



Enforcing the ADA:

A Status Report from the Department of Justice

April - June 2002

This Status Report covers the ADA activities of the Department of Justice during the second quarter (April - June) of 2002. 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 15). The symbol (**) indicates that the document is available on the ADA Home Page.

INSIDE...

ADA Litigation	2
Formal Settlement Agreements	6
Other Settlements	10
Mediation	13
Technical Assistance	15
Other Sources of ADA Information	17
How to File Complaints	18

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 hundreds 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 I

Supreme Court Upholds Title I "Direct Threat" Regulation -- The Supreme Court in Chevron U.S.A., Inc. v. Echazabal upheld an

ADA title I regulation issued by the Equal Employment Opportunity Commission (EEOC) that permits an employer to deny employment to individuals with disabilities whose performance of a job would pose a direct threat to their own health or safety. Mario Echazabal, who has hepatitis C, worked at a Chevron oil refinery in El Segundo, California, as an employee of various maintenance contractors for more than twenty years. When he applied to work directly for Chevron, he was denied employment on the grounds that exposure to the liver-toxic chemicals at the refinery could seriously endanger his health or even be fatal. He sued under title I claiming that Chevron's action violated the ADA. The U.S. District Court for the Central District of California ruled in favor of Chevron, but the U.S. Court of Appeals for the Ninth Circuit reversed. The Ninth Circuit held that the EEOC regulation allowing the employer to use a direct threat to the employee's own health or safety as a defense was inconsistent with the language of the statute, which only mentions direct threat "to others." The Supreme Court, in agreement with an amicus brief filed by the Department of Justice, reversed the Ninth Circuit and upheld the EEOC regulation as a reasonable interpretation of the statute.

Title II

Supreme Court Finds No Punitive Damages Under Title II

-- The Supreme Court in Barnes v. Gorman ruled that, although suits for compensatory damages against municipalities are permitted under the ADA, title II does not authorize suits against municipalities for punitive damages. The plaintiff, a wheelchair user, was arrested after an altercation with a nightclub bouncer in Kansas City, Missouri. He was transported in a police van that had no wheelchair locks. Over his objection the police removed him from his wheelchair and attempted to fasten him with his belt to a narrow bench in the back of the van. During the ride to the police station he fell from the bench and ruptured his urine bag which he had not been allowed to empty before being transported. Injuries to his neck and shoulder caused by the fall left him unable to work full time. He sued the Kansas City police and received a jury award under the ADA of over one million dollars in compensatory damages and \$1.2 million dollars in punitive damages. The Department argued in an amicus brief that the U.S. Court of Appeals had made an error in upholding the award of punitive damages against Kansas City because Congress did not clearly indicate that such damages were available under the ADA.

Ninth Circuit Rules City Sidewalks

Covered By ADA -- The U.S. Court of Appeals for the Ninth Circuit ruled in Barden v. City of Sacramento that the City of Sacramento's sidewalks are covered under title II. The plaintiffs, a group of individuals who are blind or use wheelchairs, filed suit alleging that Sacramento had violated the ADA by failing to install curb ramps at intersections on newly constructed or altered streets and by failing to remove other obstructions (for example, benches, sign posts, and guy wires) that made some existing sidewalks inaccessible. Dismissing part of the

plaintiff's lawsuit, the lower court ruled that the midblock portion of a sidewalk that connects one intersection to another is not a program, service, or activity of the City of Sacramento and, therefore, is not covered by the ADA. On appeal, the Department argued in its amicus brief that providing, constructing, and maintaining a system of sidewalks is a government service covered by title II. The Ninth Circuit agreed and allowed the case to continue to trial. It asserted that the requirement for curb ramps would be meaningless if the sidewalks between the curb ramps were inaccessible. The court noted that the City will have the opportunity at trial to present evidence concerning any undue financial and administrative burden.

