

KAREN ARNOLD, DONNA GRISWOLD,)
 DEBBIE LAURICELLA, JAMES QUEEN,)
 CARNELL ROBERTS, MARCELLA STEWART,)
)
 Complainants,)
)
)
 v.)
)
 COMMISSIONER OF SOCIAL SECURITY,)
)
 Agency.)
 _____)

Civil Rights Complaint Docket
 Numbers: 04-10-02, 04-10-03,
 04-10-04, 04-10-06, 04-10-08,
 04-10-09

SETTLEMENT AGREEMENT

I. INTRODUCTION

In response to the above-styled administrative complaints filed with the Office of the General Counsel (OGC), the Social Security Administration (“SSA or Agency”), through its undersigned representatives, and Karen Arnold, Donna Griswold, Debbie Lauricella, James Queen, Carnell Roberts, and Marcella Stewart (“Complainants”) alleging discrimination based on their deafness, (together, the Parties), hereby agree and stipulate as follows:

II. DEFINITIONS

- A. **“Auxiliary Aid”** is a service or device, with the exception of individually prescribed devices or devices of a personal nature, such as hearing aids or cochlear implants, that enables a deaf or hard of hearing customer to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities conducted by SSA.
- B. **“Certified Sign Language Interpreter”** means any person who has been certified by the National Registry of Interpreters of the Deaf (RID), or certified by the National Association of the Deaf (NAD), or holds a Level III state screening credential from the Florida Registry of Interpreters for the Deaf (FRID) in the State of Florida.

- C. **“Customer”** shall be broadly construed to include any individual who is seeking or receiving any services provided by SSA whether as a claimant, legal representative, authorized representative, representative payee, or legal guardian, or who is a family member, friend, or associate of an individual seeking access to an SSA service, program, or activity, who, along with such individual, is an appropriate person with whom SSA should communicate.
- D. **“Effective Date of this Settlement Agreement”** means 30 days after the date this Settlement Agreement is last signed by the Parties, excluding any day SSA is not open for regular business.
- E. **“Florida DDD”** means the Florida Department of Health, Division of Disability Determinations, which is the state agency responsible for making decisions regarding the medical eligibility of Florida citizens applying for benefits under the federal Social Security and Supplemental Security Income programs.
- F. **“Non-Remote Qualified Sign Language Interpreter”** means a Qualified Sign Language Interpreter who is at the same location with the deaf or hard of hearing customer.
- G. **“Parties”** means Complainants, Karen Arnold, Donna Griswold, Debbie Lauricella, James Queen, Carnell Roberts, and Marcella Stewart, and SSA.
- H. **“Qualified Sign Language Interpreter”** means a person who is able to interpret effectively, accurately and impartially, both receptively and expressively, using any specialized terminology necessary for effective communication with SSA.
- I. **“Scheduled Encounter”** means the on-time appearance at the SSO by a deaf or hard of hearing customer at the customer’s scheduled appointment time.
- J. **“Social Security Office (SSO)”** means the St. Augustine field office located at 2428 Old Moultrie Road, St. Augustine, Florida; the Jacksonville North field office located at 1685 Dunn Avenue, Jacksonville, Florida; the Jacksonville South field office located at 7185 Bonneval Road, Suite 1, Jacksonville Florida; and the Lakeland field office located at 550 Commerce Drive, Lakeland, Florida.
- K. **“Substantial Compliance”** means a violation is not minor and not systemic, and any deviation from a specific agreement requirement does not frustrate the essential purposes of the Settlement Agreement.
- L. **“Video Remote Interpreting (VRI)”** is a sign language interpreting service provided via videoconferencing in which the Qualified Sign Language Interpreter is at a separate location than the deaf or hard of hearing customer.
- M. **“Video Remote Sign Language Interpreter”** means a sign language interpreter who is in a separate location than the deaf or hard of hearing customer and who is

able to interpret accurately, and impartially, both receptively and expressively, using any specialized terminology necessary for effective communication with SSA, and is certified by RID, or certified by NAD, or holds a Level III state screening credential from the FRID in the State of Florida.

