

COMPLAINT AGAINST AN ABA-APPROVED LAW SCHOOL

Filed December 31, 2012

By Law School Transparency

Law School Transparency alleges that Rutgers School of Law – Camden violated Standard 509 and Interpretation 509-4. A law school administrator made misleading statements about the successes of the school’s graduates. The same administrator also made a false statement about graduate salary outcomes when she asserted that many top graduates accepted jobs at firms making in excess of \$130,000, when in fact zero graduates reported earning more than \$130,000.

- I. Misleading and False Statements
 - A. Employment Data
 - B. Responses by Rutgers – Camden to LST Allegations
 - C. Analysis
- II. Aggravating Factors
- III. Mitigating Factors
- IV. Conclusion

LAW SCHOOL TRANSPARENCY

On May 18, 2012, Law School Transparency (LST) became aware of a recruiting email sent to prospective law students by Rutgers School of Law – Camden (Rutgers – Camden).¹ As a part of this campaign, Camille Andrews, Associate Dean of Enrollment, sent prospective law students an email with misleading and false statements about the employment outcomes achieved by Rutgers – Camden’s class of 2011. LST asks that the American Bar Association (ABA) Section of Legal Education and Admissions to the Bar (Section of Legal Education) impose sanctions on Rutgers – Camden for its violation of the Section of Legal Education Standards for Approval of Law Schools.

I. Misleading and False Statements

Dean Andrews made unfair statements about the employment outcomes of Rutgers – Camden graduates. These statements exaggerate the successful outcomes of the school’s graduates in an attempt to influence prospective student behavior. These statements violate ABA Standard 509 and Interpretation 509-4.²

A. Employment Data

RUTGERS -- CAMDEN EMPLOYMENT DATA, CLASS OF 2011						Salaries			
			% of Emp.	% of Known	% of Class	# Rep'd	25th	50th	75th
Employed		199		84.32%	82.23%	128			
Private Practice		58	29.15%	24.58%	23.97%	27	50000	60000	110000
	Solo	4	2.01%	1.69%	1.65%	0			
	2-10 Attys	34	17.09%	14.41%	14.05%	12	32500	51000	60000
	11-25 Attys	5	2.51%	2.12%	2.07%	3		55000	
	26-50 Attys	3	1.51%	1.27%	1.24%	2			
	51-100 Attys	0	0.00%	0.00%	0.00%	0			
	101-250 Attys	5	2.51%	2.12%	2.07%	5	85000	110000	115000
	251-500 Attys	0	0.00%	0.00%	0.00%	0			
	501+ Attys	7	3.52%	2.97%	2.89%	5	97500	125000	127500
Clerkships		84	42.21%	35.59%	34.71%	82	43437	43437	43578
	State	77	38.69%	32.63%	31.82%				
	Federal	7	3.52%	2.97%	2.89%				
Government		17	8.54%	7.20%	7.02%	8	49250	52588	58750
Public Interest		5	2.51%	2.12%	2.07%	2			
Business		32	16.08%	13.56%	13.22%	9	73500	89900	137600
Academic		3	1.51%	1.27%	1.24%	0			
	Full-Time	180	90.45%	76.27%	74.38%				
	Part-Time	19	9.55%	8.05%	7.85%				
	Long-Term	182	91.46%	77.12%	75.21%				
	Short-Term	17	8.54%	7.20%	7.02%				
	Bar Required	154	77.39%	65.25%	63.64%				
	JD Advantage	25	12.56%	10.59%	10.33%				
	Professional	19	9.55%	8.05%	7.85%				
	Non-Professional	1	0.50%	0.42%	0.41%				
Unemployed		29		12.29%	11.98%				
Adv. Degree		8		3.39%	3.31%				
Unknown		6			2.48%				
Total		242							

Source: Rutgers School of Law – Camden

¹ Email from Associate Dean Camille Andrews to Prospective Students, ABOVE THE LAW, available at <http://abovethelaw.com/2012/05/law-school-sales-pitch-doubles-down-on-the-getting-rich-rationale-for-law-school/2/> (last visited Nov. 14, 2012). The email has been reproduced in its entirety in Appendix A.

