Event: Session 1A – 2024 A Year in Review

Org: 2025 Georgia Virtual ADA Conference

Time: 10:00 AM – 11:30 AM

Date: 6/3/2025

**Johan Rempel:** Good morning everyone. Thank you for joining us for the 2025 virtual ADA conference for state and local government. This is Johan Rempel at Center for Inclusive Design and Innovation at Georgia Tech. I'm going to be providing housekeeping items. Just to let you know all of these sessions are being recorded and archived and made available. Including the MP4 videos, the PowerPoints as full accessible PDFs and we'll go ahead and get started here. Next slide.

So we are providing live captions here. There's two ways that you can access the captions. One of them is through the StreamText link that's been shared in the chat.

That's one way. The second is through the closed captioning options on the Zoom toolbar or also labeled as CC.

The chat is disabled for attendees but feel free to post questions or comments in the Q&A. Today's presenters will do their best to address those as time permits.

Next slide.

So we practice what we preach here. We're providing captions and ASL interpreters. Thank you to the ASL interpreters today. They have been spotlighted. Only the host or cohost can spotlight someone. Pinning, anyone can pin any participant's display. You hover over the participant, select the ellipsis and choose pin.

And we are going to close this out right at around 1115 a.m. eastern time. We'll ask everyone to join back in when we get started again at 1 p.m. eastern time. I'm going to pass it on to Barbara Tucker our moderator for today. She serves as the ADA administrative services coordinator at the State ADA Coordinator office. I will pass it to Barbara.
**Barbara Tucker:** Good morning, my name is Barbara Tucker, and I serve as the ADA

And ill‑will introduce our presenters. Welcome to session 1A entitled: ADA Legal Updates: 2024 in Review. Your presenters for today are Mr. Barry C. Taylor and Ms. Rachel Weisberg. Currently, Mr. Taylor is an Adjunct Professor at the University of Chicago Law School where he teaches Disability Rights Law to second and third‑year law school students.
From 1996 until 2023, Barry was the Vice President for Civil Rights and Systemic Litigation at Equip for Equality where he developed, litigated, and oversaw many individual and systemic disability discrimination cases, including successful ADA suits against the National Board of Medical Examiners, the Chicago Police Department, and the Chicago Transit Authority.

Our second cohost is Ms. Weisberg joined Disability Rights Advocates (DRA) as a
Supervising Attorney in 2023. DRA is a national non‑profit legal organization dedicated to championing the rights of individuals with all disabilities.
Prior to joining DRA, Rachel spent 12 years with Equip for Equality, Illinois’ protection
and advocacy agency, where she led several systemic advocacy efforts.
You can find their complete bios in the registration materials.

Welcome, Barry and Rachel.

**Barry Taylor:** Thank you very much. I want to clarify. I think we're set to go until 11:30. If that's not correct, please let me know. It's great to be back today. I want to shout out Stacey, Barbara and Johan. Today what we'll focus on is first with employment. I will kick it off and talk about recent employment cases. Then we'll turn to Title II, public entities and Rachel will talk about education, effective communication, voting and transportation. Then she will turn it to me to talk about recent ADA cases involved the criminal legal system, community integration and housing. Three of the cases we'll talk about are pending before the U.S. Supreme Court. Really important cases that we'll be talking about. Then we'll have time for questions at the end. Let's move to employment. The first case is one of those cases that is before the United States Supreme Court. This one focuses on the ability of former employees to sue for discrimination. This involved a woman name Stanley. She was a fire fighter for 15 years. She developed Parkinson's. When she had been hired the employer had a policy that when employees retire they receive free health insurance until age 65. When she retired it limited to 24 months. She would only receive health insurance benefits for 24 months. She sued under the ADA that that was discriminatory.

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So she sued and the trial court unfortunately for her granted the motion dismiss filed by Sanford and it got appealed and they affirmed that lower court's motion to dismiss the claims. They said as a former employee she wasn't a qualified individual with a disability. If you look at the text of the ADA when they define qualified individual with a disability they say a person who holds or desires to hold at the time of the discriminatory act. She claimed I was qualified as a retired employee so I would be able to receive the benefits. So she asked the United States Supreme Court to hear the case and they agreed. One reason is there's a split in the lower courts as to whether former employees are qualified and then can bring an ADA case after their employment ends. Under the previous administration the Department of Justice did support the employee's argument. That argument happened in January. You can't read the tea leaves but the justices seemed sympathetic to the employee. Decisions by the Supreme Court each year are decided by the end of June. So we should receive a decision any day now.

This argument that the plaintiff was making is it's unfair to say there's no cause of action on an employee because her eligibility to receive the benefits doesn't happen in till you are a former employee but she can't file a suit until required. We're looking at two different rulings. They could say she was qualified when she acquired her Parkinson's but hadn't retired. So it kicked in at that time. Or they could say former employees can challenge post-employment discrimination. So we'll see how they rule.

