



Enforcing the ADA:

A Status Report from the Department of Justice

July - September 2003

This Status Report covers the ADA activities of the Department of Justice during the third quarter (July - September) of 2003. This report, previous status reports, and a wide range of other ADA information are available through the Department's ADA Home Page on the World Wide Web (see page 16). The symbol (**) indicates that the document is available on the ADA Home Page.

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The Americans with Disabilities Act (ADA) is a comprehensive civil rights law for people with disabilities. The Department of Justice enforces the ADA's requirements in three areas --

Title I: Employment practices by units of State and local government

Title II: Programs, services, and activities of State and local government

Title III: Public accommodations and commercial facilities

I. Enforcement

Through lawsuits and both formal and informal settlement agreements, the Department has achieved greater access for individuals with disabilities in thousands of cases. Under general rules governing lawsuits brought by the Federal Government, the Department of Justice may not file a lawsuit unless it has first unsuccessfully attempted to settle the dispute through negotiations.

A. Litigation

The Department may file lawsuits in Federal court to enforce the ADA and may obtain court orders including compensatory damages and back pay to remedy discrimination. Under title III the Department may also obtain civil penalties of up to \$55,000 for the first violation and \$110,000 for any subsequent violation.

1. Decisions

Title II

Second Circuit Declares That Rochester, New York, Transit System Must Plan to Meet 100 Percent of Paratransit Demand --

The U.S. Court of Appeals for the Second

Circuit, agreeing with the Department's advisory written answers to questions posed by the court, ruled in Anderson v. Rochester-Genesee Regional Transportation Authority that public transit authorities have an obligation to design, fund, and implement paratransit programs to meet 100 percent of the anticipated demand for next-day paratransit service. The ADA requires public transit authorities who operate fixed route bus systems to provide comparable paratransit service to individuals with disabilities who are unable to use fixed route service. The court also agreed that, even if a transit provider meets its obligation to plan to meet 100 percent of demand, it will still violate the ADA if actual day-to-day operations result in a substantial number of trip denials that are not beyond the control of the provider. In addition, the court agreed that the determination of how many denials is "substantial" is not based on a specific mathematical formula but rather on a case-by-case analysis, given the transit provider's service profile, including population size and distribution, geography, type of service, and economic base.

Court Finds Continuing Violation of Curb Ramp Requirements -- The U.S. District Court for the Western District of Pennsylvania ruled in Barrier Busters v. City of Erie that Erie, Pennsylvania, may be held liable for its ongoing failure since the ADA went into effect to install accessible curb ramps when performing road and sidewalk construction and alterations. The city admitted it had not installed “thousands” of ramps but argued that claims involving violations that occurred more than two years before the lawsuit was filed on June 26, 2002, were barred because of the statute of limitations. The court agreed with the Department’s amicus brief in ruling that Erie’s consistent practice of violating the ADA’s curb cut requirement was a “continuing violation” and that the court could address all the discriminatory acts involved, not just those occurring during the two-year period before the lawsuit.

District Court Holds Title II Suit Unconstitutional but Allows Rehabilitation Act Claim to Proceed -- The U.S. District Court for the District of Puerto Rico ruled that the ADA’s abrogation of sovereign immunity allowing title II suits against States is unconstitutional. The Department intervened in Resto-Ortiz v. Commonwealth of Puerto Rico, a suit challenging the failure of Puerto Rico to provide a classroom sign language interpreter for a deaf elementary school student, in order to defend the constitutionality of the ADA. Although the court found that the title II abrogation was unconstitutional, it held that the suit could proceed under the Rehabilitation Act because the Commonwealth had waived its immunity under that law by accepting Federal financial assistance.

Title III

Ninth Circuit Says “Comparable” Line of Sight Means More Than Unobstructed View of Movie Screen -- The U.S. Court of

Appeals for the Ninth Circuit ruled in Oregon Paralyzed Veterans of America v. Regal Cinemas, Inc., that the viewing angles for wheelchair users in stadium-style movie theaters must be comparable to those offered to the general public. The plaintiffs alleged that the wheelchair seating locations provided at several Regal stadium-style theaters were very close to the screen and required wheelchair users to look up at the screen at sharp angles, often resulting in a blurry or distorted image and severe discomfort. They also alleged that because the wheelchair locations were not located in the stadium-style portion of the theaters, wheelchair users were effectively segregated from most other patrons. The district court ruled that the requirement for comparable lines of sight means only that the wheelchair users must have an unobstructed view of the movie screen. The district court also concluded that failing to place the accessible wheelchair seating in the stadium portion of the theaters did not violate the regulation’s requirement that wheelchair areas “be an integral part of any fixed seating plan.” On appeal, the Ninth Circuit reversed, agreeing with the Department’s amicus brief that the ADA requires operators of stadium-style movie theaters to provide wheelchair users with viewing angles comparable to those offered to the general public in the stadium-style seats and that the defendants violated the ADA by relegating wheelchair users to an area close to the movie screen where the viewing angles were inferior to those offered in the stadium section where most of the audience sits.

