

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

FILED

U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS

APR 5 1999

JAMES W. McCOHMAACK, CLERK

By: _____ **PLAINTIFFS**

**CLIFTON COATES, on Behalf of
Himself and all others Similarly Situated**

V.

Civil No. LR-C-95-302

**CITY OF LITTLE ROCK, an Arkansas
Municipal Corporation**

DEFENDANT

**JOINT MOTION
FOR PROVISIONAL APPROVAL OF SETTLEMENT AND
NOTICE OF PUBLICATION**

Come now the Plaintiffs and Defendant, by and through their respective attorneys, and jointly move the Court for Provisional Approval of Settlement and Notice of Publication pursuant to Fed. R. Civ. Pro. 23(e).

1. The Plaintiffs filed their class complaint in LR-C-95-302 on May 19, 1995. Plaintiffs alleged that the Defendant had failed to comply with Title II of the Americans With Disabilities Act, 42 U.S.C. §§ 12101, et seq. ("ADA") and Regulations promulgated thereunder at 28 C.F.R. part 35, and Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. §794, and Regulations promulgated thereunder at 45 C.F.R. part 84.

2. On July 27, 1995, the Defendant answered the complaint and denied the material allegations with respect to violations of Title II of the Americans with Disabilities Act, 42 U.S.C. §12101, et seq. and Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, and Regulations promulgated thereunder at 45 C.F.R. part 84.

3. The United States District Court for the Eastern District of Arkansas entered an Order on October 20, 1995 which certified this case as a class action under Fed. R. Civ. P. 23 (a) and (b)(2). The class was defined in that Order as:

"Persons with disabilities who regularly use wheelchairs for mobility, are unable to lift themselves from their wheelchairs without assistance and are aggrieved by one or more of the following access barriers:

- A. Lack of curb cuts at intersections throughout the City of Little Rock, Arkansas;
- B. Lack of accessible parking;
- C. The City's failure to enforce ordinances to keep sidewalks clear;
- D. The City's failure to provide accessible equipment at War Memorial Fitness Center;
- E. Path of travel barriers to and/or within city facilities;
- F. Lack of required access to and/or within City facilities."

4. The parties have now entered into a Settlement Agreement which fully and finally resolves any and all disputes which were raised or could have been raised in this litigation under Fed. R. Civ. P. Rule 23(b)(2). Under this Settlement, the City of Little Rock is adopting an "Americans with Disabilities Act Amended Transition Plan" ("Transition Plan") and "Curb Ramp Construction Plan" to remedy and remove certain architectural barriers which prevent access to class members. A copy of the Settlement Agreement, which in turn incorporates by reference the Transition Plan and Curb Ramp Construction Plan, is attached as Exhibit 1 to this Motion.

5. The parties suggest that notice could be achieved through publication of notice on three (3) consecutive Sundays. The Notice shall provide a procedure and deadline for

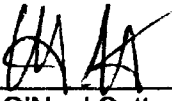
making objections and a hearing date provided by the Court to consider final approval of the Agreement, the Fee Application and any objections filed to either. The proposed form of the Notice is Exhibit 2 to this Motion. The cost of such publication shall be borne by the City.

In addition, the City shall publish the notice on the City's web site and the City's Government Access Channel for three weeks corresponding to the publication dates in the newspaper. The Notice in the newspaper shall identify the website address. The parties stipulate and agree that this combination of notice is the most reasonable and practical method of notifying class members of the compromise of this *action under Fed.R.Civ.P. Rule 23(b)(2)*.

6. The parties propose that the attached Settlement is in the best interest of the Class and the public. The Settlement Agreement should fully and finally resolve any disputes which were stated or could have been stated in this litigation.

WHEREFORE, the parties move the Court to enter an Order approving the proposed settlement on a conditional basis, directing that Notice be published as set forth in the preceding paragraph 4; providing that any objections to this compromise must be filed with the Court no later than thirty (30) days from the initial publication of the proof of notice of compromise; and directing that if no objections are received within the prescribed time, the Settlement Agreement shall be approved, and a Consent Decree submitted to and between the named parties shall be entered which finally and fully adjudicates any issues which were raised or could have been raised in this litigation under Fed. R. Civ. P. Rule 23(b)(2).

FOR PLAINTIFFS:

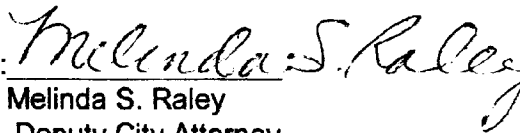
By: 

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Respectfully submitted:

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS

*Exhibits Attached
to Original
Document in
Court's Case File*