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NOV 4 1985

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

LUTHER D. THOMAS, Clerk  
By: *[Signature]*  
Deputy Clerk

JAY PALMER, MICHAEL CHIDESTER,  
TERI L. POWERS, DAVID DUNBAR,  
WILLIAM FERGUSON, and BENJAMIN FIRST

Plaintiffs,

v.

BRG OF GEORGIA, INC., a Georgia  
Corporation (d/b/a "BAR/BRI" in  
Georgia); BAR REVIEW GROUP, INC.,  
A Georgia Corporation; BRG PUBLICA-  
TIONS, INC., a Georgia Corporation;  
HARCOURT BRACE JOVANOVIH LEGAL AND  
PROFESSIONAL PUBLICATIONS, INC., a  
Delaware Corporation (d/b/a "BAR/BRI"  
nationally); and RONALD O. PELLETIER,

Defendants.

C85-4377A

Civil Action No.

CLASS ACTION

ANTITRUST

JURY DEMAND

COMPLAINT

COME NOW plaintiffs and show this Honorable Court  
the following:

I.

NATURE OF THE ACTION

1. This is an action by Jay Palmer, Michael  
Chidester, Teri L. Powers, David Dunbar, William  
Ferguson, and Benjamin First ("plaintiffs"), individually  
and on behalf of a class of similarly situated consumers  
individually, for injunctive and declaratory relief and  
to recover actual damages, actual damages trebled,

Consent form to proceed  
before a U.S. Magistrate  
and pretrial instructions  
received

*[Signature]*

attorneys' fees, and costs for violations of federal antitrust laws. Beginning at least as early as 1976, defendants and unnamed co-conspirators have variously and willfully conspired, contracted, and engaged in combinations (1) to monopolize trade in the sale and distribution of bar review services and materials generally nationwide; (2) to monopolize trade in the sale and distribution of bar review services and materials relevant to the Georgia Bar examination within the state of Georgia; and (3) to restrain trade in the sale and distribution of bar review services and materials relevant to the Georgia Bar examination within the state of Georgia by (a) raising, fixing, and stabilizing the price charged for bar review services and materials relevant to the Georgia Bar examination; (b) dividing and allocating markets among themselves; (c) eliminating direct competition among themselves through the formation of a joint venture of continuing duration. Moreover, during the past four years and beginning at least as early as 1976 and continuing after June 14, 1984, (1) defendants BRG of Georgia, Inc., and Harcourt Brace Jovanovich Legal and Professional Publications, Inc. independently have monopolized and attempted to monopolize trade in the sale and distribution of bar review services and materials relevant to the Georgia Bar

examination within the state of Georgia, and (2) defendant Harcourt Brace Jovanovich Legal and Professional Publications, Inc., independently has attempted to monopolize trade in the sale and distribution of bar review services and materials, generally nationwide. Since as early as 1976 defendants have engaged in and have continued to engage in after June 14, 1984 the foregoing conduct for the purpose and with the effect of injuring competition in a diversity of sources of educational materials and information, damaging the plaintiffs and other purchasers and consumers of bar review services and materials, and eliminating, impeding, and excluding competition in the sale of bar review services and material, generally, within the United States, and bar review services and materials relevant to the Georgia Bar examination in the state of Georgia.

## II.

### JURISDICTION AND VENUE

2. This Complaint is filed and these proceedings are instituted under 28 U.S.C. Sections 1331, 1337 and 2201, as well as Sections 4 and 16 of the Act of Congress of October 15, 1914, 15 U.S.C. Sections 15 and 26, commonly known as the Clayton Act, and to redress injuries sustained by plaintiffs as a result of

violations by the defendants as hereinafter alleged of Sections 1 and 2 of the Act of Congress of July 2, 1890, 15 U.S.C. Sections 1 and 2, commonly known as the Sherman Act. The defendants are found and do business within the Northern District of Georgia. Plaintiffs Jay Palmer and Benjamin First reside within the Northern District of Georgia.

3. The amount in controversy exceeds \$10,000.00 exclusive of interest and costs.

### III.

#### TRADE AND COMMERCE

4. The activities of the defendants and their employees and agents, are within and impact upon the flow of interstate commerce and have substantial effect upon that commerce.

5. Defendants are engaged in the business of selling and/or leasing bar review courses, including lecture services and written materials, to persons, including plaintiffs, desiring to prepare for the bar examinations given by the state of Georgia and other states.

