

**IN THE UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
AT NASHVILLE**

GEORGE LANE and BEVERLY )  
JONES )

Plaintiffs )

v. )

STATE OF TENNESSEE, and its )  
political subdivisions, POLK )  
COUNTY, BLEDSOE COUNTY, )  
CANNON COUNTY, CHESTER )  
COUNTY, CLAIBORNE COUNTY, )  
COCKE COUNTY, DECATUR )  
COUNTY, FAYETTE COUNTY, )  
GRAINGER COUNTY, HANCOCK )  
COUNTY, HAWKINS COUNTY, )  
HICKMAN COUNTY, HOUSTON )  
COUNTY, JACKSON COUNTY, )  
JEFFERSON COUNTY, )  
JOHNSON COUNTY, LAKE )  
COUNTY, LEWIS COUNTY, )  
MEIGS COUNTY, MOORE )  
COUNTY, PERRY COUNTY, )  
PICKETT COUNTY, )  
TROUSDALE COUNTY, and VAN )  
BUREN COUNTY )

Defendants. )

No. \_\_\_\_\_  
3 98-0731

JUDGE HIGGINS

**COMPLAINT**

(Filed Aug. 10, 1998)

Comes the plaintiffs, George Lane and Beverly Jones, by and through counsel, who would hereby sue the defendants noted above and for cause would show as follows:

I.

**PARTIES**

(a) The Plaintiff George Lane: The plaintiff Lane is a citizen and resident of Polk County, Tennessee. He is a qualified individual with a disability as is defined by 42 U.S.C. 12131(2) in that he is a paraplegic and is and has been in need of the services of the judicial division of the State of Tennessee and its political subdivisions. It is hereby requested that he be allowed to serve as a class representative for all qualified individuals with a disability needing the services of the judicial division of the State of Tennessee and its political subdivisions.

(b) The Plaintiff Beverly Jones: The plaintiff Jones is a citizen and resident of Macon County, Tennessee and resides at 143 Carter Circle, Woodland Estates, Lafayette, Tennessee. She is a qualified individual with a disability as is defined by 42 U.S.C. 12131(2) in that she is a paraplegic and confined to a wheelchair. Plaintiff Jones is a certified court reporter who makes her living by attending judicial proceedings throughout the State of Tennessee and recording those proceedings on behalf of attorneys and parties that present their cases before the courts of this State. She is, and has been, in need of the services of the judicial division of the State of Tennessee and its political subdivisions for the purpose of supporting herself and her family by being allowed to attend court proceedings and transcribing those proceedings. It is hereby requested that she be allowed to serve as a class representative for all qualified individuals with a disability needing the services of the judicial division of the State of Tennessee and its political subdivisions.

(c) The Defendants: The State of Tennessee is a political subdivision of the United States of America and as such it and its political subdivisions are subject to the laws of the United States of America. They are specifically charged under the terms of the United States Constitution and the Tennessee Constitution with providing the service of courts and judicial proceedings and other manifestations of that process such as courtrooms, clerk's offices and public meeting rooms that are conducted in the courthouses of the State of Tennessee. Polk County, Bledsoe County, Cannon County, Chester County, Claiborne County, Clay County, Cocke County, Decatur County, Fayette County, Grainger County, Hancock County, Hawkins County, Hickman County, Jackson County, Jefferson County, Johnson County, Lake County, Lewis County, Meigs County, Moore County, Perry County, Pickett County, Trousdale County, and Van Buren County are all political subdivisions of the State of Tennessee and are required under the Constitution of the State of Tennessee to provide courthouses that provide services to all persons including citizens of this State and qualified individuals with disabilities as defined [sic] by 42 U.S.C. 12131. Don Sundquist is the chief executive officer of the State of Tennessee. Each of the named counties has an individual county executive upon whom service of process shall be provided.

## II.

### JURISDICTION

This court has jurisdiction over the matters contained in this complaint pursuant to the provisions of the Americans with Disability Act (ADA) 42 U.S.C. 12131 et seq., 29 U.S.C. 794a and 28 C.F.R. 35.101 et seq.

III.

**PLAINTIFF LANE'S PROCEDURAL HISTORY**

(a) That as noted above, the plaintiff, George Lane is a paraplegic and as such is a qualified individual with a disability as defined by 42 U.S.C. 12131(2).

