Street, NW  
Washington, DC 20052,

Rebecca Sawyer  
Assistant Dean of Students  
Community Living and Learning Center  
The George Washington University,  
2121 Eye Street, NW  
Washington, DC 20052,

Diane DePalma,  
Director of University Counseling Center,  
The George Washington University

Civil Case No. 05-8503

(Judge Anna Blackburne-Rigsby)

2033 K Street, NW Suite 330 )  
 Washington, DC 20052, )  
 )  
 Tara Woolfson, )  
 Director, Student Judicial Services )  
 The George Washington University )  
 2223 H Street, NW Suite 107 )  
 Washington, DC 20052, )  
 )  
 Michael Gieseke )  
 Assistant Director, Student Judicial Services )  
 The George Washington University, )  
 2223 H Street, NW Suite 107 )  
 Washington, DC 20052, )  
 )  
 Dolores Stafford, )  
 Chief, University Police )  
 The George Washington University )  
 2033 G Street, NW )  
 Washington, DC 20052, )  
 )  
 District Hospital Partners, L.P., )  
 d/b/a the George Washington University Hospital,) )  
 901 23th Street, NW Suite 2500 North )  
 Washington, D.C. 20037 )  
 Serve: Registered Agent )  
 CT Corporation System )  
 1015 15<sup>th</sup> Street, NW Suite 1000 )  
 Washington, DC 20005, )  
 )  
 Richard Becker, MD )  
 Chief Executive Officer )  
 George Washington University Hospital )  
 900 23<sup>rd</sup> Street, NW )  
 Washington, DC 20037, )  
 )  
 The George Washington University Medical Center,) )  
 2300 Eye Street NW )  
 Washington, DC 20037 )  
 Serve: Corporation Service Company )  
 1090 Vermont Ave., NW )  
 Washington, DC 20005, )  
 )  
 )  
 George Washington Medical Faculty Associates, Inc) )  
 George Washington University Hospital )  
 2150 Pennsylvania Ave., NW )

Washington, DC 20037 )  
 Serve: Corporation Service Company )  
 1090 Vermont Ave., NW )  
 Washington, DC 20005, )  
 )  
 Custodian of Records, )  
 George Washington University Hospital )  
 900 23<sup>rd</sup> Street, NW )  
 Washington, DC 20037, )  
 )  
 GW Hospital Liaison, )  
 George Washington University Hospital )  
 900 23<sup>rd</sup> Street, NW )  
 Washington, DC 20037, )  
 )  
 Natalia Eisenberg, M.D )  
 George Washington University Hospital )  
 2150 Pennsylvania Ave., NW )  
 Washington, DC 20037, )  
 )  
 And )  
 )  
 Dr. Benjamin Chan, )  
 George Washington University Hospital )  
 2150 Pennsylvania Ave., NW )  
 Washington, DC 20037, )  
 )  
 Defendants. )  
 \_\_\_\_\_ )

**FIRST AMENDED COMPLAINT**

(Americans with Disabilities Act, Rehabilitation Act, Fair Housing Act, D.C. Human Rights Act, Intentional Infliction of Emotional Distress, Invasion of Privacy, Breach of Confidential Relationship, District of Columbia Mental Health Information Act of 1978)

**A. NATURE OF THE ACTION**

1. This case seeks relief against George Washington University and various individuals for the callous way in which they treated a student who sought medical help. Rather than act to help, support or comfort him during his illness, they disciplined him, threatened him with criminal prosecution and ultimately ended his college career at the school of his choice. In the Fall semester of 2004, Plaintiff Jordan Nott was depressed and thinking

about his close friend and intended roommate who had committed suicide by jumping out the window of his dorm room while Nott and two other friends stood in the hallway frantically trying to open his locked door. On October 26, 2004, under the influence of strong medication, Nott was unable to sleep and was disturbed by his depressive thoughts. Nott acted appropriately and self-protectively by asking his roommate to accompany him to GW hospital for psychiatric help. GW Hospital and/or various medical caregivers promptly informed GW University officials of Nott's request for psychiatric help. Within about 12 hours of his hospital admission, Nott was given a disciplinary letter barring him from his dorm. Within about 36 hours, GW University leveled disciplinary charges against Nott and told him he had to withdraw from the University or face suspension, expulsion and/or criminal charges, merely for seeking help for his depression. That letter gave Nott less than a week to prepare for a hearing or end his college career. GW University knew or should have known that this was against the best interests of Nott, and was likely to exacerbate his condition and cause him great emotional distress. GW University did not act to prevent the possibility of suicide, as its actions actually heightened this risk. Instead, GW University sought only to protect itself from adverse publicity or liability should another suicide have occurred on its property. GW Hospital and its agents were complicit in this scheme, as they not only shared information with the University, but they also provided free access to a limited access area (the psych ward) outside of visiting hours (5:00 p.m. to 7:00 p.m.) to the University official who hand delivered the disciplinary letters, while initially barring Nott's mother from visiting him outside normal visiting hours. President Trachtenberg personally looked into this situation and fully endorsed and ratified the conduct of the University officials involved. This action seeks declaratory and injunctive relief and damages for discrimination against Jordan Nott on the basis of perceived disability in violation of the Americans with Disabilities Act, the Fair Housing Amendments Act of 1988

(FHAA), Section 504 of the Rehabilitation Act of 1973, and the D.C. Human Rights Act. Jordan Nott also brings claims for violation of his privacy and for infliction of emotional distress. All allegations are made upon information and belief.

2. Jordan Nott was a straight "A" student at The George Washington University ("GWU"). In April of 2004, Nott's friend, Hasan Hussain, killed himself by jumping out of his dorm room while Nott and two friends were in the hall. Nott and Hassan had intended to be roommates for the 2004-05 school year. In the Fall of 2004, Nott experienced depression. Nott sought and received counseling from the University Counseling Center in September and October 2004. In October 2004, Nott was taking Zoloft on a daily basis, and Ambien as needed.

