



Enforcing the ADA:

A Status Report from the Department of Justice

July - September 2010

This Status Report covers the ADA activities of the Department of Justice during the third quarter (July - September) of 2010. This report, previous status reports, and a wide range of other ADA information, including the consent decrees and formal settlement agreements mentioned in this report, are available through the Department's ADA Home Page at www.ada.gov (see page 18).

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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 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. New Lawsuits

Jones v. Dudek -- On September 10, 2010, the Department filed a motion to intervene in this lawsuit pending in the U.S. District Court for the Middle District of Florida, challenging the State of Florida's failure to provide necessary community-based services so that Medicaid-eligible individuals with spinal cord injuries are served in community settings. The plaintiffs sought class certification. The Department intervened to address the legal issues involved in the case. (See other Olmstead cases in the Amicus Briefs section on page 5.)

Defending the constitutionality of the ADA -- When a party in a lawsuit challenges any provision of a Federal law as unconstitutional, the Department is permitted to intervene to defend the law's constitutionality. During this quarter, the Department intervened in three cases to defend the constitutionality of private title II lawsuits against State claims of immunity under the 11th Amendment.

Miller v. Donald (Southern District of Georgia) -- a lawsuit by an inmate at a Georgia correctional institution claiming that the state retaliated against him for pursuing claims that he has been incarcerated at inaccessible facilities and been denied the opportunity to participate in programs at two facilities.

Goodwin v. Donald (Southern District of Georgia) -- a lawsuit similar to Miller v. Donald.

McCullum v. Owensboro Community and Technical College (Western District of Kentucky) -- a lawsuit filed by a former employee of a community college alleging that, after she advocated for accommodations for a student who is blind, the college retaliated against her to the point that she was forced to resign.

2. Decisions

Title II

Armstrong v. Schwarzenegger -- On September 7, 2010, the U.S. Court of Appeals for the Ninth Circuit issued its opinion in this case, filed more than fifteen years ago by state prison inmates with disabilities alleging that California officials with responsibility over the corrections system and parole proceedings were violating the inmates' rights under the ADA. The plaintiffs

recently added a claim to challenge being temporarily housed in county jails that are not accessible, based on the section of the Department's ADA title II regulation stating that a public entity may not avoid its ADA obligations by contracting its services to a third party. The District Court ruled for the inmates on this claim and the State appealed. The Ninth Circuit affirmed the District Court's holding and remanded the case for further proceedings on an appropriate remedy. The Department had filed an amicus brief supporting the District Court's ruling.

During this quarter, two cases in which the Department intervened to defend the constitutionality of private title II lawsuits against State claims of immunity under the 11th Amendment were decided.

Brockman v. Texas Department of Criminal Justice (Fifth Circuit) -- This lawsuit involves a mother's claim that the state was grossly negligent in dealing with her son's mental illness while he was incarcerated, thereby leading to his suicide, and that the state's negligence violated title II of the ADA. The Court agreed with the Department's brief as intervenor that the District Court had improperly dismissed the case on 11th Amendment immunity grounds. It vacated that decision and returned the case to the District Court.

Disability Rights New Jersey, Inc. v. Velez (District of New Jersey) -- This lawsuit alleges that New Jersey has failed to implement its plan for transitioning individuals with developmental disabilities from institutional settings to community-based settings. Consistent with the Department's brief as intervenor, the Court denied the State's motion for summary judgment on 11th Amendment immunity grounds and allowed the claims to proceed. (See other Olmstead cases in the Amicus Briefs section on page 5.)

3. Consent Decrees

Title I

U.S. v. County of Ventura -- On July 15, 2010, the U.S. District Court for the Central District of California entered a consent decree, jointly submitted by the parties, resolving this 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. 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; supervisory personnel in the human services and human resources department will receive training on the

ADA; and the County will pay \$45,000 in compensatory damages to the charging party.

