



Enforcing the ADA:

A Status Report from the Department of Justice

October - December 2003

This Status Report covers the ADA activities of the Department of Justice during the fourth quarter (October - December) 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 14). 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 I

Supreme Court Tells Ninth Circuit to Reconsider ADA Employment Case -- The Department filed an amicus brief in the U.S. Supreme Court in Raytheon v. Hernandez, a

suit challenging an employer's refusal to rehire an individual who had earlier lost his job because of illegal drug use. The plaintiff, Joel Hernandez, was an employee of the Hughes Missile Systems Company (later acquired by Raytheon Company) in 1991 when he tested positive at work for cocaine use. Under Raytheon's policy prohibiting the use of illegal drugs, Hernandez's employment was terminated. In 1994, after Hernandez had recovered from his drug addiction and alcoholism, he applied to be rehired by Raytheon. Raytheon denied his application for employment because of a policy of not rehiring former employees who were terminated for violating company rules. Hernandez filed suit under title I alleging that Raytheon refused to hire him because of his history of drug addiction in violation of the ADA. The U.S. District Court for the District of Arizona ordered the case dismissed but the U.S. Court of Appeals for the Ninth Circuit disagreed. The Department filed an amicus brief in the Supreme Court arguing that Raytheon's policy did not violate the ADA because it was a neutral policy applied in a nondiscriminatory manner. It noted that the policy applied equally to all former employees discharged for misconduct regardless of the type of misconduct that was the basis for the

discharge and regardless of whether the former employee had a disability. It also noted that the ADA explicitly allows employers to hold employees who use illegal drugs to the same qualification and behavioral standards as other employees even if an employee is unable to meet those standards because of his drug use. The brief also argued that the case should be dismissed because Hernandez failed to present sufficient evidence that the no-rehire policy was being applied in a way that singled out Hernandez because of disability. The Supreme Court ruled that the Ninth Circuit erred in reinstating the suit because of the possibility that the Raytheon misconduct policy might have unknowingly screened out people with a history of drug addiction. Such “screening out” is only relevant with regard to a disparate impact claim, which both lower courts agreed had not been asserted in a timely manner by the plaintiff. The Court held that the misconduct policy was a legitimate nondiscriminatory explanation for the exclusion and that it rebutted plaintiff’s disparate treatment claim, which was the only type of claim before the Court. It ruled that the Ninth Circuit should have limited its analysis to whether there was evidence that the plaintiff was intentionally singled out because of his disability despite this asserted neutral explanation. The Court, however, disagreed with the Solicitor General that the case should be dismissed at this point for lack of evidence of intentional discrimination and instead remanded the case to the Ninth Circuit for further consideration.

Title III

Sixth Circuit Rules “Comparable Line of Sight” Requires More Than Lack of Obstruction in Stadium-Style Theaters --

The U.S. Court of Appeals for the Sixth Circuit in United States v. Cinemark, USA, Inc., reinstated the Department’s suit alleging that the accessible wheelchair seating

locations in many of Cinemark’s stadium-style theaters failed to provide lines of sight comparable to those of the general public. The wheelchair seating in the theaters is very close to the screen and much lower than the seating available to most other patrons. As a result, wheelchair users in many of these theaters are forced to look up at the screen at sharp angles, often resulting in severe discomfort. The district court held that the ADA regulation’s mandate for comparable lines of sight requires only that wheelchair users have an unobstructed view of the movie screen. In overturning the district court decision, the Sixth Circuit agreed with the Department that the regulation requires more than an unobstructed view and that viewing angles for wheelchair users must be comparable in quality to those provided to the general public.

2. New Lawsuits

The Department initiated or intervened in the following lawsuits.

Title III

Meineker v. Hoyts Cinemas Corporation --

The Department moved to intervene in the U.S. District Court for the Northern District of New York in Meineker v. Hoyts Cinemas Corporation in support of a private lawsuit alleging that the placement of wheelchair and companion seating areas outside the tiered “stadium” section of the stadium-style movie theaters at the Crossgates Mall theater complex in Guilderland, New York, violated the ADA. The U.S. Court of Appeals for the Second Circuit asked the district court to decide whether the Department’s interpretation of comparable line of sight, which would require accessible seating in the stadium section of the stadium-style theater, 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 earlier 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 an 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.

