

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION**

CASE NO.

JUAN CARLOS GIL,

Plaintiff,

v.

BROWARD COUNTY
d/b/a www.broward.org,

Defendant,

COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

COMES NOW Plaintiff Juan Carlos Gil (“Plaintiff), by and through his undersigned counsel, and hereby sues Defendant the Broward County (“Defendant”) for declaratory and injunctive relief, attorney’s fees and costs (including, but not limited to, court costs and expert fees) pursuant to Title II of the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. §§ 12131 et. seq. (“ADA”) and Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 (“Section 504”) and alleges as follows:

INTRODUCTION

1. Il n'y a que deux puissances au monde, le sabre et l'esprit : à la longue, le sabre est toujours vaincu par l'esprit¹, and one must be informed to understand their peril. Florida began its tradition of openness in 1909 with the passage of Chapter 119 of

¹ There are only two powers in the world, the sword and the spirit: in the long run, the sword is always defeated by the spirit. Napoleon Ier (1789-1821)

the Florida Statutes². This statute requires that any records made or received by any public agency in the course of its official business are available for inspection.

2. This is an action under Title II of the Americans with Disabilities Act of 1990 and under Section 505 of the Rehabilitation Act of 1973 through which Section 504 of the Rehabilitation Act of 1973 (“Rehabilitation Act”) is enforced, to redress unlawful disability-based practices and to make Plaintiff Juan Carlos Gil whole.

3. Broward County (“Defendant”) is a public entity which has provided the website URL www.broward.org (“Website”) as an information portal to Broward County government for the general public (to anyone who accesses the Website). The general public is able to access Broward County government’s online content, which constitutes programs, services, and activities. Much of that content is provided in portable document format (PDF).

4. In order to meaningfully access PDF documents, blind and visually impaired individuals require that PDF documents be saved in an accessible format. Much of the content provided in PDF format within Defendant’s Website is not accessible for persons with screen readers.

5. Because Defendant’s online PDF content is not available for persons who are blind or low sighted, Defendant has denied Plaintiff Juan Carlos Gil access to that PDF content. As such, Defendant has denied access to Plaintiff based on Plaintiff’s disability (being low sighted and/or blind). In so doing, Defendant has denied Plaintiff his fundamental right to observe and participate in the democratic process of self-government. A citizen’s right to meaningful participation in the political process and to access publicly available information needed to participate in the process is a fundamental

² Public Records Law

right requiring heightened scrutiny. *Johnny Reininger, Jr. v. State of Oklahoma*, Case No.: 5:16-cv-012141 (November 9, 2017).

6. Plaintiff brings this action against the Defendant to enforce the requirement of Section 504 of the Rehabilitation Act that a public entity receiving federal financial assistance, which Defendant receives each year, must not deny persons with disabilities the benefits of its programs, services and activities.

7. By failing to provide PDF documents in accessible format, Defendant has deprived blind and visually impaired individuals of the benefits of its online content, which benefit is afforded to sighted (non-disabled) individuals. As such, Defendant has increased the sense of isolation and stigma that the ADA and Section 504 were meant to redress for individuals with disabilities.

8. Defendant's denial of much of its publicly available online content to blind and visually impaired individuals violates Section 504 of the Rehabilitation Act and Title II of the ADA.

9. Accordingly, Plaintiff seeks injunctive and declaratory relief to ensure that blind and visually impaired individuals have equal, effective and timely access to Defendant's publicly available online content (consisting of PDF documents).

JURISDICTION AND VENUE

10. Plaintiff is expressly authorized to bring this action pursuant to Title II of the Americans With Disabilities Act, 42 U.S.C. §§s 12131-12133 ("ADA"), incorporating by reference the remedies, procedures and rights under Sections 504 of the Rehabilitation Act of 1973, 29 U.S.C. §§s 794, 794(a) ("Section 504"), incorporating the remedies, rights and procedures set forth in § 717 of the Civil Rights Act of 1964, including the application of §§s 706(f) through 706(k), 42 U.S.C. § 2000e-5(f)-(k).

