



# Disability Rights online News

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## Disability Rights Online News

is a bi-monthly update about the Civil Rights Division's activities in the area of disability rights. The Division enforces laws prohibiting discrimination based on disability in employment, housing, access to businesses serving the public, access to government programs and services, including voting and public transportation, and unconstitutional conditions in institutions of confinement.

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## MCNEESE STATE UNIVERSITY AGREES TO IMPROVE CAMPUS ACCESSIBILITY

On September 9, 2010, McNeese State University, a public university located in Lake Charles, Louisiana, entered into a settlement agreement with the Department resolving access issues identified in a compliance review of the university's services, programs, and activities. McNeese has approximately 8,900 students and 68 buildings.

Under the agreement, McNeese will take a number of steps to improve access for students, visitors, and employees with disabilities, including bringing newly constructed facilities into compliance with Americans with Disabilities Act (ADA) Standards for Accessible Design (Standards); developing and

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## STATE OF GEORGIA AGREES TO OVERHAUL ITS MENTAL HEALTH AND DEVELOPMENTAL DISABILITY SYSTEM TO COMPLY WITH ADA

On October 19, 2010, the State of Georgia entered into a comprehensive settlement agreement with the Department that will transform the state's mental health and developmental disability system. The agreement requires the state to vastly expand its community-based services so that Georgia can serve individuals with mental illnesses and developmental disabilities in the most integrated setting appropriate to their needs, as required by the ADA and the Supreme Court's landmark decision in *Olmstead v. L.C.*, an earlier case challenging segregation in a Georgia state hospital.

Under the agreement, over the next five years the state will create at least 1,000 Medicaid waivers to transition all individuals with developmental disabilities from state hospitals to community settings. The state will also create or greatly expand crisis, respite, family support, and housing

(Continued on page 2)

(McNeese University, continued)

implementing a campus-wide physical access plan with specific remedial actions and timelines for making other facilities accessible by September 1, 2016; displaying information on its website about campus accessibility; updating its campus-wide emergency evacuation, sheltering, and shelter-in-place plans that address the needs of individuals with disabilities; and designating an ADA coordinator to oversee these compliance efforts.

The State of Louisiana's Division of Administration/Office of Facility Planning has control over the budget, design, and construction of all significant architectural projects at state owned buildings. Since the Department began its investigation, the University's Board of Supervisors has been discussing with the state agency how to incorporate ADA requirements into its rules and regulations for capital outlay projects for the University of Louisiana system.

"Full access to all programs and services is a civil right enjoyed by all, including individuals with disabilities. We are pleased that McNeese is taking steps to ensure that individuals with disabilities are guaranteed full access to its programs, services and activities, and we applaud the

board of supervisors for taking steps to ensure access at all of the University of Louisiana campuses," said Thomas E. Perez, Assistant Attorney General for the Civil Rights Division.

"This a positive move by McNeese and the board of supervisors. Their efforts reflect a commitment to

ensuring that all individuals with disabilities have full access to the university," said Stephanie A. Finley, U.S. Attorney for the Western District of Louisiana. It is a top priority of the U.S. Attorney's Office to enforce the laws that guarantee that persons with disabilities have equal opportunity to pursue their education."

(State of Georgia, continued)

support services to better serve these individuals in the community. In addition, the state will increase its assertive community treatment, intensive case management, case management, supported housing, and supported employment programs to serve 9,000 individuals with mental illnesses in community settings. The state will create crisis services centers, crisis stabilization programs, mobile crisis units, and crisis apartments to respond to and serve individuals in a mental health crisis without the need for admission to a state hospital.

The Department began its investigation of Georgia's seven state hospitals in 2007, and found that preventable deaths, suicides, and assaults occurred with alarming frequency in the hospitals, in violation of the constitutional and legal rights of the hospital residents. In January 2009, the Department filed a lawsuit against the state under the Civil Rights of Institutionalized Persons Act (CRIPA) and entered into a settlement agreement with the state regarding conditions in the hospitals. In January 2010, the Department filed a separate ADA lawsuit against the state to protect individuals confined in state hospitals from continued unlawful segregation in restrictive institutional settings. At that time, the Department also filed an amended complaint and a motion for immediate relief in its CRIPA lawsuit, and requested that the two cases be joined. (See previous article in issue # 36.)