6. Written bar review materials sold or leased by defendants travel by mail and in interstate commerce from their authors and the Illinois headquarters of defendant Harcourt Brace Jovanovich Legal and Professional



Publications, Inc. to the other defendants and consumers in Georgia and other states. Taped lectures on bar review subjects also travel in interstate commerce from the defendants to consumers in Georgia and other states. Persons travel in interstate commerce to provide live lectures on bar review subjects to consumers in Georgia and other states.

7. The activities of the defendants hereinafter described were intended to and did have the effect of impeding and reducing and substantially affecting the interstate movement of written materials, tapes, and persons.

8. Persons residing outside the state of Georgia travel in interstate commerce to receive defendants' bar review services. Persons residing within and outside the state of Georgia pay money for defendants' materials and services which money travels in interstate commerce to the defendants.

9. Defendants' materials and services have been paid for, on behalf of some students by the Veterans Administration of the United States government. The activities of defendants hereinafter described have increased and inflated and fixed the monies paid by the United States government for those services.

10. Defendants' illegal activities, as hereinafter

described, which have raised, inflated, and fixed the cost of defendants' materials and services, have caused many persons who otherwise would have purchased a bar review course not to do so, thereby reducing and substantially affecting the interstate movement of persons, monies, materials and services.

11. Since January 1, 1979, defendant BRG of Georgia, Inc. has purchased materials and products from companies outside the State of Georgia.

12. Since January 1, 1979, defendant BRG of Georgia, Inc. has received payments from persons located outside the State of Georgia.

13. Since January 1, 1979, defendant BRG of Georgia, Inc. has made payments to persons outside the State of Georgia.

#### IV.

#### PARTIES

14. Plaintiff Jay Palmer is a resident of Dekalb County, Georgia, within the Northern District of Georgia. Plaintiff Michael Chidester is a resident of Centerville, Georgia. Plaintiff Teri L. Powers is a resident of Milledgeville, Georgia. Plaintiff David Dunbar is a resident of Jackson, Mississippi. William Ferguson is a resident of Evansville, Indiana. Plaintiff Benjamin First is a resident of Atlanta, Georgia. Plaintiffs were

students at, and graduated in 1985 from, the University of Georgia School of Law in Athens, Georgia. They intended to qualify or have qualified to practice law in the state of Georgia by taking the Georgia Bar examination. In 1984 and 1985 they purchased and paid for the Winter, 1985 bar review course, including written materials and lecture services, offered in Clarke County, Georgia, by defendants relevant to the Georgia Bar examination, and executed a contract for that purpose with defendant BRG of Georgia, Inc.

#### DEFENDANTS

15. Defendants BRG of Georgia, Inc. ("BRG"), Bar Review Group, Inc. ("Group"), and BRG Publications, Inc. ("Publications") are Georgia corporations with headquarters in Atlanta, Fulton County, Georgia, and are doing business in the Northern District of Georgia. They were created at the direction of, are controlled by, and are the alter ego and instrumentality of, defendant Ronald O. Pelletier. They create, purchase, provide, and sell Bar review courses, including written materials and lecture services, relevant to the Georgia Bar examination to and from persons within and outside the state of Georgia. Defendant BRG has sold bar review course materials and lecture services directly to plaintiffs. Decisions, conduct, and acts by defendants BRG, Group,

and Publications are in combination and for the interests of and determined by defendant Ronald O. Pelletier, who utilizes defendant corporations as a single instrumentality. BRG now does business in Georgia as BAR/BRI of Georgia.

16. Defendant Ronald O. Pelletier ("Pelletier") is a resident of and licensed attorney within the state of Georgia. Pelletier caused the creation of and controls defendants BRG, Group, and publications to serve collectively and in combination as his instrumentality to carry on the business of selling bar review courses relevant to the Georgia Bar examination to persons inside and outside Georgia. Pelletier individually and on behalf of defendant corporations has done business and has been found within the Northern District of Georgia.

17. Defendant Harcourt, Brace, Jovanovich Legal and Professional Publications, Inc. ("Harcourt") is a Delaware Corporation which is qualified to do business within the state of Georgia.

18. Harcourt has done business and has been found within the Northern District of Georgia, providing, selling, and purchasing bar review written materials and lecture services relevant to bar examinations to more than twenty thousand (20,000) purchasers in more than thirty (30) states. Harcourt does business under the



name, BAR/BRI. Harcourt is the subsidiary of Harcourt Brace Jovanovich, Inc., a major national publishing corporation, and BAR/BRI is the largest bar review course in the country.