3. On the night of October 26, 2004, Nott had trouble sleeping and took Ambien. In the early morning hours of October 27, 2004, Nott was lying awake in bed and thinking about his friend's suicide. Nott was aware that people sometimes have an adverse reaction to Zoloft and some had committed suicide. Since he had only been on Zoloft for a matter of weeks, he was concerned whether he was having such a reaction. In the early morning hours of October 27, Nott became concerned about his depression. Because he had taken sleeping medication, Nott woke two of his friends and asked them to accompany him to the hospital. They took him to the George Washington University Hospital. Nott was not actively suicidal on October 27, 2004. Nott was not actively suicidal at any time. Nott never made a suicide threat, gesture or attempt. Nott voluntarily admitted himself to the Hospital on October 27, 2004.

4. On October 27, 2004, GWU informed Nott that consistent with the University residence hall's policy on "Psychological Distress," as a student who was subject to emergency psychological intervention or hospitalization, he was not permitted to return to his dorm room.

5. On October 28, 2004, Michael Gieseke hand delivered a letter notifying Nott that he was suspended from the University and was charged with a disciplinary violation. That is,

GWU punished Nott for promptly seeking appropriate medical help. As of October 28, 2004, Nott had not engaged in any behavior that endangered himself or others. The letter delivered by Gieseke charged Nott with violating the School Code of Conduct by engaging in “Endangering Behavior.” He was put on interim suspension by the University, evicted from his dorm room, prohibited from attending classes, and barred from GWU property and events. Jordan was warned that if he came onto campus for any reason, he would be considered a trespasser and could be arrested. Jordan was suspended from GWU on October 28, 2004, solely because Nott sought mental health treatment. GWU has not rescinded the order barring Nott from campus. Although Jordan has been cleared by his doctors to return to school, GWU continues to treat Jordan like a criminal, barring him from visiting friends or attending public events on campus.

## **B. JURISDICTION AND VENUE**

6. The Court has jurisdiction of Plaintiff’s claims under District of Columbia Code, § 11-921, and the District of Columbia Human Rights Act, District of Columbia Code, § 2-1401.01, the Americans with Disabilities Act, 42 U.S.C. § 12182, and Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. §§ 794 and 794a, the Fair Housing Amendments Act, 42 U.S.C. § 3604(f).

7. Venue properly lies in this Court because the Plaintiff resides in the District of Columbia, Defendants are located in the District of Columbia, and the controversy involves Defendants’ behavior in the District of Columbia.

## **C. THE PARTIES**

8. Plaintiff Jordan Nott is a resident of the District of Columbia. He is a person with a disability within the meaning of the Americans with Disabilities Act (ADA), the Rehabilitation Act of 1973 (Section 504), the Fair Housing Act (FHAA) and the DC Human Rights Act

(DCHRA). At the relevant time, Nott had matriculated as a student at GWU as that term is used in the DCHRA. Defendants regarded and continue to regard Plaintiff as a person with a disability, substantially limited in his ability to care for himself. He is currently a student at the University of Maryland.

9. Defendant, The George Washington University (“GWU”), is a congressionally-chartered nonprofit corporation and comprehensive private university, with its principal place of business at 2121 Eye Street, NW, Washington, DC, 20052. GWU and its programs and activities receive Federal financial assistance. GWU is a “public accommodation” under 42 U.S.C. § 12181, and is subject to Title III of the ADA. As Defendant operates programs, services and activities receiving federal funds, it is subject to Section 504 of the Rehabilitation Act. GWU is competent to sue and be sued in the District of Columbia.

10. Defendant Stephen Joel Trachtenberg is the President of The George Washington University.

11. Donald Lehman is the Executive Vice President for Academic Affairs of the George Washington University. He is the Chief Academic Officer with administrative oversight of the schools and other academic divisions. He is responsible for strategic academic planning and educational policy in the areas of admissions.

12. Defendant Linda Ms. Donnels is the Associate Vice President and Dean of Students of The George Washington University. She oversees the University Counseling Center (UCC) and the Community Living and Learning Center.

13. Rebecca Sawyer is the Assistant Dean of Students. She is responsible for administration of the Community Living and Learning Center.

14. Diane DePalma, is the Director of University Counseling Center.

15. Tara Woolfson is the Director of Student Judicial Services.

16. Michael Gieseke is the Assistant Director of Student Judicial Services.
17. Dolores Stafford is the Chief of the GWU University Police Department.
18. District Hospital Partners, L.P. is a partnership between Universal Health Services, and The George Washington University which jointly owns and operates the George Washington University Hospital ("GW Hospital"). GWU holds a twenty percent interest in GW Hospital.
19. Richard Becker is the Chief Executive Officer of the George Washington University Hospital.
20. George Washington University Medical Center (GWUMC") is an unincorporated division of the George Washington University. It is a health care center which includes GW Hospital.
21. George Washington Medical Faculty Associates Inc. ("GWMFA"), is a multi-physicians practice, which jointly operates the George Washington University Medical Center.
22. Custodian of the Records, GW Hospital, has oversight over all authorizations for release of information at George Washington University Hospital.
23. The GW Hospital Liaison with counseling is responsible for sharing information regarding GWU students between The George Washington University and George Washington University Hospital.
24. Dr. Benjamin Chan, was Plaintiff's treating psychiatrist at the George Washington University Hospital.
25. Dr. Natalia Eisenberg was Plaintiff's treating psychiatrist at the George Washington University Hospital.
26. Defendants GWU, Trachtenberg, Lehman, Donnels, Sawyer, DePalma, Woolfson, Gieseke, and Stafford are collectively referred to herein as the "GWU Defendants."

27. Defendants District Hospital partners, L.P., Richard Becker, GWUMC, GWMFA, custodian of records GW Hospital, GW Hospital Liaison, Dr. Eisenberg and Dr. Chan are collectively referred to herein as the "GW Hospital Defendants."

#### **D. THE FACTS SUPPORTING PLAINTIFF'S CLAIMS**

28. Plaintiff Jordan Nott is 20 years old. Jordan attended The George Washington University, Elliott School of International Affairs ("GWU") from August 2003 until his suspension on October 28, 2004.

29. Jordan was an excellent student with high grades. During his freshman year, he made the Dean's list. He also had many extra-curricular interests and was involved in several in-school and after-school activities at GWU. Since the spring semester of his freshman year, he also worked part-time for the Elliott School of International Affairs as an office assistant/administrative assistant. During his sophomore year, he also had a part-time internship at a small government relations firm.