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. AMC Entertainment, Inc.** -- The Department and AMC Entertainment, Inc., agreed to a consent decree in the U.S. District Court for the Central District of California resolving accessibility problems in newly constructed AMC stadium-style movie theaters not related to the provision of comparable lines of sight. AMC agreed to correct a wide range of violations in 12 theaters surveyed by the Department, including insufficient maneuvering space at doors; insufficient numbers of assistive listening devices; improperly placed or absent visual fire alarms; protruding objects; excessive cross slopes at designated accessible parking spaces; improper or absent signage;

auditorium violations, including hundreds of interior ramp slopes that are too steep; and inaccessible toilet rooms. AMC also agreed to survey and remedy new construction violations in over 70 other theaters. This consent order does not affect the District Court's earlier ruling that AMC's wheelchair seating failed to provide comparable lines of sight to its patrons with disabilities, which is on appeal by AMC in the U.S. Court of Appeals for the Ninth Circuit.

****U.S. v. Top China Buffet** -- The Department entered into a consent decree in the U.S. District Court for the Southern District of Indiana resolving a lawsuit brought by the Department alleging that Top China Buffet, an Indianapolis restaurant, violated the ADA when it refused service to a woman who was accompanied by her service dog. The complainant, who uses a wheelchair, is assisted by the animal in picking up and delivering objects that she is unable to reach herself. A Top China employee allegedly said "No dog!" to the complainant and her family as they entered the restaurant even though the dog was wearing a blue harness identifying him as a service animal. The complainant and her husband told the employee that the dog was not a pet, but rather a service animal that is authorized under the ADA to go into restaurants. She presented a card certifying that her dog is a specially trained service animal, but the employee repeated that no dogs were allowed. Unable to be seated or served, she and her family left the restaurant. Top China agreed to take corrective steps, including adopting and enforcing a compliance policy on the treatment of customers using service animals, training its employees, and posting appropriate signs at the restaurant welcoming individuals with disabilities who are accompanied by their service animals. Top China also agreed to pay a total of \$5,000 in damages to the complainant and her family and \$2,400 in civil penalties to the United States.

****Department Defends Title II Constitutionality in Supreme Court --** The Department filed a brief in the Supreme Court in Tennessee v. Lane defending the constitutionality of lawsuits against States under title II. The suit was brought by two individuals who use wheelchairs against the State of Tennessee and 25 of its counties for having inaccessible courthouses. One plaintiff was charged with two misdemeanor offenses and had to crawl up two flights of stairs to reach the courtroom to answer the charges. The other plaintiff, a certified court reporter, alleged that the inaccessible courthouses impaired her ability to practice her profession and serve clients. The Department intervened in this case in the Sixth Circuit to defend the constitutionality of title II suits against States. The Sixth Circuit ruled that title II is an appropriate expression of congressional authority to enforce the due process rights (but not the equal protection rights) guaranteed by the 14th Amendment and refused to dismiss the suit. The Department's brief in the Supreme Court argues that, in light of the pervasive history of discrimination by States against people with disabilities, the abrogation of State sovereign immunity by Congress is an appropriate exercise of its authority to enforce the equal protection, due process, and other constitutional rights of people with disabilities.

B. Formal Settlement Agreements

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

Title II

****Brookside Gardens, Wheaton, Maryland --** The Maryland-National Capital Parks and Planning Commission entered into an agreement to improve accessibility at Brookside Gardens, a botanical garden and conservatory near Washington, D.C. The Commission, a bi-county agency that administers a regional system of parks, agreed to provide accessible parking, entrance signs, drinking fountains, and toilet rooms at the visitor's center and to provide accessible parking, counters, drinking fountains, and toilet rooms at the conservatory, as well as accessible routes through the greenhouses.

Campbell County, Wyoming -- The Department signed an agreement with Campbell County, Wyoming, resolving a complaint by a blind individual alleging that the county failed to provide court documents to her in Braille in a timely manner, taking four months to respond to her request. The county agreed to adopt a written policy of nondiscrimination on the basis of disability and to provide appropriate auxiliary aids and services where necessary to ensure effective communication.

****Folly Beach, South Carolina --** The Department reached an agreement under Project Civic Access with the City of Folly Beach, South Carolina, resolving a complaint by a wheelchair user that the city's town hall, community center, community park, Ocean Park Pavilion, and places of public parking were inaccessible to persons with disabilities. The city agreed to provide accessible toilet rooms and an accessible dispatch room at the town hall, accessible parking, toilet rooms, and entrances at the community center and community park, and accessible toilet facilities at the Ocean Park Pavilion.

