

The New Jersey Office of the Attorney General

Movie Theater Accessibility Press Packet

September 14, 2004



JAMES E. MCGREEVEY
Governor



CIVIL RIGHTS

PETER C. HARVEY
Attorney General

J. FRANK VESPA-PAPALEO
Director, NJ Division on Civil Rights



BRIAN C. SHOMO
Director, NJ Division of Deaf
and Hard of Hearing

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New Jersey
Office of the Attorney General

NEW JERSEY DEPARTMENT OF LAW & PUBLIC SAFETY

Peter C. Harvey, *Attorney General*

For Immediate Release:
September 15, 2004

For Further Information Contact:
Lee Moore (609) 292-4791

AG Harvey Announces Deaf Discrimination Complaint Against Major Movie Theater Chain; 4 Other Theater Firms Agree to Install Technology to Accommodate Deaf & Hard of Hearing

NEWARK – Attorney General Peter C. Harvey and Division on Civil Rights Director J. Frank Vespa-Papaleo announced today the filing of a discrimination complaint against Regal Entertainment Group, one of the largest multiplex theater companies in the United States, for failing to install closed captioning equipment that would make the movies it runs accessible to the deaf and hard of hearing.

At the same time, Attorney General Harvey and Director Vespa-Papaleo announced that four other major multiplex theater chains operating in New Jersey have committed -- as part of voluntary settlement agreements reached with the State -- to installing captioning technology that will make their films accessible to the deaf and hard of hearing.

Under terms of separate settlement agreements, American Multi-Cinema (AMC), Loews Cineplex Theaters, Clearview Cinemas and National Amusements will either equip their theaters with closed-caption technology or, in multiplexes where the technology is already installed, will expand the number of screens offering closed captioning. Rear Window Captioning (RWC) is one type of closed captioning technology currently in limited use by two of the four theater companies who have entered into settlement agreements.

Attorney General Harvey noted that the settlement agreements with AMC, Loews, Clearview and National Amusements establish New Jersey as the first state in the nation to obtain formal commitments from theater chains to accommodate deaf and hard-of-hearing moviegoers. He said the settlement agreements -- as well as the discrimination complaint filed against Regal -- "should serve as notice that the State is ready to work with private companies who demonstrate a willingness to comply with the New Jersey Law Against Discrimination (LAD), and we're equally ready to take action against those who refuse to do so."

“Every adult and child -- regardless of his or her ability or disability -- should be able to fully enjoy going to the theater and experiencing a movie,” said Harvey. “For too long, this area of our popular culture has been virtually closed to the deaf and the hard of hearing, but we are changing that. The agreements we are announcing today are an excellent example of what the public and private sectors can achieve by working cooperatively. Together, we are setting an example for the rest of the nation by expanding equal access and, in the process, enhancing the quality of life for hundreds of thousands of New Jerseyans.”

According to Director Vespa-Papaleo, only three movie screens in New Jersey currently offer closed captioning – in each case, the technology in use is Rear Window Captioning -- for their deaf and hard of hearing viewers. By the end of 2004, the number of captioning-equipped screens is expected to increase to 39, under terms of the Voluntary Consent Orders which memorialize settlement agreements with AMC, Loews, Clearview and National Amusements. The four chains control nearly one-third of all movie theaters operating in the State.

Vespa-Papaleo credited the multiplex owners who have committed to accommodating the deaf and hard of hearing for their vision and sensitivity to the deaf community. He said the State attempted to reach an accord with Regal as well, but ultimately had to take action.

“We made every effort to address this matter amicably with Regal,” said Vespa-Papaleo. “But despite the fact that most of the movies shown in its New Jersey theaters are in formats compatible with such technologies as Rear Window Captioning and Open Caption Projection, and despite the fact that installation of the systems are neither cost-prohibitive nor would result in a fundamental alteration to the theaters, Regal is unwilling to address this glaring disservice to its deaf and hard of hearing customers.”

The Division’s complaint against Regal alleges that Regal is in violation of the public accommodations provision of the Law Against Discrimination for refusing to make its first run movies accessible to the deaf and hard of hearing community, despite requests in writing and in person by Attorney General Harvey and Director Vespa-Papaleo. Regal owns and operates 152 screens at 12 locations throughout New Jersey.

“In this instance,” said Vespa-Papaleo, “the State has an obligation to protect the interests of the community in the face of what we consider to be blatant and irrefutable discrimination.”

Attorney General Harvey and Director Vespa-Papaleo initiated discussions with New Jersey multiplex theater owners on the issue of accessibility after several people expressed their concerns to the Attorney General at State-sponsored disability law conferences held in Camden and Essex counties earlier this year. The conferences were co-sponsored by the Division on Civil Rights and the Division of the Deaf and Hard of Hearing, located within the Department of Human Services, and took place in March 2004.

The conferences focused on educating and raising awareness among New Jersey’s deaf and hard of hearing population with regard to state and federal laws that protect their rights against discrimination in employment, housing and public accommodations.

In addition, Vespa-Papaleo noted, the Division has received numerous inquiries from deaf and hard of hearing constituents and advocates about making places of public accommodation, including theaters, more accessible to these communities.

Of New Jersey's eight million residents, more than 720,000 -- or nearly nine percent -- have some level of hearing loss. Division of the Deaf and Hard of Hearing Director Brian Shomo said the Division's outreach efforts to the deaf and hard of hearing communities have helped focus resources on areas where they will have the greatest impact addressing cases of systemic discrimination.

"The Division on Civil Rights has been working closely with our office, with advocates for the deaf and hard of hearing, and with the multiplexes to find a solution to this issue," said Shomo, whose office promotes communication access to private, public and governmental services. "We can debate what emerging technologies and services to make media accessible work best for people with disabilities. What is not subject to debate is the very real need for entertainment providers to understand how access to their businesses can improve the quality of life for all citizens."

The Voluntary Consent Orders with AMC, Loews, Clearview and National Amusement go into effect immediately. Three of the four agreements contemplate installation of Rear Window Captioning systems within 90 days. The agreement with Loews Cineplex Theaters, due to its large number of RWC systems, will require a longer installation period. In addition to requiring the multiplexes to make their theaters more accessible to moviegoers with hearing difficulties, the consent orders further stipulate that the multiplexes take the following action:

- Provide newspaper, telephone, Web site and other means of advertising scheduled movies for which RWC and DVS are available
- Maintain an adequate number (typically 10) of seat reflector screens for RWC systems
- Visibly post written notice in its box office and lobbies informing its patrons that RWC and DVS are available for specific movies
- Provide the Office of the Attorney General with opportunities to run public service announcements prior to the showing of movies
- Train all appropriate employees, such as cashiers, ushers and customer service representatives on the use of RWC and DVS systems.

Arlene Romoff, a trustee and spokesperson for the New Jersey State Association of Self Help for Hard of Hearing People (SHHH-NJ), called the settlement agreements "a triumphant first step in ensuring that people with all degrees of hearing loss are no longer excluded from attending the movies."

"We at SHHH-NJ encourage all people with hearing loss to make full use of these new captioned movie facilities when they become available, and we look forward to the day when all movie theaters will provide captions at all showings," said Romoff.

Director Vespa-Papaleo explained that, in addition to agreeing to install captioning technology for the deaf, some of the theater chains who have entered into settlement agreements have also indicated a readiness to install infrared listening systems - known as "DVS" systems -- on a total of 20 movie screens. The DVS system enables blind and visually impaired moviegoers to hear film dialogue and narrated descriptions of key visual elements of movies, such as action settings and scene changes.

The Division on Civil Rights is responsible for enforcement of the New Jersey Law Against Discrimination and the Family Leave Act. The Division currently has six offices located in Newark, Trenton, Atlantic City, Paterson, Camden and Jersey City. For more information please visit the Division Web site at: www.NJCivilRights.org. Or call (609) 292-4605, TTY: (609) 292-1785 .

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SHHH-NJ Statement in Support of the Movie Captioning Settlement
September 15, 2004

The New Jersey State Association of Self Help for Hard of Hearing People (SHHH-NJ) applauds the New Jersey Attorney General Peter C. Harvey, the N.J. Division of Civil Rights, and the N.J. Division of Deaf and Hard of Hearing, for their successful groundbreaking efforts in making more captioned movies available to people with hearing loss in this state. While assistive listening systems, required in all movie theaters by the Americans with Disabilities Act (ADA), address the needs of many hard of hearing people, there are still many others who cannot fully benefit from these systems and require captioning to understand spoken language. This captioned movie settlement is a triumphant first step in ensuring that people with all degrees of hearing loss are no longer excluded from attending the movies. We at SHHH-NJ encourage all people with hearing loss to make full use of these new captioned movie facilities when they become available and look forward to the day when all movie theaters will provide captions at all showings.