Second Circuit Asks Lower Court to Consider Justice Interpretation of Comparable Line of Sight -- In Meineker v. Hoyts Cinemas Corporation, the U.S. Court of Appeals for the Second Circuit ruled that the U.S. District Court for the Northern District of New York should decide whether the Department’s interpretation of comparable line of sight in stadium-style theaters is a

reasonable and consistent interpretation of the regulation and therefore entitled to deference; and if so, whether Hoyts Cinemas had reasonable notice of that interpretation at the time of construction or renovation of its theaters. The district court had ruled that comparability of sight lines includes consideration of viewing angles, and not just whether the view is obstructed, but that the ADA does not necessarily require the accessible seating to be in the tiered portion of a stadium-style theater if the accessible seating is far enough from the screen. On appeal, the Department argued in its amicus brief that the regulation requires that wheelchair users in movie theaters be provided lines of sight within the range of viewing angles offered to most patrons of the cinema, and that wheelchair seating in a stadium-style theater be integrated into the elevated, stadium portion of the auditorium.

2. New Lawsuits

The Department initiated or intervened in the following lawsuits.

Title II

Nieves-Marquez v. Commonwealth of Puerto Rico -- The Department intervened in the U.S. Court of Appeals for the First Circuit in Nieves-Marquez v. Commonwealth of Puerto Rico to defend the constitutionality of the ADA provision that abrogates the sovereign immunity of States, and in this case, Puerto Rico, allowing them to be sued for damages by private litigants. This case involves a suit by parents of a hard-of-hearing student against the Commonwealth's Department of Education, seeking a sign language interpreter to assist their son in school. The Department argued that the ADA's abrogation of sovereign immunity is a valid exercise of Congress's power to enforce equal protection and other rights under the Fourteenth Amendment of the Constitution.

3. Amicus Briefs

The Department files briefs in selected ADA cases in which it is not a party in order to guide courts in interpreting the ADA.

Title III

Spector v. Norwegian Cruise Lines, Ltd. -- The Department filed an amicus brief in the U.S. Court of Appeals for the Fifth Circuit arguing that the district court was correct in ruling that title III applies to foreign-flagged cruise ships when they voluntarily enter U.S. ports, such as, in this case, Houston, Texas, to receive passengers. It ruled that applying title III in these circumstances is not an unlawful extraterritorial application of the ADA because the discrimination occurs in U.S. internal waters, and that application of title III neither interferes with the internal affairs of the ship nor violates international law. The lawsuit was brought by mobility-impaired individuals and their nondisabled companions alleging that the foreign-flagged cruise line discriminated against them by imposing a surcharge for an accessible cabin, failing to remove architectural barriers to access or offer services in alternative accessible settings, and failing to make reasonable modifications to its practices, policies, and procedures. The amicus brief also argued that the district court was wrong to dismiss plaintiffs' barrier removal claims because the Department has not yet issued regulations establishing requirements for new construction and alterations of cruise ships. The Department asserted that the obligation to remove barriers to access is based on the language of the ADA itself and does not depend on the existence of implementing regulations. The brief asked the Fifth Circuit to reinstate the barrier removal claims and to send the case back to the district court for a determination as to whether the relief plaintiffs sought is readily achievable.

Shubert Will Increase Accessibility at Broadway Theaters -- The U.S. Attorney's Office for the Southern District of New York filed suit against the Shubert Organization, Inc., and affiliates challenging the inaccessibility of 16 of New York's landmark Broadway theaters. At the same time the parties entered a consent decree resolving the lawsuit. Under the agreement Shubert will take a wide range of steps to dramatically increase accessibility for persons with disabilities by modifying theater entrances to be accessible, creating wheelchair seating locations in the orchestra sections of all 16 theaters and adjusting ticket prices for these seats to compensate for inaccessibility of mezzanines and balconies, and installing unisex accessible restrooms in most theaters. Tickets for accessible seating will be restricted to purchase by people with disabilities until all other seating in the theater is sold out. Shubert will also offer waiter service to wheelchair users in theaters in which concession stands are inaccessible and cannot be modified, remove or provide cane-detectable barriers at protruding objects, and survey backstage areas and wall sconces for resolution under a future agreement. In addition, Shubert agreed to pay a civil penalty of \$50,000.

B. Formal Settlement Agreements

The Department sometimes resolves cases without filing a lawsuit by means of formal written settlement agreements.

Title II

**** Jackson, Mississippi** -- The Department and the City of Jackson reached a settlement agreement following an investigation into allegations that the city violated the ADA by refusing a zoning change that would have allowed the construction of a mental health crisis intervention center. The complainants, two developers who jointly owned two adjacent tracts of land, one zoned for industrial use and one for commercial use, filed a petition to rezone the industrial-use parcel to commercial use. The city's zoning professional staff had allegedly advised them that both parcels had to be zoned commercial in order to build the facility, which was to be leased to and operated by the Hinds County Mental Health Commission. The professional staff also allegedly advised the developers that

the rezoning was in keeping with the city's future land-use plan. The city council held several public hearings about the petition where members of the public as well as council members allegedly made comments reflecting negative stereotypes about people with mental illness and voiced opposition to the mental health crisis intervention center. Following these meetings, the city council, acting in its capacity as the zoning board, voted to deny the developers' petition. Under the settlement the city held a new vote based on appropriate and lawful criteria and granted the petition. The city paid the developers \$40,000 in compensatory damages and provided ADA training to all city council and planning board members on the requirements of the ADA. The city also agreed that in the future it would use appropriate, nondiscriminatory criteria when evaluating zoning petitions involving people with disabilities.