The settlement agreement on the ADA issues is the result of extensive negotiations between the State of Georgia, the Justice Department, the Office for Civil Rights at the U.S. Department of Health and Human Services, and a number of advocacy groups, including Georgia's protection and advocacy agency.

(State of Georgia, continued)

“The Olmstead decision strongly affirmed that people with disabilities have a right to live and receive services in the most integrated setting appropriate for them as individuals,” said Assistant Attorney General Thomas E. Perez. “Under this agreement, the state of Georgia will provide services in the community to hundreds of people with developmental disabilities and thousands of people with mental illness. The promises of the ADA and Olmstead will finally become a reality for individuals in Georgia with mental illness and developmental disabilities.”

“Georgia is the home of the Supreme Court’s Olmstead decision,” said Sally Quillian Yates, U.S. Attorney for the Northern District of Georgia. “With this agreement, the state begins to make good on Olmstead’s promise to end the inappropriate segregation of people with disabilities in state hospitals that set apart from the community.”

“The expansion of community living opportunities is critical to protecting the civil rights of individuals with disabilities under Olmstead,” said Georgina Verdugo, Director of the Office for Civil Rights at HHS. “The specific requirements and timelines in this agreement will ensure that Georgians with mental illness and developmental disabilities have the services they need to live full lives in the community and achieve their goals.”

## **SEVEN RENTAL APARTMENT COMPLEXES IN NEW YORK CITY WILL BE RETROFITTED FOR ACCESSIBILITY**

On October 15, 2010, the federal court in Manhattan, New York, approved a consent decree settling a lawsuit against the developers and architect of Avalon Chrystie Place, a 361-unit residential rental apartment complex in Manhattan. The lawsuit, filed by the Department on August 13, 2008, alleged that the defendants violated the Fair Housing Act (FHA) by failing to provide kitchens and

bathrooms that are usable by people with disabilities, failing to provide accessible routes into and within the apartment units, and failing to make public and common areas accessible for people with disabilities. The consent decree addresses Avalon Christie Place and six other rental properties in New York City.

Under the terms of the decree, the defendants will pay all costs related to

making Avalon Christie Place accessible. The retrofitting will include reconfiguring bathrooms, kitchens, closets, and pantries and retrofitting the complex’s lobby, leasing office, toilet rooms, mailboxes, elevators, fitness center, billiard room, trash rooms, storage rooms, and other common areas. They will also establish an “Accessibility Project Fund” in the amount of \$72,000 to retrofit kitchens at Avalon Christie Place. In addition, they will pay a \$90,000 civil penalty to the United States and undergo training on the requirements of the FHA.

The defendants responsible for the payments and retrofits are CVP I, LLC; Downtown Manhattan Residential, LLC; Chrystie Venture Partners, LLC; and AvalonBay Communities, Inc.

The consent decree requires AvalonBay Communities to inspect six other AvalonBay rental properties in New York City -- Avalon Bowery Place I, Avalon Bowery Place II, Avalon Riverview, Avalon Riverview North, Avalon Fort Greene, and Avalon Morningside Park -- and retrofit any that do not meet FHA requirements. All of the 2,557 apartment units in these seven properties are covered by the FHA’s accessibility provisions, because all of the properties are elevator-equipped buildings.

(Avalon Apartments, continued)

The consent decree also establishes a settlement fund of \$2,045,600 to compensate individuals harmed by the lack of accessible features at any of the seven properties. Anyone who believes that he or she may be entitled to monetary relief because of the lack of accessible housing at any of these complexes should write to the Chief of the Civil Rights Unit at the U.S. Attorney's Office, 86 Chambers Street, Third Floor, New York, New York, 10007, or contact the Civil Rights Complaint Line at 212-637-2987 (voice) or 212-637-0039 (TTY).

"People with disabilities should not have limited housing options when they want to live in apartment complexes," said Manhattan U.S. Attorney Preet Bharara. "The obligation that housing developers have to make apartment units accessible to all people is especially important in New York City, where space is at a premium. This settlement ensures that thousands of apartments will be made accessible to people with disabilities and that victims of unlawful discrimination will be justly compensated."

