

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Honorable Marcia S. Krieger

Civil Action No. 06-cv-00865-MSK-BNB

COLORADO CROSS-DISABILITY COALITION, a Colorado non-profit Corporation,
LAURA HERSHEY,
CARRIE ANN LUCAS,
HEATHER REBEKAH RENEE LUCAS, by and through her parent and next friend, CARRIE
ANN LUCAS,
ADRIANNE EMILY MONIQUE LUCAS, by and through her parent and next friend, CARRIE
ANN LUCAS,
ASIZA CAROLYN KOLENE LUCAS, by and through her parent and next friend, CARRIE
ANN LUCAS, and
DANIEL WILSON,

Plaintiffs,

v.

THE CITY AND COUNTY OF DENVER,

Defendant and Third Party Plaintiff,

v.

SEMPLE BROWN DESIGN, P.C.,

Third Party Defendant.

**ORDER GRANTING UNOPPOSED MOTION TO AMEND,
GRANTING UNOPPOSED MOTION FOR CLASS CERTIFICATION,
GRANTING JOINT MOTION FOR PRELIMINARY APPROVAL OF
THE CLASS ACTION SETTLEMENT AGREEMENT, AND
DENYING MOTIONS, AS MOOT**

THIS MATTER comes before the Court on the Plaintiffs' Unopposed Motion for Leave to File Their Fourth Amended and Supplemental Class Action Complaint (**#157**), the Plaintiffs'

Unopposed Motion for Class Certification (**#158**), and the Plaintiffs' and Defendant/Third Party Plaintiff the City and County of Denver's Joint Motion for Preliminary Approval of Class Action Settlement Agreement and for Fairness Hearing (**#159**). Based upon the representations and stipulations of the parties, the Court **ORDERS** that:

1. The Plaintiffs' Unopposed Motion for Leave to File Their Fourth Amended and Supplemental Class Action Complaint (**#157**) is **GRANTED**.

2. The Plaintiffs' Unopposed Motion for Class Certification (**#158**) is **GRANTED**.

All requirements of Fed. R. Civ. P. 23 being satisfied, the following class is certified:

All persons with disabilities who are currently or have been in the past four years residents of the State of Colorado who use wheelchairs or scooters for mobility who, within four years prior to the filing of the complaint in this Lawsuit, were denied or are being denied, full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of the Ellie Caulkins Opera House.

3. Amy F. Robertson and Kevin W. Williams are **CERTIFIED** as class counsel.

4. Laura Hershey, Carrie Ann Lucas, and Daniel Wilson are **CERTIFIED** as class representatives.

5. The Plaintiffs' and Defendant/Third Party Plaintiff the City and County of Denver's Joint Motion for Preliminary Approval of Class Action Settlement Agreement and for Fairness Hearing (**#159**) is **GRANTED**. The Settlement Agreement is preliminarily approved.

6. A fairness hearing is set for **February 23, 2009 at 4:00 p.m.** in Courtroom A901 of the United States Courthouse located at 901 19th Street, Denver, Colorado, for purposes of considering final approval of the Settlement Agreement.

7. The parties' proposed notice of the Settlement Agreement (Exhibit 3 to the Settlement Agreement) and proposed manner of notice are constitutionally adequate. Notice of the Settlement Agreement shall be given to class members in the manner stated in the Settlement Agreement.

8. The Defendant/Third Party Plaintiff's Motion for Summary Judgment (#131), the Plaintiffs' Motion for Partial Summary Judgment (#133), and the Defendant's Motion for Relief Pursuant to Rule 56(f) (#147), are **DENIED**, as moot.

Dated this 22nd day of October, 2008

BY THE COURT:

A handwritten signature in black ink that reads "Marcia S. Krieger". The signature is written in a cursive style with a horizontal line underneath it.

Marcia S. Krieger
United States District Judge