



DBTAC: SOUTHEAST ADA CENTER  
A Project of the Burton Blatt Institute at Syracuse University

## Southeast Regional ADA News

August 2009 - May 2010

### *Table of Contents*

|                                  |   |
|----------------------------------|---|
| Effective Communication .....    | 2 |
| Facility Accessibility .....     | 3 |
| Service Animals .....            | 4 |
| Employment .....                 | 5 |
| State and Local Government ..... | 5 |

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1419 Mayson Street • Atlanta, GA 30324

(404) 541-9001 • (800) 949-4232 (v/tty) • (404) 541-9002 (Fax)

[sedbtacproject@law.syr.edu](mailto:sedbtacproject@law.syr.edu) • [www.sedbtac.org](http://www.sedbtac.org)

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## *Effective Communication*

**Florida: Justice Department Reaches Americans with Disabilities Act Settlement with Florida Income Tax Preparation Service--H&R Block Franchisee Agrees to Provide Sign Language Interpreters for Deaf Customers. (DOJ Complaint # 202-43-118)**

The Justice Department today announced a comprehensive settlement agreement under the Americans with Disabilities Act (ADA) with HRB Businesses of Florida Inc., to ensure effective communication with individuals who are deaf or hard of hearing in the provision of tax preparation services and courses. HRB is an H&R Block Inc. franchisee with multiple offices. The settlement agreement, which resolves a complaint filed under title III of the ADA by an individual who is deaf, requires, among other things, that HRB furnish appropriate auxiliary aids and services, including sign language interpreter services, when necessary to afford a person who is deaf or hard of hearing equal access to the goods, services and accommodations made available to others. <http://www.ada.gov/hrb-business.htm>

**Nashville Neurologist to Provide Effective Communication --** On September 14, 2009, a neurologist in Nashville, Tennessee, entered into a settlement agreement with the U.S. Attorney's Office for the Middle District of Tennessee resolving a complaint alleging that he and his neurology practice had refused to pay a qualified sign language interpreter who was provided on three occasions by the League for the Deaf and Hard of Hearing and E.A.R. Foundation for a patient who is deaf. Under the agreement, William Strickland, M.D., and William Garrison Strickland, M.D., Ph.D., P.C., will adopt and implement policies regarding effective communication with individuals with disabilities, including paying for interpreters when needed, posting conspicuous notice of the new policies, and training all employees about their responsibilities under the ADA. The practice will also pay the outstanding interpreter bill plus \$500 in damages to the League and a \$500 civil penalty to the United States. <http://www.ada.gov/aprsep09.htm>

An inmate who is blind alleged that a Tennessee state prison denied her auxiliary aids and services necessary to access the prison's library and recreational programs, and reasonable modifications necessary for her to safely move about the prison and access the prison's food service, commissary, and laundry programs. The prison provided her with a white cane to improve her mobility and safety; a cassette player, books on tape, and Braille reading materials to ensure access to library services; a radio with headphones to ensure access to recreational activities, and assignment to a single cell and an inmate aide to provide assistance with cell maintenance. At the complainant's request, the prison also arranged to deliver food trays, commissary items, and laundry directly to the complainant. <http://www.ada.gov/aprsep09.htm>

An individual who is deaf alleged that a Florida doctor's office failed to provide a sign language interpreter for an appointment. The doctor has agreed to adopt a policy to provide qualified sign language interpreters at the business' expense when the office has received notice that interpreting services are necessary; develop and implement a training program to ensure that all staff receive training on the policy; inform each

new patient, as well as all existing patients, that auxiliary aids and services for persons with disabilities are available upon request; and pay the complainant \$1,500.

<http://www.ada.gov/aprsep09.htm>

An individual who is deaf complained that a **South Carolina** resort lacked accessible rooms for people who are deaf or hard of hearing. The resort agreed to equip four guest rooms with auxiliary aid devices, including visual alarms, notification devices, and TTY phones, as well as train resort staff on the use of the telecommunications relay service. <http://www.ada.gov/aprsep09.htm>

Two individuals who are deaf complained that a **South Carolina** urgent-care medical network refused to provide sign language interpreters for scheduled appointments. The health care network changed its policy and developed new procedures for providing effective communication, including the provision of sign language interpreters for patients upon request. The network will make a case-by-case assessment of the communication needs of patients and will post its policy on notices at its facilities and on its website. <http://www.ada.gov/aprsep09.htm>

### ***Facility Accessibility***

**North Carolina:** Settlement Agreement between the United States of America and the Charlotte Regional Visitors Authority, Regarding Ovens Auditorium, Under Title II of the Americans with Disabilities Act DJ 204-55-64. This matter was initiated by a complaint filed with the United States Department of Justice, Civil Rights Division, Disability Rights Section (Department) under title II of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. § 12131 - 12134, and the Department's implementing regulation, 28 C.F.R. Part 35, against the Charlotte Regional Visitors Authority (CRVA) with respect to the Ovens Auditorium (Auditorium), located at 2700 East Independence Boulevard, in Charlotte, North Carolina. The complainants alleged that altered portions of the Auditorium were not readily accessible to and usable by individuals with disabilities. CRVA will make corrections to seating available to people using wheelchairs, provide a lift along the route to accessible seating, correct deficiencies in the accessible parking available in the main (rear) parking lot, and alter existing single-user toilet room on main level to comply with ADA standards.