Title II

Williams v. Quinn -- On September 29, 2010, the U.S. District Court for the Northern District of Illinois gave final approval of a consent decree negotiated by the parties in this 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 filed a brief in support of the consent decree and participated in a fairness hearing held on September 7, 2010, to give interested parties an opportunity to comment on the decree. (See other Olmstead cases in the Amicus Briefs section on page 5.)

Title III

United States v. QuikTrip Corporation --

On July 19, 2010, the U.S. District Court for the District of Nebraska entered a consent decree resolving a simultaneously filed lawsuit against QuikTrip Corporation, a company that owns and operates more than 550 gas stations, convenience stores, travel centers, and truck stops in the Midwest, South, and Southwestern United States. Under the terms of the decree, QuikTrip will remove barriers over a three year period at its current stores to achieve compliance with ADA accessibility requirements; ensure that at least two gas dispensers at current stores and all gas dispensers at future stores are accessible to individuals with disabilities, including the dispenser controls, self-service payment mechanisms, and call buttons for customers who need assistance; adopt, implement, and train store employees on policies for providing refueling and other types of assistance for people with disabilities, serving people who use service animals, and maintaining accessible features, such as accessible parking and routes; upgrade and maintain call buttons for customers with disabilities requesting assistance; and implement and maintain an ADA comment line and a complaint resolution process to resolve ADA-related complaints received from customers. QuikTrip will also design and construct future stores to comply with ADA accessibility requirements and will make its website accessible. In addition, QuikTrip will create a \$1.5 million compensatory damages fund for individuals who were victims of discrimination and will pay a civil penalty in the amount of \$55,000.

4. Amicus Briefs/ Statements of Interest

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

Title I

Johnson v. Board of Trustees of Boundary County School District No. 101, et al -- On July 28, 2010, the Department, along with the Equal Employment Opportunity Commission, filed an amicus brief in the U.S. Court of Appeals for the Ninth Circuit on behalf of the plaintiff in this case, a school teacher with bipolar disorder who was fired from her teaching position after her request for a reasonable accommodation was refused. The government's brief argued that the district court was wrong to dismiss the lawsuit at the summary judgment stage.

Title II

Frame v. City of Arlington -- On September 24, 2010, the Department filed an amicus brief in the U.S. Court of Appeals for the Fifth Circuit supporting the plaintiffs' petition for rehearing by the full court in this lawsuit brought by people who use wheelchairs against the City of Arlington, Texas. The plaintiffs allege that the City has failed to bring some of its parking areas, curbs, and sidewalks into compliance with the ADA. The Department argued that the plaintiffs' petition should be granted because the three-judge circuit panel that reviewed the case was wrong in ruling that parking areas, curbs, and sidewalks are covered by the ADA only if they are used to access a governmental service, program, or activity.

Department Files Briefs to Enforce Olmstead Decision -- The Department has launched an aggressive effort to enforce the Supreme Court decision in Olmstead v. L.C., a 1999 ruling recognizing that the unjustified isolation of individuals in institutional settings is a form of discrimination under the ADA. The Olmstead decision has often been called the Brown v. Board of Education of the disability rights movement. In June 2009, President Obama directed Federal Agencies to redouble enforcement efforts. During this quarter, the Department filed briefs in cases in Illinois, California, Florida, and Georgia.

Hampe v. Hamos -- On July 16, 2010, the Department filed a Statement of Interest in this lawsuit pending in the U.S. District Court for the Northern District of Illinois on behalf of a group of young adults with severe disabilities who, because they have reached age 21, no longer qualify for a Medicaid program that provides home and community-based services and now face the risk of being institutionalized in order to obtain the services they need. The State of Illinois has agreed to maintain benefits for the named plaintiffs pending a final decision in the case but opposes certifying them as class representatives of all young adults in the same situation. The Department's brief argued that certification of the proposed class is proper because class actions are an effective means of achieving the systemic reforms necessary to provide services for people with disabilities in community settings when appropriate for their needs.

