

MBTA ACCESSIBILITY LAWSUIT UPDATE

GREATER BOSTON RESIDENTS WORKING TOGETHER FOR ADA COMPLIANCE BY THE MBTA
DANIELS-FINEGOLD ET AL. V. MBTA
FEDERAL COURT: CIVIL ACTION No. 02 CV 11504 MEL
SPRING 2006
ISSUE VIII

Case Update Victory At Last!

After four years of litigation, the *Joanne Daniels-Finegold, et al. v. Massachusetts Bay Transportation Authority*, United States District Court (Mass.), No. 02-CV-11504 MEL, has finally settled!! On April 4, 2006, named plaintiffs, class members, attorneys from Greater Boston Legal Services and the MBTA gathered together at South Station to announce the groundbreaking settlement.

The Settlement Agreement was filed with the Court on April 14, 2006 for U.S. District Judge Morris E. Lasker for his preliminary approval under Rule 23(b)(2) of the Federal Rules of Civil Procedure. On April 20, 2006, Judge Lasker signed an order giving preliminary approval to the Settlement and he scheduled the Fairness Hearing for June 15th, 2006 at 9:30 a.m. at the U.S. District Court. A copy of the "Settlement Notice" is located on the GBLs website at www.gbls.org. Once the settlement receives final approval from Judge Lasker, a court-appointed monitor will ensure that the goals of the settlement are being fulfilled. The Settlement will go into effect after final Court approval and it will remain in effect for five years. At the recent press conference on April 4, 2006, the Settlement Agreement was described as a "Charter for Change."

The Plaintiffs and the MBTA are pleased with this comprehensive Settlement Agreement. The Settlement covers: Bus Operations; Bus Maintenance; Bus Purchase and Rehabilitation; Subway Operations; Station Management; Communications with Passengers; Elevators; Customer Service; Training; and Management and provisions concerning monitoring and enforcement of the agreement. Plaintiffs are excited to begin the real work of enforcing the Settlement Agreement.

In the wise words of Margaret Mead, an American Anthropologist, "Never Doubt That a Small Group

of Thoughtful, Committed Citizens Can Change The World. Indeed, It Is The Only Thing That Ever Has." Never before has this quote been more telling about this lawsuit.

Spotlight: One Plaintiff's Story

Myrnairis Cepeda is a named plaintiff in the lawsuit *Joanne Daniels-Finegold v. MBTA*. She is an essential member of the class as she represents a group of people with disabilities that are often forgotten—those with non-apparent (hidden) disabilities. "Because we [people with hidden disabilities] look healthy, what 'able-bodied' people are supposed to look like....people do not think we have a disability" which is not true. Myrnairis has spinal stenosis, severe arthritis and muscle degeneration and when she walks or stand for an extended period of time she suffers from severe pain.

To Myrnairis this lawsuit is not just about accessibility but making things right. She has been insulted by surly bus drivers and injured using the MBTA buses. But she continues to use the buses because she must carry on with her busy advocating schedule. Myrnairis advocates for organizations that assist with immigration, fight for women's rights and support people with HIV and AIDS.

Myrnairis harbors no ill feelings towards the MBTA despite her experiences. Instead, she keeps a positive attitude about the settlement bringing change. Myrnairis does not just focus on people with disabilities but also believe that requiring the MBTA to follow the rules outlined in the American With Disabilities Act will make the transit system safer for all people who use it.

When asked about how she feels about the settlement she is excited and reserved, "the proof is in the pudding, it's time to put it out to taste." Ideally for Myrnairis, the settlement will bring bus drivers who are more sensitive and better trained, buses with operative kneelers, and an entire transit

system that is more effective in providing access for passengers of all abilities.

What is a Fairness Hearing?

A Fairness Hearing is when a judge reviews the terms of a settlement and decides if the settlement proposed is fair, reasonable and enough to remedy the issue. This is the final step in settlement approval.

On April 14, 2006 the Settlement was filed in Court for preliminary approval. On April 20, 2006 Judge Lasker gave his preliminary approval of the Settlement. After, Judge Lasker granted preliminary approval the MBTA had 10 days to send out a "Notice" to class members. The "Notice" informs the class about the settlement and it lists the date, time and place of the Fairness Hearing and the process for commenting on the settlement. After the "Notice" is given, the class members will have a set amount of time to comment on the settlement.

The Fairness Hearing gives class members the opportunity to comment object to the terms of the settlement. To read a full text of the "Settlement" and the "Settlement Notice" please go to www.gbls.org and click on the MBTA case link. If you do not have access to a computer you may contact Attorney Taramattie Doucette at GBLs to receive a copy of the document.

The fairness hearing for the settlement of *Joanne Daniels-Finegold et al. v. MBTA* is scheduled for June 15, 2006 at 9:30 a.m. before Judge Lasker at the John J. Moakley U.S. District Court, Courtroom 8.

How do the Plaintiffs Feel about the Settlement of *Daniels-Finegold et al. v. MBTA*?

Joanne Daniels-Finegold, Named Plaintiff

Now is the time to celebrate the victory we've won. All our hard work payed off. We've still got a long way to go, but look how far we've already come!

Bill Henning, Director of Boston Center for Independent Living, the Organizational named Plaintiff

This settlement is a tribute to outstanding legal work from GBLs and an inspired and focused commitment by the plaintiffs to obtain justice and equality. It has been a privilege to work with all parties.

Dan Larkin, Named Plaintiff

I am satisfied with the way things went. It settled well. Now, I just want to make sure everything goes through smoothly and that we follow up on it.

Rogera Robinson, Named Plaintiff

The settlement is owed to the citizens of Boston and the surrounding areas to have a well functioning transportation system, especially for those with disabilities. We knew it would take a long time and it has finally arrived!

Maureen Cancemi, Named Plaintiff

I am pleased that we are finally being heard after being underserved and unheard for so many years. The improvements will help people to function in society.

Andy Forman, Named Plaintiff and Employee of BCIL

This is a fantastic start. We have to now follow-up and make sure the MBTA follows through with their improvements. The MBTA is a public transportation entity and people with disabilities are part of the public.

Gene Smith, Named Plaintiff

Yesterday, the disabled were often seen and heard as victims. Today, the disabled achieved victory will be in the history books of tomorrow.

Reginald Clark, Named Plaintiff

I'm very pleased with the settlement but I know this is only the beginning and we must work as a team: The MBTA and people with disabilities.

Thomas Gilbert, Named Plaintiff

I know the MBTA system very well and I know the extensive problems. I am very pleased with the settlement and hope that it can bring about the change that is needed. I am especially looking forward to an improved public address system on the Red Line.

Madelyn-Joan Golden, Named Plaintiff

Being a plaintiff has been a positive experience and I am pleased that we now have the groundwork for a resolution to the problem.

Myrnairis Cepeda, Named Plaintiff

I am happy that the "T" finally agreed with us. The proof is in the pudding...let's put it out to taste!

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