IN THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF COLUMBIA

DEBORAH E. MILLER, et al., Plaintiffs, and The UNITED STATES OF AMERICA, Plaintiff-Intervenor, v. DISTRICT OF COLUMBIA, et al. Defendants.	CA No. 96-CV02833 (SS)

UNITED STATES' MEMORANDUM OF POINTS AND AUTHORITIES IN OPPOSITION TO DEFENDANTS' MOTION TO AMEND JUDGMENT AND VACATE INJUNCTIVE RELIEF

Introduction

On November 5, 1997, the Court entered partial summary judgment in favor of plaintiffs Deborah Miller and Sean Owens and plaintiff-intervenor the United States. The Court held that defendants District of Columbia and District of Columbia Metropolitan Police Department (collectively, the "District") had violated, and continued to violate, title II of the Americans with Disabilities Act, 42 U.S.C. §§ 12131-12134 ("ADA"), and Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794 ("Rehabilitation Act"), by failing to provide direct, effective access to its 9-1-1 system for qualified individuals with disabilities. Specifically, the Court found that "For more than a year, the District's emergency 9-1-1 system has been virtually inaccessible to deaf individuals requiring emergency services." The Court's November 5, 1997, order (the

"Order") also granted plaintiffs' and the United States' motions for injunctive relief, specifying numerous actions that the District must take to bring its 9-1-1 system into compliance with Federal requirements and to help ensure that the District's system will remain in compliance in the future.

The District moves the Court to alter its judgment and vacate its injunctive relief, arguing that: (i) summary judgment should not have been entered because there were genuine issues of material fact, (ii) the record did not reflect that the injunctive relief ordered by the Court was actually needed because the District has voluntarily cooperated with plaintiffs and the United States' to improve the accessibility of the its 9-1-1 system, and (iii) the injunctive relief ordered by the Court was overly broad and unsupported by the record.

The District's arguments are meritless. First, the District openly admitted at the hearing on plaintiffs' and the United States' motions for partial summary judgment that there were no genuine issues of material fact regarding the events at issue in this lawsuit. Second, plaintiffs and the United States proved the need for injunctive relief by showing that the District's 9-1-1 system has not been in compliance with the requirements of the ADA and the Rehabilitation Act for two years and still does not comply. Third, the Court properly exercised its discretion to issue injunctive relief that is specifically fashioned to ensure that the District brings its 9-1-1 system into compliance.

Factual Background

On December 23, 1996, plaintiffs filed an action alleging, inter alia, that the District had discriminated against them on the basis of disability by operating its 9-1-1 telephone emergency system so that it was not accessible to persons who use telecommunications devices for the deaf ("TDD's"). On March 13, 1997, the United States filed a motion to intervene as a plaintiff in the action, which the Court granted. Before filing its motion to intervene, and at all times before and after the Court's entry of its November 5, 1997, order (the "Order") granting partial summary judgment, the United States has expressed its willingness to work with the District to bring its 9-1-1 system into compliance with ADA and Rehabilitation Act requirements and to reach an amicable settlement of this lawsuit.

On May 9, 1997, this Court ordered the United States Department of Justice ("DOJ"), to conduct an on-site audit of the District's 9-1-1 system and file with the Court an audit report, including findings and recommendations regarding the District's compliance with the Federal requirements for direct, effective access to 9-1-1 services for individuals with disabilities who use TDD's. In its first audit report, which was filed with the Court on June 19, 1997, DOJ found that the District failed to meet the Federal requirements to provide direct, effective access to its 9-1-1 system for persons who use TDD's. Specifically, DOJ found that the District had utilized a faulty computer software interface for connection between each 9-1-1 call-taker position

and the District's TDD equipment; as a result, the call-takers were unable to use the TDD equipment at each position in order to respond to incoming TDD calls or to query silent open lines for potential TDD calls. DOJ also found other major deficiencies in the District's TDD 9-1-1 system: the District lacked procedures to audit the quality of TDD 9-1-1 service, and to provide maintenance for TDD's and related equipment; the District had not provided comprehensive TDD training to call-takers, which is necessary for the effective processing of TDD calls; and that the District had not issued mandatory TDD directives for call-takers and disciplinary action for noncompliance. The audit report specified seven remedial actions that the District needed to take to bring its 9-1-1 system into compliance with the Federal requirements. The District did not dispute any of DOJ's audit findings, including DOJ's finding that the District's 9-1-1 system did not provide direct, effective access to persons who use TDD's.