11. This Court has federal question jurisdiction pursuant to 28 U.S.C. § 1331 and 42 U.S.C. § 12188. This Court's jurisdiction is proper under 28 U.S.C. Section 451, 1331, 1337, and 1343.

12. Plaintiff has met all conditions precedent to bring this action.

PARTIES

Juan Carlos Gil

13. Plaintiff Juan Carlos Gil ("Plaintiff") is a resident of the State of Florida, resides within this judicial district, is *sui juris*, is disabled and a qualified individual as defined by the ADA

14. Plaintiff is legally blind due to optic nerve damage, has cerebral palsy, is unable to walk, is confined to a wheelchair, and as such, is a member of a protected class under the ADA, 42 U.S.C. § 12102(1)-(2) and the regulations implementing the ADA as set forth at 28 CFR §§ 35 *et seq.*

15. Plaintiff is an athlete who travels for his athletic triathlon endeavors, and also is an advocate for the rights of blind and wheelchair bound disabled individuals (like himself). In the past year, Plaintiff has traveled to Arizona, Orlando, and Boston to attend various conventions and meetings to advance the rights of the disabled. Such events include, but are not limited to, the National Federation for the Blind convention in Orlando³, the American Counsel for the Blind convention in Nevada, and various focus groups and meetings throughout the east coast. Plaintiff is an otherwise qualified or qualified individual with a disability in that Plaintiff is qualified to access Defendant's documents.

³ July 2017

16. Due to his disability, the Plaintiff requires that document information be saved in an accessible format such as HTML or an accessible PDF format.

Broward County or Broward County, Florida

17. Defendant Broward County is a local government entity, a body corporate and political subdivision of the State of Florida. Broward County was formed from portions of Dade and Palm Beach Counties in 1915. On November 5, 1974, the voters of Broward County approved the current county charter that is in effect from January 1, 1975⁴ until today.

18. The Broward County Charter and Chapter 125.01 of the Florida Statutes give the Broward County, nine member Board of County Commissioners and Mayor, the ability to create (through a local public hearing ordinance procedure) local laws⁵. This process is done without having to go to the Florida Legislature to request special legislation to create these laws. The Board of County Commissioners elects a Mayor and Vice Mayor, and also appoints a County Administrator, all of whom implement Broward County policy and laws, and manage the governmental agency of Broward County.

19. Since Defendant conducts its business as an agency and instrumentality of Broward County and the State of Florida, it is a “public entity” subject to Title II of the ADA. 42 U.S.C. § 12131(1).

20. On information and belief, Defendant is also a recipient of federal funds and as such, is also subject to the requirements of Sections 504 of the Rehabilitation Act. of 1973.

⁴ <http://www.broward.org/History/Pages/BCHistory.aspx>

⁵ that are not in conflict with or specifically prohibited by state general law or the Florida Constitution

GENERAL ALLEGATIONS

21. Defendant provides a service through its online portal at <http://www.broward.org/Commission/Meetings/Pages/AgendasAndMinutes.aspx> (“Portal”) where interested persons are able to view the Broward County government’s legislative history and agenda from the year 2008 to the present.

22. The Broward County Commission meeting agendas make up the bulk of Defendant’s legislative history. Broward County Governmental meetings have a direct effect on the lives of citizens in the region. Interested persons can become informed about the effect of the Broward County Government meetings and the resulting policies, budgets, and services online by viewing the agendas of the meetings which reflect the decisions made by Broward County Government through this Portal. Interested persons are able to view thousands of documents related to the Government of Broward County (hereinafter referenced as “agenda documents”) through this Portal.

23. The Broward County Commission meeting agendas contain multiple links do PDF documents which contain significant information about Broward County operations. For example, Broward County operates Fort Lauderdale-Hollywood International Airport and Port Everglades, two of the major transportation facilities in the State of Florida. Interested persons would require knowledge of the linked PDF documents in order to ascertain the business which is being considered and voted on by the Board of Commissioners. An example of less than twenty percent (20%) of the PDF documents provided within in the February 6, 2018 agenda are as follows:

