

**Phyllis F. Resnick, President**

A Florida Not-For-Profit  
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19333 West Country Club Drive #1522  
Aventura, Florida 33180

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SEPTEMBER, 2008

SEPTEMBER, 2008

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SEPTEMBER, 2008

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**(Bobby-Approved)**

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**“ACCESS NOW, INC.”®**  
(a Florida not-for-profit, 501(c) 3 Corporation)  
19333 West Country Club Drive #1522  
Aventura, Florida 33180  
Tel. 305-705-0059 Fax 305-792-2665

[info@adaaccessnow.org](mailto:info@adaaccessnow.org)

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**(MOBILITY – WHEELCHAIR-USER, PART/FULLTIME; VISION; HEARING)**

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# ACCESS NOW, inc.

A Florida Not-For profit, 501(c) 3 Corporation

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19333 West Country Club Drive, #1522  
Aventura, FL 33180  
Tel: (305) 705-0059 Fax: (305) 792-2665  
www.adaaccessnow.org info@adaaccessnow.org

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**I BELIEVE THAT  
MANY OF THESE  
NAMES MIGHT BE  
FAMILIAR TO YOU.  
IN FACT, YOU MIGHT  
EVEN SEE YOUR OWN!**

**September, 2008**

**Dear Reader:**

**Once again, we hope that you will enjoy reading our latest newsletter and that you would like to join us in our mission, our goal and our achievements. (THERE IS NO FEE REQUIRED.) Also, please let us remind you that our membership is open to both the able-bodied as well as to the disabled.**

**If you would like to become one among our growing list of members, please either fill out, SIGN and return the attached form to us or, preferably, you may fill out the form online by logging on to our website at [www.adaaccessnow.org](http://www.adaaccessnow.org) and going to the "Membership" link. (The latter method makes it much easier and quicker for us to enter you into our database and is therefore particularly helpful.)**

**IF YOU ARE ALREADY A MEMBER, PLEASE SHARE THE ENCLOSED MEMBERSHIP FORM WITH SOMEONE WHOM YOU KNOW!!! THANK YOU!**

**We are very proud of the strides we have made and we hope that we can count on you as one of our members and, in an abundance of optimism, we thank you in advance!**

**Most sincerely,**

**Access Now, Inc.®  
Phyllis F. Resnick, President**

## **NEWSLETTER UPDATE – SEPTEMBER, 2008**

**FROM PHYLLIS F. RESNICK, PRESIDENT**

**HELLO, AGAIN, EVERYBODY!!!!**

Please allow us to begin by addressing the matters of costs and trees. As the costs of printing and paper continue to rise and the loss of trees continues to grow, we have been thinking of sending this newsletter electronically ONLY, to those who have e-mail, while continuing to send it by postal mail to those who do not. (Or, in the alternative, one could log on to our website and read it there.) If you would like to receive future newsletters by email or via the website, rather than in paper form, please send us an email ([phyllis@adaaccessnow.org](mailto:phyllis@adaaccessnow.org)) indicating so and we will then cease sending all future newsletters by postal mail, except to those who wish to continue that way. Thank you for your cooperation!

Well, another 6 months have passed since our last newsletter and much continues to happen in the world of "Access Now"®. We have had several Class Action Fairness Hearings, a trial and many Settlements. It has been an active, interesting, challenging, sometimes aggravating, but mostly gratifying time! Some things are happening in the overall A.D.A. (Americans with Disabilities Act) world as well; more about all of the above later in this newsletter.

**We would like to point out to those of you who are receiving this newsletter for the first time that, sadly, many entities continue to fail to comply with the A.D.A., despite the fact that the law was enacted in 1990.** As we have said before, we continue to press on with cases against a variety of entities. On a continuing basis, virtually daily, we receive complaints from disabled persons who are routinely being denied their rights under this civil rights law. There is no such thing as a "large" or "small" case, only a large or small entity and we take pride in the fact that we do not limit our efforts to either category. The resolution of high profile cases of legal "first impression", as well as of those involving neighborhood businesses have a great impact on the daily lives of the disabled among us (although we want to make clear that it is not our aim to put anyone out of business.)

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### **AND NOW, THE UPDATE:**

**Membership** – We now have 968 members representing 47 states and Puerto Rico. We are also proud to claim members in Canada, Hong Kong, Australia. Our Board of Directors stands at 40, our Executive Committee at 8, our Attorneys represent 4 law firms and our Consultants number 6. We want to acknowledge here our debt to our Board of Directors and our Executive Committee for their support, their encouragement and their many kinds of contributions to our goals. Most particularly, we want to express our appreciation for the efforts of our First Vice-President, Marla Dumas. Above all, our deepest appreciation goes to the attorneys and consultants who handle all our cases. Contrary to what is widely believed by the public, these are professionals who, although they earn their livings, in part, through these efforts, are primarily attracted to this work by their belief in and dedication to our mission!

We would be quite remiss if we failed to mention the enormous contributions of our computer consultants, Gregory Arkin and Alain Ginzberg, without whom we would not be able to function! Above all, I want to express my everlasting gratitude to my assistant, Thomas Miller, for undertaking the task of composing and typing the bulk of this newsletter. I couldn't do it without him!!

Finally, you may have heard that we have received our Florida and our U.S. trademark registrations for Access Now®. Attorney Frank Herrera has provided invaluable *pro bono* assistance in achieving this milestone. Once again, we wish to express our gratitude to Mr. Herrera. The result of his efforts is the successful culmination of our multi-year effort to protect the Access Now® name.

**A BRIEF OVERVIEW OF OUR LITIGATION:**

Since our September Newsletter, Access Now® has made progress in settling cases in several states. We have filed a total of 964 cases since our inception. Presently, there are 136 cases with outstanding Settlement Agreements, requiring alterations or modifications which in several cases should be completed by July 1, 2008, or later. (Cases involving hospitals and other large or complex facilities have post-settlement compliance completion dates much further in the future.)

During the past six months, Access Now® has entered into 27 additional settlements to make properties A.D.A.-compliant. They include:

Hospitals	23
Government	2
Schools	1
Transportation	1

Access Now® continues to assert itself nationally in scope. The 13 states in which cases have been settled range from the South and the mid-Atlantic to the Great Plains, Rocky Mountains and the Pacific shore. Our headquarters state of Florida accounted for 11% of settlements over the past six months.

We will keep expanding our geographical presence as best we can as we continue to receive requests for information and assistance from around the country and internationally. Please notify us if you become aware of situations where access continues to be denied. We remain solidly in the forefront of the fight for accessibility.

