



Complaint for Violations of the  
Americans with Disabilities Act  
by the County of Los Angeles

Presented to the  
Board of Supervisors  
by Spectrum Institute

Spectrum Institute  
June 9, 2015

[www.spectruminstitute.org/lacounty](http://www.spectruminstitute.org/lacounty)



## Disability and Guardianship Project

9420 Reseda Blvd. #240, Northridge, CA 91324  
(818) 230-5156 • [www.spectruminstitute.org](http://www.spectruminstitute.org)

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June 9, 2015

Board of Supervisors  
County of Los Angeles

Attn: Ms. Angela Davis, J.D., Senior Deputy for Disability Civil Rights

Dear Supervisors:

The County of Los Angeles is not complying with the Americans with Disabilities Act. The complaint form filed by Spectrum Institute and the accompanying materials explain how the county is out of compliance and what can be done to remedy the problem.

More than 12,000 county residents who have intellectual and developmental disabilities are currently in a limited conservatorship. About 1,200 new cases are added each year. When a case is filed, the petition seeks to take important rights away from these individuals. Due to their disabilities, they cannot defend themselves. The Superior Court, therefore, appoints an attorney to represent them. The services of these attorneys are funded by the County of Los Angeles.

In some counties the office of the public defender represents clients in these cases. Not so in Los Angeles County. Here, private attorneys are appointed by the court to represent the clients. The court appoints them, but the county pays them. This is a county-funded legal services program.

Our research has demonstrated that court-appointed attorneys in Los Angeles County are routinely violating the Americans with Disabilities Act and, as a result, county residents are suffering the consequences. How can this be happening, you may wonder. It has been happening because the Superior Court has not fulfilled its obligations under Title II of the ADA to insure that people with developmental disabilities – involuntary litigants who are forced into these proceedings – are receiving effective representation of counsel. The judges are overburdened and understaffed. Judges rotate in and out of probate court. There is no one in charge of the limited conservatorship system long enough to bring the system into compliance with state mandates and with federal ADA requirements. So each new presiding judge inherits a mess from the outgoing presiding judge.

The bottom line is that the County of Los Angeles has been and is funding a legal services program that violates the rights of people with disabilities. The county has the responsibility under Section 504 of the Rehabilitation Act of 1973 to use its funding authority to bring this legal services program into compliance with the ADA. These ongoing violations should not continue any longer.

We anticipate a prompt answer to our complaint, but more importantly a meaningful conversation about how to use county funds in a way that secures quality legal services for county residents.

Very truly yours,

Thomas F. Coleman  
Executive Director  
[tomcoleman@spectruminstitute.org](mailto:tomcoleman@spectruminstitute.org)

cc: Ms. Angela Kaufman, ADA Compliance Officer, City of Los Angeles



## County of Los Angeles

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### Americans With Disabilities Act Complaint Form

This form is to be used to initiate an informal complaint procedure to investigate and resolve complaints alleging that the County of Los Angeles has not complied with ADA.

**Complainant's Name:** Spectrum Institute on behalf of county residents who are limited conservatees or proposed limited conservatees who have been, are, or will be represented by attorneys paid by county funds.

Telephone: (818) 230-5156 / Address: 9240 Reseda Blvd., #240, Los Angeles, CA 91324

**Alleged Violations:** Attorneys who are appointed to represent limited conservatees and proposed limited conservatees are paid by funds from the treasury of the County of Los Angeles. The county has been paying these attorneys without regard to whether they are complying with the Americans with Disabilities Act in the performance of their legal services. Research by Spectrum Institute shows that they have been routinely violating the ADA. County residents are being denied access to justice because of these violations. (See Proposals to Modify California Rules of Court and Exhibits to that report that was submitted to the Judicial Council of California on May 1, 2015). Three members of the Board of Supervisors have been alerted to the fact that county funds have been used to subsidize the practices of court-appointed attorneys. Suggestions have been made as to what the supervisors can do to remedy this problem. (See emails to staff members of these supervisors.) The county is violating Section 504 of the Rehabilitation Act of 1973 and the ADA by subsidizing the services of attorneys that violate these federal laws. Now that the county has been put on notice of the unlawful practices of these attorneys, continuing to disburse county funds to them, without taking corrective action, will constitute a willful violation of the ADA and Section 504 by the county.

**Requested Actions:** (1) Authorize the Public Defender to represent these litigants and provide sufficient funding for the Public Defender to train its staff and monitor their performance; or (2) Contract with the County Bar Association to handle appointments, training, and supervision of these attorneys, just as the county does for the Indigent Criminal Defense Panel. The county should also: (3) Request the Superior Court to repeal Rule 4.125 which places these attorneys in a conflict of interest; (4) Send a letter to the Judicial Council of California supporting the adoption of new rules on qualifications, continuing education requirements, and performance standards for court-appointed attorneys in limited conservatorship cases.

Signature of (check one)

\_\_\_\_ Complainant      X   Authorized Representative

\_\_\_\_\_  
Thomas F. Coleman for Spectrum Institute

\_\_\_\_\_  
June 9, 2015



## Explanation of ADA Complaint to the County

The ADA complaint alleges that Los Angeles County has been and is funding the services of attorneys who represent adults with intellectual and developmental disabilities in limited conservatorship proceedings. The adults are residents of the County of Los Angeles. The attorneys are appointed by the Los Angeles Superior Court. The fees and expenses of the attorneys are paid by county funds.

The Superior Court has failed to ensure that the attorneys it appoints in these cases are properly trained, follow ethical duties, adhere to performance standards, and generally provide their clients access to justice. The County of Los Angeles has been and is subsidizing attorneys whose actions violate the Americans with Disabilities Act.

The Americans with Disabilities Act gives courts an affirmative duty to take whatever steps are necessary to enable litigants with disabilities to have meaningful participation in their cases. When court appointed attorneys fail to provide effective assistance to clients with disabilities, and when the court allows this to happen, the court is in violation of Title II of the ADA and Section 504 of the Rehabilitation Act of 1973.

The County of Los Angeles receives federal funds and therefore has an affirmative duty to make sure that county funds are not used in a manner that facilitates or enables ADA violations. The county should have and should be taking affirmative steps to make sure that residents with developmental disabilities are not being denied access to justice – access that county funds would secure for them if the county had quality assurance controls attached to this stream of funding. Now that the county has been put on notice of the ADA violations by these attorneys, and the failure of the Superior Court to prevent such ADA violations, the failure of the county to take corrective actions will constitute a willful violation of the ADA and of Section 504 of the Rehabilitation Act.

### **These are some failures that have been and are occurring:**

- ✓ Failure of the court to train attorneys on the basics of developmental disabilities
- ✓ Failure of the court to train attorneys on how to comply with the ADA
- ✓ Failure of the court to adopt performance standards for court-appointed attorneys
- ✓ Imposing a conflict of interest on attorneys through Rule 4.125 – secondary duty
- ✓ Failure of attorneys to develop an ADA plan to provide effective communications with clients
- ✓ Failure of attorneys to have qualified professionals appointed to assess capacities of clients
- ✓ Disclosures by attorneys of confidential communications from clients
- ✓ Disloyalty of attorneys who promote the loss of rights by their clients
- ✓ Failure of attorneys to investigate all lesser restrictive alternatives
- ✓ Failure of attorneys to use Regional Center IPP process for capacity assessments
- ✓ Failure of attorneys to provide effective assistance to clients as required by due process



# ADA Case Study

## Example of ADA Violations in a Limited Conservatorship Case

A petition for limited conservatorship was filed on August 22, 2012. The court appointed an attorney to represent the proposed conservatee on September 14, 2012. The petition was granted on April 14, 2014. The following actions of the court-appointed attorney violated the Americans with Disabilities Act by denying someone with a developmental disability access to justice and depriving him of meaningful participation in the case.