- source documents for Request for Affordable Housing (see [http://cragenda.broward.org/docs/2018/CCCM/20180228_560/26177_Exhibit%201%20-%20BPHI%20-%20Request%20for%20Authorization%20to%20Develop%20Affordable %20Housing%205%20pages_.pdf](http://cragenda.broward.org/docs/2018/CCCM/20180228_560/26177_Exhibit%201%20-%20BPHI%20-%20Request%20for%20Authorization%20to%20Develop%20Affordable%20Housing%205%20pages_.pdf)),
- detail of contract bidding for repair of water and sewer lines; one of four PDF

documents regarding this contract: http://cragenda.broward.org/docs/9999/CCCM/99990909_423/25813_Exhibit%201%20-%20Bid%20Tabulation.pdf),

- price analysis for water and sewer line contract (http://cragenda.broward.org/docs/2018/CCCM/20180206_557/25813_Exhibit%204%20-%20Price%20Analysis.pdf)
- engineering firm to provide work for the county; one of five PDF documents regarding this contract: http://cragenda.broward.org/docs/2018/CCCM/20180206_557/26101_Exhibit%201%20-%20Agreement%20Summary%20Sheet.pdf
- Contract summary for Broward County related to transit mobile ticketing fair card system for public transportation; one of three documents regarding this contract at: http://cragenda.broward.org/docs/2018/CCCM/20180206_557/25039_Exhibit%201%20-%20Agreement%20Summary.pdf

24. Defendant's Website also contains publications which are embedded in PDF format. Those publications contain the Broward County Governments' decisions regarding matters which affect the public directly such as the strategic business plan for the County's public works projects⁶.

25. The agenda documents also contain information on how the Broward County Commissioners vote for parceling community development block grants and for receiving and distribution of federal grant funds for improvements to Broward County.

26. Through pursuing the archived agenda documents, interested persons can ascertain what past legislation and projects the Broward County Commissioners have voted upon on important social, growth, and environmental issues which while voted upon in the past have a direct effect on current and future events in Broward County.

27. Through pursuing the agenda documents, interested persons can ascertain what upcoming projects the Broward County Commissioners are deliberating and voting on and can find out the direction that Broward County is moving concerning tax (assessments), spending (budgets), and legislative policy (affecting the environment, schools, and open spaces).

⁶ <http://www.broward.org/Publications/Documents/PublicWorksBusinessPlan.pdf>

28. Blind and/or visually impaired persons require assistive devices and/or auxiliary aids (such as screen reader software) to read/comprehend (Defendant's) PDF documents.

29. Online "on-demand" viewing of the Defendant's agenda documents is not an option available for persons with vision disabilities due to the fact that those documents are provided solely in a PDF flat surface format. Plaintiff (who is legally blind) is such an interested person.

30. As an active and social Miami-Dade county Florida resident, Plaintiff is interested in the quality of life, level of environmental concern, and progressive nature of Broward County (which is just to the north of Plaintiff's residence), to visit and to consider as a living option.

31. Therefore, in May of 2017, Plaintiff visited Defendant's Website with the intent of educating himself about the quality of life in Broward County, which can be reflected in the governmental functions and (historical) legislative intent of the Board of Commissioners, as well as to find out about services and accommodations available to visitors and residents of Broward County.

32. Since Plaintiff is unable to drive, Plaintiff is interested in paratransit services or known as Transportation Options, abbreviated as TOPS!⁷ provided by Defendant.

33. Because Defendant's PDF agenda documents are not in an accessible format, Plaintiff was prevented from reading PDF agenda documents in order to become informed of the actions of the Board of Commissioners and participating in the Defendant's meetings.

34. The fact that Plaintiff could not comprehend Defendant's PDF agenda

⁷ <http://www.broward.org/BCT/Riders/Pages/Paratransit.aspx>

documents has prevented Plaintiff from learning about Broward County's stance in environmental and social issues and has prevented Plaintiff from participating in Broward County governmental business. This exclusion resulted in Plaintiff suffering from feelings of segregation, rejection, and isolation.

35. Plaintiff's inability to access Defendant's PDF documents because those documents are in an inaccessible format has resulted in a *virtual barrier* which has impaired, obstructed, hindered, and impeded Plaintiff's ability to become an involved citizen in Broward County government (through Defendant's PDF agenda documents).