The following is a brief listing of the cases that have been settled since our last newsletter:

**Government**

City of Cape Coral, Cape Coral, Florida  
Town of Ocean City, Ocean City, Maryland

**Schools**

Northern Oklahoma College, Enid, Oklahoma

**Transportation**

Cruise America, Inc., Mesa, Arizona

**Hospitals**

Augusta Surgical Center	Augusta	GA
Cartersville Medical Center	Cartersville	GA
Centennial Surgery Center	Nashville	TN
Coliseum Medical Center	Macon	GA
Coliseum Same Day Surgery Center	Macon	GA
Creighton University Medical Center	Omaha	NE
Doctors Hospital	Augusta	GA
Desert Regional Medical Center	Palm Springs	CA
Doctors Hospital of Manteca	Manteca	CA

Doctors Medical Center of Modesto	Modesto	CA
Grand Strand Regional Medical Center	Myrtle Beach	SC
Henrico Doctor's	Richmond	VA
Lakeview Regional Medical Center	Covington	LA
Las Palmas Medical Center	El Paso	TX
Medical City Dallas Hospital	Dallas	TX
Plaza Medical Center of Ft. Worth	Ft. Worth	TX
Retreat Hospital	Richmond	VA
Rio Grande Medical Center	McAllen	TX
South Bay Hospital	Sun City Center	FL
Specialty Hospital of Jacksonville	Jacksonville	FL
St. Mark's Hospital	Salt Lake City	UT
Twin Cities Community Hospital	Templeton	CA
West Houston Medical Center	Houston	TX

**NOTABLE CASES** – There are some cases that are especially important because of their value as precedents or because they remove significant numbers or types of barriers. Several of those types of cases are listed below. *Please remember that most defendants in non-class action cases insist on confidentiality as a condition of signing settlement agreements.* Therefore, we cannot discuss those cases by name, although they number quite a few. However, several of them are included in the cases listed above.

1. **Hospitals** – The numbers of individual hospital cases that have been settled or are moving rapidly toward settlement continues to increase every week. The five Tenet Healthcare Corporation (Tenet) facilities listed in the prior section had a Fairness Hearing on January 26<sup>th</sup> in Miami. Another Fairness Hearing was held on June 3<sup>rd</sup> regarding an additional 18 Hospital Corporation of America (HCA) medical facilities.

We continue to be actively involved in cases involving medical institutions because of our strong belief that they constitute one of the most important ways to enhance the quality of life of the disabled community. These hospital settlements will make a great difference to members of our community. The settlements show that the ADA can work when there are dedicated advocates and attorneys using it for our benefit. **THE 27 FACILITIES HAVE A TOTAL OF ALMOST 4800 BEDS IN TEN STATES.**

We want to give much deserved praise to the firm of de la O, Marko, Magolnick and Leyton, and particularly to their associate, Charles D. Ferguson, for their stellar work in pursuing all the hospitals listed above and many others still in the pipeline!

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2. **City of Cape Coral, Florida** – This case involves the city's access problems with sidewalks, curb ramps, parking lots and public buildings. After years of litigation, the case against the city has been resolved. It has agreed to spend up to \$250,000 to remedy these access problems. Indeed, Cape Coral has already completed a large percentage of the work, and the amount it has agreed to spend is far more than the expert's estimates to make the repairs. Over the next several years, the city will undergo a significant change accessibility-wise due to our efforts.

3. **Town of Ocean City, Maryland** – The town has agreed to make access and parking improvements and modifications over the next five years as required by the ADA. This includes upgrading its streets, parks, stadia and other recreational areas, restrooms and the Convention Center. The changes will considerably improve the accessibility of the town for disabled residents and visitors.

4. **Cruise America, Inc.** – This is another case involving accessibility to rental vehicles for the disabled. Cruise America rents Recreational Vehicles. The settlement

in this case requires the company to make it RVs accessible to the disabled. this includes the purchase of hand controls for at least two of its vehicles, discontinue its policy that the driver and credit card holder must be the same individual allow the use of service animals and provide assistance for vision-impaired renters. Cruise America's Worldwide Reservation Center will designate a person as it ADA Coordinator to implement the company's policy for the Provision of Services to Individuals with Disabilities. We want to acknowledge our attorney, Gene Zweben, and plaintiff Fred Shotz for their efforts in securing this agreement protecting the mobility rights of the disabled.

5. **Northern Oklahoma College** – The Enid, Oklahoma college has begun implementing a four-year plan to remove access barriers on its campus. It has created an ADA Committee to address issues regarding barriers that interfere with access to services and facilities for persons with disabilities. Over the next four years the committee will designate projects on the Enid campus to remove or remediate barriers identified by our expert. There will be a review of all projects at the end of each academic year through 2012. The resolution of this case will make the Northern Oklahoma College campus a much more accessible place for the disabled.

6. **City of Sonora, California** – The city is working hard to live up to its promise to make all of its facilities, programs and services ADA-compliant. The plan to update access is in place, and the modifications are underway. The construction is on schedule according to the agreement between Sonora and Access Now<sup>®</sup> as embodied in the city's transition plan.

7. **Emory University** – Access Now<sup>®</sup> and member Kami Barker sued Emory University and its architects and engineers for denial of access in university housing projects. We settled with the University to remedy ADA and other accessibility violations. After a trial in August, 2006 before an Atlanta jury, a verdict for liability and damages was returned against the builders, Trammel Crow Residential, but not against the architects, Niles Bolton Associates. The outcome was less favorable than we had expected, and we appealed the 11<sup>th</sup> Circuit Court of Appeals. A court-ordered appellate mediation was unsuccessful, and we are now preparing to present our appeal. The case is currently in the briefing stage of the appeal process. We will keep you informed as to any further developments in this groundbreaking case (the first jury trial under the Fair Housing Act.) Kudos to Matthew Dietz of the law firm of Matthew W. Dietz, P.L., for his diligent pursuit of this particularly difficult and complicated case!

However, with regard to Fair Housing issues, much of interest is happening. The U.S. Government has substantially increased the number of Fair Housing Act lawsuits being brought. See the *New York Times* articles on Aug. 14<sup>th</sup> (<http://www.nytimes.com/2008/08/14/nyregion/14building.html?scp=3&sq=Fair%20Housing%20Act&st=cse>) and Aug. 19<sup>th</sup> (<http://www.nytimes.com/2008/08/19/nyregion/19disabled.html?scp=1&sq=Fair%20housing%20act&st=cse>) of this year. We are so pleased and proud to highlight again that Matthew Dietz and Access Now<sup>®</sup>, in the Emory case discussed above, brought the very first case to go to trial in the arena of the Fair Housing Act!

Additionally, on HUD's Fair Housing Act link (<http://www.hud.gov/offices/fheo/index.cfm>) there is a wide variety of discussions regarding the Fair Housing Act as it applies to disabled persons. Among the many issues in connection with this is one, in particular, about which we feel it is especially important for our readers to be aware: if you are disabled and you are purchasing a home which is in the design phase, you have the right to ask the developer to have it designed and constructed with the accessibility parameters which you require. If that increases the cost, you would be required to pay that increase, but the developer would be required to grant your demands.



