

NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION LAWSUIT

ATTENTION: All persons with a mobility and/or vision disability who currently or in the future will use or attempt to use (1) Caltrans sidewalks, cross-walks, pedestrian overcrossings, pedestrian undercrossings, other outdoor pedestrian walkways; (2) Caltrans Park and Ride facilities; and/or (3) other Caltrans's facilities in the public right of way, such as certain highway shoulders or temporary routes through and around work zones, owned and/or maintained by the California Department of Transportation ("Caltrans"). You may be a member of the proposed settlement class affected by this lawsuit.

PLEASE READ THIS NOTICE CAREFULLY. YOUR RIGHTS MAY BE AFFECTED BY LEGAL PROCEEDINGS IN THIS LITIGATION.

NOTICE OF CLASS ACTION

The purpose of this notice is to inform you of the proposed settlement in two pending class action lawsuits brought on behalf of people with mobility and/or vision disabilities. The class action settlement (the "Settlement Agreement"), which must be approved by the Court, was reached in connection with two lawsuits, *Californians for Disability Rights, et al. v. California Department of Transportation, et al.*, N.D. Cal. Case No. C 06-5125 SBA and *Californians for Disability Rights, et al. v. California Department of Transportation, et al.*, Alameda County Superior Court No. RG08376549. The lawsuits, filed in 2006 and 2008 respectively, allege that the California Department of Transportation ("Caltrans") has discriminated against persons with mobility and/or vision disabilities by denying them access to sidewalks, cross-walks, pedestrian overcrossings, pedestrian undercrossings, other outdoor pedestrian walkways ("pedestrian facilities") and Park and Ride facilities owned or maintained by Caltrans. The Defendants deny any liability or wrongdoing.

THE SETTLEMENT CLASS

If you are a person with a mobility and/or vision disability, and you currently or in the future will use or attempt to use (1) Caltrans sidewalks, cross-walks, pedestrian overcrossings, pedestrian undercrossings, other outdoor pedestrian walkways; (2) Caltrans Park and Ride facilities; and/or (3) other Caltrans's facilities in the public right of way, such as certain highway shoulders or temporary routes through and around work zones, owned and/or maintained by the California Department of Transportation ("Caltrans"). You may be a member of the proposed settlement class affected by this lawsuit. Please read this notice carefully because your rights may be affected.

SUMMARY OF THE PROPOSED SETTLEMENT AGREEMENT

Access Barrier Removal in Existing Facilities

The settlement agreement provides that Caltrans will spend \$1.1 billion over the next 30 years to remove access barriers along existing pedestrian facilities and within existing Park and Ride facilities. Caltrans will allocate funding to access barrier removal work according to the following schedule: \$25 million per year for the first five years; \$35 million per year for the following ten years; \$40 million per year for the following 10 years; and \$45 million per year for the last five years. The annual allocations will come from dedicated federal and state transportation funding.

Access Requests and Priority Guidelines For Removal of Access Barriers

The \$1.1 billion fund for removal of existing access barriers along pedestrian facilities and within Park and Ride facilities will be distributed as follows:

First, Caltrans will consider, in the distribution of the funds, access requests as well as needs identified by the Department. Individuals, organizations, public agencies, cities, and/or local government entities may submit access requests relating to Caltrans pedestrian facilities and Park and Ride facilities by: (1) filing a grievance or (2) submitting a non-grievance access request. Filing a grievance triggers a formal process which requires the grievant to submit a written grievance and which sets deadlines for Caltrans to act. Alternatively, access requests may be submitted to Caltrans, without filing a grievance, in order to report an access barrier. Access barriers identified through access requests and access barriers already identified by Caltrans will be removed according to the following general order of priorities: (i) access barriers that are the most severe and most significant safety hazard for class members; (ii) access barriers along pedestrian facilities and/or within Park and Ride facilities serving State and local government offices and facilities, (iii) access barriers along pedestrian facilities and/or within Park and Ride facilities serving important transportation corridors; (iv) access barriers along pedestrian facilities and/or within Park and Ride facilities serving places of public accommodation such as commercial and business zones; (v) access barriers along pedestrian facilities and/or within Park and Ride facilities serving facilities containing employers; and (vi) access barriers along pedestrian facilities and/or within Park and Ride facilities serving other areas such as residential neighborhoods and undeveloped areas.

Second, to the extent additional funds are available after removing access barriers identified through access requests and access barriers already identified by Caltrans, Caltrans will then survey its existing facilities to identify other existing access barriers. Caltrans will use the same prioritization listed above for the removal of access barriers identified through Caltrans' surveys.

Access to Newly Constructed and Altered Facilities

In addition to the \$1.1 billion fund for removal of access barriers in existing facilities, Caltrans has agreed that when it resurfaces its roadways, it will upgrade existing but non-compliant curb ramps and/or install new curb ramps where they are lacking along the sidewalks adjacent to the resurfacing project. Caltrans will also ensure that it follows

federal and state accessibility guidelines when undertaking new construction or alterations of pedestrian facilities and/or Park and Ride facilities.