<http://www.ada.gov/ovens.htm>

**Ault v. Walt Disney World, Co.** -- On March 12, 2009, the Department of Justice filed an amicus brief in a private ADA lawsuit in the U.S. District Court for the Middle District of **Florida** objecting to a proposed class action settlement agreement barring the use of Segways® at Disney World. Three plaintiffs who use Segways® for mobility initiated the suit challenging Disney's refusal to modify its policy banning Segways® from the Disney theme parks in Florida. In January 2009, the court conditionally approved a class action settlement agreement that would require Disney to make a specified number of Disney-owned four-wheeled electric stand-up vehicles (ESVs) available for rent by people with disabilities at Disney resorts in both Florida and California. In its written objections, the Department urged the court to reject this settlement because of procedural flaws raising serious due process concerns, because

judicial endorsement of the agreement would undermine the Department's current ADA rulemaking efforts which, among other things, address the use of Segways® and other electronic personal assistive mobility devices, and because the substantive terms of the agreement are fundamentally unfair to absent class members.

**Jones v. Holliday's General Services Corporation** -- On September 14, 2009, the Department of Justice intervened in and resolved by consent decree a lawsuit against Holliday's General Services Corporation and Dudley Prop. LLC., alleging that Holliday's Fashions, a women's clothing store in Memphis, Tennessee, had discriminated against a customer who uses a wheelchair. The plaintiff alleged that, because the front door was inaccessible, on her first two visits she had to wait in an alley next to the trash dumpster until a sales person cleared a way for her to enter the store through the service door. On a subsequent visit, the store supervisor refused to allow her into the store. The consent decree requires Holliday's Fashions to install a ramp at the main entrance of the store; provide an accessible route from parking spaces to the main entrance; modify the entrance; lower the counter at the register; and modify the dressing rooms and restrooms to provide access. The decree also requires the defendants to pay \$20,000 in damages to the complainant and pay a \$1,000 civil penalty to the United States. <http://www.ada.gov/aprsep09.htm>

An individual, whose neck has been fused, complained that a Florida restaurant refused to provide him with a straw so that he could drink his beverage. He left the restaurant without being served. The restaurant has agreed to modify its "no straws" policy, train its staff on the new policy, and compensate the complainant \$500.

<http://www.ada.gov/aprsep09.htm>

In Georgia, two veterans with mobility disabilities alleged they were refused access to a car show held at a motor speedway because they used scooters as their mobility devices. The speedway made changes to policies for outside vendors and vendor contracts that explain their obligation to provide access for individuals with disabilities, including those who use scooters. The complainants were also given four tickets and a parking pass for a racing event at the speedway.

<http://www.ada.gov/aprsep09.htm>

### ***Service Animals***

In Florida, an individual with a mobility disability complained that an inn refused to accept her reservation because she uses a service animal for balance. The inn agreed to modify its "no pets" policy to allow service animals, revised its website to reflect the new policy, trained current employees, and will train new employees on service animals and the ADA. The owner of the inn also apologized to the complainant.

<http://www.ada.gov/aprsep09.htm>

Two individuals with disabilities, one with a seizure disorder and the other with a mobility disability, complained that they were denied entry into two Florida locations of a national grocery chain because they use service animals. The grocery chain has adopted and implemented a service animal policy for all of its stores; designated specific management employees to be responsible for questioning customers

accompanied by service animals, if necessary, and ensuring that they are questioned only once; developed a training video for all store directors and managers; posted a "Service Animals Welcome" decal at the main entry door of all stores; posted the service animal policy on its public website, as well as on the employee intranet for training purposes; and committed to investigating customer complaints internally and taking appropriate action to resolve such complaints.

<http://www.ada.gov/janmar09.htm#formalsettlement>

In Georgia, a person with a disability complained that security personnel forced him to leave a shopping mall because he uses a service animal for mobility assistance and seizure detection. The mall reaffirmed its policy of allowing service animals, trained its security personnel about service animals and the ADA, added materials on service animals to its employee manual, and paid the complainant \$7,000.