The next case is important because as all of us know there's a rise in artificial intelligence and algorithms used in hiring. With this rise ADA issues are arising. This case is the Mobley case verses workday. It got a lot of press. This is a case out of California. This is a case where the employer deferred its hiring practices to a group called workday. They provide applicant screening services. They use AI and algorithms to determine who should be interviewed and hired. They also have people go through personality tests. The plaintiff here believed these personality tests and other provisions workday was using would reveal his mental health illness. He had applied for over 100 positions that use this workday screening tool and he got denied for all of those. So he sued under Title I under the ADA. He also sued under the age, discrimination employment act and Title 7 because he's African American.

So after he filed suit ‑‑ first he filed suit under intentional discrimination. Saying they intentionally screened him out and the other is workday's tools has an impact that is discriminatory and the court said his case can move forward.

He had alleged ‑‑ his case could continue under the disparate impact theory.

One of the other things is that workday said they are not covered under the ADA. The court said if the employer is used a third party they can also be covered and treated as an employer and covered by the ADA.

One other thing is that both the EEOC employment opportunity commission and Department of Justice issued guidance on how the ADA interplays with algorithms and AI. I will post that in the Q&A while Rachel is speaking. I will post the DOJ notice. The EEOC notice isn't on their website. The two different guidance are basically the same. If you Google you can find the EEOC guidance. So be careful for those in employment situations in using AI or algorithms when hiring or delegating to a third party.

Let's move to another case and turn to discriminatory inquiries.

Both the ADA and another law called GINA limit what employers can ask applicants and current employees. This EEOC verses factor one pharmacy case is an example. Factor 1 source pharmacy has complex medications.

They alleged that the employer violated the employee and GINA. What's interesting is they didn't ask about whether there was hemophilia in the family or individual family but once they disclose hemophilia the employees were pressured to fill their hemophilia prescriptions and those who refused to use that pharmacy were fired. Those who used the pharmacy were kept even if they had worse performance reviews. A new owner came on board and realized what they were doing was wrong. They said we'll settle. In the settlement there's a link at the top for the settlement. Factor 1 agreed to pay over $500,000 in monetary relief, they agreed to not take adverse employment actions against those who did not use the pharmacy and also train on the ADA and GINA.

Let's move to our next case. This is the Tornabene case. This is involved work from home. All of us know how many people are working at home since the pandemic. Before the pandemic, many courts were saying it's okay to deny telework as a reasonable accommodation because in person attendance is an essential function. So you had to be in person to qualify under the ADA. With so many people working remotely is telework is possible for many positions. That's what came up in the Tornabene case. A post COVID case about someone who wanted to work from home. This is not someone working with the federal government, which is a different issue. This is a woman who was an HR director and she developed long COVID and had symptoms and it would help her to work from home. Her employer fired her. The court denied her employer's motion for summary judgment. They found a question of fact that regular in person attendance needs to be accommodated.

There had been evidence that the plaintiff had successfully worked from home during the pandemic. It wasn't like they were taking a chance on something that had not been done before. The court relied on EEOC guidance that telework is okay for individuals with long COVID.

I want to mention as far as the recent directive that federal employees work in person, one thing to note is that directive did say there can be exceptions based on disability. People were nervous about people with disabilities. We need to see how this plays out and whether the federal government will make those accommodations. In that directive to work in person they did note exceptions for people with disabilities.

Our next case is the flip side of telework in that sometimes people with disabilities want to work in person and their employer is the one that wants them to work remotely. That's what happened in the Ali verses Regan case. Ali was an economist and had severe allergies. She asked for accommodations. In the adjoining cubicle was an employee that wore perfume. The employer said you can work from home and that's the only accommodation you are getting. The employee wanted a different accommodation. They wanted to stay in the workplace and be placed in a different office away from the person wearing perfume. The trial court granted summary judgment for the employer. The employee appealed to the DC circuit and found for the employee. Reversing the lower court. They say they found sufficient evidence that a jury could find remote work was not the only reasonable accommodation available. The court said offering a willing employee remote work option is different from forcing an employee to work remotely as the sole option. The employer said this is effect accommodation. The court said that rules is generally true but this is inconsistent with the ADA. They cited the United States Supreme Court decision on Olmstead. That applies here too because we're talking about integration in the workplace. That's a provision we think is worthy to go to a jury. I looked online and they are engaged on mediation. It's possible they will settle out otherwise it will go to trial.

Our next case, the question is another interesting one. Are reasonable accommodations available even when the employee can perform the essential functions on the job without the accommodation. This is the Tudor case. This involved a teacher in high school who had post-traumatic stress disorder. She needed a brief morning and afternoon break. This had been provided for her for years but a new administration came in and prohibited teachers to leave the school grounds during school hours. Her PTSD arose from a sexual assault by a school administrator. If she had a break and away from school grounds for a little break she was okay.

