

U.S. Department of Justice

Civil Rights Division

Disability Rights Section

Enforcing The ADA:

A Status Report from the Department of Justice

This Status Report covers the ADA activities of the Department of Justice. This report, previous status reports, and a wide range of other ADA information are available through the Department's ADA Home Page at ada.gov.

The following excerpts are taken from the reports of:

July – September 1005

October – December 2005

January – March 2006

Some litigation is resolved at the time the suit is filed or afterwards by means of a negotiated consent decree. Consent decrees are monitored and enforced by the Federal court in which they are entered.

****U.S. v. Saimovici --** The Department filed, and resolved by consent decree, a lawsuit alleging that an eye surgeon doing business in New York City as Advanced Eye Care Associates discriminated against a deaf individual. The suit alleged that, in response to Advanced Eye Care's advertisement for a free consultation for anyone considering laser vision correction, the complainant scheduled an appointment and advised the doctor's office that he was deaf and would require a sign language interpreter at the consultation. The lawsuit further alleged that the doctor refused to pay for the interpreter and cancelled the appointment. The doctor's office also told the complainant that he was not a suitable candidate for laser eye surgery because he was deaf. Under the consent decree, Advanced Eye Care agreed to follow a policy of nondiscrimination on the basis of disability and to provide appropriate auxiliary aids, including qualified sign language interpreters, free of charge when necessary to ensure effective communication. The doctor also agreed to pay \$3,500 in civil penalties to the United States and \$1,500 to the complainant.

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

District of Arizona --

An individual who is deaf complained that a doctor's office failed to provide a qualified sign language interpreter for appointments. The doctor tried to communicate by exchanging written notes with the patient, and also attempted to have one of his office staff who knew sign language interpret, but neither method was effective. The doctor's office agreed to establish a written policy regarding the provision of auxiliary aids and services, including sign language interpreters.

**** Dr. Ray Hand, Oklahoma City, Oklahoma --** The Department reached an agreement resolving a complaint that a consulting psychologist allegedly failed to use an interpreter in evaluating a minor child who is deaf for a divorce case in family court. The psychologist agreed to conduct individualized assessments of persons who are deaf or hard of hearing to determine what auxiliary aids are necessary to ensure effective communication and to provide the auxiliary aids, including sign language interpreters, where appropriate.

**** Valley Radiologists Medical Group, Mountain View, California --** The Department entered an agreement with Valley Radiologists Medical Group, a radiologic imaging company with eight office locations in northern California, resolving a complaint from an individual who uses a wheelchair alleging that she was unable to get a bone density x-ray because the clinic did not assist her in getting onto the exam table. Under the agreement, Valley Radiologists agreed to purchase four mechanical lifts and eight transfer boards; ask a patient, when scheduling an appointment, if he or she will need any special assistance, modification of policy, or auxiliary aid or service at the examination because of a disability, and be prepared to provide the appropriate assistance and equipment at the appointment; adopt a nondiscrimination policy and post it in each of its office locations; and conduct training for all its medical and administrative staff on the requirements of the ADA, the operation of the transfer equipment, and on techniques for assisting individuals with mobility disabilities to transfer to the exam table.

The Department resolves numerous cases without litigation or a formal settlement agreement. In some instances, the public accommodation, commercial facility, or State or local government promptly agrees to take the necessary actions to achieve compliance. In others, extensive negotiations are required. Following are some examples of what has been accomplished through informal settlements.

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

District of Arizona -- A family physician practice group refused to accept a new patient who is deaf and required other deaf and hard of hearing patients to have their family members interpret. The practice group developed and implemented a written policy for providing interpreters to ensure effective communication.

An individual who is deaf complained that a doctors' office failed to provide a sign language interpreter. The office agreed to adopt and post a written policy to ensure effective communication for individuals with disabilities, train current and future office staff on compliance with the ADA, and maintain a contact list of organizations that supply qualified sign language interpreters.

Under a contract with the Department of Justice, The Key Bridge Foundation receives referrals of complaints under titles II and III for mediation by professional mediators who have been trained in the legal requirements of the ADA. An increasing number of people with disabilities and disability rights organizations are specifically requesting the Department to refer their complaints to mediation. More than 400 professional mediators are available nationwide to mediate ADA cases. Over 75 percent of the cases in which mediation has been completed have been successfully resolved. Following are recent examples of results reached through mediation.

- In Illinois, a person who is deaf complained that a medical specialist's office refused to provide an interpreter for an initial visit. The physician's office agreed to provide an interpreter as requested by the patient. Further, if the patient requires an urgent referral to a specialist or hospital, the physician's office will coordinate efforts to ensure that the auxiliary aid needed by the patient will be provided.