## **ALABAMA CITY WILL PERMIT GROUP HOME FOR ADULTS WITH INTELLECTUAL DISABILITIES**

On September 16, 2010, the federal court in Mobile, Alabama, approved a consent decree between the City of Satsuma, a Mobile suburb, and the Department resolving a lawsuit alleging that the city and its Board of Adjustment violated the Fair Housing Act (FHA) by refusing to permit a for-profit organization to operate a group home for three women with intellectual disabilities. The home, located in a residential neighborhood, was to be regulated by the state of Alabama. The residents, who previously resided at a large state-managed institution, were to share living space and common facilities and receive professional supportive services in the home.

Under the terms of the consent decree, the city will amend its zoning ordinance and business license law to permit both non-profit and for-profit group homes for people with disabilities and will pay \$59,000 in compensatory damages to the operator of the home and the trustees of the three residents, as well as a \$5,500 civil penalty to the government. The consent decree also requires the city to maintain records relating to future proposals for housing for people with disabilities, submit periodic

reports to the Department, and ensure that employees who have responsibilities related to zoning, land-use, and business licensing undergo training on the requirements of the Fair Housing Act.

"Americans with disabilities – like all Americans – have a right to live within their communities without facing discrimination," said Assistant Attorney General Thomas E. Perez. "This comprehensive settlement compensates the individuals who were harmed and will prevent future housing discrimination against the city's most vulnerable citizens."

"Enforcing the nation's housing discrimination laws is a top priority of the United States Attorneys Office for the Southern District of Alabama," said Kenyen Brown, U.S. Attorney for the Southern District of Alabama. "This settlement is not only significant for the plaintiffs in this case, but this entire region. The terms of the settlement have created a model approach that can help prevent the kind of discrimination witnessed in this case."

The case began when operator of the home and the three residents filed complaints with the Department of Housing and Urban Development (HUD). HUD referred the complaints to the Justice Department, which conducted an investigation and filed the lawsuit in May 2008.

## DEVELOPER SUED FOR DISABILITY DISCRIMINATION

On September 24, 2010, the Department filed a lawsuit in the federal court in Atlanta, Georgia, against Post Properties, Inc., Post Apartment Homes, L.P., and Post GP Holdings, Inc., for failing to provide accessible features required by the FHA and the ADA at numerous multi-family housing developments in six states.

Post has designed, constructed, and developed at least 50 multi-family apartment complexes in Georgia, Texas, Florida, New York, North Carolina, Virginia, and the District of Columbia since March 13, 1991, when the FHA first required new multi-family housing to contain accessible features. Nineteen of these properties are in the Atlanta region. All together, the properties contain more than 17,000 units, at least half of which are in elevator-equipped buildings. Post operates many of these properties as rentals.

The lawsuit alleges that Post designed and constructed many of the complexes without accessible routes leading into and through the apartment buildings. In addition, some of the complexes lack adequate maneuvering space in kitchens and bathrooms, and have thermostats that are too high

and doors and hallways that are too narrow to be used by people with mobility disabilities.

The lawsuit seeks a court order requiring the defendants to modify the complexes to bring them into compliance with federal laws, pay monetary damages to people harmed by the inaccessible features and a civil penalty to the government, and comply with federal accessibility requirements in future developments.

“Our federal laws guarantee that persons with mobility and other physical disabilities will have the same housing choices as persons without such disabilities,” said Assistant Attorney General Thomas E. Perez. “We will continue to pursue vigorously the principle that failing to design and construct multi-family housing with basic features of accessibility violates the law.”

“Our office is committed to protecting the rights of citizens with disabilities and ensuring that they are fully integrated in our community, and have the housing choices that the law provides,” said Sally Quillian Yates, the U.S. Attorney for the Northern District of Georgia.

## INTERSTATE BUS COMPANY WILL ACQUIRE ACCESSIBLE BUSES

On September 27, 2010, the Tornado Bus Company, Inc., of Dallas, Texas, which operates interstate passenger bus service in Texas and the Midwest, entered into a settlement agreement with the Department of Justice and the Federal Motor Carrier Safety Administration (FMCSA) of the U.S. Department of Transportation resolving violations of the ADA and the Over-the-Road Bus Transportation Accessibility Act of 2007 (OBTAA). The OBTAA gives FMCSA authority to revoke a bus company’s operating authority for failing to provide accessible buses, while the Justice Department has authority to seek civil penalties for violations of the ADA. In February 2009, FMCSA and the Justice Department entered into a memorandum of understanding to work together to ensure consistent enforcement of the ADA and OBTAA nationwide.