Contact person:
Arlene Romoff
Trustee, SHHH-NJ
2 Westwind Court
Saddle River, NJ 07458
201-995-9594
aromoff@aol.com

PETER C. HARVEY
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Complainants Attorney General and the
Director of the Division on Civil Rights
Division of Law
124 Halsey Street - 5th Floor
P.O. Box 45029
Newark, New Jersey 07101

By: Anne Marie Kelly
Brian O. Lipman
Deputy Attorneys General
Tel.: (973) 648-4846

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION ON CIVIL RIGHTS
DCR DOCKET NO.: AG14HB01562

IN THE MATTER OF: : **CONSENT ORDER**
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AMERICAN MULTI-MEDIA : :
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WHEREAS, the Attorney General of the State of New Jersey ("Attorney General") and the Director of the New Jersey Division on Civil Rights ("Director") are charged with the responsibility of enforcing the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq. ("LAD"), and all regulations promulgated thereunder N.J.A.C. 13:13-1.1 et seq.; and

WHEREAS, the Division investigated alleged violations of the LAD and the regulations, specifically alleged discrimination against the deaf and hard of hearing by places of public accommodations owned or operated by American Multi-Cinema, Inc.

("AMC"); and

WHEREAS, the parties have reached an amicable agreement resolving any and all issues in connection with potential violations of the LAD and its regulations;

NOW, THEREFORE, it is on this 2nd day of September 2004,

AGREED AND ORDERED as follows:

DEFINITIONS

1. As used in this Consent Order, the Rear Window Caption System ("RWC") is a system, which displays reversed captions on a light-emitting diode ("LED") text display, which is mounted in the rear of a theater. Deaf and hard-of-hearing patrons use transparent acrylic panels attached to the seats to reflect the captions so that they appear superimposed on the movie screen. The reflective panels are portable and adjustable, enabling the caption user to sit anywhere in the theater.

2. As used in this Consent Order, the DVS Technical System ("DVS") is a system, which delivers descriptive narration via infrared listening systems, enabling blind and visually-impaired moviegoers to hear the descriptions on headsets. The descriptions provide narrated information about key visual elements such as action settings, and scene changes, making movies more meaningful to people with vision loss.

BUSINESS PRACTICES

3. By entering into this Consent Order, the parties agree that there are no admissions of liability or wrongdoing or findings of liability or wrongdoing under the LAD and its regulations.

4. Within ninety (90) days from the effective date of this Agreement, AMC agrees to install RWC and DVS systems at one screen at its Bridgewater Commons 7 Theater, located at 400 Commons Way, Bridgewater, New Jersey. If, in the future, the Bridgewater Commons 7 Theater is closed, the RWC and DVS systems will be installed at AMC's Marlton 8 Theater, located at 800 N. Route 73, Marlton, New Jersey.

5. AMC's Clifton Commons 16 Theater, located at 405 Route 3 East, Clifton, New Jersey, presently has the RWC and DVS systems installed at one screen. Within ninety (90) days from the effective date of this Agreement, AMC will install the RWC and DVS systems at an additional screen at Clifton Commons 16 Theater.

6. Within ninety (90) days from the effective date of this Agreement, AMC will install RWC and DVS systems at one screen at its Deptford 8 Theater, located at 1740 Clements Bridge Road, Deptford, New Jersey.

7. Within ninety (90) days from the effective date of this Agreement, AMC will install RWC and DVS systems at two (2) screens at its Hamilton 24 Theater, located at 325 Sloan Avenue, Hamilton,

New Jersey.

8. Within ninety (90) days from the effective date of this Agreement, AMC will install RWC and DVS systems at one (1) screen at its Essex Green 9 Theater, located at 495 Prospect Avenue, West Orange, New Jersey 07052.

9. AMC agrees to install RWC and DVS systems at one (1) screen at all newly constructed or individually acquired theaters in New Jersey with at least ten (10) screens. If the theater has more than fifteen (15) screens, AMC will install an additional RWC and DVS system.

10. Within ninety (90) days of the effective date of this agreement, AMC will provide notices of the scheduled movies for which RWC and DVS is available through newspapers, telephone advertisements, its own website, any other websites which AMC utilizes to advertise scheduled movies, or other means of advertising developed in the future by AMC. This provision will not apply to any advertisement of movies which: (1) is available in theatre not under the control of AMC, such as trailers, posters, etc., (2) is placed solely by a third party entity such as a film distributor or (3) theatre marquees that do not provide movie schedules to the general public.

11. AMC will maintain a minimum of ten (10) seat reflector screens for each RWC and DVS systems installed in their theaters under this Consent Order.

12. Within thirty (30) days of the effective date of this Agreement, AMC shall develop and post a written notice prominently displayed in its box office, in the theater and on the screens in the theatre with RWC and DVS, informing its patrons that RWC and DVS systems are available at a specific screen, with instructions as to how to access these systems.

13. AMC shall designate one (1) individual and an alternate, at each theater to monitor that the RWC and DVS systems are in operating condition.

14. AMC shall train all employees who may have contact with patrons as to the use of the RWC and DVS systems.

15. Compliance with the provisions of this Consent Order by AMC shall, for a period of five (5) years from the effective date, be deemed to be in compliance with the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq. and N.J.A.C. 13:13-4 with respect to providing a reasonable accommodation to deaf, hard-of-hearing and blind persons to enable them to attend and enjoy movies. However, it shall not be deemed compliance with the LAD and its regulations on any other basis. This provision and all other provisions of this Consent Order are binding only on the Attorney General and the Division on Civil Rights, and not on any individual who files a complaint with the Division.

16. At its theaters in New Jersey, AMC will provide the Attorney General with the opportunity to have the Attorney

General's public service announcements played on the movie screens prior to the showing of movies. Playing of such public service announcements shall be on a space available basis for a two year period from the effective date of this agreement.

GENERAL ASSURANCES

17. This Consent Order will become effective as of the date that all parties have signed it.

18. If AMC fails to comply with paragraphs 4 through 9 of this Consent Order, each failure to comply shall be deemed a violation of the LAD for which AMC shall be liable for penalties pursuant to N.J.S.A. 10:5-14a. AMC shall make every effort to ensure that personnel employed at its theaters comply with the provisions in paragraphs 10 through 15 of this Consent Order. If any theater is in violation of any provision of paragraphs 10 through 15 of this Consent Order, AMC shall be notified in writing and be given fifteen (15) days to rectify the situation. Such notice shall be directed to: American Multi-Cinema, Inc., Attention: Legal Department, 920 Main Street, Kansas City, MO 64105. If the violation continues beyond the fifteen (15) day period, such violation may be considered a violation of the LAD, for which AMC shall be liable for penalties pursuant to N.J.S.A. 10:5-14.1a.

19. This Consent Order shall bind the parties and shall be binding on any and all future purchasers, inheritors or other successors in the interest of AMC.

20. Subject to Paragraph 15, in the event technology is developed superior to the RWC and DVS systems, or for other good cause, either party may move to renegotiate the terms of this agreement.

21. The parties agree that for purposes of enforcement of this Consent Order, New Jersey law shall govern the terms and provisions herein.


22. This Consent Order constitutes the entire agreement between the parties hereto and shall bind the parties hereto and their respective officers, directors, agents, representatives, employees, successors and assigns.

23. The parties represent that an authorized representative of each has signed this Consent Order with full knowledge, understanding and acceptance of its terms and that this person has done so with authority to legally bind the respective party.

24. Any amendments to this Consent Order must be in writing and signed by all parties to be bound.

25. This Agreement shall constitute a Final Agency Order and is effective upon filing.

NEW JERSEY DIVISION ON CIVIL RIGHTS

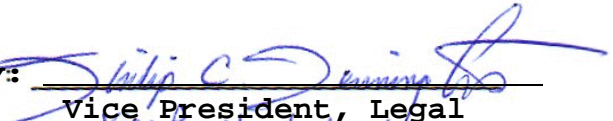
By: 
J. FRANK VESPA-PAPALEO, ESQ.
DIRECTOR

Dated: 9/8/04

I have read the above Consent Order, understand it and hereby agree to be bound by its terms. Consent as to the form and entry of this Order.

