

UNITED STATES DISTRICT COURT  
FOR THE  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION

Badge #603  
JMS  
2:15 pm  
3/28/18

Joel Price,

*Plaintiff,*

v.

Brevard County

*Defendant.*

Civil Action No. 6:18-cv-428-ORL  
22-DCI

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Brevard County  
c/o: Scott Knox, County Attorney  
2725 Judge Fran Jamieson Way, Building C  
Viera, Florida 32904

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Scott R. Dinin, Esq.  
Law Offices of Scott R. Dinin, P.A.  
4200 NW 7<sup>th</sup> Avenue  
Miami, FL 33127  
Tel: (786) 431-1333  
E-mail: [inbox@dininlaw.com](mailto:inbox@dininlaw.com)

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Date:

3/23/18

CLERK OF COURT

Signature of Clerk or Deputy Clerk

FILED

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION

2018 MAR 21 PM 2:57

CASE NO.

JOEL PRICE,

Plaintiff,

v.

BREVARD COUNTY,

Defendant,

6:18-CV-428-ORL-22-DCI

---

COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

---

COMES NOW Plaintiff Joel Price ("Plaintiff), by and through his undersigned counsel, and hereby sues Defendant Brevard 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'esprit<sup>1</sup>, and one must be informed to understand their peril. Florida began its tradition of openness back in 1909 with the passage of Chapter 119 of the Florida Statutes<sup>2</sup>. This statute requires that any records made or received by

---

<sup>1</sup> 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)

<sup>2</sup> Public Records Law

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 Joel Price whole.

3. Defendant Brevard County is a public entity which has offered the website URL [www.brevardfl.gov](http://www.brevardfl.gov) as an information portal ("Portal") to the County of Brevard government for the general public (anyone who accesses the Portal). The general public is able to access the Brevard 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 (also referenced as electronic documents), blind and visually impaired individuals require that electronic documents be saved in an accessible format. Much of the content provided in electronic (PDF) format within Defendant's Website is not accessible by persons who are visually impaired and who utilize screen readers.

5. Because Defendant's online electronic document content is not available for persons who are blind or low sighted, Defendant has denied Plaintiff Joel Price access to that electronic (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 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 electronic 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 electronic (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. §§ 12131-12133 ("ADA"), incorporating by reference the remedies, procedures and rights under Sections 504 of the Rehabilitation Act of 1973, 29 U.S.C. §§ 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 §§ 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**

#### **Joel Price**

13. Plaintiff Joel Price 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 and a member of a protected class under the ADA, 42 U.S.C. § 12102(1)-(2), the regulations implementing the ADA set forth at 28 CFR §§ 36.101 *et seq.* and in 42 U.S.C. 3602, §802(h). Plaintiff is substantially limited in performing one or more major life activities, including (but not limited to) accurately visualizing his world and adequately traversing obstacles.

15. Plaintiff is an otherwise qualified or qualified individual with a disability in that Plaintiff is qualified to access Defendant's documents.

16. Due to his disability, the Plaintiff requires that document information be saved in an accessible format such as HTML or an accessible electronic format so that he can comprehend (read) that document with screen reader software.

#### **Brevard County**

17. Defendant is a local government entity, a body corporate and political subdivision of the State of Florida. Brevard County was established by an act of the Florida Legislature in 1854, actually signed into law by the Governor early in 1855. In the decades after it was first established, the boundaries of Brevard County were amended

several times but was settled into its current shape in 1905.<sup>3</sup>

18. Brevard County Home Rule and Chapter 125.01 of the Florida Statutes give the five-member Brevard County Board of County Commissioners (“BOCC”) the ability to create (through a local public hearing ordinance procedure) local laws<sup>4</sup>. This process is done without having to go to the Florida Legislature to request special legislation to create these laws. The BOCC appoints a County Manager who implements Brevard County the policy and laws and manages the governmental agency of Brevard County.

19. Since Defendant conducts its business as an agency and instrumentality of Brevard 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.

### GENERAL ALLEGATIONS

21. Defendant offers a service through its online portal at [www.brevardfl.gov](http://www.brevardfl.gov) (“Portal”) where interested persons can obtain pertinent information for living in, and visiting, Brevard County. Plaintiff is an interested person.