**1. No ADA Plan.** The attorney failed to develop an ADA plan for the client to determine the best way to have meaningful communications with the client and maximize his participation in the case.

**2. No IPP Review.** The attorney failed to request an Individual Program Plan (IPP) Review with the regional center and to have a professional appointed to determine the capacities of the client in the seven decision-making areas in question. An IPP review also would have examined if there were lesser restrictive alternatives in any of those seven areas.

**3. Home Visit.** When the attorney visited the home of his client, the attorney directed his entire conversation with the mother of his client, even though the client was present and even though a communication facilitator was present and available to assist the client in communicating with the attorney. When the attorney left the home, the client asked his mother if the attorney thought he was deaf since he never attempted to speak directly with him.

**4. School Visit.** When the attorney visited his client at the client's school, the attorney refused to allow the client to use assisted communication technology (facilitated communication). Instead, the attorney used yes/no flash cards and told the client to answer his questions by pointing to one of the cards. Even though the flash card system was failing to produce consistent answers, the attorney refused to change to the client's preferred method of communication.

**5. Voting Rights.** When the mother asked the attorney if her son could retain the right to vote, since he had indicated a desire to vote, the attorney replied that the retention of voting rights would be inconsistent with the purpose of a conservatorship. The attorney later informed the court that his client was unable to complete an affidavit of voter registration even though the attorney never attempted to have his client fill out such an application, with or without assistance. The attorney was unfamiliar with federal voting rights laws, including ADA accommodation requirements.

**6. Violation of Confidentiality.** The client signed MC-410, an ADA accommodation request form asking that he be allowed to use facilitated communication in his case, both in and out of court. When the attorney received this form from the client, sent to the attorney by Thomas F. Coleman who the client had asked to help him as a support person, the attorney did not forward the form to the court as required by law. Instead, the attorney sent the form to the attorneys for the other parties. Form MC-410 is a confidential form that is intended as a communication between court personnel and the person making the ADA request.

**7. Disloyalty to Client.** The attorney filed a report with the court recommending that decision-making authority be taken away from the client in all seven areas in question, including the right to make social decisions. The attorney knew that the client wanted to retain the right to make social decisions. He also knew that the regional center has recommended that the client retain authority over social decisions. Ultimately, when confronted with evidence of his client's capacity to make such decisions, the attorney changed his mind. However, the attorney still recommended that his client be required to have regular "Skype" visits with his father, despite knowing that his client feared his father, did not want to communicate with him, and his therapist recommended against mandatory communications.





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June 1, 2014

Mr. Ronald L. Brown  
Public Defender  
210 W. Temple Street, 19-513 CSF  
Los Angeles, CA 90012

Attn: Kelly Emling, Chief Deputy

Re: Limited Conservatorships

Dear Mr. Brown:

Our Project has been studying what we call the Limited Conservatorship System in California, with an emphasis on the Los Angeles Superior Court. This system is operated by the judges, attorneys, and investigators who process limited conservatorship cases.

In these cases, petitioners (usually family members) ask the court to appoint them to serve as limited conservators for a loved one, often an adult son or daughter, whom the petitioner feels has limited abilities to make major life decisions and therefore needs a conservator.

The law requires judges to appoint an attorney to represent the proposed limited conservatee. Relevant statutes allow the court to appoint a public defender, or if the public defender is unavailable, a private attorney may be appointed. The current practice is for the court to appoint private attorneys who are on a Probate Volunteer Panel (PVP) list. The attorneys do not serve as volunteers but are paid out of county funds.

Our research has revealed a host of problems with the PVP system, including the process of making appointments, the lack of adequate training of these attorneys, potential conflicts of interest in the way the attorneys are paid, court rules that give the attorneys dual roles, and ongoing practices by attorneys that violate professional standards, ethics, and constitutional requirements for effective assistance of counsel.

We are studying the Limited Conservatorship System and the PVP sub-system, from the perspective of what is in the best interest of people with developmental disabilities. For a variety of reasons, some of which are found in *Justice Denied*, the current systems are not acceptable.

We are looking for ways to better protect the rights of limited conservatees. One possible change would be for the court to appoint the Public Defender's Office rather than PVP attorneys. This is statutorily authorized and occurs in other counties, such as in Santa Barbara. The county money that is now being given to private attorneys could instead be given to your office if it started to represent limited conservatees.

I am requesting a meeting with you to discuss policy and administrative decisions that could be made by the Public Defender to become involved in representing these clients. If proper training programs were instituted, such involvement could create a considerable improvement over the existing PVP system.

I look forward to hearing from you.

Encl.

Very truly yours,

A handwritten signature in blue ink that reads "Thomas F. Coleman". The signature is fluid and cursive, with the first name "Thomas" and last name "Coleman" clearly legible.

THOMAS F. COLEMAN  
Legal Director  
(818) 482-4485 / tomcoleman@earthlink.net



## Disability and Guardianship Project

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June 9, 2015

Ms. Kelly Emling  
Public Defender's Office

Dear Ms. Emling:

It has been a pleasure speaking with you over the past year. Your sensitivity to and concern for people with developmental disabilities has contributed to your openness to exploring a possible role for the Public Defender in limited conservatorship proceedings.

Dr. Nora Baladerian and I think that a transition from the system of PVP attorneys to the Public Defender makes sense for a variety of reasons, one of them being our high regard for Deputy Public Defender Billy Edwards. Billy has been defending the rights of people with developmental disabilities for years. His reputation as an excellent advocate is evidenced by high praise from Judge Maria Stratton who was formerly in the Mental Health Court and is now the presiding judge of the Probate Court.

Billy Edwards and other deputy public defenders have been true advocates for their clients. In contrast, PVP attorneys, who no doubt are good people, have not been advocating adequately for a variety of reasons. The court has saddled them with a "dual role" through Rule 4.125 which makes them the "eyes and ears of the court" and places them in a conflict of interest where they cannot give 100 percent loyalty to their clients. The court has failed to adopt performance standards that would require them to perform services with the same quality as Billy Edwards does for his clients. Then there is the issue of training. The mandatory trainings of PVP attorneys have been sorely deficient. The trainings are beginning to improve a bit under Judge Stratton's new leadership, but the level of improvement necessary for compliance with the Americans with Disabilities Act (ADA) is not likely to occur anytime soon without intervention by the Board of Supervisors.

We understand that preliminary discussions for the next budget cycle of the county will begin in January 2016. This would be a good time for the county's Executive Officer to include a proposal for public defender representation of limited conservatees in Los Angeles County. We appreciate the survey that Public Defender Ron Brown conducted at our request last month of his colleagues in other counties. It shows that supervisors in many counties have chosen to use the public defender system rather than a PVP-type system for legal representation of limited conservatees. This makes sense.

Quality assurance controls are easier to implement when there are fewer attorneys to educate and monitor. Calculations would need to be done, but it may be possible for 10 public defenders, with proper investigative and support staff, to handle the 1,200 limited conservatorship cases per year that are processed in the Superior Court. Quality controls in hiring, training, and performance are much easier for 10 attorneys who work in one office than they are for 200 private attorneys who are spread out throughout the county.