Dated: September 2, 2004

AMERICAN MULTI-CINEMA, INC.

By: 
Vice President, Legal
Vice President, Legal

Dated: September 2, 2004

PETER C. HARVEY
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Complainants Attorney General and the
Director of the Division on Civil Rights
Division of Law
124 Halsey Street - 5th Floor
P.O. Box 45029
Newark, New Jersey 07101

By: Anne Marie Kelly
Brian O. Lipman
Deputy Attorneys General
Tel.: (973) 648-4846

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION ON CIVIL RIGHTS
DCR DOCKET NO.:AP05HB01561

IN THE MATTER OF: : CONSENT ORDER
: :
CLEARVIEW CINEMAS :
: :
: :

WHEREAS, the Attorney General of the State of New Jersey (Attorney General) and the Director of the New Jersey Division on Civil Rights ("Director") are charged with the responsibility of enforcing the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq. (LAD), and all regulations promulgated thereunder N.J.A.C. 13:13-1.1 et seq.; and

WHEREAS, the Division has identified issues involving the interest of the deaf and hard of hearing at places of public accommodations owned or operated by CCG Holdings, Inc., known as Clearview Cinemas ("Clearview") and Clearview is willing to cooperate with the Division to address those issues; and

WHEREAS, the parties have reached an amicable agreement resolving any and all issues in connection with potential violations of the LAD and its regulations;

NOW, THEREFORE, it is on this _____ day of September, 2004,

AGREED AND ORDERED as follows:

DEFINITIONS

1. As used in this Consent Order, the Rear Window Caption System (RWC) is a system, which displays reversed captions on a light-emitting diode (LED) text display, which is mounted in the rear of a theater. Deaf and hard-of-hearing patrons use transparent acrylic panels attached to the seats to reflect the captions so that they appear superimposed on the movie screen. The reflective panels are portable and adjustable, enabling the caption user to sit anywhere in the theater.

2. As used in this Consent Order, the DVS Technical System (DVS) is a system, which delivers descriptive narration via infrared listening systems, enabling blind and visually-impaired moviegoers to hear the descriptions on headsets. The descriptions provide narrated information about key visual elements such as action settings, and scene changes, making movies more meaningful to people with vision loss.

BUSINESS PRACTICES

3. By entering into this Consent Order, the parties

agree that there are no admissions of liability or wrongdoing or findings of liability or wrongdoing under the LAD and its regulations.

4. Within ninety (90) days from the effective date of this Agreement, Clearview agrees to install RWC and DVS systems at one screen at its Hackettstown-Mansfield Cinema 14 theater located at 1965 Rt. 57, Hackettstown, New Jersey.

5. Within ninety (90) days from the effective date of this Agreement, Clearview will install RWC and DVS systems at one screen at its Kinnelon 11 theater, located at 25 Kinnelon Road, Kinnelon, New Jersey.

6. Clearview will maintain the RWC and DVS systems currently installed at one (1) screen its Morristown Headquarters Theater 10, located at 72 Headquarters Plaza, Morristown, New Jersey.

7. Within ninety (90) days from the effective date of this Agreement, Clearview will install RWC and DVS systems at one (1) screen at its Middlebrook Galleria Cinema, located at Middlebrook Shopping Center, Ocean township, New Jersey.

8. Clearview will maintain the RWC and DVS systems currently installed at one (1) screen at its Parsippany Cinema 12 theater, located at 3165 Route 46 East, Parsippany, New Jersey.

9. Within ninety (90) days from the effective date of

this agreement, Clearview will install RWC and DVS systems at one (1) screen at its Succasunna Cinema 10, 21 Sunset Strip, Succasunna, New Jersey.

10. Clearview agrees to install RWC and DVS systems at one (1) screen at all newly constructed or acquired theaters in New Jersey with at least ten (10) screens. If the theater has more than fifteen (15) screens, Clearview will install an additional RWC and DVS system.

11. Immediately upon the installation of the RWC and DVS systems identified in paragraphs 4, 5, 7, and 9 of this Consent Order, Clearview will provide notice of the scheduled movies for which RWC and DVS is available in newspaper ads placed by Clearview, telephone advertisements, its own website, any other website Clearview utilizes and controls to advertise movies, and any other form of advertisement Clearview utilizes and controls. As to those theaters for which such systems are already installed, within 30 days from the effective date of this Consent Order, Clearview will provide notice of the scheduled movies for which RWC and DVS is available in newspaper ads placed by Clearview, telephone advertisements, its own website, any other website Clearview utilizes and controls to advertise movies, and any other form of advertisement Clearview utilizes and controls.

12. Notwithstanding any of the foregoing provisions requiring installation of RWC and DVS systems within ninety (90)

days of the effective date of this Consent Order, if such installation is not completed within ninety (90) days from the effective date of this agreement through no fault of its own, including but not limited to delays engendered by the manufacturer or installer of the system, Clearview shall notify by facsimile and regular mail the following individual as to the delay and the reason for the delay. Otherwise, failure to comply with the provisions of the Consent Order shall be deemed a violation of this Order.

Notice by facsimile and regular mail should be sent to:

Anne Marie Kelly
Deputy Attorney General
Division of Law
124 Halsey Street
P.O. Box 45029
Newark, New Jersey 07010
Facsimile Number: (973) 648-3879

Clearview shall not be considered to have violated this agreement if such systems are not installed within ninety (90) days of this agreement through no fault of its own and the above-noted notice is provided.

13. Clearview will maintain a minimum of ten (10) seat reflector screens for each RWC and DVS systems installed in their, theaters under this Consent Order.

14. Within thirty (30) days of the effective date of this Agreement, Clearview shall develop and post a written notice prominently displayed in its box office, in the theater and on the

screens in the theater with RWC and DVS, informing its patrons that RWC and DVS systems are available at a specific screen, with instructions as to how to access these systems.

15. Clearview shall designate one (1) individual and an alternate at each theater to monitor that the RWC and DVS systems are in operating condition.

16. Clearview shall train a sufficient number of employees to enable patrons to use of the RWC and DVS systems, including but not limited to Clearview's ushers, sales representatives, cashiers.

17. At its theaters in New Jersey, Clearview will provide the Attorney General with opportunities to have the Attorney General's public service announcements played on the movie screens prior to the showing of movies at no cost to the Attorney General, up to a value of \$60,000.00, calculated at Clearview's standard rates for such services.

GENERAL ASSURANCES

18. This Consent Order will become effective as of the date that all parties have signed it.

19. If Clearview fails to comply with the provisions of this Consent Order, each failure to comply shall be deemed a violation of the LAD for which Clearview shall be liable for penalties pursuant to N.J.S.A. 10:5-14.1a.

20. This Consent Order shall bind the parties and shall be binding on any and all future purchasers, inheritors or other successors in the interest of Clearview.

21. In the event technology is developed superior to the RWC and DVS systems, or for other good cause, either party may move to renegotiate the terms of this agreement.

22. The parties agree that for purposes of enforcement of this Consent Order, New Jersey law shall govern the terms and provisions herein.

23. This Consent Order constitutes the entire agreement between the parties hereto and shall bind the parties hereto and their respective officers, directors, agents, representatives, employees, successors and assigns.

24. The parties represent that an authorized representative of each has signed this Consent Order with full knowledge, understanding and acceptance of its terms and that this person has done so with authority to legally bind the respective

party.

25. Any amendments to this Consent Order must be in writing and signed by all parties to be bound.

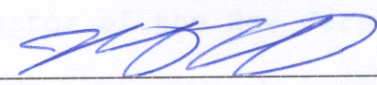
26. This Agreement shall constitute a Final Agency Order and is effective upon filing.

NEW JERSEY DIVISION ON CIVIL RIGHTS

By: 
J. FRANK VESPA-PAPALEO, ESQ.
DIRECTOR

Dated: 9/10/04

I have read the above Consent Order, understand it and hereby agree to be bound by its terms. Consent as to the form and entry of this Order.