(b) In May and September of 1996, the plaintiff Lane, hereinafter referred to as Lane, had two sets of criminal charges brought against him by law enforcement in Polk County, Tennessee in the name of the State of Tennessee and under the laws of the State of Tennessee. Lane was required by the orders of the court to appear at the Polk County Courthouse in Benton, Tennessee to answer the charges.

(c) All court proceedings and all clerk's offices that support the court systems of Polk County, Tennessee are conducted on the second floor of the courthouse. The only access to the courtrooms and courts, up until June of 1998, was by one of two staircases. Lane was required to crawl up two flights of stairs to get to the courtroom to meet the requirements of his appearance before the General Sessions Court for Polk County, Tennessee. Lane was arraigned and told to appear at a later date for his hearing. Lane appeared and, not desiring to go through the humiliation of crawling up the stairs again, waited on the first floor of the courthouse and sent word to the court that he would not crawl to the courtroom again. Lane also declined to be carried by officers to the courtroom. The court issued an attachment for his arrest, and he was arrested and taken to jail.

(d) Lane was later released from custody and retained counsel to represent him. Thereafter, Lane attended his

court proceedings by waiting downstairs from the courtroom and having his attorney shuttle back and forth with information concerning his case. During this time, Lane did not have an opportunity to view the court processes in any way because of his inability to get to the courtroom.

(e) On February 24, 1997, a preliminary hearing was held in the Courthouse library concerning his charges. This was done over his attorney's objections in that the proceedings were held [sic] a location that was not regularly frequented by the public. His case was bound over to the Polk County Grand Jury.

(f) On March 17, 1997, the Polk County Grand Jury reported two misdemeanor indictments against Lane. On that date Lane's counsel appeared on his behalf advising the court that Lane was on the first floor of the courthouse and could not come to the courtroom because of the requirement to climb the stairs to the courtroom. Counsel then requested the court to continue the arraignment until such time as the courthouse could be made to conform to the requirements of the Americans with Disability Act. The court declined, and without arraigning Lane, set the case for trial.

(g) On or about April 23, 1997, Lane's counsel filed an application for extraordinary appeal to the Tennessee Court of Criminal Appeals raising the issue of Lane's not being able to get to the courtroom and the fact that the courthouse did not accommodate handicapped individuals. The Attorney General for the State of Tennessee argued in his brief that this failure to provide services to Lane should be condoned and that Lane should be required to stand trial at the Polk County Courthouse despite his inability to get to the courtroom. This appeal was denied.

On or about June 24, 1997, Lane filed an application for extraordinary appeal to the Supreme Court of the State of Tennessee. Again, the Attorney General argued to the court that the court should ignore this violation of Lane's rights under the ADA. This appeal was likewise denied on or about September 2, 1997.

(h) On or about December 12, 1997, the Honorable Carroll Ross signed an order holding all criminal proceedings in abeyance until the completion of the construction of an elevator that would permit access to the courtrooms and clerk's offices in the Polk County Courthouse. The construction of this elevator was completed in June of 1998.

(i) Other than the proceeding where Lane crawled to the courtroom and his preliminary hearing in the library, he was unable to attend any court proceedings in the Polk County Courthouse until the installation of the elevator in June of 1998, and has been denied access to the services of the court that are conducted therein.

(j) That the Polk County Courthouse still fails to meet the requirements of the American's with Disabilities Act with reference to access to restroom facilities.

#### IV.

#### **POLK COUNTY'S HISTORY CONCERNING THE AMERICANS WITH DISABILITY ACT**

(a) That on January 26, 1992, regulations were established by the United States Department of Justice that made provisions for State and Local governments of the United States to meet the requirements of the ADA. These regulations were published by the Department of

Justice as 28 C.F.R. Part 35 pursuant to the provisions of 42 U.S.C. 12134. As a part of that regulation, all public entities were required to evaluate its services, policies and practices and the effects thereof and make modifications within one year of the effective date of the regulation. 28 C.F.R. 35.105.

(b) In October of 1992, the Polk County Commission had brought to its attention the requirement of the ADA and the commission appointed a review committee to review the facilities condition. In May of 1993, the ADA Committee for Polk County prepared a Self-Evaluation and analysis and transition plan. This plan specifically found that the county buildings did not conform to the requirements of the ADA. On October 20, 1994, the Polk County Commission specifically voted not to construct an elevator in the courthouse, despite the recommendations of the County ADA Committee.