****Pleasant Valley, Missouri --** The City of Pleasant Valley signed a settlement agreement resolving a complaint alleging that the newly constructed city hall was not accessible. The facility was built into a hill and housed both city hall at the top of the structure and the sheriff's department at the bottom. Each had separate entrances and, although there was a stairwell in the employee area connecting the two offices, there was no elevator. The city agreed to install an elevator as required by the ADA Standards for Accessible Design, provide a van-accessible space, adjust the placement of a toilet in the police department to make it accessible, and provide access to the alderman's platform.

Evanston, Wyoming -- The Department reached an agreement with the City of Evanston resolving a complaint that the Evanston Municipal Court failed to provide a qualified sign language interpreter to a deaf individual during the arraignment of his son and, instead, asked the son to interpret for his father. The city agreed to adopt a policy and procedures to ensure that individuals who are deaf or hard of hearing having business with the municipal court, including parties, witnesses, jurors, or spectators, are provided appropriate auxiliary aids and services. The agreement also requires the city to pay the complainant \$600 in monetary damages.

Connecticut Judicial Branch, Hartford, Connecticut -- The Department entered into an agreement with the State of Connecticut Judicial Branch, Superior Court Operations Division, resolving a complaint filed by a criminal defendant who is deaf and who uses sign language for communication. The complainant alleged that the State failed to provide effective communication during three judicial proceedings by refusing to provide a sign language interpreter. The State agreed to

furnish appropriate auxiliary aids and services, including qualified sign language and oral interpreters, where necessary to ensure effective communication with individuals with disabilities.

Title III

****McKinley Chalet Resort, Denali Park, Alaska --** The Department entered into a settlement agreement with the McKinley Chalet Resort resolving a complaint filed by an individual who uses a wheeled walker. She alleged that the 345-room resort had an insufficient number of guest rooms accessible to people with mobility impairments. The resort agreed to make physical modifications to its facilities to provide accessible parking, entrances, interior and exterior routes, public telephones, toilet rooms, service counters, drinking fountains, and dinner theater amenities. It also agreed to provide nine fully accessible guest rooms.

Missouri College, St. Louis, Missouri -- The Department signed an agreement resolving a complaint against Missouri College by a deaf student who uses sign language. The student complained that the college refused to provide an interpreter during two continuing education courses. The agreement requires the college to furnish appropriate auxiliary aids and services, including sign language and oral interpreters, where necessary to ensure effective communication with individuals with disabilities. The college posted this policy in informational materials and agreed to provide annual ADA training to all of its staff who interact with students. The college also agreed to pay the complainant \$1,500.



****Alamo and National Agree to Make Airport Car Rental Shuttles Accessible --**ANC Rental Corporation, and its subsidiaries, Alamo Rent-A-Car LLC and National Car Rental System, Inc., agreed to provide accessible shuttle buses at airport car rental locations nationwide owned by ANC. The settlement agreement resolves several complaints filed by disabled travelers who use a wheelchair or scooter alleging that the companies did not provide accessible shuttle buses between the airport terminal and the rental lots. Under the agreement each ANC-owned location will have at least one accessible shuttle bus within sixty days. The parties also agreed to ensure that all larger shuttle bus vehicles (seating 17 or more passengers) and up to 10 percent of smaller vehicles they purchase or lease in the future are accessible. They will also adopt a policy for ensuring equivalent service to individuals with disabilities by providing curbside pickup and drop-off services when an accessible shuttle bus vehicle is not available.

Howard Johnson Maingate Hotel, Tampa, Florida -- The Department reached an agreement with the Howard Johnson Maingate Hotel resolving a complaint by a wheelchair user that the hotel, located at the entrance to the Busch Gardens amusement park, did not provide adequate accessible parking, accessible routes, or fully accessible guest rooms for people with mobility impairments. The hotel agreed to improve the accessibility of the four guest rooms designated as “accessible” by installing accessible grab bars, toilet flush controls, in-tub seats, and towel racks, as well as by providing adequate clear floor space at the lavatories and toilets. The hotel also agreed to provide an additional fifth accessible parking space, to make one of the spaces van accessible, and to provide an accessible route from the parking to the front entrance.

Dr. Faramarz Behzadi, Jacksonville, Florida -- The Department entered an agreement with Dr. Faramarz Behzadi, a surgeon, resolving a complaint by a deaf individual that the doctor refused to provide a qualified sign language interpreter during three scheduled medical appointments. At the first visit Dr. Behzadi allegedly asked the patient’s accompanying friend, who could not sign, to communicate with the patient. At the next two visits the local independent living

center provided an interpreter. Dr. Behzadi agreed to ensure that patients or companions who are deaf or hard of hearing are provided necessary auxiliary aids and services. Dr. Behzadi also agreed to reimburse the Independent Living Resource Center of Northeast Florida in the amount of \$200 for the cost of interpreter services provided.