The PVP system, as it currently operates, is not only violating the Americans with Disabilities Act by depriving people with disabilities of access to justice, but it is also depriving these clients of equal protection of the law. They are entitled to have legal representation of "Billy Edwards quality" like LPS conservatees have, but instead limited conservatees are getting something substantially less than that.

We trust that as a result of our ADA complaint to the county that the Executive Officer will take a close look at the option of having county funds used to secure the services of the Public Defender for limited conservatees. Designating the Public Defender as the recipient of county funds for such legal services is one option that should be considered by supervisors – perhaps the most logical and most cost-effective approach.

Very truly yours,

Thomas F. Coleman  
Executive Director  
[tomcoleman@spectruminstitute.org](mailto:tomcoleman@spectruminstitute.org)

# Superior Court Judges Are Protecting the County Budget, Not the Vulnerable Adults Who Depend on the Court

## *Judges Allow Attorneys to Shortchange Their Clients*

“The Los Angeles Superior Court has imposed a presumptive upper limit of 12 hours per case for court appointed attorneys who represent limited conservatees. This presumptive limit is not only unrealistic, it may be pressuring attorneys to put in fewer hours in order to please judges who have become increasingly preoccupied with budget concerns.” (from *Proposals to Modify the California Rules of Court* (Spectrum Institute – May 1, 2015))

“A review of dozens of cases in Los Angeles by Spectrum Institute found that over the course of several months, the average number of hours reported by court-appointed attorneys in their fee claims was about 6.5 hours. Attorneys who strayed from this average were receiving fewer appointments than those who kept the hours low. An attorney who spends less than seven hours on a limited conservatorship case is not providing effective representation to the client. When travel time is considered, and time waiting in court is subtracted, there would only be about two hours allocated for investigation of the case, reading regional center and school records, interviewing the client, speaking with regional center workers, talking to the court investigator, and questioning the proposed conservator. Add to that the need to speak with the doctor who submitted the medical capacity declaration. Plus there is a need to search for clues about the capacity of the client to make decisions, with or without support, in several other areas. Effective advocacy would most likely involve at least 24 hours, not 12 hours, in *each* case. Considering the general order imposing a 12 hour presumptive limit, and with competition or perceived competition among attorneys for appointments to these cases, one would wonder whether these attorneys would dare risk putting in that many hours in each case.” (from *Proposals to Modify the California Rules of Court* (Spectrum Institute – May 1, 2015))

“Data from a review of court records in 128 limited conservatorship cases in 2012 shows that the average billing of court-appointed attorneys is \$750 per case. At \$125 per hour, which is what the court allows, these attorneys are spending about six hours per case.” (from *Justice Denied: How California’s Limited Conservatorship System is Failing to Protect the Rights of People with Developmental Disabilities* (Spectrum Institute – May 9, 2014))

online: [www.spectruminstitute.org/judges-focused-on-county-budget.pdf](http://www.spectruminstitute.org/judges-focused-on-county-budget.pdf)  
email: [tomcoleman@spectruminstitute.org](mailto:tomcoleman@spectruminstitute.org)



## Exhibits

### Denial of voting rights:

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### **Disability and Guardianship Project**

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## Disability and Guardianship Project

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June 1, 2015

Honorable Carolyn Kuhl  
Presiding Judge  
Los Angeles Superior Court  
111 N. Hill Street  
Los Angeles, CA 90012

Dear Judge Kuhl:

As you know, the issue of voting rights of limited conservatees has received much attention in the past year. That attention was stimulated by the education and advocacy efforts of Spectrum Institute.

AB 1311, signed into law last year, was prompted because some judges had a misunderstanding that proposed limited conservatees should be disqualified from voting if they could not complete an affidavit of voter registration without assistance. That misunderstanding was imparted to a room full of PVP attorneys at a training program last year – one that I attended. SB 589, which passed the Senate last month, is pending in the Assembly. It will eliminate the literacy test inherent in current law.

My own research into a sample of cases in the Los Angeles Superior Court found that 90 percent of limited conservatees were disqualified from voting and that their own attorneys contributed to the loss of their right to vote. Without understanding federal laws prohibiting literacy tests and without understanding ADA accommodation requirements, PVP attorneys had been checking off a box on the PVP report that they knew would result in their clients losing the right to vote.

Regional centers in Los Angeles County reported to the Department of Developmental Services that some 12,000 clients have open conservatorship cases. While we do not know exactly how many of them were disqualified from voting during conservatorship proceedings, we believe that thousands of them were so disqualified. In response to an administrative records request last year, data from the County Clerk indicated that about 1,100 limited conservatees were stripped of their right to vote last year alone due to orders issued by judges of the Los Angeles Superior Court. Based on our research, we estimate that as many as 10,000 adults with developmental disabilities have been disqualified from voting based on judges and attorneys who did not understand the requirements of federal law.

We suggest that the Superior Court take a pro-active approach to assist these adults to have their voting rights restored. Such an approach is required by Title II of the Americans with Disabilities Act. The court knows these individuals have cognitive and communication disabilities that make it difficult, if not impossible, for them to submit a petition to restore voting rights on their own. Most of them do not have attorneys since the court dismissed their attorneys when conservatorship orders were granted. Since the court may have improperly disqualified them from voting based on a lack of awareness of applicable federal laws, the court has an obligation to take action, on its own motion, to correct these erroneous orders. The next presidential cycle has begun, so corrective action by the court should start now.

Very truly yours,

Thomas F. Coleman  
Executive Director  
[tomcoleman@spectruminstitute.org](mailto:tomcoleman@spectruminstitute.org)

cc: Chief Justice Tani Cantil-Sakauye



# A desire to vote jeopardized

## Feds probe alleged violations involving disabled Californians

BY STEPHEN CEASAR

Stephen Lopate was just a boy when he first mentioned he wanted to vote someday in a presidential election.

It was 2008, and he told his mother he liked Hillary Clinton because she was a smart woman.

Years later, when he turned 18, Lopate's mother sought a court guardianship of her severely autistic son so that she could oversee his medical affairs and other legal matters.

But she and Lopate were horrified and confused when they discovered that the move would result in her son being stripped of his right to vote.

"I have always made sure ... that he knows his opinion matters," said Lopate's mother, Teresa Thompson. "It was just awful."

Thompson complained to a local disability rights group in Los Angeles, setting off a chain of events that led this week to federal authorities announcing they are investigating allegations that California has systematically and illegally denied intellectually disabled residents such as Lopate the right to vote.

The group, the Disability and Abuse Project, filed a complaint last year with the U.S. Department of Justice contending that the Los Angeles County Superior Court has wrongly stripped people under limited conservatorships of the right to vote if they could not fill out a voter registration affidavit.

Nora J. Baladerian, the group's executive director, said the issue impacts some of society's most vulnerable citizens, including people with cerebral palsy, autism spectrum disorder and traumatic brain injury, among other intellectual disabilities.



KATIE FALKENBERG Los Angeles Times

**AFTER HER** autistic son, Stephen Lopate, was denied the right to vote, Teresa Thompson alerted an L.A. disability rights group, prompting the investigation.

"Naïve me. I thought in the courtroom the law was followed," Baladerian said. "It wasn't so. The rights of individuals with disabilities were not being upheld in court."

It is unclear how many people under conservatorship have their right to vote taken away each year. A spokesman for the county's Registrar of Voters said 123 voters had their registrations canceled since January 2014 for "mental incompetence."

A lawyer with Baladerian's group conducted a review of 61 conservatorship cases involving adults with developmental disabilities in L.A. County and found that nearly 90% of the people had been disqualified from voting, according to the group's complaint.