30. In April 2004, Hasan Hussain, a GWU student and close friend of Jordan's, committed suicide by jumping from his dorm building. Jordan and Hasan had intended to share a school dormitory room during the 2004 -2005 academic year. Jordan and two other friends of Hasan's were standing outside Hasan's locked dorm room door when Hasan jumped.

31. During the 2004 - 2005 academic year, Jordan lived in the F.S. Key Hall dormitory with another student. After Hasan's suicide, Jordan often thought of his friend and the manner in which he killed himself. In September 2004, Jordan began experiencing depression.

32. In the fall of 2004, Jordan sought counseling at the University Counseling Center ("UCC"). The UCC conducts suicide prevention and grief response. Jordan was referred to Dr. Diane DePalma, whom he saw for several weeks. During those sessions, Jordan discussed his

depression. He also experienced mood swings and insomnia. Dr. DePalma referred Jordan to Dr. Joan Barber, the school psychiatrist, who prescribed Ambien and Zoloft.

33. During his appointments with Dr. DePalma, he discussed his lingering thoughts of Hasan's suicide and his own depression. In one particular session, Dr. DePalma asked him if he ever thought about suicide. He admitted that at times he did have thoughts about suicide, but would not act on them. Dr. DePalma asked Jordan how he would commit suicide if he ever decided to do so.

34. At approximately 2 a.m. on October 27, 2004, after taking his medication and still unable to sleep, Jordan started thinking about his conversation with Dr. DePalma concerning suicide. In particular, he thought about her question as to how he would commit suicide if he ever decided to. He was concerned about the side effects of the Zoloft he was taking, which sometimes heightens depression before reducing symptoms. Jordan was not actively suicidal, did not make a suicide gesture or attempt, and did not threaten to kill himself or plan to do so.

35. Jordan was aware that his roommate would be away during the weekend and thought that it was a bad time for him to be alone. Jordan was frightened by how he was feeling, so he asked his roommate and a friend to accompany him to the George Washington University Hospital emergency room for mental health treatment. The hospital decided that he should stay for observation, and he was admitted as a voluntary patient.

36. George Washington University Hospital and its employees and agents disclosed confidential medical information about Jordan and his admission to one or more of the GWU defendants.

37. On the morning of October 27, 2004, Diane DePalma called Jordan's mother, Patricia Nott to inform her that Jordan had been admitted to the hospital. Jordan's mother was not able to get a flight down from the Syracuse, New York that day.

38. Later that day, Rebecca Sawyer, Assistant Dean of Students, caused a letter to be delivered to Jordan in the hospital. Dr. Benjamin Chan, Jordan's treating psychiatrist, hand-delivered the letter. The letter advised Jordan that the residence hall "Psychological Distress" policy required that all students who live in the residence halls who "exhibit suicidal behaviors and/or are subject to emergency psychological intervention or hospitalization must receive clearance from the Director of the University Counseling Center and the Assistant Dean of Students" prior to being allowed to return to the dorm.

39. The letter stated that in order to be "cleared" to return to the residence hall, the UCC and Community Living and Learning Center ("CLLC") had to assess Jordan's "ability to obtain recommended treatment" and ability to "live independently and responsibly." In order to obtain clearance, Jordan had to set up an appointment with UCC within 48 hours, and develop an agreed-upon treatment plan. UCC would then provide information to CLLC regarding Jordan's "clearance and conditions to remain in the [residence] halls." Thereafter, CLLC would determine whether and under what conditions Jordan would be allowed to return to the residence hall. Copies of the letter were sent to Dr. DePalma and Kim Clemens, Community Director, FSK Hall. See letter dated October 27, 2004, attached hereto as Exhibit A.

40. The following day, October 28, 2004, Diane DePalma called Ms. Nott to tell her that Jordan would be receiving a suspension letter that afternoon. Jordan's mother stated that Jordan would be crushed. Diane DePalma responded that Jordan had to learn the seriousness of this incident. Ms. Nott immediately called Jordan's doctor in order to stop the school from delivering the letter. Her call arrived too late.

41. While still hospitalized on October 28, Linda Donnels, Associate Vice President and Dean of Students, and Dr. Donald Lehman, Executive Vice President for Academic Affairs sent a letter to Jordan charging him with violating Article 11(o) of the "Code of Student

Conduct.” That provision of the code prohibits violations of University regulations, including the CLLC Residential Community Conduct Guidelines. The letter was hand-delivered by Michael Gieseke, Assistant Director, Office of Student Judicial Services. Gieseke was allowed into the psychological ward of the Hospital outside of visiting hours to deliver this letter. Gieseke managed to visit Jordan before his own mother was able to be there. The letter delivered by Gieseke charged Jordan with violating Residential Community Conduct Guideline III.8 (RCCG.III.8), entitled “Endangering Behavior.” That guideline provides that, “Behavior of any kind that imperils or jeopardizes the health or safety of any person or persons is prohibited. This includes any actions that are endangering to self or to others.” See letter dated October 28, 2004 attached hereto as Exhibit B. At the time Gieseke delivered that letter, Jordan had not engaged in any behavior that violated RCCG.III.8.

42. The letter stated that as a result of Jordan’s alleged violation, he was placed on interim suspension, effective immediately, “pending University adjudication in connection with [his] behavior on and around October 26, 2004.” He was barred from his dorm room immediately.

43. The letter further stated that Jordan was “barred from entry into or on University-owned or leased property, and from attendance at events sponsored by GW or any of its recognized campus organizations.” Finally, the letter warned Jordan that “if you come onto campus for any reason, you will be trespassing and may be arrested. Additional judicial action may also be taken by the University.” See Exhibit B.

44. The October 28, 2004 letter was sent to Diane DePalma; Donald R. Lehman, Executive Vice President, Academic Affairs; Dolores Stafford, Chief of Police, University Police Department; Tara Wolfson, Director, Office of Student Judicial Services; and Kim Clemens, Community Director, F.S. Key Hall. See Exhibit B.

45. The letter informed Jordan that he was excluded from classes and from any activities on campus. Many events on campus are open to the public, but the letter barred Jordan from these events, too. A hold was placed on his record to prevent him from registering or attending classes. See Exhibit B.