**** Weston, West Virginia** -- The Department entered an agreement with the City of Weston, West Virginia, resolving a complaint by an individual with a mobility impairment alleging that Weston failed to remove physical barriers

to the municipal building and the fire department. The city agreed to make the municipal building and parking lot, the senior center, and the fire department accessible by adding accessible parking spaces, widening doorways, installing grab bars and accessible toilet stalls, and installing accessible thresholds at designated entrance doors. The city will provide an alternate accessible location for city council meetings upon request. The city also agreed to make qualified interpreters available when appropriate to ensure effective communication with persons who are deaf or hard of hearing and to take steps to ensure that all appropriate employees are trained in using a TTY and the relay service to make and receive calls.

Pike County, Alabama -- An individual whose son has a mobility impairment complained that Pike County failed to remove physical barriers to its jail facility. The county agreed to provide accessible parking and an accessible route to an accessible entrance, add an accessible jail cell, and modify the public toilet rooms to make them accessible.

Del City, Oklahoma -- The Department entered into an agreement with Del City resolving a complaint by a citizen with a mobility impairment alleging that city hall was inaccessible. The city agreed to provide accessible parking and toilet rooms and to modify procedures to allow individuals with disabilities to transact business despite inaccessible service counters.

Cuyahoga County, Ohio -- The Department reached an agreement with Cuyahoga County to make the Cleveland Justice Center, a large public facility that houses municipal courts and the county jail, accessible to people with disabilities. The county agreed to take steps to modify restrooms to provide accessibility, including installation of grab bars and insulation on hot water and drain pipes. It will also provide a unisex accessible toilet room, add additional parking spaces, and provide an

accessible route with appropriate signage from the parking facility to the main entrance and the accessible restrooms.

Title III

Peggy's Childcare, Inc., Deer Park, Texas -- The Department signed an agreement resolving allegations that a Texas child care center refused to enroll a four-year-old child with Down Syndrome who needed diapering. The center had a policy of requiring children over the age of three to be toilet trained. Peggy's Childcare, Inc., agreed to pay \$4,000 in damages to the complainants, modify its policy to admit children over three who are not toilet-trained if their need for diapering is due to a disability, and provide ADA training to its employees.

Hampton Inn Hotel, Taos, New Mexico -- The Department entered into a settlement agreement with the Hampton Inn Hotel resolving a complaint by an individual with a disability who alleges that she and her husband were not allowed to rent a room because she uses a service animal. The hotel agreed to adopt a policy allowing individuals with disabilities and their service animals equal access to the hotel's services, provide ADA training to its employees, and reimburse the complainant's expenses.

Howard Johnson Hotel, Denver, Colorado -- The Department reached an agreement with the owner and operator of a Howard Johnson Hotel in Denver, Colorado, in response to a complaint that the hotel had no accessible guest rooms. The hotel agreed to modify three guest rooms to make them fully accessible. Two of the three newly modified rooms will be equipped with a bathtub or transfer shower; the third room will be equipped with a roll-in shower. The owner also agreed to install appropriate signage for the accessible parking spaces, modify ramps and door thresholds to provide an accessible route from parking to registration, and lower portions of service counters to make them accessible.

**** New Agreements Mark Phase Two of Project Civic Access --** The Department has signed five additional agreements under the Department's Project Civic Access initiative, a wide-ranging effort to ensure that cities, counties, towns, and villages throughout the United States comply with the ADA. These are the first agreements under the second phase of Project Civic Access, which involves additional communities in all 50 States and focuses on an expanded range of issues, including accessibility of sidewalks, voting technology, disaster response planning, and government websites. The new agreements cover --

Muskogee, Oklahoma
Tillamook County, Oregon
Loudon County, Tennessee
Madison County, Mississippi
Worcester County, Maryland

Fifty-eight agreements have been signed to date. They require communities, depending on local circumstances, to --

- Improve access to programs at city and town halls, police and fire stations, sheriff's departments, courthouses, health care delivery centers, childcare centers, teen and senior activities centers, convention centers, animal shelters, libraries, baseball stadiums, golf course clubhouses, and parks (including ice skating rinks, skateboard rinks, public pools, playgrounds, ball fields and bleachers, and band shells);
- Alter polling places and provide curbside or absentee balloting;
- Upgrade 9-1-1 emergency services for people who use TTY's;
- Install assistive listening systems in legislative chambers, courtrooms, and municipal auditoriums;
- Establish delivery systems and time frames for providing auxiliary aids, including sign language interpreters and materials in Braille, large print, or on cassette tapes;
- Install curb cuts whenever streets or sidewalks are constructed or altered and solicit citizen input regarding areas where curb cuts should be added to existing streets and sidewalks throughout the community; and
- Solicit input from persons with disabilities to ensure community evacuation plans and emergency response are adequate, including setting policies regarding service animals in emergency shelters, providing visual alternatives to audible emergency sirens, and selecting emergency shelters that are physically accessible to persons with disabilities.