36. On information and belief, since May, 2017 (when Plaintiff first began to attempt to access and learn about Broward County government and services) Defendant has not made reasonable modifications to its rules, policies and procedures to ensure future compliance with the ADA and/or the Rehabilitation Act. As of this filing, the PDF documents available on Defendant's Website remain inaccessible to Plaintiff as well as to other blind and visually disabled individuals.

37. Plaintiff continues to desire to become an involved citizen in Broward County governmental process by learning about the agenda items debated, discussed, and voted upon by the Board of Commissioners that affect him as a visitor to Broward County from his home in neighboring Miami-Dade county. However, Plaintiff is unable to do so, as he is unable to comprehend the PDF agenda documents provided by Defendant for the public.

38. Broward County posts new documents to its website each month. In the near future, Plaintiff continues to desire to read and comprehend the plethora of PDF agenda documents supplied by Defendant for this purpose. However, Plaintiff is precluded from participation in the government of Broward County due to the or the unlawful barrier

created by Defendant's refusal to make its PDF agenda documents accessible.

39. As a result, Plaintiff has been barred from participating in the government of Broward County because its PDF agenda documents are not provided to the public in an accessible format for screen reader software as used by the visually impaired.

40. Plaintiff (and others with vision impairments) will suffer continuous and ongoing harm from the Defendant's omissions, policies, and practices regarding PDF agenda documents unless enjoined by this Court.

41. Defendant has engaged (and continues to engage) in unlawful practices in violation of the ADA Section 12132; 28 C.F.R. § 35.160(a)-(b)(2) and is in violation of Section 504 of the Rehabilitation Act, 29 U.S.C. § 794.

42. Defendant's unlawful practices include (but are not limited to) denying Plaintiff (an individual with a disability) access to Broward County's agendas, budgets and contacts (among other things within Defendant's Website provided solely in PDF format), thus denying Plaintiff the ability to participate in Broward County government in the same manner as provided to the sighted public.

43. Defendant has acted with deliberate indifference for the provisions of the Rehabilitation Act and Title II of the ADA in regard to the unlawful practices described herein because Defendant is aware of the availability of computer programs which allow Defendant to save PDF documents in an accessible format. Despite the ease and accessibility of providing accessible PDF documents, Defendant has failed to reasonably modify its policies, processes and procedures for the same.

44. As a result of Defendant's actions, Plaintiff has been damaged and has suffered injuries and shame, humiliation, isolation, segregation, experienced emotional

suffering, pain and anguish.

45. For all of the foregoing, Plaintiff has no adequate remedy at law.

46. Plaintiff has retained Scott Dinin P.A. and J. Courtney Cunningham PLLC as his legal counsel in this action, and has agreed to pay a reasonable attorney fee.

COUNT I – VIOLATIONS OF TITLE II OF THE ADA

47. Plaintiff Juan Carlos Gil re-alleges and incorporates by reference the foregoing allegations and would further state as follows:

48. The broad mandate of the ADA is to provide an equal opportunity for individuals with disabilities to participate in and benefit from all aspects of American civic and economic life and that mandate extends to internet websites operated by public entities including Defendant and the documents that Defendant provides to the public (including those documents provided in PDF format).

49. Title II of the ADA mandates that no qualified individual with a disability shall, by reason of such disability, be excluded from full and equal participation in or be denied the benefits of the activities, services or programs of a public entity, or be subjected to discrimination by any such entity, 42 U.S.C. § 12132.

50. Defendant Broward County is an instrumentality of the State of Florida. 42 U.S.C. §12131(1)(b) states that a public entity includes any instrumentality of a state or local government. As a public entity, Defendant is subject to Title II of the ADA.

51. As a public entity, Defendant must:

a) Provide full and equal enjoyment of its services, programs, and activities in the most integrated setting appropriate to people with disabilities. 42 U.S.C. §12131, *et. seq.*; 28 C.F.R. §35.130(a).

b) Ensure that no individual with a disability is excluded, denied

services, segregated, or otherwise treated differently than other individuals unless the public entity can demonstrate that taking those steps to modify policies, practices, or procedures would fundamentally alter the nature of the service, program, or activity; 28 C.F.R. §35.130(b)(7).

c) Ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals unless the public entity can demonstrate that legitimate safety requirements are necessary for safe operation. Any safety requirements must be based on actual risks and not on mere speculation, stereotypes, or generalizations about individuals with disabilities; 28 C.F.R. §35.130(h).