Title III

Contestant Search for TV Quiz Show

Covered by Title III -- The U.S. Court of Appeals for the Eleventh Circuit ruled in Rendon v. Valleycrest Productions, Ltd., that the telephone selection process for contestants for the television quiz show "Who Wants to Be a Millionaire" is covered by the ADA. Plaintiffs sued the producers of the show alleging that the contestant selection process, which is conducted exclusively over touch-tone telephones, violates the public accommodations provisions of the ADA by effectively screening out individuals with hearing and upper-body mobility impairments. The district court dismissed the suit, holding that title III does not apply to the telephone selection process because it is not connected with any physical "place of public accommodation." The Eleventh Circuit agreed with the Department's amicus brief in ruling that the screening process did not have to occur on site at a place of public accommodation, in this case the studio, in order to be covered by title III's prohibition of discriminatory eligibility requirements.

District Court Orders Wider Notice of Proposed Class Action Hospital Agreement --

The U.S. District Court for the Southern District of Florida ordered the parties to provide broad notice of a new hearing to evaluate the fairness of a proposed class action settlement resolving litigation against two of 177 hospitals affiliated with HCA, Inc., named as defendants in Access Now, Inc. v. Ambulatory Surgery Center Group, Ltd. The court's requirements for notice will apply to all future settlement agreements in this nationwide litigation. The Department argued in an amicus brief that the proposed agreement between Access Now and Northwest Medical Center, Inc., in Margate, Florida, and Largo Medical Center, Inc., in Largo, Florida, would inappropriately limit the rights of people with disabilities. The proposed settlement addressed a wide range of hospital accessibility issues, including physical and communications accessibility and modification of discriminatory policies. The agreement was redrafted in response to the Department's objections to overly broad language protecting the defendants from future claims and a dispute resolution procedure heavily weighted in favor of the defendants. The Department also objected to the agreement because of inadequate notice to class members. The court agreed with the Department and ordered a fairness hearing on the revised proposed agreement with notice expanded beyond just the two hospitals and the Access Now web site provided for in the original agreement. The court required the parties to publish notice in the two largest newspapers of general circulation in the regions where the two medical facilities are located and prominently post the notice on the web site of the two facilities and in several locations throughout the facilities. The parties were also required to provide e-mail notice to five or more State protection and advocacy agencies, including Florida and nearby States, and to provide e-mail notice to five or more

independent living centers for persons with disabilities in the surrounding areas of the two hospitals.

2. New Lawsuits

The Department initiated or intervened in the following lawsuits.

Titles I and II

New Actions to Defend ADA's Constitutionality -- The Department intervened in three additional cases in U.S. Courts of Appeals to defend the constitutionality of title II suits by private litigants against States for monetary damages --

Ortiz v. Commonwealth of Puerto Rico (District of Puerto Rico) (challenge to school district's failure to provide sign language interpreter)

Association for Disabled Americans, Inc. v. Florida International University (11th Circuit) (title II challenge to university's failure to provide interpreters or note takers in class)

Biggs v. Board of Education of Cecil County, Maryland (4th Circuit) (title II challenge to school's harassment of child with epilepsy)

The Department argued that Congress gathered extensive evidence of unconstitutional discrimination by States and specifically made findings in the text of the ADA that State-sponsored discrimination persisted in areas such as education, voting, institutionalization, and public services. Because of this evidence and these findings, the Department argued that title II is appropriate legislation to enforce equal protection and other constitutional rights and that the ADA can therefore subject States to suits for damages.

The Department also filed briefs in three other cases arguing that, whether or not a damages suit against a State is unconstitutional, an individual can still sue the responsible individual State official in his or her official capacity in order to get a court order to stop ADA violations --

Wilson v. Pennsylvania State Police Department (3d Circuit) (title I challenge to visual acuity standard for State troopers)

Henrietta D. v. Giuliani (2d Circuit) (amicus) (title II challenge to failure of New York City and State agencies to make reasonable modifications in policy for persons with HIV)

Boudreau v. Ryan (7th Circuit) (amicus) (title II challenge to Illinois denial of community-based services)