(c) That Polk County has, as a matter of policy, refused to come into compliance with the ADA until such time as the plaintiff initiated a grievance procedure. This grievance was filed on October 31, 1996. A series of meetings were held with the Grievance Committee and before the Polk County Commission. However, it was not until November of 1997, that the Polk County Commission acted to authorize the construction of an elevator to meet the requirements of the ADA. All the while the plaintiff was compelled to present his defense against these violations in court. While Polk County has constructed an elevator, it still fails to have its courthouse comply with the requirement of the ADA.

(d) Throughout these proceedings, the plaintiff has suffered extreme humiliation and embarrassment, as well

as incurring legal expenses in attempting to resist this illegal and discriminatory activity of the defendant, Polk County, while attempting to resolve this matter through the grievance process.

(e) That there are hundreds of individuals who are similarly situated with George Lane and being handicapped who have had and continue to have a need, requirement, or desire to participate in the judicial process of Polk County, Tennessee.

## V.

### PLAINTIFF JONES PROCEDURAL HISTORY

(a) Plaintiff Jones, hereinafter referred to as Jones, is a paraplegic confined to a wheelchair because of an automobile accident in 1989. She is currently responsible for the care and support of two minor children. Jones is a certified court reporter. She became certified and has actively worked in her chosen field since 1990. She works out of her home and is called upon by attorneys and other parties to work all over Middle Tennessee in her profession. This specifically includes going to courthouses for the purposes of recording proceedings before the state courts in proceedings conducted in those courthouses. Her inability to gain access to the courtroom has caused her to continue to have difficulty accessing the services of the judiciary.

(b) She has specifically attempted to gain access to the courthouses in Trousdale, Jackson, Clay and Pickett Counties. Jones has not been able to gain access to the courtrooms due to the lack of handicap access to the courtrooms used in those counties. She would also be



prepared to appear in any and all other courthouses of this state to provide services to the courts, attorneys and parties, if called upon to do so.

(c) Jones has specifically brought to the attention of authorities in the four defendant counties, Trousdale, Jackson, Clay and Pickett, their failure to comply with the requirements of the ADA, yet, with the exception of Trousdale County, they have failed to comply with the requirements. Trousdale County installed an elevator in 1998, however the courtroom itself is set up where Jones cannot gain access to the court proceedings. The proceedings occur on an elevated platform to which she cannot gain ready access.

(d) As a direct result of the courthouses located in Trousdale, Jackson, Clay and Pickett Counties of this State not complying with the ADA Jones has lost work and an opportunity to participate in the judicial process because of her inability to gain access to their courthouses.

## VI.

### **THE STATE OF TENNESSEE'S AND OTHER DEFENDANT'S HISTORY CONCERNING THE AMERICANS WITH DISABILITY ACT**

(a) That the State of Tennessee administers its judicial functions in the county courthouses of each of the counties of this state. As a part of that function, the State of Tennessee provides services through these buildings to all of its citizens and others. It is in these buildings that virtually all trial level judicial proceedings, civil and criminal, are conducted. In addition, these buildings house clerk's offices where the court's records are maintained. As a part of these proceedings, individuals are called upon to

participate as parties in civil and criminal proceedings, or participate as witnesses and jurors, and go to these offices to take care of public business in the form of filing papers and researching records, and have a fundamental right under the Tennessee State Constitution to participate and view the judicial proceedings that are conducted in those courtrooms.

(b) That like Polk County and the other named defendants, the State of Tennessee is required to conform to the Department of Justice regulations found at 28 C.F.R. Part 35 and is required to do an evaluation of the facilities in which its services are rendered.

(c) That despite this evaluation process and the requirement of the ADA, the State of Tennessee persisted in requiring Lane to participate in services and proceedings in a building that failed to comply with the law, or alternatively not allowing him access to the same services and proceedings of other citizens of the State and County who are not individuals with a disability. This was despite the fact that the officials of the State of Tennessee were repeatedly confronted with the State and county's failure to comply with the ADA. The State of Tennessee has repeatedly failed to comply with the law. Specifically, counsel for the plaintiff Lane raised the ADA issue at every appearance required of plaintiff to the court and the District Attorney General's office. Counsel addressed a letter directly to Charles Burson, Attorney General for the State of Tennessee, on December 4, 1996 after making repeated phone calls to his office. None of these phone calls or the letter were responded to in any way. Plaintiff Lane appealed the State Trial judges requirements to proceed with the case to all levels of the judiciary of the State of Tennessee. Each time, the office of the Attorney

General insisted on ignoring the legal violation and advocating the same to each court, and the State courts specifically ignored the uncontradicted facts that were presented to them.