Based on the results of its audit, the United States and plaintiffs filed separate motions for a temporary restraining order ("TRO") and preliminary injunction. After oral argument, during which the District did not contest any of the findings of the DOJ audit, the Court issued a TRO on July 17, 1997. By agreement of the parties, the TRO was extended by two separate bridge orders entered on July 23, 1997, and September 2, 1997. Following entry of these bridge orders, plaintiffs and the United States filed separate motions for partial summary judgment based

on admissions by the District and DOJ's uncontested audit findings.

Pursuant to the TRO and bridge orders, on September 16, 1997, DOJ made another on-site audit of the District's 9-1-1 system, made test calls to the District's 9-1-1 system, and filed a second audit report with the Court on September 26, 1997. In its second audit report, DOJ made a finding that although the District had made some improvement in its handling of TDD 9-1-1 calls for police assistance, the District had not properly handled those calls that requested firefighting assistance or emergency medical services. Specifically, the second audit revealed that the District had failed to establish procedures, and failed to obtain the equipment needed, to handle TDD 9-1-1 calls requesting fire protection services or emergency medical services. The District did not contest the findings of DOJ's second audit report, which included a finding that the District's 9-1-1 system still failed to comply with the Federal requirements.

By agreement of the parties, and to give the parties time to attempt to settle this lawsuit, the Court entered a third bridge order on September 30, 1997. The third bridge order extended injunctive relief through October 22, 1997, continued the hearing of the United States' and Plaintiffs' motions for a preliminary injunction until October 22, 1997, and scheduled hearing of plaintiffs' and the United States' motions for partial summary judgment for October 22, 1997.

From June 19, 1997, when the United States filed its first audit report, until the October 22, 1997, hearing on plaintiffs' and the United States' motions for partial summary judgment and preliminary injunctive relief, plaintiffs, the United States, and the District engaged in ongoing settlement negotiations. Those settlement negotiations proved unsuccessful for one reason. Even though plaintiffs and the United States were willing to forego a finding of liability in order to settle this case, and despite undisputed evidence that the District's 9-1-1 system had routinely failed to provide any response whatsoever to TDD calls, the District was never able to make any binding commitment to plaintiffs or the United States.

On October 22, 1997, the Court conducted a hearing on plaintiffs' and the United States' motions for partial summary judgment and preliminary injunctive relief. During the hearing, the Court specifically asked the District's counsel if there were any genuine disputes regarding the facts on which plaintiffs' and the United States' motions were based. The District's counsel admitted that there were no disputed facts regarding the 9-1-1 system's failure to respond to TDD calls. Based on the District's admission that there were no disputed facts, the Court stated that it was prepared to rule on the pending motions. The Court asked the United States to make a recommendation regarding injunctive relief, asked the District to indicate which provisions of the recommended injunctive relief were disputed,

and advised the parties that, before ruling on the pending motions, it would give the parties until October 31, 1997, to reach a final settlement of the case. Plaintiffs and the United States represented to the Court that they would work toward settlement if the District could make a binding commitment, and the parties were ordered by the Court to report the final result to the Court by October 31, 1997. The District failed to commit to settle the case.

As requested by the Court, the United States filed its recommended provisions for injunctive relief on October 30, 1997, providing copies of its submission to the District and to plaintiffs. On November 5, 1997, the Court rendered its memorandum opinion and order granting partial summary judgment in Plaintiffs' and the United States' favor, and entering injunctive relief recommended by the United States. The District has now asked for an amendment of the judgment and vacation of the injunctive relief pursuant to Fed. R. Civ. P. 59.1/

Argument

A Rule 59(e) motion is discretionary and need not be granted unless the district court finds (1) an intervening change of

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1/ The District incorrectly specified subsection (a) of Rule 59 upon which it was relying for its motion. Fed. R. Civ. P. 59(a) provides for a new trial, but it is inapplicable to this case, because the judgment challenged was not the result of a trial. Rule 59(e) allows a movant to seek to "alter or amend the judgment" (relief that includes vacating a judgment). See Richardson v. National R.R. Passenger Corp., 49 F.3d 760, 763 n.2 (D.C. Cir. 1995). Accordingly, the District's motion to amend and vacate should be considered a Rule 59(e) motion, instead of a Rule 59(a) motion.