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**CLASS ACTIONS** – Class actions affect a large number of disabled persons, usually because a large number of facilities are involved. We have class actions pending many offenders. These cases move slowly, but there is progress to report:

***Arby's:*** "Access Now"<sup>®</sup> brought suit against Arby's, based on the A.D.A. non-compliance of approximately 773 of its restaurants in the United States, Puerto Rico and U.S. territories. Arby's has agreed to remove architectural barriers in its restaurants, which will allow the disabled better access to this restaurant chain. We are continuing with our post-settlement inspections of the Arby's locations. To date 100 locations have work underway after inspections have been completed. These locations should be ADA-compliant by year's end. Other locations are now being inspected so that work can begin on them. Again, we wish to acknowledge the fine work of Josh Entin and Bob Switkes of Rosen, Switkes and Entin, PL for this wonderful result.

***Dollar & Thrifty Rent-a-Car:*** This class settlement and consent decree with Dollar and Thrifty rental car companies was approved on December 7, 2006. The agreement contemplates the most comprehensive accessibility program ever implemented in the rental car industry with what is believed to be the third largest rental car company in the United States.

Steady progress continues on the schedule set forth in the Consent Decree. Defendants have developed an updated facilities list reflecting the fact that they added 38 facilities to the listing, bringing the total to 272. Furthermore, an additional 30 facilities have been surveyed so far this year and there are plans to survey an additional 58 locations during the balance of 2008, bringing the total percentage of facilities surveyed to 54%. Finally, Defendants have completed remediation work on 51 facilities so far this year and have plans to work on an additional 52 locations during the balance of 2008, bringing the total percentage of facilities undergoing remediation work to 38%.

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**LITIGATION BY OTHERS:** We want to keep you informed about important recent litigation around the country, of which you might not be aware, as well as to update information from December's newsletter affecting the rights of the disabled. We think it is important for our members to keep abreast of successes realized by and within the disabled community, whether accomplished by Access Now<sup>®</sup> or by other organizations. We are all in this fight together!

## Just comply with ADA and he'll 'go away'

By [Geoff Oldfather](#)

Sunday, February 17, 2008

Lenny Wein is a pain in the neck. Some use another part of the anatomy to describe him. He wouldn't have it any other way.

Wein has been accused of extortion and worse because he has taken on local governments, businesses and individuals over the issue of access for the handicapped. "I get no money. I ask for no damages. All I want them to do is fix it," Wein said. He has filed 36 lawsuits in federal U.S. District Court for South Florida over handicap access.

Wein's latest target is the Martin County Fairgrounds, where he says he has been trying for more than a decade to get officials to comply with the Americans with Disabilities Act, or ADA, passed more than 18 years ago. He claims people in wheelchairs or using walkers or other aides can't get to games, rides or food stands in the grassy midway, and bathrooms and other facilities are so antiquated they're almost impossible for the handicapped to use.

When Wein's lawsuit was filed Feb. 7, the day before the fair opened, he immediately came under fire by critics who said he timed it that way just to make headlines. "I've been trying to get them to respond to my concerns for several years, and I tried to get them to fix it months ago, before the Greek Festival or the fair, so it wouldn't be a problem. Opening day of the fair had nothing to do with it," said Wein, a Palm City resident.

That's probably true. Wein's been trying to get me to write about the issue since October, but I held off hoping something would be worked out before a lawsuit was filed.

In November 2006, the St. Lucie County Commission agreed to settle a lawsuit Wein filed over Tradition Field. At issue was a lack of ADA-required companion seating in wheelchair sections, and the county budgeted \$475,000 for repairs. Wein didn't ask for damages in that case, and while his attorney's fees were paid, Wein didn't receive any money.

That didn't keep commission chairman Doug Coward from accusing Wein of "trying to extort money" by filing the lawsuit. Wein just laughs. "They fix it. I go away," Wein said.

Wein doesn't always win. He lost a non-ADA related case in the 19th Judicial Circuit which had to do with claims that Wein couldn't get a complete copy of the minutes of a Stuart West Property Owners Association meeting and he dropped one over a claim he was being "harassed" by members of that group's board of directors.

Wein, who uses a wheelchair, takes it all in stride. "What this is really about is discrimination," Wein said. "I'm lucky because I'm somewhat ambulatory, I can get around. But there are plenty of people who can't and they're being discriminated against and after all, the Americans With Disabilities Act is the law, and people have to comply with the law," Wein said. "I call it the 'Anti-Discrimination Act,' because that's really what it is," he said.

We need someone like Wein to keep things honest. Someone who's willing to take the heat. Lenny, you're a pain the neck. And worse.

Keep it up.

Columnist Geoff Oldfather can be reached at (772) 221-4217 or [geoff.oldfather@scripps.com](mailto:geoff.oldfather@scripps.com).

(Our Note: We are proud to claim Lenny as one of our longtime members in Access Now !!!)

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## **GOVERNMENTAL NEWS**

### **Rule would provide better court access to the disabled**

**By Jan Pudlow**  
*Senior Editor*

**February 15, 2008**

The art of compromise paid off for Matt Dietz, who honed a new rule to make it easier for persons with disabilities to attend court proceedings. At the close of the meeting January 17, Dietz, chair-elect of The Florida Bar's Equal Opportunities Law Section (EOLS) and chair of the Disability Independence Group, smiled triumphantly when the Rules of Judicial Administration Committee voted unanimously not only to approve EOLS' proposal to bolster Rule 2.540, "Notices to Persons with Disabilities" — but to expedite the matter so that it will be heard in the current rules cycle while Fred Lewis is still chief justice, rather than wait until 2012. Now, the

**new proposed rule is on the way to The Florida Bar Board of Governors for comment and the Supreme Court for approval.**

**"I am very happy. This is a wonderful experience in developing a process that will ensure that people with disabilities — no matter who they are who need to use the court process — will be able to," Dietz said. Dietz said he wanted the proposed rule in this year's cycle "as an acknowledgement to Chief Justice Lewis' leadership. It should be noticed that he is the person from the top who actually brought this issue to a place of prominence within the Bar and bench."**

**Seven months ago, Dietz faced an uphill battle when he first presented the proposed rule to the committee at the Bar's Annual Convention, arguing Florida's existing rule was inadequate because there was no guarantee of standard statewide procedures, accommodations were limited to persons *compelled* to attend court, and accommodations for disabled lawyers must be paid by their employers. The matter was close to sputtering to a halt, until the committee decided to allow 18th Circuit Judge Lisa Davidson — chair of a subcommittee that originally voted against the rule change — to reconstitute a work group with more members, including EOLS members and persons with disabilities.**

**During those seven months, the work group members sympathized when deaf attorney Scott Harrison personally appeared to detail why he had sued the state because he was denied real-time court reporting services in criminal trials unless he paid for it himself, an expense he said he couldn't afford. But work group members were uneasy taking on interpretations of substantive law that dangled unsettled in Harrison's pending federal case. The proposed rule Dietz originally brought to the September meeting, Judge Davidson said, "had not only procedural issues, but policy issues, and substantive issues."**

**Meanwhile, Harrison reached a settlement with the Office of State Courts Administrator (OSCA) granting him the accommodation he sought. Immediately, Chief Justice Lewis approved new statewide guidelines that spell out that attorneys who are deaf or hard of hearing will now be provided with real-time court reporting services at court expense in county and circuit court criminal trials.**