An extensive investigation conducted by FMCSA uncovered that Tornado had only one accessible bus in a fleet of 53 buses, while ADA regulations require that at least 50 percent of a carrier’s vehicles

(Tornado Bus, continued)

be accessible. The investigation also found that the company had purchased new inaccessible buses, failed to train employees on interacting with passengers who have disabilities, and failed to establish a wheelchair lift maintenance program. The settlement agreement requires Tornado to pay \$55,000 in civil penalties and upgrade its fleet to meet ADA requirements by February 2011 or have its operating authority revoked by the FMCSA.

“At the foundation of our society is the ability to live independently and move freely,” said Assistant Attorney General Thomas E. Perez. “This freedom is no less important to people with disabilities. We are grateful FMCSA takes accessibility requirements seriously and has reached this agreement.”

“Adhering to ADA accessibility requirements is not a choice, but a high standard that every commercial bus operator must follow,” said FMCSA Administrator Anne S. Ferro. “FMCSA will continue to work closely with the Department of Justice to vigorously enforce ADA compliance so that all travelers can enjoy destinations across America by way of commercial bus.”

## **NEW AGREEMENT ABOUT HAWAIIAN CRUISES**

On October 25, 2010, Norwegian Cruise Line (NCL) entered into a consent decree with the Department resolving a lawsuit filed simultaneously with the consent decree. The lawsuit alleged that NCL had discriminated against nine individuals who took NCL cruises around the Hawaiian Islands, by requiring guests who are deaf or hard of hearing to bring companions to provide the communication services they needed and by failing to provide accessible ground transportation for guests who use wheelchairs.

Under the consent decree, which is pending approval by the federal court in Miami, NCL will provide sign language interpreters, written transcripts, closed caption televisions, TTYs, and other communication aids so that passengers who are deaf or hard of hearing can fully enjoy on-board activities and shore excursions offered by NCL and can participate in emergency drills while on board. NCL will also provide accessible transportation between the airport, cruise ship, and hotels, and for shore excursions, so that passengers who use wheelchairs do not have to wait longer than other passengers for transportation services. In addition, NCL will pay \$100,000 in compensatory damages to nine complainants and pay a \$40,000 civil penalty to the United States.

“People with disabilities who need sign language interpreters or accessible ground transportation should be able to go on vacation and enjoy the activities of a cruise like everyone else,” said Assistant Attorney General Thomas E. Perez. “It is essential that NCL and the cruise industry comply with the ADA’s requirements for auxiliary aids and services and accessible transportation.”

“The ADA applies to cruise ships, just as it does to hotels and other entities that offer services to the public,” said Wifredo A. Ferrer, U.S. Attorney for the Southern District of Florida. “Discrimination against people with disabilities, on land or at sea, will not be tolerated.”

This consent decree complements a 2001 consent decree between NCL and the Department resolving allegations of discrimination against passengers who are blind.

## **CALIFORNIA COUNTY WILL ADOPT NONDISCRIMINATORY EMPLOYMENT POLICY**

On July 15, 2010, the federal court in Los Angeles entered a consent decree resolving the Department's lawsuit against the County of Ventura, California, alleging that the county had discriminated against an individual who is deaf who applied for a position as a children's social service worker. This was the Department's first lawsuit alleging that a job applicant who is deaf was rejected based on unfounded assumptions about her ability to perform the job and her need for reasonable accommodation. (See previous article in issue # 33.)

Under the terms of the decree, the county will adopt an employment policy prohibiting discrimination and explicitly acknowledging that reasonable accommodations for an employee may include a qualified sign language interpreter. In addition, supervisory personnel in the human services and human resources department will receive training on the ADA and the county will pay the \$45,000 in compensatory damages to the complainant.

## **THREE NEW HAMPSHIRE HOSPITALS AGREE TO PROVIDE EFFECTIVE COMMUNICATION**

The Southern New Hampshire Medical Center in Nashua, St. Joseph Hospital and SJ Physician Services, Inc., in Nashua, and Frisbie Memorial Hospital in Rochester, New Hampshire, have entered into settlement agreements with the Department resolving complaints from individuals who are deaf about the hospitals' failure to provide sign language interpreters when they or their children were treated at these hospitals.