controlling law, (2) the availability of new evidence, or (3) the need to correct a clear error or prevent manifest injustice. Firestone v. Firestone, 76 F.3d 1205, 1208 (D.C. Cir. 1996) (citations omitted). It appears from the District's motion that the only applicable element of review in this case would be the need to correct clear error or to prevent manifest injustice. The District has failed to show such need exists.

A. The District Has Failed to Show Any Genuine Disputes of Material Fact.

Although the District's counsel admitted at the October 22, 1997 hearing that there were no genuine issues of material fact regarding the District's failure to answer TDD calls, the District now claims that factual disputes should have prevented the Court from granting partial summary judgment in this case. While it concedes that there is no dispute regarding the fact that plaintiffs' TDD calls, and numerous other TDD calls to the District's 9-1-1 system placed by the United States, received no TDD response whatsoever from the District's 9-1-1 system, it contends that there are nonetheless material disputes of fact preventing summary judgment because undisputed evidence does not show why those calls were not answered.

The District's arguments lack merit for two reasons. First, contrary to the District's claim, ample undisputed evidence proves that, between 1995 and 1997, the District's TDD-9-1-1 integrated system failed to provide direct, effective access to persons who use TDD's. Second, the reason why the District's 9-1-1 system failed to respond to TDD calls is simply not material

to the Court's summary judgment ruling, since plaintiffs and the United States were not required to prove intent in order to prove violations of the ADA and the Rehabilitation Act.

1. The Undisputed Facts Prove That the District's Integrated TDD-9-1-1 System Failed to Function Properly.

As counsel for the District admitted during the hearing on plaintiffs' and the United States' motions for partial summary judgment and preliminary injunctive relief, the District does not dispute the following material facts that form the basis for the Court's ruling in this case:

Since 1994, the District has used its integrated TDD computer-aided dispatch system as the primary response mechanism for responding to TDD 9-1-1 calls. See Rule 108(H) Statement of Undisputed Material Facts Filed in Support of the United States' Motion for Partial Summary Judgment ("U.S. Statement of Facts") at ¶ 21. During that time period, the District used a faulty computer software interface to connect the existing 9-1-1 system to the TDD equipment, thus rendering the integrated TDD 9-1-1 system ineffective. U.S. Statement of Facts at ¶¶ 71-72, 74-75.2/

In the summer of 1996, Plaintiffs Miller and Owens attempted to call the District's 9-1-1 system by TDD several times but were

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2/ Moreover, in 1995, a DOJ audit of the District's 9-1-1 system showed that the District's 9-1-1 system was unable to answer TDD calls because either the system was incapable of querying silent open lines at each answering position to determine if the call was a TDD call or else the District's call-takers failed to do so. U.S. Statement of Facts at ¶ 31.

unable to receive an answer by TDD. U.S. Statement of Facts at ¶¶ 42-49.

Test calls placed by Gallaudet University between July 12, 1996, and October 4, 1996, revealed that the District's TDD 9-1-1 system was ineffective, that most TDD calls were not answered, and that the District conducted no follow-up to evaluate the reasons for unanswered calls. U.S. Statements of Facts at ¶¶ 61-64.

In May 1997, DOJ conducted an audit of the District's 9-1-1 system and found that the District's TDD-9-1-1 system was unable to provide any response to TDD test calls placed during the audit because of the nonfunctioning interface between the 9-1-1 system and the District's TDD equipment. The District did not dispute this audit finding.

In September 1997, DOJ conducted a second audit of the District's 9-1-1 system and found that the District had not established proper procedures, or obtained the equipment needed, to provide direct, effective access to the 9-1-1 system for TDD users seeking firefighting assistance or emergency medical service. The District did not dispute this audit finding.

Thus, notwithstanding the District's arguments to the contrary, plaintiffs and the United States have proved beyond dispute that the District violated the ADA and the Rehabilitation Act by operating a 9-1-1 system that failed (and continues to fail) to provide direct, effective access to persons who use TDD's, including plaintiffs Miller and Owens.