19. Harcourt and its parent corporation have entered into combinations with the other defendants within the state of Georgia.

#### Co-Conspirators

20. In addition to the defendants named herein, there exist other co-conspirators, who in concert with the named defendants did those things which the defendants are alleged to have done.

#### Consumer Class Action

21. The consumer plaintiffs bring this action as a class action on behalf of all consumers of bar review services who have contracted with the defendants or any of them in connection with bar review courses administered in Athens, Georgia in preparation for Georgia Bar examinations to be administered after June 14, 1984, pursuant to Rule 23(a) and (b)(3) of the Federal Rules of Civil Procedure. Members of the class on behalf of whom plaintiffs sue are so numerous that joinder of all members is impracticable. However, there are common questions of law and fact affecting the rights of the consumer plaintiffs and others similarly situated.

The claims of the consumer plaintiffs are typical of the claims of the class which they seek to represent and the consumer plaintiffs will fairly and adequately represent and protect the claims and interests of the putative class. In addition, the claims of the consumer plaintiffs involve questions of law and fact applicable to the putative class which predominate over any questions affecting only the consumer plaintiffs individually; and a class action is superior to any other available method for the fair and efficient adjudication of the controversy.

V.

CAUSE OF ACTION

Facts

22. Defendant Harcourt is now, and as of 1978, was engaged in the largest bar review course business in the United States. It acquired its position through the use of the assets of its parent corporation, by acquiring competing and potentially competing bar review course businesses, including BRI Bar Review Institute, Inc., then operating primarily in Illinois, and Bay Area Review Course, Inc., then operating primarily in California. Harcourt was incorporated in 1976 by its parent corporation. The principal officer in, and motivating force behind, Harcourt is Richard J. Conviser, an

Illinois attorney.

23. Defendant Harcourt has had, at least since 1978, the power to control price and exclude competition in that market in every state in which it does business, including Georgia. Harcourt was formed for the purpose of acquiring such competing businesses and creating and expanding monopoly in the bar review course market nationwide.

24. Beginning prior to 1978 and continuing through 1980, Harcourt provided and sold directly to the consumer public a bar review course, including written materials and lecture services, in Georgia relevant to the Georgia Bar examination, under the trade name "BAR/BRI" or "BRI."

25. Between 1976 and 1980, Harcourt's bar review course was one of the two dominant courses, offering both written materials and lecture services regarding Georgia law, available to persons desiring to prepare for the Georgia Bar examination.

26. Prior to July, 1976, defendant Pelletier created and operated with others a Georgia corporation, Multi-State Lectures, Inc., to carry on the business of providing a Georgia bar review course in competition with Harcourt. Thereafter, Pelletier created a new corporation in December, 1976 -- defendant Group --

which, using the equipment and property of Multi-State Lectures, Inc., continued the business of providing and selling a bar review course relevant to the Georgia Bar examination directly to the consumer public. During the ensuing 30 months, Group's bar review course business, including the sale or lease of written materials and lecture services, prospered and grew, so that by 1979 it competed directly with defendant Harcourt in the bar review course business relevant to the Georgia Bar examination.

27. Group did business under the name, "BRG," and by 1979 "BRG" and "BAR/BRI" were the two dominant bar review courses in the state of Georgia.

28. Between 1976 and 1979, defendants Group (controlled by defendant Pelletier) and Harcourt each enjoyed approximately fifty percent (50%) of the market for the sale of bar review course materials and lecture services relevant to the Georgia Bar examination. Harcourt and Group competed vigorously and directly with each other by reducing price and enhancing their product and services to the benefit of the consuming public.

29. During 1979, while in competition with each other, defendants Harcourt and Group (and later in 1979, BRG) offered and sold their respective bar review courses in Georgia for the price of approximately one hundred



dollars (\$100.00) Harcourt and Group (and BRG) were proceeding to reduce their prices even further.

30. On May 18, 1979, Defendant Pelletier created two new corporations -- defendants BRG and Publications -- to continue the business of buying and selling bar review course written materials and lecture services. Pelletier then intended, through these new corporations, to expand his bar review course business outside the state of Georgia and to compete directly with Harcourt in other states. After their formation in 1979, BRG and Publications continued direct price competition with Harcourt in Georgia.

