

FILED

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

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U.S. DISTRICT COURT
TAMPA, FLORIDA

CASE NO.

JOEL PRICE,

Plaintiff,

8:18-cv-752-T-33JSS

v.

MANATEE COUNTY,

Defendant,

COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

COMES NOW Plaintiff Joel Price ("Plaintiff), by and through his undersigned counsel, and hereby sues Defendant Manatee 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 back in 1909 with the passage of Chapter 119 of the Florida Statutes². This statute requires that any records made or received by

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)

² Public Records Law

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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. Manatee County (“Defendant”) is a public entity which has provided the website URL www.mymanatee.org (“Website”) as an information portal to the Manatee County government for the general public (to anyone who accesses the Website). The general public is able to access Manatee 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 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 content is not available for persons who are blind or low sighted, Defendant has denied Plaintiff Joel Price access to that electronic 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

on “charter government” as legislated in 1968³ as “home rule.” This legislative body is made up of the seven-member Manatee County Board of County Commissioners (“BOCC”).

19. Chapter 125.01 of the Florida Statutes and County Home Rule give the BOCC the ability to create (through a local public hearing ordinance procedure) local laws⁴. This process is done without having to go to the Florida Legislature to request special legislation to create these laws. Five members are elected to represent their assigned single-member district and two Commissioners and two are elected at-large. Manatee County BOCC appoint the County Administrator, County Attorney and numerous advisory and regulatory board members.

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

21. 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

22. Defendant provides a service through its online portal where interested persons can obtain pertinent information for living and visiting Manatee County including (but not limited to): guide to canoe and kayak trails⁵ (which contains multiple links to trail

³ In 1968 Florida granted local voters throughout Florida the power to adopt county charters.

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

⁵ <https://www.mymanatee.org/home/government/departments/parks-and-recreation/natural-resources/education-volunteer/paddle-manatee.html#jump1>, links to electronic documents: Bishop Harbor Trail Map, Brandon River Trail Map, Palma Sola Bay Trail Map 1 & 2, etc.

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. 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) and the regulations implementing the ADA set forth at 29 USC §705(20) and 28 CFR §§ 36.101 *et seq.* and in 42 U.S.C. 3602, §802(h). Plaintiff is substantially limited in the major life activity of seeing.

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

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

Manatee County

17. Defendant Manatee County is a local government entity, a body corporate and political subdivision of the State of Florida. Manatee County was created in 1855 and has approximately 323,000 residents, ranking sixteenth amongst Florida counties in population. The county seat is in Bradenton, Florida.

18. The legislative body of the municipal government of Manatee County based

maps in electronic document format), evacuation and weathering storms⁶ (which contains links to electronic documents regarding weather related dangers such as flash floods) and drinking water quality report⁷ (which contains links to drinking water quality safety, etc. in electronic document format). These types of electronic documents are made available by Defendant are generally provided to inform the public of the services provided by Defendant, therefore are reference throughout as “service documents.”

23. Defendant offers a service through its online portal at <https://www.mymanatee.org/home/government/board-of-commissioners/bocc-meetings-and-agendas.html> (“Portal”) where interested persons are able to view the Manatee County government’s legislative history and agenda from the year 2013 to the present date.

24. The Defendant’s County Commission meeting agendas contain a plethora of links to electronic documents which contain significant information about Manatee County operations and give interested persons significant information on the issues being voted upon by the Manatee County government. Examples of a few of these electronic document links are provided herein below:

- January 9, 2018 agenda meeting, item #20, FY 18 Budget amendment resolution <http://www.mymanatee.org/published/January%209,%202018%20-%20Regular%20Meeting%20on%20Tuesday,%20January%2009,%202018/6BB458FA-6B0F-49CB-857C-26B24B9A134C-05FB3F81-CAF3-4FD9-9DE9-EEE5C307914B.pdf>
- January 9, 2018 agenda meeting, item #24, bidding for Phase II of the Gas Collection Expansion project at the Lena Road Landfill at <http://www.mymanatee.org/published/January%209,%202018%20-%20Regular%20Meeting%20on%20Tuesday,%20January%2009,%202018/6BB458FA-6B0F-49CB-857C-26B24B9A134C-4103C146-2095-4198-9346-EBF40557383F.pdf>

⁶ <http://www.mymanatee.org/home/government/departments/public-safety/hurricane-readiness-center/during-the-storm.html#jump2>

⁷ <http://www.mymanatee.org/home/government/departments/utilities/potable-water-system/water-quality-report.html>

- January 23, 2018 agenda meeting, item #9 FY 2016/2017 Audited Financial Report of the Housing Finance Authority for Manatee County <http://www.mymanatee.org/published/January%2023,%202018%20-%20Regular%20Meeting%20on%20Tuesday,%20January%2023,%202018/D6414E70-94D2-4D5B-BB2F-2E39552E37C0.pdf>

25. The Manatee County governmental meetings have a direct effect on the lives of citizens in the region because of the legislative items being considered and voted on. Interested persons are able to view thousands of documents related to the government of Manatee County (hereinafter referenced as “agenda documents”) through this Portal.