<http://www.ada.gov/janmar09.htm#formalsettlement>

### *Employment*

**Hollywood Casino Tunica Settles EEOC Disability Discrimination Lawsuit.** October 9, 2009. Casino Fired Injured Dealer Rather Than Permit Her to Sit While Working. Hollywood Casino Tunica in Robinsonville, Mississippi, will pay \$75,000 and provide other relief to settle a disability discrimination lawsuit filed by the U.S. Equal Employment Opportunity Commission (EEOC).

<http://sedbtac.org/articles.php?idpg=8&id=5909>

**Hospital Accused of Bias Against Employees on Certain Medications.** June 4, 2009. The U.S. Equal Employment Opportunity Commission (EEOC) is alleging in a lawsuit that the New Hanover Regional Medical Center in North Carolina violated the Americans with Disabilities Act (ADA) by prohibiting applicants and employees from working there if they were taking a legally prescribed narcotic medication.

<http://www.sedbtac.org/articles.php?idpg=8&id=5822>

### *State and Local Government*

**Consent Decree (Civil Action No. 3:08-cv-586-TSL-FKB), Justice Department Resolves Americans with Disabilities Act Lawsuit with Jackson, Mississippi, Public Transportation System:** The United States has reached a comprehensive settlement agreement with the city of Jackson, MS, to improve access to public transportation for individuals with disabilities, the Justice Department announced. The settlement, in the form of a consent decree, was approved by the city and is subject to approval by the U.S. District Court in Jackson. Under the terms of the decree, the city will maintain the wheelchair lifts of Jackson Public Transportation System (JATRAM), Jackson's fixed route bus system; adequately train personnel to properly assist passengers with disabilities; and meet its required level of service to passengers of Handilift, the ADA complementary paratransit service. The decree will be in effect for five years.

[http://www.ada.gov/jackson\\_transit.htm](http://www.ada.gov/jackson_transit.htm)

**Settlement Agreement between the United States of America and Atlanta, Georgia** DJ 204-19-216. On December 8, 2009, the Department of Justice entered into a settlement agreement with the City of Atlanta, Georgia, under title II of the Americans with Disabilities Act of 1990 (ADA). The Department initiated a compliance review of Atlanta in August, 2006, as part of Project Civic Access, a Departmental initiative to ensure greater access for Americans with disabilities to local government programs, services and facilities. Atlanta was selected for a compliance review because of the large number of individuals with disabilities who live in or visit the City. An on-site survey of the City's buildings, programs, and services was conducted in February, 2007. City staff worked cooperatively with the Department throughout the investigation in order to reach an agreement.

[http://www.ada.gov/atlanta\\_pca/atlanta\\_sa.htm](http://www.ada.gov/atlanta_pca/atlanta_sa.htm)

**Settlement Agreement between the United States of America and the City of Wilmington, North Carolina (Civil Action No. 3:08-cv-586-TSL-FKB).** The Justice Department today announced a settlement agreement with the city of Wilmington, N.C., to improve access to all aspects of civic life for persons with disabilities. The agreement was reached under Project Civic Access, a Justice Department initiative to bring state and local governments into compliance with the Americans with Disabilities Act (ADA). This agreement is the 171st reached under Project Civic Access and the tenth this year (200). Project Civic Access was initiated to ensure that people with disabilities have an equal opportunity to participate in civic life. As part of the project, Department investigators, attorneys, and architects survey state and local government facilities and programs throughout the country to identify modifications necessary to comply with ADA requirements. Depending on the circumstances in each community, the agreements address specific areas where access must be improved.

[http://www.ada.gov/wilmington\\_pca/wilmington\\_sa.htm](http://www.ada.gov/wilmington_pca/wilmington_sa.htm)

**Lawsuit Over Alabama Services to Persons with Mental Disabilities Settled: August 3, 2009: Alabama** - The state government has settled a 9-year-old lawsuit over the lengthy waiting list to get services for adults with mental disabilities. <http://sedbtac.org/articles.php?idpg=8&id=5867>

An individual with a disability complained that an **Alabama** municipality did not have a transition plan and would not tell him the identity of its ADA coordinator. The municipality provided a copy of its transition plan and designated an ADA coordinator. The municipality also posted the ADA coordinator's contact information on its website, along with forms for residents who have disabilities to request accommodations and file grievances. <http://www.ada.gov/janmar09.htm#litagation>

**Mediation:** In **Alabama**, the parents of a child with cerebral palsy complained that a recreation center unnecessarily excluded their child and others from some of their programs because of their disabilities. The recreation center reaffirmed its policy not to discriminate against children with disabilities. The center also formed a committee comprised of parents and staff to review existing programs and, where appropriate, add specialized programs for children with disabilities who are unable to participate

in the regular programs. The complainant's child joined one of those specialized programs, the adaptive swimming class, which now has a waiting list because of its popularity. <http://www.ada.gov/aprsep09.htm>