Napper v. County of Sacramento -- On July 19, 2010, the Department filed a Statement of Interest in this lawsuit pending in the U.S. District Court for the Eastern District of California. This lawsuit challenges the county's decision to close most of its existing outpatient mental health clinics without having a viable plan for providing the services elsewhere, causing people with mental illnesses to face the prospect of foregoing the services they need or being institutionalized in order to obtain needed services. The Department's brief urged the court to grant the plaintiffs' motion for a preliminary injunction prohibiting the county from closing the clinics while the lawsuit is pending. The court agreed and granted the preliminary injunction at a hearing on July 21, 2010.

Cruz v. Dudek -- On September 14, 2010, the Department filed a Statement of Interest in this lawsuit pending in the U.S. District Court for the Southern District of Florida raising the same issues as Jones v. Dudek. (See New Lawsuits on page 2.) 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.

Knipp v. Perdue -- On October 6, 2010, the Department filed a Statement of Interest in this lawsuit pending in the U.S. District Court for the Northern District of Georgia, brought on behalf of individuals with intellectual disabilities or mental illnesses 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.

Title III

Equal Rights Center, et al. v. Abercrombie & Fitch Co., et al. -- On July 6, 2010, the Department filed a Statement of Interest in this lawsuit pending in the U.S. District Court for the District of Maryland, alleging that Abercrombie & Fitch and Hollister clothing stores nationwide have inaccessible main entrances, inaccessible service counters, and inaccessible interior paths of travel. The Department's brief argued that the defendants' motion to dismiss the lawsuit should be denied because the plaintiffs meet the legal tests for establishing their right to pursue their claims against the defendants.

B. Formal Settlement Agreements

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

Title II

Milton, Washington -- On July 14, 2010, the City of Milton, Washington, entered into a settlement agreement with the Department resolving a complaint that the City's parks and annual parade and festival are not accessible for individuals with mobility disabilities. According to census data, one in every four residents of Milton is an individual with a disability. Under the terms of the agreement, the city will create accessible parking, accessible routes from the parking lot to amenities, and accessible tennis courts, basketball courts, baseball fields, picnic tables, and drinking fountains in its two parks; provide accessible playground equipment in the larger park; replace inaccessible toilet facilities in the larger park with accessible

toilet facilities when funding is appropriated and, in the meantime, provide accessible portable toilets; and modify city policies and practices for the annual summer parade and festival.

Oconee County Courthouse -- 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 the ADA's new construction requirements. The agreement requires the county to install 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.

Tulsa County Expo Square -- 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 throughout the facility, and provide accessible vans for transporting customers from off-site parking lots.

McNeese State University -- 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 a student body of approximately 8,900 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 the ADA Standards for Accessible Design; developing and implementing a campus-wide physical access plan with specific remedial actions and timelines for making additional 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 to address the needs of individuals with disabilities; and designating an ADA coordinator to oversee these compliance efforts.

Taco John's Ice and Events Center -- 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 comply with the ADA Standards. 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 Signs Additional Project Civic Access Agreements -- The Department signed four new agreements with local government entities under Project Civic Access (PCA), the Department's wide ranging initiative to work cooperatively with local governments to ensure that people with disabilities have an equal opportunity to

participate in civic life, a fundamental part of American society. To date, 185 agreements have been reached with communities small and large throughout the United States. PCA reviews have been conducted in all 50 States, as well as Puerto Rico and the District of Columbia, helping to improve the lives and broaden opportunities for more than 3 million Americans with disabilities. The new agreements are with:

- Pearl River County, Mississippi
- Town of Pomfret, Connecticut
- Wilson County, North Carolina
- City of Muskegon, Michigan
- The City of Newport, Rhode Island
- Fort Myers, Florida

Project Civic Access was initiated to ensure that people with disabilities have an equal opportunity to participate in civic life. To carry out this project, Department investigators, attorneys, and architects survey State and local government facilities and programs across the country to identify modifications needed to comply with ADA requirements. Depending on the circumstances in each community, the agreements address specific areas where access can be improved, such as town halls and other government offices, places where public meetings are held, police and fire stations, community centers, local parks and recreational facilities, emergency 9-1-1 services, government websites, and polling places.