² Our allegation concerns the 2011-2012 ABA Standards.

B. Responses by Rutgers – Camden to LST’s Allegations

On May 20, 2012, LST called for the resignation of Dean Andrews.³ In this call, LST analyzed the statements made by Dean Andrews in her email to prospective students, ultimately concluding that the offenses were sufficiently egregious to warrant her resignation and an ABA investigation.

On May 22, 2012, Insider Higher Ed published a story with a response from the dean of Rutgers – Camden, Rayman Solomon. From the story:

Dean Rayman Solomon is standing by Andrews. Solomon said the recruitment material was accurate but that he’s “open to discussion” about the best way to reach prospective students going forward. The promotion in question targeted potential applicants who took the GMAT, not the LSAT, the typical law school admission test. The goal, Solomon said, was to reach a new audience and introduce the Rutgers-Camden program. Students could then go online to get more information.

“This was one letter saying are you interested, have you thought about it?” Solomon said. “This is not our entire marketing campaign. This is telling people that we have a program.”

But were the numbers misleading?

“I don’t know how to respond,” Solomon said. “If you have a hundred people, would four of them be misled? Would one be misled? Would 98 be misled? [It was] a piece that was designed to get people to think about something they hadn’t thought about. This wasn’t the only information they could get about it.”⁴

LST’s responsive statement on May 22, 2012:

[W]e clearly disagree about whether Camden’s employment outcome claims adequately reflect reality and whether targeting people who had not yet expressed interest in law school was appropriate given the very short decision window and lack of knowledge about their professional goals.

Nevertheless, neither LST nor Camden knows the actual effect of the campaign on the letter recipients. Frankly it doesn’t matter whether many people or zero people enroll. We care about how Camden conducts itself in the law school marketplace; Camden unfairly used employment statistics to augment its argument that the law school is a safe haven from a bad economy. In this regard Camden crossed the ethical (and likely legal) line from mere puffery to deceptive advertising. These facts are troubling irrespective of whether prospective students are sophisticated, unsophisticated, or indifferent.⁵

³ *LST Calls for Dean’s Resignation and ABA Investigation*, LAW SCHOOL TRANSPARENCY, May 20, 2012, <http://www.lawschooltransparency.com/2012/05/lst-calls-for-deans-resignation-and-aba-investigation/>.

⁴ *Group Seeks Resignation of Rutgers-Camden Law Official*, INSIDE HIGHER ED, May 22, 2012, <http://www.insidehighered.com/quicktakes/2012/05/22/group-seeks-resignation-rutgers-camden-law-official>.

⁵ *Rutgers – Camden School of Law’s Dean Stands by Marketing Campaign*, LAW SCHOOL TRANSPARENCY, May 22, 2012, <http://www.lawschooltransparency.com/2012/05/update-with-comments-from-rutgers-camden-school-of-laws-dean/>.

The brunt of Dean Solomon's response is that this is but a single letter that isn't a big deal and shouldn't affect decision making. But what could the employment statistics have been meant to do other than affect application and enrollment decisions? The letter was part of a recruitment campaign, not a teaser for a movie due out next summer. Rutgers – Camden should have all of its communications with students be accurate and honest. Dean Solomon implies that misinformation is okay when other information is available to falsify the statements. It would appear that he is saying "you should know not to take our statements at face value."

It's not acceptable to provide prospective students with false and misleading information just because the truth is available somewhere else. Interpretation 509-4 to ABA Standard 509 clearly states that reporting consumer information accurately somewhere does not absolve a school's responsibility to present such information in a fair and accurate manner elsewhere.

On May 22, 2012, LST emailed Dean Solomon for clarification, asking him six questions about Dean Andrews' email correspondence.

1. Does the category "JD Advantage" include only jobs in the legal field?
2. If #1 is no, did any Camden graduates have a "JD Advantage" job not in the legal field? If so, how many?
3. Do you think the advertised private practice starting salary of \$74,000 represents the average of all 2011 graduates employed in private practice?
4. How many graduates reported earning salaries of at least \$130,000?
5. Do you believe the answer to #4 can fairly be described as "many"?
6. Are statements about employed graduates meaningful without disclosing how many non-employed graduates there are?