CCG Holdings, Inc.
By: 
Name: Morton Gotterup
Title: S. V. P. & G. M. Clearview Cinemas
Dated: 9/7/04

PETER C. HARVEY
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Complainants Attorney
General and the Director of the
Division on Civil Rights
Division of Law
124 Halsey Street - 5th Floor
P.O. Box 45029
Newark, New Jersey 07101

By: Anne Marie Kelly
Brian O. Lipman
Deputy Attorneys General
Tel.: (973) 648-4846

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION ON CIVIL RIGHTS
DCR DOCKET NO.:AG14HB01563

IN THE MATTER OF: : CONSENT ORDER
: :
LOEWS CINEPLEX INC. : :

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WHEREAS, the Attorney General of the State of New Jersey ("Attorney General") and the Director of the New Jersey Division on Civil Rights ("Director") are charged with the responsibility of enforcing the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq. ("LAD"), and all regulations promulgated thereunder N.J.A.C. 13:13-1.1 et seq.; and

WHEREAS, the Division investigated alleged violations of the LAD and the regulations, specifically alleged discrimination against the deaf and hard-of-hearing by places of public

accommodation operated by Loews Cineplex Theatres, Inc. or its wholly owned subsidiaries ("Loews"); and

WHEREAS, the parties have reached an amicable agreement resolving any and all issues in connection with potential violations of the LAD and its regulations;

NOW THEREFORE, it is on this day of August, 2004,

AGREED AND ORDERED as follows:

DEFINITIONS

1. As used in this Consent Order, the Rear Window Closed Captioned System ("RWC") is a system that displays reversed captions on a light-emitting diode ("LED") text display which is mounted in the rear of a theater. Deaf and hard-of-hearing patrons use transparent acrylic panels attached to the seats to reflect the captions so that they appear superimposed on the movie screen. The reflective panels are portable and adjustable, enabling the caption user to sit anywhere in the theatre.

2. This Consent Order applies to theatres operated by Loews and situated only in the State of New Jersey.

BUSINESS PRACTICES

3. By entering into this Consent Order, the parties agree that there are no admissions of liability or wrongdoing or findings of liability or wrongdoing under the LAD and its regulations.

4. Within thirty (30) days after Loews is furnished with a fully-executed copy of this Consent Order, Loews agrees to place its order for the RWC systems hereinafter set forth and to install them within thirty (30) days from their delivery. If any of the RWC systems are not installed within six (6) months from the placement of the order for reasons outside the control of Loews, Loews shall notify the following individual as to the delay and the reason for the delay. Otherwise, failure to comply with the provisions of the Consent Order shall be deemed a violation of this Order.

Notice by facsimile and regular mail should be sent to:

Anne Marie Kelly
Deputy Attorney General
Division of Law
124 Halsey Street
P.O. Box 45029
Newark, New Jersey 07101
Facsimile Number: (973) 648-7156

Loews agrees to install RWC systems in its following theatres in New Jersey.

(a) One (1) RWC system at one screen at its Brick Plaza Theatre, located at 3 Brick Plaza, Bricktown, New Jersey;

(b) One (1) RWC system at two screens at its Cherry Hill Theatre, located at 2121 Route 38, Cherry Hill, New

Jersey;

(c) One (1) RWC system at one screen at its East Hanover 12 Theatre, located at 145 State Route 10, East Hanover New Jersey;

(d) One (1) RWC system at one screen at its Monmouth Mall 15 Theatre, located at 180 State Route 35 South, Eatontown, New Jersey;

(e) One (1) RWC system at one screen at its Menlo Park 12 Theatre, located at 390 Menlo Park, Edison, New Jersey;

(f) One (1) RWC system at two screens at its Loews Jersey Gardens Theatres, located at 651 Kapowski Road, Elizabeth, New Jersey;

(g) One (1) RWC system at one screen at its Freehold Metroplex 14 Theatre, located at 101 Trotters Way, Freehold, New Jersey;

(h) One (1) RWC system at one screen at its Newport Centre 11 Theatre, located at 30-300 Mall Drive West, Jersey City, New Jersey;

(i) One (1) RWC system at one screen at its Mountainside 10 Theatre, located at 1021 Route 22 East, Mountainside, New Jersey;

(j) One (1) RWC system at two screens at its Loews New Brunswick Theatre, located at 260 East Route 4, Paramus, New

Jersey;

(k) One (1) RWC system at one screen at its Route 4 10-Plex theatre, located at 260 East Route 4, Paramus, New Jersey;

(l) One (1) RWC system at one screen at its Route Seventeen 3 Theatre, located at 85 S. State Route 17, Paramus, New Jersey;

(m) One (1) RWC system at one screen at its Ridgefield Park 12 Theatre, located at 75 Challenger Road, Ridgefield Park, New Jersey;

(n) One (1) RWC system at one screen at its Meadow Six Theatre, located at 800 Plaza Drive, Seacaucus, New Jersey;

(o) One (1) RWC system at one screen at its Plaza Eight Theatre, located at 495 Harmon Meadow Boulevard, Seacaucus, New Jersey;

(p) One (1) RWC system at one screen at its Seacourt 10 Theatre, located at 635 Bay Avenue, Toms River, New Jersey;

(q) One (1) RWC system at one screen at its Wayne 8 Theatre, located at 67 Willowbrook Boulevard, Wayne, New Jersey, and

(r) One (1) RWC system at all newly constructed or acquired theatres in New Jersey. If the theatre has more

than 15 screens, Loews will install an additional RWC system in that theatre.

5. Loews will provide notices of the scheduled movies for which RWC is available through newspapers, telephone advertisements, its own website, any other websites which Loews utilizes and controls to advertise schedule movies and any other form of advertisement Loews utilizes and controls. The provisions of this Paragraph 4 apply only to media that meet the following two qualifications: (i) media that is targeted generally to the audience within a 20-mile radius of the applicable theatre, and (ii) media where Loews controls the content of any such advertisement. As to any other media not controlled by Loews, Loews agrees to request that notice of the scheduled movies for which RWC is available be included in the advertisements.

6. Loews will maintain at a minimum ten (10) seat reflector screen for each RWC system installed in its theatres under this Consent Order.

7. At the time the RWC system is installed in each of its theatres, Loews shall develop and post a written notice prominently displayed in its box office and the lobby of the theatre informing its patrons that the RWC system is available at a specific screen, with instructions as to how to access this system:

8. Loews shall designate one individual and an alternate at each theatre to monitor that the RWC system is in operating condition.

9. Loews shall train all employees who may have contact with patrons as to the use of the RWC system.

GENERAL ASSURANCES

10. If Loews fails to comply with the provisions of this Consent Order, each failure to comply shall be deemed a violation of the LAD, entitling plaintiffs to seek such relief and remedies available under the LAD, including N.J.S.A. 10:5-14.1a. If Loews is unable to comply with the provisions of this Consent Order by reason of any causes beyond its reasonable control, the time for compliance shall be extended by the duration that any such causes were operative. Loews shall notify by facsimile and regular mail the individual identified in paragraph 4 of this Consent Order as to the reasons why Loews is unable to comply.

11. This Consent Order shall bind the parties and shall be binding on and be for the benefit of any and all future purchasers, merged parties or other successors in the interest of Loews.

12. In the event technology is developed superior to the RWC system, either party may move to renegotiate the terms of this Consent Order.

13. The parties agree that for purposes of enforcement of this Consent Order, New Jersey law shall govern the terms and provisions hereof.

14. This Consent Order constitutes the entire agreement between the parties hereto and shall bind the parties hereto and their respective officers, directors, agents, representatives, employees, successors and assigns.

15. The parties represent that an authorized representative of each has signed this Consent Order with full knowledge, understanding and acceptance of its terms and has done so with authority to legally bind the respective party.

16. Any amendments to this Consent Order must be in writing and signed by all the parties hereto.

17. This Consent Order shall constitute a Final Agency Order

and is effective upon filing and receipt by Loews of a fully-executed counterpart.

NEW JERSEY DIVISION ON CIVIL RIGHTS


By: 
J. FRANK VESPA-PAPALEO, ESQ.
DIRECTOR

Dated: 9/8/04

I have read the above Consent Order, understand it and hereby agree to be bound by its terms. Consent as to the form and entry of this Order.

Dated: _____

LOEWS CINEPLEX THEATRES, INC.