22. Interested persons can view the Brevard County government’s legislative history and agenda from the year 2010 to the present date when they navigate to <http://brevardcountyfl.iqm2.com/Citizens/default.aspx>. While the agendas themselves are in accessible format, certain of the agendas and their ancillary documents (which are essential to understand the nature, detail, and costs of the items voted upon) are in

---

<sup>3</sup> <http://www.brevardfl.gov/HistoricalCommission/HistorySummary>

<sup>4</sup> that are not in conflict with or specifically prohibited by state general law or the Florida Constitution

electronic document format. There are also electronic agenda documents supporting the agendas, such as Defendant's "minutes packet," which contain a plethora of information which the BOCC votes upon. For example, the February 15, 2018 agenda contains a link to a minutes packet which provides an analysis of the county's proposed additional homestead exemption and its potential impact<sup>5</sup>, the January 23, 2018 agenda minutes packet contains the proposed master plan for the expressway through the county and the proposed contract for construction and surtax<sup>6</sup>, and the agenda for September 12, 2017 consists of an electronic document consisting of the budget hearing for the 2017/2018 county budget<sup>7</sup>.

23. Through pursuing the archived agenda documents and link to cogent electronic documents, interested persons are able to view thousands of documents related to the operation of Marion County government through electronic documents. As such, they can ascertain what past legislation and projects the BOCC has 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 Brevard County.

24. Defendant's Portal also provides information on hearings at <http://www.brevardfl.gov/CountyManager/PublicHearings>, which provide links to electronic documents, such as by Code Enforcement<sup>8</sup>, as well as Contractor Licensing Board Hearing and special magistrate hearings, which are also noticed in electronic document format.

25. Defendant's Portal also contains publications which are embedded in PDF (electronic) format. Those publications contain information on a variety of Brevard

---

<sup>5</sup> <http://brevardcountyfl.ig2.com/Citizens/FileView.aspx?Type=12&ID=1347>

<sup>6</sup> <http://brevardcountyfl.ig2.com/Citizens/FileOpen.aspx?Type=1&ID=1368&Inline=True>

<sup>7</sup> <http://brevardcountyfl.ig2.com/Citizens/FileOpen.aspx?Type=1&ID=1354&Inline=True>

<sup>8</sup> [http://www.brevardfl.gov/docs/default-source/countymanager/3\\_15\\_18\\_agenda.pdf?sfvrsn=2](http://www.brevardfl.gov/docs/default-source/countymanager/3_15_18_agenda.pdf?sfvrsn=2)

County issues. An example of several publications are:

- Brevard's Environmentally Endangered Lands Program brochure: <http://www.brevardfl.gov/docs/eel-documents/eel-program-brochure.pdf?sfvrsn=3>
- Brevard's Environmentally Endangered Lands sanctuary map: <http://www.brevardfl.gov/EELProgram/Sanctuaries>

26. Through Defendant's Portal, interested persons can read electronic documents on demand.

27. Blind and/or visually impaired persons require screen reader software to read/comprehend (Defendant's) electronic documents.

28. Online "on-demand" viewing of the Defendant's electronic documents is not an option available to 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.

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

30. Therefore, in February, 2018, Plaintiff visited Defendant's Website with the intent of educating himself about the quality of life in Brevard 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 programs, services and activities available to visitors and residents of Brevard County as available through Defendant's Portal.

31. Because Plaintiff could not comprehend Defendant's electronic documents, Plaintiff was left excluded from learning about Brevard County's stance in environmental and social issues and has left Plaintiff unable to participate in the business affairs of Brevard County. This exclusion resulted in Plaintiff suffering from feelings of



segregation, rejection, and isolation.

32. Plaintiff's inability to access Defendant's electronic 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 Brevard County government (through Defendant's electronic documents).

33. On information and belief, since February, 2018, when Plaintiff first began to attempt to access and learn about Brevard County programs, services, activities and government, 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 electronic documents made available by Defendant remain inaccessible to Plaintiff as well as to other blind and visually disabled individuals.

34. Plaintiff continues to desire to become an involved citizen in Brevard County governmental process by learning about the agenda items debated, discussed, and voted upon by the BOCC that affect him as a visitor and the Brevard County community. However, Plaintiff is unable to do so, as he is unable to comprehend the electronic documents offered by Defendant for the public.

35. Brevard County posts new electronic documents frequently. In the near future, Plaintiff continues to desire to read and comprehend the plethora of electronic documents offered by Defendant for this purpose. However, Plaintiff is precluded from participation in the government of Brevard County due the unlawful barrier created by Defendant's refusal to make its electronic documents accessible.

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

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

38. Defendant has engaged (and continues to engage) in unlawful practices in violation of the ADA Section 12132 and is in violation of Section 504 of the Rehabilitation Act.

39. Defendant's unlawful practices include (but are not limited to) denying Plaintiff (an individual with a disability) access to Brevard County's BOCC agendas, budgets and other things provided solely in electronic format, thus denying Plaintiff the ability to participate in Brevard County government in the same manner as provided to the sighted public.

