

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 00-Z-981

BRADLEY J. TAYLOR, JULIE REISKIN,
DEBBIE L. LANE, CARRIE ANN LUCAS,
NATALIE R. ORRELL, and the COLORADO
CROSS-DISABILITY COALITION,

Plaintiffs,

v.

REGIONAL TRANSPORTATION DISTRICT,
a political subdivision of the State of Colorado,

Defendant.

AMENDED COMPLAINT

Plaintiffs Bradley J. Taylor, Julie Reiskin, Debbie L. Lane, Carrie Ann Lucas, Natalie R. Orrell, and the Colorado Cross-Disability Coalition, by and through their attorneys Fox & Robertson, P.C., and Kevin W. Williams, Esq., hereby submit their Amended Complaint for violations of the Americans with Disabilities Act and the Vocational Rehabilitation Act of 1973.

INTRODUCTION

1. Almost ten years after Congress passed our nation's landmark civil rights law for people with disabilities, Defendant has not made its public transportation system accessible to individuals with disabilities. Plaintiffs bring this action to serve the dual purposes of ending Defendant's systemic failure to provide basic and necessary public transportation services to them and other individuals with disabilities and ending Defendant's pattern and practice of discrimination against such individuals.

2. On July 12, 1990, Congress enacted the Americans with Disabilities Act (“ADA”), 42 U.S.C. § 12101, et seq., establishing the most important civil rights law for people with disabilities in our country’s history.

3. Congress explicitly stated that, among the purposes of the ADA, are:

- a. “to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities;”
- b. “to provide clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities . . . ;” and
- c. “to invoke the sweep of congressional authority, including the power to enforce the 14th Amendment and to regulate commerce, in order to address the major areas of discrimination faced day-to-day by people with disabilities.”

42 U.S.C. § 12101(b).

1. In addition, Section 504 of the Vocational Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794 (“Rehabilitation Act”) is “designed to eliminate discrimination on the basis of handicap in any program or activity receiving Federal financial assistance.” 34 C.F.R. § 104.1.

2. One of the primary ways in which many people with disabilities have gained independence and sought integration is through their ability to use the public transportation system. This permits the mobility necessary to commute to a job or perform personal errands without relying on assistance. This independence, however, is illusory if a person with a disability is unable to use public transportation.

3. In spite of abundant lead time and the extensive publicity the ADA has received since 1990, Defendant continues to discriminate against individuals with disabilities in ways that include, without limitation, its failure to provide access for persons with disabilities to its public transportation system. Such access is available to all other members of the public.

JURISDICTION

1. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1343, 42 U.S.C. § 12133, and 29 U.S.C. § 794a. The Court may grant declaratory and other relief pursuant to 28 U.S.C. §§ 2201 and 2202.

2. Venue is proper within this District pursuant to 28 U.S.C. § 1391.

PARTIES

1. Plaintiff Bradley J. Taylor is and was at all times material hereto a resident of Colorado. Mr. Taylor has quadriplegia and is, as a result, substantially impaired in several major life activities. Among other things, he requires a sip-and-puff, motorized wheelchair for mobility.

2. Plaintiff Julie Reiskin is and was at all times material hereto a resident of Colorado. Ms. Reiskin has multiple sclerosis and is, as a result, substantially impaired in several major life activities. Among other things, she requires a motorized wheelchair for mobility.

3. Plaintiff Debbie L. Lane is and was at all times material hereto a resident of Colorado. Ms. Lane has epilepsy and spastic paraparesis and is, as a result, substantially impaired in several major life activities. Among other things, she requires a motorized wheelchair for mobility.

4. Plaintiff Carrie Ann Lucas is and was at all times material hereto a resident of Colorado. As a result of fibrous dysplasia, osteomyelitis, and related treatment, Ms. Lucas is substantially impaired in several major life activities and requires a motorized wheelchair for mobility.

5. Plaintiff Natalie R. Orrell is and was at all times material hereto a resident of Colorado. As a result of congenital hypoplasia, Ms. Orrell is blind and substantially impaired in at least one major life activity. She requires the use of visual mobility aids, including a guide dog.