By: 
MICHAEL P. NORRIS
PRESIDENT
LOEWS CINEPLEX UNITED STATES

Dated: 8-30-04

PETER C. HARVEY
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Complainants Attorney General and the
Director of the Division on Civil Rights
Division of Law
124 Halsey Street - 5th Floor
P.O. Box 45029
Newark, New Jersey 07101

By: Anne Marie Kelly
Brian O. Lipman
Deputy Attorneys General
Tel.: (973) 648-4846

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND
PUBLIC SAFETY
DIVISION ON CIVIL RIGHTS
DCR DOCKET NO.:AG14HB01564

IN THE MATTER OF: : **CONSENT ORDER**
: :
: :
NATIONAL AMUSEMENTS : :
: :

WHEREAS, the Attorney General of the State of New Jersey ("Attorney General") and the Director of the New Jersey Division on Civil Rights ("Director") are charged with the responsibility of enforcing the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq. ("LAD"), and all regulations promulgated thereunder N.J.A.C. 13:13-1.1 et seq.; and

WHEREAS, the Division has identified issues involving the interest of the deaf and hard of hearing at places of public accommodations owned or operated by National Amusements

("National") and

National is willing to cooperate with the Division to address those issues; and

WHEREAS, National enters into this Consent Order in the interest of better serving the deaf and hard of hearing people and makes no admission of liability or wrongdoing under the LAD and its regulations; and

WHEREAS, the parties have reached an amicable agreement resolving any and all issues in connection with potential violations of the LAD and its regulations;

NOW THEREFORE, it is on this day of September, 2004, AGREED AND ORDERED as follows:

DEFINITIONS

1. As used in this Consent Order, the Rear Window Closed Captioned System ("RWC") is a system that displays reversed captions on a light-emitting diode("LED") text display which is mounted in the rear of a theater. Deaf and hard-of-hearing patrons use transparent acrylic panels attached to the seats to reflect the captions so that they appear superimposed on the movie screen. The reflective panels are portable and adjustable, enabling the caption user to sit almost anywhere in the theater.

2. As used in this Consent Order, the DVS Technical System ("DVS") is a system which delivers descriptive narration via infrared listening systems, enabling blind and visually impaired

moviegoers to hear the descriptions on headsets. The descriptions provide narrated information about key visual elements such as action settings, and scene changes, making movies more meaningful to people with vision loss.

3. This Consent Order applies to theaters operated by National and situated only in the State of New Jersey.

BUSINESS PRACTICES

4. By entering into this Consent Order, the parties agree that there are no admissions of liability or wrongdoing or findings of liability or wrongdoing under the LAD and its regulations.

5. Within ninety (90) days from the effective date of this Agreement, National agrees to install RWC and DVS systems at one screen at its All Jersey Multiplex Cinemas, located at 104-180 Foundry Street, Newark, New Jersey.

6. Within ninety (90) days from the effective date of this Agreement, National agrees to install RWC and DVS systems at one screen at its Amboy Multiplex Cinemas, located at Us Highway 9 & Route 35, Sayreville, New Jersey

6. Within ninety (90) days from the effective date of this Agreement, National agrees to install RWC and DVS systems at one screen at its Atco Multiplex Cinemas, located at 178 White Horse Pike, Atco, New Jersey.

7. Within ninety (90) days from the effective date of

this Agreement, National agrees to install RWC and DVS systems at one screen at its Edgewater Multiplex Cinemas, located at 339 River Road, Edgewater, New Jersey.

8. Within ninety (90) days from the effective date of this Agreement, National agrees to install RWC and DVS systems at one screen at its Hazlet Multiplex Cinemas, located at 2821 Route 35, Hazlet, New Jersey.

9. Within ninety (90) days from the effective date of this Agreement, National agrees to install RWC and DVS systems at one screen at its Multiplex Cinemas at Town Center Plaza, located at 319 Route 130 North, East Windsor, New Jersey.

10. National will provide notices of the scheduled movies for which RWC and DVS are available in any advertisement controlled and utilized by National. This shall apply to newspaper advertisements, telephone advertisements, its own website, any other website, or any other means of advertising controlled and utilized by National. As to any other media not controlled by National, National agrees to request that notice of the scheduled movies for which RWC and DVS is available be included in the advertisements. Nothing in this paragraph shall require National to run additional advertisements in any medium. This paragraph does not apply to advertisements that do not mention specific

movies being shown in the State of New Jersey.

11. National will maintain at a minimum ten (10) seat reflector screens for each RWC system installed in its following theaters in New Jersey.

- a. Amboy Multiplex Cinemas
- b. Atco Multiplex Cinemas
- c. Edgewater Multiplex Cinemas
- d. Hazlet Multiplex Cinemas
- e. Multiplex Cinemas at town Center Plaza

12. National will maintain at a minimum fifty (50) seat reflector screens for the RWC system installed in its All Jersey Multiplex Cinemas.

13. National agrees to install RWC and DVS systems at one (1) screen at all newly constructed or acquired theaters in New Jersey with ten or more screens. If a newly constructed theater has more than fifteen (15) screens, National will install two additional RWC and DVS systems. If National acquires a theater in New Jersey with more than fifteen (15) screens, the Division reserves the right to request that National install two RWC and DVS systems in said theater. If such request is denied by National, the Division reserves the right to institute litigation against National with respect to only that theater. Said litigation will

not void or nullify any terms and conditions of this agreement. If National acquires a theater in New Jersey which has RWC and DVS systems in two more screens, National shall not discontinue the operation of those systems.

14. At the time the RWC and DVS systems are installed in each of its theaters, National shall develop and post a written notice prominently displayed in its box office and the lobby of the theater informing its patrons that the RWC and DVS systems are available for a specific movie, with instructions as to how to access this system.

15. National shall designate one individual and an alternate at each theater to monitor that the RWC and DVS systems are in operating condition.

16. National shall train all appropriate employees, such as cashiers, ushers and customer service representatives, etc., as to the use of the RWC and DVS systems.

17. As space is available, National will provide the Attorney General with the opportunity to have the Attorney General's public service announcements' played on the movie screen prior to the showing of the movie. If National has concerns with the content of any Attorney General public service announcement, National will immediately contact Deputy Attorney General Anne

Marie Kelly by facsimile and regular mail as listed below and the parties will mutually resolve such concerns.

Anne Marie Kelly
Deputy Attorney General Division of Law
124 Halsey Street
P.O. Box 45029
Newark, New Jersey 07010
Facsimile Number: (973) 648-3879

GENERAL ASSURANCES

18. If National fails to comply with the provisions of this Consent Order, each failure to comply shall be deemed a violation of the LAD, entitling plaintiffs to seek such relief and remedies available under the LAD, including N.J.S.A. 10:5-14.1a.

19. This Consent Order shall bind the parties and shall be binding on and be for the benefit of any and all future purchasers, merged parties or other successors in the interest of National.

20. In the event technology is developed superior to the RWC system, either party may request to renegotiate the terms of this Consent Order. No such request would invalidate this Consent Order.

21. The parties agree that for purposes of enforcement of this Consent Order, New Jersey law shall govern the terms and provisions hereof.

22. This Consent Order constitutes the entire agreement

between the parties hereto and shall bind the parties hereto and their respective officers, directors, agents, representatives, employees, successors and assigns.

23. The parties represent that an authorized representative of each has signed this Consent Order with full knowledge, understanding and acceptance of its terms and has done so with authority to legally bind the respective party.

24. Any amendments to this Consent Order must be in writing and signed by all the parties hereto.

25. This Consent Order shall constitute a Final Agency Order and is effective upon filing and receipt by National of a fully-executed counterpart.


NEW JERSEY DIVISION ON CIVIL RIGHTS

By: 
J. FRANK VESPA-PAPALEO, ESQ.
DIRECTOR

Dated: 9/10/04

I have read the above Consent Order, understand it and hereby agree to be bound according to its terms. National hereunder consents as to the form and entry of this Order.

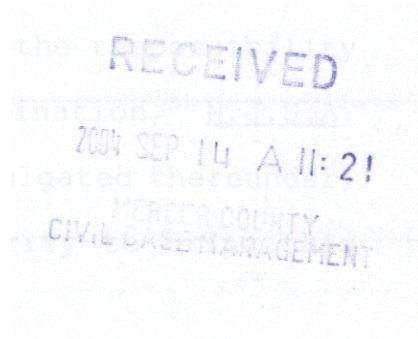
NATIONAL AMUSEMENTS

By: 
WILLIAM J. TOWEY
SENIOR VICE PRESIDENT, OPERATIONS

Dated: September 8, 2004

PETER C. HARVEY
ATTORNEY GENERAL OF NEW JERSEY
Division of Law
124 Halsey Street - 5th Floor
P.O. Box 45029
Newark, New Jersey 07101
Attorney for Plaintiffs

By: Anne Marie Kelly
Brian O. Lipman
Deputy Attorneys General
Tel.: (973) 648-4846



SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION: MERCER COUNTY
DOCKET NO.:

PETER C. HARVEY, ATTORNEY GENERAL
OF THE STATE OF NEW JERSEY and
J. FRANK VESPA-PAPALEO, DIRECTOR
OF THE NEW JERSEY DIVISION ON
CIVIL RIGHTS,

Plaintiffs,

v.