Dean Solomon responded immediately with a request to speak to LST's executive director, Kyle McEntee. Mr. McEntee, Dean Solomon, and various other Rutgers – Camden senior administrators had an off-the-record conference call. On June 8, 2012, Dean Solomon responded to the request for further information in writing. His email has been reproduced in its entirety:

Kyle,

After receiving your request for further information, I asked our Director of Career Planning to recheck all of our numbers. I then asked a group of three senior faculty to verify the information. They did so and issued a report to me which I reproduce below. To provide some context, our Career Planning office uses Symplicity. It is completely web-based; i.e., the students enter their own data online. The online forms conform, as we understand it, to NALP standards. We do not alter the student input.

If you have any further questions please contact me.

Sincerely,
Ray Solomon

In providing information about employment, the law school relies on data self-reported by graduates and does not independently verify the information reported.

Response to Questions 1 and 2:

1. Does the category “JD Advantage” include only jobs in the legal field?
2. If #1 is no, did any Camden graduates have a “JD Advantage” job not in the legal field? If so, how many?

In their self-reporting, graduates choose among *JD Required*, *JD Advantage* and *Other Professional Positions*. These terms are not defined, and graduates are not required to elaborate on why they have chosen a particular category. We have reviewed 2011 data for students who selected *JD Advantage*. The data identify the employer but not the individual’s title, position, or job description. We cannot identify individual employers, but, because of the nature of the employers, such as law firms, government agencies, and corporations, and because these graduates chose *JD Advantage* over *Other Professional Positions*, it is reasonable to assume that substantially all of the positions are in the legal field. We note that only two graduates in the *JD Advantage* category are employed by the law school.

Response to Question 3:

3. *Do you think the advertised private practice starting salary of \$74,000 represents the average of all 2011 graduates employed in private practice?*

This number represents the average of all 2011 graduates employed in private practice who reported salaries. We do not have additional data to determine the average salary of all 2011 graduates employed in private practice.

Response to Question 4 and 5:

4. *How many graduates reported earning salaries of at least \$130,000?*
5. *Do you believe the answer to #4 can fairly be described as “many”?*

The salary of \$130,000 was the high end of the range of reported salaries for the class of 2011, and one person reported earning that salary. In addition, three other graduates, who are currently judicial law clerks, have accepted positions for the year following their clerkships with salaries of \$160,000 \$135,000 and \$130,000.

The following are additional detail on graduates at the high end of the salary range for the past five years. Graduates submit data from which the law school identifies the highest reported salary and calculates the 75th percentile level. The data below include information at nine months after graduation and do not include positions that graduates have accepted beginning after judicial clerkships.

- In 2011, the highest salary was \$130,000 and the 75th percentile (7 graduates) was \$110,000 or above.
- In 2010, the highest salary was \$160,000 and the 75th percentile (7 graduates) was \$117,500 or above.
- In 2009, the highest salary was \$160,000 and the 75th percentile (15 graduates) was \$145,000 or above.

- In 2008, the highest salary was \$160,000 and the 75th percentile (16 graduates) was \$145,000 or above.
- In 2007, the highest salary was \$160,000 and the 75th percentile (14 graduates) was \$125,000 or above.

Over six months have passed since Rutgers – Camden provided its report (the “Faculty Report”) to LST. During this time LST did an open records request of Rutgers – Camden. The request returned one pertinent record, the school’s ERSS data for the class of 2011 as reported to NALP.⁶ These data reflect what Rutgers – Camden reported to NALP during its annual employment data collection process. To LST’s knowledge, there have been no additional developments.

C. Analysis

What follows is an analysis of each violative statement made by Dean Andrews. The analysis is possible because Rutgers – Camden has made the relevant employment data publicly available, though their accessibility does not excuse false, misleading, and incomplete statements that the administration should know leave readers with incorrect impressions. Each statement is itself a black eye for Rutgers – Camden, but it’s the cumulative effect of all of the statements and all of law school bad behavior that makes sanctions from the Section of Legal Education imperative.

