

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

KATHLEEN KERRIGAN, ANTHONY
HOLIDAY, MICHAEL J. McSHEA,
TARIQ MANGUM, RENEE CROSBY, and
CAROLYN DAVENPORT, on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

THE CITY OF PHILADELPHIA; MARGARET
TARTAGLIONE, ANTHONY CLARK and
JOSEPH J. DUDA, in their official capacities as
Philadelphia City Commissioners;
PENNSYLVANIA DEPARTMENT OF STATE
and PEDRO A. CORTÉS, in his official capacity
as Secretary of the Commonwealth,

Defendants.

Civil Action No. 07-CV-687

Class Action

**SUMMARY NOTICE OF PENDENCY OF CLASS ACTION
AND NOTICE OF HEARING AND PROPOSED SETTLEMENT**

**IF YOU ARE A PERSON WITH A MOBILITY DISABILITY
ELIGIBLE TO VOTE IN PHILADELPHIA, YOUR RIGHTS MAY BE
AFFECTED BY A CLASS ACTION SETTLEMENT**

A settlement has been proposed in a class action lawsuit concerning the accessibility of Philadelphia polling places to eligible voters who have mobility disabilities. The United States District Court for the Eastern District of Pennsylvania authorized this notice. The Court will have a hearing to decide whether to approve the settlement. This Notice summarizes the proposed settlement and provides you with information about the hearing and your right to participate and to object to the settlement.

WHO IS A CLASS MEMBER?

You are a Class Member if you are an eligible Philadelphia County voter with a mobility disability who either became eligible to vote or developed a mobility disability after October 22, 2001.

WHAT'S THIS ABOUT?

The lawsuit claimed that the City of Philadelphia and the City Commissioners (City Defendants) violated federal laws by failing to maximize the number of polling places that are accessible to voters with mobility disabilities. The lawsuit also claimed that the Pennsylvania Department of State and the Secretary of the Commonwealth (Commonwealth Defendants) violated federal laws by not taking appropriate steps to assure that the City Defendants maximized the number of accessible polling places. The City Defendants denied these allegations. The Commonwealth Defendants filed a motion to dismiss the claims against them. All parties have agreed to a settlement to ensure a resolution and a process to determine whether the City can increase the number of accessible polling places and otherwise increase accessibility for Class Members.

TERMS OF THE SETTLEMENT AGREEMENT

The Settlement Agreement will require the United States Department of Justice and an independent expert appointed by the Court to survey all Philadelphia polling places to determine if they are accessible under guidelines established by the Americans with Disabilities Act. The costs of the surveys conducted by the independent expert will be paid by the City Defendants and Commonwealth Defendants.

For polling places that are determined to be inaccessible, the surveyors will determine whether temporary modifications can be made to make the polling places accessible or whether they can be relocated to accessible sites and, in the case of publically-owned buildings, whether permanent modifications can be made to make the sites accessible. The City Defendants will implement all recommendations with the exceptions of: (1) recommendations for which they choose to hold public hearings before the Philadelphia Board of Elections; (2) recommendations that the plaintiffs and the City Defendants agree should not be made; (3) recommendations for permanent modifications to publically owned buildings; (4) recommendations for temporary modifications that a private owner of a polling places refuses to make upon request by the City Defendants and an offer by the City Defendants to pay reasonable costs for the proposed modification; and (5) recommendations to relocate to sites owned by a private person who refuses to allow the site to be used as a polling place. If the Board of Elections rejects a recommendation following a hearing, counsel for Class Members can seek a hearing on the issue before a Magistrate Judge of the Court. The Settlement Agreement also includes provisions to: (1) assure that the City Defendants select accessible polling places in the future unless it is not feasible to do so; and (2) assure that the City Defendants make certain changes to clarify the alternative ballot process.

The Settlement Agreement also provides that the Defendants will pay \$360,000 for Class counsel's attorneys' fees, expenses, and costs, if that sum is approved by the Court. Class Members are not responsible for the payment of any fees, expenses, and costs.

If the Court approves the settlement, Class Members will not be able to file new claims relating to the accessibility of Philadelphia's polling places through March 31, 2013.

The Settlement Agreement can be viewed at www.drnpa.org. You can request a copy of the Settlement Agreement by contacting Class Co-Counsel, Robert W. Meek, at the Disability Rights Network, 1315 Walnut Street, Suite 400, Philadelphia, PA 19107, 215-238-8070.

THE HEARING AND RIGHT TO OBJECT AND/OR PARTICIPATE

The Court will hold a hearing in this case on July 14, 2009, at 10:00 a.m. to consider whether to approve the settlement. The hearing will be held at the United States Courthouse, 601 Market Street, Philadelphia, PA 19106 in Courtroom 17B.

If you do not like the settlement, you may object to it. You may also object to the payment of any attorneys' fees, litigation expenses, and costs to the Class Members' counsel. You may ask to speak at the hearing, but you do not have to attend or speak at the hearing in order to object. **If you want to submit an objection or if you want to participate in the hearing, you must submit in writing your objection or your notice of intent to appear at the hearing by mailing them to each of the following persons no later than June 30, 2009.**

Clerk of Court
United States District Court for the Eastern District of Pennsylvania
United States Courthouse
601 Market Street, Room 2609
Philadelphia, PA 19106-1797

Robert W. Meek, Esquire
Class Co-Counsel
Disability Rights Network of PA
1315 Walnut Street, Suite 400
Philadelphia, PA 19107-4798

Abbe F. Fletman, Esquire
City Defendants' Counsel
Flaster/Greenberg, P.C.
Eight Penn Center, 15th Floor
1628 J. F. Kennedy Blvd.
Philadelphia, PA 19103

Sue Ann Unger, Esquire
Commonwealth Defendants' Counsel
Senior Deputy Attorney General
Office of Attorney General
21 South 12th Street, 3rd Floor
Philadelphia, PA 19107-3603