Title III

U.S. v. SFX Entertainment, Inc. -- The Department filed a lawsuit against SFX Entertainment, Inc. (SFX) challenging its policy preventing people with diabetes who use insulin from taking into concerts any sharp objects, including medical syringes, needles, and blood-testing equipment. SFX Entertainment, Inc., which does business as Clear Channel Entertainment, owns, leases, or operates approximately 110 venues nationwide where concerts, sports events, and other live performances are presented. The suit, filed in the U.S. District Court for the Eastern District of Pennsylvania, alleges that two individuals with diabetes who use insulin, and who therefore need immediate access to their medical equipment, were forced to check their equipment with first aid staff at the gate. The individuals claim that being separated from their supplies and experiencing delays in retrieving the supplies from SFX first aid staff subjected them to anxiety and an unreasonable risk to their health and well-being. They allege that they would never again go to a concert where they would be required to relinquish

their diabetic supplies. The lawsuit seeks to eliminate SFX's allegedly discriminatory policy and to ensure that individuals with diabetes have an equal opportunity to attend and enjoy SFX concerts. The lawsuit also seeks compensatory damages for the individual complainants and the assessment of civil penalties.

3. Consent Decrees

Some litigation is resolved at the time the suit is filed or afterwards by means of a negotiated consent decree. Consent decrees are monitored and enforced by the Federal court in which they are entered.

Title III

U.S. v. Burger King Company, Inc. -- The U.S. Attorney's Office for the District of New Hampshire filed a consent decree in U.S. District Court resolving its lawsuit against the Burger King Company, Inc., alleging that Burger King failed to remove architectural barriers to access. The decree orders Burger King to remove barriers at 17 of its 21 company-owned restaurants in New Hampshire by adding accessible parking spaces and appropriate signage, providing accessible routes to and from the parking lot and throughout the restaurants, and making restrooms accessible to individuals with mobility impairments. Burger King also agreed to pay \$50,000 in civil penalties to the United States and \$5,000 to the complainant.

4. 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

American Disability Association, Inc. v. Bridgestone Firestone Retail and Commercial Operations -- The Department filed objections to a proposed consent decree to settle a class action lawsuit against a national tire retailer. The sole plaintiff is a small advocacy organization located in southern Florida with a single member identified in the complaint. Although this individual is a wheelchair user, the plaintiff class that the association seeks to represent includes all persons covered by title III. The proposed consent decree requires removal of some architectural barriers, but does not address concerns of potential class members who are blind or who have low vision, who are deaf or hard of hearing, or who use service animals. It releases defendants from liability for claims based upon the ADA, as well as State or local law, for the seven-year term of the agreement. The Department objected to these provisions because they would make it unduly difficult or impossible for future plaintiffs to assert their ADA rights against Bridgestone Firestone.

B. Formal Settlement Agreements

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

Title I

Inkster, Michigan -- The Department entered into a settlement agreement with the City of Inkster, Michigan, resolving a complaint of

employment discrimination referred to the Department by the Equal Employment Opportunity Commission (EEOC). The City of Inkster refused to provide a police sergeant with an accommodation under its policy prohibiting reassignment of employees to existing “light duty” positions if the employees have “non-duty related injuries.” The City of Inkster agreed to remove this restriction on reassignment to light duty positions, restore the sergeant’s sick leave hours to his leave bank, and provide ADA training to employees responsible for responding to requests for reasonable accommodation.

Nevada Governor’s Committee on Employment of People with Disabilities, Las Vegas, Nevada -- The Department signed a settlement agreement with the Nevada Governor’s Committee on Employment of People with Disabilities to resolve a complaint of retaliation. The employee alleged that the Governor’s Committee, for whom she worked for twenty-three years, barred her from public meetings, harassed her, and terminated her because she publicly criticized the committee and the State for failing to provide appropriate auxiliary aids, including sign language interpreters, for people who are deaf or hard of hearing. The complaint was referred to the Department by the EEOC. Under the agreement, the State agreed to reinstate her, grant her back pay and a lump sum totaling \$88,000, and provide administrative leave for a brief period until she was able to retire with full benefits.