6. Plaintiffs Taylor, Reiskin, Lane, Lucas, and Orrell are individuals with disabilities within the meaning of the ADA and the Rehabilitation Act, 42 U.S.C. § 12102(2)(A); 29 U.S.C. § 794; 49 C.F.R. § 37.3; 28 C.F.R. § 35.104. They are also “handicapped person[s]” within the meaning of 49 C.F.R. § 27.5.

7. Plaintiff Colorado Cross-Disability Coalition (“CCDC”) is a non-profit corporation whose members are persons with disabilities and their nondisabled allies. As such, CCDC is an entity in a known relationship with and or association with individuals with known disabilities.

8. CCDC has employees, board members, and members who use public transportation in and around the Denver metropolitan area.

9. CCDC’s purpose is to work for systemic change that promotes independence, self-reliance, and full inclusion for people with disabilities in the entire community. As part of that purpose, CCDC seeks to ensure that persons with disabilities have access to -- and do not encounter discrimination in -- public accommodations and transportation systems. CCDC engages in extensive outreach as well as advocacy and educational efforts to promote access for and combat discrimination against people with disabilities. This effort and this purpose have been and continue to be adversely affected by Defendant’s violations of the ADA and the Rehabilitation Act.

10. Defendant’s actions have caused and continue to cause distinct, palpable, and perceptible injury to CCDC.

11. CCDC has devoted resources, which could have been devoted to its other outreach, advocacy, and educational efforts, to meeting and communicating with Defendant in an attempt to secure non-discriminatory transportation for its members and staff.

12. CCDC has devoted resources, which could have been devoted to its other outreach, advocacy, and educational efforts, to counseling members and others who have been injured by Defendant’s discrimination and assisting these individuals in resolving problems related to injuries caused by Defendant’s discrimination.

13. Defendant’s discrimination has damaged CCDC’s day-to-day operations by, among other things, causing staff and members to be delayed in arriving to work and to be delayed in

attending (or missing completely) meetings, hearings, and other events that their duties for CCDC required them to attend.

14. Defendant's discrimination has been and continues to be a barrier to the full participation of persons with disabilities and, therefore, frustrates CCDC's ability to achieve full inclusion for persons with disabilities. For example:

- a. Defendant's discrimination, in and of itself, makes transportation less available to persons with disabilities;
- b. Defendant's discrimination prevents persons with disabilities from accessing public accommodations;
- c. Defendant's discrimination prevents persons with disabilities from accessing places of employment;
- d. Defendant's discrimination prevents persons with disabilities from accessing local, state, and federal governmental offices;
- e. Defendant's discrimination sends a clear message to persons with disabilities and their companions that they are unwanted on Defendant's vehicles, discouraging persons with disabilities and their companions from using public transportation and going to places of public accommodation and public facilities; and
- f. Defendant's discrimination -- by making transportation, public accommodations, employment, and government less accessible -- perpetuates the segregation of people with disabilities and sends the messages that such discrimination continues to be acceptable at this time.

15. Defendant's discrimination has required and continues to require CCDC to make a greater effort -- and to allocate significant resources -- to educate the public that such

discrimination is wrong and otherwise to counteract the adverse impact of such discrimination.

This perceptibly impairs CCDC's counseling, advocacy, educational, and training missions.

16. CCDC also has devoted and continues to devote resources -- including but not limited to those devoted to the present lawsuit -- to identifying and counteracting the sources of discrimination in the community, including that of Defendant.

17. CCDC's injuries -- including without limitation those described herein -- are traceable to Defendant's discriminatory conduct alleged in this Amended Complaint and will be redressed by the relief requested in it.

18. CCDC's members and their spouses, friends, relatives, and associates have been injured and will continue to be injured by Defendant's discrimination. Plaintiffs Reiskin, Lane, and Lucas are employees and members of CCDC, and Plaintiff Taylor is also a CCDC member.

19. CCDC's non-disabled members have been injured and will continue to be injured by Defendant's illegal discrimination against and segregation of persons with disabilities in that they have lost the benefits of living in an integrated community.

20. The elimination of discrimination, such as that of Defendant, and the integration of persons with disabilities into the community are at the core of CCDC's organizational purpose.