2. The Reason Why the District's 9-1-1 System Fails to Comply with Federal Requirements Is Not Material to the Court's Summary Judgment Ruling.

The District claims that summary judgment should not have been entered because there are disputes of fact regarding why the District's 9-1-1 system failed to answer plaintiffs' and the United States' calls. The reason why the District's 9-1-1 system denied access to persons who use TDD's is not material to a summary judgment ruling on an ADA or Rehabilitation Act claim because plaintiffs alleging violation of these Acts are not required to prove intent. See, e.g., 42 U.S.C. § 12132 ("no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity"); Alexander v. Choate, 469 U.S. 287, 295 (1985); Nathanson v. Medical College of Pennsylvania, 926 F.2d 1368, 1384 (3d Cir. 1991); Mayberry v. VonValtier, 843 F. Supp. 1160, 1164 (E.D. Mich. 1994).3/

Moreover, the District cannot defeat summary judgment unless it proves a dispute of fact that is "material." See Fed. R. Civ. P. 56(c); Celotex Corp. v. Catrett, 477 U.S. 317, 323-24 (1986); Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 250 (1986); Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475

3/ Even if plaintiffs and the United States were required to prove intentional discrimination, they have plainly done so. The District's deliberate indifference to the inaccessibility of its 9-1-1 system from 1994 until this Court entered its TRO plainly constitutes intentional discrimination.

U.S. 574, 586-87 (1986); Adickes v. S.H. Kress & Co., 398 U.S. 144 (1970). The District does not now and has not previously disputed the repeated failures of the 9-1-1 system. Even now, the only dispute alleged goes only to alternative excuses for failures to guarantee effective access to the emergency response system.

Thus, the District has shown no genuine issue of material fact that should have barred the Court's ruling in this case.

B. The Court's Issuance of Injunctive Relief Was Amply Supported by the Facts.

The District argues that the Court erred in issuing injunctive relief because the District had already taken actions to improve the performance of its 9-1-1 system. The District's argument is unavailing for three reasons.

First, the Supreme Court has long held that a defendant's voluntary decision to cease illegal conduct does not, and cannot, eliminate the need for injunctive relief, absent an order compelling the defendant to comply with the law. United States v. W.T. Grant Co., 345 U.S. 629, 632 (1953). As the Supreme Court ruled, injunctive relief is necessary despite voluntary cessation of illegal conduct because, absent an order compelling lawful conduct, the "defendant is free to return to [its] old ways." Id. at 632. Accord Payne Enterprises, Inc. v. United States, 837 F.2d 486, 491 (D.C. Cir. 1988). Thus, the District's allegedly voluntary efforts to move its 9-1-1 system toward compliance with Federal requirements have not rendered plaintiffs' and the United States' claims for injunctive relief

moot. Without an injunction, the District would be free to return to its "old ways" of not answering TDD calls.

Second, the District's efforts to bring its 9-1-1 system into compliance with the Federal requirements provide no defense to the issuance of injunctive relief. Although the District emphasizes its cooperation with the United States' audit recommendations, the District's efforts to comply with the ADA and the Rehabilitation Act cannot realistically be called voluntary. The District's willingness to take action to comply with Federal requirements did not even begin until after the United States intervened in this lawsuit and advised the District that it would be seeking a TRO to obtain compliance.

Finally, notwithstanding the District's unsupported arguments to the contrary, the District's 9-1-1 system is not yet in compliance with the Federal requirements. In its September 26, 1997 audit report, the United States made the finding that the District had failed to establish necessary procedures, and failed to obtain the equipment needed, to provide direct, effective access to TDD callers seeking fire protective services or emergency medical services. Thus, the District's assertion that injunctive relief is unnecessary because it has already complied with Federal requirements is baseless.4/

4/ The District suggests that plaintiffs and the United States are attempting to impermissibly broaden this suit by including 9-1-1 access to services provided by the District's Metropolitan Fire Department, such as emergency medical services. However, Plaintiff Owens' call to the District's 9-1-1 system was a call seeking emergency medical assistance. Thus, such services are

(continued...)