Leesburg, Virginia -- The Department reached a settlement agreement with the Town of Leesburg, Virginia, resolving a title I charge filed with the EEOC by a deaf individual. The charge alleged that the individual was a well-qualified applicant for the position of

groundskeeper, having worked as a groundskeeper for over twenty years. The town allegedly passed him over and hired an individual with no experience because hiring officials did not believe that a deaf individual could perform the job. The settlement agreement requires the town to comply with the ADA in its hiring decisions and pay the charging party \$25,000 in back pay and damages. Because he was employed elsewhere, the charging party did not seek a permanent position with the town.

University of North Carolina-Asheville, Asheville, North Carolina -- The Department and the University of North Carolina-Asheville entered an agreement resolving a title I charge filed with the EEOC by an applicant for a security guard job. He allegedly was required to undergo a psychological examination before a conditional offer of employment was made. UNC-Asheville agreed not to conduct preoffer medical examinations and to pay the complainant \$2,500. The other University of North Carolina campuses were notified of the settlement and instructed that medical examinations prior to a conditional offer of employment are prohibited under the ADA.

Title II

Washoe County, Nevada -- The Department reached an agreement with Washoe County, resolving a complaint by a detainee that the Washoe County Detention Center failed to provide appropriate auxiliary aids. The detainee, who is deaf, allegedly was detained for over a month without the use of sign language interpreters and other auxiliary aids. The county agreed to adopt a policy for providing appropriate auxiliary aids to ensure effective communication with inmates, visitors, and members of the public. The center will conduct a communication assessment of detainees both at intake and on a routine, continuing basis to ensure that

individuals who are deaf or hard of hearing receive appropriate auxiliary aids, including interpreters and assistive listening devices.

Hidalgo County, Texas -- The Department entered into a settlement agreement with Hidalgo County Juvenile Probation Department to ensure effective communication with persons who are deaf or hard of hearing. The settlement resolves a complaint by the deaf parents of a juvenile and requires the probation department to implement a policy on effective communication, including provision of appropriate auxiliary aids and services.

Austintown, Ohio -- The U.S. Attorney's Office for the Northern District of Ohio signed an agreement with the Austintown Police Department in response to a complaint that it failed to provide effective communication to individuals who are deaf. Austintown officers transported the complainant to the hospital during a mental health emergency but allegedly failed to provide a sign language interpreter, attempting instead to use the complainant's nine-year-old son as an interpreter. Austintown agreed to provide sign language interpreters and revise its arrest procedures to ensure that individuals who are deaf or hard of hearing will be handcuffed from the front so that they can continue to communicate. Austintown will also appoint an ADA coordinator to provide extensive training for police and staff, purchase TTY's, install visual alarms, and notify municipal courts and hospitals in advance when they intend to transport individuals who are deaf or hard of hearing to these facilities.

Warren, Ohio -- The Department reached a settlement agreement with the City of Warren, Ohio, resolving a title II complaint filed by an individual with a mobility impairment alleging that the municipal justice building was inaccessible. The city agreed to a wide range of measures to improve accessibility at

municipal facilities, including auxiliary aids and services in city meetings and court proceedings; accessible routes to jury boxes; directional signs indicating the location of accessible features of buildings; physical modifications to facilities to provide accessible parking, entrance routes, doors, restrooms, service counters, and drinking fountains; and the installation of TTY's in various city offices.

Title III

Arlington Memorial Hospital, Arlington, Texas -- A deaf woman complained that Arlington Memorial Hospital refused to provide qualified sign language interpreters needed for effective communication for a Lamaze child birth class and instead required her husband, a hearing individual, to serve as the interpreter. The hospital agreed to notify its employees that persons who are deaf or hard of hearing should not be required to use a friend or family member as an interpreter. It also agreed to supplement its existing

interpreter services by contracting with an outside source for qualified sign language and oral interpreter services and to require them to respond within one hour in most cases. In addition the hospital will provide TTY's in recovery and waiting rooms and pay \$500 in damages to the complainant.

St. Mary's Hospital, West Palm Beach, Florida -- The Department entered into a settlement agreement with St. Mary's Hospital, Inc., the former operator of St. Mary's Medical Center, to resolve a title III complaint alleging that it failed to provide appropriate auxiliary aids to ensure effective communication with the deaf father of a patient. The former operator agreed to pay \$15,000 to the complainants.