A spokeswoman for the Los Angeles County Superior Court said court officials have not yet received a copy of the complaint and would respond to the Department of Justice once they do.

Investigators from the U.S. Department of Justice in Sacramento have requested records from the state, including those that would show the number of people disqualified from voting in each county and an explanation of policies for disqualifying people under limited conservatorship from voting.

The Judicial Council, which oversees courts in California, will provide the documents, according to council spokesman Peter Allen.

"The view here is that the Chief [Justice] and Judicial Council are committed to the civil rights of all Californians," Allen said in a statement.

Michael Waterstone, a Loyola Law School professor, said people with physical and mental or intellectual disabilities have long suffered discrimination when it comes to voting. He said they continue to encounter obstacles that include inaccessible polling places and conservatorship laws that hastily or automatically deem them unfit to cast a ballot.



# Probe studies voting rights

Under the Americans with Disabilities Act, people with disabilities are afforded the right to receive assistance filling out voter registration forms and while voting, Waterstone said. A requirement to successfully fill out the form or be denied the right to vote would violate the Voting Rights Act, he said.

"It is basically a literacy test," he said.

Individual states are responsible for protecting the integrity of their elections and must determine who is capable of making an informed decision when casting a ballot, Waterstone said.

The decision to disqualify someone from the ballot box, especially among the disabled, should be taken seriously, he said.

"It has to be something more than 'you can't fill out a form by yourself,' or, 'someone else told us you can't fill out a form,'" he said. "You take someone's right to vote away, you're taking their ability to create change away. That's why it's such a dangerous thing to do."

The federal investigation comes as state lawmakers are weighing a proposal that would make it more difficult for judges and juries to remove the right to vote from someone under a conservatorship. The measure — Senate Bill 589 — would create a presumption that people with disabilities can vote whether under a conservatorship or not, said Sen. Marty Block (D-San Diego), who wrote the proposed legislation.

"A disability shouldn't mean a disenfranchisement," Block said.

The bill could come up for a vote on the Senate floor as early as Friday. Last year, lawmakers approved a measure ensuring that people — including those under conservatorship — cannot be denied the right to vote because they need the help of another person to sign a voter registration affidavit or use a mark, a cross or a signature stamp to sign it. The legislation was spurred by the work of the Disability and Abuse Project.

The group became involved in the issue after first hearing from Lopate's mother, Thompson.

Before Lopate's 18th birthday, his mother began the process of applying for a limited conservatorship over her son. Lopate is endlessly curious and observant, but has trouble talking and can sometimes become overwhelmed, his mother said.

Thompson attended a self-help clinic and was asked whether Lopate was able to fill out a voter registration form on his own. She answered no, because he needs help with anything that involves communicating.

That, she found out, meant she was essentially signing away her son's right to vote. A court-appointed attorney assigned to assist Lopate told a judge that Lopate should not be given the ability to vote.

"His attorney told me that it would be inconsistent with the concept of conservatorship for Stephen to have the right to vote," Thompson said. "I was very upset."

Lopate, who mostly communicates using a speech-generating device or by tapping on letters of a print-out keyboard, said he was disappointed when the court deemed him incapable of casting a ballot.

"The boy got angry," Lopate said, referring to himself. "Really against the law."

His mother contacted Lopate's therapist, Baladerian, who put her in contact with the Disability and Abuse Project's attorney, Tom Coleman. Coleman stepped in and convinced Lopate's attorney and the judge to reconsider. Lopate was allowed to keep his right to vote.

Lopate said he wanted to help other people who have difficulties speaking to make sure they too are able to vote.

"The mom made sure they did not take my rights away from me," Lopate said, communicating with his printed keyboard. "I am the lucky young man."

stephen.ceasar@latimes.com  
Times staff writers Patrick McGreevy, Maura Dolan and Marisa Gerber contributed to this report.



U.S. Department of Justice

Civil Rights Division

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Disability Rights Section - NYA  
950 Pennsylvania Ave, NW  
Washington, DC 20530

May 15, 2015

**VIA First Class Mail & EMAIL**

Thomas F. Coleman  
Legal Director  
Disability & Abuse Project  
2100 Sawtelle Boulevard  
Suite 204  
Los Angeles, CA 90025

Re: *Complaint Against the State of California's Voting Practices and Procedures In Superior Court Conservatorship Proceedings for Persons with Disabilities, DJ # 204-11E-398*

Dear Mr. Coleman:

The United States Department of Justice has opened an investigation of your complaint alleging that the State of California violated title II of the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12131-12134, and the Department's implementing regulation, 28 C.F.R. Part 35. Specifically, your complaint alleges that the State of California unlawfully deprives persons with disabilities of their right to vote when they are adjudged to be limited conservatees. In particular, the complaint alleges that the Los Angeles Superior Court has deprived persons with disabilities of their right to vote by finding such persons are not capable of completing an affidavit of voter registration, without applying objective standards or fully investigating voter competency issues. The complaint further alleges that the Superior Court has restricted the inquiry regarding a person's capability to complete the affidavit to be without assistance, contrary to the ADA and other federal laws protecting the right to vote.<sup>1</sup> The complaint alleges that once a superior court determines that a person is not capable of completing the affidavit of voter registration, the person is then removed from the voting rolls or prohibited from registering to vote by the county clerk's office and that further reviews of the determination are not conducted.

Your complaint has been assigned the complaint number shown above. Please reference the DJ number in any further correspondence or communication with our office. Please send us any additional information you may have, or that you may obtain in the future, that is relevant to your complaint. Please also let us know if you have filed the same or a similar complaint with any other federal, state, or local governmental entity.

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<sup>1</sup> The complaint included allegations that the State's actions violated other federal laws including Section 504 of the Rehabilitation Act. The Department reserves the right to expand the scope of this investigation to include other applicable federal laws, as appropriate.

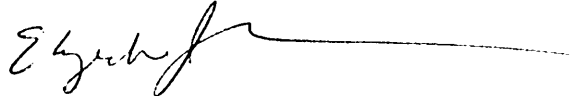
Please be advised that the Department of Justice does not represent you or your organization as your attorney and can conduct and resolve this matter without your approval. The Department of Justice represents the interests of the United States and does not act as an attorney for private individuals or organizations.

Please also be advised that we may need to disclose your identity and other information you provide during the course of our investigation but we will not do so unless it is necessary for our enforcement activities or otherwise necessary and allowed by law.

You are further advised that under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, we may be required to release this letter as well as other correspondence and records related to the complaint in response to a request from a third party. Should we receive such a request, we will safeguard, to the extent permitted by FOIA, the release of information that constitutes an unwarranted invasion of privacy.

If you have any questions or additional relevant information, please feel free to contact Elizabeth Johnson at 202-307-3543 or by email at [elizabeth.johnson@usdoj.gov](mailto:elizabeth.johnson@usdoj.gov). You may also contact AUSA Vincente Tennerelli at 559-497-4080 or by email at [vincente.tennerelli@usdoj.gov](mailto:vincente.tennerelli@usdoj.gov). The U.S. Attorney's Office for the Eastern District of California is also counsel in this matter. We expect to be in touch in the near future.

Sincerely,

A handwritten signature in black ink, appearing to read 'Elizabeth Johnson', followed by a long horizontal line extending to the right.