31. During 1979 and 1980, while engaging in direct price competition, defendants Harcourt and BRG (represented by Pelletier, who also acted on his own behalf) entered into negotiations to end their price reductions and eliminate competition between them. At that time, Harcourt and BRG, doing business in Georgia as BAR/BRI and BRG, respectively, controlled more than ninety-five per cent (95%) of the market in the sale of bar review courses, including live lecture services, relevant to the Georgia Bar examination. At that time, moreover, the current market price for such bar review course was approximately one hundred dollars (\$100.00).

32. Between 1979 and 1980, defendants Harcourt,

BRG, Publications, Group and Pelletier entered into an unlawful combination and agreement to end the price war, eliminate competition, cartelize, monopolize, divide territories, raise and fix prices, and engage in an anticompetitive joint venture involving the purchase and sale of bar review courses, including written materials and lectures services relevant to the Georgia Bar examination and nationwide.

33. In approximately March, 1980, Mr. Jeff Rubenstein, and attorney in Chicago who was counsel to BAR/BRI, telephoned Mr. Ron Pelletier, President of BRG of Georgia, Inc., to suggest that a meeting between Mr. Pelletier and Mr. Conviser might be worthwhile. Mr. Pelletier responded that he would not object to such a meeting, and, approximately two days later, Mr. Conviser telephoned Mr. Pelletier and suggested that Mr. Conviser come to Atlanta to meet with Mr. Pelletier, as President of BRG.

Mr. Conviser flew to Atlanta, and Mr. Pelletier picked up Mr. Conviser at the airport. They then drove to the Coach & Six Restaurant in Atlanta for lunch. During the course of the lunch they discussed three options available to them concerning their respective businesses: (1) to stay the same; (2) for BAR/BRI to buy out BRG; and (3) for BRG to buy out BAR/BRI. During this

discussion, Mr. Pelletier indicated that Mr. Conviser could buy him out if he wished. After lunch and on the way back to the airport, Mr. Conviser expressed interest in the number of students that BRG had enrolled in its course, and Mr. Pelletier showed him a list of those students enrolled in BRG's course.

Later that same week, Mr. Conviser again telephoned Mr. Pelletier and invited him to come to Chicago to discuss further the possible business arrangement between BAR/BRI and BRG. Mr. Pelletier flew to Chicago and met with Mr. Conviser and Mr. Jeff Rubenstein in a dining club of which Mr. Rubenstein was a member.

During the course of this second meeting two options were discussed: (1) BRG to become a licensee of BAR/BRI; and (2) BAR/BRI to purchase BRG, with Mr. Pelletier remaining as an employee of BAR/BRI. Pelletier stated that he wanted to think about the two possible options. Mr. Pelletier then returned to Atlanta.

The following week Mr. Pelletier flew back to Chicago and met in the office of Mr. Jeff Rubenstein, where Mr. Conviser and he discussed the two options. Mr. Rubenstein and Mr. Conviser then conferred between themselves before everyone went to lunch.

34. Pursuant to the terms of the agreement reached between Conviser and Pelletier in 1980, Harcourt its

agents, owners, affiliates, or representatives, and BRG, its agents owners, affiliates or representatives agreed that defendants Pelletier, BRG, Publications, and Group would discontinue offering, selling, or leasing the written materials and lecture services to consumers relevant to the Georgia Bar examination which they previously had sold or leased. Defendants Pelletier BRG, and Group no longer purchase, use, provide and sell to the consumer public the lecture services formerly provided by them. Instead, defendants Pelletier and BRG now do business as BAR/BRI Georgia, pursuant to agreement with defendant Harcourt, and offer and sell bar review written materials and lecture services provided to them solely by defendant Harcourt and/or its parent corporation. Defendants Pelletier and BRG also have agreed not to expand and compete with bar review courses offered by defendant Harcourt relevant to states other than Georgia. In return, defendant Harcourt has agreed to discontinue competing with BRG and Pelletier and to discontinue selling a bar review course directly to the consumer public in Georgia. Defendants have agreed to stabilize, raise and fix the price charged for the bar review course offered by BRG in Georgia. The foregoing agreement to discontinue competing, to divide markets, to raise and stabilize prices, and to enter into a financial



written "license" agreement as an alternative to competing, continues to the present day.

35. Plaintiffs were required to and did sign contracts with defendants in 1984 and 1985 which recite a standard "tuition" for the bar review course that is significantly and artificially inflated above the price charged for the same course prior to defendants' unlawful combination.