Dr. Akbar Naeem, Cleveland, Ohio -- The U.S. Attorney's Office for the Northern District of Ohio signed a settlement agreement with Dr. Akbar Naeem, resolving a complaint alleging that Dr. Naeem refused to pay for a sign language interpreter required

**** SuperShuttle Will Improve Service for Travelers Who Use Wheelchairs** -- The Department of Justice and SuperShuttle International, Inc., signed a settlement agreement to ensure that the nation's largest door-to-door, airport shuttle company provides the same level of service to wheelchair users as it provides to the general public. This is the first agreement reached by the Department with a national company that provides transportation on demand, as opposed to transportation along a fixed route on a fixed schedule. Under the agreement, the company will have two accessible vehicles at each of its 11 corporate locations nationwide within a year, as well as standing subcontracts with accessible transportation providers to meet overflow demand. These locations include Phoenix, Arizona; Los Angeles, Sacramento, San Francisco, and Orange County, California; Denver, Colorado; Washington, D.C.; Tampa Bay, Florida; Baltimore, Maryland; New York, New York; and Dallas/Fort Worth, Texas. SuperShuttle will track the timeliness of pick-ups for the general public as compared to wheelchair users and will conduct quarterly customer surveys of each group of riders in each city. Additional vans or subcontracts may be required if a review of the data after 18 months indicates that the traffic in any locality warrants such action.

**** Psychiatric Hospital in Connecticut Agrees to Effective Communication** -- Silver Hill Hospital, a psychiatric and substance abuse hospital in New Canaan, Connecticut, agreed to provide auxiliary aids and services, including sign language interpreters, needed to ensure effective communication with patients and their family members and companions who are deaf or hard of hearing. The settlement resolves a complaint filed with the Department by a woman who is hard of hearing and uses sign language as her primary means of communication. She alleged that, during her five-month course of inpatient and outpatient treatment for an eating disorder, Silver Hill denied her repeated requests for a sign language interpreter. As a result, she said she was unable to participate in prescribed counseling therapies or understand daily treatment procedures. Under the agreement, the hospital will:

- Participate in a statewide, on-call system to provide qualified sign language and oral interpreters, 24 hours a day, seven days a week;
- Install visual alarms where audible alarms are already provided;
- Train employees and volunteers about issues relating to effective communication with persons who are deaf or hard of hearing; and
- Pay \$25,000 in compensation to the complainant.

for a deaf patient's medical examination. The agreement requires Dr. Naeem to pay the past interpreter bill and \$1,500 in compensatory damages to the complainant. It also requires Dr. Naeem to adopt a policy in which his practice will provide and pay for auxiliary aids and services where necessary for effective communication and provide ADA training for his employees.

Pleasant Holidays, Westlake Village, California -- An individual with a mobility impairment alleged that a representative of Pleasant Holidays, a travel broker, refused to guarantee accessible transportation to and from the airport when attempting to book a Hawaiian vacation. Under the agreement, Pleasant Holidays amended its policy on airport transfers to provide accessible shuttles and paid the complainant \$6,000 in damages. It will also train its employees on the company's ADA obligations.

Dr. William Blume, Evansville, Indiana -- A deaf individual claimed that her doctor failed to provide a sign language interpreter for an office visit. The attending physician agreed to provide appropriate auxiliary aids and services, including sign language interpreters, to ensure effective communication with individuals with hearing impairments. The doctor also paid \$1,000 to the complainant.

Dillard University, New Orleans, Louisiana -- The U.S. Attorney's Office for the Eastern District of Louisiana reached an agreement with Dillard University resolving a complaint by a wheelchair user alleging that Stern Hall, which houses a campus auditorium, was not accessible to persons with disabilities. During the course of the investigation, the U.S. Attorney's Office learned that Dillard was in the process of substantial renovations at its campus and that renovations since January 26, 1992, had not complied with the ADA

Standards for Accessible Design. Dillard agreed to remove barriers to access at Stern Hall by adding ramps, modifying doorways, and adding accessible seating in the auditorium. In addition, Dillard will bring its renovations into compliance with the ADA Standards. The university also agreed to appoint an ADA coordinator and to pay a \$3,000 civil penalty.