**Dietz came back with a revised proposed amendment he described as ensuring full compliance with Title II of the ADA and to promote access for persons with disabilities for court programs and services. In November, the work group met via two teleconferences to hammer out procedural issues, while working to incorporate suggestions contained in memos from Debbie Howells, statewide ADA coordinator of OSCA. "I am thrilled," Judge Davidson said, after the unanimous vote January 17 at the Bar's Midyear Meeting in Miami, on what she described as "99.9 percent" Dietz's rule. "It was wonderful working with Matthew Dietz. He was willing to compromise where compromise was needed. He didn't dig his heels in. He was willing to say, 'Alright. That makes sense. We want to compromise here; that is important there.' He was really very, very amenable to compromise and understood what the Rules of Judicial Administration work does, and what our authority is — and that is procedure," Judge Davidson said.**

**In a nutshell, Dietz said the proposed rule "will bring more order and less *ad hoc* decision-making on what is a proper accommodation to court programs and services, for any individual with a disability." He said the revised proposed rule "adopts grievance procedures similar to that on the Supreme Court's Web site, but has only been adopted by a few counties." It**

gives step-by-step procedures on what notice has to be given, and if the accommodation has not been granted, how the person with disabilities may appeal. "This does not change any of the requirements of the Americans with Disabilities Act, but facilitates that accommodations are given and justice is given, not only to litigants or parties, but any user of the system," Dietz said.

At the work group's September 6 meeting at The Florida Bar's General Meeting in Tampa, when Harrison detailed his plight as a deaf lawyer, Third District Court of Appeal Judge Alan Schwartz abstained from voting, declaring it not an appropriate issue for a rules committee. But at the January 17 meeting — after the proposed two-page rule succinctly stuck to procedural matters — Judge Schwartz was the one who moved that the rule be adopted.

"At first, I was very much against it because of the substantive provision of the rule and the issue of whether a lawyer was a 'participant.' I didn't think it was appropriate for us to take a position in rulemaking," Schwartz told the group. "Meantime, OSCA in that litigation caved and said what everyone thought should be said — that a lawyer is a participant in litigation and this accommodation will be given to the particular lawyer in that case and any other similar situation." Schwartz said he also thought there was no practical need for the amended rule. "But I believe the rule as proposed has been worked out on a very high plane with both sides: the side dealing with the content of the rule, and Matthew on his side representing the interests of the people he represents. It's a source of a great deal of work and a terrific product, for what it is. Since it is before us and the work is done, I move that it be adopted."

The next step EOLS will take, Dietz said, will be on the legislative front. "One issue we have with the rule is the problem that these records that may be required, if someone requests accommodation, that they be open for inspection. So the next issue we are going to do is to ask for an exemption to the Sunshine Law for requests for accommodation," Dietz said. "You never want a request for accommodation to be used as a litigation tool or as a way to invade someone's privacy. The goal for accommodation is to ensure participation in the process. Participation in the process should be without consequences."

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**NOTE** – We are very proud and happy to claim Matt Dietz as one of our own splendid Access Now® attorneys.

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## Plan Seeks More Access for Disabled

By [ROBERT PEAR](#), *The New York Times*, Published: September 16, 2008

WASHINGTON — The Bush administration is about to propose far-reaching new rules that would give people with disabilities greater access to tens of thousands of courtrooms, swimming pools, golf courses, stadiums, theaters, hotels and retail stores. The proposal would substantially update and rewrite federal standards for enforcement of the Americans with Disabilities Act, a landmark civil rights law passed with strong bipartisan support in 1990. The new rules would set more stringent requirements in many areas and address some issues for the first time, in an effort to meet the needs of an aging population and growing numbers of disabled war veterans.

More than seven million businesses and all state and local government agencies would be affected. The proposal includes some exemptions for parts of existing buildings, but any new construction or renovations would have to comply. The new standards would affect everything from the location of light switches to the height of retail service counters, to the use of monkeys as “service animals” for people with disabilities, which would be forbidden. It is scheduled to be published in the Federal Register on Tuesday, with 60 days for public comment. After considering those comments, the government would issue final rules with the force of law. Already, the proposal is stirring concern. The United States Chamber of Commerce says it would be onerous and costly, while advocates for disabled Americans say it does not go far enough.

Since the disability law was signed by the first President Bush, advances in technology have made services more available to people with disabilities. But Justice Department officials said they were still receiving large numbers of complaints. In recent months, the federal government has settled lawsuits securing more seats for disabled fans at Madison Square Garden in New York and at the nation’s largest college football stadium, at the [University of Michigan](#). The Census Bureau says more than 51 million Americans have some kind of disability, with nearly two-thirds of them reporting severe impairments.

The proposed rules, under development for more than four years, flesh out the meaning of the 1990 law, which set forth broad objectives. The 215,000-word proposal includes these new requirements:

- Courts would have to provide a lift or a ramp to ensure that people in wheelchairs could get into the witness stand, which is usually elevated from floor level.
- Auditoriums would have to provide a lift or a ramp so wheelchair users could “participate fully and equally in graduation exercises and other events” at which members of the audience have direct access to the stage.
- Any sports stadium with a seating capacity of 25,000 or more would have to provide safety and emergency information by posting written messages on scoreboards and video monitors. This would alert people who are deaf or hard of hearing.
- Theaters must provide specified numbers of seats for wheelchair users (at least five in a 300-seat facility). Viewing angles to the screen or stage must be “equivalent to or better than the average viewing angles provided to all other spectators.”
- Light switches in a hotel room could not be more than 48 inches high. The current maximum is 54 inches.
- Hotels must allow people with disabilities to reserve accessible guest rooms, and they must honor these reservations to the same degree they guarantee other room reservations.
- At least 25 percent of the railings at fishing piers would have to be no more than 34 inches high, so that a person in a wheelchair could fish over the railing.
- At least half of the holes on miniature golf courses must be accessible to people using wheelchairs, and these holes must be connected by a continuous, unobstructed path.
- A new swimming pool with a perimeter of more than 300 feet would have to provide “at least two accessible means of entry,” like a gentle sloping ramp or a chair lift.
- New playgrounds would have to provide access to slides, swings and other play equipment for children who use wheelchairs.

The Justice Department acknowledged that some of the changes would have significant costs. But over all, it said, the value of the public benefits, estimated at \$54 billion, exceeds the expected costs of \$23 billion. In an economic analysis of the proposed rules, the Justice Department said the need for an accessible environment was greater than ever because the Iraq war was “creating a new generation of young men and women with disabilities.” John L. Wodatch, chief of the disability rights section of the Justice Department, said: “Disability is inherent in the human condition. The vast majority of individuals who are fortunate enough to reach an advanced age will benefit from the proposed requirements.” By 2010, the department estimates, 2 percent of the adult population will use wheelchairs, and 4 percent will use crutches, canes, walkers or other mobility devices. Likewise, it said, as the population ages, the number of people with [hearing loss](#) will increase.