**** Westin Convention Center Hotel, Pittsburgh, Pennsylvania --** The Department entered into a settlement agreement with the Westin Convention Center Hotel resolving an investigation begun when a woman who uses a wheelchair alleged that the hotel's guest room toilets were positioned too low to be accessible. The owner corrected this problem before the Department began its onsite survey. Under the agreement it agreed to make physical modifications to the 618-room hotel so that parking, entrances, accessible routes, public telephones, and public toilet rooms serving the lobby, restaurant, and fitness center were accessible. The owner also agreed to make changes in the 24 designated accessible guest rooms to make them fully accessible, including adjustments to grab bars, closet rods, and shelves.

**Formal
Settlement
Agreements**

to provide her and her family with seating near the stage so that she could lip-read during a comedy show. She and her husband claimed that they had called ahead and been told that they would be seated near the stage if they came early. Even though they arrived early and empty seats were available in the front row, the family was seated further back behind an obstruction. When they asked for other seating, they were moved to an even less satisfactory location. Under the agreement, Laff Spot agreed to pay the complainant

\$1,500 and give her four tickets to a future show, post in the box office a copy of Laff Spot's policies and procedures for accommodating persons with disabilities, and provide ADA training to its managers and employees.

**** Super 8 Motel / Comfort Inn Motel, Annapolis, Maryland --** The Department entered into a settlement agreement with the owner of two adjacent motels in Annapolis, Maryland, addressing barriers to physical access. The owner agreed to engage in barrier removal throughout the 39-room Super 8 Motel, providing accessible parking, an accessible lobby entrance, and an accessible route to an accessible guest room. The agreement also required the owner to make changes throughout the 60-room Comfort Inn, providing accessible parking, removing barriers in three existing guest rooms designated for persons with disabilities, and providing accessibility at the entrance, the front desk, the breakfast bar, and the lobby area toilet room.

**** Yellow Cab Drivers Association, Inc., Salt Lake City, Utah --** An individual who is blind filed a complaint alleging that Yellow Cab refused to give her a taxi ride upon learning that she was accompanied by a service animal. The corporation agreed to reiterate its commitment to service all customers, place window decals welcoming people with service animals in all taxi cabs, conduct an ADA training program for all drivers and dispatchers, and give the complainant 25 free-fare certificates.

Laff Spot Willowbrook, Houston, Texas -- The Department reached an agreement resolving a complaint filed by an individual who is deaf that Laff Spot Willowbrook failed

Best Western Cascade Inn, Winthrop, Washington -- An individual with mobility impairments complained that, even though he reserved an accessible guest room at the Best Western Cascade Inn, upon arrival he found that neither the guest room nor its bathroom was accessible to him. The hotel owner signed an agreement with the Department agreeing to modify four guest rooms and to add a ramp to the facility to make it accessible.

Opera House Cinema, Newport Rhode, Island -- A person who is hard of hearing filed a complaint stating that the Opera House Cinema did not maintain its assistive listening devices in working order. The theater owner agreed to maintain properly the current inventory of four assistive listening devices as well as to purchase two additional headsets. The owner also agreed to purchase additional headsets if necessary to meet demand.

Galt House Hotel Louisville, Kentucky -- The Department entered an agreement resolving a complaint by a wheelchair user about physical accessibility at the Galt House Hotel in Louisville, Kentucky. The owner agreed to make modifications to provide accessible features throughout the 1258-room hotel, including accessible parking and accessible men's and women's public toilet rooms. The agreement also required the owner to modify 24 designated "accessible" guestrooms to provide visual alarms, accessible towel racks, and shower seats and roll-in showers where appropriate.

Pennbriar Athletic Club, Erie, Pennsylvania -- The Department reached an agreement with the Pennbriar Athletic Club resolving a complaint by an individual with a mobility impairment that the club failed to remove physical barriers to its facility. Pennbriar agreed to provide accessible parking, an accessible route to an accessible entrance, and appropriate signage.

LT's Restaurant, Santee, South Carolina -- An individual with a mobility impairment filed a complaint alleging that the owners and operators of LT's Restaurant failed to provide accessible parking and toilet rooms. The restaurant agreed to create a van-accessible parking space and provide accessible toilet room signage, grab bars, toilet paper dispensers, coat hooks, lavatories, mirrors, and paper towel dispensers.

Pier Village Market, Simons Island, Georgia -- The Department reached an agreement with the Pier Village Market to ensure that individuals with disabilities, including those who use wheelchairs, have equal access to its goods and services. The market consists of numerous separate kiosks, each with its own flight of stairs making nearly the entire market inaccessible to persons with mobility impairments. Pier Village agreed to provide an accessible route to each of its elevated kiosks by means of an elevated walkway connecting the kiosks.