Title III

Sheraton Grand Sacramento -- On July 14, 2010, the owner and operator of the Sheraton Grand Sacramento Hotel in Sacramento,

California, entered into a settlement agreement resolving a complaint by a hotel guest with a disability who was required to pay a pet deposit and was assigned to the pet floor because she was accompanied by her service animal. In the settlement, the hotel agreed to adopt an ADA-compliant service animal policy, write to 33 other Sheraton hotels around the country encouraging them to ensure equal access for guests with disabilities who use service animals, and pay \$500 in compensatory damages to the complainant.

Blockbuster -- On July 19, 2010, Blockbuster, Inc., entered into a settlement agreement with the Department resolving a complaint filed by an individual with a disability who was denied access on multiple occasions at different Blockbuster stores when she attempted to shop while accompanied by a service animal, even after contacting Blockbuster, Inc., and receiving assurances that she would be allowed to shop at Blockbuster stores with her service animal. The agreement requires Blockbuster to adopt and implement a comprehensive service animal policy, provide training to employees at more than 3,000 retail stores throughout the United States about the policy, post its service animal policy and signs welcoming service animals in each of its stores, and establish a toll-free number and a grievance procedure for resolving ADA complaints from customers. Blockbuster will also pay \$12,000 in compensatory damages to the complainant and a \$10,000 civil penalty to the United States.

Mount Vernon -- On July 21, 2010, the Mount Vernon Ladies' Association of the Union, which owns and maintains Mount Vernon Estate and Gardens, the home of President

George Washington, entered into a settlement agreement with the Department to continue correcting ADA deficiencies identified in a compliance review of the historic site. The estate, located in Alexandria, Virginia, was designated a National Historic Landmark in 1960 and is listed on the National Register of Historic Places. Under the agreement, Mount Vernon will improve accessible routes connecting the historic residence to the modern visitors' center, museum, and restaurants and shops that serve visitors to the site; increase accessibility on the ground floor of the mansion and provide photographs and printed commentary describing the rooms on the inaccessible floors; train tour guides to describe sites and exhibits for people who are blind or have low vision and allow them to touch selected objects and reproductions; provide printed materials and information in alternate formats for people with vision disabilities; offer tours with sign language or oral interpreters upon advance request for people who are deaf or hard of hearing; provide closed captioning for films shown in the museum; and modify interactive displays for easier use by people with dexterity disabilities.

Rainbow River -- On August 3, 2010, the Rainbow River Child Development Center of Hawthorne, California, entered into a settlement agreement with the Department resolving a complaint filed by parents of a five-year-old boy with Type I diabetes. The complaint alleged that Rainbow River refused to allow staff to supervise the child's use of an insulin pump, insisting instead that one of his parents come to the center at lunch and snack times to supervise him, and refused to allow him to go on field trips with the other children in his class. The center's rationale for these

policies was that state regulations prohibit the center from providing medical care and supervision of its enrolled children without appropriate authorization from the state licensing board. Authorizations are granted on a case-by-case basis depending on the needs of an individual child. Under the terms of the agreement, Rainbow River will adopt a diabetes management policy that includes supervising and monitoring children with diabetes while they are consuming food or using blood glucose monitoring tests, insulin pumps, syringes, or other diabetes related medical equipment, will train staff on the policy, and, at the parents' request, will apply for authorization from the state when a child needs care that requires state authorization.

Southern New Hampshire Medical Center and St. Joseph Hospital -- On July 15, 2010, and September 10, 2010, respectively, the Southern New Hampshire Medical Center and St. Joseph Hospital and SJ Physician Services, Inc., both in Nashua, New Hampshire, 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 family members were treated at these hospitals. Both 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 and hospital-affiliated physicians. The St. Joseph Hospital agreement also imposes obligations on an extensive network of medical practices such as

doctors' offices and testing facilities that are affiliated with, but separate from, the hospital.