46. The University intended to convene a University Judicial Hearing Board on Wednesday, November 3, 2004 to adjudicate the alleged violation. The Hearing Board is composed of up to five full-time students and a faculty member or administrator. The October 28, 2004 letter advised Jordan that if the Hearing Board found him responsible for violating the Code of Student Conduct, "potential sanctions include suspension or expulsion." See Exhibit B. Jordan was not released from the Hospital until November 1, 2004. Jordan was not provided sufficient time to secure representation or prepare for a hearing.

47. The Senior Associate Dean of Students determines which sanctions - suspension, eviction from housing, or expulsion - are warranted for the alleged violation. Only students accused of the most serious violations of the Code of Conduct, who are subject to eviction from University housing or expulsion from the University are entitled to adjudication before a Judicial Hearing Board. Students charged with lesser violations are only entitled to an informal disciplinary conference, a non-adversarial meeting with a University Administrator.

48. In the alternative, the letter offered Jordan the option to officially withdraw from the University. If he did so, the charges would be deferred "pending the following conditions: (1) the successful completion of the medical treatment prescribed for you, (2) documentation by your treating professionals that you have been symptom free for six months, and (3) an assessment by your treating professionals that you have the ability to live independently and to perform successfully in a university environment." See Exhibit B.

49. The letter stated that if Jordan withdrew, was cleared by the UCC, and complied with all of the stated conditions, Jordan could request that Ms. Donnels reexamine the case and review the deferred charges. If he elected withdrawal, even though the charges would be deferred, all other provisions of the suspension including the bar from University property and events would remain in effect. See Exhibit B.

50. Jordan was extremely distraught by receipt of the letters charging him, suspending him, and barring him from the campus and the dormitory. He did not know what to do. He feared that he had ruined his life and academic career. Jordan was required to elect which option he preferred by November 2, 2004. Jordan asked Gieseke for an extension on November 1, 2004. Gieseke told him to put it in writing. Jordan sent the email on November 2. Gieseke did not respond to Jordan's November 2, 2004 email.

51. The barring order meant that Jordan would be treated like a criminal. Jordan's name was placed on a list of individuals barred from the University that was circulated to University police and all University buildings and dorms. The other individuals on the list are barred due to disciplinary charges such as sexual assault, physical abuse, destruction of property, theft, etc. Many of the individuals who staff the desks at dorms and University buildings are GWU students. These GWU students were informed of Jordan's barring.

52. The barring order meant that Jordan could no longer attend his classes. He could not visit friends on campus or in the dorms. He also could not attend any University events or events at the Elliott School of Foreign Affairs, even if they were open to the general public, such as University sporting events, events sponsored by University student organizations, or performances at the Lisner auditorium. For example, in March, 2005, he could not participate in the 5K run for mental health awareness sponsored by Run 5-4 Life, a student organization committed to reducing youth suicide and providing mental health support. He could not

continue to see his psychiatrist, or counselor Dr. DePalma. By receiving treatment at GWU Hospital, he was technically in violation of the barring order. He could not even meet with University personnel to discuss his situation and options.

53. On October 29, 2004, Jordan received a letter from Renee Clement, Director of Colonial Inauguration & New Student Programs. Jordan had previously applied for a position in the Colonial Cabinet, a freshman orientation program for incoming students. In his application, as a response to the recent suicide of Hasan, Jordan had suggested including a session in the orientation program educating incoming students about depression and suicide. His suggestion was well received and Frederic Siegel, Dean of Freshman, offered to give him a letter of recommendation in support of his application to the Colonial Cabinet. The timing of this letter was ironic.

54. The October 29, 2004 letter stated, "the enthusiasm and excellence you demonstrated in your application and interview have shown that you truly represent the best of what The George Washington University has to offer." Due to his "exceptional promise," Jordan was selected as a finalist in the Colonial Cabinet program and was offered an interview with the Colonial Inauguration staff.

55. Jordan remained at GWU Hospital for five days, until November 1, 2004. His diagnosis upon discharge was major depressive disorder, possibly Post-Traumatic Stress Disorder. At that time, he decided to take a brief leave of absence, and return home to Syracuse, NY.

56. On November 1, 2004 immediately following Jordan's release from the hospital, Jordan and Ms. Nott met with Mr. Michael Gieseke, Assistant Director, Office of Student Judicial Services, to discuss Jordan's options regarding attending the University Hearing Board. Mr. Gieseke advised Jordan that he could fight the charges, but if he lost, the charges would go

on his record and he could be suspended or expelled. Mr. Gieseke indicated that Jordan had little chance of success if he fought the charges. Gieseke's statement that Jordan had little chance of success fighting the charges was untrue. Gieseke knew or should have known that his statement was untrue. Mr. Gieseke informed Jordan and Ms. Nott that he would not have been suspended or barred from GW property if he had not lived in the residence hall.

57. On November 2, 2004, Jordan requested a one week extension of the deadline to determine how he wanted to proceed with respect to the University Hearing Board. Jordan emailed this request for an extension of time to Gieseke. Gieseke did not respond to Jordan's email request for an extension of time.

58. Faced with the option of withdrawing or risking a disciplinary record and suspension, Jordan decided to withdraw on November 8, 2004, with the approval of Diane DePalma and Linda Donnels. He was allowed to complete two courses from home -Geography 105 and Introduction to Environmental Law - with the approval his individual professors, and withdrew from his remaining three classes.

59. On November 8, 2004, Ms. Nott spoke with Ms. Donnels' assistant, Rebecca Sawyer. Ms. Nott mentioned that Jordan and his father intended to go to Washington on November 11, 2004 to pack Jordan's belongings, which had been left in his dorm room. Ms. Sawyer informed Ms. Nott that Jordan was not allowed in any campus building, including his dorm room.

60. Later in the day, Michael, an F.S. Key Community Director, stated that Jordan would be allowed into the dorm as long as he was accompanied by his father. Yet, after Michael's call, Rebecca Sawyer called to say that the information provided by Michael was incorrect, and that if Jordan went into his dorm, he would run the risk of being stopped by University police. Ultimately, Jordan sat in the car while his father and friends packed and

loaded his things into the car. A University official (Kim Clemens) was present at the entrance of the dorm to make sure Jordan did not enter without a University police escort.