52. Defendant makes information available in thousands of pages of documents available through its Website (information Portal therein through which the public can access PDF agenda documents). Defendant's Website is a program, service, or activity within the definition of Title II of the Americans with Disabilities Act.

53. Because the PDF agenda documents are not provided in an accessible format for blind and visually impaired individuals, Plaintiff has been effectively denied access to those public documents by Defendant.

54. Defendant failed to provide its PDF documents in a format accessible to individuals who are visually impaired who require auxiliary aids and services to comprehend PDF documents.

55. Defendant has failed to take such steps as may be necessary to ensure that no individual with a disability is excluded, denied participation in a service, program or activity, segregated or otherwise treated differently than other individuals because of that disability.

56. By denying Plaintiff the opportunity to comprehend PDF documents due to Plaintiff's disability (visual impairment), Defendant has denied Plaintiff the opportunity to participate in or benefit from the services, programs or activities afforded to non-disabled persons and persons who are not visually impaired.

57. Providing PDF documents in a format that can be recognized by screen reader software and therefore making those PDF documents accessible to the visually impaired would not result in any undue burden to Defendant.

58. Providing PDF documents in a format that can be recognized by screen reader software and therefore making those PDF documents accessible to the visually impaired would not fundamentally change the nature of Defendant's services, programs, or activities.

59. Defendant is required to provide full and equal enjoyment of its services, programs, and activities in the most integrated setting appropriate to people with disabilities. 42 U.S.C. §12131, *et. seq.*; 28 C.F.R. Part 35.

60. As a result of the virtual barriers within the PDF documents provided by Defendant, visually impaired individuals are denied the equal access to the participation in the government of Broward County in a manner equal to that afforded to others; in derogation of Title II of the ADA and Section 504.

61. As a public entity, Defendant may not (directly or through contractual or other arrangements) utilize methods of administration that deny individuals with disabilities access to said public entity's services, programs, and activities or that perpetuate the discrimination of another public entity; 28 C.F.R. § 35.130(b)(3).

62. As a public entity and pursuant to Title II, Defendant is required to make reasonable modifications in its policies, practices, or procedures when the modifications

are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity; 28 C.F.R. § 35.130(b)(7).

63. As a public entity, Defendant must also take appropriate steps to ensure that its communications with individuals with disabilities are as effective as communications with others, and furnish the appropriate auxiliary aids and services, (such as accessible electronic documents), to afford individuals with disabilities an equal opportunity to participate in, and enjoy the benefits of its services, programs, or activities; 28 C.F.R. §§ 35.160(a)-(b).

64. Defendant is required to provide its auxiliary aids and services in accessible formats, in a timely manner, and in such a way as to protect the privacy and independence of the individual with a disability; 28 C.F.R. 36.303 (c)(ii).

65. The failure of Defendant's PDF documents to be accessible impedes Plaintiff and similarly situated visually impaired individuals from fully accessing the programs, services, and activities of Broward County as offered to residents and visitors in order that they can participate in the business affairs of Broward County Government (as afforded to the public). By such failure, Defendant has discriminated against the visually impaired.

66. Defendant is blatantly discriminating by its failure to provide accessible PDF documents for blind and visually impaired citizens. Defendant has violated Title II of the ADA in numerous ways, including discriminatory action which occurred when the Defendant failed to maintain policies and procedures to ensure compliance with Title II of the ADA by creating barriers for individuals with disabilities who are visually impaired and who require the assistance of interface with screen reader software to comprehend and access Defendant's PDF documents provided within its Website. These violations are

ngoing.

67. As a result of Defendant's inadequate creation, development, and administration of Defendant's PDF documents, Plaintiff is entitled to injunctive relief pursuant to 42 U.S.C. §12133 and 28 C.F.R. §36.303 to remedy the discrimination.