- i. *“[O]f those employed nine months after graduation, 90% were employed in the legal field”*

This is problematic on two levels. First, it excludes non-employed graduates from the calculation to provide a false sense of success. There were 242 graduates in Rutgers – Camden’s 2011 graduating class. Of these, 199 were employed. Rutgers – Camden uses 199 as the denominator with no indication that it has excluded 17.8% of the class from the calculation. While the statement does disclose that it is “of those employed,” the number of unemployed graduates is so large that the statement requires context to avoid misrepresenting what it means. The advertised “90% of employed” actually only represents 74% of the whole class. A prospective student must seek additional information in order to understand what was not said in the email.

Second, “in the legal field” implies “as a lawyer,” yet Rutgers – Camden groups non-lawyers with lawyers to create the non-standard and undefined “in the legal field” category. Specifically, Rutgers – Camden has combined two distinct categories: jobs that require bar admission (154 grads) and jobs where the J.D. was an advantage (25 grads). The advertised “90% of employed” actually works out to 63.6% of the class in lawyer jobs, with another 10.6% in jobs where the J.D. was an advantage. However, it takes access to definitions and additional employment outcome data to unpack that the undefined “legal field” term operates this way.

The “J.D. Advantage” category that Rutgers – Camden cabins into the “in the legal field” rate includes jobs as paralegals, law school admissions officers, and a host of jobs not credibly “in the legal field” (whatever that may be). A graduate job is “J.D. Advantage” when the employer sought an individual with a J.D. (and perhaps even required a J.D.), or for which the J.D. provided a demonstrable

⁶ 2011 Rutgers Camden ERSS Data, http://www.lawschooltransparency.com/documents/509_Enforcement/2011_Camden_ERSS_file.txt.

advantage in obtaining or performing the job, but the job itself does not require bar passage, an active law license, or involve practicing law. Nevertheless, the Faculty Report indicates that “it is reasonable to assume that substantially all of [these] positions are in the legal field”—whatever it is that “legal field” means.

ii. “[O]f those employed nine months after graduation . . . 90% were in full time positions.”

This likewise excludes non-employed graduates without indicating that 17.8% of the class has been excluded. Once again, 90% of employed actually means only 74% of the whole class. The ultimate message of stating, in sequence, that 90% of employed graduates were employed in legal jobs and 90% of employed graduates were employed in full-time jobs is far rosier than the reality that 59.5% of all graduates were employed in full-time bar passage required (i.e. legal) jobs. By using the two separate statements together, Rutgers – Camden leads the reasonable reader in the wrong direction. Presentation, including syntax, matters.

iii. “Our average starting salary for a 2011 graduate who enters private practice is in excess of \$74,000, with many top students accepting positions with firms paying in excess of \$130,000.”

There are a number of distinct problems with this statement. First, Rutgers – Camden does not accurately state what the average reflects. The average is “for a 2011 graduate who enters private practice and reported a salary” not “for a 2011 graduate who enters private practice.” This is not a trivial distinction. Only 46.6% of graduates in private practice reported a salary. Of those that did so, the numbers were slanted towards higher salaries at large firms. 83.3% of graduates at firms with 101 or more attorneys reported their salaries, while only 37.0% of those at smaller firms reported a salary. The low overall response rate and the bias towards higher salaries being reported mean that the average of responses is not the average “for a 2011 graduate who enters private practice.”

Second, Camden does not disclose the salary response rate. The private practice salary response rate (46.6%) indicates that private practice salaries do not tell the whole story. The email also does not state that only 24% of the class was in private practice. This means the “average starting salary” actually reflects the average salary for just 11.2% of the class. None of this was communicated to the recipients of Dean Andrews’ email.

Third, Rutgers – Camden uses the average salary figure without any statistical context, e.g. a 25th and 75th percentile. NALP, LST, and many other academics have belabored for many years about how average salaries tend to mislead more than inform. This is because reported salaries fall into a bimodal distribution. For the class of 2010 (across all law schools), there is one peak from \$40,000 to \$65,000, accounting for nearly half of reported salaries, and another distinct peak at \$160,000. This bimodal distribution means that very few graduates make the national mean salary of \$84,111.