Access to Temporary Routes Through and Around Construction

Caltrans will provide access at Temporary Routes and access at Work Zones as specified in the Settlement Agreement. Caltrans will make its best efforts to ensure that Temporary Routes, when provided through and around Work Zones, are accessible to pedestrians with disabilities

Resolution of Claims

This Settlement Agreement resolves all claims for injunctive relief. The Settlement Agreement does not provide for any monetary relief to be paid to any plaintiffs or members of the class or release any damage claims such class members may have.

Attorneys Fees

The class was represented by Disability Rights Advocates, AARP Foundation Litigation and Jose R. Allen, Esq. ("Class Counsel"). The settlement agreement provides that the Court will decide the amount of fees and costs that should be awarded to Class Counsel. The parties have agreed that the award may range between \$3.75 million and \$8.75 million for reasonable attorneys fees for time expended and up to \$391,477 for costs incurred during the course of the two lawsuits. The parties may agree upon an amount within this range through further negotiations or alternative dispute resolution, but any such agreement will be subject to Court approval.

Fairness of Agreement

The class representatives and Class Counsel have concluded that the terms and conditions of the proposed Settlement Agreement are fair, reasonable, and in the best interests of the class. In reaching this conclusion, the class representatives and Class Counsel have considered the benefits of the settlement, the possible outcomes of continued litigation of these issues, and the expense and length of continued litigation and possible appeals.

OBJECTIONS TO THE SETTLEMENT

The Court has given preliminary approval of the Settlement Agreement, and has scheduled a hearing for April 27, 2010 at 1:00 p.m. in the Courtroom of the Honorable Sandra Brown Armstrong, United States District Court for the Northern District of California, 1301 Clay Street, Oakland, CA 94612, to determine whether the proposed settlement is fair and reasonable and should be finally approved. Although you are not required to attend, as a Class Member, you have the right to attend and be heard at this hearing. This hearing date may be changed by the Court without further notice to the entire class. If you wish to be on the service list to be informed of any changes to the schedule, please file a notice of appearance or objection with the Court.

Any Class Member may object to the terms of the proposed Settlement Agreement described above by filing a written, signed objection with the Court. If you wish to

object, you must send a written statement specifying the reason(s) for your objection to the settlement and stating whether you intend to appear at the above-referenced hearing to object to the settlement. Your written objection must be actually received by each of the following **on or before March 30, 2010**:

The Court:

Clerk of the United States District Court
Northern District of California
1301 Clay Street
Oakland, CA 94612
Reference: *Californians for Disability Rights, et al. v. California Department of Transportation, et al.*, Case No. C 06-5125 SBA

Class Counsel Representing Plaintiffs and the Plaintiff Settlement Class:

Mary-Lee Kimber, Esq.
DISABILITY RIGHTS ADVOCATES
2001 Center St., Fourth Floor
Berkeley, CA 94704

Counsel representing the California Department of Transportation:

Gregory F. Hurley
GREENBERG TRAURIG, LLP
3161 Michelson Drive, Suite 1000
Irvine, CA 92612

IF YOU DO NOT TIMELY SUBMIT AN OBJECTION AS DESCRIBED HEREIN, YOU WILL BE DEEMED TO HAVE WAIVED YOUR OBJECTION AND SHALL BE FORECLOSED FROM MAKING ANY OBJECTION TO THE SETTLEMENT.

IF YOU DO NOT OPPOSE THIS SETTLEMENT, YOU NEED NOT APPEAR OR FILE ANYTHING IN WRITING.

BINDING EFFECT

The proposed Settlement Agreement, if given final approval by the Court, will bind all members of the Settlement Class. This will bar any person who is a member of the Settlement Class from seeking different or additional relief regarding all issues resolved in the Settlement Agreement for the term of the settlement.

FURTHER INFORMATION

The federal and state lawsuits and the terms of the settlement are only summarized in this Notice. More detailed information concerning the settlement or a copy of the Settlement Agreement may be obtained from Class Counsel at the following address:

Disability Rights Advocates
Attn: Mary-Lee Kimber
2001 Center St., Fourth Floor
Berkeley, CA 94704
510-665-8644 (Voice)
510-665-8716 (TTY)
E-mail: mkimber@dralegal.org

Or by consulting the public file on the case at the Office of the Clerk at the following address:

For the federal case:
Clerk of the United States District Court
Northern District of California
1301 Clay Street
Oakland, CA 94612
Reference: *Californians for Disability Rights, et al. v. California Department of Transportation, et al.*, Case No. C 06-5125 SBA

For the state case:
Clerk of Alameda County Superior Court
Rene C. Davidson Alameda County Courthouse
1225 Fallon St.
Oakland, CA 94612
Reference: *Californians for Disability Rights, et al. v. California Department of Transportation, et al.*, No. RG08376549

Please do not direct questions to the Court.

To obtain copies of this Notice in alternative accessible formats, please contact Class Counsel listed above.