COUNT II – VIOLATION OF SECTION 504 OF THE REHABILITATION ACT

68. Plaintiff re-alleges and incorporates by reference the factual allegations set forth above.

69. Plaintiff is legally blind, which substantially limits him in his major life activities, including seeing and effectively communicating in the sighted world. Therefore, Plaintiff is a qualified individual with a disability under Section 504 of the Rehabilitation Act.

70. As a qualified individual, Plaintiff is expressly authorized under Section 505 of the Rehabilitation Act which enforces Section 504 of the Rehabilitation Act, 29 U.S.C. §§ 794 & 794(a), incorporating the remedies, rights and procedures set forth in Section 717 of the Civil Rights Act of 1964, including the application of §§ 706(f) - (k), 42 U.S.C. §§ 2000e (5)(f) - (k).

71. On information and belief, Defendant is a recipient of federal financial assistance, federal grants, and other federal funds.

72. Congress enacted the Rehabilitation Act in 1973 to enforce the policy of the United States that all programs, projects, and activities receiving federal assistance “. . . be carried out in a manner consistent with the principles of . . . inclusion, integration, and full participation of the individuals [with disabilities].” 29 U.S.C. § 701(c) (2000).

73. Section 504 of the Rehabilitation Act prohibits recipients of federal funding from discriminating against disabled persons and requires that programs or activities

operated by a federally-funded entity be readily accessible to persons with disabilities; see 28 C.F.R. § 42.520.

74. Section 504 of the Rehabilitation Act, 29 U.S.C. § 794, requires that no qualified individual with a disability, on the basis of that disability, be excluded from participation in or be denied the benefit of the services, programs, activities, or to otherwise be discriminated against.

75. The Rehabilitation Act defines “program or activity” to mean all of the operations of a department, agency, special purpose district, or other instrumentality of a State or of a local government. As Defendant is a local government, Defendant’s provision to the public of PDF agenda documents through its Website is a “program or activity” within the meaning of the Rehabilitation Act; 29 U.S.C. § 794(b)(1)(A).

76. This denial of access to Defendant’s “program or activity” subjected Plaintiff to discrimination, excluded Plaintiff from participation in the program or activity and denied Plaintiff the benefits of Defendant’s PDF agenda documents.

77. As of this filing, Defendant’s PDF documents remain inaccessible to persons with screen readers who are blind and/or low sighted but are inaccessible to qualified or otherwise qualified persons.

78. Specifically, as related to violations of Section 504, blind and visually impaired individuals need to comprehend and access the PDF documents which Defendant provides. Yet, Defendant’s PDF documents are not saved in accessible format to interface with screen reader software to permit effective communication for blind and visually impaired individuals.

79. As a recipient of federal funds and pursuant to Section 504 the Defendant

may not deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, or service; 45 CFR 84.4 (b)(1)(i).

80. As a recipient of Federal funds and pursuant to Section 504, the Defendant may not afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others; 45 CFR 84.4 (b)(1)(ii).

81. As a recipient of federal funds and pursuant to Section 504 the Defendant may not provide a qualified handicapped person with an aid, benefit, or service that is not as effective as that provided to others; 45 CFR 84.4 (b)(1)(iii).

82. As a recipient of federal funds and pursuant to Section 504 the Defendant may not provide different or separate aid, benefits, or services to handicapped persons or to any class of handicapped persons unless such action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to others; 45 CFR 84.4 (b)(1)(iv).

83. As a recipient of federal funds and pursuant to Section 504, Defendant may not (directly or through contractual or other arrangements) utilize criteria or methods of administration (i) that have the effect of subjecting qualified handicapped persons to discrimination on the basis of handicap, (ii) that have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the recipient's program or activity with respect to handicapped persons, or (iii) that perpetuate the discrimination of another recipient if both recipients are subject to common administrative control or are agencies of the same State; 45 CFR § 84.4 (b)(4).

84. As a recipient of federal funds and pursuant to Section 504, Defendant is required to evaluate (with the assistance of interested persons including handicapped

persons or organizations representing handicapped persons) its current policies and practices and the effects thereof that do not or may not meet the requirements of this part; 45 CFR § 84.6 (c)(1)(i.)