C. The Injunctive Relief Issued by the Court Is Necessary to Ensure that Persons with Hearing Impairments Are Not Denied Access to the District's Emergency Services.

The issuance of injunctive relief is a matter committed to the sound discretion of the Court. Tennessee Valley Authority v. Hill, 437 U.S. 153, 192 (1978); Lemon v. Kurtzman, 411 U.S. 192, 200 (1973). In fashioning injunctive relief to prevent violation of a federal statute, the principle guiding the Court's exercise of discretion is whether the injunctive relief sought will prevent future violation of the statute and effectuate the congressional purpose behind the statute. Id. at 192-94. See also SEC v. First City Financial Corp., 890 F.2d 1215, 1228 (D.C. Cir. 1989); National Wildlife Fed'n v. Andrus, 440 F. Supp. 1245, 1256 (D.D.C. 1977) (clear and substantial violation of statute lessens need to balance other equitable factors); Community Nutrition Inst. v. Butz, 420 F. Supp. 751, 754 (D.D.C. 1976) (where a federal statute has been violated, the court need not inquire into traditional requirements for equitable relief); Sierra Club v. Coleman, 405 F. Supp. 53, 54 (D.D.C. 1975) (same).

The District challenges four specific provisions of the Order: (i) provisions relating to Emergency Telephone Accessibility to Fire and Emergency Medical Services (Order, ¶¶ I (2), IV (2)); (ii) provisions relating to Public Education (Order, ¶ VI); (iii) provisions relating to Performance Standards

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4/ (...continued)
plainly within the purview of plaintiffs' and the United States' complaints.

(Order, ¶ XI); and (iv) provisions relating to Requirement of an External Contractor (Order, ¶ IX(1)). But each of these provisions is a proper exercise of the Court's authority, specifically tailored to prevent discrimination against persons with disabilities in violation of the ADA and the Rehabilitation Act by ensuring that the District will not deny access to its 9-1-1 emergency services for persons with disabilities who use TDD's.5/

1. Emergency Telephone Accessibility to Fire and Emergency Medical Services

The District suggests that the Court has abused its discretion by issuing injunctive relief requiring access to fire and emergency medical services. Notwithstanding the District's current protestations, the record demonstrates that injunctive relief is required to ensure access to the District's fire and emergency medical services for persons who use TDD's.

Contrary to the District's arguments, its fire and emergency services are well within the scope of the complaints in this action. Plaintiffs' and the United States' complaints arise, in

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5/ In enacting the Americans with Disabilities Act, Congress sought to "provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities." 42 U.S.C. § 12101(b)(1); Swanks v. Washington Metropolitan Area Transit Auth., 116 F.3d 582, 584 (D.C. Cir. 1997). The regulation implementing the ADA, inter alia, mandates that the services provided by public entities to persons with disabilities be "as effective" in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as those provided to others. 28 C.F.R. § 35.130(b)(iii). Access to 9-1-1 telephone services for individuals who use TDD's must be "direct." Id. at § 35.162.

part, from the District's failure to respond to Sean Owens' calls to 9-1-1 for emergency medical services. In addition, the United States' second audit report on the District's 9-1-1 system, which was uncontested by the District, revealed that the District had failed to establish proper procedures, and obtain the TDD 9-1-1 equipment, which are necessary to provide direct, effective access to the District's fire and emergency services for persons who use TDD's.

Paragraphs I(2) and IV(2) of the Order are tailored to ensure that the District establishes the requisite procedures, procures the necessary TDD 9-1-1 equipment, conducts the required training, and monitors its own performance in answering TDD calls seeking fire protective services and emergency medical services. They are plainly designed to ensure that the District ceases violating the ADA and the Rehabilitation Act by denying direct, effective access to TDD callers seeking fire and emergency medical services.

2. Public Education

The District incorrectly contends that the Court abused its discretion by requiring the District to engage in public education efforts. The record establishes that the District's 9-1-1 system has denied access to persons with disabilities who use TDD's since at least 1995. Public education efforts are plainly required to advise persons with disabilities that the District's 9-1-1 system will be responding to TDD calls. Communication between District personnel who operate the 9-1-1

system and persons with disabilities who use TDD's is necessary to assure continued access to telephone emergency services. Thus, the provisions of ¶ VI of the Order are clearly fashioned to ensure the District's compliance with the ADA and the Rehabilitation Act and to further the Congressional purpose of eliminating discrimination against persons with disabilities by ensuring equal access to services.