American Hospitality Inn -- On September 10, 2010, the American Hospitality Inn in Portland, Oregon, entered into a settlement agreement with the Department resolving a complaint from a man who is blind who, when registering for a room at the hotel, produced a state issued identification card and a Veteran's Administration identification card but was turned away because he did not have a driver's license for identification. Under the terms of the settlement, the hotel will adopt a formal policy on acceptable forms of identification as well as a service animal policy. The hotel will also pay \$1000 in compensatory damages to the complainant.

Tornado Bus Company -- 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 its fleet of 53 buses, while

ADA regulations require that at least 50 percent of a carrier's vehicles be accessible. The investigation also found that the company had purchased new inaccessible buses, failed to train employees on serving passengers with 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.

Lee Nails -- 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. Instead of going to her regular salon, the complainant went to Lee Nails with a group of classmates to have their nails done for their high school prom. 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.

C. Other Settlements

The Department resolves numerous cases without litigation or a formal settlement agreement. In some instances, the public accommodation, 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

Two residents of a Kansas hospital who have mobility disabilities complained that several buildings housing treatment programs were not accessible. The hospital agreed to remove barriers in bathrooms and shower stalls throughout the facility, widen a food service line in the cafeteria, and remove barriers at several entrances.

An inmate who is hard of hearing alleged that a New York State prison refused to provide him with hearing aids. The prison tested the inmate's hearing and fitted him with a pair of hearing aids.

An elderly woman who has a mobility disability was unable to visit her son, an inmate of a Washington state correctional facility, because of the difficulty of making the long trip to the prison. With the inmate's concurrence, he was transferred to another prison closer to the mother's home, making it easier for her to visit.

An individual who is hard of hearing alleged that he was unable to participate in a proceeding in a Virginia county court because the court's assistive listening device was inoperable. The court agreed to adopt and implement a policy of periodically testing the assistive listening system to ensure it is operable and pay the complainant \$500.

An individual with a mobility disability who uses a motorized scooter complained that an Ohio county courthouse did not have an accessible public entrance or an accessible toilet room. The county agreed to install a ramp at one of the courthouse's public entrances and to remove barriers in a public toilet room near the entrance.

Title III

An individual who is deaf complained that a Texas county corrections department did not provide an interpreter for a required meeting with his probation officer or for classes he was required to attend. The department agreed to adopt a policy and procedure for providing auxiliary aids and services, including interpreters, for individuals who are deaf or hard of hearing and to train staff regarding the policy.

An inmate who uses a wheelchair because of several medical conditions complained that the housing unit of a Tennessee county jail to which he was assigned was not accessible. The facility moved him to another housing unit with accessible features and assigned him to a low bunk. Additionally, the sheriff's office that operates the jail agreed to designate an ADA coordinator.

An individual who is deaf complained that a Florida county government's television programming was inaccessible to him. The county agreed to caption all televised broadcasts including meetings, hearings, activities, and emergency announcements and to post on its website information about the availability of captioning.

An inmate with paraplegia who uses a wheelchair complained that a Missouri state prison was inaccessible. The prison installed accessible toilets and lavatory mirrors in the education, gym, and factory buildings, lever-style doorknobs at entrance doors throughout the prison campus, and "hi-lo" drinking fountains in the gym and religious activity/barbershop area.

An individual who uses crutches for mobility alleged that a Virginia hotel and conference center was not accessible. The facility agreed to install accessible parking spaces in its parking lots, provide accessible routes throughout the facility, create two accessible guest rooms, and modify public toilet rooms to be accessible. The facility also agreed to pay the complainant \$1,000.

An individual who is hard of hearing complained that the television in his room at a chain motel in Texas did not have closed captioning. The television was actually equipped with captioning, but there was no information about how to access it. The motel agreed to provide in-room instructions for using closed captioning, disseminate these instructions to employees, and pay the complainant \$1,500.