36. At sometime during 1978-1980, while defendant Harcourt was in competition with defendant BRG, Richard Conviser, on behalf of defendant Harcourt, and Ronald Pelletier, on behalf of defendant BRG, exchanged written correspondence in which they accused one another of unfair trade practice and predatory pricing.

37. During the meetings between Conviser and Pelletier, discussed in paragraph 33 above, Conviser and Pelletier discussed offers by Conviser to resolve the price war between them. In an effort to end the price competition between them Conviser offered to buy out BRG, or to have BRG become an exclusive distributor for Harcourt.

38. Ultimately, as part of their overall agreement to end the price competition between their respective companies, Conviser and Pelletier entered into a written licensing agreement whereby defendant Harcourt would make

defendant BRG Harcourt's exclusive distributor for Georgia, and Harcourt would not sell the bar review course directly to the consuming public in competition with BRG.

39. Defendants Harcourt and BRG publicly announced their combination with posters displayed at the University of Georgia Law School in Athens, Georgia, in 1980. Such posters proclaimed: "BRG + barbri = the best of both worlds. Harcourt, Brace, Jovanovich Legal Group (BAR/BRI) and BRG of Georgia (BRG) are proud to announce a joining of resources commencing with the summer of 1980 Georgia bar review course... As a result of this combination, BAR/BRG Georgia students will, in essence, have the 'best of both worlds'." The posters identified Pelletier as the founder of BRG, a former employee of BAR/BRI, and the director of BAR/BRI Georgia.

40. BAR/BRI, has sold a bar review course to more than twenty thousand students in a total of 34 states, and is by far the largest bar review course in the country. Defendant Harcourt has engaged in predatory pricing conduct, acquired direct competitors, and entered into vertical licensing agreements to replace competition in numerous states in addition to Georgia. The effect and intent of Harcourt's conduct throughout the country has been to eliminate competition and

stabilize prices in many of those states.

41. This complaint arises from the factual background just presented. Defendant Harcourt through acquisitions of actually and potentially competing bar review course businesses in the United States, often coerced by predatory pricing activities funded by Harcourt's parent corporation, has succeeded in becoming the largest bar review course business in the United States and attaining the power to control price and exclude competition when and where it desires to do so nationwide. Harcourt thus has succeeded in eliminating and stifling competition in and raising and stabilizing prices for the bar review courses in more than thirty (30) states. As a result, Harcourt's standardized bar review services and materials are now markedly inferior to the more localized and customized services and materials that were being or could have been offered to consumers relevant to each state bar examination, and Harcourt's and defendant BRG's standardized enrollment contracts which every consumer must execute contain one-sided, unfair and harsh provisions which no longer can be negotiated by consumers. In Georgia, the plaintiffs received only taped, rather than live lecture services relevant to basic bar exam subjects. As a result of defendants' conduct, Harcourt's dominance and

control over non-Georgia bar review markets nationwide has been protected from competition by defendant BRG. Moreover, defendant BRG has gained complete control over, and dominance in, the market for Bar review courses relevant to the Georgia bar examination and has agreed to share its monopoly profits therefrom with Harcourt by using Harcourt's inferior bar review lecture services and written materials. Plaintiffs and other consumers similarly situated have paid grossly inflated prices for a bar review course as a result of defendants' unlawful activities, and defendants now have the power to further unreasonably increase prices because they have succeeded in eliminating competition.

COUNT ONE

Agreement To Fix Prices and Create a Cartel

42. Plaintiffs hereby incorporate the allegations of paragraphs 1 through 41 as though fully set forth herein.

43. Beginning at a time believed to be as early as March, 1980, and continuing to the present day defendants and their co-conspirators have combined and conspired to restrain the sale of bar review courses, consisting of written materials and lecture services relevant to the Georgia bar examination.

44. In furtherance of that conspiracy, defendants



and their co-conspirators have agreed to do the following things, among others:

a. to communicate directly with each other by telephone and in person for the purpose of stabilizing the prices charged by BRG and Harcourt for their respective Georgia bar review courses, and establishing a cartel;

b. to exchange mutual assurances to end the price reductions for bar review courses engaged in by defendants and eliminate present and future price competition between them;

c. to combine resources into one bar review course in Georgia and thereby cartelize and eliminate all competition of any kind between them;

d. to authorize BRG to do business under Harcourt's trade name in Georgia, BAR/BRI, and discontinue the trade name use of BRG, for the purpose of stabilizing and inflating the price charged by BRG for its bar review course and maintaining a cartel;

e. to increase and fix the price charged by BRG for its bar review course, and to allow Harcourt to share, directly and indirectly, in BRG's increased bar review course profits;

f. to require BRG to use bar review written materials and lecture services provided by Harcourt, and

to increase and fix the price charged for those written materials and lecture services; and,

g. to increase the full tuition rate for BRG's bar review course, including written materials and lecture services, from approximately one hundred dollars (\$100.00) to approximately four hundred and eighty-five dollars (\$485.00).