- N. **“Walk-in Encounter”** means the appearance at the SSO by a deaf or hard of hearing customer who is seeking assistance at the SSO, but does not have a scheduled appointment at the time he or she seeks assistance.

III. SETTLEMENT TERMS

- A. Providing a Qualified Sign Language Interpreter or other Auxiliary Aid in a Timely Manner

1. Qualified Sign Language Interpreters

In accordance with SSA’s commitment to ensure that all customers receive timely and efficient service, the SSO will provide a deaf or hard of hearing customer a Qualified Sign Language Interpreter, if the customer states that he or she needs a sign language interpreter, or if the SSO employee responsible for assisting the customer identifies the need for a sign language interpreter. For Walk-in Encounters, the SSO employee responsible for assisting the customer will follow the procedures in Section III.A.3 of this Settlement Agreement. For Scheduled Encounters, the SSO employee responsible for assisting the customer will follow the procedures in Section III.A.4 of this Settlement Agreement.

2. Vendors Providing Non-Remote Qualified Sign Language Interpreters

Vendors shall provide only interpreters certified by RID or NAD, or who hold a Level III state screening credential from the FRID.

3. Procedure for Providing a Qualified Sign Language Interpreter or other Auxiliary Aid for a Walk-in Encounter

- a) Within 90 days of the Effective Date of this Settlement Agreement, SSA shall create a hand-held document with illustrations listing the Auxiliary Aids available for providing effective communication for deaf or hard of hearing customers.
- b) If a deaf or hard of hearing customer states that he or she needs an Auxiliary Aid to communicate, or if an SSO employee identifies the need for an Auxiliary Aid, the SSO employee responsible for assisting the deaf or hard of hearing customer will display the hand-held document to the customer.

- c) The hand-held document will explain, at a minimum, that the deaf or hard of hearing customer may choose to communicate with SSA by using:
 - i. a Qualified Sign Language Interpreter, who is also a Certified Sign Language Interpreter;
 - ii. a Video Remote Sign Language Interpreter as defined in section II.M, if VRI is available;
 - iii. an SSA employee who is a Qualified Sign Language Interpreter, if such an employee is available;
 - iv. hand-written notes;
 - v. lip-reading; or
 - vi. an SSA employee who knows American Sign Language but who is not a Qualified Sign Language Interpreter or a Certified Sign Language Interpreter, for direct one-on-one communication, through in-person communications or video conferencing technology, as referenced in section III.B, if such an employee is available.
 - d) If the deaf or hard of hearing customer is unable to effectively communicate through his or her selected method of communication, he or she may request to change to a different method of communication.
 - e) Auxiliary Aids necessary for effective communication will be provided free of charge to the deaf or hard of hearing customer.
 - f) Nothing in this section shall preclude SSA from offering enhanced methods of communication in lieu of the hand-held document.
4. Procedure for Providing a Non-Remote Qualified Sign Language Interpreter for a Scheduled Encounter
- a) The SSO agrees to provide a Qualified Sign Language Interpreter, who is also a Certified Sign Language Interpreter, for a Scheduled Encounter when the customer requests a sign language interpreter in advance.
 - b) If a Non-Remote Qualified Sign Language Interpreter, who is also a Certified Sign Language Interpreter, has not arrived at the SSO at the time of the Scheduled Encounter, the SSO employee responsible for assisting the customer will determine whether the Non-Remote Qualified Sign Language Interpreter is temporarily delayed or is unable to attend the Scheduled Encounter. If the Non-Remote Qualified Sign Language Interpreter is unable to attend the Scheduled Encounter, the SSO employee responsible for

assisting the customer will do one or more of the following: i) offer VRI if available in the SSO; ii) promptly offer to attempt to secure another Non-Remote Qualified Sign Language Interpreter, who is also a Certified Sign Language Interpreter, for that day; iii) offer to reschedule the customer's appointment and provide a Non-Remote Qualified Sign Language Interpreter, who is also a Certified Sign Language Interpreter, for the rescheduled appointment; or iv) offer the customer an SSA employee who is a Qualified Sign Language Interpreter, if such an employee is available.