21. The participation of individual CCDC members in the lawsuit is not required either to resolve the claims at issue or to formulate relief.

22. Defendant Regional Transportation District ("RTD") is a political subdivision of the State of Colorado, with the "duties, privileges, immunities, rights, liabilities, and disabilities of a public body politic and corporate." Colo. Rev. Stat. § 32-9-119(1)(a). RTD was created pursuant to Colo. Rev. Stat. § 32-9-105 and is a "public entity" within the meaning of 42 U.S.C. § 12131(1) and 28 C.F.R. Part 35. RTD receives federal financial assistance and has its principal place of business at 1600 Blake Street, Denver, Colorado 80202-1399. RTD operates a "fixed route system" within the meaning of 42 U.S.C. § 12141(3).

GENERAL ALLEGATIONS

1. Plaintiffs Taylor, Reiskin, Lane, Lucas, and Orrell have encountered discrimination on the basis of disability throughout RTD's public transportation system, including without limitation those described in this Amended Complaint.

2. Plaintiffs Taylor, Reiskin, Lane, and Lucas have encountered numerous buses with inoperative lifts. For example:

a. In the course of a trip to Southwest Plaza on December 11, 1999, to go Christmas shopping, Ms. Reiskin encountered one bus with a lift that was inoperative and three buses with malfunctioning lifts.

b. On April 27, 2000, Mr. Taylor attempted to board a bus. When the driver lowered the lift, the barrier to the lift platform would not come down. There was no indication that the driver or his trainee had reported the problem with the lift. They departed from the bus stop approximately three minutes later. Several minutes after that, Mr. Taylor attempted to board another bus, and the lift on that bus also did not work. The bus driver did not even attempt to lower the lift, stating that she had reported the problem, but RTD had failed to replace the bus.

c. On May 1, 2000, Plaintiff Taylor, in the process of boarding a bus, entered a lift platform with a defective barrier. The purpose of the barrier is to prevent wheelchairs from falling off the lift. When the lift was level with the floor of the bus, Mr. Taylor's wheelchair began to roll forward as he attempted to back into the bus from the lift. Had an observant passenger not grabbed the chair from behind, Mr. Taylor and his wheelchair would have gone off the lift, resulting in his dropping to the concrete, face first, four feet below. The driver was not watching

the lift operation or Mr. Taylor during this process. Once on the bus, the lift could not be stowed back under it. The driver called for a mechanic to come fix the lift. The other passengers exited the bus. Mr. Taylor was forced to remain on board to await the arrival of the mechanic. Mr. Taylor got off the bus at the location he boarded it more than one hour after he had almost fallen off the lift. Then Mr. Taylor boarded another bus and arrived three blocks short of the destination he would have reached if the lift on the first bus had been operational.

d. On May 3, 2000, Plaintiff Lane encountered five buses in a row with inoperative lifts, after she had driven her wheelchair for approximately one hour to reach the bus stop. She began driving her wheelchair at approximately 3:45 that morning in order to catch the bus.

e. On May 30, 2000, Ms. Lucas was waiting to board the mall shuttle in Denver. When it pulled up, the driver told her that the lift had not worked all day. When Ms. Lucas asked him why he had not gotten another bus, he stated that the bus was the last one and that the buses were getting old and breaking down. Ms. Lucas was unable to board that bus.

f. On June 1, 2000, after Ms. Lucas exited a bus, the lift was stuck in the down position for approximately 15 minutes, stranding the person in the wheelchair who was on the bus after Ms. Lucas got off. All of the other passengers were able to get off the bus and board other buses before the mechanic arrived to fix the lift.

g. On June 1, 2000, after a bus passed by Ms. Lucas and her foster daughter, who also uses a wheelchair, the next bus stopped, but the driver told Ms. Lucas that the lift was broken. When Ms. Lucas told the

driver to try the lift again and call dispatch, the driver tried the lift and it worked. The lift, however, became stuck when they were attempting to exit the bus, stranding Ms. Lucas and her foster daughter on the bus for more than one-half hour.

h. On June 20, 2000, Ms. Lucas and a man in a wheelchair attempted to board a bus. When the driver attempted to operate the lift, it became stuck. The driver could not fix the lift, and all of the passengers got off the bus. Ms. Lucas and the man in the wheelchair boarded another bus.

i. On July 20, Ms. Reiskin was informed by a bus driver that the lift was broken on the bus she needed to ride. The driver stated that there would be no point in calling a replacement bus because it would be the end of the route anyway.