61. On November 17, 2004, Linda Donnels, in conjunction with Donald Lehman, sent Jordan a letter confirming that the charges against him for violation of the code of conduct and his interim suspension were deferred. However, Jordan was still “barred from entry into or on University-owned or leased property and from attendance at events sponsored by GW or any of its recognized campus organizations.” He was again warned that “if you come onto campus for any reason, you will be trespassing and may be arrested.” See letter dated November 17, 2004, attached hereto as Exhibit C.

62. The letter also reminded Jordan that he was prevented from registering for classes until he successfully completed all prescribed medical treatment, and provided medical documentation that he has been symptom free for six months and had “the ability to live independently and to perform successfully in a university environment.” If he met those terms and complied with the barring order, after April 29, 2005 he could request clearance from the University Counseling Center. If and when clearance was recommended, Ms. Donnels would “consider reexamining” the case and dropping the pending charges against Jordan. See Exhibit C.

63. On December 2, 2004, Jordan received a letter from Dolores Stafford, Chief of Police, University Police Department, permanently barring Jordan from all GW property, effective immediately. The letter further stated:

You are barred according to DC Code section 22-3302 – unlawful entry on property, which is defined as: any person who, without lawful authority, shall enter, or attempt to enter, any public or private dwelling, building or other property, or part of such dwelling, building or other property, against the will of the lawful occupant or the person lawfully in charge thereof, or being therein or thereon, without lawful authority to remain therein or thereon shall refuse to quit the same on the demand of the lawful occupant, or the person lawfully in charge thereof, shall be deemed guilty of a

misdemeanor, and on conviction thereof shall be punished by fine not exceeding \$100 or imprisonment or jail for more than six months, or both, in the discretion of the court.

Should you be found in or on GW property in the future, you will be arrested for unlawful entry. You are not permitted on The George Washington University property, either as a guest, or to utilize University facilities, without written authority from the Chief Police at The George Washington University. Our records indicate that you are not currently registered as a student at GW.

See letter dated December 2, 2004, attached hereto as Exhibit D.

64. On December 7, 2004, Jordan's mother, Patricia Nott, sent Ms. Donnels an email bringing Dolores Stafford's letter to Ms. Donnels' attention. Ms. Nott also inquired why Jordan was permanently barred even after pending charges had been deferred. She noted that Jordan was very disturbed by receipt of the letter, and said:

I realize that GWU feels the need to put in writing the fact that Jordan is barred from all GWU property. He has already received two letters from you stating same. Whether you are aware or not, Jordan takes this whole suspension issue extremely seriously, and Jordan has no intention of stepping foot on GWU's property. He knows he is barred from being on GWU property during his interim suspension. I believe both Jordan and I have been extremely patient with the school and their overreaction to a child who did exactly what the school told him to do if he needed help for depression, which was to go to the GWU hospital. He took GWU's recommendation, voluntarily admitted himself to the hospital, and then GWU suspended him. Something just doesn't seem right with this scenario. That being said, the deed is done, however, I am respectfully requesting that Jordan not be sent one more letter regarding his being barred from campus. He gets it, and I now consider these letters nothing but harassing. I am sure you can appreciate how upsetting it is for Jordan to continue receiving letters such as this, and I am thanking you in advance for your cooperation.

65. Ms. Donnels responded that the letter was a standard follow-up letter when a student is barred from campus, and if Jordan was cleared to register for classes, the bar would be lifted.

66. On December 16, 2004, Ms. Nott e-mailed Ms. Donnels to ask whether all charges against Jordan would be dropped and the campus bar lifted if Jordan were to permanently withdraw from GWU. Although the Senior Associate Dean of Students is authorized by the School Code of Conduct to defer disciplinary proceedings for one semester and thereafter

withdraw the charges, Ms. Donnels responded that the charges would not be withdrawn and Jordan would still be barred from campus even if he permanently withdrew. Ms. Donnels informed Ms. Nott that Jordan would have to petition the University to get the bar removed.

67. November and December 2004 were emotionally very difficult for Jordan. He was away from school and from his friends and support system. In late November 2004, he withdrew from Introduction to Environmental Law. Jordan completed Geography 105, earning a grade of A-.

68. In late December 2004, Jordan began working part-time at Eddie Bauer Home. In January 2005, Jordan began taking three classes at SUNY Oswego and one class at Onondaga Community College. He received two A's and a B+ at SUNY Oswego and an A at Onondaga Community College.

69. Jordan applied to Case Western Reserve University, Pennsylvania State University-University Park, and University of Maryland- College Park, and was accepted to all of them. In completing the University of Maryland application, he felt he had to disclose the events of Fall 2004 in response to questions regarding whether he had ever been accused of anything punishable by disciplinary action. Ms. Donnels later informed Jordan that GWU considered him in good standing for purposes of applications to other schools, and did not consider the charges and interim suspension to be disciplinary action. Thereafter, Jordan wrote to the University of Maryland and asked them to strike his response.

70. In early February 2005, Jordan took another part-time job at the Holiday Inn-Carrier Circle. He also accepted work as a tutor in labor law at SUNY Oswego.

71. On March 28, 2005, Mr. and Ms. Nott wrote to Stephen Trachtenberg, President of GWU to advise him of the events that had occurred and obtain answers to some questions

about GWU policies. They described the effect of the University's October 28, 2004 letter on Jordan:

Keeping in mind that Jordan's attending GWU was the most important thing in the world to him, imagine how he felt being told he was suspended, and remember that he had no family or friends present at the moment to console him. ... Dr. Trachtenberg, please put yourself in the parent's place too. It was nothing less than wrenching to hear that our son even considered suicide and to see him in a psychiatric ward. Jordan was far from proud to be there, but to his credit, he was not too ashamed to admit that he suffered from depression, nor to tell family and friends that he had thought of suicide but chose instead to go to the hospital.