An individual who uses a wheelchair complained that a Colorado gas station and convenience store did not have accessible parking spaces and an accessible route through the store. The store installed accessible parking and agreed to keep store aisles free of obstructions. It also agreed to post a sign instructing customers with disabilities to honk if they need refueling assistance.

An individual with congenital heart failure complained that a New Jersey medical clinic refused to allow her into the clinic because she uses a service animal. The clinic adopted a service animal policy, posted signs welcoming service animals, and trained its employees about the policy.

An individual who uses a wheelchair complained that it was difficult to maneuver through the entrance doors at several branches of a Michigan bank. The bank implemented a policy directing staff to open the doors for customers with disabilities when needed, posted a notice about the policy, and trained its employees on how to assist customers with disabilities.

An individual with a mobility disability complained that an Oregon resort and conference center was not accessible. The facility agreed to install accessible parking spaces in its parking lots, create additional accessible guest rooms, lower service counters in the lobby, golf pro shop, and grill, and provide accessible routes throughout the facility.

An individual with a disability who uses a wheelchair complained that an Indiana hotel refused her service because she uses a service animal. The hotel adopted a service animal policy, posted the policy in a conspicuous location, and trained staff on the policy.

An individual who is deaf complained that a Texas medical practice refused to provide a sign language interpreter for her health care appointment. The practice agreed to adopt a policy to provide auxiliary aids and services upon request, develop and implement a training program for office staff about the policy, post a notice informing clients about the policy, and establish and maintain contracts with sign language interpreter services to ensure interpreters are available when needed.

An individual who is deaf and uses a service animal complained that a Tennessee hotel asked him to leave because of the hotel's no pet policy. The hotel agreed to adopt a service animal policy, post information for guests about the policy, train employees about the policy, and provide information to guests about filing an ADA complaint. The hotel also agreed to pay the complainant \$750.

An individual who is blind complained that a Texas convenience store refused to serve him because he uses a service animal. The store agreed to adopt a service animal policy, post signs informing customers about the policy, train employees about the policy, and pay the complainant \$1,500.

An individual with a mobility disability complained that a Pennsylvania restaurant's entrance and restroom were not accessible. The restaurant agreed to install a ramp at the entrance and make the restroom accessible.

An individual with a mobility disability who uses a service animal complained that a chain motel in Arizona refused to serve him. The motel agreed to adopt a service animal policy, post signs informing customers about the policy, and train employees about the policy.

An individual with a mobility disability complained that the accessible dressing rooms at two separate locations of a Pennsylvania clothing store were unavailable because employees routinely sorted and stored merchandise in the room. The store adopted a policy prohibiting employees from using dressing rooms to sort merchandise. The store

also agreed to provide an accessible route to, and clear floor space in, the dressing rooms, install an accessible lock on the door of one of the dressing rooms, and pay the complainant \$200.

An individual with a disability alleged that a New Jersey medical facility refused to serve him because he uses a service animal. The facility agreed to adopt a service animal policy, train all current and new employees on the policy, post the policy in all of its locations where patients are served, and pay the complainant \$1,000.

An individual with a mobility disability who uses a wheelchair complained that the entrance to an office complex of a Connecticut law firm's offices was inaccessible. The law firm agreed to adopt a policy of meeting with clients who use wheelchairs at an alternative location and informing potential clients during initial telephone interviews and new clients by letter about the policy.

An individual who is blind and uses a service animal complained that the manager of a Dallas retail store asked him to leave because of concerns that his service animal would damage store merchandise. The store agreed to adopt a service animal policy, post signs informing customers about the policy, train employees about the policy, and pay the complainant \$1,500.

