

August 17, 2010, Brooklyn, NY: Today, plaintiffs RueZalia Watkins, Anthony Trocchia, and Clara Reiss, all people who are unable to travel long distances on their own or make use of the subway system because of their mobility impairments, along with Disabled In Action of Metropolitan New York and The Brooklyn Center for the Independence of the Disabled Inc., both non-profit agencies that advocate on behalf of disabled New Yorkers, filed suit against the Metropolitan Transit Authority (MTA) and New York City Transit (NYCT). They are challenging cuts to the City's bus system and its complementary paratransit system that leave them without public transportation service comparable to that provided to non-disabled people, in violation of their rights under the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973.

(Click for coverage at [WNYC](#) (8/18), [the New York Post](#) (8/18), and [the Brooklyn Eagle](#) (8/17), [NewYorkSubwayNews.com](#) (9/5) the [Bay Ridge Journal](#) (8/28) and [TransportationAccess.com](#) (8/21))

The plaintiffs are represented by South Brooklyn Legal Services (SBLS) (a program of Legal Services NYC), the New York Legal Assistance Group (NYLAG) and Emery, Celli, Brinckerhoff and Abady. Plaintiffs seek a permanent injunction reversing the MTA and NYCT service cuts and restoring paratransit services.

The lawsuit challenges city-wide service cuts implemented by the MTA and NYCT beginning on June 27, 2010, cutting eighty-nine bus lines. These service cuts have forced transit passengers either to travel a greater distance to an alternate bus route or to travel by subway rather than by bus. For Plaintiffs, however, both of these options are impossible, thus imposing a greater hardship on people with disabilities than on people without disabilities. And they cannot rely on the City's already overburdened paratransit system - Access-A-Ride - because rather than ensuring that additional resources are devoted to Access-A-Ride in anticipation of the increase in demand occasioned by the reduction in bus service, the Defendants have instituted or approved significant cuts to the system. There are approximately 138,000 individuals approved for Access-A-Ride and disabled riders made 5.8 million trips on Access-A-Ride in 2008; the June 27<sup>th</sup> transit cuts are estimated to eliminate 26,000 trips on Access-A-Ride each year.

The individual plaintiffs all are mobility-impaired and travel either via wheelchair or with a walker. Plaintiff RueZalia Watkins uses a manual wheelchair and lives in Brooklyn. Prior to the cuts, the buses were her main means of transportation and she routinely used the B39 bus to travel from her home in Brooklyn to her work in Manhattan. She utilizes Access-A-Ride, but deficiencies with this service mean that she must miss work obligations, and work on the weekend to make up for it. Lamenting the changes to her work schedule because of the service cuts, Ms. Watkins says that the "MTA has effectively denied disabled New Yorkers in the outer boroughs access to Manhattan."

Plaintiff Anthony Trocchia has Spinal Muscular Atrophy Type 3, uses a motorized wheelchair, and is eligible for Access-A-Ride. Prior to the Defendants' cuts to bus service, Mr. Trocchia relied on the bus system to travel from his home in Williamsburg, Brooklyn, to Manhattan. Gaps between platforms and subway cars make it almost impossible for him to use the subway. And the subway lines identified as replacements for his lost bus (J, M, Z), either do not have fully accessible stations in Manhattan, where he must go for doctors' appointments and other meetings, or do not run on the weekend. Advance booking required for Access-A-Ride means that there is no possibility of spontaneity or flexibility to deal with life's contingencies, such as a medical appointment being delayed. Mr. Trocchia fears the impact of the service cuts on disabled New Yorkers: "Elimination of any bus route tells wheelchair users to become shut-ins." "Either they didn't analyze the impact that these cuts were going to have on people with disabilities or they just don't care," says Plaintiff Clara Reiss, who lives in Manhattan. Ms. Reiss uses a walker because of the after-effects of polio. As the result of cuts to Access-A-Ride, Ms. Reiss' eligibility has been made contingent on the weather, even though her disability is not affected by the weather.

The plaintiffs' lawsuit asserts that the Defendants' actions violate both the Americans With Disabilities Act (ADA) and the Rehabilitation Act of 1973. The ADA mandates that public entities may not discriminate against people with disabilities and may not deny them the benefits of services provided to people without disabilities. And the law makes it clear that it is "discrimination" for a public entity which operates a fixed route system to fail to provide paratransit services that are "comparable to the level of designated public transportation services provided to individuals without disabilities using such system." This includes response time, which also must be comparable, to the extent practicable, to the level of designated public transportation services provided to individuals without disabilities. 42 U.S.C. § 12143(a) (2). Section 504 of the Rehabilitation Act of 1973 prohibits discrimination against a protected class by any program which receives federal assistance. Said Pavita Krishnaswamy of SBLS, "the service cuts implemented by the MTA on June 27, 2010, are impermissibly depriving mobility impaired New Yorkers of the opportunity to participate fully in the rich economic, educational, recreational and cultural activities available to the rest of New York."