She said I need the accommodations but it causes me great stress. She admitted she could do the job without the accommodation but it caused distress. Initially the trial court said you are not entitled to reasonable accommodations if you can do the job without them. On appeal the second circuit disagreed and found in favor of the plaintiff. The ADA indicates that you can do the job with or without an accommodation. The ability to perform essential job functions is relevant when you are trying to figure out whether or not someone should be accommodated. The ADA requires reasonable accommodations. Not just those who are necessary. This court's ruling is consistent with other courts rulings we see popping up over and over again. The EEOC and DOJ did file briefs in support of us under the previous administration. Whether the current administration will support this or not we don't know yet but it has been supported by the federal government in the past.

Again we'll have to keep watching to see if the courts will support plaintiffs.

Another really common issue we have seen over the years is leave as a reasonable accommodation. This has been a huge priority by the EEOC. Last year under the previous administration the EEOC resolved cases where employers unjustly terminated employees with disabilities. These are employees who needed a little more time. After FMLA leave or any kind of leave. What we have on this slide are links to 5 different cases the EEOC over saw last year that shows how big a priority this issue is. I recommend you take a look at these especially if you are an employer. Those cases have generally not fared well in the courts and not fared well with the EEOC. Take a look at those and we'll all have to watch what the EEOC does with these kinds of issues under the current administration.

Our next case is a common ADA issue: Wrongful termination. The EEOC verses pilot freight services is an example. This is a case out of Georgia. You had an employee who requested time off to meet with a doctor. 10 days later the employee was terminated. The employer said it was as a result reduction in force. They sued under the ADA. The reason why the EEOC was concerned is the employer claimed the employee had been laid off because their position had been eliminated. That person had less tenure so they were fired. Subsequently the employer hired a new employee without disabilities for a position very similar to the one who was terminated which looked sufficient to the EEOC. The employer quickly settled the case. There's a link at the top of the slide. The employer has agreed to pay $400,000 in damages and provide ADA training for employees and maintain antidiscrimination policies and EEOC monitoring.

The last case I will talk about is a case involved a topic that we don't see as much but is important to remember as a right under the ADA and that's against ADA retaliation. This is a case out of Colorado. In that case you had an employee with a variety of different mental health disabilities. They requested accommodations and the employer terminated the employee. What came out in the investigation is the employer told the person in charge of HR to "cut her loose." And the employer was upset the employee didn't disclose her disability and called her a "fruit cake." The failure to provide accommodations that she asked for and the wrongful termination and also she had a claim for retaliation for exercising her ADA rights. She asked for an accommodation and retaliated against. She retaliated because she asked for accommodations.

So this is a really good reminder that applicants aren't required to disclose disabilities. So the employer reached a consent decree with the EEOC. They will pay $95,000 every year to the former employee they reasonable accommodation and retaliation policies and will provide ADA training.

With that we will move on to Title II and I will turn it over to Rachel.

**Rachel Weisberg:** Thank you. Good morning. As Barry mentioned I will talk about updates in the world of Title II which is public entities. I will start with education.

As Barry mentioned there are a lot of court cases. The case we want to talk about is A. J. T. Verses Osseo area schools. The case was brought by a student with epilepsy who requested a modified class schedule because they wanted to accommodate mourner seizures. The family sued under the ADA and rehabilitation act. They requested compensatory damages.

Generally it's understood that when plaintiffs file lawsuits under the ADA and 504 like compensatory damages they need to proof intentional discrimination when is understood to be deliberate indifference. So that means a court when considering claims for monetary relieve is whether the defends acted with deliberate indifference. The issue in this case is that was not the standard applied to this case.

So why is that? The 8th circuit has a history and president to say when there are cases about compensatory damages in the K‑12 settings we apply a higher standard when seeking compensatory damages. So instead of using the deliberate indifference they considered whether they acted in bad faith or gross misjudgment. These are legal phrases but they are a much harder thing for a plaintiff to prove as opposed to deliberate indifference. The 8th circuit applied the higher standard and the student lost.

The question before the Supreme Court was is there a reason to have ‑‑ it's two questions: 1, does the ADA require this uniquely stringent or bad faith or gross misjudgment for relief for education. What is the appropriate standard? And is there a reason to have two distinct standards when you are looking at the ADA? Does it make sense to have one standard that applies to K‑12 and another that apply to other rehabilitation act cases. This was a case that was hotly watched by everyone, especially folks who advocate in the K‑12 space. Oral argument was heard at the end of April. It was an interesting and odd argument for many reasons. It seemed that during the argument the school district had changed some of the positions. Instead of arguing that education claims are unique they argue there should be one standard and it should be a higher one.

Looking into the crystal ball here it's hard to predict. The Supreme Court justices were skeptical about that. My guess is they will remand this case to the lower court but it's a case to watch because I think it has potential implications for K‑12 and ADA claims generally.