However, what self-esteem Jordan had preserved until the morning of October 28<sup>th</sup> was utterly and totally demolished by that letter from Linda Donnels, and he immediately regretted his choice to seek help at the darkest moment of his life. He wept and wept, because suspension felt far more shameful than the stigma of depression. He has never, ever sounded as hopeless and ashamed as he did when we spoke with him after he received that letter. He also felt betrayed - he will tell you that himself any day you'd like to speak with him - by the very institutions and individuals to whom he had turned in confidence and with confidence that he would receive treatment, help, and understanding.

72. Jordan's parents explained how each of the subsequent letters from GWU confirming Jordan's "mental health withdrawal" and reminding him that he was barred from the University resulted in an emotional setback for Jordan. They asked Mr. Trachtenberg several questions including:

Why is a student's *thought* prosecuted as a crime at GWU - even when the only action he actually takes is toward self-preservation? Why is there no difference in the code applied between the University's handling of a student with depression and suicidal thoughts - in this case- and a student that is charged with a threat or violent crime against another student, faculty member or employee?

How does the practice reflected in Jordan's story reconcile with Linda Donnels' many public statements about dealing 'compassionately' with students and encouraging them to seek support from the University Counseling Center?

What effect do you think Jordan's story - and others like his - will have on the UCC's credibility as a counseling service? Do you even care?

73. Finally, Jordan's parents asked that, among other things, GWU abandon its "inhumane policy for treatment of depressed and suicidal students," and institute "a new

policy that treats depression as the clinical illness it is, not as a crime, treats the suffering students with dignity and compassion, and facilitates reasonable medical leaves of absence on an appropriately comparable basis with other clinical illness, injury, or disability.” They also asked that the barring order be lifted.

74. In April 2005, Jordan decided to permanently withdraw from The George Washington University and transfer to the University of Maryland.

75. On May 2, 2005, President Trachtenberg responded to Mr. and Ms. Nott’s letter. He stated, in pertinent part:

While I support the administrative decisions made in Jordan’s case, I do believe that in certain aspects the University may have acted in a manner that allowed the unfortunate misimpression of a less than fully caring demeanor toward Jordan. Clearly that was not our intent, and I apologize if any of our actions were misunderstood. I have directed that we review our policies and procedures with regard to students facing psychiatric emergencies to avoid a situation in the future where the University’s actions, rather than being perceived as beneficial, may create additional stress and frustration for students and their families.

76. On May 1, 2005, Jordan petitioned Ms. Donnels to lift the bar from GW property. Jordan described his recovery in detail. He denied that he ever engaged in endangering behavior. He stated that in seeking psychiatric help, “my thoughts were self-destructive,[but] my actions were completely self-preserving.” Jordan implored the University to change its policy. He explained:

If I had known how I would be treated, I never would have checked myself into that hospital. In fact, your charges and the behavior of your institution prevented me from focusing on my condition. Rather, your actions threw on me a huge feeling of failure which, needless to say, pushed me further into depression. ... I can guarantee you that you did me no favor by removing me from my closest friends and sending me home to an empty town, and I can guarantee you that you will do no future student a favor by doing the same to him or her.

77. Jordan informed Ms. Donnels of his decision to leave his friends and what was once his “dream school” and transfer to the University of Maryland. His petition requested “All

I ask is that you remove the bar that prevents me from coming to campus so that I may visit from time to time the lifelong friends I have made there.” In support of his petition to remove the bar, Jordan included medical documentation from his treating psychologist, copies of graded exams from SUNY Oswego and OCC (finals had not been completed and transcripts were not available), and pay records from his three jobs.

78. On May 12, 2005, Ms. Donnels responded to Jordan’s request that the barring order be lifted. She stated, “I received your letter dated May 1, 2005, updating me on your progress since leaving GW. Should you wish to return to GW in the future, the conditions outlined in my November 17, 2004 letter to you remain. These conditions do not prevent you from meeting with your GW friends off campus.”

79. At all times described herein, Jordan Nott was regarded by Defendants as having a disability as defined by the ADA, Section 504, FHAA, and DCHRA.

### **E. CLAIMS**

#### **FIRST CAUSE OF ACTION Discrimination in a Public Accommodation in Violation of the ADA 42 U.S.C. § 12181 et. seq.**

80. Plaintiff repeats the allegations of all of the above paragraphs as if fully set forth herein.

81. As described above, the GWU Defendants’ actions and practices - charging Plaintiff with violation of University rules, suspending him from school, evicting him from his dorm room, barring him from the University, threatening to arrest him for trespassing if he entered GWU property, and imposing discriminatory conditions upon his readmission - violate Title III of the Americans With Disabilities Act of 1990, as amended, 42 U.S.C. § 12181 et seq.

82. Defendants mistakenly believe that Plaintiff has a mental impairment that substantially limits one or more of his major life activities such that Plaintiff is otherwise unqualified for attendance at its public accommodation.

83. Defendants' actions and practices described above constitute unlawful discrimination under 42 U.S.C. § 12182(a) and (b), in that Defendants have discriminated against Plaintiff on the basis of Plaintiff's perceived disability, with regard to the full and equal enjoyment of Defendants' goods, services, facilities, privileges, advantages, or accommodations. Defendants' actions and practices described above also constitute unlawful discrimination under the various subparts of 42 U.S.C. § 12182(b)(1)(A), and § 12182(b)(2)(A).s

84. Defendants have excluded Plaintiff from participation in and denied him the opportunity to participate in or benefit from their programs, services and activities based upon fear, speculation and stereotype about his perceived disability. 42 U.S.C.A. § 12102(2)(c).

85. Defendants have treated Plaintiff unequally compared to students that do not have a disability. Defendants have also used criteria and methods of administration that have the effect of subjecting Plaintiff to discrimination on the basis of his perceived disability, and that have the purpose or effect of defeating or substantially impairing the accomplishment of the objective of its program with respect to individuals with disabilities and in particular with respect to Plaintiff.

86. Additionally, Defendants have failed to provide a reasonable accommodation under the Americans with Disabilities Act that would enable Plaintiff meaningful access to Defendants' services, programs or activities. Defendants' decisions, inter alia, to deny Plaintiff's requests to drop the charges against him, to allow him to return to school and the dormitory, and to dissolve the barring order, amount to a failure to accommodate Plaintiff's disability.