Under the 1990 law, businesses are supposed to remove barriers to people with disabilities if the changes are “readily achievable,” meaning they can be “carried out without much difficulty or expense.” The Bush administration is proposing a safe harbor for small businesses. They could meet their obligations in a given year if, in the prior year, they had spent at least 1 percent of their gross revenues to remove barriers. Curtis L. Decker, executive director of the National Disability Rights Network, a coalition of legal advocates, said: “Safe harbors make us very nervous. A small business could spend the requisite amount of money and still not be accessible.”

Randel K. Johnson, a vice president of the United States Chamber of Commerce, said the proposed rules “are so long and technically complex that even the best-intentioned small business could be found out of compliance by a clever lawyer looking to force a settlement.” The Justice Department cited the “monetary cost cap” as one of several steps it was taking to limit the rules’ impact on small businesses. But Mr. Johnson said he feared that courts would view the ceiling as a floor and tell businesses they should spend 1 percent of their revenues on removing barriers.

The proposed rules affirm the right of people with disabilities to use guide dogs and other service animals in public places, but they tighten the definition to exclude certain species. When the existing rules were adopted in the early 1990s, the Justice Department said, few people anticipated the current trend toward “the use of wild, exotic or unusual species”,(such as monkeys, reptiles; amphibians; rabbits, ferrets, rodents and most farm animals) as service animals. Under the rules, the management of a public accommodation could ask a person with a disability to remove a service animal if the animal was out of control or not housebroken, or if it posed a direct threat to the health or safety of others.

The rules confirm that people with disabilities can use traditional wheelchairs, power wheelchairs and electric scooters in any public areas open to pedestrians. But public places could impose reasonable restrictions on two-wheeled Segway vehicles, golf carts and “other power-driven mobility devices” used by those with disabilities.

The Proposed New Standards are available as a 7 MB PDF file from USDOJ’s website at <http://www.ada.gov/NPRM2008/ADAnprm08.htm> by clicking on the link near the bottom of that page entitled “[Proposed ADA Standards for Accessible Design](#)”.

For commentary on the Proposed Standards please see the following Steve Gold article, followed by some comments from Phyllis Resnick:

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**Steve Gold’s Treasured Nuggets of Information**

Philadelphia attorney Steve Gold’s “Treasured Nuggets of Information” looks at the U.S. Department of Justice’s Proposed New Standards for ADA implementation. They do not satisfy Mr. Gold’s standards!

In 1990, the disability community, Congress, state officials and businesses made numerous compromises to obtain the passage of the ADA. Despite these compromises, then President Bush, disability leaders and Congress trumpeted the eventual full accessibility of public and private facilities. Sometime in the future, people with disabilities would achieve equal opportunity with nondisabled and full accessibility would be achieved.

Since 1990, we have seen some progress - curb cuts are now more the norm; ramps provide access to some stores and businesses (definitely not in every one); some public swimming pools, playgrounds, and governmental buildings provide a degree of accessibility (often begrudgingly); sports venues are more accessible.

However, by and large, neither the governmental entities (Title II of the ADA), nor private business entities (*aka* public accommodations) (Title III of the ADA) have taken the initiative on their own and said "oh, Congress has made disability a civil right, and we will do the right thing and make our facilities and programs accessible."

Rather, progress has been slow, often requiring disability advocates to take the initiative and demand governmental and business entities to comply with the 1990 law and not make more compromises. The process is slow because disability advocates may not exist in a community, or they get frustrated that change is difficult.

On September 17, 2008, the Department of Justice issued proposed rules to the ADA's federal regulations which, if adopted, will significantly undercut the original 1990 compromises and will impose numerous regressive restrictions. Many of the proposed rules will ensure that full accessibility will be, at best, postponed indefinitely.

These proposal rules, together with all the background information, cost estimates, commentaries etc., total about 1000 pages! This Information Bulletin will address only the Title II requirement of "program accessibility ... when viewed in entirety" and the Title III requirement for removal of "readily achievable" barriers from existing facilities.

Here are two proposed changes:

Title II - Section 35.150(b)(4) and (5). The current "program accessibility" regulation requires a public entity's programs and services be accessible, when they are "viewed in their entirety."

Re the proposed rule "Existing play areas and recreation facilities." If a public entity has "multiple play areas as part of its program," for program accessibility "only a reasonable number but at least one of such play areas would be required to undertake structural modifications to provide access for individuals [i.e., children] with disabilities." The "reasonable number but at least one" rule applies also to swimming pools and state parks.

Does DOJ forget that "program access" for the past 18 years already implicitly required "at least one" accessible facility, or the program in its entirety would not be accessible? With the proposed rule, wouldn't public entities shoot for the minimum - one, regardless of the changes that might make many or all of the play areas accessible?

DOJ asks if the "reasonable number, but at least one" is workable, or should DOJ provide a list of factors that a public could use to determine how many of the existing play areas or swimming pools to make accessible. Folks - these are our children with disabilities!

DOJ asks if play areas should have a "safe harbor from compliance with the applicable requirements in the 2004 ADAAG." This means that some play areas that might be in compliance with local standards could be exempt from ADAAG standards that presumably require greater accessibility.

**Does anyone think DOJ would have proposed a "safe harbor" to end discrimination based on race? gender? How can there be a "safe harbor" that perpetuates discrimination?**

Doesn't DOJ remember that in the late 1980s the U.S. Department of Transportation proposed a rule that a public transportation program would have a "safe harbor" if 3% of its expenditures went for accessibility. The disability community, and the Third Circuit recognized in its *ADAPT v. Skinner* decision, recognized that limiting accessibility and



integration to "safe harbors" are an anathema to civil rights, the same as Congress and President Bush in 1990.

Related to the problem of a "safe harbor" is the DOJ question "what is the 'tipping point' at which the costs of compliance ... would be so burdensome that the entity would simply shut down the playground?" The ADA is a civil rights statute that is supposed to ensure for disabled folks the equal opportunity and the same benefits as nondisabled people. But let's get real! Does anyone know of any public entity in the entire country that has closed down any public playground or swimming pool because of inaccessibility?

DOJ wants to hear if "existing play areas less than 1,000 square feet should be exempt" from accessibility requirements. This size was chosen because of an assumption that such small areas represented 20% of the play areas located in public schools. Great! Disabled children in those schools could be effectively kept off the play areas, presumably like they are being kept out of mainstream classrooms. Every small neighborhood tot lot would be exempted.

The rulemaking asks if 50% of monkey bars, sliding boards, and other "elevated play components" in playgrounds should be exempt from accessibility. DOJ asks if "additional ground level play components" should be substituted for the "elevated play" components.

Title III - Section 36.304. The current regulation requires removal of barriers in public accommodations when it is "readily achievable" to do so.

It is important to remember that the existing federal regulations require removal of barriers only when it is "readily achievable" - which on a case by case basis ensures that only reasonable modifications will occur. "Safe harbors" will exempt from barrier removal even those situations that are "readily achievable" to be made accessible.