Continuing on the topic of education we see so many cases out there where students with disabilities are treated to adverse treatment. The C. B. Verses Moreno valley is a good example of that concept. It high lights the intersection between disability and race. The original plaintiff C. B. Was a 10 year old African American student. The facts are horrific. He was repeatedly tackled, hand cuffed and taken into custody for various behaviors that were clearly disability related behaviors at school. He and his family filed a lawsuit under the ADA and rehab act and through the course of the case it was identified that the situation was broader than just for this one individual plaintiff. It was a systemic problem throughout the school district. Ultimately there was a decision that the court granted in 2023 where the court found for C. B. And granted partial summary judgment for to the plaintiff. The court said the school security program was disproportionately referred black disabled students to law enforcement in violation to federal law. They pointed to some really telling statistics that black disabled students were 3.63 times more likely referred to law enforcement than their non‑disabled peers. As a result the court looked at this concept "methods of administration" and said if you look at this it's resulted in the discriminatory use of removal and restraint and relying on law enforcement.

So following this court order the court ordered the parties to talk and come up with a permanent injunction that would remedy the type of conduct and violations that the court had found.

So that's the update from 2024 that we wanted to share with you today. In June of 2024 the court issues a permanent injunction. The district was ordered generally to significantly reduce the disproportionate referral to law enforcement. Focusing on the unnecessary removal and restraint of both students of color and disabled students. The injunction in addition to having that type of broad requirement has a lot of specifics that I would encourage school districts out there to look at. One is a reformation of school district policies with the goal that people with disabilities are not disproportionately removed, restrained or referred to law enforcement.

There is comprehensive training for staff. That includes anyone who will be interfacing with students. It includes both recognizing and responding to disability related behaviors and addressing through de‑escalation tactics. There's also requirements about annual reporting requiring students who had been subject to removals and restraints disaggregated by race and disability. And there's a monitor with expertise to oversee the orders for 4 years. This is a major victory for students with disabilities and of color. I think a useful tool for school districts out there who want to get ahead of this issue.

On the final topic on education is Robertson verses D. C. This is a case that was brought by 5 parents and guardians of students with disabilities and an organizational plaintiff which is the ARC. They said Washington, D.C. fails to provide safe and adequate transportation for students. They say that violated ADA, section 504 and local DC discrimination laws. DC does not provide transportation. The only transportation it provides is to schools for students with disabilities. For students relying on this transportation, buses were arriving late, they weren't picking up the kids, sometimes there's no notice, there was routing system that caused delays. And as a result this was causing substantial loss of school time. Looking at a period of 5 months there was evidence that there were over 1,000 delays and cancelations. So the court made it clear this is not an isolated issue. This is a systemic problem.

So what happened in this case? The DC filed a motion to dismiss saying this was not a claim that could be brought under the law and that was denied. DC argued that there's no discrimination here. The transportation issues were only be provided to students with disabilities. So how can it be discrimination when there's no counterpart that is getting good service. The court said that's really too narrow of a reading about what the case is about and what the ADA requires. The court said the failures of the busing and transportation ultimately result in the denial of students with disabilities access to education. Focusing back on the systemic wide spread issues.

For folks who are paying attention a few minutes ago you recall we talked about this potentially higher heightened standard for claims brought in the K‑12 world. Here too there was an argument that the plaintiffs needed to plead bad faith and gross misconduct. The court declined that and declined that type of higher standard. But the plaintiffs also brought in a claim saying this type of violation really amounted to an Olmstead violation because it resulted in isolation. The court disagreed with that saying no this is not really what Olmstead is about. For all of the other reasons we're going to let the case move forward. This is on the cases to watch. It's currently still in litigation.

Moving on to effective communication. This is something that is extremely important no matter what type of ADA steak holder you are.

This is before the Supreme Court the laboratory holdings of America verses Davis.

Lab corps is a healthcare provider that like many folks know when you go into a medical facility you are greeted by kiosks. We can use those kiosks if they are accessible to register.

The issue is that the kiosks being used by lab corps were not programmed to be accessible for people with disabilities. So folks with disabilities were not able to privately and independently and at the same speed of others able to check in.

What happened is that the lower court certified a nationwide class action under the ADA Title lll for injunctive relief to challenge lab corps for the use of these kiosk and the court certified a state wide class. California state law has statutory damages for violations. But under the California state law that class included people who were not "injured" or allegedly injured. Maybe by people who chose not to use the kiosk. They will talk to somebody. I'm not injured. So the question that came up to the Supreme Court is a technical one. That is whether or not a federal court can certify a class action when some members of the proposed class lack article III injury. So it's a case that folks have been looking at and watching. The question is this pretty technical question about class certification oral argument is at the end of April. This is another one where we do not have the opinion yet but expect to have it by the end of June.