45. Defendants and their co-conspirators have done those things which they combined and conspired to do, including those things described in the proceeding paragraph.

46. The foregoing conspiracy in restraint of trade has had the following effects, among others;

a. Plaintiffs and other consumers in and outside Georgia have had to contractually obligate themselves to pay and have paid a higher price for the bar review course sold by BRG, including written materials and lecture services relevant to the Georgia Bar examination, than they would have had to pay otherwise.

b. Plaintiffs and other consumers have had less choice between bar review courses offered and have had to contractually obligate themselves to BRG under onerous and unfair terms;

c. the written materials and lecture services available to and sold to plaintiffs and other consumers

by BRG have been inferior to those that would have been available to and sold to plaintiffs and other consumers;

d. Defendant Harcourt has been able to use and apply its cartel profits relevant to the Georgia bar review course to secure and expand its monopoly position in bar review courses, generally, nationwide;

e. the public has been deprived of free, fair, and open competition in the sale of bar review courses, including lecture services and written materials, and the defendants have been able unlawfully to inflate their charges for bar review course written materials and lecture services, thereby damaging present and future purchasers of bar review courses, damaging the economy of Georgia and the United States, and damaging the United States, which pays for the tuition of some bar review course consumers;

f. Some potential purchasers of bar review course materials and services have been unable to afford the inflated price of defendants' bar review course and thus have not purchased such course, thereby damaging their ability to prepare and qualify for careers as attorneys; and,

g. The precise amount of economic loss in and outside Georgia and to plaintiffs and others similarly situated to date has not been calculated but is presently

believed to be in excess of sixty thousand dollars (\$60,000.00).

47. The conspiracy described herein is continuing and unless the relief hereinafter prayed for is granted, the effects mentioned above will continue indefinitely.

48. The foregoing conspiracy in restraint of trade is economically unreasonable, lacks any valid or redeeming business justification, and was initiated by defendants with specific knowledge of its unlawfulness.

#### COUNT TWO

##### Agreement to Allocate Markets and Customers

49. Plaintiffs hereby incorporate the allegations of paragraphs 1 through 48 above as though fully set forth herein.

50. Beginning at a time unknown but believed to be as early as March, 1980, defendants and their co-conspirators did combine and conspire to restrain the sale of bar review courses, consisting of written materials and lecture services, generally nationwide.

51. In furtherance of the combination in unreasonable restraint of trade identified in paragraphs 43 and 50, defendants and their co-conspirators also have agreed to do and have done the following things, among others:

a. to divide and allocate among themselves the



markets, customers, and territories for the sale of bar review courses;

b. to obligate defendant Harcourt to discontinue selling or attempting to sell or market a bar review course directly to Georgia resident consumers;

c. to obligate defendant Harcourt to discontinue selling or attempting to sell or market a bar review course relevant to the Georgia Bar examination directly to any consumer;

d. to obligate defendants BRG, Group, Publications, and Pelletier not to sell or attempt to sell a bar review course or bar review written materials or lecture services, independently, relevant to any bar examination other than that given by the State of Georgia;

e. to obligate defendants BRG, Group, Publications, and Pelletier not to develop, create, purchase, or sell any bar review written materials or lecture services relevant to the "multistate" section utilized in many state bar examinations other than the materials and services provided by Harcourt.

52. The aforesaid combination and conspiracy has had the effects described above in paragraph 46. Moreover, the aforesaid combination has had the additional and continuing effect of allowing defendant

Harcourt to maintain its monopoly position in non-Georgia bar review markets and nationwide and allowing defendant BRG to acquire monopoly power in the Georgia bar review market.

COUNT THREE

Concerted Refusal to Deal

53. Plaintiffs hereby incorporate the allegations of paragraphs 1 through 52 above as though fully set forth herein.

54. Beginning at a time unknown but believed to be as early as April, 1979, defendants and their co-conspirators did combine and conspire to restrain the purchase and sale of bar review lecture services generally, nationwide, and relevant to the Georgia Bar examination, respectively.