3. Upon information and belief, persons who use wheelchairs and other mobility aids have frequently been told that lifts are inoperative, notwithstanding the fact that these lifts were not reported to be inoperative. For example, on May 10, 2000, a bus driver told Plaintiff Taylor that she would not extend the lift because it would not stow back under the bus. The same driver had previously asserted that the lift on the bus she was driving was inoperative. Mr. Taylor was unable to board the bus. Upon information and belief, this allegedly inoperative lift was not reported to RTD.

4. On numerous occasions, when buses have had inoperative lifts, RTD has failed to provide alternative transportation for Plaintiffs Taylor, Reiskin, Lane, and Lucas, even when the wait for the next accessible vehicle on the route exceeded 30 minutes. For example:

a. On December 7, 1999, Ms. Lucas was attempting to board a bus after work at approximately 7:30 p.m. The driver informed her that

the lift was broken, stating that he had called it in a while ago. Upon information and belief, the driver had not called in the lift problem at that point. Ms. Lucas asked where the other bus was. The driver responded that they would take the bus off at the end of the line. Ms. Lucas then said that RTD was supposed to have another bus. The driver told Ms. Lucas that she would just have to wait for the next bus. Upon information and belief, dispatch told the driver that he was to do nothing other than issue a transfer and tell Ms. Lucas to wait for the next bus. Because the next bus was not scheduled to arrive until more than one hour later, she asked him to call a supervisor to arrange other transportation for her. The driver replied that she would have to wait for the next bus. Because the driver was going to drive away and leave Ms. Lucas stranded, she got in front of the bus and demanded the driver call a supervisor and arrange alternative transportation. After a supervisor and the police were called, alternative transportation was provided for Ms. Lucas. The police cited her with “Interference with the bus system,” a criminal offense.

b. On January 11, 2000, a driver told Ms. Lane, after unsuccessfully attempting to operate a lift, that the lift had not worked for two or three months. Ms. Lane then asked the driver to call for a supervisor, who arrived one-half hour later. The supervisor would not call for alternative transportation for Ms. Lane.

c. On February 17, 2000, when a driver determined that the wheelchair lift in the bus he was driving was inoperative, he refused Ms. Reiskin’s two requests to call a supervisor, stating that there was too much

traffic and that a supervisor would not come anyway. Ms. Reiskin had to wait in the snow for approximately one hour and ten minutes.

5. As noted above in paragraph 34(b), RTD has failed to take buses with inoperative lifts out of service before the beginning of the next service day for that vehicle and to ensure that the lift was repaired before the vehicle was returned to service. In addition, when there was no spare bus available to take the place of the bus with an inoperative lift, RTD has kept that bus in service for more than three days from the date on which the lift was discovered to be inoperative. In addition, RTD drivers of buses with lifts believed to be operative have failed or refused to pick up Plaintiffs Taylor, Reiskin, Lane, and Lucas, who were waiting at RTD bus stops. In addition, they have failed or refused to pick up Plaintiff Orrell. For example:

a. On December 21, 1998, Ms. Lane tried to board a bus and was told by the driver that it was full with “two wheelchairs.” When she tried to board the next bus, the driver would not stop for her.

b. On December 26, 1998, a bus driver refused to pick up Ms. Reiskin, driving by without stopping. The same bus driver then stopped at the next several stops along the route.

c. On October 21, 1999, a bus driver informed Ms. Reiskin that the wheelchair lift in the bus he was driving was inoperative. This occurred again with respect to a different bus five days later. The lifts were later inspected, and RTD reported that no repairs were required for them to be operational.

d. On January 7, 2000, Ms. Lane sat near the door of a bus, waiting with other passengers to board. After the bus left without her, Ms. Lane asked to speak to a supervisor, who said that the driver probably had not seen Ms. Lane before departing. Ms. Lane replied that the driver had

seen her and that another bus driver had seen Ms. Lane waiting at the door of the bus that had departed without her. After Ms. Lane boarded another bus, the supervisor came aboard that bus and apologized to Ms. Lane, stating that the driver of the bus that had left had seen Ms. Lane before departing and had engaged in this conduct before.