Based on the salary data Rutgers – Camden produces on its website, we see a similar distribution to the national picture across private practice salaries. There were 27 salaries provided; between 8 and 12 were above the \$74,000 average by at least 30%; the rest were below the average, with 14 or more at least 20% below the average.

Fourth, Camden claims that many of its “top students” have accepted positions with firms paying “in excess of \$130,000.” To be sure, “many” is ambiguous. It might reasonably mean 40% of the class, or even perhaps 20%. With the “top” qualifier, it might not even strain credibility to claim that 10% of the class constitutes “many” top students. Based on records LST received from Rutgers – Camden through an open records request, the school knew that zero class of 2011 graduates employed in private practice reported a salary in excess of \$130,000, with one making exactly \$130,000. In the Faculty Report to LST, Rutgers – Camden indicates that several other graduates had high-paying law firm jobs waiting for them after their clerkship. But crediting these jobs is speculative until the outcomes are actually achieved, especially in today’s legal hiring climate. Even if credited for the two speculative jobs in excess of \$130,000, two graduates is not “many.”

II. Aggravating Factors

A. Three Straight Years Misreporting Consumer Information to *U.S. News*

For the last three years, Rutgers – Camden has misreported the average indebtedness of its graduates to *U.S. News* (and perhaps to the ABA too).⁷ Rutgers – Camden reported the average indebtedness for the Class of 2009, Class of 2010, and Class of 2011 by reporting just one year of debt instead of all accumulated law school debt. For the Class of 2011, the school reported \$27,423 of average debt instead of \$80,466. Only after much publicity did Rutgers – Camden correct these figures with *U.S. News*. However, the administration at Rutgers – Camden likely knew, or at least should have known, it had misreported prior to the sporadic publicity about its troubles in 2012.

On November 15, 2011, Rutgers – Camden published a press release claiming that the school “is emerging as a smart investment for strong career preparation.”⁸ The school then pointed out that the school had received national recognition for affordability and value by “three national surveys.” Two of these surveys relied on the Class of 2010 debt figure Rutgers – Camden reported to *U.S. News*. *National Jurist’s* survey aimed “to find the law schools where graduates have an excellent chance of passing the bar and getting a job without taking on a ton of debt.”⁹ The *U.S. News* Top 10 Law Degrees with the Most Financial Value at Graduation used a salary-to-debt ratio for its calculation.¹⁰ The press release had a quote from Dean Solomon exalting the surveys, two of which were clearly based on an erroneous (and obviously wrong) figure.

See, also, the letter from Dean Solomon to the Rutgers – Camden community regarding the debt reporting, as well as Elie Mystal’s commentary: <http://abovethelaw.com/2012/07/law-school-dean-takes-on-the-blogs-but-he-doesnt-have-the-facts-on-his-side/>. There is a pattern of unaccountability.

⁷ *Mysteries of Rutgers*, ITLSS, July 18, 2012, <http://goo.gl/bo4nB> (last visited Nov. 13, 2012).

⁸ *Rutgers School of Law – Camden Earns Recognition as Smart Career Investment*, Rutgers – Camden Press Release, Nov. 15, 2011, <http://news.rutgers.edu/medrel/camden/rutgers-school-of-la-20110404/>.

⁹ *Best Value Law Schools*, NATIONAL JURIST, Nov. 2011, <http://www.nxtbook.com/nxtbooks/cypress/nationaljurist1111/#/26>.

¹⁰ *Top 10 Law Degrees with the Most Financial Value at Graduation*, U.S. NEWS & WORLD REPORT, Mar. 29, 2011, <http://www.usnews.com/education/best-graduate-schools/top-law-schools/articles/2011/03/29/10-law-degrees-with-most-financial-value-at-graduation>.