ANSCHUTZ CORPORATION
d/b/a REGAL ENTERTAINMENT GROUP
and/or REGAL CINEMAS, INC.,

Defendant.

Plaintiffs, Peter C. Harvey, Attorney General of New Jersey, with offices located at Hughes Justice Complex, 25 W. Market Street, P.O. Box 080, Trenton, New Jersey, and J. Frank Vespa-Papaleo, Director of the New Jersey Division on Civil Rights, with offices located at 140 East Front Street, P.O. Box 089, Trenton, New Jersey, by way of Complaint say:

JURISDICTION AND PARTIES

1. The Attorney General of the State of New Jersey ("Attorney General") is charged, among other things, with the responsibility of enforcing the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq. ("LAD"), and all regulations promulgated thereunder, N.J.A.C. 13:13-1.1 et seq., and has the authority to bring this action pursuant to N.J.S.A. 10:5-13.

2. The Director of the New Jersey Division on Civil Rights ("Division") acts for the Attorney General, and with the Attorney General's power, in enforcing the LAD. N.J.S.A. 10:5-8(d). The Division is charged, among other things, with the responsibility of preventing any place of public accommodation from refusing, withholding from, or denying to any person protected by the LAD any of the accommodations, advantages, facilities or privileges thereof, or from discriminating against any such person in the furnishing thereof. N.J.S.A. 10:5-12(f)(1). The Director has the authority to bring this action pursuant to N.J.S.A. 10:5-13.

3. By this action, the Attorney General and the Director (collectively referred to as "Plaintiffs") seek injunctive relief, punitive damages, attorney's fees, and other relief for violations of the LAD.

4. Venue is proper in Mercer County, pursuant to R. 4:3-2(a) and R. 4:29-1.

5. Regal Entertainment Group and Regal Cinemas, Inc. ("Regal") are owned by the Anschutz Corporation, which also owns the San Francisco Examiner, Edward's Theaters Circuit, Inc., and

United Artists Theater Company. Regal has a principal place of business at 7132 Regal Lane, Knoxville, Tennessee 37918. As of June 1, 2003, it is the largest movie theater company in the United States, operating 6,124 screens at 563 sites. It, or its affiliates or subsidiaries, owns, operates and/or controls approximately 152 screens at twelve sites in New Jersey.

BACKGROUND

6. According to statistics analyzed by the New Jersey Department of Human Services, Division of the Deaf and Hard of Hearing, New Jersey's primary contact agency for information and referrals for individuals with hearing loss, of New Jersey's 8,052,000 residents, about 720,000, or approximately 8.9%, have some level of hearing loss.

7. Being deaf or hard of hearing is a recognized disability under the LAD. N.J.S.A. 10:5-5(q),(w).

8. The purpose of the LAD, among other things, is to prohibit any place of public accommodation directly or indirectly from refusing, withholding or denying to any disabled person any of the accommodations, advantages, facilities or privileges thereof. N.J.S.A. 10:5-12(f)(1).

9. Defendant's movie theaters are "places of public accommodation," N.J.S.A. 10:5-5(1), and therefore must comply with the LAD's prohibition of discrimination against the deaf and individuals with hearing impairments.

10. The regulations promulgated under the LAD require, inter

alia, a place of public accommodation to make "reasonable modifications" to provide an accommodation to a person with a disability, unless the owner can show that such modifications would impose an undue burden on its operations. N.J.A.C. 13:13-4.11(a). The regulations further provide that a reasonable accommodation to a person who is deaf or has a hearing impediment includes the provision of auxiliary aids and services to ensure effective communication, such as closed caption decoders, and open and closed captioning. N.J.A.C. 13:13-4.12(a)(7).

11. Movies are a significant part of our Nation's culture. Movie characters, scenes and dialogue constitute a major portion of our citizens' common experiences and infiltrate all parts of our State's collective culture. In media, at work, and in the home, discussion of, and references to, movies are prevalent and a basis for dialogue, communications and understanding. Deaf and hard of hearing persons who are unable to attend first-run movies are foreclosed from enjoying not only the movies themselves, but from sharing experiences and creating bonds with their family, friends and fellow citizens.

12. There are different technologies that can be utilized by people who are deaf or hard of hearing to access movies: open captioning and closed captioning.

13. Traditionally, open captioning requires the captioning to be burned on an individual reel of film. This is a labor intensive process, which takes place at least three weeks and often up to three to four months after the initial distribution of the film.

Thus, the deaf and hard of hearing community must wait a long period after the release of a film to view it. Even when it is shown, it is usually screened only at occasional showings not during prime times (Friday and Saturday nights). Moreover, there are a limited number of reels of film upon which captioning is burnt; in some instances there may only be one captioned version of a particular film available for all New Jersey theaters.

14. Recently, a new type of open captioning has been made available to movie theaters, Open Caption Projection ("OCP"). This system requires a theater to install a second projector, which projects the captioning directly onto the film as it is showing. Unlike the older technology, the theater owner has the option to turn the Open Caption Projection on or off at individual screenings. OCP-compatible films have their captions available from the very first showing of a film and for each and every showing of the film in OCP-equipped theaters.

15. Closed captioning displays the text only to patrons utilizing the equipment. With Rear Window Caption ("RWC"), a closed caption technology designed specifically for movie theaters, captions are recorded on a computer disc and played simultaneously with regular screenings of the movie. As the movie is displayed on the screen, the captions are sent to an LED data panel on the back wall of the theater and the text is reversed. Patrons then use panels at their seats to reflect the LED captions, allowing the captions to appear superimposed on or beneath the movie screen. The reflective panels are portable and adjustable, enabling patrons

using RWC to sit almost anywhere in the theater.

16. The number of RWC-and OCP-compatible films that are released is significant and will continue to increase as more movie theaters install the technology. RWC- and OCP-compatible films have their captions available from the very first showing of a film and for each and every showing of the film in RWC- or OCP-equipped theaters.

17. At this time, to install OCP would cost approximately \$12,500. This cost would likely be reduced if OCP equipment were purchased in bulk for installation in more than one theater.

18. At this time, to install RWC would cost approximately \$10,000. This cost would probably be reduced if RWC equipment were purchased in bulk for installation in more than one theater.

19. OCP (when used at all showings) and RWC are reasonable accommodations under the LAD and do not impose an undue burden on Defendant, in that neither OCP nor RWC is excessively costly nor would result in a fundamental alteration to the theater. N.J.A.C. 13:13-4.11(b), 13:13-4.12(a)(7).

VIOLATIONS OF THE LAW AGAINST DISCRIMINATION

20. Despite the release of most movies shown in Defendant's theaters in formats compatible with the RWC and OCP systems, and despite the fact that such systems are neither excessively costly nor would result in a fundamental alteration to the theaters, none of Regal's theaters located in New Jersey are equipped with either

an RWC or OCP system.

21. On August 3, 2004, the Burlington Stadium 20 theater located at 250 Bromley Boulevard, Burlington, New Jersey, showed nineteen first-run films. Eleven of those films had RWC and OCP capability, which would have made them accessible to the deaf and hard of hearing community.

22. On August 10, 2004, the Burlington Stadium 20 theater identified in paragraph 21 showed seventeen newly released films. Ten of those films had RWC and OCP capability, which would have made them accessible to the deaf and hard of hearing community.

23. On August 3, 2004, the Cumberland Mall Stadium 14 theater located at 3849 S. Delsea, Vineland, New Jersey, showed fourteen newly released films. Ten of those films had RWC and OCP capability, which would have made them accessible to the deaf and hard of hearing community.

24. On August 10, 2004, the Cumberland Mall Stadium 14 theater, identified in paragraph 23 showed thirteen newly released films. Nine of those films had RWC and OCP capability, which would have made them accessible to the deaf and hard of hearing community.