3. Performance Standards

The District contends that the Court abused its discretion in establishing performance standards for the District's handling of TDD calls and that the standards are unreasonable. This claim is likewise baseless.

The record establishes that, in the instances where the District has succeeded in answering a TDD call, the delay time for answering the call is much longer than the delay time for answering a call placed by a standard telephone. For example, the District averaged 12.0 seconds for TDD calls versus 4.5 seconds for standard calls in 1994; 25.6 seconds versus 6.9 seconds in 1995; and 20.1 seconds versus 5.6 seconds in 1996. In situations where a person is seeking emergency police, fire, or medical assistance, a delay of a few extra seconds can mean the difference between life and death. By taking three to four times longer to answer TDD calls than it takes to answer voice calls, the District is plainly not providing effective access to emergency services for persons who use TDD's. The Court' establishment of the performance standards contained in ¶ XI of

its Order is plainly designed to ensure that the District provides access to 9-1-1 emergency services for persons with disabilities who must use TDD's that is comparable to the access afforded to persons who use standard telephones. And, contrary to the District's claims, the standard adopted by the Court is a reasonable one -- requiring the District to answer 90% of its TDD calls within an average time of 10 seconds. Thus, the performance standards in ¶ XI are designed to end discrimination without posing unreasonable or unachievable burdens on the District.

4. Requirement of an External Contractor

The District contends that the Court abused its discretion in ordering it to procure the services of an external contractor to perform monitoring of the District's 9-1-1 system. The District cannot dispute that external monitoring of its 9-1-1 system would help ensure that the District complies with Federal the requirements in the future. It contends, instead, that procurement of services from an external contractor is unnecessary because the District has a cooperative arrangement with Gallaudet University, which voluntarily performs monitoring of the District's 9-1-1 system without compensation.

Contrary to the District's objections, Paragraph IX(1) of the Order is necessary and properly tailored to ensure compliance with the ADA and the Rehabilitation Act's prohibitions against discrimination. The District argues that it should not be required to procure an external contractor while it is receiving

monitoring services from Gallaudet University for free. But, as with any voluntary arrangement, Gallaudet University is free to cease its monitoring of the District's 9-1-1 system at any time. Thus, without a provision of the Order requiring the District to procure external monitoring services, the Court has no assurance that such external monitoring will continue, and no means to require the monitoring to be performed pursuant to the requirements of the Order. By issuing an injunction requiring the District to procure external monitoring services, the Court has ensured that the District's 9-1-1 system will be monitored by a nonparty to this action, that the monitoring will be conducted in a manner designed to provide data that is meaningful in evaluating the 9-1-1 system's performance, and that the results of the monitoring will be reported to plaintiffs, DOJ, and the Court consistent with the terms of its Order.

Accordingly, the provisions of Paragraph XI(1) plainly do not constitute an abuse of the Court's discretion to fashion proper equitable relief.

Conclusion

For the reasons set forth above, the United States respectfully requests that the Defendant's Motion to Amend Judgment and Vacate Injunctive Relief be denied.

Respectfully Submitted,

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Dated: December 4, 1997
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CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of December 1997, a copy of the foregoing United States' Memorandum of Points and Authorities in Opposition to the Defendants' Motion to Amend Judgment and Vacate Injunctive Relief was served by U.S. mail and facsimile on the following:

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Dated this 4th day of December 1997.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

DEBORAH E. MILLER, and SEAN OWENS, Plaintiffs, and THE UNITED STATES OF AMERICA, Plaintiff-Intervenor, v. DISTRICT OF COLUMBIA, et al., Defendants.	CA 96-CV02833 (SS)

ORDER

Upon consideration of Defendants' Motion to Amend Order and Vacate Injunctive Relief, Plaintiffs Opposition, the United States' Opposition thereto, Defendants' reply, if any , and the entire record herein, it is this ____ day of _____ 1997 hereby,

ORDERED that Defendants' Motion to Amend Judgment and Vacate Injunctive Relief be, and it hereby is, DENIED.

_____
Stanley Sporkin
United States District Judge

cc:

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