We wanted to tell you about the Patterson verses six flags case. This is about effective communication for deaf folks. Mr. Patterson is an avid lover of amusement parks. He had purchased a season pass and attempted to plan a lovely day out for his daughter's birth day. Typically he asked for an ASL interpreter for shows, understanding safety messages. As he had done in the past at other parks requested an ASL interpreter. Really according to what happened a lot of chaos ensued. He called, left messages, he was bounced around. When he got to the park it was a challenging experience. They told him he should have called. Ultimately he filed a case under the ADA. In response to the case ‑‑ the six flags argued we have a corporate policy. It says that people need to ask for accommodations with 7 days advanced notice. Arguably that had not been done. This case went to a bench trial before a judge. The judge issued a decision for Mr. Patterson. And said lots of things including it's okay if a company has this type of policy but this policy is not a law. Corporate policies are not the law. Basically you still, even if somebody asks for an accommodation within that 7 day period maybe it is an undue burden to find somebody bullet you can't just not try. Under the ADA you have an obligation to provide effective communication.

So the court in March of 2025 issued a permanent injunction required six flags to change their policies and implement ADA training and establish mechanisms for providing accommodations. This has clear requirements about having a clear process, centralized tracking, a single point person and acknowledge there's a time frame requirement. You have to ask for things in advance but the 7 day period is not a make or break. We still need to do our best and have obligations under the law. Another one that I encourage folks to check out.

Okay. Moving on to a case that I'm excited to share with you. A case that I personally have worked on the American council of the blind of metro Chicago verses the city of Chicago. This is about making pedestrian grids accessible. APS are devices that provide critical traffic safely information through audible and tactile means and all signalized intersections that have pedestrian signals. The history of this case was it was filed in 2019. It was brought as a class action by 3 blind pedestrian alleging Chicago had failed to meet the needs of pedestrian. At the time of filing Chicago had installed fewer than 1 half of 1% of all its intersections. So shortly after this case was filed the Department of Justice intervened. One of the important points in the litigation was in 2023 when the court found as a matter of law granted summary judgment to the plaintiff class that the city violated the ADA. The city argued that its network of traffic signals are not a program or service under Title II. The court rejected that. It says it applies to everything that state and local governments do. And failed to make its existing and rehab traffic signals accessible. And then this was the first case that found that a city's failure to install signals. Through pedestrian signals people are able to tell when it's safe to walk or not across the street and that's critical information that needs to be communicated effectively. So the update is that this slide says April of 2025. Last week in May of 2025 held a hearing for a remedial plan to show what Chicago needs to do to come into ADA compliance. It essentially requires the city to install accessible pedestrian signals at 71% of all its signalized intersections within 10 years and 100% within 15 years. If after 10 years the city is able to show it has achieved meaningful access it can petition the court to stay at 71% but they have the burden to show it. It also gets into the factors of prioritization to making sure they are installed at dangerous intersections. It has a great program that has community involvement. There's an appointment of an independent monitor. I think this is a case that we ‑‑ this is the second large remedial order of this kind following one in New York City. We filed another lawsuit against Washington, D.C. for similar issues.

So for folks out there looking at state and local government look at these remedial orders and do advance planning to make sure your pedestrian grid is accessible to blind pedestrian.

Of course we can't talk about effective communication without talking about web accessibility. Folks know and I'm going to say this briefly because I know we have a whole panel of people much more knowledgeable than me walking about the new DOJ web accessibility rule but in April 2024 the DOJ published a new rule on accessibility of web content and mobile apps and provided WCAG 2.1AA as the standard. There are compliance deadlines. As of now there are no proposed rules for Title lll entities. As I think we all know and we'll discuss on the next slide that does not mean that the ADA does not apply to websites. We wanted to highlight the Ellerbee verses the state of La. From and in response to this lawsuit the state said this case is premature. Look at the new DOJ rules we have until April 2026. So this case is premature. Mr. Ellerbee can file after that deadline. The court said the fact that technical standards are not enforceable or before we even had the idea of WAG doesn't mean that the requirements of the ADA and the rehab act don't apply. So here we have known that the ADA applies to websites. We know the DOJ has been clear on its position that the ADA does cover websites. Here the plaintiff has sufficiently alleged that the state's websites have denied him access. This case is also continuing through the litigation process.

Moving on to the topic of voting. This is a bit of an intersection between a website accessibility and voting. We want to highlight that in addition to DOJ saying that websites even before the compliance deadline do need to be made accessible we have 4 settlement agreements entered into. This was brought on behalf of folks who use screen readers and other types of assistive technology. There's a link on this slide to the different findings. In all of the settlement we see they are to make all of their future website accessible and hire auditors to evaluate websites and make sure they are accessible for folks. Voting information is critically important to be made accessible for the disability community.