All three settlements require the hospitals to implement comprehensive policies, procedures, and standards for obtaining assistive equipment and providing qualified sign language interpreters, in person or through video interpreting services, when needed to communicate effectively with patients and companions who are deaf or hard of hearing. In addition, the agreements require ADA training for staff physicians and physicians affiliated with the hospitals. The St. Joseph agreement also imposed obligations on an extensive network of medical practices such as doctors' offices and testing facilities that are affiliated with, but separate from, the hospital.

The three agreements also require the hospitals to pay compensatory damages to the complainants -- \$5,000 in the Southern New Hampshire case; \$10,000 in the St. Joseph case, to be paid in the form of debt reduction at the request of the complainants; and \$35,000 in the Frisbie case.

## **SOUTH CAROLINA COUNTY WILL MAKE ITS COURTHOUSE ACCESSIBLE**

On July 22, 2010, Oconee County, South Carolina, entered into a settlement agreement with the Department resolving a compliance review of the county's courthouse which, when built in 2003, did not meet ADA requirements. The agreement requires the county to create accessible parking, create accessible routes into and within the facility including the emergency exit, add wheelchair seating spaces in courtrooms and jury boxes, and make all toilet rooms and common-use break rooms accessible.

## **TEXAS THEATER WILL BE MADE ACCESSIBLE**

On October 26, 2010, the city of Kerrville, Texas, which owns the Cailloux Theater, and Playhouse 2000, which manages and operates the theater, entered into a settlement agreement with the Department to bring the theater into compliance with the ADA Standards. The theater underwent significant alterations in 2003 that did not meet ADA requirements. Under the agreement, the city and management company will retrofit the facility to provide wheelchair and companion seating locations in areas with a variety of ticket prices, provide accessible routes throughout the theater, and implement a nondiscriminatory reservations policy. In addition, they will pay \$2,500 in compensatory damages to the complainant.

“Everyone should be able to enjoy the cultural experience of attending live theater, including persons with disabilities. We are pleased that the city of Kerrville and Playhouse 2000 are taking steps to ensure that individuals with disabilities are guaranteed full access to the Cailloux theater,” said Assistant Attorney General Thomas E. Perez.

## **TULSA, OKLAHOMA, WILL INCREASE ACCESSIBLE PARKING AT COUNTY FAIRGROUNDS**

On August 31, 2010, Tulsa County, Oklahoma, entered into a settlement agreement with the Department to increase the number of accessible parking spaces at the Tulsa County Fairgrounds’ Expo Square, a large multiple-venue exposition and entertainment facility located at the fairgrounds. Under the agreement, the county will install 151 accessible parking spaces including 33 that are van-accessible, locate the spaces close to building entrances, create accessible routes of travel, and provide accessible vans for transportation from off-site parking lots. The county chose to add 25 more accessible spaces than required by the ADA.

## **MICHIGAN TOWNSHIP PAYS \$600,000 TO RESOLVE ADA LAWSUIT**

On October 8, 2010, the federal court in Memphis, Michigan, approved a consent decree between the Richmond Township and Richmond Township Planning Commission in Richmond, Michigan, and Sacred Heart Rehabilitation Center, Inc., resolving Sacred Heart’s lawsuit alleging that the township’s denial of a special land use permit for Sacred Heart violated the ADA, the Rehabilitation Act, and the Fair Housing Act by restricting the organization’s ability to use its Richmond facility to treat individuals with addictive disorders and to support their families. The Department had filed a brief as amicus curiae in this case, disputing the township’s argument that

Sacred Heart did not have the right to proceed with its lawsuit or, alternatively, was obliged to exhaust state administrative remedies before proceeding with a lawsuit in federal court.

Under the terms of the agreement, the township will pay Sacred Heart \$600,000 in compensatory damages; permit Sacred Heart to construct both the Clearview Center for Women and Children and the Administration Building as originally proposed, consistent with site plan review and approval; and allow Sacred Heart to build other structures on its property as long as such future development does not increase Sacred Heart’s patient bed capacity and is approved by the township.