5. Response Time to Secure a Non-Remote Qualified Sign Language Interpreter for a Walk-in Encounter and for a Scheduled Encounter When a Non-Remote Qualified Sign Language Interpreter Fails to Appear

The SSO will promptly attempt to secure a Non-Remote Qualified Sign Language Interpreter, who is also a Certified Sign Language Interpreter, when a deaf or hard of hearing customer requests a sign language interpreter for a Walk-in Encounter, or if a Non-Remote Qualified Sign Language Interpreter fails to appear for a Scheduled Encounter.

6. Providing Video Remote Sign Language Interpreters

- a) Within 240 days of the Effective Date of this Settlement Agreement, SSA shall contract with a VRI Service Provider for fee-based VRI services. In the event SSA cannot successfully contract with a VRI service provider within 240 days of the Effective Date of this settlement agreement, SSA will notify counsel for Complainants to provide an estimated date on which the agency can secure a contract with a VRI Service Provider.
- b) When using a fee-based VRI service, SSA will provide Video Remote Sign Language Interpreters as defined in Section II.M of this Settlement Agreement.
- c) The SSO shall not require that a deaf or hard of hearing customer use VRI if the customer states VRI is not an effective means of communication for him or her.
- d) The SSO may use VRI for both Scheduled Encounters and Walk-in Encounters with consent of the deaf or hard of hearing customer.
- e) If a customer consents to use VRI for a specific appointment, the customer does not waive the option to request a non-remote sign language interpreter at future appointments.

- f) The SSO will place the VRI equipment in a location that provides a deaf or hard of hearing customer the same level of privacy as provided to any other customer.
- g) Within 90 days of installing VRI service in the SSO, the SSO will provide VRI training to appropriate employees on the use and policies of VRI.
- h) The SSO shall keep the VRI equipment in proper working condition. The SSO will initiate a repair order for inoperable equipment no later than five business days after the SSO manager is made aware of the problem.
- i) In addition to the fee-based VRI services, the customer may choose to use an SSA employee who is a Qualified Sign Language Interpreter to provide interpreter services via video conferencing technology, if such an employee is available.

B. Direct Communications with SSA Employees in Non-Interpretation Situations

If an SSA employee who knows American Sign Language is available, the customer may choose to communicate directly, one-on-one, through video conferencing technology or in-person, with that SSA employee. If for any reason the customer finds the SSA employee unacceptable, the customer may request interpreter services from: (1) a non-SSA employee Qualified Sign Language Interpreter, who is also a Certified Sign Language Interpreter, (2) Video Remote Sign Language Interpreter, or (3) an SSA employee who is a Qualified Sign Language Interpreter.

C. Notice to the Public

The SSO shall display two signs in its lobby giving notice to the public. One sign shall denote the availability of interpreters and other reasonable accommodations needed for effective communication, and the other sign shall denote a customer's right to file a complaint and the procedure for filing a complaint if he or she believes his or her rights have been violated under Section 504 of the Rehabilitation Act of 1973. The SSO will continue to display this information in a visible location where it ordinarily posts notices to customers.

D. Notice to SSO Employees

- 1. In addition to SSA's existing procedures regarding interviewing and communicating with a deaf or hard of hearing customer as stated in SSA's Program Operations Manual Systems GN 00203.012, SSA will publish an Administrative Message (AM) regarding effective communication with a deaf or hard of hearing customer. The AM will also remind SSO

employees of SSA's obligation to provide Qualified Sign Language Interpreters, who are also Certified Sign Language Interpreters, for both Walk-in Encounters and Scheduled Encounters. SSA will distribute this AM to SSO employees within 60 days of the Effective Date of this Settlement Agreement.

2. SSA will provide new SSO employees with a copy of this AM and will include this AM in the training materials for new SSO employees.
3. SSA will notify SSO employees of the following procedure: if a deaf or hard of hearing customer communicates to an SSO employee that he or she needs an accommodation, the SSO employee will take appropriate steps to ensure effective communication with the customer. These steps include informing the customer of reasonable accommodations, such as Qualified Sign Language Interpreters, available to the customer free of charge, and providing accommodation as required under 45 C.F.R. § 85.51 (2010).