B. Target of Email Campaign

In the email, Rutgers – Camden extended a special offer for people who haven't followed the normal application process and haven't expressed an interest in law school or legal practice. The email recipients had taken the GMAT, not the LSAT. The school did not have any reason to expect the recipients had an interest in attending law school, yet the email offer allowed students to apply for free and enroll just a few months later. By portraying Rutgers – Camden as a down-economy safe haven that leads to status and riches, the school attempted to enroll the exact students who ought not to attend law school: people who have not had time to carefully weigh the pros and cons of this significant investment. Rutgers – Camden grossly exaggerated the salary outcomes of its graduates right after praising its placement success and right before pointing out how its alumni are among the very richest of all lawyers.

C. No Remedial Action and No Admission of Guilt

Throughout all of this, Dean Solomon has never admitted to a problem. In an interview with Inside Higher Ed, he stood by Dean Andrews and said the recruitment materials used by Dean Andrews were accurate.¹¹ He argued that the recruiting pitch was merely intended to introduce the program, not part of the entire marketing campaign. When asked if the pitch was misleading, he said he did not know, instead responding with a rhetorical question about the number of people who need to be misled in order to constitute the pitch being misleading. He has not publicly recanted this interview in light of the findings of the committee Dean Solomon appointed to review the questions LST asked in the May 22 email.

Neither have any reports surfaced about Rutgers – Camden contacting recipients of the original email in question to inform them that the statement made by Dean Andrews about the salary statistics were false. The school has not contacted these students to inform them that a number of her statements were misleading. Rutgers – Camden has yet to make a public statement with the findings of its Faculty Report to LST, whether on its website, to prospective students, or to a journalist. Instead, the facts in the report have been left to stand on their own, with no conclusion.

III. Mitigating Factors

In response to the May 22 email from LST to Dean Solomon, Dean Solomon held a conference call with LST and, ultimately, commissioned a report from senior faculty members in response to the email.

IV. Conclusion

Not only is Camden an institute of higher learning, but it also serves as a gateway to the legal profession. The degree of recklessness displayed by Dean Andrews, and the Camden administration for permitting a representative to deceive potential students, cannot be tolerated. It's the latest example of a law school having no accountability for its recruiting practices. These practices must stop.

¹¹ *Group Seeks Resignation of Rutgers-Camden Law Official*, INSIDE HIGHER ED, May 22, 2012, <http://www.insidehighered.com/quicktakes/2012/05/22/group-seeks-resignation-rutgers-camden-law-official>.

APPENDIX A

Dear [Redacted],

In the ever-volatile job market, you may be considering graduate school. Consider this – Rutgers School of Law – Camden is giving high-achieving students, such as you, the opportunity to enroll in the Fall 2012 class. The traditional law school program is a three-year program, which is extremely attractive to most graduate students given the difficult economy. The program is open to all students who have completed their undergraduate education with a 3.3 GPA or higher and scored in the 70th percentile or higher on any one core section of the GMAT. If accepted at Rutgers law School at Camden, you will join other bright, talented students who are pursuing their legal education at our law school. To encourage you to participate in the program, the Law School is waiving the application fee, and if accepted, the \$300 deposit fee. Joint JD/MBA degrees with the Graduate School of Business are also possible. Scholarship awards and in-state tuition are available.

The School is proud to carry on the tradition of excellence at Rutgers University, which is one of the oldest and largest public institutions of higher learning in the nation. As a direct result of the quality of legal education at Rutgers, of those employed nine months after graduation, 90% were employed in the legal field and 90% were in full time positions. Our average starting salary for a 2011 graduate who enters private practice is in excess of \$74,000, with many top students accepting positions with firms paying in excess of \$130,000. In a recent Forbes publication, Rutgers School of Law-Camden was ranked 18th nationally as one of the “Best Law Schools for Getting Rich”. Rutgers is also ranked high in the nation at placing its students in prestigious federal and state clerkships.

I hope that you will consider this opportunity and join this class. Please apply on-line at our web site at <http://camlaw.rutgers.edu>. We are a direct student loan institution so financial aid is easily processed. We also have newly constructed on-campus law school apartments available, adjacent to the Law School and the Federal Courthouse, and guaranteed for our law students.

Sincerely,
Camille Andrews
Associate Dean of Enrollment