e. On May 3, 2000, Ms. Lucas was waiting for a mall shuttle bus at the Civic Center Plaza bus stop in Denver. A bus arrived, and bus drivers who were on break, sitting on a bench near the bus stop, told the driver of the bus to let down the ramp so that Ms. Lucas could board the bus. The driver did not do so, closed the doors to the bus, and, after the drivers who were on break hollered again for the ramp to be let down, drove away, leaving Ms. Lucas sitting at the curb. With her were two women who were waiting for Ms. Lucas to board the bus before them. The bus was not even close to being full at the time the driver departed.

f. On May 8, 2000, Ms. Reiskin was waiting for a bus at a bus stop. When a bus approached, it did not pull all the way up to the curb because of cars parked there. Ms Reiskin went around to the curb-cut to come out into the street to board the bus where it was parked. The bus began to move as she got to the curb-cut. She waved to the driver, indicating that she wanted to board. The driver waved back and proceeded to drive away, resulting in Ms. Reiskin waiting outside in the rain for an additional ten minutes until another bus arrived.

g. On May 30, 2000, Ms. Lucas and her foster daughter attempted to board a bus when the driver closed the door and left them

behind. Ms. Lucas's foster daughter, who also uses a wheelchair, was at the door to the vehicle when the driver closed the door.

h. On June 1, 2000, a bus passed by Ms. Lucas and her foster daughter, who also uses a wheelchair, resulting in their missing their connection to their next bus.

i. On June 14, 2000, a bus passed by Ms. Lucas and her foster daughter, who also uses a wheelchair, resulting in the incident described below in paragraph 39(w).

j. On June 22, 2000, Mr. Taylor was waiting for a bus. As the bus approached, he pulled his chair forward, and the driver passed him by, without even slowing down.

k. On July 1, 2000, Ms. Orrell, who needed to get to work by 8:00 a.m. that Saturday morning, was waiting for a bus with her guide dog. A bus pulled up to the bus stop. When Ms. Orrell got up to go over to the bus, the bus left without the bus driver even opening the door. That day, Ms. Orrell called RTD to complain about this incident. RTD called her back and claimed that the driver had been reprimanded.

l. Bus drivers have routinely failed to announce to Ms. Orrell the numbers of the buses they were driving, despite the fact that Ms. Orrell uses a guide dog with a harness as her visual mobility aid.

m. On July 12, 2000, Ms. Orrell was waiting with her guide dog to catch a bus at approximately 2:20 p.m. Waiting in the heat for the bus was very difficult for her because of an infection for which she was taking anti-biotics. A sighted person told her that the bus for which she had been waiting was coming. When she stood up to board the bus, the

bus driver did not stop. She had to wait another hour for the next bus. Shortly after this incident, she called RTD to complain about having to wait in the heat for so long. She asked for a written response in alternative format, such as braille or on disk. The person who answered her call did not respond to Ms. Orrell's request for an alternative format. Subsequently, she received a telephone call from RTD in which she was informed that the incident had been addressed and that the driver had been reprimanded.

n. On September 15, 2000, Ms. Lucas was waiting for a bus at a bus stop. She was the only person at the stop. The bus driver drove past her.

o. On September 22, 2000, Ms. Reiskin was waiting for a bus. The driver of the bus saw Ms. Reiskin and continued without stopping. It was raining, and Ms. Reiskin had to wait ten more minutes for another bus.

p. On September 28, 2000, Ms. Lucas was at the Market Street Station in Denver. The doors to a mall shuttle were open. Ms. Lucas went to the window at which the driver was seated and asked the driver to extend the ramp so that she could board the vehicle. Just as she was asking, the driver rang the bell, indicating that the doors were going to be closed. Ms. Lucas repeated her request for a ramp, but the driver ignored her and drove off.

6. Upon information and belief, bus drivers have passed by persons who use wheelchairs without reporting the pass-bys to RTD.