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

District of Nebraska -- An individual who uses a wheelchair complained that he was told by a shuttle service's dispatcher that the company did not have any accessible vehicles in its fleet. Although the shuttle operator had in place a contract with another company to provide accessible transportation, it did not have procedures for ensuring that dispatchers were aware of the contract or how to arrange for accessible service when requested. The shuttle operator adopted new procedures, posted those procedures prominently in its dispatch area, and trained all new employees on the procedures.

II. Regulatory Activities

New ADA Regulations -- On July 26, 2010, President Obama announced that the Department would be issuing new regulations for Title II and Title III of the ADA. The documents clarify and refine many issues raised over the past 20 years and address new issues that have arisen since the original regulations were published in 1991. The new regulations, which were published in the Federal Register on September 15, 2010, also adopt new ADA Standards for Accessible Design, which were updated to be more consistent with model building codes and industry standards. In addition, the Standards include new requirements for features in judicial facilities, detention and correctional facilities, publicly built residential facilities, and recreational facilities such as swimming pools and playgrounds that were not addressed in the 1991 Standards. The new rules go into effect on March 15, 2011, except for the provisions on architectural accessibility and hotel reservation policies, which will go into effect twelve months later, on March 15, 2012. The new regulations and related documents can be viewed on the ADA Website at www.ada.gov/regs2010/ADAregs2010.htm or ordered from the ADA Information Line.

Public Comments on Four New ADA Topics -- On July 26, 2010, the Department published four notices seeking public comment on the possibility of drafting additional ADA regulations to address accessible websites, captioning and video description of movies shown in theaters, accessible features for Next Generation 9-1-1 (when 9-1-1 centers acquire new equipment that enables them to receive voice, text, and video calls over the Internet), and accessible equipment and furniture. The proposals are in the form of Advance Notices of Proposed Rulemaking, or ANPRMs, which describe these ADA issues and ask for information and comments on cost and technical issues that the Department will take into consideration in deciding whether to draft regulations on these topics. Comments can be submitted in writing to the Department or submitted electronically using the links provided at www.ada.gov/anprm2010.htm. The deadline for commenting on the proposals is January 26, 2011.

III. 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. Many people with disabilities and disability rights organizations request 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.

- In Texas, an individual who is deaf alleged that a psychiatric clinic refused to provide a sign language interpreter for a treatment session, insisting instead that she ask a friend or relative to interpret for her. The clinic eventually agreed to provide an interpreter for her treatment sessions, but refused to continue treating her after she missed an appointment. The clinic adopted a policy to provide qualified interpreters, agreed to note the need for an interpreter in a patient's chart, and agreed to apply its policy on missed appointments uniformly to all clinic patients.
- In Florida, a woman with multiple sclerosis alleged that a restaurant refused to serve her and her husband inside the restaurant because she uses a service animal for balance. The owner offered to serve them in an alley adjacent to the restaurant and, when they refused, insulted them, asked them to leave, and ultimately escorted them out of the building. The restaurant adopted a policy to allow patrons who use service animals to enter and be served in the restaurant, informed employees about the policy, and posted signage indicating that service animals are welcome in the restaurant.
- In Pennsylvania, an individual who uses a wheelchair alleged that a cable provider refused to serve her at the designated accessible counter because the manager was using the computer there. The company agreed to serve customers at the accessible counter when needed and conducted disability-related sensitivity training for staff.
- In New York, the mother of an adult child with a developmental disability alleged that a retail store refused to allow her into the dressing room to assist her daughter. The store changed its policy, agreed to allow companions to accompany customers needing assistance into dressing rooms, trained its staff on the ADA, and gave the complainant a \$100 gift card.
- An individual with low vision who uses a service animal complained that a California restaurant refused to serve him. The restaurant changed its policy and agreed to serve customers who use service animals, developed employee training on service animals and the ADA, made a \$500 donation to a service animal organization, and issued an apology letter to the complainant's family who was with him when the incident occurred.