25. On August 3, 2004, the Hadley Theater Stadium 16 located at 1000 Corporate Court, South Plainfield, New Jersey, showed thirteen newly released films. Nine of those films had RWC and OCP capability which would have made them accessible to the deaf and hard of hearing community.

26. On August 10, 2004, the Hadley Theater Stadium 16, identified in paragraph 25 showed thirteen newly released films. Ten of those films had RWC and OCP capability, which would have made them accessible to the deaf and hard of hearing community.

27. On August 3, 2004, the UA Washington Township 14 theater located at 121 Tuckahoe Road, Sewell, New Jersey, showed nine newly released films. Six of those films had RWC and OCP capability, which would have made them accessible to the deaf and hard of hearing community.

28. On August 10, 2004, the UA Washington Township 14 theater identified in paragraph 27, showed ten newly released films. Six of those films had RWC and OCP capability, which would have made them accessible to the deaf and hard of hearing community.

29. On August 3, 2004, the Pohatcong 12 theater located at 1246 U.S. Highway 22, Phillipsburg, New Jersey, showed twelve newly released films. Eight of those films had RWC or OCP capability, which would have made them accessible to the deaf and hard of hearing community.

30. On August 10, 2004, the Pohatcong 12 theater identified in paragraph 29 showed eleven newly released films. Eight of those films had RWC and OCP capability, which would have made them accessible to the deaf and hard of hearing community.

31. On August 3, 2004, the Commerce Center Stadium 18 theater located at 2399 Route 1 South, North Brunswick, New Jersey, showed seventeen newly released films. Ten of those films had RWC or OCP capability, which would have made them accessible to the deaf and

hard of hearing community.

32. On August 10, 2004, the Commerce Center Stadium 18 theater identified in paragraph 31 showed fifteen newly released films. Ten of those films had RWC and OCP capability, which would have made them accessible to the deaf and hard of hearing community.

33. On August 3, 2004, the Movies @ Market Fair Stadium 10 Theater, located at 3521 Route 1, Princeton, New Jersey, showed ten newly released films. Six of those films had RWC or OCP capability, which would have made them accessible to the deaf and hard of hearing community.

34. On August 10, 2004, the Movies @ Market Fair Stadium 10 theater identified in paragraph 33 showed ten newly released films. Eight of those films had RWC and OCP capability, which would have made them accessible to the deaf and hard of hearing community.

35. On August 3, 2004, the Cross Keys Cinema Stadium 12 theater located at 151 American Boulevard, Turnersville, New Jersey, showed thirteen newly released films. Seven of those films had RWC or OCP capability, which would have made them accessible to the deaf and hard of hearing community.

36. On August 10, 2004, the Cross Keys Cinema Stadium 12 theater identified in paragraph 35 showed twelve newly released films. Six of those films had RWC and OCP capability, which would have made them accessible to the deaf and hard of hearing community.

37. On August 3, 2004, the Marlboro Stadium 8 theater located

at 12 Route 9 North, Morganville, New Jersey, showed ten newly released films. Six of those films had RWC or OCP capability, which would have made them accessible to the deaf and hard of hearing community.

38. On August 10, 2004, the Marlboro Stadium 8 theater identified in paragraph 37 showed eight newly released films. Seven of those films had RWC and OCP capability, which would have made them accessible to the deaf and hard of hearing community.

39. On August 3, 2004, the UA Moorestown Mall 7 theater located at 400 Route 38, Moorestown, New Jersey, showed eight newly released films. Seven of those films had RWC or OCP capability, which would have made them accessible to the deaf and hard of hearing community.

40. On August 10, 2004, the UA Moorestown Mall 7 theater identified in paragraph 39 showed eight newly released films. Seven of those films had RWC and OCP capability, which would have made them accessible to the deaf and hard of hearing community.

41. On August 3, 2004, the Hudson Mall 7 theater located at 725 St. Route 440, Jersey City, New Jersey, showed seven newly released films, five of those files had RWC or OCP capability, which would have made them accessible to the deaf and hard of hearing community.

42. On August 10, 2004, the Hudson Mall 7 theater identified in paragraph 41 showed seven newly released films. Five of those films had RWC and OCP capability, which would have made them accessible to the deaf and hard of hearing community.

43. On August 3, 2004, the Hamilton Commons Stadium 14 theater located at 4215 Black Horse Pike, Mays Landing, New Jersey, showed fourteen newly released films. Nine of those films had RWC or OCP capability, which would have made them accessible to the deaf and hard of hearing community.

44. On August 10, 2004, the Hamilton Commons Stadium 14 theater identified in paragraph 43 showed thirteen newly released films. Ten of those films had RWC and OCP capability, which would have made them accessible to the deaf and hard of hearing community.

45. The only action taken by Defendant to enable in any manner deaf and hard-of-hearing patrons to enjoy movies shown at Defendant's theaters is the very limited, sporadic showing of a small number of films, which are not newly released and which are not shown during prime times, in the older open caption format described in paragraph 13 above.

46. Both in person and in writing, Plaintiffs have requested that Regal install either the OCP or RWC system at its theaters in New Jersey so that the deaf and hard of hearing may enjoy newly released films at the same time as non-deaf and hard of hearing patrons. Regal has advised that it is unwilling to install either system.

47. By refusing to install either the OCP or RWC system in its movie theaters in New Jersey, and by otherwise not making its movies accessible to the deaf and hard of hearing, Defendant has violated the New Jersey Law Against Discrimination and its

regulations, since installation of either one of these systems would enable the deaf and hard of hearing citizens of New Jersey to attend newly released movies and to share their experiences with their family, friends and fellow citizens.

WHEREFORE, the named Plaintiffs, on behalf of the deaf and hard of hearing citizens of New Jersey, respectfully request that this Court:

a) Enter a finding that Defendant has violated the Law Against Discrimination and its regulations because of its failure to install either the OCP or RWC system in its movie theaters in New Jersey or to otherwise make its movies accessible to the deaf and hard of hearing citizens of New Jersey;

b) Enter injunctive relief against Defendant, including, but not limited to, requiring Defendant to implement the captioning and other interpretive aids as described above;

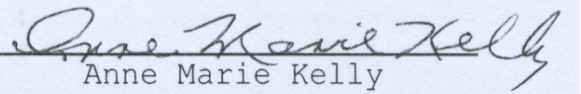
c) Award punitive damages;

d) Award counsel fees and costs pursuant to N.J.S.A. 10:5-27.1; and

f) Award any other relief this Court deems appropriate.

PETER C. HARVEY
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By:


Anne Marie Kelly
Deputy Attorney General

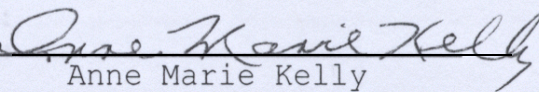
Dated: _____

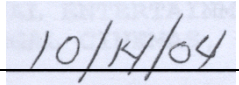
10/14/04

DESIGNATION OF TRIAL COUNSEL

Pursuant to R.4:25-4, Anne Marie Kelly and Brian O. Lipman, Deputies Attorney General, are hereby designated as trial counsel on behalf of Plaintiffs.

PETER C. HARVEY
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By: 
Anne Marie Kelly
Deputy Attorney General

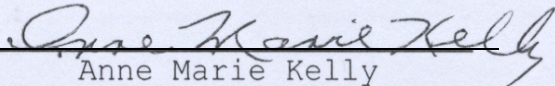
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RULE 4:5-1 CERTIFICATION

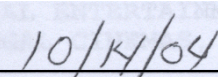
I certify, to the best of my information and belief, that the matter in controversy in this action involving the aforementioned violations of the New Jersey Law Against discrimination, N.J.S.A. 10:5-1 et seq. is not the subject of any other action pending in any other court of this State. I further that the matter in controversy in this action is not the subject of a pending arbitration proceeding, nor is any other action or arbitration proceeding contemplated. I certify that there is no other party who should be joined in this action.