85. As a recipient of federal funds and pursuant to Section 504, Defendant is required to modify, after consultation with interested persons (including handicapped persons or organizations representing handicapped persons), any policies and practices that do not meet the requirements of this part; 45 CFR § 84.6 (c)(1)(ii).

86. As a recipient of federal funds and pursuant to Section 504, Defendant is required to take, after consultation with interested persons (including handicapped persons or organizations representing handicapped persons), appropriate remedial steps to eliminate the effects of any discrimination that resulted from adherence to these policies and practices; 45 CFR § 84.6 (c)(1)(iii).

87. As a recipient of federal funds and pursuant to Section 504, Defendant is required to designate at least one person to coordinate its efforts to adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by this part; 45 CFR § 84.7 (a) & (b).

88. Defendant has discriminated against Plaintiff (and other individuals with visual impairments) in the unequal provision of PDF documents it provides to the public. As a result, Plaintiff has experienced exclusion, segregation, mental anguish, and humiliation in violation of his civil rights.

89. Defendant's policies, practices and procedures, particularly the actions and omissions described above have violated Plaintiff's rights under Section 504 by discriminating on the basis of a disability.

90. Defendant's actions were as a result of commissions or omission and deliberate indifference to the rights of the Plaintiff.

91. As a result of Defendant's actions, Plaintiff has been damaged and has suffered injuries and shame, humiliation, isolation, segregation, experienced emotional suffering, pain and anguish and has been segregated and prohibited from participating in the government of Broward County (through the PDF agenda documents).

92. Plaintiff has been obligated to retain the undersigned counsel for the filing and prosecution of this action. Plaintiff is entitled to have reasonable attorneys' fees, costs and expenses paid by Defendant Broward County.

93. For all of the foregoing, Plaintiff has no adequate remedy at law

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Juan Carlos Gil hereby demands judgment against Defendant Broward County including a declaratory judgment, pursuant to Rule 57 of the FRCP stating that the Defendant's practices, policies, and procedures have subjected Plaintiff to discrimination in violation of Title II of the ADA and Section 504 of the Rehabilitation Act, permanently enjoin Defendant Broward County from any practice, policy and/or procedure which will deny Plaintiff equal access to services, programs or activities and/or accommodations offered by Defendant Broward County to residents and visitors and in participating in the government of Broward County, as well as:

- a) issue a declaratory judgment that Defendant has violated the Plaintiff's rights as guaranteed by Title II of the ADA and Section 504 of the Rehabilitation Act;
- b) enter an Order requiring Defendant to update all PDF service documents and PDF agenda documents made available to the public to remove barriers

- in order that individuals with visual disabilities can access the PDF documents to effectively communicate with Defendant to the full extent required by Title II of the ADA and Section 504 of the Rehabilitation Act;
- c) pursuant to 42 U.S.C. § 12188(a)(2) and 28 CFR § 36.504(a), enter an Order for permanent injunction which directs Defendant to take all steps necessary to bring the PDF documents which it provides on its electronic media into full compliance with the requirements set forth in the ADA, and its implementing regulations, so that all PDF documents are fully accessible to, and independently usable by, blind and low sighted individuals, and which further directs that the Court shall retain jurisdiction for a period to be determined to ensure that Defendant has adopted and is following an institutional policy that will in fact cause Defendant to remain fully in compliance with the law;
 - d) enter an Order requiring Defendant retain a qualified consultant acceptable to Plaintiff (“Mutually Agreed Upon Consultant”) who shall assist it in improving the accessibility of its PDF documents, so they are accessible to individuals with visual disabilities who require those PDF documents to be in accessible format or provided in HTML format;
 - e) require Defendant engage a (mutually agreed upon) Consultant to perform an automated accessibility audit on a periodic basis to evaluate whether Defendant’s PDF documents to be accessible to individuals with visual disabilities who require those documents to be in accessible format or provided in HTML format;
 - f) award damages in an amount to be determined at trial;

- g) award Plaintiffs' reasonable litigation expenses and attorneys' fees; and
- h) award such other and further relief as it deems necessary, just and proper.

Dated this 8th day of February, 2018.

Respectfully submitted,

s/Scott Dinin

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