7. Persons who use wheelchairs have experienced pass-bys in which securement areas on the buses were unoccupied.

8. Upon information and belief, the inoperative lifts encountered by Plaintiffs Taylor, Reiskin, Lane, and Lucas were the result of RTD's failure to establish a system of regular and frequent maintenance checks of lifts, sufficient to determine if they were operative, and/or RTD's failure to address inoperative lifts properly.

9. RTD has discriminated against people with disabilities who use wheelchairs in their securement practices, and/or failed to comply with 49 C.F.R. Parts 37 and 38, by, without limitation: (1) requiring people with disabilities who use wheelchairs to be secured while permitting non-disabled people and their wheeled vehicles and other possessions not to be secured; (2) securing wheelchairs in an inefficient, dangerous, and destructive manner; (3) refusing to listen to people with disabilities about how their wheelchairs should be secured or to honor "Secure Here" stickers provided by RTD to instruct drivers where wheelchairs should be secured; and (4) refusing to transport people with disabilities when these issues could not be resolved. The wheelchairs of Plaintiffs Taylor, Reiskin, Lane, and Lucas have parts that are breakable when secured improperly. Many wheelchairs have clutches and/or brakes, which make them stable in transit. The improper securement of wheelchairs can be dangerous.

Examples of RTD's discriminatory practices include the following:

a. On December 27, 1998, a supervisor told Ms. Lane that if she did not allow her wheelchair to be secured, she would have to get off the bus.

b. On April 14, 1999, a bus driver tied three different straps around the front, right wheel to Ms. Reiskin's wheelchair and did not secure the frame of the chair at all. Because of his consistent hostility toward Ms. Reiskin and his refusal to listen to her in the past, she did not

say anything to the driver. Consequently, she was sliding around and nearly tipped over during the ride. She could neither move nor reach the pole to hold on to it.

- c. On February 14, 2000, a bus driver refused to put the strap on the bar on the back of Ms. Reiskin's wheelchair that is attached to the frame. Instead, the driver put it on one of the foot pedals to the chair, which was extremely dangerous.
- d. On February 17, 2000, a bus driver insisted on putting a strap on a side motor of Ms. Reiskin's wheelchair rather than on the frame on the back of it, as requested by Ms. Reiskin. This posed a risk of extreme damage to her wheelchair.
- e. On April 7, 2000, a bus driver refused to place a strap on the back bar of Ms. Reiskin's wheelchair, where the "Secure Here" sticker had been placed. The sticker had been supplied by RTD to make certain that drivers would secure chairs in the correct location. The driver put the strap on the bottom of one side of Ms. Reiskin's chair. He then required Ms. Reiskin to move further back in the wheelchair seating location, resulting in her riding on the bus in an awkward and uncomfortable position.
- f. On April 17, 2000, a bus driver tried to secure Ms. Lucas's wheelchair by attaching the strap to the armrest of the chair. She told him that it needed to be on the frame of the chair and showed him where to put the strap. The driver was impatient and buckled the strap without first wrapping it around the frame of the chair. When he pulled it tight, it came off in his hand, buckled together, but not on the chair. He then put the

strap around the armrest of the chair. Ms. Lucas informed him that the strap could not be placed on the armrest, but he ignored her.

- g. Prior to April 20, 2000, Ms. Lane met with RTD officials, including Michael Gil, Manager, Dispatch and Street Supervision, Alice Osner, Operations Division Assistant Transportation Manager, Transportation Training, and RTD supervisors who confirmed that Ms. Lane's wheelchair could not be secured satisfactorily. On April 20, 2000, Ms. Lane boarded a bus. The driver did not secure her wheelchair before driving the bus approximately three blocks. He then said that he would have to secure her wheelchair or she would have to get off the bus. Ms. Lane asked that her wheelchair not be secured and for the driver to call dispatch. The driver did so and then asked Ms. Lane for her name. After she identified herself, the driver again contacted dispatch. He then told all of the passengers to get off the bus because it was not going anywhere. He informed passengers that the dispatcher had instructed him to have the passengers get off the bus. The bus driver called the police. RTD supervisors and police subsequently arrived. One of the police officers said to Ms. Lane that he had arrived with a whole different mindset, thinking that she was Ms. Lucas. Approximately five hours after she had boarded the bus, Ms. Lane was forced to exit it and was transported in a supervisor's van to her destination, accompanied by a police officer in the van and followed by another police officer in a police vehicle.