Another important topic in the world of accessible voting has to do with accessible vote by mail. Folks might remember this has been an issue of importance but during COVID we saw litigation and advocacy about ensuring the vote by mail or remote voting was accessible to people with disabilities. The California council of the blind case is about that but it's about a specific issue related to it. In California they have adopted a vote by mail system that's accessible. California voters who are blind or have print related disabilities they are able to obtain a ballot remotely and complete a ballot remotely but they could not return their ballot remotely. So they still had to give away their right to vote privately and independently. So the plaintiffs who were California voters with print and dexterity disabilities. They said let's fix the gap that we can also return our ballots privately and independently. The state filed a motion to dismiss. Trying to get the lawsuit to go away. Among other arguments said California state law doesn't permanent the electronic return. So plaintiffs don't have standing to bring this case. The court denied that. Regardless of what California state law requirements, federal trumps state law. So there's a viable potential claim here and it's one that can go forward. This case is scheduled to go to trial in 2026. It's one that we will continue to watch.

Okay let's move on to my final topic which is transportation. The Guerra verses west LA college case is regarding higher ed. Students with mobility disabilities brought a lawsuit under the ADA and rehab act saying there used to be a shuttle service to allow us access to the college but the college took away the shuttle service. As a result we are not able to get to class because of how this college has been built. We're not able to participate in a meaningful way.

The district court first dismissed this case saying if you look at the ADA there's no requirement that a college has to provide students with disabilities transportation. This case was appealed to the 9th circuit who reversed that decision and said Title II talks about meaningful access. Here the students were able to show they lacked meaningful access to the college after that shuttle service ended. So the update we want to share is the court granted a permanent injunction saying they had to provide a meaningful access or the shuttle service. The college said there's a city bus but that was not reliable enough. So they ordered this restoration of the on demand transit or shuttle service which has already been put back into play.

I want to talk about the taxis for all campaign verses the New York taxi and limousine commission.

This was brought back in 2011 there was a lawsuit against taxi services. In 2014 there was a settlement agreement that 50% of the taxi fleet would be accessible by 2020. 2020 came and went and New York had not met this requirement. There were several extensions of time. About 2023 it was clear that we still had not met this 50% threshold. So the plaintiffs filed a motion to enforce the obligations and the city said not only are they going to defend against that motion but ask the court for relief. And to say we would like to invalidate the settlement. The court granted the plaintiff's motion and said moving forward this is something that is possible to do. What we're going to require is that all new taxies be accessible until that 50% requirement is met. So that's something that we'll continue to watch and hopefully people will have more accessible cabs.

I'm going to wrap up with a case about sidewalk accessibility which is a huge issue for lots of Title II entities and people with disabilities. I wanted to highlight the Goodlaxson verses Baltimore case. Baltimore's failure to install and maintain curb ramps and sidewalks so they are accessible to people with disabilities. Baltimore identified lots of systemic barriers. There was an evaluation showing that only 1.3% of curb ramps surveyed complied with the ADA. Sidewalks that are damaged, too narrow or unusable. We wanted to share that in 2025 the parties reached a partial consent decree. Check out the link on this slide. The city will be spending money over the next few on the construction remediation of thousands of curb ramps and sidewalks. There's an ADA coordinator and improved 311 system for requests and complaints about curb ramps and sidewalks. Ultimately the parties will engage in further notions after this initial 4 year period.

So with that I will turn the familiar back over to Barry to talk about criminal legal systems.

>> Barry Taylor: The first one is cases that arise in the criminal legal system. Criminal legal system we're seeing more and more cases. One of the issues that's happened with law enforcement is when they take the lead in mental health emergencies.

There has been litigation including this case from Oregon. You have plaintiffs disability rights Oregon and an individual who had an adverse interaction with a police officer resulting in injury.

Instead of sending trained mental health professionals in response to mental health emergencies.

In Washington county if someone has a mental health emergency they send the police. They are focused on safety and don't have the training or skills to address these issues. The county has some contracts with mental health providers. What came out in the case is RITs not mandatory to contact them and they are not fully funded.

The court denied the motion to dismiss filed by Washington county. They said this case can proceed. The plaintiffs alleged that people experiencing mental health crisis do not have meaningful access to a service. So they filed under the ADA and section 504. Because this was in front of a magistrate and not a judge the magistrate can only recommend how the judge should rule but takes the lead on all of the findings and investigation.

So the defendants motion was denied so this case can move forward. This is an important case to watch.

The next is involving law enforcement for effective communication. Matchett case is a case out of New York. You have parents who were deaf and they had a son who was deaf but he had other significant disabilities including autism and other mental health disabilities. They had several visits by the police. Because of the son's challenges he was facing the parents had repeatedly asked the police to bring ASL interpreters. The police never did. The son died by suicide in one of the cases. They filed suit because of the failure to provide interpreters and it was a violation of the ADA. Interestingly the police's defense was interpreters are not available. This case was brought in Rochester. Rochester has the highest percentage of deaf people. So a lot of deaf related services. It appeared that the police didn't try to bring interpreters.

