

Californians for Disability Rights, Inc. v. California Dept. of Transportation:
FACT SHEET

Case Name: *Californians for Disability Rights, Inc., et. al. v. California Department of Transportation, et al.*

Case Number: C-06-5125 SBA

Court: United States Federal Court, Northern District of California

Date filed: August 23, 2006

Case Type: Class Action lawsuit for injunctive relief and declaratory relief

Claims: Americans with Disabilities Act, Section 504 of the Rehabilitation Act, Unruh Civil Rights Act (Cal. Civ. Code § 51) and California Disabled Persons Act (Cal. Civ. Code § 54), California Government Code § 11135 and California Government Code § 4450.

Plaintiffs: Californians for Disability Rights, Inc., California Council of the Blind, Ben Rockwell, and Dmitri Belser.

Defendants: California Department of Transportation (“Caltrans”), and Will Kempton, in his official capacity

Plaintiffs’ Counsel:

Disability Rights Advocates (DRA)

DRA is a non-profit law firm dedicated to protecting and advancing the civil rights of people with disabilities. DRA’s advocacy work includes high-impact class action litigation on behalf of people with all types of disabilities, including mobility, hearing, vision, learning and psychological disabilities. DRA has enforced access rights for millions of people with disabilities in many key areas of life, including education, employment, health care and public accommodations. DRA previously litigated this issue against the City of Sacramento. That case resulted in a landmark plan for improving sidewalk accessibility throughout the city. DRA is located in Berkeley, CA.

AARP Foundation Litigation (AFL)

AFL is a unit of AARP Foundation Legal Advocacy Group that conducts high-visibility litigation to benefit members of AARP by engaging in law reform litigation on behalf of older persons. AFL is one of the few national organizations that defends and supports the legal rights of older Americans across the United States. AFL’s legal advocacy focuses on widespread practices or policies of industry, business, or government that are unfavorable to Americans over 50. AFL is headquartered in Washington, D.C.

Q & A

Q: What is the basis of the suit?

A: Plaintiffs are seeking to remedy a systemic pattern and practice of discrimination being committed by Caltrans against people with mobility and vision disabilities. Caltrans provides and maintains many facilities throughout the state of California that are inaccessible to people with disabilities. These facilities include sidewalks and other pedestrian pathways, as well as Park and Ride

facilities. These facilities frequently contain access barriers that expose disabled persons to many hazards, including forcing wheelchair users to travel in the streets alongside vehicular traffic and failing to provide warning to persons with vision disabilities as where the sidewalk ends and the street begins. Caltrans has been required for many decades to identify and remedy such access barriers but has failed and refused to meet this obligation. This lawsuit seeks to put an end to such discrimination by requiring Caltrans to meet its obligation to protect the health and safety of Californians with disabilities.

Q: Why is this suit important to people with disabilities?

A: Sidewalk access is fundamental for access and safety. It represents a linchpin of integration into society which allows persons with disabilities to live independently. It also represents a basic service provided by the government for its citizens in order to ensure their safe passage separate from vehicular traffic. Given the statewide nature of the Caltrans facilities, this suit's impact will be felt throughout communities in California.

Q: Who are the plaintiffs?

A: Californians for Disability Rights, Inc. ("CDR"), a nonprofit corporation, is the oldest and largest membership organization of persons with disabilities in California. Established in 1970 as the California Association of the Physically Handicapped with five members, CDR has grown to become an effective and widely respected cross-disability advocacy organization. CDR's mission is to initiate, sponsor, and implement plans, policies, and activities that will enhance the lives of persons with disabilities and enable them to enter more fully into society at all levels. To this end, CDR seeks to improve the quality of life for all persons with any disability by conducting education and training and by pursuing removal of barriers through advocacy and change in public policy.

The California Council of the Blind (CCB) is a non-profit membership organization composed of Californians who are blind or have low vision. The mission of the CCB is to gain full independence and equality of opportunity for all blind and visually impaired Californians. To this end, CCB provides information and referral, technical assistance, advocacy, leadership development, publications, emergency funds, accessible technology loans, and scholarships. CCB's goal is to ensure that culture, laws, programs, and attitudes throughout California are inclusive of all people, especially persons who have blind or vision disabilities.

Ben Rockwell is a person with a mobility disability. Ben uses a motorized wheelchair for mobility and regularly travels along the pedestrian rights of way under the jurisdiction of Caltrans, most notably Pacific Coast Highway ("PCH") (Californian State Highway 1). Because of the barriers along PCH, Ben is often forced to travel in the street alongside vehicular traffic.

Dmitri Belser is a person with a vision disability. Dmitri uses a cane to aid navigation and regularly travels along the pedestrian rights of way under the jurisdiction of Caltrans, most notably Ashby Avenue (Californian State Highway 13) and San Pablo Avenue (California State Highway 123). Because of the barriers along these pedestrian rights of way, Dmitri tries to avoid using Ashby Avenue, though it is not always possible to do so. Further, because to get to work he must use San Pablo Avenue which has numerous access barriers, Dmitri is faced, on a daily basis, with the danger of being struck by traffic while crossing the street.

Because this is a class action, CDR, CCB, Rockwell and Belser are representing a class of persons consisting of Californians with mobility disabilities and/or vision disabilities.

Q: Who are the defendants?

A: Caltrans and Will Kempton, in his official capacity as director of Caltrans. Caltrans is a Californian governmental entity. It is responsible for design, installation, repair and maintenance of the system of public sidewalks, crosswalks, pedestrian crossings, other walkways and Park and Ride facilities which it controls along the state highway system throughout the state of California. Will Kempton is responsible for managing the day-to-day operations of Caltrans.

Q: Which facilities are under Caltrans jurisdiction?

A: Caltrans is responsible for the over 45,000 miles of the state highway system. Accordingly, most pedestrian rights of way and Park and Rides that exist along those state highways fall under its control. In general, these pedestrian rights of way exist where state highways become city streets (including, for example, Highway 101 becomes 19th Avenue in San Francisco). In addition, overpasses and underpasses which cross state highways and intersections at the on and off ramps to state highways fall under Caltrans control. There are exceptions where pedestrian rights of way have been relinquished to the city or county. Unfortunately, though, Caltrans has been uncooperative in providing a description of what facilities are under its control.

Q: What are the alleged violations?

A: Violations include the following:

- Failure to develop and implement a comprehensive Self-Evaluation Plan and Transition Plan covering pedestrian rights of way and Park and Ride facilities;
- Installation and/or maintenance of pedestrian rights of way which have missing curb cuts, unsafe curb cuts, dangerous slopes and crumbled or uneven pavement, and inadequate or no detectable warnings, amongst other barriers;
- Installation and/or maintenance of Park and Ride facilities with inaccessible paths of travel and non-compliant accessible parking spaces, amongst other barriers;
- Failure to provide accessible alternative routes during construction and accessible information for persons with vision disabilities when sidewalks are closed; and
- Failure to inform local residents which facilities are under the jurisdiction of Caltrans, thereby hindering the complaint process.

Q: What laws are being violated by Caltrans?

A: Americans with Disabilities Act, Section 504 of the Rehabilitation Act, Unruh Civil Rights Act (Cal. Civ. Code § 51) and California Disabled Persons Act (Cal. Civ. Code § 54), California Government Code § 11135 and California Government Code § 4450.

Q: What are the goals of this lawsuit?

A: The goal of this lawsuit is to make the system of sidewalks, crosswalks, pedestrian crossings, other walkways and Park and Ride facilities along the state highway system throughout the state of California accessible to persons with disabilities.