"It is unacceptable that special-needs riders, and others who depend solely on bus lines to travel for work and to other boroughs, as well as individuals who ride during overnight hours are now subjected to finding other means of transportation, or not traveling at all. Taking the bus is simply a better option for the mobility-impaired because of the lack of elevators at most MTA subway stops," said Council Member Letitia James, who supports the suit.

"The MTA provided absolutely no accessible public transportation until people with mobility impairments sued them in the early 1980s. Two lawsuits ultimately resulted in the current fully accessible bus service, the existence of the paratransit system, and limited improvements in accessibility of the subway system. It is a shame that it now requires another lawsuit to

maintain access to public transportation for people with mobility impairments in this city," said Jane Greengold Stevens of NYLAG, who was lead attorney on one of the two suits in the 80s.

Jean Ryan, the Vice President for Public Affairs for Disabled in Action, explains: "The MTA bus cuts are devastating for people with mobility disabilities. We are functioning members of society! Many of us cannot use the subways which are mostly inaccessible in the outer boroughs and unreliable if there. To have to walk extra blocks or change to multiple bus routes is too much for many people with disabilities. The MTA took away our accessible means of getting to other boroughs and getting around in our own boroughs. We are back to the old days of being stuck in our homes. This impacts our ability to work, to seek medical care, to have fun, to do volunteer work, and to see friends. Disabled In Action says bring back the buses!" Disabled In Action of Metropolitan New York is a plaintiff in the case.

Mobility-impaired people in Brooklyn who previously relied on the buses to get to Manhattan are particularly affected by the cuts. As stated by Marvin Wasserman, the Executive Director of Brooklyn Center for the Independence of the Disabled, which is a plaintiff in the suit: "persons with disabilities in Brooklyn have suffered a disproportionate share of MTA's transit cuts, as far more bus routes were cut in Brooklyn than any other borough. In particular, wheelchair users who have relied on bus service to Manhattan to go to jobs, medical appointments, and socialization have found their lives seriously disrupted. The TLC's proposal to replace some of these routes with so-called 'dollar-vans' does not assure wheelchair users that they will be able to use them."

Marty Markowitz, the Brooklyn Borough President, is similarly concerned: "Some of these routes may not be the most heavily used, but they are absolute lifelines for riders with disabilities or who are elderly. There is simply no reasonable way for people with mobility and accessibility issues who cannot take the subway-especially considering many stations are not ADA-compliant-to get around with cuts to these vital bus routes and Access-A-Ride."

And, emphasizes New York State Assembly Member Joan L. Millman, the MTA's budget shortfall should not be balanced on the backs of those least able to adjust to service cuts: "Seniors, people with disabilities and students who rely heavily on these buses are left with no feasible alternatives. Contrary to what the MTA says, subway service does not replicate bus service. Many stations are not accessible and, in many cases, stations that are accessible have stairs which people with disabilities cannot navigate. During these difficult economic times, governments have to learn how to operate more efficiently. This goes for the MTA as well."

Plaintiffs are seeking a declaration that the Defendants' failure to provide people with disabilities with access to public transportation violates the ADA and Section 504 and a permanent injunction directing the Defendants to restore bus service and maintain Access-A-Ride service necessary to provide to people with mobility impairments access to public transportation comparable to that provided to non-disabled riders.

### **About South Brooklyn Legal Services**

South Brooklyn Legal Services, a program of Legal Services NYC, is dedicated to helping low-income residents of Southern and Western Brooklyn with their civil legal problems. It ensures equal access to justice for the people of Brooklyn by providing free counsel and legal advice to those who would otherwise be unable to afford it.

### **About New York Legal Assistance Group**

The New York Legal Assistance Group (NYLAG), founded in 1990, is a not-for-profit law office providing free civil legal services to low-income New Yorkers. A full service agency, NYLAG provides consultation, representation, and advocacy. In 2009, NYLAG directly served more than 46,000 individuals and NYLAG's Special Litigation Unit (SLU) helped thousands of additional clients through successful impact litigation.

### **About Disabled in Action of Metropolitan New York**

Disabled In Action of Metropolitan New York (DIA) is a membership organization that advocates for the civil rights of, and services for, people with disabilities. DIA has been a plaintiff in previous civil rights lawsuits on behalf of people with disabilities, including a lawsuit to obtain ADA-compliant paratransit services for people with disabilities in New York City.

### **About Brooklyn Center for the Independence of the Disabled**

Brooklyn Center for the Independence of the Disabled, Inc. ("BCID") is a not-for-profit membership organization located in Brooklyn, NY. The organization's mission is to empower people with disabilities by improving the quality of their lives and fostering their integration into the mainstream of society. BCID attempts to achieve these goals through provision of services, as well as by advocating for the removal of physical, attitudinal, and communication barriers for people with disabilities.