87. As a result of Defendants' violations of the Americans with Disabilities Act, Plaintiff was damaged, as detailed above.

88. This claim is brought against the GWU Defendants.

**SECOND CAUSE OF ACTION**  
**Violation of Section 504 of the Rehabilitation Act of 1973**  
**29 U.S.C. § 794 et seq.**

89. Plaintiff repeats the allegations of all of the above paragraphs as if fully set forth herein.

90. As described above, GWU Defendants' actions and practices - charging Plaintiff with violation of University rules, suspending him from school, evicting him from his dorm room, barring him from the University, threatening to arrest him for trespassing if he entered GWU property, and imposing discriminatory conditions upon his readmission - violate Section 504 of the Rehabilitation Act of 1973 as amended, 29 U.S.C. § 794 et seq. ("Section 504"). In particular, Defendant, The George Washington University, is a covered entity for purposes of Section 504 of the Rehabilitation Act because it operates a program or activity receiving federal funds.

91. Defendants, in their actions and practices described above, have discriminated against Plaintiff, and excluded him from participation in, and denied him the benefits of, Defendants' programs, services and activities because of Plaintiff's perceived disability.

92. Additionally, Defendants have failed to provide a reasonable accommodation under the Section 504 of the Rehabilitation Act that would enable Plaintiff meaningful access to Defendants' services, programs or activities. Defendants' decisions inter alia to deny Plaintiff's requests to drop the charges against him, to allow him to return to school and the dormitory, and to dissolve the barring order, amount to a failure to accommodate Plaintiff's disability.

93. As a result of Defendants' violations of Section 504, Plaintiff was damaged, as detailed above.

94. This claim is brought against the GWU Defendants.

**THIRD CAUSE OF ACTION**  
**Violation of the Fair Housing Amendments Act**  
**42 U.S.C. § 3604(f)**

95. Plaintiff repeats the allegations of all of the above paragraphs as if fully set forth herein.

96. As described above, GWU Defendants' actions and practices - charging Plaintiff with violation of University rules, evicting him from his dorm room, imposing discriminatory conditions upon his readmission, and otherwise severing him from the GWU community, violate the Fair Housing Amendments Act of 1988, 42 U.S.C. § 3601 et seq. In particular, Defendants have violated the Plaintiff's rights under 42 U.S.C. § 3604(f) by discriminating in the rental or otherwise making unavailable or denying a room in the residence hall to Plaintiff because of his handicapped status; and by discriminating in the terms, conditions or privileges of rental of a dwelling and in the provision of services or facilities in connection with such dwelling because of Plaintiff's handicapped status.

97. Defendants' actions constitute intentional discriminatory treatment based on disability. Defendants' actions also have a disparate impact on all individuals with mental disabilities. Additionally, Defendants have failed to provide a reasonable accommodation under the Fair Housing Act that would enable Plaintiff meaningful access to Defendants' services or facilities.

98. Defendants, individually, and/or through the actions of their agents, have violated the Plaintiff's rights under 42 U.S.C. § 3604(f)(3)(B) by denying Plaintiff's request for a

reasonable accommodation and as a result, have excluded him based upon fear, speculation and stereotype about his perceived disability.

99. As a result of Defendants' violations of the Fair Housing Amendments Act, Plaintiff has been injured, as detailed above.

100. This claim is brought against the GWU Defendants.

**FOURTH CAUSE OF ACTION  
Violation of the D.C. Human Rights Act  
D.C. Code § 2-1401.01, et. seq.**

101. Plaintiff repeats the allegations of all of the above paragraphs as if fully set forth herein.

102. As described above, GWU Defendants' actions - charging Plaintiff with violation of University rules, evicting Plaintiff from his dorm room, suspending him from school, barring him from the University, threatening to arrest him for trespassing if he entered GWU property, and imposing discriminatory conditions upon his readmission - violated the D.C. Human Rights Act. D.C. Code § 2-1401.01, et. seq. GW Hospital Defendants actions, disclosing and disseminating confidential medical information and facilitating the use of confidential medical information in disciplinary proceedings against Plaintiff, violated the D.C. Human Rights Act. D.C. Code § 2-1401.01, et. seq.

103. In particular, Defendants have violated the Plaintiff's rights under D.C. law by denying, restricting and abridging the use of, or access to, Defendants' facilities and services, and conditioning the use of Defendants' services and facilities based on Plaintiff's perceived disability and/or matriculation.

104. Defendants have violated the Plaintiff's rights under D.C. law by refusing, restricting, interrupting and terminating Plaintiff's use or access to Defendants' residence hall, and imposing discriminatory terms or conditions, based on Plaintiff's perceived disability.

105. Defendants have violated the Plaintiff's rights under D.C. law denying Plaintiff the full and equal enjoyment of the Defendants' goods, services, facilities, privileges, or accommodations based on Plaintiff's perceived disability and/or matriculation. Defendants have also violated Plaintiff's rights by printing, posting, circulating, and mailing notice that Defendants' goods, services, facilities, and accommodations will be withheld from and denied to Plaintiff and that Plaintiff's presence is objectionable, unwelcome and undesirable based on Plaintiff's perceived disability.

106. Additionally, Defendants have failed to provide a reasonable accommodation under the DC Human Rights Act that would enable Plaintiff meaningful access to Defendants' facilities and services. Defendants' decisions inter alia to deny Plaintiff's requests to drop the charges against him, to allow him to return to school and the dormitory, and to dissolve the barring order, amount to a failure to accommodate Plaintiff's disability.

107. As a result of Defendants' violations of the D.C. Human Rights Act, Plaintiff has been injured, as detailed above.

108. This claim is brought against all Defendants.

**FIFTH CAUSE OF ACTION**  
**Intentional Infliction of Emotional Distress**

109. Plaintiff repeats the allegations of all of the above paragraphs as if fully set forth herein.

110. As described above, GWU Defendants' conduct - charging Plaintiff with violation of University rules, evicting him from his dorm room, suspending him from school, barring him from the University, and threatening to arrest him for trespassing if he entered GWU property because he sought mental health treatment was intentional and reckless. GW Hospital Defendants' conduct in disclosing confidential medical information to GWU officials,

and cooperating with GWU Defendants in the use of that confidential medical information to harm and punish Plaintiff was intentional and reckless and in knowing disregard of Plaintiff's rights.