Dr. Joan Palomaki, Cleveland, Ohio -- A Cleveland surgeon signed an agreement with the U.S. Attorney's Office for the Northern District of Ohio resolving a complaint that she failed to provide a sign language interpreter for an office visit. The patient further alleged that during a subsequent surgical procedure the hospital paid for a sign language interpreter, but Dr. Palomaki interfered and prevented the interpreter from doing her job. Dr. Palomaki agreed to provide appropriate auxiliary aids in the future, including interpreters, receive ADA training, and pay the complainant compensatory damages of \$2,500.

**** Sun City Summerlin Community Association, Inc., Las Vegas, Nevada** -- The Sun City Summerlin Community Association, Inc., agreed to make its three golf courses more accessible to golfers with disabilities who use golf cars. The agreement resolves a complaint filed by a member who alleged that the association failed to modify its rules restricting golf car use to allow persons with disabilities to have access to certain areas, including greens, currently restricted to walking players only. Under the agreement, these restrictions will be lifted for golfers with disabilities except in specific areas or circumstances where safety is a concern or where golf car use may threaten the agronomic integrity of the course.

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 has multiple sclerosis complained that a Pennsylvania county failed to provide accessible parking at the county court house and the human relations building. The county repainted the existing accessible parking space at the court house to include a van-accessible space and relocated the human relations department to another building with accessible parking.

An individual who uses a wheelchair complained that a Vermont county sheriff's department had only stairs at all of its entrances. The sheriff's department constructed an accessible ramp to the front entrance of its facility.

An individual who is deaf complained that a Florida county failed to provide effective communication when he was jailed at the county corrections facility. The county revised its intake and other procedures to provide auxiliary aids and services and posted a sign in the booking area indicating interpreter services are available upon request.

An individual who has difficulty climbing steps complained that a New York town did not provide program accessibility at its office building. The village designated accessible parking with proper signage, provided an accessible route from the accessible parking to

the accessible entrance, and installed a buzzer that is accessible to persons using wheelchairs that rings at both the police department and the clerk's office to call for assistance during regular business hours.

An individual who uses a wheelchair complained that a Minnesota board of supervisors held its public meetings at the inaccessible township hall. The board of supervisors relocated their public meetings to the accessible city hall until it installs an accessible ramp at the township hall.

An individual who is deaf complained that a Pennsylvania township police department failed to provide effective communication when she filed a criminal complaint at police headquarters and failed to investigate the complaint because the complainant is deaf. The township agreed to update and distribute its policy for providing effective communication, including provision of sign language interpreters, and to provide roll-call training for officers.

A woman from a Massachusetts town, who has a hearing loss and difficulty walking and climbing steps, alleged that town meetings are not accessible. The town agreed to make advance arrangements for computer-assisted, real-time captioning services, sign language interpreters, oral interpreters, and note takers for twice yearly town meetings and provide accessible seating on the ground floor of the high school auditorium for those individuals who have difficulty climbing steps.

An individual who uses a wheelchair complained that the parking garage underneath the city hall of a New York municipality lacked accessible parking spaces and an accessible route to the elevator. The city installed five accessible parking spaces, including a van-accessible space, and provided an accessible route.

An individual who uses a wheelchair complained that the Ohio jail in which he was detained was not accessible. The police department arranged with the county jail to share its accessible holding facilities as needed to accommodate individuals with disabilities.

Title III

An individual who uses a wheelchair complained that the driver of a South Carolina taxicab refused to provide assistance needed for her to use the taxi. The taxicab company now requires its drivers, who are independent contractors, to assist with the stowing of mobility devices such as wheelchairs, to

transport service animals, and to charge the same fare or fee for carrying individuals with disabilities and their equipment or service animals as is charged to others. When notice is provided, the company will

dispatch drivers who are able to provide physical assistance to passengers with disabilities.

A complaint was filed on behalf of an individual with a mental disability alleging that he was physically removed from a nightclub in California because of his disability. The owner of the nightclub agreed to adopt and post a written nondiscrimination policy.