Elizabeth Johnson, Disability Rights Section,  
Civil Rights Division

Vincente Tennerelli, United States Attorney's  
Office, Eastern District of California





U.S. DEPARTMENT OF JUSTICE

United States Attorney  
Eastern District of California

Benjamin B. Wagner  
United States Attorney

RECEIVED

MAY 18 2015

CHAMBERS OF THE  
CHIEF JUSTICE

2500 Tulare Street, Suite 4401  
Fresno, CA 93721

Phone 559/497-4000  
Fax 559/497-4099  
TTD 559/497-4500

May 15, 2015

VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

The Honorable Alex Padilla  
California Secretary of State  
1500 11th Street  
Sacramento, California 95814

The Honorable Tani Cantil-Sakauye  
Chief Justice  
Supreme Court of California  
350 McAllister Street  
San Francisco, CA 94102-4797

Re: *Investigation of California's Voting Practices and Procedures in Superior Court  
Conservatorship Proceedings for Persons with Disabilities, DJ # 204-11E-398*

Dear Secretary Padilla and Chief Justice Cantil-Sakauye:

In response to a complaint filed regarding California's voting practices and procedures that are impacted by conservatorship proceedings for persons with disabilities, the U.S. Department of Justice has opened an investigation to determine whether violations of title II of the Americans with Disabilities Act of 1990 (ADA), as amended 42 U.S.C. §§ 12131-12134, and the Department's implementing regulation, 28 C.F.R. Part 35, have occurred. Title II of the ADA prohibits discrimination against individuals with disabilities by public entities. The text of the ADA, the Department's regulation, and many technical assistance publications can also be accessed on our ADA Home Page at [www.ada.gov](http://www.ada.gov). <http://www.ada.gov>.

The complaint alleges that the State of California unlawfully deprives persons with disabilities of their right to vote when they are adjudged to be limited conservatees. In particular, the complaint alleges that the Los Angeles Superior Court has deprived persons with disabilities of their right to vote by finding such persons are not capable of completing an affidavit of voter registration, without applying objective standards or fully investigating voter competency issues. The complaint further alleges that the Superior Court has restricted the inquiry regarding a person's capability to complete the affidavit to be without assistance, contrary to the ADA and other federal laws protecting the right to vote.<sup>1</sup> The

<sup>1</sup> The complaint included allegations that the State's actions violated other federal laws including Section 504 of the Rehabilitation Act. The Department reserves the right to expand the scope of this investigation to include other applicable federal laws, as appropriate.

complaint alleges that once a superior court determines that a person is not capable of completing the affidavit of voter registration, the person is then removed from the voting rolls or prohibited from registering to vote by the county clerk's office and that further reviews of the determination are not conducted.

The Department of Justice is authorized to investigate alleged violations of title II of the ADA, 28 C.F.R. §§ 35.172, and, if voluntary compliance is not achieved, to take appropriate action, including filing an enforcement action in U.S. district court for injunctive relief and monetary damages. 28 C.F.R. §§ 35.172, 35.174. Although the allegations filed with the Department concerned the Los Angeles Superior Court, we find the allegations to be of concern throughout the State of California as they involve the State's election code and state-wide policies, practices, and procedures.

To evaluate this complaint, we seek your cooperation in providing the following preliminary information:

1. The name, address, and telephone number of the individual to whom this office should direct any future questions and correspondence. Please indicate if this person has authority to negotiate a settlement of this matter. If the State will be represented by an attorney in this matter, please provide the attorney's name, address, and telephone number;
2. Your response to the allegations of the complaint and any additional information you consider relevant to resolution of the complaint;
3. A description of the process for disqualifying a person subject to limited conservatorship from registering to vote or voting;
4. A description of any State of California policy, practice, or procedure regarding the right to vote of persons subject to limited conservatorship proceedings, including but not limited to, the State's election code and any superior court policies, practices, or procedures, and, where such policies, practices, or procedures are written, a copy thereof;
5. A description of the State's rationale for disqualifying persons with disabilities subject to limited conservatorships from registering to vote or voting;
6. To the extent the State disqualifies persons with disabilities subject to limited conservatorships from registering to vote or voting based on the inability of such persons to complete an affidavit of voter registration, a description of the State's rationale for such practice.
7. A description of any standards, criteria, or evidentiary basis used by the California Superior Court in making a determination that a person is not able to complete the affidavit of voter registration;
8. A description of any re-evaluation process of the voter competency determination conducted by the Superior Courts or other government agencies, including the events that trigger a re-evaluation, who conducts the re-evaluation, and the standards used to re-evaluate the determination;
9. A description of the process for a person in a limited conservatorship to have his or her voting rights restored;

10. The number of persons in the State in the last three years that have been adjudged to be limited conservatees and that have been disqualified from voting or registering to vote, by county; and the number of persons who had their voting rights restored that were previously subject to disqualification in a limited conservatorship proceeding, by county;

11. A description of any training and a copy of any training material (including sample conservatorship documents) provided to judges, attorneys, investigators, or other persons involved in conservatorship proceedings (including the person moving for the conservatorship) regarding the voter competency provisions in conservatorship proceedings;

12. A description of any notice or information and a copy of any notice or information provided to persons subject to the conservatorship proceedings regarding the voter competency provisions in conservatorship proceedings; and

13. Please identify whether the Secretary of State's Office or the California Superior Court receive any federal funding, and, if so, the name of the federal agency that provides the funding and the name(s) of all programs that receive that funding or to which any of that funding is distributed.

Please provide these documents and information no later than thirty (30) days from the date of this letter. Please send a copy of the requested information and documents by overnight delivery to: Vincente Tennerelli, United States Attorney's Office, 2500 Tulare Street, Suite 4401, Fresno, CA 93721. Alternatively, you may email the documents and information to: [Vincente.Tennerelli@usdoj.gov](mailto:Vincente.Tennerelli@usdoj.gov) and [elizabeth.johnson@usdoj.gov](mailto:elizabeth.johnson@usdoj.gov).

Be advised that no one may intimidate, threaten, coerce, or engage in other discriminatory conduct against anyone because he or she has filed a complaint with the Department of Justice, or has otherwise either taken action or participated in an action to secure rights protected by the ADA. Such behavior would constitute an additional ADA violation.

We strongly recommend that you consult with this office before making any operational changes to address these allegations. Any such changes must comply with all applicable statutes. Any modifications you undertake which are not in compliance with those requirements may need to be made before this complaint can be resolved.



If you have questions or concerns, please contact Vincente Tennerelli at 559-497-4080 or Elizabeth Johnson at 202-307-3543.

Sincerely,

BENJAMIN B. WAGNER  
United States Attorney

by Vincente Tennerelli  
Vincente A. Tennerelli  
Assistant United States Attorney

Elizabeth Johnson  
United States Department of Justice  
Disability Rights Section,  
Civil Rights Division

# STATE of denial

Officials in California  
Are Failing to Correct,  
Much Less Admit,  
Violations of the Rights  
of Limited Conservatees

*Letters to Government Officials  
Asking Them to Protect the Rights of  
People with Developmental Disabilities*

Spectrum Institute



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## **Thomas F. Coleman**

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**From:** Thomas F. Coleman <tomcoleman@earthlink.net>  
**Sent:** Tuesday, September 23, 2014 2:42 PM  
**To:** 'torie.osborn@gmail.com'  
**Cc:** 'Linda Demer'; 'teresa.thompson18@verizon.net'; 'Nora Baladerian'  
**Attachments:** An issue of budget accountability and equal justice; Request for a meeting; supervisor-memo.pdf

Hi Torie,

Linda Demer is one of the people who brought to my attention the manner in which court-appointed attorneys are violating the rights of their own clients in the limited conservatorship system in Los Angeles.