E. Website Notification

Within 120 days of the Effective Date of this Settlement Agreement, SSA shall include on its website's homepage a link on how a deaf or hard of hearing customer may request reasonable accommodations and services.

F. Accessible Lobby Notification

1. Within ten business days of the Effective Date of this Settlement Agreement, the SSO shall provide an operating visual marquee or alerting system in the reception area, in a visible location to advise a customer when his or her number is called for service. The SSO will initiate a repair order for inoperable equipment no later than five business days after the SSO manager is made aware of the problem.
2. The SSO's Visitor Intake Process kiosk allows a customer to self-identify that he or she is a deaf or hard of hearing customer.

G. Employee Training

1. Within 90 days of the Effective Date of this Settlement Agreement, the SSO shall have provided to its employees training that focus specifically on the unique needs of working with a deaf or hard of hearing customer.
2. The SSO will develop the training in consultation with persons knowledgeable and experienced in communicating with both a signing and non-signing deaf or hard of hearing customer. This training shall:

- a) reinforce SSA's commitment to provide timely, efficient, and appropriate training for its employees;
- b) review SSA's procedures regarding effective communication with a deaf or hard of hearing customer, and provide a brief description of SSA's discrimination complaint process;
- c) include, but not be limited to: effective communication techniques, proper use of interpreters, Deaf Cultural and linguistic norms, and telecommunication and technology used by a deaf or hard of hearing customer;
- d) be mandatory for all SSO employees. New SSO employees must also be trained (by video or otherwise) no later than 180 days after employment at the SSO;
- e) describe the Florida DDD's obligation to provide effective communication for a deaf or hard of hearing customer. This training topic will also explain the steps to be taken if a customer advises the SSO, in writing or orally, that the Florida DDD has refused to provide effective communication. The SSO shall inform SSA's designee of this matter in writing.

H. Self Identification

SSA's electronic record system has a data field specifying the customer's language preference, and includes the option to designate American Sign Language as the preferred language when requested by the customer. This data field alerts SSA that a customer may need a sign language interpreter.

I. Retaliation

SSA will not retaliate against or coerce in any way any person who is trying to exercise his or her rights under this Settlement Agreement or Section 504 of the Rehabilitation Act of 1973.

J. Confidentiality

The terms of this Settlement Agreement are not confidential.

K. Florida DDD

- 1. Within 90 days of the Effective Date of this Settlement Agreement, SSA shall require the Florida DDD to appoint a designee within the Florida DDD to formally address any complaints by a deaf or hard of hearing

customer claiming ineffective communication as it relates to the Florida DDD's processing of the customer's claims for SSA benefits.

2. If a deaf or hard of hearing customer informs SSA, either through a written complaint or by advising SSO management, that the Florida DDD is refusing to provide a sign language interpreter or other reasonable accommodation needed to ensure effective communication for evaluations, appointments or other mandated directives to process a claim for disability, SSA will act to investigate that allegation against the Florida DDD.

IV. REPORTING AND NOTICING

A. Reports

1. Compliance Reports

On the dates detailed below, OGC will provide a written report (Compliance Report) to Complainants through their representative, Jacksonville Area Legal Aid, Inc., regarding the status of SSA's compliance with this Settlement Agreement. The Compliance Report will include the following:

- a) the number of requests for sign language interpreters the SSO received from deaf or hard of hearing customers;
- b) the number of times the SSO provided a Non-Remote Qualified Sign Language Interpreter, who is also a Certified Sign Language Interpreter, and a Video Remote Sign Language Interpreter;
- c) the number of written Civil Rights complaints that deaf or hard of hearing customers filed against the SSO concerning reasonable accommodations or effective communication and the number of such complaints that SSA closed;
- d) the number of civil actions served on SSA alleging that the SSO failed to provide reasonable accommodations to deaf or hard of hearing customers or otherwise failed to provide effective communication with such customers; and
- e) copies of any substantive written changes in SSA's operating procedures, instructions, or policies (i.e., Program Operations Manual System, Administrative Messages, Emergency Messages) that SSA uses to ensure effective communication with deaf or hard of hearing customers.