(d) That the State of Tennessee and other named defendants persist on conducting their judicial proceedings in facilities that do not conform to the requirements of the ADA and as such deny to all citizens similarly situated the right to participate in the judicial process of this State as conducted in the defendant counties. Specifically, the State of Tennessee conducts its judicial proceedings in county courthouses that do not comply with the access requirements of the ADA. Those counties are: Bledsoe County, Cannon County, Chester County, Claiborne County, Clay County, Cocke County, Decatur County, Fayette County, Grainger County, Hancock County, Hawkins County, Hickman County, Jackson County, Jefferson County, Johnson County, Lake County, Lewis County, Meigs County, Moore County, Perry County, Pickett County, Trousdale County, and Van Buren County. There may well be other counties that do not fully comply with the requirements of the ADA. These defendants, like Polk County, have had a duty to comply with the requirement of the law since 1992, yet they have knowingly and intentionally failed to cause their courthouses to conform to the ADA.

(e) That there are thousands of individuals who reside in the State of Tennessee and have a need, as well as a right, to participate in the judicial processes of this State without the obstructions associated with the physical condition of the States Courthouses. In the year 1998, the State of Tennessee had issued over 200,000 handicapped placards for people with physical handicaps.

Despite the fact that the regulations and law of the United States dictates [sic] that these obstructions be eliminated, the State of Tennessee and its subordinate political bodies have failed to bring these buildings into compliance.

## VI.

### CAUSES OF ACTION

(a) That the State of Tennessee and Polk County have discriminated against the plaintiff, George Lane in that they have excluded him from participation in, or denied him the benefits of, the services of its court systems in violation of 42 U.S.C. 12132.

(b) That the State of Tennessee, Trousdale County, Jackson County, Clay County, and Pickett Counties specifically, and the other defendants generally, have discriminated against the plaintiff Beverly Jones in that they have excluded her from participating in the services offered by the courthouses and access to the Court proceedings of this State by failing to eliminate physical obstacles to her participation in the judicial processes of this State in violation of 42 U.S.C. 12132.

(c) That the State of Tennessee and Bledsoe County, Cannon County, Chester County, Claiborne County, Clay County, Cocke County, Decatur County, Fayette County, Grainger County, Hancock County, Hawkins County, Hickman County, Jackson County, Jefferson County, Johnson County, Lake County, Lewis County, Meigs County, Moore County, Perry County, Pickett County, Trousdale County, and Van Buren County knowingly and intentionally continue to discriminate against George Lane, Beverly Jones and all other individuals similarly situated who

have a need, responsibility, or desire to attend the judicial process of this state as it is conducted in the Courthouses of this State in that they conduct their judicial proceedings in facilities that are not in conformance with the requirements of the ADA. Further, there may be other counties of this State that have failed to fully comply with the requirement of the ADA.

(d) That the actions of the State of Tennessee and Polk Country, Trousdale, Jackson, Clay and Pickett Counties and the other named defendants were conscious, deliberate, and intentional in their active discrimination against the plaintiffs, George Lane and Beverly Jones, and all other similarly situated handicapped individuals of this State. That Polk County's consistent insistence in continuing the prosecution of Lane's case, without delay and despite plaintiff's inability to gain access to the courtroom, was with full knowledge of his disability and their knowledge of the requirement to conform to the ADA.

(e) That the actions of the State of Tennessee, Trousdale County, Jackson County, Clay County, and Pickett County were conscious, deliberate, and intentional in their active discrimination against the plaintiffs, George Lane and Beverly Jones and all other similarly situated handicapped individuals of this State. That their persistent presentation of the actions of the judicial process was with full knowledge of plaintiffs' disability and with their knowledge of the requirements to conform to the ADA.

(f) That the actions of the State of Tennessee and the other defendant counties were conscious, deliberate, and intentional in their active discrimination against all other similarly situated handicapped individuals of this State.

That their persistent presentation of the actions of the judicial process, knowing that handicapped individuals were unable to gain access to the courtrooms, was with full knowledge of their disabilities and their knowing failure to meet the requirements to conform to the ADA.

(g) That in the alternative, the actions of the State of Tennessee and said counties were knowing and resulted from the defendants' negligence in complying with the law.