The story of how her son lost his right to make social decisions is very sad. It is cruel for the court to force an adult to repeatedly visit with someone he does not want to be with.

Another mother, Teresa Thompson, brought to Nora Baladerian and me the situation of her son who almost lost his voting rights -- because of the malpractice of his court-appointed attorney.

In yet a third case, the brother of Mickey Parisio, asked Nora and me for help when Mickey was being abused. We tried. We really did. But the system failed him, partly due to the negligence of his court-appointed attorney, and Mickey died due to abuse and/or neglect by his conservator. His death was unnecessary and tragic. Nora asked the county's Death Review Team to investigate and her request is pending.

These three cases have lit me on fire about the systemic injustice that thousands of adults with developmental disabilities receive in Los Angeles County. Nora feels the same way. So we have taken it upon ourselves, without any funding, to work tirelessly to right these wrongs and to reform the system.

I have attached two emails that I sent out today: one to the office of Supervisor Knabe and the other to the office of Supervisor Ridley-Thomas. We are asking them to help us correct this problem. I sent them the one-page summary that I gave to you on Sunday. In case you misplaced it, I am attaching it here.

We look forward to the victory celebration in November and to working with Shiela once she is sworn in as a member of the Board of Supervisors.

Tom Coleman





2100 Sawtelle, Suite 204, Los Angeles, CA 90025  
www.disabilityandabuse.org • (818) 230-5156

## Limited Conservatorships and the Right to an Attorney

### The Role of a County Supervisor

The rights of people with developmental disabilities are being violated. They are not receiving effective assistance of counsel. The Probate Court is responsible for the problem. The Board of Supervisors can help correct it.

#### **Problems:**

- Court appointed attorneys are violating client confidentiality.
- They put loyalty to the court above loyalty to their clients.
- They are not properly trained on how to represent clients with disabilities.
- They do not put in the hours necessary to do a good job.
- They surrender, rather than protect, the rights of their clients.

#### **Board of Supervisors:**

- The judges order the county to pay the fees of the appointed attorneys.
- The county pays, but there are no quality assurance controls.
- The county is subsidizing and enabling legal malpractice.

#### **Solutions:**

- Have county auditor verify complaints of the Disability and Abuse Project.
- Transfer supervision of these attorneys from the court to another agency.
- Consider having the Public Defender as counsel in these cases.
- Fund a proper training program for attorneys representing conservatees.
- Support state legislation giving parents or a "next friend" standing to appeal violations of the rights of conservatees, including the right to counsel.

We need the help of Supervisors to solve these problems and to insure this vulnerable population receives effective assistance of counsel in limited conservatorship cases – cases where their basic rights are being taken away. We have reached out to the court but without success. We must now engage the political process on behalf of people who cannot seek a political solution on their own. Please help us to help them.

We look forward to hearing from you or your staff .

Nora J. Baladerian, Ph.D.  
(310) 925-4488 / [nora@disability-abuse.com](mailto:nora@disability-abuse.com)

Thomas F. Coleman  
(818) 482-4485 / [tomcoleman@earthlink.net](mailto:tomcoleman@earthlink.net)



## Thomas F. Coleman

---

**From:** Thomas F. Coleman <tomcoleman@earthlink.net>  
**Sent:** Tuesday, September 23, 2014 8:19 AM  
**To:** 'djordan@bos.lacounty.gov'; 'yvera@bos.lacounty.gov'; 'DJohnson@bos.lacounty.gov'  
**Cc:** 'Nora Baladerian'; 'Thomas F. Coleman'  
**Subject:** Request for a meeting  
**Attachments:** supervisor-memo.pdf

Dorinne Jordan  
Yolanda Vera  
Derrick Johnson

Dear Staff Members,

I am writing to request a meeting with some or all of you to discuss a problem that affects residents of Los Angeles County, including the Second Supervisorial District.

Thousands of adults with developmental disabilities have conservators appointed for them by the Los Angeles Superior Court each year. Their cases remain open until they die.

When a case is initiated, the court appoints an attorney to represent the proposed limited conservatee.

We have done extensive research into the limited conservatorship system and have discovered major problems with the manner in which these attorneys are performing their job. For a variety of reasons, we believe that their clients are not receiving effective assistance of counsel as guaranteed by the due process clause of the state and federal constitutions.

Although the limited conservatorship system is funded by the state, the court-appointed attorneys are funded by the county. Unfortunately, the county just writes checks. There are no quality assurance controls to monitor their performance. As a result, the county is inadvertently subsidizing substandard legal services that violate ethical rules, professional standards, and constitutional requirements.

We believe that the Board of Supervisors should take action to correct this deficiency and would like to discuss this issue with Supervisor Ridley-Thomas. Before doing so, it would be helpful to have a meeting with some or all of you to brief you on the issue and answer your questions.

I selected your names after reviewing the staff roster. Each of you has experience or duties pertaining to a part of the problem. One part involves fiscal accountability. Another involves mental health issues. Yet another involves unequal justice.

You can learn more about our small non profit organization by visiting our website at: [www.disabilityandabuse.org](http://www.disabilityandabuse.org) There you will find many materials about our Conservatorship Reform Project.

I am attaching a one-page summary about the role a County Supervisor could play to help solve the problem that was described above.

We look forward to hearing from you.

Thank you.

Thomas F. Coleman  
Legal Director  
Disability and Abuse Project



**Spectrum Institute  
2100 Sawtelle, Suite 204  
Los Angeles, CA 90025**

**p.s. In addition to our office being located in the Second District, our founding Executive Director (Dr. Nora J. Baladerian) also lives in the district (zip 90034, corner of Bentley and Rose).**

## Thomas F. Coleman

---

**From:** Thomas F. Coleman <tomcoleman@earthlink.net>  
**Sent:** Tuesday, September 23, 2014 11:39 AM  
**To:** 'cgallucci@lacbos.org'  
**Cc:** 'Teresa Thompson'; 'Nora Baladerian'  
**Subject:** An issue of budget accountability and equal justice  
**Attachments:** supervisor-memo.pdf

Carl Gallucci  
Budget and Justice Deputy  
Supervisor Don Knabe

Dear Mr. Gallucci:

We would like to meet with you sometime to discuss a matter that involves both budget and justice.

Thousands of adults with developmental disabilities have conservators appointed for them by the Los Angeles Superior Court each year. Their cases remain open until they die.

When a case is initiated, the court appoints an attorney to represent the proposed limited conservatee.

We have done extensive research into the limited conservatorship system and have discovered major problems with the manner in which these attorneys are performing their job. For a variety of reasons, we believe that their clients are not receiving effective assistance of counsel as guaranteed by the due process clause of the state and federal constitutions.

Although the limited conservatorship system is funded by the state, the court-appointed attorneys are funded by the county. Unfortunately, the county just writes checks. There are no quality assurance controls to monitor their performance. As a result, the county is inadvertently subsidizing legal services that violate ethical rules, professional standards, and constitutional requirements.

We believe that the Board of Supervisors should take action to correct this deficiency and would like to discuss this issue with Supervisor Knabe. Before doing so, it would be helpful to have a meeting with you to brief you on the issue and answer your questions.

It would be great if you could take a minute or two to quickly review a one-page summary of the problem which I have attached. It contains a few suggested actions that the Board of Supervisors could take to begin to address this issue.

You can learn more about our non-profit organization by visiting our website at: [www.disabilityandabuse.org](http://www.disabilityandabuse.org) There you will find many materials about our Conservatorship Reform Project.