2. SSA will maintain appropriate records to document the information contained in the Compliance Reports in accordance with the applicable National Archives Records Administration General Records Schedules and SSA's specific Records Schedules.
3. SSA will submit the Compliance Report to Complainants through their representative, Jacksonville Area Legal Aid, Inc., on or before the following dates: Six months after the Effective Date of this Settlement Agreement (due within 30 days of the end of that period) and at six-month intervals thereafter (due within 30 days of the end of each of those periods) for a period of two years. Each Compliance Report will include data relating to the prior six-month period but will not be cumulative.
4. Notwithstanding any other term in this Settlement Agreement, SSA shall not be required to disclose, or otherwise make available, any information protected from disclosure by: federal law, rule, or regulation, including but not limited to the Freedom of Information Act, the Privacy Act of 1974, and Section 1106 of the Social Security Act; the attorney-client privilege, the work-product privilege, the deliberative process privilege, and any other applicable privilege; or SSA's personally identifiable information policy. Additionally, SSA shall not be required to disclose or make available information that could reasonably lead to the identification of an individual.

B. Parties to be Noticed

Any notice required under this Settlement Agreement will be provided to the following persons at the following addresses:

For Complainants:

Sharon Caserta, Esq.
Jacksonville Area Legal Aid, Inc.
Deaf/Hard of Hearing Legal Advocacy Program
126 West Adams Street
Jacksonville, FL 32202

For the Social Security Administration:

Mary Ann Sloan
Regional Chief Counsel
Office of the General Counsel
Social Security Administration
61 Forsyth Street, S.W.
Suite 20T45
Atlanta, Georgia 30303

V. PROCEDURES AND REMEDIES FOR ALLEGED BREACHES OF THE SETTLEMENT AGREEMENT

- A. The procedures and remedies provided herein are the exclusive procedures and remedies for alleged violations of this Settlement Agreement.
- B. If the Parties have a dispute about any of the terms of this Settlement Agreement, the Parties agree to attempt to negotiate a settlement of such dispute in good faith.
- C. If a party has evidence that this Settlement Agreement has been breached, that party shall notify the other party in writing within 30 days of becoming aware of the alleged breach and present the evidence or information to the other party. The party receiving notice of the alleged breach shall notify the other party of the date of receipt of the notice of the alleged breach. The Parties agree to address alleged breaches in good faith. Failure to timely notify of a breach, without good cause, shall constitute waiver of the alleged breach.
- D. If, after 60 days following the date a party receives the notice of an alleged breach, the Parties have not resolved the disagreement over the alleged breach, the period to resolve the alleged breach shall be extended by 30 days. If, after 90 days following the date a party received the notice of the alleged breach, the Parties cannot agree that the alleged breach has been satisfactorily resolved, the party issuing the notice may take further action to resolve the matter.
- E. If an alleged breach is resolved, the matter will no longer be considered a breach of this Settlement Agreement and no additional relief will be available.
- F. Notices under this section should be provided in accordance with Section IV.B of this Settlement Agreement.
- G. If the Parties are in Substantial Compliance with this Settlement Agreement, there is no breach of this Settlement Agreement.

VI. TERM OF THIS SETTLEMENT AGREEMENT

- A. The Settlement Agreement will remain in effect for two years following the Effective Date of this Settlement Agreement (the Term). After the expiration of the term of the Settlement Agreement, the Settlement Agreement is no longer enforceable.
- B. Nothing in this Settlement Agreement is intended to relieve the SSO of its continuing obligation to comply with Section 504 of the Rehabilitation Act of 1973 and its implementing regulations.