A small business will receive a "safe harbor" if it spends in a given year one percent of its gross revenues on barrier removals. Advocates who have been frustrated since 1990 asking businesses to "remove barriers" by building a ramp or making a bathroom accessible, now will have the fun of arguing about a businesses "gross revenues" in a given year (what, Mr. Businessman, is your basis for accounting?) and the costs of any alleged barrier removal the business claims it has made. Should advocates ask if the business took a tax deduction or received a tax credit for the barrier removal? If it claims it did, should the advocate take their word or request to read their 1040s? Then come back the next year and start the entire process again on another inaccessible element. And we thought it was difficult to get a ramp with the existing regulations.

The proposed regulations also question whether to fully enforce the Access Board's guidelines for stages, auditoriums, witness stands, assistive listening systems, golf courses, service animals, golf cars, mobility devices, auxiliary aids, captioning, video interpreting services and other areas.

You have 60 days to submit comments. All comments must be sent by 8/18/2008. Refer to Documents ID DOJ\_FRDOC 0001-0025 (Title III, Public Accommodations) and DOJ\_FRDOC-0001-0026 (Title II, Governmental Programs). You can find these documents at the following web address, as well as submit your comments on-line by going to <http://www.regulations.gov>.

Steve Gold, The Disability Odyssey continues.

#### SOME ADDITIONAL COMMENTS FROM PHYLLIS RESNICK:

Steve Gold has thoroughly dissected the negatives embedded in the Federal Regulations discussed above. I believe that, of all the complaints which one could level at these regulations, the one that strikes most deeply at the heart of the A.D.A. and its original intent at anti-discrimination is the idea of "safe harbor". It is so ambiguous and open-ended that it provides exactly the sort of escape clause which all those who would prefer NOT to comply would readily and happily adopt. Once we start relying on "safe harbors", we are in effect emasculating all that precedes and follows. Other than that, I defer to Steve, with thanks, for his thoroughness and dedication!



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## **ADA Information Now Available Online**

### **U.S. Department of Justice**

If you have questions about ADA-related matters, there is now an ADA Information Line available at the U.S. Department of Justice to provide assistance. Dial (800) 514-0301 (voice) or (800) 514-0383 (TTY) for information regarding the ADA.

This service permits individuals, businesses, state and local governments and others to ask questions about general or specific ADA requirements, including the ADA Standards for Accessible Design, as well as free ADA materials or information about filing a complaint. ADA specialists are available Monday through Wednesday and Friday, 9:30 am - 5:30 pm (Eastern Time). On Thursday the hours are 12:30 - 5:30 pm. Service is available in English and Spanish. Remember, you can also get ADA information from the Dept. of Justice website: <http://www.usdoj.gov/crt/ada/adahom1.htm>.

### **Another Valuable Federal Government Internet Site**

The federal government has also opened a one-stop “home base” for disability information at [www.disabilityinfo.gov](http://www.disabilityinfo.gov). This site, a collaborative effort of 22 federal agencies, has links for information regarding employment, education, housing, transportation, health, benefits, technology, community life and civil rights. Disability.gov connects people with disabilities (and their families, employers, friends, etc.) to the information and resources they need to actively participate in their communities.

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**An update of a previous story from our December 2007 newsletter . . .**

The Centers for Medicare & Medicaid Services (CMS) have released a study of states’ participation in the Money Follows the Person (MFP) Demonstration program. MFP is a federal program that has authorized \$1.75 billion to support state efforts to move people currently residing in institutions back into their communities and to rebalance their long-term care systems to emphasize home and community-based services rather than institutional placement. (See our article about states’ non-participation in MFP in the December 2007 newsletter.) This study chronicles the efforts of the 30 states and the District of Columbia that are participating in MFP. You can find out what your state is doing under MFP (or if it one of the 20 states that have spurned the program) by going to <http://www.cms.hhs.gov/DeficitReductionAct/downloads/StateMFPGGrantSummaries-All.pdf>.

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**. . . As well as from the September 2005 newsletter.**

The U.S. Department of Transportation (DOT) has issued a Status Report on Implementing the Air Carrier Access Act (ACAA). Dated November 2007, the report details the enforcement actions taken by DOT since first status report was published in January 2004. According to the report, DOT, through its Aviation Enforcement Office, entered consent decrees against 17 air carriers and “assessed carriers civil penalties totaling over \$1.8 million for violations of the ACAA as part of its ongoing effort to ensure nondiscrimination in air travel based on disability. A large portion of these civil penalties continue to be offset by measures to improve the carriers’ services and to improve the quality of air travel for passengers with disabilities above what is required by DOT rules.” <http://tradeinservices.mofcom.gov.cn/en/f/2008-04-21/30031.shtml>

With respect to rulemaking by DOT, you may remember that on November 4, 2004, DOT published a Notice of Proposed Rulemaking (NPRM) to revise its ACAA regulation in 14 Code of Federal Regulations, Part 382 to make foreign air carriers operating to and from the United States subject to most of the disability-related requirements currently applicable to U.S. carriers. DOT issued further NPRMs on September 7, 2005, (to provide greater accommodations for travelers with respiratory disabilities) and February 23, 2006, (to provide additional accommodations for air travelers who are deaf, hard of hearing or deaf-blind). The three now-consolidated rulemakings have been completed. The new regulations will be effective May 13, 2009. We will provide a full update of the new regulations in our next newsletter. For an article showing why the ACAA is so important to disabled travelers, read the following story.

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## **Airlines tackle wheelchair need**

By Barbara De Lollis, USA TODAY

Ellen Brehm, a retired nurse who walks with cane, was stranded last September after flying home from California following the annual trip she's been taking with college friends since 1947. Her flight, which had departed six hours late, landed at Newark at about 1:20 a.m. The wheelchair service she'd requested was nowhere in sight. Brehm returned to the plane to sit and wait, but a flight attendant told her she must get off so the crew could leave. She then stood on the jet bridge, balancing on her cane, to wait. About 30 minutes later, another flight attendant exited the plane and asked if she needed help. The woman eventually returned with a wheelchair attendant. "Here I am, at 2 a.m., 83 years old, all by myself," Brehm says. "There wasn't one person in this whole huge airport. I don't know what I would have done if she hadn't come out."

Airlines are obligated to provide free, prompt wheelchair assistance between curbside and cabin seat to comply with the 21-year-old Air Carrier Access Act, an anti-discrimination law. But, as more disabled and elderly people take flight in today's congested air system, many are finding that the assistance is difficult to get. In the three years that the government has issued statistics, more than 34,000 disabled fliers have complained about their treatment, and 54% of the incidents have involved wheelchair assistance.

In 2006, the most recent year available, the USA's six large network airlines received 1.07 complaints per 100,000 passengers about inadequate wheelchair assistance. Network airlines — American, United and the like — connect more passengers, and often have a higher complaint rate than low-cost airlines. Airlines accurately note that the vast number of wheelchair orders from customers come off without a problem. But many disabled fliers and their advocates say the airlines could do a better job.