Valu + Stores of New Mexico, Inc., Alamogordo, New Mexico -- The Department reached an agreement with Valu + Stores resolving a complaint filed by a person who uses a wheelchair alleging that he had difficulty entering the Lots-A-Shops Merchants Mini Mall due to a steep access ramp. The Department’s investigation also found that parking spaces designated for persons with disabilities were too small and were not located on the shortest accessible route. Valu + agreed to make the ramp and parking accessible and to provide curb cuts along the accessible route.

****Ramada Limited Atlantic Avenue, Virginia Beach, Virginia --** The 94-room Ramada Inn Atlantic Avenue, which added accessible guest rooms and accessible public toilet rooms during a 1997 remodeling, agreed to purchase an additional communication kit (including a telephone amplifier, door knock signaler, telecaption decoder, wake-up system, and visual/audio smoke detector) to add to the two kits that it already had and to purchase additional kits if needed to meet demand for up to nine rooms.

****Eastern College Athletic Conference, Centerville, Massachusetts --** A deaf referee complained that the Eastern College Athletic Conference discriminated against her because of her deafness and the need for sign language interpreter services by allegedly reducing the number of her officiating assignments; by failing to communicate effectively with her about her performance evaluation; by failing to respond promptly to her concerns about evaluation and communication; and by excusing her from participation in an annual mandatory referee camp for women's basketball officials while other officials

received invitations to the camp. The ECAC agreed to take appropriate steps to provide her with equal opportunity in officiating assignments, to provide appropriate auxiliary aids and services, to appoint an ADA coordinator, and to notify its member institutions and their staffs about the ADA requirement for effective communication.

Executive Inn, Oakland, California -- The U.S. Attorney's Office for the Northern District of California entered into an agreement with East Bay Hotel LP, owner and operator of the Executive Inn. Under the agreement, the hotel will provide seven guest rooms that have telephones with volume controls, visual and vibrating fire and smoke alarms, and visual door knock alerting devices. Additionally, the Executive Inn will purchase two portable TDD's and provide appropriate staff training on their use.

****Convenience Store Chain Agrees to Remove Barriers --** The Department entered an agreement with Little General Stores, Inc. that will improve accessibility throughout the company's chain of 48 convenience stores. The agreement resolves a complaint by an individual who alleged that her son, a wheelchair user, was unable to enter a Little General retail store and use the restroom because both the entrance and restroom room had barriers to access that would have been readily achievable to remove. Little General said that 30 out of its 48 retail stores do, in fact, comply with the ADA and agreed to submit documentation and photos of certain elements, such as parking, entrances, toilet rooms, counters, and interior and exterior routes from each store, and to work with the Department to bring these stores into compliance if any barriers are identified. In addition, for the remaining 18 retail stores Little General agreed to remove barriers to access where it is readily achievable to do so in those stores that were constructed before the ADA's effective date. It also agreed to make modifications to stores that were altered since the ADA's effective date in order to bring them into compliance with the ADA Standards for Accessible Design. Little General will also pay \$3,000 to the complainant in compensatory damages.

Hilton Garden Inn, Washington, D.C. --

The Department entered an agreement with the Hilton Garden Inn resolving a complaint alleging that it seated a blind individual in a separate lounge area for dinner instead of in the restaurant because of her service dog. The hotel agreed to adopt a policy welcoming people with disabilities and their service animals, post it in a conspicuous location in the lobby of the hotel, and provide ADA training to its employees.

Wee-Kare Nursery, Rocky Gap, Virginia --

The Department reached an agreement with Wee-Kare Nursery, a home-based daycare center, resolving a complaint that the child care provider had terminated a child from its program because his mother had hepatitis C. After the mother told the daycare owner in confidence that the reason she had been going to so many doctor's appointments was because of her hepatitis C, the nursery owner said that she would no longer take care of her son, even though the child had tested negative for hepatitis C. The owner agreed to attend a training program on the ADA obligations of child care providers, adopt a written nondiscrimination policy, and pay \$1,000 in compensatory damages to the complainant.

West Orange YMCA, Orlando, Florida --

The Department entered into an agreement with the West Orange YMCA resolving a complaint filed by a woman with mobility impairments who alleged that the YMCA facility lacked accessible features in the locker rooms, accessible toilet stalls, and an accessible route to the swimming pool. The YMCA agreed to undertake renovations that would correct these accessibility problems.