VII. MISCELLANEOUS PROVISIONS

A. Release of Claims

1. Complainants agree that by signing this Settlement Agreement they withdraw and dismiss with prejudice the above-styled complaint filed against SSA. In consideration of the representations, promises, and agreements set forth herein, the sufficiency of which is hereby acknowledged, Complainants, on their behalf and on behalf of their representatives, assignees, heirs, executors, family members, beneficiaries, administrators, successors, and anyone acting, or claiming to act on their behalf, hereby releases and forever discharges SSA and its past and present commissioners, employees, agents, officials, and their representatives, from any and all claims and causes of action, known and unknown, asserted and unasserted, direct and indirect, and of any kind, nature or description whatsoever, arising out of the facts underlying the discrimination complaints they filed with OGC (Docket Numbers: 04-10-02, 04-10-03, 04-10-04, 04-10-06, 04-10-08, 04-10-09).
2. Complainants will not file a complaint, administrative action, or civil action against SSA, or any officer or employee thereof, with respect to the events underlying these actions or those that occurred prior to the Effective Date of this Settlement Agreement.
3. This release does not include Donna Griswold's current complaint pending with the United States Department of Health and Human Services against the Florida DDD.
4. Complainants will not use this Settlement Agreement as evidence of discrimination by SSA or any component of SSA.

B. Non-Admission and Attorney Fees

1. By signing this Settlement Agreement, neither party admits to any wrongdoing, fault or liability of any kind. Signing this Settlement Agreement does not constitute an admission of violating any federal, state, or local statutes, regulations, rules, or guidelines. By signing this Settlement Agreement, SSA does not admit that it or its employees engaged in discrimination against the Complainants, or that it violated Section 504 of the Rehabilitation Act of 1973.
2. The Parties are responsible for their own attorneys' fees and costs related to this matter.

C. Binding

1. This Settlement Agreement is final and binding on the Parties including all principals, agents, executors, administrators, representatives, successors in interest, beneficiaries, assigns, heirs, and legal representatives thereof. Each party has a duty to inform any such successor in interest that makes itself known to the other party.
2. Complainants agree that they clearly and fully understands the terms and conditions of this Settlement Agreement, fully agree to its terms and fully agree that they voluntarily entered into it after consulting with counsel.
3. The Settlement Agreement constitutes the entire agreement between the Parties, and there are no other representations or obligations, except as those enumerated within the body of this Settlement Agreement. This Settlement Agreement may be amended only in writing and any such amendment must be signed by the Parties signing this Settlement Agreement, or by their successors.

D. Severability

If any provision of this Settlement Agreement is unenforceable, such provision will be severed from this Settlement Agreement and all other provisions will remain valid and enforceable, provided however that if the severance of any such provision materially alters the rights or obligations of the Parties hereunder, the Parties will, through reasonable, good faith negotiations, agree upon such other amendments to this Settlement Agreement as may be necessary to restore the Parties as closely as possible to the relative rights and obligations initially intended by them hereunder.

COMPLAINANTS

Dated: _____

Karen Arnold

Dated: _____

Donna Griswold

Dated: _____

Debbie Lauricella

Dated: _____

James Queen

Dated: _____

Carnell Roberts

Dated: _____

Marcella Stewart

JACKSONVILLE AREA LEGAL AID, INC.

Dated: _____

By: _____

Sharon Caserta, Esq.
Attorney for Complainants
Jacksonville Area Legal Aid, Inc.
Deaf/Hard of Hearing Legal Advocacy Program
126 West Adams Street
Jacksonville, FL 32202

SOCIAL SECURITY ADMINISTRATION

Dated: _____

By: _____

Mary Ann Sloan
Regional Chief Counsel
Office of the General Counsel
Social Security Administration
61 Forsyth Street, S.W., Suite 20T45
Atlanta, GA 30303

Agency Counsel

Dated: _____

By: _____

Michelle A. King
Associate Commissioner
Office of Public Service and Operations Support
Social Security Administration
6401 Security Boulevard, 1224 WHR
Baltimore, MD 21235

Dated: _____

By: _____

Amelia Y. Roberts
Assistant Regional Commissioner
Management Operations and Support
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Atlanta, GA 30303