The court denied the motion to dismiss filed by the police department. They said even if the parents didn't make the request when they did, public entities have to provide an accommodation even without a request. So the parents had been denied meaningful access. And the parents had even met the police and said here's how we want you to handle future ones. So they got injunctive relief. There's a case before the Supreme Court called comings that limits emotional distress damages.

The Trivette case involves corrections. This case is involving effective communications for deaf inmates. The allegation was brought by disability rights advocates was that the department of correction in Tennessee was not providing effective communication for deaf inmates. So there's a court ruling that you have a link to there saying they have violated the ADA. Found in favor of the plaintiffs. After that court ruling the parties came together and reached a settlement. The department of correction agreed to providing the reasonable accommodation for deaf prisoners.

Telehealth appointment, religious services, parole procedures, where communication is critical they have agreed to provide effective communication for them.

There is information about audiological screenings and exams and assessment.

Another case was brought by the DOJ in the previous administration. That settlement is an outline about how the federal government has handled these cases in the past.

Let's move on to our next topic, which is community integration. The Supreme Court said unjustified segregation is discrimination under the ADA. These cases involve people with disabilities in nursing facilities. The first is the brown case out of DRIKT of Columbia.

This is a complex case that has a lot of court findings.

This was a case basically seeking the ability for people in DC nursing facilities who wanted to live in the community to force DC to do so. Initially the trial they found for the defendants. Then it went up to the DC circuit and they said it's the defendant burden to show it's a fundamental alteration. Finally it back to the DC district court and they found it was a violation. DC doesn't have a comprehensive effectively working plan which is referred in the Supreme Court case. They also found that they failed to meet the fundamental alteration defense requirement. Accept when it came to transition numbers. So the remedy was a permanent injunction an order requiring DC to serve these plaintiffs in the most appropriate way to meet their needs. DC filed a motion to stay the decision. The court granted that motion to stay. So they are still arguing about whether the DC decision was right so the litigation continues. This may gelt appealed back up to the DC circuit.

The other case is Marsters verses Healey. This was case brought by people in nursing facilities. After they filed that class action suit they reached a settlement agreement. Massachusetts agreed that no fewer than 2400 people will be transitioned from nursing facilities in the community. Help for relevant support services to live in the community.

Our final topic before we open up for questions is housing.

It's not enough to move people out of institutions but we need to ensure that housing is accessible.

The ADA is an important tool to make sure this happens.

This case access living verses the city of Chicago is a case where access living alleged that the city of Chicago violated the ADA, section 504 and the federal housing amendments act. They said Chicago was funded by the federal government to develop 500HUT apartment complexes but they did not include accessibility. The city said we referred to delegated the responsibility to third parties. We don't have control over accessibility. The city filed a motion to dismiss which was denied and the defendants filed a motion for summary judgment saying there didn't need to be a trial. The court disagreed. They said cities affordable housing scheme is therefore having to comply with accessibility laws. The city can't avoid the obligations by delegated to private entities. They said the city can be libel under the fair housing act because of the funding of these projects. Basically when a motion for summary judgment is denied it can go to trial. There are facts that have to be determined by a jury. However they have entered into remediation. So watch for an announcement. It's supposed to be done in July. If not it will go to trial.

Our final case is powers verses McDonough. Way back in the 1800s there was land given to the federal government to establish housing for veterans with disabilities. The VA sold significant portions of that property. This was a case brought by McDonough. It's brought under the rehab act because it's against the federal government seeking supportive housing units on behalf of unhoused disabled veterans. There's about 3,000 unhoused vets in the LA area. There was a claim of under the Olmstead decision that these veterans with disabilities were at risk of institutionalization if they didn't receive housing to avoid the segregation. The plaintiffs were arguing that they were denied reasonable accommodation under the rehab act by not getting this permanent supportive housing. So the court certified the class. Denied the motion to dismiss and went to trial. You have a link to that. They found there was a violation to end homelessness when they leased this land. So the plaintiffs are entitled to 750 temporary housing units and 1800 permanent supportive housing units that will allow them meaningful access. The housing is located near the VA healthcare services. However, not surprisingly this case has been appealed to the 9th circuit court of appeals and the 9th circuit rules the 9th circuit is stayed. So they are not going to move forward until that appeal is resolved by the 9th circuit. Another important one to watch and see how this plays out for veterans with disabilities in LA.