Paramount One Hour Photo, Paramount, California --

The Department reached an agreement with Paramount One Hour Photo resolving a complaint alleging that the business refused service to a child with autism. Paramount allegedly refused service

to a 10-year-old boy with autism when the boy began to talk to himself while the photographer prepared to take the photos. Paramount agreed to post a notice in the store welcoming customers with disabilities and pay \$1,250 in compensation to the child.

Nashville School of Law, Nashville, Tennessee --

A student with dyslexia complained that the Nashville School of Law failed to provide the student extra time during exams. The school agreed to develop a comprehensive statement of its requirements and procedures for processing requests for academic accommodations from individuals with disabilities and designate staff to ensure that the requests are addressed in a timely manner.

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 a northern state department of corrections did not provide a sign language interpreter for him during meetings with his probation officer. Although the department of corrections has an ADA communication policy, some employees were not aware of this policy. The department agreed to distribute the policy to all offices and employees statewide.

Title III

An individual who uses a wheelchair complained that there was no accessible entrance for a pizza restaurant and gift shop in Alaska. The facility owner installed an entrance ramp and leveled the ground at the base of the ramp.

An individual who is deaf and uses sign language for communication alleged that a North Carolina hospital failed to provide a sign language interpreter in order for him to better understand how to care for his 18-year-old son who underwent surgery. The hospital agreed to provide appropriate auxiliary aids and services to its patients and their companions who are deaf or hard of hearing twenty-four hours a day, seven days a week.

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

District of Arizona -- An individual who uses a wheelchair complained that the pool tables at an Arizona restaurant were not accessible because they were located on a raised portion of the restaurant floor. The restaurant agreed to relocate a pool table to an accessible location in the same area of the restaurant, to remove the barriers to access in the restrooms, and to install accessible parking spaces.

Southern District of Iowa -- An Iowa municipality agreed to revise its building plans for a new city hall to include an elevator.

An individual who uses a motorized, battery-operated vehicle complained that some of the sidewalks in an Iowa town are inaccessible; that, as a result, he is occasionally required to drive his mobility device into the street in order to get around town; and that on at least three occasions police officers threatened to

ticket him and to confiscate his vehicle for driving on the street. The city agreed to allow individuals with disabilities who use motorized devices to use public streets when sidewalks are inaccessible.

Western District of Louisiana -- An individual who is deaf and blind complained that an oral surgeon's office would not provide an interpreter for her upcoming appointment. The physician's office agreed to arrange for an interpreter for the patient's appointment and the patient was able to keep her appointment as scheduled.

Southern District of New York -- An individual complained that his polling place, a local elementary school, was not accessible to individuals who use wheelchairs. The school installed a ramp at the building's main entrance and removed a bar in the doorway that was blocking access.

A individual who uses a service animal complained he was denied access to a grocery store. The store apologized and modified its policy to permit access to individuals with disabilities using service animals.

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.

- A wheelchair user in Oklahoma complained that a large retail store had a number of barriers to access. The store agreed to install curb ramps and relocate accessible parking spaces to provide an accessible route from the sidewalk through the store entrance, install concrete blocks to maintain an accessible path of travel to the refueling area and signage identifying the accessible fuel pump, and lower the check-writing and point of sale reader to provide check out access to individuals using wheelchairs. The store provided ADA training to its fuel center employees and store managers and agreed to monitor access within the store and refueling center on an ongoing basis.
- In California, an individual with multiple sclerosis complained that a restaurant refused access to her because she used a service animal. The restaurant changed its policy to allow service animals to enter the restaurant, informed staff of the new policy, and provided two pairs of complimentary dinners to the complainant.
- In South Carolina, a wheelchair user complained that a fairgrounds arena was inaccessible. The fairgrounds owners agreed to create an accessible seating area for at least ten wheelchair users immediately in front of the bleachers, create an accessible path of travel to the accessible seating area for each event, and rent bleachers that met safety standards, including hand rails. The organization also developed and distributed to all paid and volunteer fairground workers and security staff an information sheet on appropriate ways to assist persons with disabilities.
- In Texas, an individual filed a complaint on behalf of relatives who use wheelchairs alleging that a restaurant was inaccessible. The restaurant created a van-accessible parking space and appropriate signage, created a clearly marked path from the parking space to the restaurant entrance, constructed a properly sloped ramp to the entrance, and modified the restroom and the path of travel to the restroom to provide access to persons using wheelchairs.
- In Pennsylvania, a disability rights advocacy organization complained that a restaurant's restrooms were inaccessible. The restaurant agreed to renovate restrooms to comply with the ADA, including posting proper signage at restroom entrances, installing lever door handles on restroom entrance doors, repositioning paper towel dispensers, and insulating sink pipes.