26. Persons who are interested in governmental meetings need to be able to understand the information in the linked electronic documents, to be able to meaningfully participate. and in order to ascertain the business which is being considered and voted on by the Board of Commissioners.

27. Defendant’s Website also contains electronic documents which provide information on Manatee County governmental functions, positions and decisions regarding matters which affect the public directly. A sampling of those links to electronic documents is provided below:

- County Commission funding requests⁸, which links to electronic documents such as lobbying information and the legislative priorities of the county; for example, see link to “2017 BCC Platform” which is an electronic document: Manatee County Commission 2017 Funding Requests, at Exhibit A;
- Quarterly status reports⁹, which links to status reports of the county’s capital improvement projects in electronic document format, such as the January 31, 2018 Project Status report for a four land divided roadway (see Exhibit B
- Construction Trades Board¹⁰ regulates the construction trade, which links to electronic documents within the Construction Trade Board’s agenda meetings, such as information on hearings for Contractors’ noncompliance (for example, the February 14, 2018 Agenda¹¹Case No 11, Attachments for non-compliance

⁸ <https://www.mymanatee.org/home/government/board-of-commissioners/lobbying.html>,

⁹ <https://www.mymanatee.org/home/government/board-of-commissioners/quarterly-reports.html>

¹⁰ <http://www.mymanatee.org/home/government/advisory-boards/construction-trades-board.html>

¹¹

<http://www.mymanatee.org/published/February%2014,%202018%20Construction%20Trades%20Board%20on%20Wednesday,%20February%2014,%202018/140A3AEB-574E-4FA0-B5BC->

- hearing of Casey Rupert, see Exhibit C
- Citizens financial structure advisory board¹², which links directly to an electronic document which is the Citizens Financial Structure Advisory Board's April 26, 2016 report

28. The electronic documents also contain information on how the Manatee County Commissioners voted on budgeting for community development block grants and for the distribution of federal grant funds for improvements to environmental and land use within Manatee County.

29. Through pursuing the archived electronic documents, interested persons can ascertain what past and present legislation and projects the Manatee 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 Manatee County.

30. Defendant's Website also contains links to consumer publications which are embedded in electronic document format. A sampling of those departmental publications are: <http://www.mymanatee.org/home/government/departments/utilities/recycling.html>, (which provides links to recycling publications in electronic format), and <http://www.mymanatee.org/home/government/departments/parks-and-recreation/natural-resources/resource-management/marine-resources.html> (which provides links to boaters guides and waterway recreational map in electronic format).

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

32. Online "on-demand" viewing of the Defendant's electronic service

[32CF146D88B5Agenda.htm](#)

¹² http://www.mymanatee.org/home/government/advisory-boards/citizens-financial-structure-advisory-board/main/03/text_files/file/document/0426_CFSABReport_Presentation_Final.pdf

documents and electronic agenda 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.

33. As an active and social Florida resident, Plaintiff is interested in the quality of life in Manatee County, including, the environment, and area attractions offering family, cultural, outdoor and sports entertainment options. Manatee County offers all of this and more, which Plaintiff can find in Defendant's service documents. Likewise, he is also interested in learning out how Manatee County is governed, which information he is able to ascertain through Defendant's agenda documents.

34. Therefore, in February, 2018, Plaintiff visited Defendant's Website with the intent of educating himself about the quality of life and governmental functioning in Manatee County. This information is reflected in the current and historical legislative intent of the Board of Commissioners. Plaintiff also wanted to find out more about programs, services and activities available to visitors and residents of Manatee County.

35. Since Plaintiff is unable to drive, Plaintiff is also interested in the Manatee County Transportation Disadvantages Program provided by Defendant. Paratransit services that are offered by Defendant and are located at <http://www.ridemcat.org/wp-content/uploads/IVR-Brochure-April-2017-MCAT.pdf>. However, this information is provided in inaccessible electronic document format as part of Defendant's service documents.

36. Because Defendant's electronic agenda documents are not in an accessible format, Plaintiff was prevented from reading electronic agenda documents in order to become informed of the actions of the Board of Commissioners, learning about the direction of Manatee County government on important social and environmental issues,

and from and participating in the Defendant's meetings.

37. The fact that Plaintiff could not comprehend Defendant's electronic agenda documents has prevented Plaintiff from learning about Manatee County's stance on environmental and social issues and has left Plaintiff unable to participate in the business affairs of Manatee County. This exclusion resulted in Plaintiff suffering from feelings of segregation, rejection, and isolation.

38. Because Defendant's electronic service documents are not in an accessible format for the blind and visually impaired and are not provided in accessible HTML format, Plaintiff was prevented from reading the electronic service documents in order to become informed of services offered to the public by Defendant because of his vision disability. This exclusion resulted in Plaintiff suffering from feelings of discrimination and rejection.

39. Plaintiff's inability to access Defendant's electronic documents, has resulted in a *virtual barrier* which has impaired, obstructed, hindered, and impeded Plaintiff's ability to become an involved citizen in Manatee County government (through Defendant's electronic agenda documents) and learn about the programs, services and activities available to residents and visitors of Manatee county (through Defendant's electronic service documents).