Staten Island University Hospital, Staten Island, New York -- The U.S. Attorney's Office for the Eastern District of New York and the Civil Rights Division entered into an agreement with Staten Island University Hospital resolving accessibility problems in its dental and gynecological clinics. The agreement ended the Department's investigation as well as a private lawsuit alleging that the hospital maintained a separate entrance to its dental clinic and a separate waiting room for individuals with developmental disabilities and failed to provide accessible restrooms for dental clinic patients, accessible gynecological exam equipment, and accessible parking. The hospital agreed to take appropriate steps to ensure accessible services in an integrated setting, including removing barriers, establishing policies and procedures for making reasonable modifications, purchasing accessible exam equipment, providing auxiliary aids and services, providing ADA training to staff, and notifying the public of the hospital's obligations under the ADA. The hospital also agreed to pay the United States \$8,000 in civil penalties.

Carver's Restaurant, San Diego, California --

The Department signed an agreement with Carver's Restaurant resolving a complaint by an individual who uses a walker alleging that the altered public toilet rooms at the restaurant were not accessible to persons with physical disabilities. The restaurant agreed to renovate its toilet rooms to make them accessible, replace a threshold that was too high at the main entrance, and restripe its parking lot to provide accessible parking, including a van-accessible space.

Dr. Richard Hill, DDS, Poplarville,

Mississippi -- The U.S. Attorney's Office for the Southern District of Mississippi signed a settlement agreement resolving an investigation of the newly designed and constructed Dr. Richard Hill Dental Clinic, which lacked accessible parking, an accessible main entrance, and accessible features in the restrooms. Dr. Hill agreed to pay a \$5,000 civil penalty and to make architectural modifications, including constructing a ramp to the front entrance, restriping and regrading a parking space, and modifying a unisex restroom to make it accessible.

Frogees, Apple Valley, California -- The Division signed a settlement agreement with the former owners and operators of Frogees, a bar and restaurant in a small community near Los Angeles, resolving a complaint that several individuals with mental disabilities and their companions were refused service on the basis of disability. During the course of the Department's investigation, Frogees was sold to new owners. The owners of Frogees at the time of the incident agreed to send a letter of apology to each of the seven individuals who were denied service and to pay each of them \$500 for a total of \$3,500 in damages.

C. Other Settlements

The Department resolves numerous cases without litigation or a formal settlement agreement. In some instances, the public accommodation, commercial facility, or State or local government promptly agrees to take the necessary actions to achieve compliance. In others, extensive negotiations are required. Following are some examples of what has been accomplished through informal settlements.

Title II

An individual who is deaf complained that an Arkansas police department failed to provide auxiliary aids and services when he was arrested. The police department agreed to provide effective communication with people who are deaf or hard-of-hearing, adopt procedures for the use and availability of sign language interpreters, and provide roll call training on this policy to its employees.

An individual who is deaf filed a complaint that a Georgia city's 9-1-1 system did not provide direct access to TTY users. The City installed a new 9-1-1 call processing system with integrated TTY software.

An individual who has difficulty walking complained that a Missouri city did not have accessible parking, an accessible entrance, or accessible restrooms at city hall. The city installed a van-accessible parking space with appropriate signage in a nearby parking lot, replaced door hardware on the entrance door, and made the restrooms accessible.

An individual who uses a wheelchair complained that a California city performing arts center was not accessible and that accessible seating was more expensive than

other seating. The city widened doors and installed ramps and visual alarms; made toilet rooms, dressing rooms, showers, the kitchen and the stage area accessible; and agreed to provide orchestra level seats at the same price as balcony seats when a person with a mobility impairment requests balcony-priced seating.

An individual who is deaf complained that the a court in Tennessee did not provide auxiliary aids and services and failed to communicate effectively with him during a criminal proceeding. The court adopted and implemented a policy on ensuring effective communication, including procedures for use of sign language interpreters, and distributed it to all of the court's judges.

An individual who is deaf complained that an Arkansas county sheriff's department did not provide effective communication during his incarceration at a detention facility. The sheriff's department implemented a policy to ensure effective communication, including the provision of sign language interpreters, and made a TTY available at the detention facility.

An individual who uses a wheelchair complained that an Ohio municipal swimming pool and the city courthouse were not accessible. The city installed a lift into the pool and an accessible route between the toilet rooms and changing areas and made its courtroom accessible by installing an assistive listening system, adding four wheelchair spaces and two seats without an armrest, and installing appropriate signage to identify the new accessible features.

Three individuals who are deaf complained that an Ohio municipal police department failed to provide qualified sign language interpreters for the complainants to communicate effectively with police officers either during police questioning or during the arrest and booking process. The police

department adopted procedures for providing appropriate auxiliary aids and provided roll call training to officers.

A wheelchair user complained that a Texas county courthouse was inaccessible to individuals with mobility impairments. The county agreed to provide an accessible entrance, toilet room, drinking fountains, and public telephone, and add appropriate accessible signage throughout the courthouse.

A person who uses a wheelchair complained that municipal parking garages in an Oregon city were not accessible to people with disabilities. The city modified the garages to provide additional accessible parking spaces, van-accessible spaces, access aisles, accessible ticket dispensing machines, and signage designating spaces as reserved for people with disabilities.