With pressure on their profits — collectively, they lost \$35 billion in the five years ended in 2006 — U.S. airlines typically contract with outside companies for wheelchair service at airports. Critics such as Fernando Torres-Gil, a Los Angeles airports commissioner and polio survivor who uses a wheelchair himself at airports, say the contractors often give substandard service. Torres-Gil cites low wages, high turnover and a lack of training. "The individuals hired to help people in wheelchairs are some of the most valuable employees," says Torres-Gil. "Yet, (they) are usually the least compensated and most exploited."

According to a survey last year by a workers' advocacy group of 275 Los Angeles International passenger-service workers, the average pay is less than \$19,000 a year. Some 60% said they had not been formally trained in how to lift an immobile passenger. "Service workers are vital to the health and safety of the traveling public, (but) these workers are poorly compensated, receive little training and have few incentives to stay in their jobs," concluded the survey report by Los Angeles Alliance for a New Economy.

Los Angeles World Airports, the body that runs four airports, including LAX, is trying to raise standards for wheelchair attendant training, service quality and pay and benefits. The Service Employees International Union sees opportunity in low wages. It's organizing workers at six California airports and may expand the campaign nationally, says Mike Garcia, president of the union's California chapter. Two large contractors, Prospect and Air Serv, declined to be interviewed about their operations. Based in Des Plaines, Ill., Prospect has more than 4,000 employees in 14 cities, including San Francisco, Tampa and Dallas-Fort Worth, according to its website. Air Serv, based in Atlanta, has operations in Los Angeles, Boston and Atlanta.

The main obstacle to better service is money, says Eric Lipp of Open Doors Organization, a Chicago-based non-profit that tracks the disability consumer market for the travel industry. Open Doors three years ago started organizing conferences for contractors and airlines to improve communication and service. He says that airlines pressure contractors to deliver the work cheaply. "Ninety percent of the wheelchair problems exist because there's no money in it," Lipp says. "I'm not 100% convinced that airline executives are really willing to pay for this service." The USA's largest airlines, including No. 1 American and No. 2 United, declined requests for interviews about their wheelchair-assistance programs.

#### Stranded for 24 hours

During the last Christmas holiday rush, Sile Jaboni, a 70-year-old Albanian woman who spoke no English, was left stranded by her wheelchair attendants for 24 hours at Chicago O'Hare. On Dec. 18, Jaboni flew United from Orlando to O'Hare, where she was scheduled to catch a flight back to Europe, says Steve Crandall, the Jacksonville travel agent who booked her travel. Her first wheelchair attendant left her at the wrong gate. Later, another attendant pushed her to the correct gate, but after her flight had already departed. Eventually, an Air Jamaica employee stopped to see if Jaboni needed help. She handed him a piece of paper with her nephew's phone number. The nephew paid for his aunt to return to Orlando, Crandall says. United eventually agreed to pay Jaboni's fare back to Albania, but only after Crandall contacted local media, he says. Robin Urbanski, a United spokeswoman, called the incident "an unfortunate oversight." She and Adam Taylor, a vice president of Air Serv, the service provider, each said improvements are in the works.

On several Delta flights, wheelchair user Mary Verdi-Fletcher, founder of the Cleveland-based Dancing Wheels dance troupe, says people who help transfer her from wheelchair to cabin seat usually don't know how to do it properly. She's grown accustomed to talking them through the process. "Most of the time they cannot figure out the seat belts or the braking system on the (wheelchair), so we are tossed and jarred about and cannot really catch ourselves if they stumble," Fletcher says. Delta declined comment.

Roger Lotz, a Travelers Aid volunteer at Reagan Washington National, says he has seen the wheelchair-request system fail at times, especially during peak holiday periods. Airline gate agents are overloaded, and, as a result, the airlines and contractors don't coordinate wheelchair usage, he says. Lotz, a former flight attendant, says on Dec. 23 he borrowed a wheelchair from a passenger to help an American Eagle passenger off her plane when the assistant didn't arrive after 40 minutes. Lotz wheeled the woman off the plane, but her exit wasn't entirely smooth. "She was hissed at and even booed" by the passengers waiting to board the flight as she was wheeled off the plane, he says. American Eagle spokeswoman Andrea Huguely said the failure of the wheelchair assistant to show up was unfortunate, and said airline employees, not volunteer Lotz, should have assisted the passenger. She says the airline received over 2 million requests for help last year and that most went well.

Concerns about adequate wheelchair assistance are expanding beyond disability-rights groups. AARP, for instance, is now monitoring how airlines treat people with limited mobility. Brewster Thackeray, an AARP manager, says AARP views wheelchair service as an important quality-of-life issue for baby boomers and their parents. According to the complaints and interviews with disability-rights advocates, factors other than the service providers combine to cause the system to sometimes come up short:

- **Higher demand.** Americans on average are growing older, leading to an increase in fliers with disabilities. By 2030, Open Doors estimates that nearly 24% of the U.S. population will be disabled, and 15% severely disabled, resulting in about 53 million more disabled people than in 1997. The group estimates that around a third of adults with disabilities fly at least once every two years.

It's not just aging that contributes to the increase in travelers with disabilities. Medical technology allows people who have endured severe trauma from war, vehicle crashes and the like to travel with relative ease, says Kate Hunter-Zaworski, director of the National Center for Accessible Transportation at Oregon State University. "We are facilitating living a fuller life, and air travel is essential to a full life," she says.

At JetBlue, the growth in passengers who request wheelchair assistance has outpaced overall passenger growth consistently since 2004. Last year, about 262,000 JetBlue passengers, or 1.2%, requested such assistance when making their reservations.

- **Late-arriving flights.** Flight delays make it harder to coordinate wheelchair assistants, reduce the amount of time disabled people have to board and exit flights, and reduce connection times. Last year, just 73.4% of flights arrived on time, the second-worst annual rate since the government began tracking.
- **Passenger behavior.** Travelers who request wheelchair service in advance don't always receive it immediately when getting off a plane because another passenger who didn't request help in advance may have reached the wheelchair first. Attendants are typically told to help anyone who sits in their chair. Some travelers also cheat, particularly at large international airports, where able-bodied people sometimes get wheelchairs to cut into long lines at Customs, say airport and airline officials.

Airlines have an incentive to improve wheelchair assistance, says Lipp, of Open Doors, the Chicago non-profit. Passengers with disabilities generate nearly \$3 billion a year for airlines, and the market's potential grows each day, he says.

#### **Making some improvements**

Some in the travel industry are responding to the need for better wheelchair service. Seeing a rise in elderly travelers and a reduction in airline staffing, the Fort Lauderdale airport now deploys its own staff to pitch in at times when the airlines' staff or contractors can't keep up, says Greg Meyer, the airport's spokesman.