(h) That as a result of the defendants' actions, the plaintiff Lane has suffered damages in the form of extreme embarrassment, and humiliation and anxiety of the delays associated with this case. In addition, he has incurred attorney fees and expenses including court costs in excess of \$600 assessed by the State of Tennessee for his asking the appellate courts of the State of Tennessee to delay his prosecution until the Polk County Courthouse was brought into compliance with the ADA.

(i) That as a result of the defendants' actions, the plaintiff Jones has suffered damages in the form of extreme embarrassment, and humiliation in attempting to gain access to the services provided by the State of Tennessee and Trousdale, Jackson, Clay and Pickett Counties and not being able to be accommodated. In addition, plaintiff has suffered lost wages and earnings associated with her inability to conduct her profession in said counties' courtrooms.

## VII.

### **REQUEST FOR CERTIFICATION** **AS CLASS ACTION**

(a) Now come the plaintiffs, who in addition to bringing this action on behalf of themselves, would request

this court to certify them as class representatives pursuant to the provisions of Rule 23 of the Federal Rules of Civil Procedure, on behalf of all individuals residing in the State of Tennessee who are qualified individuals with a physical disability that prevent them from climbing stairs or walking up steep inclines in the courthouses of the named defendants. These individuals have been subjected to discrimination like the plaintiffs and continue to experience this discrimination and the denial of services. Each of these individuals have [sic] the right to attend judicial proceedings in the courthouses of this state and specifically the named defendant counties and would currently not have access to the judicial processes in the named defendant counties without going through the humiliation and embarrassment that the plaintiffs George Lane and Beverly Jones have been forced to endure. In addition, these individuals may be called or have cause to participate in those proceedings as parties, witnesses or jurors.

(b) Plaintiffs would show that the certification of this class is proper in that (1) the class is so numerous that joinder of all members is impracticable, (2) there are questions of fact and law that are common to the class, (3) the claims and defenses of the representative party is [sic] typical of the claims and defenses of the class, and (4) the representative party will fairly and adequately protect the interest of the class.

(c) Plaintiffs would further show that the defendants have acted, or refused to act, on grounds generally applicable to the class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the class as a whole. Further, that the questions of fact and fact common to the members of the class predominate over any questions affecting only individual

members. A class action is superior to other available methods for the fair and efficient adjudication of the controversy.

### VIII.

#### **REQUEST FOR RELIEF**

WHEREFORE, Plaintiff would hereby request this Honorable Court to:

1. Render judgment against the State of Tennessee and Polk County for damages for the plaintiff Lane's humiliation and embarrassment during the course of these proceedings in an amount not to exceed \$100,000 as well as his attorney fees, cost and expenses pursuant to the provisions of 42 U.S.C. 12133 and 29 U.S.C. 794a. for defending him in the grievance procedure, his vindication of his rights in the state court, and for bringing this action.

2. Render judgment against the State of Tennessee, Trousdale, Jackson, Clay and Pickett Counties for damages for the plaintiff Jones' humiliation and embarrassment associated with her attempting to gain access to the defendants' courthouses and for her damages associated with her lost earnings associated with her inability to work in said courthouses in an amount not to exceed \$250,000 as well as her attorney fees, cost and expenses pursuant to the provisions of 42 U.S.C. 12133 and 29 U.S.C. 794a. for bringing this action.

3. That this court certify this as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure and that proper notice be given to all individuals in the class in order that they may make the proper elections.



4. That this court take such actions necessary and proper through declaratory judgment and injunctive relief to compel the State of Tennessee and other defendants to comply with the provisions of the Americans with Disability Act, and further award such damages to the class representatives as are fair and proper. Further that this court award damages to each member of the class for said humiliation and embarrassment associated with the defendants failure to comply with the ADA. Further that the court compel the State of Tennessee to do a survey of all counties of the State of Tennessee to determine if they in fact fully comply with the provisions of the State of Tennessee, and if they fail to do so join them as party defendants and compel them to comply with the ADA.

5. That this court grant general relief to the plaintiff and all other persons that are members of the class.

Respectfully Submitted,  
George Lane, and  
Beverly Jones, Plaintiffs

By: /s/ William Brown  
William J. Brown, Attorney  
23 N. Ocoee, P.O. Box 1001  
Cleveland, TN 37364-1001  
(423) 476-4515  
TBPR # 005450

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