Title III

A woman whose sister-in-law uses a motorized scooter complained that a suburban Maryland restaurant was not accessible. The restaurant agreed to install a ramp to provide access to one area and a chair lift in another, provide an accessible route, and add appropriate signage.

An individual who uses a wheelchair complained that a Missouri shopping center did not provide an adequate number of accessible parking spaces. The property management company added 14 additional accessible parking spaces, including seven van-accessible spaces.

An individual with a mobility disability complained that he was denied access to a New York convenience store because he uses a service animal. The store modified its policy and posted a sign at the store's entrance welcoming individuals with disabilities accompanied by service animals.

An individual who uses a wheelchair complained that he was unable to get his scheduled ultrasound exam at a satellite clinic of a Connecticut hospital because the clinic did not have an adjustable exam table or stretcher and there were not sufficient staff members to transfer the complainant to the exam table. The clinic purchased an adjustable gurney and trained clinic and hospital staff on how to transfer patients with disabilities in a safe manner.

An individual who is deaf complained that a franchise hotel in California was not accessible because it did not provide a TTY. The hotel acquired two TTY's and reimbursed the complainant for his stay at the hotel.

An individual who uses a wheelchair complained that a doctor's office in an Oklahoma business complex did not have an accessible entrance. The owners and operators of the complex installed a ramp leading from the sidewalk to the entrance and added a van-accessible parking space and access aisle.

An individual who uses a wheelchair complained that a 91-unit Missouri resort facility did not have accessible lodging units. The facility installed five accessible units, one with a roll-in shower plus four units for people with hearing impairments; created accessible routes through the common areas; and provided accessible parking.

An individual who uses a wheelchair and a service animal complained that a hotel in Iowa charged an additional fee because of his service animal. The hotel agreed not to charge extra fees to guests with disabilities who use service animals and paid the complainant \$500 in damages.

An individual whose grandfather uses a wheelchair complained that a small town New Jersey diner was inaccessible. The owner of

the diner agreed to install a ramp to one of the restaurant's main entrances and relocate accessible parking to be near the new ramp.

The U.S. Attorneys obtained informal settlements in the following cases --

District of Arizona -- An individual who uses a scooter complained that the operators of a senior center refused to allow her to use her scooter in the center. The senior center modified its policy to allow the complainant to use the scooter in the facility.

District of Arizona -- An individual who uses a service animal complained that a deputy sheriff barred her from a Renaissance festival because of her service animal. The festival agreed to send a letter of apology, adopt a written nondiscrimination policy, and train its regular and contract employees on the requirements of the ADA. The sheriff's office also agreed to provide ADA training to its employees.

Eastern District of Louisiana -- An individual who is deaf complained that a doctor's office failed to provide an interpreter during office appointments, including preoperative visits. The office agreed to provide an interpreter when appropriate to persons who are deaf and to post a notice informing patients of the availability of interpreters with at least 24 hours advance notice.

Northern District of Ohio -- An individual who uses a scooter alleged that there were no curb ramps at a busy intersection near her home, that the "walk" light call button at the intersection was not accessible to individuals with disabilities, and that cars failed to yield to pedestrians who cross with the green light. The city installed curb ramps, paved the area around the "walk" light button to make it accessible, and installed a sign indicating motorists must yield to pedestrians.

District of Massachusetts -- A disability rights organization complained about inadequate wheelchair seating for a major rock concert. The stadium owner and concert promoters added field level wheelchair seating, notified individuals who had purchased accessible seats in other parts of the stadium about the additional seating, and notified local disability rights groups about the additional seating.

II. Mediation

Under a contract with the Department of Justice, The Key Bridge Foundation receives referrals of complaints under titles II and III for mediation by professional mediators who have been trained in the legal requirements of the ADA. An increasing number of people with disabilities and disability rights organizations are specifically requesting the Department to refer their complaints to mediation. More than 400 professional mediators are available nationwide to mediate ADA cases. Over 75 percent of the cases in which mediation has been completed have been successfully resolved. Following are recent examples of results reached through mediation.

- An individual who is blind complained that a State government discriminated against persons with vision impairments by refusing repeated requests to provide public documents in alternate formats, such as Braille and computer disks, that the State's website was not accessible to individuals who use screen readers, and that the State capitol building did not have accessible signage. The legislature agreed to provide all legislative bills in alternate formats, to publish its legislative directory in Braille, and to take steps to make its

website accessible to individuals who use screen readers. The State executive branch will also provide documents in alternative formats and maintain the accessibility of its website. In addition, the State agreed to post appropriate Braille signage in its historic State house.

- In Maryland, a person who is deaf complained that a hospital failed to provide a sign language interpreter while he was being treated in the emergency room. He also complained that, once he was admitted to the hospital, the hospital failed to provide closed captioning on the patient room television. The hospital agreed to respond immediately to requests for interpreters, ensure that all televisions were closed-captioned, and post information in all examination rooms notifying patients of the availability of interpreting services, TTY's, and closed-captioned televisions.
- In Washington, D.C., a person who is deaf complained that a museum's audio-video exhibits were inaccessible to her. The museum will install a system of hand-held captioning units, which will allow individuals who are deaf or hard of hearing to have access to all audio and video exhibits throughout the museum.