55. In furtherance of the combination in unreasonable restraint of trade identified above, defendants and their co-conspirators also have agreed to do the following things, among others:

a. to obligate BRG to refuse to deal with and discontinue purchasing bar review lecture services from people with whom BRG formerly did business;

b. to refuse to purchase bar review lecture services for the use and resale in their respective bar review courses from any person other than those persons

designated by defendant Harcourt;

c. to institute the use of taped rather than live lecture services in their respective bar review courses.

56. The aforesaid combination and conspiracy has had the effects described above in paragraphs 46 and 52.

#### COUNT FOUR

##### Unreasonable Joint Venture

57. Plaintiffs hereby incorporate the allegations of paragraphs 1 through 56 as though fully set forth herein.

58. In furtherance of the conspiracy described in paragraphs 43 and 44 defendants and their co-conspirators have agreed to do the following additional things, among others:

a. to establish and engage in a joint venture for the sale of a bar review course relevant to the Georgia Bar examination;

b. to continue that joint venture for an indefinite period;

c. to eliminate all actual and potential future competition between them;

d. to empower the joint venture to pre-empt and eliminate any future competition from any other source;

e. to allow defendants BRG and Pelletier to manage and administer the bar review course business, thereby

eliminating defendant Harcourt's former managerial and administrative services, and utilize Harcourt's trade name, BAR/BRI, while utilizing Harcourt's written materials and lecture services, thereby eliminating defendant BRG's formerly provided written materials and lecture services.

59. The aforesaid combination and conspiracy has had the effects described above in paragraphs 40 and 46.

60. The establishment and maintenance of defendants' joint venture has been economically unreasonable and has had substantial anticompetitive and inflationary effects upon the marketplace and consumers.

#### COUNT FIVE

##### Conspiracy to Monopolize - Georgia

61. Plaintiffs hereby incorporate the allegations of paragraphs 1 through 60 as though fully set forth herein.

62. Beginning at a time unknown but believed to be as early as April, 1979, defendants and their co-conspirators did combine and conspire and continue to combine and conspire to monopolize the sale of bar review written materials and lecture services relevant to the Georgia Bar examination.

63. Defendants, by their foregoing actions, specifically intended to achieve, now have attained, and



intend to maintain the power to control price and exclude competition in the sale of bar review written materials and lecture services relevant to the Georgia Bar examination.

64. There is a dangerous probability that defendants, by their foregoing actions, will maintain their monopoly power as described above.

65. Defendants now control virtually one hundred percent (100%) of the market for the sale of general bar review written materials and lecture services relevant to the Georgia Bar examination.

66. The aforesaid conspiracy has had the effects described above in paragraphs 46 and 52.

#### COUNT SIX

##### Attempt to Monopolize - Georgia

67. Plaintiffs hereby incorporate the allegations of paragraphs 1 through 66 as though fully set forth herein.

68. Defendant BRG, as controlled by defendant Pelletier, has attempted to monopolize the purchase and sale of bar review written materials and lecture services to consumers relevant to the Georgia bar examination, through independent conduct.

69. Defendant Harcourt has attempted to monopolize the purchase and sale of bar review written materials and

lecture services to bar review courses relevant to the Georgia Bar examination, through independent conduct.

70. Defendants BRG and Harcourt, each by its foregoing independent actions, specifically intend to achieve the power to control price and exclude competition in the purchase and sale of bar review written materials and lecture services to consumers and retailers, respectively, relevant to the Georgia bar examination.

71. There is a dangerous probability that each of the defendants BRG and Harcourt, by their foregoing actions, will achieve independently the respective monopoly power as described above.

72. BRG now has virtually one hundred percent (100%) of the market in the sale of bar review written materials and lecture services to consumers relevant to the Georgia Bar examination. Harcourt now has virtually one hundred percent (100%) of the market in the sale of bar review written materials and lecture services to retailers relevant to the Georgia bar examination.

73. The aforesaid respective attempts to monopolize each have had the effects described above in paragraphs 46 and 52.

74. Plaintiffs hereby incorporate the allegations of paragraphs 1 through 73 as though fully set forth herein.

75. In particular, plaintiffs hereby re-allege the allegations of paragraphs 67 through 73 above.

76. Defendants BRG and Harcourt each independently have now achieved the power to control price and exclude competition in the sale of bar review written materials and lecture services to consumers and retailers, respectively relevant to the Georgia Bar examination.