## MANICURE SALON AGREES TO ADOPT NONDISCRIMINATION POLICY

On September 30, 2010, Lee Nails, a manicure salon in Lake Wales, Florida, entered into a settlement agreement with the Department resolving a complaint that the salon had refused to serve a high school student because she has cerebral palsy that affects one of her hands. The complainant, who usually went to another salon that had always accommodated her, went to Lee Nails with a group of classmates to have their nails done for their high school prom and was upset by the salon's unwillingness to serve her.

The agreement requires Lee Nails to adopt an ADA nondiscrimination policy, train all new and current employees on the policy, and pay the complainant \$2,000 in compensatory damages.

## OTHER RECENT ACTIVITIES TO ENFORCE SUPREME COURT'S OLMSTEAD DECISION

On September 10, 2010, the Department filed a motion to intervene in Jones v. Dudek (formerly Jones v. Arnold), a lawsuit pending in the federal court in Jacksonville, Florida, challenging the State of Florida's failure to provide necessary community-based services so that Medicaid-eligible individuals with spinal cord injuries can be served in community settings. This lawsuit raises issues similar to those raised in Haddad v. Arnold (see article in issue # 37.) Plaintiffs are seeking to have the case certified as a class action. The State continues to fund costly institutional care, rather than provide sufficient community-based services for people with spinal cord injuries, which

forces them to choose between forgoing needed services or being institutionalized in order to receive the services they need.

On September 14, 2010, the Department filed a Statement of Interest (a legal brief similar to a brief filed as *amicus curiae*) in Cruz v. Dudek, a lawsuit pending in the federal court in Miami, Florida, raising the same issues as Jones v. Dudek. The Department's brief urged the court to grant the plaintiffs' motion for a preliminary injunction requiring the State to provide community-based services to them while the case is pending. This case will likely be joined with the Jones lawsuit if it is certified as a class action.

On September 29, 2010, the federal court in Chicago, Illinois, gave final approval of a consent decree negotiated by the parties in Williams v. Quinn, a class action lawsuit challenging the State of Illinois' reliance on large, privately-run institutions to provide long-term care services for individuals with mental illnesses and its failure to offer services in community-based settings. The Department had filed a brief in support of the consent decree and had participated in a fairness hearing held on September 7, 2010, to give interested parties an opportunity to comment on the decree. (See previous article in issue # 37.)

On October 6, 2010, the Department filed a Statement of Interest in Knipp v. Perdue, a lawsuit pending in the federal court in Atlanta, Georgia, on behalf of individuals with mental disabilities whose Medicaid services were being terminated by the state. The Department's brief urged the court to grant the plaintiffs' motion for a preliminary injunction requiring the state to continue providing services to them while the case is pending and to deny the State's motion challenging the plaintiffs' right to sue and their claim that the state's action violates the Olmstead decision and the ADA's integration mandate.

## CHEYENNE, WYOMING, WILL MAKE ITS EVENT CENTER ACCESSIBLE

On September 29, 2010, the City of Cheyenne, Wyoming, entered into a settlement agreement with the Department resolving a complaint about multiple access problems at Taco John's Ice and Events Center. When built in the late 1990's, the center did not meet ADA requirements. The city assumed ownership of the center in 2008 as its multi-use facility for ice sports, recreational activities, concerts, trade shows, art shows, conventions, and other activities. The agreement requires numerous architectural modifications to be made throughout the facility.

## DEPARTMENT CHALLENGES LOS ANGELES' EMERGENCY PREPAREDNESS PLANS

On October 7, 2010, the Department filed a Statement of Interest in Communities Actively Living Independently and Free v. City and County of Los Angeles, a lawsuit challenging the city's failure to consider the needs of people with disabilities in its emergency preparedness plans. The Department argued that (1) the city has failed to plan and prepare to meet the needs and rights of individuals with disabilities in emergencies and disasters and has failed to integrate planning for individuals with disabilities into its general emergency planning process; (2) the city's assertion that, during emergencies and disasters, it will grant reasonable modifications upon request for individuals with disabilities is insufficient to meet the requirements of the ADA and the Rehabilitation Act; (3) the ADA's provision stating that public entities are not required to provide personal services and devices for individuals with disabilities does not apply in the context of emergencies and disasters where public entities plan to provide life-sustaining services and equipment for the general public; and (4) the city had not met its burden in asserting the defenses of undue financial and administrative burden and fundamental alteration. The Department urged the court to grant the plaintiffs' motion for summary judgment.