PETER C. HARVEY
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By:


Anne Marie Kelly
Deputy Attorney General

Dated:



FIRST ANNUAL NEW JERSEY DIVISION ON CIVIL RIGHTS Disability Law Conference: Protecting the Rights of People with Hearing Loss

James E. McGreevey
Governor

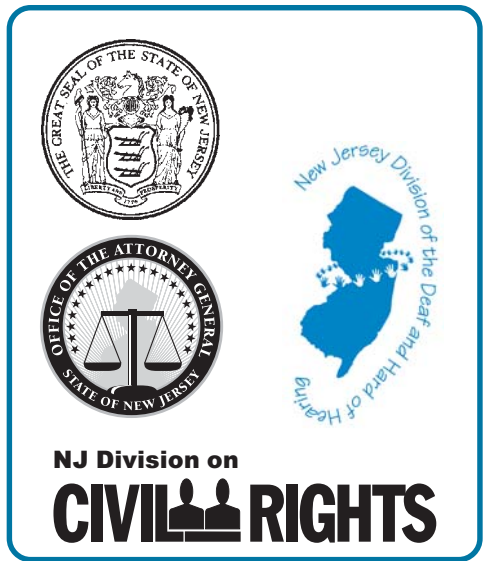
Peter C. Harvey
Attorney General

J. Frank Vespa-Papaleo
Director

The NJ Division on Civil Rights and the NJ Division of the Deaf and Hard of Hearing are pleased to invite you to the **First Annual Disability Law Conference: Protecting the Rights of People with Hearing Loss** free of charge.

- **Have you ever been denied an interpreter?**
- **Are you being passed over for promotions at work?**
- **Do you know how New Jersey law protects you?**

The conference will be held **twice**, once in each location. Food and refreshments will be provided.



March 18 at 6 – 9 p.m.

Camden County College

Blackwood Campus, CIM Auditorium
College Drive, Blackwood, NJ 08012
Co-sponsored by the college on behalf of the MidAtlantic Post-Secondary Center for Deaf and Hard of Hearing Students

or

March 22 at 6 – 9 p.m.

Montclair State University

Upper Montclair, NJ 07043
Student Center Ballroom
Co-sponsored by Montclair State University's Service to Students with Disabilities Department

This is an opportunity to learn about the New Jersey Law Against Discrimination and what the State of New Jersey is doing to uphold the rights of persons with hearing loss.

These services will be provided:



If you need additional services, please call (609) 292-4605, TTY: (609) 292-1785 at least one week prior to the conference.

Co-sponsored by

- **Governor James E. McGreevey**
- **Attorney General Peter C. Harvey**
- **US Equal Employment Opportunity Commission**
- **NJ Division of Highway Traffic Safety**
- **NJ Human Relations Council**
- **NJ Division of Elections**
- **NJ Division of Disability Services**

New Jersey Division on
CIVIL RIGHTS

Please fill out this form and fax it to
(609) 777-0466 by March 8, 2004.

If you have any questions please call
(609) 292-4605, TTY: (609) 292-1785 or
send an e-mail to DCRTraining@lps.state.nj.us
You may also **register online** at
www.NJCivilRights.org

Name _____
Address _____
City _____ State _____ Zip _____
Phone _____ Fax _____
TTY _____
E-mail _____ @ _____
I will attend the conference in Camden Montclair (pick one)
 I would like to receive the Division on Civil Rights newsletter and other publications.

FACT SHEET

Hearing Loss and Discrimination: Your Rights Under the New Jersey Law Against Discrimination (LAD)

James E. McGreevey
Governor

Peter C. Harvey
Attorney General

J. Frank Vespa-Papaleo
Director, NJ Division on Civil Rights

What Does NJ Law Say about Discrimination due to Hearing Loss?

Under the New Jersey law Against Discrimination (LAD), If you are treated differently or harassed because of your hearing loss, you have the legal right to do something about it.

You may not:

- Be denied a job or promotion because of your hearing loss
- Be treated differently or harassed because of your hearing loss
- Be denied a reasonable accommodation

*There are some exceptions to the state's
Disability discrimination law.
They are explained in this fact sheet.*

The New Jersey Law Against Discrimination (LAD) makes it unlawful for the owner, operator or employee of a place of public accommodation to discriminate against people with disabilities. N.J.S.A. 10:5-1 to 49.

What Does This Mean To You?

- This means that places open to the public may not treat a person with a disability less favorably than others, such as refusing to admit a student to a school or after school program because he or she cannot hear.
- Additionally, the LAD also requires places of accommodation to take reasonable steps to make sure that a person with a hearing loss can enjoy the goods, services and facilities that are available to everyone else.

This Means:

Access to public accommodations are **Required**, however, the accommodation only has to be **Reasonable**.

- **Reasonable** means that if the providing the particular accommodation causes the provider **undue hardship**, then it is not reasonable under the law.
- **Undue hardship** typically means very costly to buy, operate or maintain, or if it changes the nature of business.

Who does LAD protect?

- The LAD covers more people than the federal ADA. The ADA protects people with a permanent or long-term disability, which substantially limits one or more major life activities. Hearing Loss is protected as a disability under the state's LAD.

But the LAD does more...

- While NJ's LAD also protects people who presently have a disability, it also protects those who have had a disability in the past, and people who are expected to develop a disability in the future, and those who are perceived to have a disability. So, if someone does not have a certain disability but they are subjected to discrimination by people who mistakenly believe that they do have a disability, the LAD protects them also.

Public Accommodation under LAD:

- The LAD applies to individuals and entities that offer goods, services, State services or facilities to the general public, schools, movie theatres, camps, child care facilities, doctors' and lawyers' offices.

Exceptions to the LAD:

- The LAD does not apply to the terms or conditions of a pension plan, insurance, or other employee benefits program.
- Nor does the LAD apply to educational facilities operated or maintained by bona fide religious or sectarian institutions. However, a child care or after school program that accepts state or federal funding is required to comply with anti-discrimination laws even if the program is operated or maintained by a bona fide religious or sectarian institution.
- The LAD does not apply to private clubs where membership is not open to the general public.
- The LAD does not apply to places of public accommodation, which limits access based on gender.

Are Hearing Aids considered as Assistive Technology Device that must be provided by the school?

- There is no clear answer to this question under state law. Hearing aids are most definitely an assistive technology device. However, the question remains: whose responsibility is it to supply the device since the student needs it for more than school purposes. The federal government issued a policy letter, which says that a school must supply hearing aids as an assistive technology device if it is in the IEP and is necessary for a child to receive a FAPE. New Jersey has not challenged that position, however, school districts have answered the question on a case by case basis.

Examples of reasonable accommodation under the LAD

- FM system, eye-communication speech recognition software, CART (Computerized Assistive Real Time captioning) services, C-print (speech to text software) and interpreters.

What Can I Do?

If you believe that you have been the victim of unlawful discrimination, please visit or phone us at the Division on Civil Rights office closest to where you live or where you think the discrimination occurred. Our addresses and phone numbers are at the end of this fact sheet. Our services are free.

When you come to us, an initial evaluation will determine if your claim is covered under the law. If it is, the Division will then conduct an investigation into your allegations. If the investigation shows enough evidence to support your

complaint, and your complaint cannot be settled, a hearing will be held in the Office of Administrative Law.

The Division is only able to investigate your complaint if it is filed within **180 days** of the last act of alleged discrimination.

You may also have the right to file a lawsuit in state court, with or without the assistance of an attorney, and try your case in the New Jersey Superior Court. A Superior Court action must be filed within **two years** from the act of discrimination.

It is against the law for anyone to retaliate against you because you have complained to us.

For more information, contact the office nearest your work or home or visit us at our Web site at **www.NJCivilRights.org**.

Contact Information

Atlantic City Office:

26 Pennsylvania Avenue, 3rd Floor
Atlantic City, NJ 08401

(609) 441-3100 (Phone)
(609) 441-3578 (Fax)
(609) 441-7648 (TTY)

Camden Office:

One Port Center
2 Riverside Drive, Suite 402, 4th Floor
Camden, NJ 08103

(856) 614-2550 (Phone)
(856) 614-2568 (Fax)
(856) 614-2574 (TTY)

Newark Office:

31 Clinton Street, 3rd Floor / P.O. Box 46001
Newark, NJ 07102

(973) 648-2700 (Phone)
(973) 648-4405 (Fax)
(973) 648-4678 (TTY)

Paterson Office:

100 Hamilton Plaza, 8th Floor
Paterson, NJ 07501

(973) 977-4500 (Phone)
(973) 977-4511 (Fax)
(973) 977-1955 (TTY)

Trenton Office:

140 East Front Street, 6th Floor / P.O. Box 090
Trenton, NJ 08625-0090

(609) 292-4605 (Phone)
(609) 984-3812 (Fax)
(609) 292-1785 (TTY)