- In Virginia, a wheelchair user complained that a restaurant renovated in 1997 failed to provide accessible restrooms or van-accessible parking. The restaurant installed van-accessible parking with a curb ramp, an appropriate access aisle and signage. The restaurant also created an accessible unisex restroom and modified door hinges to permit easy opening.
- In Georgia, a person who is deaf complained that a hotel failed to provide accessible notification devices in guest rooms. The hotel placed kits containing portable TTY's, visual alarms, and visual notification devices in each of its hotels in accordance with the requirements of the ADA and installed sign age at the registration desk to notify guests of the availability of the kits upon request at check-in. The hotel also developed a system for obtaining additional notification devices if needed to meet an increased number of guest requests. The hotel agreed to train all customer service staff on the ADA and to reimburse the complainant for the cost of the room.
- In New Jersey, a wheelchair user complained that a theater auditorium had no accessible seating and that the second floor auditoriums were inaccessible. The theater agreed to install accessible seating, companion seating, and aisle transfer seating in the first floor auditoriums; place sign age near each ticket counter notifying customers of the availability of accessible seating and assistive listening devices; and change the telephone information announcement to identify the auditorium number of each movie playing, the accessible seating available in that auditorium, and the availability of assistive listening devices. In theaters with inaccessible auditoriums, the theater will show all new movies for at least the first two weekends in accessible auditoriums. Afterwards, movies will be relocated to an accessible auditorium at a mutually agreeable date and time upon request of a customer with a disability. The theater also made restrooms and ticket machines accessible and trained staff on the use and maintenance of assistive listening devices.
- In Virginia, a person with a learning disability alleged that his request for accommodations for a standardized professional certification test was denied. The certification entity and the testing center agreed to administer his test in a separate room with no distractions and the parties selected a mutually acceptable reader. Because a date at the closest testing center was not available, the certification entity paid for transportation and accommodations at the nearest available center.
- In Ohio, a person who is deaf complained that a county court failed to provide interpreters for a hearing as he had requested. The county agreed to provide interpreters upon request for all court proceedings, including administrative hearings, mediations, and arbitrations.
- In Illinois, two individuals complained that a company refused to rent jet skis to them because they are deaf. The company agreed to change its policy and rent water sport equipment to customers who are deaf or hard of hearing. The company also paid the complainants \$200.

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 rebuttable 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.

The 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 received no adverse comments during the comment period for its May 29, 2003, preliminary certification that the Maryland Accessibility Code meets or exceeds the new construction and alterations requirements of title III of the Americans with Disabilities Act. The Department held its second and final public hearing on the preliminary certification. At the hearing, support was voiced for the Department's preliminary determination and the Department was urged to issue a final certification for the Maryland Accessibility Code as soon as possible.

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.

ADA Business Connection Promotes Houston Cooperation, New Business Briefs --

Assistant Attorney General for Civil Rights, R. Alexander Acosta, convened an ADA Business Connection meeting in Houston, Texas, hosted and moderated by The Institute for Rehabilitation and Research, to allow leaders of the Houston-area business and disability communities to come together to discuss local issues and concerns and to identify potential strategies and projects to increase access for people with disabilities. The ADA Business Connection was created by the Civil Rights Division to bring about increased cooperation between the business and disability communities nationwide to promote full participation of people with disabilities in the American economy. One cooperative project inspired by the Houston meeting will sponsor a web design competition to encourage businesses throughout the city to make their web sites accessible to people with disabilities. The Department also distributed two new ADA Business Briefs at the Houston meeting -- ****Communicating with People Who Are Deaf or Hard of Hearing in Hospital Settings** and ****Communicating with Guests Who are Deaf or Hard of Hearing in Hotels, Motels, and Other Places of Transient Lodging**. ADA Business Briefs are short documents explaining specific ADA issues that are designed to improve understanding and voluntary compliance with the ADA. These and other ADA Business Briefs are available from the ADA Website (www.ada.gov) or they can be obtained by mail or fax by calling the ADA Information Line at 800-514-0301 (voice) or 800-514-0383 (TTY).

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

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

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

www.fta.dot.gov/26_ENG_HTML.htm

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

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.easterseals.com>

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.