An individual who uses a wheelchair complained that the entrance to a Nebraska floral shop was inaccessible. The shop agreed to make a portable ramp available, as needed.

An individual who uses a scooter complained that a California tour company would not allow her to participate in a bus tour because it refused to store the scooter in a storage compartment beneath its bus. The company agreed to change its policy and allow wheelchairs and motorized scooters to be

Other Settlements

stored. It also purchased two kneeling buses that allow individuals with mobility impairments to board buses more easily.

A man from Denver, Colorado, who is legally blind, complained that a credit card company refused his request for bills and other printed communications in 24-point type. The company established a nationwide policy to provide periodic statements in 24-point type or Braille upon request through a third party vendor.

A man filed a complaint on behalf of his wife, who uses a wheelchair, against a Colorado furniture store whose showroom floor was not accessible. The furniture store rearranged its merchandise display to provide an accessible route throughout; posted signs advising customers that staff will retrieve hard-to-reach items; and held meetings with employees to discuss ADA policy and expectations, including the need to remove protruding objects from the accessible route.

A mother complained on behalf of her daughter who uses a wheelchair that a roller skating rink in Florida would not permit her daughter to access the skating floor using her wheelchair and that there were no accessible parking spaces. The skating rink modified its policy to permit wheelchairs on the skating floor, constructed a permanent ramp to the skating floor, and provided two accessible parking spaces with appropriate signage.

A woman filed a complaint against a California hotel that refused to provide a room for her college-aged son who uses a wheelchair because he was accompanied by a service animal. The hotel agreed to adopt a policy accommodating guests and their service animals.

A wheelchair user's parents complained that a bowling alley in Missouri did not have accessible parking or an accessible entrance. The owners of the bowling alley installed signs to designate accessible spaces and a ramp to a side entrance.

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

District of Arizona -- A wheelchair user complained that the main entrance to an Arizona county court house was inaccessible and that there was inadequate accessible parking. The county agreed during renovations to provide a temporary accessible ramp and a wireless intercom at an alternate entrance, to make the main entrance accessible, and to provide two van-accessible parking spaces.

A deaf individual complained that officers of an Arizona municipal police department did not provide her with a qualified sign language interpreter during her arrest despite her request for one. The police department agreed to retrain its officers on its ADA policies, including the provision of interpreters, and apologized to the complainant for how the incident was handled.

Southern District of Mississippi -- A student who is deaf complained that a hair design school refused to admit her because of her disability and her need for a sign language interpreter. The school revised its policy to provide auxiliary aids when appropriate throughout the admission and training process.

Other Settlements

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 450 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.

- In Texas, a parent of a child with a severe peanut allergy complained that a nationwide summer day camp program for elementary school-aged children refused to administer epinephrine via an Epi-Pen in the event of an allergic reaction, instead requiring the parent to come to the site to administer the medication. The corporate office agreed to adopt a policy requiring site coordinators to administer basic first aid, including the Epi-Pen, to all children. The respondent also purchased a supply of Epi-Pens for use in its programs throughout the country and sent a written apology to the complainant.
- A wheelchair user complained that a variety of Nebraska businesses were inaccessible. The businesses installed ramps and curb ramps, removed high thresholds, installed accessible door hardware, and posted directional signage. Three businesses were unable to install permanent ramps due to site constraints and agreed to install a doorbell, purchase portable ramps, and train staff how to use them properly.
- A Minnesota resident complained on behalf of a wheelchair user that the restroom at a Florida restaurant was inaccessible. The restaurant widened the outer entry doorway, installed a 36-inch door, removed the inner door to the restroom, and installed grab bars in the single toilet restroom.
- In California, several persons with mobility impairments complained that a restaurant located on a pier provided only valet parking, and refused to allow individuals to self-park vehicles that have been adapted with hand controls or other modifications. The restaurant informed all valet employees that it would allow customers with disabilities to self-park within the valet parking area if the customer has a modified vehicle or disability that precludes valet staff from driving the vehicle. The restaurant agreed to provide a van-accessible parking space near the restaurant within the valet parking area and an accessible route to the entrance.
- An individual who is deaf complained that a New Jersey physician refused to provide a sign language interpreter. The physician agreed to provide appropriate auxiliary aids in the future and develop a policy for his staff and patients to ensure that patients know how to make a request for an interpreter and that the physician has the information needed to evaluate and respond to the request and the time to arrange for the interpreter.