The Minneapolis-St. Paul airport plans to test premium wheelchair service. For a fee, passengers will be able to hire an attendant who will meet them at their gate with a sign bearing their name and a reserved wheelchair, says airport director Steve Wareham. In 2003, Alaska Airlines created a training program at its Seattle hub to improve the way its staff members lift immobile passengers from wheelchairs to aircraft seats — a task that had been a source of injury to some passengers and employees. Today, Alaska transfers an average of 22 passengers a day between wheelchair and cabin seat and has had no recent injuries, says Ray Prentice, Alaska's head of customer care.

And some contractors are introducing better technology to improve tracking of requests, the dispatching of attendants and accountability. At US Airways' Las Vegas hub, the global-positioning technology that contractor Prospect uses allows better staffing for peaks and valleys in demand for service, says John Romantic of US Airways. The system also enables wheelchair attendants to know the name of the passenger they're waiting for so that they don't push the wrong passenger, he says.

Brehm, the retired nurse stranded at Newark, complained to Continental. The airline apologized and gave her a \$100 voucher good toward a future flight, she says. The airline's wheelchair assists usually go smoothly, says David Messing, Continental's spokesman. Brehm says she plans to fly the airline again.

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**FYI . . .**

This message was received from the **United Spinal Association**. We are providing it for you because of Access Now, Inc.®'s commitment to non-discrimination for all disabled persons.



United Spinal Association's VetsFirst believes that every disabled veteran has the right to work. The honorable men and women who have become disabled through their service of our country deserve our support - not only for the purpose of restoring their health, but also to restore their livelihoods.

**Take Action Now!** Our disabled veterans must now have the support of people like you. A vote in the House is expected in April, after which the bill will go to the Senate. Tell your Senators and Representative to support the ADA Restoration Act.

**Most veterans gave up their jobs to serve their country.** Many will now be discriminated against when attempting to re-enter the work force. Why? Because they have a disability.

**The courts have set up a bizarre Catch-22** whereby an employer can say that a person is "too disabled" to do the job, but "not disabled enough" to be protected by the Americans with Disabilities Act. This needs to change!



**United Spinal Association VetsFirst along with Vietnam Veterans of America** has from the onset made every effort to combat this injustice.

**Twenty one veterans and military organizations** have signed letters to Congress supporting a bill that protects people with disabilities from discrimination on the job.

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|--|--|
| VetsFirst United Spinal Association        | Reserve Enlisted Association             |
| Disabled American Veterans                 | Sergeants Association                    |
| Jewish War Veterans                        | Vietnam Veterans of America              |
| Veterans of Modern Warfare                 | Paralyzed Veterans of America            |
| Veterans of Foreign Wars                   | AMVETS                                   |
| Blinded Veterans of America                | Military Order of the Purple Heart       |
| Federation of Govt. Employees              | Military Officers Association of America |
| National Assoc for Uniformed Services      | National Association for Black Veterans  |
| Naval Reserve Association                  | Iraq & Afghanistan Veterans of America   |
| Enlisted Association of the National Guard | American GI Forum of the U.S.Air Force   |

Make the commitment! Our disabled veterans are depending on you.

Sincerely,

Leonard Selfon,  
Senior Vice President

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**"NEWS YOU CAN USE"**

**These items were brought to our attention by our members:**

**Jim Musarra has dedicated his life to furthering the field of professional management through education and training. After spending 20 years as a manager and executive he entered academia where he was a Participating Professor at Florida International University (FIU). For the past four years he has been providing corporate training, individual and team consulting & advice, and performance improvement. His primary focus is to help companies achieve tangible outcomes through practical tools and strong implementation assistance. Every effort is made to exceed clients' expectations with responsive and personalized service.**

In 1995, when one of his sons became physically disabled, Jim became an advocate for the disabled. He is a member of Access Now, Inc.<sup>®</sup> and of the Business Leadership Network (BLN). BLN is a national organization which recognizes and promotes best practices in hiring, retaining, and marketing to people with disabilities. It uses a “business to business” approach to educate, promoting the business imperative of including people with disabilities in the workforce. Among other things, he has advised the Office of Disability Services at Florida International University. He uses his expertise to consult and advise all manner of business and organizations in disabled employee diversity issues with special emphasis on Title I.

With that in mind, he has developed a training program: Hiring and Managing Persons with Disabilities. This program addresses Title I of the ADA which requires equal employment opportunities for qualified individuals with disabilities. Designed with managers and HR professionals in mind, this program addresses three important areas:

- ✚ Module I – attitudes towards persons with disabilities are discussed - origins of these attitudes and solutions are explored.
- ✚ Module II – principals of and practices for hiring and managing persons with disabilities are examined.
- ✚ Module III – investigation of ADA with the intent of gaining full knowledge of this act – Title I is given particular emphasis.

Contact Mr. Musarra to learn more about this program and other services provided.

*(305) 790-2537 • P.O. Box 972745, Miami FL 33197 •  
[musarrajp@yahoo.com](mailto:musarrajp@yahoo.com)*

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New member Lisa Ashby alerted us to a website dedicated to cruise passengers with disabilities. CruiseCritic.com has a section devoted to helping disabled passengers find the best value both before and after they board the ship. Access Now<sup>®</sup> is featured quite prominently in this section. You can find the “Cruising with a Disability” section at <http://www.cruisecritic.com/cruisestyles/articles.cfm?ID=9>.

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We hope that the foregoing has helped you to achieve a fuller understanding of our work. Although much has been done, much more needs to be done. The population of the U.S. has just recently grown to 300,000,000 people and, given the ever-growing percentage of those with disabilities, the need for greater and further-reaching compliance with the A.D.A. continues to make itself all the more obvious and necessary. It is our fervent hope to continue to take part in this effort. With your help and encouragement we shall persevere in making ever-greater strides in that direction.

**“ACCESS NOW”<sup>®</sup> OPERATES ENTIRELY ON PRIVATE CONTRIBUTIONS. WE HOPE THAT YOU SHARE OUR ENTHUSIASM FOR OUR WORK AND THAT YOU MIGHT BE MOVED TO MAKE A DONATION TO HELP US CONTINUE. IT WOULD BE DEEPLY APPRECIATED!**

**Thank you all and please:**

**IF YOU HAVE A CHANGE OF POSTAL ADDRESS, PHONE NUMBER OR EMAIL ADDRESS, PLEASE, PLEASE LET US KNOW SO THAT WE CAN KEEP OUR FILES UPDATED AND SO THAT WE CAN CONTINUE TO COMMUNICATE WITH YOU.**

**BEST WISHES FOR A HAPPY AND HEALTHY SUMMER AND AUTUMN AS WELL AS CONTINUED PROGRESS IN ACCESSIBILITY ISSUES!**

**\*\*\*\*PLEASE DON'T FORGET THE MEMBERSHIP FORM!!!\*\*\*\***

**AND**

**\*\*\*\*PLEASE LET US KNOW IF IN THE FUTURE YOU WANT TO RECEIVE THIS  
ELECTRONICALLY ONLY: IT LOWERS OUR COSTS AND SAVES THE TREES\*\*\*\***

**Access Now, Inc.®  
Phyllis F. Resnick, President**