40. 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 electronic documents in an accessible format. Despite the ease and accessibility of providing accessible electronic documents, Defendant has failed to reasonably modify its policies, processes and procedures for the same.

41. 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.

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

43. 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**

44. Plaintiff Joel Price re-alleges and incorporates by reference the foregoing allegations and would further state as follows:

45. 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 public entities including Defendant and the documents that Defendant provides to the public (including those documents provided in electronic document format).

46. 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 services, programs, or activities of a public entity, or be subjected to discrimination by any such entity, 42 U.S.C. § 12132.

47. Defendant Brevard 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.

48. 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).

49. Defendant's document creation and storage for public use is a program, service, or activity within the definition of Title II of the Americans with Disabilities Act. Defendant makes information available in thousands of pages of documents available through its information Portal therein through which the public can access electronic documents.

50. Defendant failed to provide its electronic documents in a format accessible to individuals who are visually impaired who require screen reader software to comprehend those electronic documents.

51. Because Defendant's electronic 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.

52. 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.

53. By denying Plaintiff the opportunity to comprehend electronic 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.

54. Providing electronic documents in a format that can be recognized by screen reader software and therefore making those electronic documents accessible to the visually impaired would not result in any undue burden to Defendant, nor would it fundamentally change the nature of Defendant's services, programs, or activities.

55. 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.

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

57. 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).

58. 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).

59. Defendant is required to present the electronic documents it provides to the public in an accessible format in a timely manner, and in such a way as to protect the privacy and independence of the individual with a disability.



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

61. Defendant is blatantly discriminating by its failure to provide accessible electronic 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 electronic documents provided within its Website. These violations are ongoing.

62. As a result of Defendant's inadequate creation, development, and administration of Defendant's electronic documents, Plaintiff is entitled to injunctive relief pursuant to 42 U.S.C. §12133 to remedy the discrimination.

## **COUNT II – VIOLATION OF SECTION 504 OF THE REHABILITATION ACT**

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

64. 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.

65. 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).

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

67. 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).

68. 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.

69. 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.

70. 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 electronic documents through its Portal is a “program or activity” within the meaning of the Rehabilitation Act; 29 U.S.C. § 794(b)(1)(A).

71. This denial of access to Defendants “program or activity” subjected Plaintiff to discrimination, excluded Plaintiff from participation in the program or activity and denied Plaintiff the benefits of Defendants electronic documents.

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

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

74. 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).

75. 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).

76. 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).

77. 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).

78. 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).

79. 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).

80. 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).

81. 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).

82. 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).

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

84. 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.

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

86. 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 Brevard County (through the electronic documents).

87. 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 Brevard County.

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

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff Joel Price hereby demands judgment against Defendant



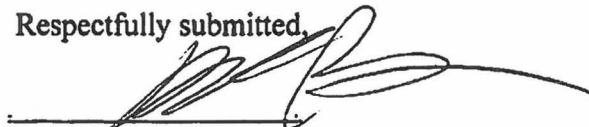
Brevard County including a declaratory judgment, pursuant to Rule 57 of the FRCP stating that the Defendant's practices, policies, and procedures have subjected Plaintiff to discrimination in violation of Title II of the ADA and Section 504 of the Rehabilitation Act, permanently enjoin Defendant Brevard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

- a) issue a declaratory judgment that Defendant has violated 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 electronic documents made available to the public to remove barriers in order that individuals with visual disabilities can access the electronic documents 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), enter an Order for permanent injunction which directs Defendant to take all steps necessary to bring the electronic 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 electronic 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 electronic documents, so they are accessible to individuals with visual disabilities who require those electronic documents to be in accessible format or provided in HTML format;
- e) award damages in an amount to be determined at trial;
- f) award Plaintiffs' reasonable litigation expenses and attorneys' fees; and
- g) award such other and further relief as it deems necessary, just and proper.

Dated this 15 day of March, 2018.

Respectfully submitted,



\_\_\_\_\_  
Scott R. Dinin, Esq.  
Scott R. Dinin, P.A.  
4200 NW 7<sup>th</sup> Avenue  
Miami, Florida 33127  
Tel: (786) 431-1333  
[inbox@dininlaw.com](mailto:inbox@dininlaw.com)

s/Courtney Cunningham  
Courtney Cunningham, Esq.  
J. Courtney Cunningham PLLC  
8950 SW 74<sup>th</sup> Court, Suite  
2201 Miami, Florida 33156  
Tel: (305) 351-2014  
email: [cc@cunninghampllc.com](mailto:cc@cunninghampllc.com)