COUNT EIGHT

Conspiracy to Monopolize - Nationwide

77. Plaintiffs hereby incorporate the allegations of paragraphs 1 through 76 as though fully set forth herein.

78. Beginning at a time unknown but believed to be at least as early as April, 1979, defendants and their co-conspirators did combine and conspire to monopolize the sale of bar review lecture services and written materials, generally, nationwide.

79. In futherance of that conspiracy, defendants and their co-conspirators have agreed to do, and have done, the following things, among others:

a. to allocate customers, markets, and territories, as alleged above in paragraphs 49 through

52;

b. to purchase, acquire, or attempt to force out of business actually or potentially competing businesses and sources of bar review written materials and lecture services;

c. to subsidize and support their predatory and monopolistic activities with the assets and earnings of Harcourt's parent corporation;

d. to transfer assets away from and thus prevent independent competition from other corporations, and bar review course businesses, including Multi-state Lectures, Inc.; and,

e. to enter into vertical "licensing" arrangements to replace competition with many former competitors.

80. The aforesaid combination has had the effects described above in paragraphs 46, 52 and 56.

81. Defendant Harcourt, as facilitated by defendants BRG, Group, Publications, and Pelletier, is now the largest and dominant bar review course business in the United States.

82. Defendants by their conduct as described above in paragraph 79 have specifically intended to attain and retain, and have attained and retained the power to control price and exclude competition in the sale of bar review course written material and lecture services



nationwide.

COUNT NINE

Attempt to Monopolize - Nationwide

83. Plaintiffs hereby incorporate the allegations of paragraphs 1 through 82 as though fully set forth herein.

84. Defendant Harcourt has attempted to monopolize the purchase and sale of bar review written materials and lecture services generally, nationwide.

85. Harcourt, by its foregoing independent actions as described herein, has specifically intended to achieve the power to control price and exclude competition in the purchase and sale of bar review written materials and lecture services generally, nationwide.

86. Harcourt now controls and dominates the sale of the bar review course written materials and lecture services in more than thirty four (34) states, including such of the largest states as New York, California, and Illinois, and intends to expand its business through predatory conduct, vertical licensing agreement, and acquisition into each of the additional states for which there is consumer demand for such business. No competing bar review course business in the United States comes close to matching the size, resources, and predatory conduct and intent of defendant Harcourt.

87. There is a dangerous probability that Harcourt will by its foregoing actions, succeed in acquiring and maintaining the monopoly power as described above.

88. The aforesaid attempt to monopolize by Harcourt has had the effects described above in paragraphs 46, 52 and 56. Furthermore, the intended and foreseeable purpose and effects of the above attempt to monopolize are to prevent any actual or potential provider and retailer of bar review course written materials and lecture services from competing successfully with the bar review course or courses sold by Harcourt and BRG. Furthermore, the intended and foreseeable purpose and effects of the above attempt to monopolize are that bar review course consumers nationwide have paid and continue to pay artificially high and inflated prices for bar review written material and lecture services, receive inferior material and services, and have fewer choices or no choice at all regarding their purchase of a bar review course, materials, or services.

## VI.

### Judgment and Relief Requested

89. Wherefore, plaintiffs respectfully request the following relief:

a. Declaratory relief in the form of an Order by this Court that defendants have violated and are

violating the federal antitrust laws in the manner as described above;

b. A permanent injunction on behalf of plaintiffs and others similarly situated directing the defendants to cease and desist from continuing their violations of federal antitrust law as described above, including price fixing, market allocation, boycotting, unreasonable joint venture, conspiring and attempting to monopolize, and monopolization, and further directing defendants BRG, Group, Publications, and Pelletier, or any other business or corporation affiliated with Pelletier now, or in the future, to discontinue any and all association or relationship with defendant Harcourt, its materials and services, and its trade name as "BAR/BRI";

c. An Order by this Court in its equity powers that all contracts between BRG and/or Pelletier, on one hand, and Harcourt and/or its parent corporation, on the other hand, be terminated and not renewed;

d. An award of damages to each of the plaintiffs and members of the plaintiffs' class for the acts alleged; in accordance with the proof at trial, to be trebled in accordance with the mandate of 15 U.S.C. Section 15;

e. For plaintiffs' reasonable attorneys' fees, including the costs of legal consultation incurred in the

prosecution of this litigation;

f. For plaintiffs' costs herein; and

g. For such other and further relief as the Court  
deems just and proper.

Respectfully submitted,

  
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