40. On information and belief, since February of 2018, when Plaintiff first began to attempt to access and learn about Manatee 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 PDF documents available on Defendant's electronic documents remain inaccessible to Plaintiff as well as to other blind and visually disabled individuals.

41. Plaintiff continues to desire to become involved in the Manatee County governmental process by learning about the agenda items debated, discussed, and voted upon by the Board of Commissioners that affect him and the Manatee County community. However, Plaintiff is unable to do so, as he is unable to comprehend the electronic agenda documents provided by Defendant for the public.

42. In the near future, Plaintiff continues to desire to read and comprehend the plethora of electronic agenda documents supplied by Defendant for this purpose. However, Plaintiff is precluded from participation in the government of Manatee County so he may educate himself regarding the agenda items debated, discussed, and voted upon by the Board of Commissioners that affect him (as a visitor) and the effect of the governmental process on the Manatee County community due to the or the unlawful barrier created by Defendant's refusal to make its electronic documents accessible.

43. In the near future, Plaintiff continues to desire to read and comprehend the plethora of electronic service documents supplied by Defendant as a service to the public. However, Plaintiff is prevented from learning about (and therefore participating in and enjoying) the programs, services and activities for residents and visitors of Manatee County due to the or the unlawful barrier created by Defendant's refusal to make its electronic service documents accessible for screen reader software as used by the visually impaired.

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

45. 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, 29 U.S.C. § 794.

46. Defendant's unlawful practices include (but are not limited to) denying Plaintiff (an individual with a disability) access to Manatee County's electronic agenda documents in the same manner as provided to the sighted public.

47. Plaintiff has also been denied the ability to participate in the Manatee County community by Defendant's precluding Plaintiff's access to Manatee County's electronic service documents (which provide information on Defendant's programs and services) in the same manner as provided to the sighted public.

48. As such, Defendant's unlawful practices include (but are not limited to) denying Plaintiff, access to Manatee County's programs, services and activities, and denying Plaintiff the ability to participate in Manatee County government in the same manner as provided to the sighted public.

49. 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.

50. 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.

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

52. Plaintiff has retained Scott R. 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

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

54. 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 electronic documents presented in internet websites operated by entities including Defendant and the documents that Defendant provides to the public (including those documents provided in electronic format).

55. 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.

56. Defendant Manatee 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.

57. 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).

58. Defendant's document creation, storage and on its Website 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 Website (information Portal therein through which the public can access electronic agenda and service documents).

59. 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.

60. 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.

61. By denying Plaintiff the opportunity to comprehend and benefit from its 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.

62. 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.

63. 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 fundamentally change the nature of Defendant's services, programs, or activities.

64. 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.

65. 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 the services, programs, and activities offered by Manatee County and have been denied participation in the government of Manatee County in a manner equal to that afforded to others; in derogation of Title II of the ADA and Section 504.

66. 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).

67. 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).

68. 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.

69. Defendant's failure to make its electronic documents accessible impedes Plaintiff and similarly situated, visually impaired individuals from fully accessing the programs, services and activities provided by Manatee County to the public. By such failure, Defendant has discriminated against the visually impaired.

70. 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.

71. 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

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

73. Plaintiff is legally blind, which substantially limits him in his major life

activities. Therefore, Plaintiff is a qualified individual with a disability under Section 504 of the Rehabilitation Act.

74. 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).

75. On information and belief, Defendant is a recipient of federal financial assistance.

76. 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)(3).

77. 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.

78. 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.

79. 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 creation,

storage and providing electronic documents to the public through its Website is a “program or activity” within the meaning of the Rehabilitation Act; 29 U.S.C. § 794(b)(1)(A).

80. 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.

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

82. Specifically, as related to violations of Section 504, blind and visually impaired individuals need to comprehend and access the electronic documents which Defendant provides to the public. Yet, Defendant’s electronic documents are not saved in an accessible format which interfaces with screen reader software so that blind and visually impaired individuals are able to comprehend those documents.

83. 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).

84. 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).

85. 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).

86. 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).

87. Plaintiff has been denied the ability to comprehend electronic service documents provided by Defendant which would permit Plaintiff to the programs, services and activities of Manatee County as offered to residents and visitors. As a recipient of federal funds and pursuant to Section 504, Defendant may not otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit, or service; 45 CFR § 84.4 (b)(1)(vii).

88. 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).

89. 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).

90. 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).

91. 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).

92. 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).

93. 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.

94. 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.

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

96. 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 Manatee County (through its electronic agenda documents) and enjoying the programs, services and activities offered by Manatee County to residents and visitors (through its electronic service documents).

97. 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 Manatee County.

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

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Joel Price hereby demands judgment against Defendant Manatee 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 Manatee County from any practice, policy and/or procedure which will deny Plaintiff equal access to the governmental business activities, services, and programs offered by Defendant Manatee County to residents and visitors and in participating in the government of Manatee 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 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 its 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 of its 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) require Defendant engage a (mutually agreed upon) Consultant to perform an automated accessibility audit on a periodic basis to evaluate whether Defendant’s electronic 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 26 day of March, 2018.

Respectfully submitted,



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