

CIRCUIT COURT OF JACKSON COUNTY, OREGON

CIVIL DIVISION

22CV36402

MARK BAKER,

Case No.: _____

Plaintiff,

COMPLAINT PURSUANT TO THE
AMERICANS WITH DISABILITIES
ACT 42 U.S.C. §§ 12131 – 12134

vs.

CITY OF ASHLAND,

FEE AUTHORITY: \$281 - ORS 21.135(1),
(2)(A)

Defendant

I. COMPLAINT

MARK BAKER (Plaintiff) alleges:

II. INTRODUCTION

1. The city of Ashland, Oregon (City) discriminates against individuals with disabilities in violation of Title II of the Americans with Disabilities Act (ADA), 42 U.S.C. §§ 12131–12134, and its implementing regulation, 28 C.F.R. Part 35.
2. Title II of the ADA specifies that “no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.” 42 U.S.C. § 12132; 28 C.F.R. § 35.130(a).
3. In addition to the general prohibitions against discrimination, the ADA regulation requires that “no qualified individual with a disability shall, because a public entity’s facilities are inaccessible to or unusable by individuals with disabilities, be excluded from participation

1 in, or be denied the benefits of the services, programs, or activities of a public entity, or be
2 subjected to discrimination by any public entity.” 28 C.F.R. § 35.149.

3 4. The City installed devices called Rectangular Rapid Flashing Beacons along Siskiyou
4 Blvd. which pulse high energy rapidly flashing LED light, subjecting Plaintiff to
5 discrimination due to his qualified disability and neurological intolerance to such rapidly
6 flashing LED light.

7 5. The City has failed to hire and train a responsible employee (ADA Coordinator) to carry
8 out ADA coordination. 28 C.F.R. § 35.107(a).

9 6. The City has failed to implement the required transition plan. 28 C.F.R. § 35.150(d).

10 7. The City has failed to implement the required self-evaluation plan. 28 C.F.R. § 35.105.

11 8. The City lacks ADA Grievance Procedures. 28 C.F.R. § 35.107(b).

12 9. The City refuses to provide an audience to Plaintiff to discuss Plaintiff's ADA complaint.
13 28 C.F.R. § 35.107(b).

14 **III. THE PARTIES**

15 10. Plaintiff is Mark Baker

16 11. Defendant Ashland, Oregon is a “public entity” within the meaning of the ADA, 42 U.S.C.
17 § 12131(1)(A), and is therefore subject to the ADA.
18

19 **IV. JURISDICTION AND VENUE**

20 12. The Court has jurisdiction of this action under 28 U.S.C. §§ 1331 and
21 42 U.S.C. § 12133. The Court may grant declaratory and other relief pursuant to 28
22 U.S.C. §§ 2201 and 2202, and 42 U.S.C. § 12133.
23

1 13. Venue is proper in this District pursuant to 28 U.S.C. § 1391 because the City is located in
2 this District and all of the claims and events giving rise to this action occurred in this
3 District.

4
5 **V. STATEMENT OF FACTS**

6 14. Mark Baker (Plaintiff) is a resident of Ashland, Oregon. Plaintiff has been diagnosed with
7 Autism Spectrum Disorder which is a qualified ADA disability and is therefore protected
8 under the ADA.

9 15. City streets and sidewalks are public services (Barden vs. City of Sacramento, Case 01-
10 15744)

11 16. The City operates RRFBs along Siskiyou Blvd. at Beach Street, University Way, Garfield
12 Street, Garfield Street, Avery Street, Bridge Street, and Frances Lane. Figure 1 shows the
13 RRFBs installed at University Way.



23 *Figure 1 - RRFB at University Way*

1
2 17. The RRFBs shine exceedingly high intensity, rapidly flashing LED light into the eyes of
3 drivers and pedestrians. On numerous occasions, Plaintiff has been subjected to these LED
4 flashing lights, causing him to become disoriented, visually impaired, agitated, anxious and
5 fearful. The LED flashing lights have created discriminatory barriers that prevent plaintiff
6 from safely accessing public services such as sidewalks and roads in the City.

7 18. Plaintiff has made repeated requests to the City for accommodation to be protected from
8 RRFBs that will allow Plaintiff to safely access Siskiyou Blvd. The City refuses to provide
9 an audience for Plaintiff to discuss Plaintiff's request for accommodation.

10
11 **VI. CAUSE OF ACTION UNDER TITLE II OF THE ADA**

12 19. The allegations of Paragraphs 1-18 are hereby realleged and incorporated by reference

13 20. The City has discriminated against Plaintiff and other individuals with disabilities in
14 violation of the following Codes of Federal Regulation:

15 A. Denial of benefits. 28 C.F.R. §§ 35.130(a)

16 B. Unequal opportunity. 28 C.F.R. §§ 35.130(b)(1)(ii) and 28 C.F.R. §§ 35.130(b)(1)(iii)
17 and 28 C.F.R. §§ 35.130(b)(1)(vii)

18 C. Failure to accommodate. 28 C.F.R. §§ 35.130(b)(7)(i)

19 D. Failure to provide the most integrated setting. 28 C.F.R. §§ 35.130(d)

20 E. Failure to hire and train a responsible employee (ADA Coordinator) to carry out ADA
21 coordination. 28 C.F.R. § 35.107(a).

22 F. Failure to implement the required transition plan. 28 C.F.R. § 35.150(d).

1 G. Failure to implement the required self-evaluation plan. 28 C.F.R. § 35.105.

2 H. Failure to implement ADA Grievance Procedures. 28 C.F.R. § 35.107(b).

3 I. Failure to an audience to Plaintiff to discuss Plaintiff's ADA complaint. 28 C.F.R. §
4 35.107(b).

5
6 **XI. Relief Requested**

7 21. Therefore, Plaintiff requests that the Court enter judgment:

8 A. Declaring that Defendants have violated Title II of the ADA and its implementing
9 regulation;

10 B. Ordering the City to hire and train a responsible employee (ADA Coordinator) to
11 carry out ADA coordination. 28 C.F.R. § 35.107(a).

12 C. Ordering the City to implement the required transition plan. 28 C.F.R. § 35.150(d).

13 D. Ordering the City to implement the required self-evaluation plan. 28 C.F.R. § 35.105.

14 E. Ordering the City to implement ADA Grievance Procedures. 28 C.F.R. § 35.107(b).

15 F. Ordering the City to provide an audience to Plaintiff to discuss Plaintiff's ADA
16 complaint. 28 C.F.R. § 35.107(b).

17 G. Granting court costs and legal fees. 28 C.F.R. § 35.175.

18
19 Dated: October 21, 2022

20 Respectfully Submitted,

21 By: /s/ Mark Baker
22 9450 SW Gemini Drive PMB 44671
23 Beaverton, OR 97008
mbaker@softlights.org