- In Wisconsin, a wheelchair user complained that the existing accessible parking serving the main building was blocked off and not available for use during an annual event held at a State park. The respondent agreed to reopen access to the accessible spaces and agreed not to interfere with use of the accessible parking in the future.
- In New York, a person with a disability complained that a hotel discriminated against her because she uses a service animal. The hotel agreed to provide ADA staff training specifically relating to service animals and to add the phrase, "Service Animals Welcome," to its "No Pets" signs and statements appearing on its website, brochures and correspondence. Finally, the hotel made a donation of \$140 to a service animal organization.
- In Ohio, a wheelchair user complained that the restrooms of a local restaurant were not accessible to individuals using wheelchairs. The owner agreed to install a unisex, single-user, accessible restroom.
- In Georgia, a spouse of an individual with a disability complained that a large retail store failed to provide a sufficient number of properly marked and signed accessible parking spaces. The store installed additional accessible parking spaces, including van accessible spaces, access aisles, and appropriate signage.
- In Indiana, a person with a mobility impairment complained that a fraternal organization's restrooms were not accessible to individuals using wheelchairs. The organization renovated the restrooms, providing accessible stalls, grab bars, toilets, sinks, and paper towel and soap dispensers.
- In North Dakota, a wheelchair user complained that a restaurant did not have an accessible entrance. The restaurant owner constructed a ramp with hand rails.

III. Certification of State and Local Accessibility Requirements

The ADA requires that newly constructed or altered places of public accommodation and commercial facilities comply with title III of the ADA, including the ADA Standards for Accessible Design (ADA Standards). The Justice Department is authorized to certify that State and local accessibility requirements, which are often established through building codes, meet or exceed the ADA's accessibility requirements. In any lawsuit that might be brought, an entity that complies with a certified State or local code can offer that compliance as rebuttal evidence of compliance with the ADA.

In implementing its certification authority, the Department works closely with State and local officials, providing, as needed, detailed technical assistance to facilitate efforts to bring those accessibility requirements into accord with the ADA Standards. In addition, the Department responds to requests from private entities for review of the accessibility provisions of model codes and standards, and provides informal guidance regarding the extent to which they are consistent with the minimum accessibility requirements of the ADA.

Department has certified the accessibility codes of the States of Washington, Texas, Maine, and Florida, and has pending requests for certification from California, Indiana, Maryland, New Jersey, and North Carolina. Recent certification activity includes --

Maryland -- The Department held a public hearing in Ellicott City, Maryland, on its preliminary certification of the Maryland Accessibility Code. Participants expressed support for the Department's action and urged the issuance of final certification as soon as possible. The Department will hold a second public hearing in Washington, D.C., in October following the close of the public comment period on the preliminary certification.

Florida -- The Department advised the State of Florida that the 2001 amendment to the Florida Accessibility Code would not have a negative impact upon the certification issued previously by the Department in 1998 for Florida's accessibility requirements. In 2001, the State amended Figure 30(e), which consists of two illustrations of an accessible toilet stall with a lavatory, to clarify the Florida Accessibility Code requirement in section 4.17.3 that an accessible stall in new construction must contain a lavatory. The Department reviewed the amendment and advised Florida that the new Figure 30(e) appears substantially equivalent to the ADA's requirement.

Utah -- The Department received a request for certification from the State of Utah. The State, however, did not hold a public hearing regarding its intention to file a request for certification, which is required by the Department's regulations. Utah intends to hold a public hearing in the near future and supplement its request to the Department for certification.

IV. Technical Assistance

The ADA requires the Department of Justice to provide technical assistance to businesses, State and local governments, and individuals with rights or responsibilities under the law. The Department provides education and technical assistance through a variety of means to encourage voluntary compliance. Our activities include providing direct technical assistance and guidance to the public through our ADA Information Line, ADA Home Page, and Fax on Demand, developing and disseminating technical assistance materials to the public, undertaking outreach initiatives, and coordinating ADA technical assistance government wide.

ADA Home Page

The ADA Home Page is operated by the Department on the Internet's World Wide Web (www.ada.gov). The home page provides information about --

- ◆ the toll-free ADA Information Line,
- ◆ the Department's ADA enforcement activities,
- ◆ the ADA technical assistance program,
- ◆ certification of State and local building codes,
- ◆ proposed changes in ADA regulations and requirements, and
- ◆ the ADA mediation program.

The home page also provides direct access to --

- ◆ electronic versions of the ADA Standards for Accessible Design, including illustrations and hyperlinked cross-references,
- ◆ ADA regulations and technical assistance materials (which may be viewed online or downloaded for later use),
- ◆ on-line ordering of the ADA Technical Assistance CD-ROM,
- ◆ Freedom of Information Act (FOIA) ADA materials, including technical assistance letters, and
- ◆ links to the Department's press releases and Internet home pages of other Federal agencies that contain ADA information.