111. As described above, Defendants' conduct was extreme and outrageous, and beyond the bounds of decency.

112. Defendants' behavior caused severe emotional distress to Plaintiff.

113. As a direct and proximate result of Defendants' behavior, Plaintiff did suffer severe emotional distress.

114. This claim is brought against all Defendants.

**SIXTH CAUSE OF ACTION  
Common Law Invasion of Privacy**

115. Plaintiff repeats the allegations of all of the above paragraphs as if fully set forth herein.

116. In treating Plaintiff, the GW Hospital Defendants became aware of individually identifiable health information about Plaintiff.

117. The GW Hospital Defendants disclosed Plaintiff's confidential medical information to Dr. DePalma and administrative and professional staff at The George Washington University without the knowing and voluntary consent of Plaintiff.

118. In diagnosing Plaintiff, treating him, referring him for further evaluation, and by monitoring his progress, Dr. DePalma became aware of individually identifiable health information about Plaintiff.

119. Dr. DePalma and the GW Hospital Defendants disclosed confidential information to Defendants' administrative and professional staff, including but not limited to, Linda Donnels, Associate Vice President and Dean of Students, Rebecca Sawyer, Assistant Dean

of Students, Donald Lehman, Executive Vice President, Academic Affairs, Michael Gieseke, Assistant Director, Office of Student Judicial Services, Kim Clemens, Community Director, FSK Hall, Dolores Stafford, Chief of Police, University Police Department, Tara Wolfson, Director, Office of Student Judicial Services, James Fry, Director of Academic Advising & Student Services, and Brian Victor, Special Assistant to the Dean of Students, and other administrative and professional staff.

120. This information was shared without the knowing and voluntary consent of Plaintiff.

121. Therefore, Defendants violated Plaintiff's rights to privacy under state law.

122. As a result, Plaintiff was damaged, as detailed above.

123. This claim is brought against all Defendants.

**SEVENTH CAUSE OF ACTION  
Breach of Confidential Relationship**

124. Plaintiff repeats the allegations of all of the above paragraphs as if fully set forth herein.

125. In diagnosing and treating Plaintiff and monitoring his progress, the GW Hospital Defendants established a confidential physician-patient relationship with Plaintiff.

126. The GW Hospital Defendants disclosed that information to Dr. DePalma and administrative and professional staff at The George Washington University without the knowing and voluntary consent of Plaintiff.

127. In diagnosing Plaintiff, treating him, referring him for further evaluation, and by monitoring his progress, Dr. DePalma established a confidential physician-patient relationship with Plaintiff.

128. Dr. DePalma and/or the GW Hospital Defendants disclosed that information to Defendants' administrative and professional staff, including but not limited to, Linda Donnels, Associate Vice President and Dean of Students, Rebecca Sawyer, Assistant Dean of Students, Donald Lehman, Executive Vice President, Academic Affairs, Michael Gieseke, Assistant Director, Office of Student Judicial Services, Kim Clemens, Community Director, FSK Hall, Dolores Stafford, Chief of Police, University Police Department, Tara Wolfson, Director, Office of Student Judicial Services, James Fry, Director of Academic Advising & Student Services, and Brian Victor, Special Assistant to the Dean of Students, and other administrative and professional staff.

129. This information was shared without the knowing and voluntary consent of Plaintiff.

130. Therefore, Defendants breached Plaintiff's confidential relationship.

131. As a result, Plaintiff was damaged, as detailed above.

132. This claim is brought against all Defendants.

**EIGHTH CAUSE OF ACTION**  
**District of Columbia Mental Health Information Act of 1978**  
**D.C. CODE § 7-1201.01, et. seq.**

133. Plaintiff repeats the allegations of all of the above paragraphs as if fully set forth herein.

134. In diagnosing, treating and monitoring Plaintiff, the GW Hospital Defendants became aware of Plaintiff's mental health information.

135. The GW Hospital Defendants disclosed Plaintiff's mental health information to Dr. DePalma and/or GWU administrative and professional personnel without Plaintiff's knowing and voluntary authorization.

136. In diagnosing, treating and monitoring Plaintiff, Dr. DePalma became aware of Plaintiff's mental health information.

137. Dr. DePalma disclosed mental health information she learned from Plaintiff, and redisclosed mental health information received from the GWU Hospital Defendants about Plaintiff to GWU administrative and professional personnel.

138. The disclosure was made without Plaintiff's knowing and voluntary authorization.

139. Therefore, Defendants breached Plaintiff's rights under the District of Columbia Mental Health Information Act of 1978.

140. As a result, Plaintiff was damaged, as detailed above.

141. This claim is brought against all Defendants.

#### **F. REMEDIES**

**WHEREFORE**, Plaintiff respectfully requests that the Court enter judgment on his behalf on all counts contained herein, and grant him the following relief:

(a) Declaratory judgment that Defendants' conduct violated Plaintiff's rights. In particular, that the Court declare the actions of Defendants complained of herein to be in violation of: the Americans With Disabilities Act of 1990, as amended, 42 U.S.C. § 12181 et seq; Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 et seq; the Fair Housing Amendments Act, 42 U.S.C. § 3604(f); and the DC Human Rights Act, D.C. Code § 2-1401.01, et seq; that Defendants intentionally or recklessly inflicted emotional distress upon Plaintiff, and violated Plaintiff's state common law rights to privacy, and his physician-patient confidential relationship;

(b) Injunctive relief permanently enjoining Defendants, their agents, employees, and successors from discriminating on the basis of disability against Plaintiff or any persons in violation of the aforementioned acts;

(c) Appropriate compensatory and punitive damages be awarded to Plaintiff and against Defendant, in an amount to be determined by the jury;

(d) Prejudgment and post-judgment interest on all damages;

(e) Correction of all records to restore Plaintiff's academic standing and expungement of all negative information from Defendants' records;

(f) Reasonable attorneys' fees and costs; and

(g) Such other relief as the court shall deem just and proper.

## G. JURY TRIAL DEMAND

Plaintiff requests a jury trial on all issues of fact and damages raised in this case.

Respectfully submitted,

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