- An Indiana wheelchair user complained that he could not shop in any of three businesses in a small strip mall because there was no accessible parking and no curb cut permitting him to access the sidewalk in front of the stores. The owner of the building joined in the mediation with the store owners and agreed to install a van-accessible parking space with appropriate signage at the center point of the three stores where there was no curb to create a barrier to the sidewalk.
- In Texas, a wheelchair user complained that the amphitheater at a large amusement park provided accessible seating in only two locations with lines of sight inferior to those provided patrons seated elsewhere. The amphitheater agreed to restructure the existing seating and installed accessible wheelchair seating and companion seating throughout the venue in all seating classes and categories.
- In California, an individual whose mother uses a cane and cannot climb stairs complained that a local theater's public restroom was located on the second floor and was accessible only by stairs. The parties agreed that it was not readily achievable for the theater to install an elevator or to construct a new accessible bathroom on the first floor. The theater management did agree, however, to make an existing employee restroom on the first floor of the theater accessible and to open it for public use, and to provide appropriate directional signage in the main lobby area.
- In Connecticut, an individual with a mobility impairment complained that a golf course denied him access because he uses a service animal. The golf course agreed to give ADA training to its staff and to post a sign at the entrance welcoming service animals and providing the owner's telephone number in case problems arise in the future.
- A wheelchair user complained that a Missouri bank's accessible entrance was locked during business hours. The bank installed a new, more secure door at the accessible entrance that will remain unlocked during business hours.

III. 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 governmentwide.

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.

“ada.gov” Provides a New, Easy Way to Get to ADA Information on the Web --

Our new, streamlined ada.gov web address and an expanded and redesigned ADA Home Page make it easier to get ADA information on the web. The expanded ADA Home Page now provides direct links to ADA information on the web sites of other Federal agencies with ADA responsibilities, including the Equal Employment Opportunity Commission, the Department of Transportation, the Federal Communications Commission, the Access Board, and the Departments of Education, Health and Human Services, Labor, Housing and Urban Development, Interior, and Agriculture. Other links include the White House web site and the New Freedom Initiative, the Disability and Business Technical Assistance Centers (DBTAC's), the Office of Disability Employment Policy, the Job Accommodation Network, Project Action, firstgov.gov, disabilitydirect.gov, and the Small Business Administration. New navigation links provide easier access to the familiar information found on the ADA Home Page, and quicker access to the most popular ADA technical assistance publications, ADA regulations, and Standards for Accessible Design.

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 listen to recorded

information and to order publications, is available 24 hours a day, seven days a week. ADA specialists are available on Monday, Tuesday, Wednesday, and Friday from 10:00 a.m. until 6:00 p.m. and on Thursday from 1:00 p.m. until 6:00 p.m. (Eastern Time). Spanish language service is also available.

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.

Information on Tax Incentives for ADA Compliance Sent to Businesses -- The Department explained available tax benefits for ADA compliance in a quarterly Internal Revenue Service newsletter sent to over seven million employers nationwide. President Bush has urged small businesses to take advantage of these incentives under his New Freedom Initiative. The tax incentives allow businesses with 30 or fewer employees or total revenues of \$1,000,000 or less to use a credit of up to \$5,000 each year to offset the costs of altering facilities, using interpreters, or taking other steps to improve accessibility for customers or employees with disabilities. All businesses can take a deduction of up to \$15,000 each year for the cost of removing barriers in facilities or vehicles. A free ADA **Tax Incentive Packet** ** explaining these incentives is available from the ADA Information Line or the ADA Home Page at ada.gov.

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/crt/foia/records.htm). A link to search or visit this website is provided from the ADA Home Page

IV. 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/cib/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/office/civ.htm

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)
202-347-3066 (voice)
202-347-7385 (TTY)

www.projectaction.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

V. 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.