ADA Information Line

The Department of Justice operates a toll-free ADA Information Line to provide information and publications to the public about the requirements of the ADA. Automated service, which allows callers to order publications by mail or fax, is available 24 hours a day, seven days a week. ADA specialists are available on Monday, Tuesday, Wednesday, and Friday from 9:30 a.m. until 5:30 p.m. and on Thursday from 12:30 p.m. until 5:30 p.m. (Eastern Time). Spanish language service is also available.

Department Releases New Small Business Video – “Ten Small Business Excuses: Information on the Americans With Disabilities Act” is a new videotape aimed at educating small businesses about their ADA obligations. It provides practical information and dispels common misunderstandings that small businesses have about the ADA. The tape can be used for ADA training as well as for presentation to local civic associations. Produced by Access Video Fund, the thirteen-minute tape is available in either VHS or DVD format. Single copies can be ordered through the ADA Information Line.

To obtain general ADA information, get answers to technical questions, order free ADA materials, or ask about filing a complaint, please call:

800-514-0301 (voice)
800-514-0383 (TTY)

ADA Fax On Demand

The ADA Information Line Fax Delivery Service allows the public to obtain free ADA information by fax 24 hours a day, seven days a week. By calling the number above and following the directions, callers can select from among 34 different ADA technical assistance publications and receive the information, usually within minutes, directly on their fax machines or computer fax/modems. A list of available documents and their code numbers may also be ordered through the ADA Information Line.

Publications and Documents

Copies of the Department’s ADA regulations and publications, including the Technical Assistance Manuals for titles II and III, can be obtained by calling the ADA Information Line, visiting the ADA Home Page, or writing to the address listed below. All materials are available in standard print as well as large print, Braille, audiotape, or computer disk for persons with disabilities.

U.S. Department of Justice
Civil Rights Division
950 Pennsylvania Avenue, N.W.
Disability Rights Section - NYAV
Washington, D.C. 20530

Some publications are available in foreign languages. For further information please call the ADA Information Line.

Copies of the legal documents and settlement agreements mentioned in this publication can be obtained by writing to --

U.S. Department of Justice
Civil Rights Division
950 Pennsylvania Avenue, N.W.
FOIA Branch, NALC Room 311
Washington, D.C. 20530

Fax: 202-514-6195

Currently, the FOI/PA Branch maintains approximately 10,000 pages of ADA material. The records are available at a cost of \$0.10 per page (first 100 pages free). Please make your requests as specific as possible in order to minimize your costs.

The FOI/PA Branch also provides access to ADA materials on the World Wide Web (www.usdoj.gov). A link to search or visit this website is provided from the ADA Home Page.

V. Other Sources of ADA Information

The **Equal Employment Opportunity Commission** offers technical assistance to the public concerning the employment provisions of title I of the ADA.

ADA publications
800-669-3362 (voice)
800-800-3302 (TTY)

ADA questions
800-669-4000 (voice)
800-669-6820 (TTY)

www.eeoc.gov

The **Federal Communications Commission** offers technical assistance to the public concerning the communication provisions of title IV of the ADA.

ADA publications and questions
888-225-5322 (voice)
888-835-5322 (TTY)

www.fcc.gov/cgb/dro

**U.S. Department of Transportation,
Federal Transit Administration**

ADA Assistance Line for regulations
and complaints
888-446-4511 (voice/relay)

www.fta.dot.gov/ada

The **U.S. Architectural and Transportation
Barriers Compliance Board**, or **Access
Board**, offers technical assistance to the
public on the ADA Accessibility Guidelines.

ADA publications and questions
800-872-2253 (voice)
800-993-2822 (TTY)

www.access-board.gov

The **Disability and Business Technical
Assistance Centers** are funded by the U.S.
Department of Education through the National
Institute on Disability and Rehabilitation
Research (NIDRR) in ten regions of the
country to provide resources and technical
assistance on the ADA.

ADA technical assistance
800-949-4232 (voice & TTY)

www.adata.org

Project ACTION is funded by the U.S.
Department of Transportation to provide ADA
information and publications on making
transportation accessible.

Information on accessible transportation
800-659-6428 (voice/relay)

<http://projectaction.easter-seals.org>

The **Job Accommodation Network (JAN)** is
a free telephone consulting service funded by
the U.S. Department of Labor. It provides
information and advice to employers and
people with disabilities on reasonable
accommodation in the workplace.

Information on workplace accommodation
800-526-7234 (voice & TTY)

www.jan.wvu.edu

VI. How to File Complaints

Title I

Complaints about violations of title I (employment) by units of State and local government or by private employers should be filed with the Equal Employment Opportunity Commission. Call 800-669-4000 (voice) or 800-669-6820 (TTY) to reach the field office in your area.

Titles II and III

Complaints about violations of title II by units of State and local government or violations of title III by public accommodations and commercial facilities should be filed with --

U.S. Department of Justice
Civil Rights Division
950 Pennsylvania Avenue, N.W.
Disability Rights Section - NYAV
Washington, D.C. 20530

If you wish your complaint to be considered for referral to the Department's ADA Mediation Program, please mark "Attention: Mediation" on the outside of the envelope.

The Attorney General has determined that publication of this periodical is necessary in the transaction of the public business required by law of the Department of Justice.