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- In Kentucky, a person who is a caregiver for people with disabilities complained that a movie theater's entrances and restrooms were inaccessible. The theater posted directional signage to the existing accessible restrooms and installed signs identifying the accessible stalls. In addition, the theater installed automatic faucets in restroom sinks and automatic doors at the main entrance.
 - A person who is hard of hearing complained that a New Mexico county refused to provide sign language interpreters for public meetings. The county adopted a policy for providing effective communication, including the provision of qualified sign language interpreters, and agreed to include information about the new policy on all notices announcing public meetings.
 - A person who is deaf complained that a collection agency in the state of Washington refused to accept his calls through the video relay system. The agency reaffirmed its policy to accept video relay calls, trained its staff on the ADA and how to use the relay system, and apologized to the complainant.
 - A person who uses a wheelchair alleged that a Washington, D.C., bookstore was inaccessible. The bookstore instructed its distributors to drop off periodicals so they do not obstruct the accessible entrance, rearranged display racks, tables, and chairs to maintain a clear path of travel from the accessible entrance to the elevator, and made the elevator available for customers' use. In addition, the store trained its staff on the ADA and how to effectively serve customers with disabilities.
 - In New Jersey, a woman who uses a wheelchair complained that the manager of a chain restaurant harassed her and asked her to leave because she uses a service animal for mobility assistance. The national chain changed its policy and agreed to serve customers who use service animals, circulated an article on the updated policy through an internal corporate publication for employees, and trained all employees on the ADA. The chain also posted signs welcoming service animals at each restaurant's entrance. In addition, the manager who asked the complainant to leave sent her an apology letter, and the chain donated \$1,000 in the complainant's name to a service animal organization and gave her two \$50 gift certificates.

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. Activities include providing direct technical assistance and guidance to the public through the ADA Website and ADA Information Line; developing and disseminating technical assistance materials to the public; and undertaking outreach initiatives.

ADA Website

The Department's ADA Website (www.ada.gov) provides direct access to the Department's publications, briefs, and settlement agreements, and other information about its enforcement, mediation, technical assistance, and certification programs, including proposed changes in ADA regulations and requirements, links to ADA press releases, and links to other Federal agencies' websites that contain ADA information.

In addition, the website provides access to --

- ◆ electronic versions of the ADA Standards for Accessible Design, including illustrations and hyperlinked cross-references;
- ◆ the ADA Business Connection, with links to materials of particular interest to businesses;
- ◆ Reaching Out to Customers With Disabilities, a web-based, interactive online course that explains the requirements of title III;
- ◆ the ADA Video Gallery, with links to accessible streaming videos about the ADA; and
- ◆ online ordering forms for the ADA Technical Assistance CD-ROM and selected videos.

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, is available 24 hours a day, seven days a week. ADA specialists, who can assist callers in understanding how the ADA applies to their situation, 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). Foreign language service is also available. To get answers to technical questions, obtain general ADA information, order free ADA materials, or ask about filing a complaint, please call:

800-514-0301 (voice)

800-514-0383 (TTY)

ADA Publications and Documents

Copies of the Department's ADA regulations and technical assistance publications can be obtained by calling the ADA Information Line, visiting the ADA Website, 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 people with disabilities. Some publications are available in foreign languages.

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

Spanish language documents can be accessed through the ADA Website (www.ada.gov/publicat_spanish.htm).

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/PA Branch, NALC Room 311
Washington, D.C. 20530
Fax: 202-514-6195

Currently, the FOIA/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 FOIA/PA Branch also provides internet access to ADA materials at www.usdoj.gov/crt/foia/crt.htm. Links to search or visit this website are provided from the ADA Website.

V. Other Sources of ADA Information

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

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

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

www.eeoc.gov

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

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

www.fcc.gov/cgb/dro

U.S. Department of Transportation, Federal Transit Administration provides information to the public on the transportation provisions of title II of the ADA.

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

www.fta.dot.gov/ada

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

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

www.access-board.gov

The **DBTAC: ADA 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)

www.projectaction.org

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

Information on workplace accommodation
800-526-7234 (voice)
877-781-9403 (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.