

Commission for Accessibility

Special Meeting Minutes

Monday, April 17, 2023 5:00PM

5:00 PM. Call to Order

In Attendance: Christine Santori, Dave Choplinski, Maureen Culhane, Michael Landrigan, Tony Phillips, Don Ciota

Public Comment

Consent Decrees under the Americans with Disabilities Act.

What is a consent decree?

How and why are they made public?

Commission for Accessibility Reference Guide

ADA Consent Decrees.

Actual Case resolutions as examples of enforcement.

Definitions:

Decree: A judicial decision or order.

Consent Decree: A judge's decision made with the consent/agreement of all parties.

Content decrees in US federal law are typically based on antitrust laws and regulations, which are designed to prevent anti-competitive behavior by companies and to promote competition in the marketplace. These laws and regulations are aimed at ensuring that businesses compete fairly and that consumers are protected from anti-

competitive practices such as price-fixing, market allocation, and monopolization.

The basis of content decrees in antitrust law is the Sherman Antitrust Act of 1890, which was the first federal antitrust law in the United States. The Sherman Act prohibits agreements or practices that restrain trade and monopolization, and it provides for criminal penalties for violators.

Consent decrees became a tool used to enforce the Americans with Disabilities Act (ADA) through litigation and settlement agreements with the Department of Justice (DOJ).

The ADA was enacted in 1990 and prohibits discrimination on the basis of disability in employment, public accommodations, and other areas of life. However, despite the ADA's protections, many individuals with disabilities continued to face barriers to accessing public spaces, goods, and services.

To address these issues, the DOJ began to enforce the ADA through litigation, seeking to compel noncompliant entities to make necessary changes to comply with the law. In many cases, the DOJ would reach a settlement agreement with the noncompliant entity, which would include a consent decree outlining the actions the entity would take to come into compliance with the ADA.

These consent decrees typically required the entity to make physical changes to its facilities to improve accessibility, train staff on the requirements of the ADA, and implement policies and procedures to ensure ongoing compliance. The consent decrees would also specify a timeline for the entity to complete these actions and would be enforceable by the DOJ if the entity failed to comply.

Over time, consent decrees became an important tool in enforcing the ADA, as they allowed the DOJ to quickly and effectively address

noncompliance issues without the need for lengthy litigation. Through the use of consent decrees, the DOJ has been able to secure significant improvements in accessibility and opportunities for individuals with disabilities.

On September 12, 2022, the Department of Justice intervened in *Betancourt-Colon v. City of San Juan*, a disability discrimination lawsuit brought by individuals with mobility disabilities against the City of San Juan, Puerto Rico under Title II of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act. The department's complaint alleges that San Juan fails to provide people with mobility disabilities equal access to its public sidewalk system due to widespread issues with city sidewalks and curb ramps. The department's allegations are based in part on findings by the Department of Transportation Federal Highway Administration's Office of Civil Rights. The department previously filed a Statement of Interest in the same lawsuit on November 9, 2020, asserting the long-held position of the United States that a public entity's provision and maintenance of public sidewalks is a covered "service" under Title II of the ADA.

On July 20, 2022, the U.S. Attorney's Office for the District of Colorado entered into a settlement agreement with the St. Vrain Valley School District pursuant to Title II of the ADA. The settlement agreement resolved a complaint that the school district failed to provide appropriate auxiliary aids and services for meetings between school personnel and a deaf parent of a student in the school district that were initiated by the school district. The agreement requires the school district to comply with the ADA's effective communication requirements, to have in place a system for providing qualified interpreters, training, reporting, and the payment of compensatory damages.

On July 20, 2022, the United States executed a Settlement Agreement with the Jefferson County, Kentucky Board of Elections, under Title II of the ADA to ensure that its polling places are accessible during elections to individuals with disabilities. Under the terms of the settlement agreement, the Jefferson County Board will immediately begin remediation of its voting program. To make its selected polling places accessible, the Jefferson County Board will employ temporary measures, such as portable ramps, signage, and propped-open doors. The Jefferson County Board will also train its poll workers and other elections staff on the requirements of the ADA and how to properly employ temporary measures so that each polling place is accessible during elections.

On July 14, 2022, the U.S. Attorney's Office for the Northern District of Illinois filed a lawsuit under Title III of the ADA against the various ownership organizations of the Chicago Cubs for its failures to design and construct additions and make alterations that are readily accessible to and usable by individuals with disabilities as required by the ADA. The complaint alleges violations of the relevant ADA Standards for Accessible Design, including the 2010 Standards, in a wide range of areas throughout the facility,

including wheelchair seating, accessible routes, and other features, elements and amenities throughout the Wrigley Field facility.

On October 28, 2021, the U.S. Attorney's Office for the Central District of Illinois entered into a Title II of the ADA settlement agreement with the Dunlap Community Unit School District regarding its failure to ensure that its playground areas at a school were readily accessible to and usable by a student with disabilities. The settlement agreement requires the school district to design and construct a new playground at the facility that meets the requirements of the 2010 ADA Standards for Accessible Design.

On April 11, 2022, the United States executed a settlement agreement with CVS Pharmacy, Inc., the nation's largest retail pharmacy, under Title III of the ADA regarding the accessibility of its vaccine registration portal. The agreement will ensure that people with disabilities (including those with vision disabilities who use screen readers and those who have difficulty using a mouse) can privately and independently get information about COVID-19 vaccinations and book their vaccination appointments online. Under the agreement, CVS will make content about the COVID-19 vaccine, including the forms for scheduling an appointment to get the vaccine, conform to the Web Content Accessibility Guidelines (WCAG), Version 2.1, Level AA.

On May 4, 2022, the United States entered into an agreement under Title III of the ADA with the Holiday Inn Express Hotels & Suites in Columbus, Ohio. Under the agreement, Badrivishal, LLC, the owner of the Hotel, will provide access for customers with disabilities, including those who use wheelchairs, by making physical modifications so that parking, entrances, public restrooms, service counters, drinking fountains, routes to and within buildings are accessible. It will also ensure that the rooms, including bathrooms, that are required and advertised as accessible to people who use wheelchairs are accessible. The agreement further requires the managers, front desk personnel, and reservations staff at the Hotel to undergo training regarding the ADA requirements to accommodate individuals with disabilities. Finally, the Hotel will pay \$20,000 in damages to the couple harmed by the discrimination.

On May 6, 2021, the United States executed a settlement agreement with Central Texas College of Killeen, Texas, under Title II of the ADA regarding its program access and architectural accessibility requirements, as part of the Section's Veteran Access Program. The agreement will ensure individuals with disabilities access to programs, services, facilities, and activities at Central Texas College, which is in a jurisdiction with one of the nation's highest concentrations of veterans with service-connected disabilities.

Overview:

On June 8, 2021, the United States reached a resolution of an allegation under Title III of the ADA that three building owners in Washington, D.C., failed to alter their facilities to be readily accessible to and usable by individuals with disabilities, to the maximum extent feasible. Two of the buildings had steps at the entrances and one did not have enough space at the entrance for wheelchair users to open the door and go in on their own. The agreement requires all 19 building owners to hire an architect to check their buildings in Washington, D.C., Maryland, and Virginia to make sure the buildings can be used by people with disabilities.

Adjourn: 6:15 PM

2023 Meeting Dates: (Mondays at 5:00PM)

	May 15	Jun 12
Jul --	Aug--	Sep 11
Oct 16	Nov 13	Dec 11

Until further notice these meetings will continue via Zoom.

Minutes prepared by Don Ciota, Chairman