I look forward to hearing from you.

Thomas F. Coleman  
Legal Director  
Disability and Abuse Project  
Spectrum Institute  
(818) 482-4485

p.s. Just a few months ago, one young man with autism who lives in Whittier almost lost his voting rights due to ineffective representation by a court-appointed attorney. Our Project intervened and stopped that from happening. We then used his case (plus statistics from dozens of others) to initiate legislative clarification of the voting rights of adults who are drawn into the conservatorship process. Because of this case, and with the help of a coalition of individuals and organizations, AB 1311 passed the Legislature and is now on the Governor's desk. We call the measure "Stephen's Law" in recognition of his willingness to fight for his voting rights. He and his mother also joined us at a press conference in July when we filed a complaint against the Superior Court with the U.S. Department of Justice for systematic violation of the voting rights of adults with developmental disabilities. I am sending a copy of this email to Teresa Thompson, the

mother of Stephen, so she can tell him that we are trying to make sure that attorneys for limited conservatees do a good job. I am also sending a copy to our Executive Director, Dr. Nora J. Baladerian.



**From:** Thomas F. Coleman [<mailto:tomcoleman@earthlink.net>]  
**Sent:** Tuesday, June 2, 2015 6:26 AM  
**To:** [ghayes@bos.lacounty.gov](mailto:ghayes@bos.lacounty.gov)  
**Cc:** 'Nora Baladerian'; 'Linda Demer'; [tomcoleman@earthlink.net](mailto:tomcoleman@earthlink.net)  
**Subject:** follow up to communications from Dr. Linda Demer

Dear Ms. Hudley-Hayes,

Dr. Linda Demer forwarded me some emails concerning the request for a meeting to discuss the limited conservatorship system in Los Angeles County.

Dr. Nora Baladerian and I have been working with Dr. Demer on issues of mutual concern on this topic.

The issues involve the ongoing violation of the rights of people with intellectual and developmental disabilities.

Similar issues were raised concerning seniors in 2006 and many fixes were done to try to correct some of those problems.

No attention has been given to fixing problems with the limited conservatorship system – a system designed solely for people with developmental disabilities.

The issues we are focusing on involve civil right violations, not financial abuse. The violations are being committed by the judges and the court-appointed attorneys.

The attorneys are appointed by the judges to represent the adults in question. The attorneys are paid by county funds, not court funds.

The county pays, but there are no quality assurance controls in place. Our research shows that these attorneys are not properly trained. In fact they are given incorrect information in their trainings. The attorneys do not defend the rights of their clients, they surrender their rights. In effect, the county is unwittingly subsidizing legal malpractice.

Our Disability and Guardianship Project is working to fix this system. Part of the fix is to make sure that county funds are used to secure quality legal representation for these vulnerable adults. We have some ideas on how to accomplish that and would like to talk to Supervisor Kuehl and her staff about our ideas. We met with Tori Osborne and Shiela Kuehl during the campaign and promised to reconnect after the election.

I hope this clarifies the purpose of the meeting that Dr. Demer was seeking. My colleague, Dr. Nora Baladerian, would have reached out to you directly but she is busy this week in some trainings. I am including her and Dr. Linda Demer in this email so that we are all on the same page about the purpose and scope of the meeting we would very much like to have.

We will all be downtown on the morning of June 26, so it would be helpful if we could meet around 11:30 am when we are finished with our other business.

Thanks.

Tom Coleman  
Spectrum Institute  
[www.spectruminstitute.org](http://www.spectruminstitute.org)  
(818) 482-4485



MINUTES OF THE BOARD OF SUPERVISORS  
COUNTY OF LOS ANGELES, STATE OF CALIFORNIA

Larry J. Monteilh, Executive Officer  
Clerk of the Board of Supervisors  
383 Kenneth Hahn Hall of Administration  
Los Angeles, California 90012

3157  
3.05E

All Department/District Heads

At its meeting held January 4, 1994, the Board took the following action:

67

The following matter was called up for consideration:

The Director of Public Works' recommendation to recognize the formation of the Americans with Disabilities Act (ADA) Steering Committee as the entity having oversight for County implementation of ADA; approve the Policy of Non-Discrimination on the Basis of Disability Public Notice and Complaint Form together with the Informal Complaint Procedure; and instruct all Department/District Heads to implement the Informal Complaint Procedure.

Jane Small, Chairperson of the Los Angeles County Commission on Disabilities, Douglas Martin, Ernest Hamilton, Gordon Anthony and Sande Buhai Pond addressed the Board.

After discussion, on motion of Supervisor Dana, seconded by Supervisor Edelman, unanimously carried, the Board adopted the Director of Public Works' attached recommendations and added the Department of Mental Health to the Steering Committee.

40104-5.com

Attachment

Copies distributed:

· Each Supervisor



THOMAS A. TIDEMANSON, Director

# COUNTY OF LOS ANGELES DEPARTMENT OF PUBLIC WORKS

900 SOUTH FREMONT AVENUE  
ALHAMBRA, CALIFORNIA 91803-1331  
Telephone: (818) 458-5950

ADDRESS ALL CORRESPONDENCE  
P O BOX 1460  
ALHAMBRA, CALIFORNIA 91801

January 3, 1994

IN REPLY PLEASE  
REFER TO FILE

Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, CA 90012

Dear Supervisors:

## APPROVAL OF THE AMERICANS WITH DISABILITIES ACT (ADA) PUBLIC NOTICE AND INFORMAL COMPLAINT PROCEDURE

### RECOMMENDATIONS:

That your Board:

1. Recognize the formation of the ADA Steering Committee (Attached) as the entity having oversight for County implementation of ADA.
2. Approve the Policy of Non-Discrimination on the Basis of Disability Public Notice and the Complaint Form together with the Informal Complaint Procedure.
3. Instruct all departments and district heads to implement the Informal Complaint Procedure.

On April 27, 1993 your Board was advised of the progress made toward the implementation of the Americans with Disabilities Act. Since then, an ADA Steering Committee consisting of the Chair of the County Commission on Disabilities and representatives from larger departments was established to develop plans to implement the ADA, facilitate an access survey and self-evaluation as part of the transition plan to bring the county into compliance and develop recommendations for your Board's consideration.

A survey and evaluation of all county departments to determine physical accessibility was conducted. The survey data is used for the development of a countywide transition plan for ADA compliance. At minimum, the Plan must identify physical



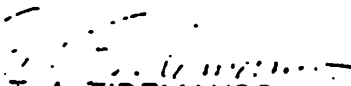
Honorable Board of Supervisors  
January 3, 1994  
Page 2

activities; describe in detail the methods that will be used to make facilities accessible, and specify the schedule for achieving compliance. The Plan is in its final stage of completion and will be submitted to your Board for review.

While the Plan is being completed, county departments have appointed ADA coordinators to facilitate the self-evaluation of current services, policies, practices and programs to ensure equal access to people with disabilities and to carry out departments' compliance with nondiscrimination requirements of the ADA.

Toward this effort, the Steering Committee drafted the attached public notice and the informal complaint procedure which establishes a process for timely investigation and resolution of complaints alleging county's noncompliance with the ADA. The procedure would enable an informal resolution of complaints at the local level without requiring a complainant to resort to federal complaint procedures. County Counsel has reviewed and approved these documents.