## ADA MEDIATION HIGHLIGHTS

The ADA Mediation Program is a Department-sponsored initiative intended to resolve ADA complaints in an efficient, voluntary manner. Mediation cases are initiated upon referral by the Department when both the complainant and the respondent agree to participate. The program uses professional mediators who are trained in the legal requirements of the ADA and has proven effective in resolving complaints at

less cost and in less time than traditional investigations or litigation. Over 78% of all complaints mediated have been resolved successfully.

In this issue, we highlight complaints against restaurants that have been successfully mediated.

- In New York, an advocacy organization complained that a restaurant would only seat an individual with cerebral palsy

at the rear of the restaurant, out of view of other patrons. The restaurant posted signage stating that all individuals with disabilities will be provided full and equal access to the restaurant, trained all staff on ADA requirements, apologized to the complainant, and paid him \$2,500.

- In Texas, an individual filed a complaint on behalf of relatives who use wheelchairs alleging that a restaurant was

(Mediation, continued)

inaccessible. The restaurant created a van-accessible parking space and installed appropriate signage, created a clearly marked path from the parking space to the restaurant entrance, constructed a ramp to the entrance, and modified the restroom and the path of travel to the restroom to provide access for people who use wheelchairs.

- In Pennsylvania, a disability rights advocacy organization complained that a restaurant's restrooms were inaccessible. The restaurant agreed to renovate the restrooms, including posting proper signage at restroom entrances, installing lever door handles on restroom entrance doors, repositioning paper towel dispensers, and insulating sink pipes.

- A disability advocacy group in Missouri alleged that a fast food restaurant did not have a van-accessible parking space and that the ramp leading to the restaurant entrance did not have handrails. The property owners created a van-accessible space with appropriate signage and added handrails to the entrance ramp.

- An individual with a mobility disability alleged that a California restaurant's accessible parking was roped off during its annual antique

car show and complained that he was treated poorly when he tried to speak to someone about the problem. The restaurant developed a policy to ensure that the accessible spaces remain available and gave the complainant a written apology and \$1000 in compensation.

- In California, an individual alleged that, because he now uses a wheelchair, he can no longer dine at one of his favorite restaurants because the bathrooms are inaccessible. The restaurant agreed to remove barriers throughout the restaurant within four months of the mediation, give the complainant a free meal for each day beyond that date if the renovations were not completed, and invite the complainant and his wife for a special dinner at the newly renovated restaurant.

- A person complained that a Wisconsin restaurant forced her to leave because she uses a seizure alert dog. The

restaurant owners reaffirmed their policy of allowing service animals, posted signs informing customers that service animals are welcome, and trained staff about service animals and the ADA. The restaurant also made presentations to other local restaurant owners about complying with the ADA and apologized to the complainant.

- In Alabama, the children of a person with a disability that affects manual dexterity complained that a chain restaurant refused to provide their parent with a safety cup that the restaurant provides for children. The company reaffirmed its commitment to modify its policies for people with disabilities, provided ADA training to all employees in the region, required that two of the restaurant's managers (one of whom was demoted due to this incident) write an apology letter to the complainants, and provided a free meal for the complainants.

## RECENT OUTREACH ACTIVITIES

- On August 24, staff provided training on the ADA and the Rehabilitation Act in the emergency management context for approximately 50 state, local, federal, for-profit, and not-for-profit emergency managers in Region VIII

of the Federal Emergency Management Agency (FEMA) in Denver, Colorado.

- From August 27-30, staff answered questions and disseminated ADA technical assistance materials at the

(Outreach, continued)

Abilities Expo in Houston, Texas. This Expo attracted approximately 3,000 people with disabilities, family members, service providers, and advocates.

- On September 2, staff participated in a webinar hosted by the U.S. Access Board to provide an overview of the new ADA regulations and the 2010 ADA Standards for Accessible Design.

- From September 7-12, staff answered questions and disseminated technical assistance materials on the ADA at the 64th Annual Navajo Nation Fair and Rodeo in Window Rock, Arizona. Approximately 15,000 people attended the fair daily.

- From September 8-10, staff gave four presentations on the 2010 ADA Standards and recent ADA cases in Honolulu, Hawaii, for the 2010 Disability Access Conference and two groups affiliated with the conference.