So with that we're at the end of our session. We're going to open up for questions. Before we answer questions there was a concern raised ahead of time that I wanted to address because I know a lot of people are talking about the Texas verses [indistinct] case. It was brought by Texas and 16 other attorney generals. It is seeking to invalidate the 2024 regs that address healthcare and integrated settings. One of the reasons this was triggered is the gender dysphoria for people who are transgender. That's a hot button issue. It got people concerned about these regs because of that reference. The case not only is seeking to invalidate the regs of 504 but there's a count saying 504 should be declared unconstitutional. The states claim they are not seeking to find 504 unconstitutional. They are trying to limit 504. It should be only for programs coming outlet of the rehab act. 504 has been applied to any entities receiving federal funding. So community integration cases and those kinds of cases have been covered by 504. So what's tricky is if they will limit it to the issue to rehab act funded programs or proceed to get 504 declared unconstitutional across the board. They haven't amended their account. This case is brought against the federal government. It's not clear if DOJ will defend the constitutionality of 504 or the limitation of 504. Whether this current administration will do so. So the defendant here doesn't defend the constitutionality or the scope of an important federal law. Therefore disability advocates as John referenced in his presentation might have to step up and intervene in the case. So the briefing on the case is stayed. They are issuing status reports. This is one people want to monitor especially if you are in one of the states where the 504 is being threatened. Montana, Indiana, South Dakota, Iowa, Missouri, Utah, Alabama, architectural, Louisiana, Georgia, west Virginia, Texas, Alaska. You can contact your attorney general in your state and ask how your state is impacting by this.

Just wanted to get to that. I'm opening up the Q&A box.

Rachel there's a question that says since the California voting issue isn't going to trial until 2026 do they just not vote until there's a decision? Any interim provisions?

**Rachel Weisberg:** Let me try to answer that. The case really is about a very narrow issue of the ability for blind and other folks to have accessible return. Until then yes people would not be able to be able to return their ballot. They could still vote by mail and do all the other aspects of it and have to return their ballot in person or the various ways that California allows the return. Or voting in person and through the accessible voting booths.

**Barry Taylor:** Thanks. Let me read this methods of administration that we do for our college site visits to make sure they are ADA compliant. We do two visits per year. We are wondering how the future method of administration guidelines will change or anything to do with the president's new executive orders. This is not an area that I'm familiar with. Rachel, are you familiar?

**Rachel Weisberg:** It is not. When I talk about a case earlier that refers to methods of administration and discipline in the K‑12 concept. Methods of administration is a term used in the ADA. I'm not sure if the questioner is asking in a different concept. In addition to prohibiting direct discrimination there's a concept of if you do something through a system that has the impact of discriminating that's having an adverse impact on people with disabilities. I don't have a good answer to the specific question.

**Barry Taylor:** Here's another question: Are you seeing Title I case law from EEFSH the past year where the ADA and pregnant workers fairness act are intersecting? Are there notable cases we should be aware of? I remember a case but I'm blanking where somebody brought an ADA case and a pregnant workers case. There's a case. I can try to find it and send it over to Stacey or Barbara and they can share that with the group afterwards. I'm not remembering off the top of my head. I don't know Rachel if this is one you remember or not.

**Rachel Weisberg:** I'll just chime in. I have not ‑‑ this doesn't mean they are not out there but I have not seen a lot of cases. In the employment world sometimes we don't see cases applying law because of first exhausting remedies under the EEOC. In theory there's lots of overlap between pregnancy related decisions and the ADA. So I think this is a big and important issue and one that we'll see a lot of even if the cases haven't quite trickled through the court system yet.

**Barry Taylor:** Just as a reminder quickly for folks who may not remember the ADA doesn't specifically cover people who are pregnant but people who have pregnancy related disabilities like gestational diabetes. So that's why the ADA can interplay with the pregnant workers fairness act. Not because they are pregnant but they have a disability arising from the pregnancy.

RAG has indicated that their issue with gender dysphoria issue not constitutionality how can we ensure cases only impact that issue. If you are looking to do advocacy on this is reach out to your state attorney general and explain why you are concerned about the way the case is and how it hasn't been pulled back. That they are still claiming the 504 constitutionality and limited to rehab act funded programs. Whatever advocacy people can do with their attorney general until litigation proceeds.

We had questions about how the president's DEI order impacts disability. We don't have time to go through this. I want to say I put a link to talk about the interdisciplinary and the president's executive order.

**Barbara Tucker:** We're at 11:29. We have time for one more question.

**Barry Taylor:** I see the last question I recently saw ads on TV that this administration is going after frivolous lawsuits and how much it is charging the American people. Those who file and lose they will have to pay court costs.

I haven't seen these ads. Typically under the ADA prevailing parties do have an opportunity to receive attorney's fees. There have been a few cases where this try to be applied against people with disabilities. Whether there's a concerted effort to do that I'm not aware of. Ensure you are filing cases that are solid and not frivolous that could lead to this issue.

**Barbara Tucker:** Thank you. I would like to thank Barry and Rachel for opening up our session this morning. The first day of our training for sharing your wealth of knowledge and experience. We will break for lunch and return at 1 p.m. eastern time for today's first afternoon session entitled DOJ new final rules, web contact and mobile applications. Thank you for joining us.