Very truly yours,

  
T. A. TIDEMANSON  
Director of Public Works

Attachments

## **ADA - BOARD OF SUPERVISORS APPROVED**

- **INFORMAL COMPLAINT  
PROCEDURE**
- **NON-DISCRIMINATION POLICY POSTER**
- **ADA STEERING COMMITTEE**

# **COUNTY OF LOS ANGELES**

## **AMERICANS WITH DISABILITIES ACT - INFORMAL COMPLAINT PROCEDURE**

### **I. Policy**

Pursuant to the Americans with Disabilities Act (ADA), the County of Los Angeles, has adopted the following informal complaint procedure to promptly investigate and resolve complaints alleging that the County has not complied with the ADA.

Individuals are not required by federal regulations to use this informal complaint procedure and may file complaints directly with the appropriate federal enforcement agency. This informal complaint procedure does not prevent or limit the filing of grievances by employees under established labor relations agreements. Current County employees should be instructed to use existing employee grievance forms and procedures for filing ADA employment related complaints. Individuals filing complaints are to be free from coercion, intimidation or interference when filing a complaint and not be subject to harassment or retaliation upon filing a complaint.

### **II. Purpose**

The purpose of this complaint procedure is to provide a mechanism for informal resolution of complaints at the local level without requiring a complainant to resort to federal complaint procedures.

### **III. Departmental Responsibilities**

Each County department is responsible for implementing this complaint procedure. Departments have the responsibility to investigate and respond to each complaint in writing and to demonstrate a good faith effort in resolving all complaints in an efficient and timely manner.

### **IV. Public Notice**

All County Departments must display public notices (Attachment I) which outline the County's ADA policy on non-discrimination. Notices should be posted in conspicuous places frequented by the public and/or employees to ensure maximum opportunity for review. The public notices must list the address and telephone number where the Departmental ADA Coordinator can be reached.

Upon request, the information contained on the public notice must be made available in alternate formats (e.g. braille, audio, enlarged print., etc.)



## **V. ADA Coordinator**

All County departments are required to designate an individual to function as the Department ADA Coordinator, who is responsible for all departmental aspects of the ADA (e.g. accessibility, resolving complaints, etc.) This individual should hold a position high enough to advise department management on County ADA policy, render decisions regarding ADA complaints and interact with the disabled community. The ADA Coordinator should be knowledgeable and conversant with the ADA and developments relating thereto including ADA legislation and regulations, particularly Title I (Employment) and Title II (State and local government responsibilities).

## **VI. Complaint Form**

ADA complaints should be filed using the "County of Los Angeles Americans with Disabilities Act Complaint Form" (Attachment II). Forms should be accessible to the general public on request particularly in facilities that provide direct service to the public. Complaint forms should also be available to applicants at designated personnel offices and at facilities where applications for employment are filed. Current County employees should be instructed to use existing employee grievance forms and procedures for filing ADA employment related complaints. Upon request, complaint forms must be made available in alternate formats (e.g. braille, audio, enlarged print, etc.)

## **VII. Procedure**

The ADA complaint procedure is intended to provide both departments and individuals filing complaints under the ADA the opportunity to mediate the complaint in an informal manner.

- A. All complaints should be filed in writing using the ADA Complaint Form. Complaints must contain the name, address, and telephone number of the person filing (Complainant), and a brief description of the alleged violation (s) and the signature of the complainant or authorized representative. A complainant may request an informal confidential presentation of their complaint.
- B. Employment related complaints filed by current County employees should be forwarded to appropriate personnel and processed in accordance with existing departmental grievance procedures and Civil Service Rules. This informal ADA complaint process is not intended to replace existing employee grievance procedures.
- C. The complainant should promptly receive written acknowledgment of the County's receipt of the complaint.

## Complaint Procedure

- D. Each complaint should be evaluated on a case by case basis to prioritize the urgency of a response. Example: Depending on the facts of the individual complaint, a complaint involving a health and safety issue may require a more immediate response; whereas a complaint involving job or building modifications might be processed on a non-urgency basis. In any event, as a general rule, all investigations should be concluded with a written response sent to the complainant within 60 days after the date the complaint was filed.
- E. The Department's written response to the complainant should respond to the issues raised in the complaint and, if applicable, state what action will be taken to resolve identified ADA compliance problems. Each written Departmental response should also inform the complainant of the availability of an informal appellate process to review the Department's written decision.
- F. The complainant may appeal the initial written Departmental response to the Department Head or other appropriate, designated executive level manager. The Department Head or designated manager should respond in writing to the complainant's appeal, either affirming or modifying the Department's previous written response. The complainant may thereafter further appeal to an informal appellate body comprised of a representative from the Office of Affirmative Action Compliance, the Commission on Disabilities, and the Chief Administrative Office. This body should also respond in writing to the complainant. The complainant should be advised of his/her right to pursue a remedy by filing a formal complaint with the federal government.
- G. Departments are required to keep copies of all complaints in accordance with prevailing record retention requirements.
- H. Unless otherwise authorized or required by law, the complaint and related records will be maintained in a confidential manner.



# COUNTY OF LOS ANGELES

## Policy of Non-Discrimination on the Basis of Disability

The County of Los Angeles Department of \_\_\_\_\_ does not discriminate on the basis of disability in employment or in the admission and access to its services, programs or activities.

Pursuant to the Americans with Disabilities Act (ADA) the Department has designated an ADA COORDINATOR to carry out this Department's compliance with the nondiscrimination requirements of the ADA. Information concerning the provisions of the ADA and this Department's compliance are available from the Department's ADA COORDINATOR who may be contacted by asking to speak with the ADA COORDINATOR at:

_____ (Department)
_____ (Address)
_____ (Telephone Number - Voice)
_____ (Telephone Number - TDD)

This notice and related materials are available in alternate format.





# COUNTY OF LOS ANGELES

## AMERICANS WITH DISABILITIES ACT COMPLAINT FORM

This form is to be used to initiate an informal complaint procedure to investigate and resolve complaints alleging that the County of Los Angeles has not complied with ADA.

Date: \_\_\_\_\_

Complainant's Name: \_\_\_\_\_

Telephone No.: (\_\_\_\_) \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

### Alleged Violations

Describe how the County of Los Angeles has not complied with ADA in sufficient detail to make your complaint clear. Attach additional pages if necessary:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### Requested Action

What actions do you request the County take to correct the alleged ADA non-compliance or discrimination?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature of (check one):

\_\_\_\_\_ Complainant

\_\_\_\_\_ Authorized Representative

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Instructions on back

## INSTRUCTIONS

The County of Los Angeles has adopted an informal complaint procedure for the prompt resolution of complaints alleging non-compliance by the County of Los Angeles with the Americans with Disabilities Act.

### Complaint Procedure

1. Complaint shall be filed in writing, by complainant or authorized representative. The complaint must contain the name, address, and telephone number of complainant and a brief description of the alleged County violation(s).
2. Indicate what actions you are requesting the County to take to correct the alleged violation(s)
3. All complaints must be signed by the complainant or an authorized representative.
4. Complaints should be addressed to the Department's ADA Coordinator:  
  
( \_\_\_\_\_ )  
Name and Address
5. You may request an informal meeting with the ADA coordinator to discuss your complaint and the Department's investigation of it.
6. You will receive a written response from the ADA coordinator within 60 days after the filing of your complaint.

Using this informal complaint procedure is not a requirement under federal regulations nor does it prevent you from filing a complaint with the appropriate federal enforcement agency.

If you are a current County Employee and you have an employment-related ADA complaint you should file a formal grievance using your department's existing employee grievance procedure.

Any retaliation, coercion, intimidation, threat, interference, or harassment for filing of a complaint is prohibited and should be reported immediately to the Department's ADA Coordinator.