- On September 9, staff provided training on the ADA and the Rehabilitation Act in the emergency management context for approximately 50 state, local, federal, for-profit, and not-for-profit emergency managers in FEMA Region III in Philadelphia, Pennsylvania.

- On September 11, staff answered questions and disseminated technical assistance materials on the ADA at the National Council of Negro Women's 25th Anniversary Black Family Reunion Celebration, One Day Mega Festival, in Washington, DC.

- On September 13, staff gave a presentation on the ADA at the American Association of State Highway and Transportation Officials' 2010 National Civil Rights Symposium, hosted by the Virginia Department of Transportation in Norfolk, Virginia. Attendees included federal, state, and local transportation civil rights practitioners.

- On September 13, staff provided training on the ADA and the Rehabilitation Act in the emergency management context for approximately 50 state, local, federal, for-profit, and not-for-profit emergency managers in FEMA Region V in Chicago, Illinois.

- On September 14, staff provided training on the ADA and the Rehabilitation Act in the emergency management context for approximately 50 state, local, federal, for-profit, and not-for-profit emergency managers in FEMA Region IX in Oakland, California.

- On September 17, staff participated in a panel discussion sponsored by the DBTAC Mid-Atlantic ADA Center in Baltimore, Maryland. The discussion focused on recent ADA enforcement activities.

- On September 22, staff gave a brief overview of the new ADA title II regulations for the Department of Housing and Urban Development's (HUD) quarterly Disability Task Force meeting in Washington, DC. Attendees included HUD staff and representatives of disability advocacy organizations.

- On September 22, staff gave a presentation on federal disability rights laws as they apply in the emergency management context at a three-day conference hosted by FEMA in Baltimore, Maryland, to bring disability and emergency management leaders from across the country together to discuss and increase understanding of issues and practices for including people with disabilities in emergency management practices.

- On September 28, staff gave a presentation on the ADA and the Rehabilitation Act as they apply in the emergency management context for the Department of Health and Human Services' representatives to

(Outreach, continued)

the Interagency Coordinating Council on Emergency Preparedness and Individuals with Disabilities.

- On September 29, staff gave a presentation on ADA enforcement in the context of emergency management at the Midwest Partners in Preparedness' Emergency Management and Disabilities Community Conference in St. Louis, Missouri. Attendees included federal, state, and local government officials, emergency managers, planners, coordinators, first responders, disability and community service providers, advocates, and others concerned with emergency management practices.

- From September 30 - October 2, staff answered questions and disseminated ADA technical assistance materials at the Life @ 50+/ AARP National Event and Expo in Orlando, Florida. Approximately 30,000 people attended this conference.

- On October 12, staff gave a presentation at the National Park Service in Washington, DC, for the Park Service's

Service-wide Accessibility Coordinating Committee. The presentation explained the "service animal" and "other power-driven mobility devices" provisions of the new ADA regulations.

- On October 12 and 13, staff gave two presentations on the ADA as it applies in the context of correctional institutions at the National Commission on Correctional Health Care's National Conference in Las Vegas, Nevada. Approximately 200 state officials, wardens, and medical staff that serve correctional facilities attended this conference.

- On October 13, staff gave a presentation on Section 508 of the Rehabilitation Act and website accessibility at George Mason University's "Technology for Access, Employment and Learning" Showcase in Fairfax, Virginia.

- From October 18 – 21, staff gave several presentations on the new ADA title II regulations and the 2010 Standards for Accessible Design at the National Association of ADA Coordinators' fall conference in San Diego, California.

- From October 15-24, staff answered questions and disseminated ADA technical assistance materials at the North Carolina State Fair in Raleigh, North Carolina. More than 1,000,000 people attended the fair.

- From October 23 – 27, staff answered questions and disseminated ADA technical assistance materials at the International Association of Chiefs of Police 117th Annual Conference in Orlando, Florida.

- On October 29, staff conducted a workshop on the new ADA title II regulations and the 2010 Standards for Accessible Design at the California Council of the Blind's 2010 Fall Convention in San Diego, California.

- From October 30– November 1, staff answered questions and disseminated ADA technical assistance materials at the Association of Programs for Rural Independent Living in Kansas City, Missouri.