- h. On April 24, 2000, Ms. Reiskin boarded a bus. The driver refused to attach the strap to the place on her wheelchair where the "Secure Here" sticker was located. Instead, the driver put the strap around

one side of the bottom of her wheelchair. In addition, she was required to sit in the back of the wheelchair securement location. As a result of the location of the strap and where she was seated in the wheelchair securement location, Ms. Reiskin slid into the aisle at every turn.

- i. On May 3, 2000, Ms. Reiskin boarded a bus. The driver first asked her to move to the back of the wheelchair seating location. After she did so, she began to tell the driver where to secure her wheelchair with the straps. The driver replied that he was not going to tie down the strap where the “Secure Here” sticker was located on the chair. Instead, he started to attempt to tie the strap to the front wheel area of her wheelchair. Ms. Reiskin stated that she thought the driver was supposed to secure her wheelchair at the location of the “Secure Here” sticker. He replied that he did not know anything about the stickers and that he secured all wheelchairs as he had secured Ms. Reiskin’s wheelchair. Ms. Reiskin informed the driver that it would be dangerous to ride in that manner and that she would not do so for the 40 minutes projected for the ride. The driver said that the wheelchair would not move, and she replied that she would move if the driver hit the brakes. Because it would have been dangerous to ride secured in the fashion on which the driver insisted, Ms. Reiskin then got off the bus and waited 20 minutes for the next one.

- j. On May 7, 2000, Ms. Reiskin attempted to ride a bus. The driver refused to tie down her wheelchair where the “Secure Here” sticker was located on her wheelchair, stating that she was going to do it her way. The driver tried to place a hook around the area where the battery charger plugs into the wheelchair -- a delicate area with internal wiring, which

would easily detach from the chair. The driver then roughly attempted to place hooks around the right wheel of Ms. Reiskin's wheelchair. Certain that her wheelchair would be damaged from such an inappropriate securement, Ms. Reiskin got off the bus. As a consequence of this incident, Ms. Reiskin was very late to her destination and was unable to obtain seating at an event she wanted and needed to attend.

k. On approximately one-half of Mr. Taylor's trips on weekdays from the beginning of June, 1999, to the time the Complaint was filed in this case, bus drivers tied down one side of his wheelchair, resulting in a dangerous and unstable situation.

l. On May 15, 2000, Mr. Taylor boarded a bus and entered a securement area, which had only a passenger lap-belt that would extend, at a maximum, to the bottom frame of his wheelchair. The driver put the lap-belt around the bottom of Mr. Taylor's wheelchair. Both of the longer straps were completely missing, making it impossible to secure his wheelchair safely.

m. On May 16, 2000, Mr. Taylor boarded a bus and entered a securement area on the left side of the bus. Another passenger held one of the straps to tie down Mr. Taylor's wheelchair on the left side, which was adjacent to the left side of the bus. The driver only tied down the right side of the wheelchair and stated that he could not reach the left strap, even though the other passenger had already extended it and was sitting with it in his hand directly behind Mr. Taylor. When the driver refused to secure the left side of Mr. Taylor's wheelchair, the passenger did so in approximately 30 seconds.

- n. On May 16, 2000, Ms. Lucas boarded a bus and parked her wheelchair in the front of a securement area of the bus to prevent her wheelchair from sliding forward when the bus stopped and to prevent clutch levers on her wheelchair from becoming bent. One of the straps would not reach the frame of her wheelchair, and the driver kept trying to put the strap on the armrest of Ms. Lucas's wheelchair, despite her continual insistence that the strap had to be attached to the frame. Passengers told Ms. Lucas to let the driver do his job and that he knew best where the strap should go. Ms. Lucas told the driver that he was not allowed to put the strap on the armrest of her wheelchair and to take his hands off of her wheelchair. He then stopped and put the other strap on the frame of her wheelchair very forcefully and appeared angry.
- o. On May 18, 2000, a driver refused to listen to Ms. Reiskin about how to attach the strap to her wheelchair and ignored her requests that he not lean his entire body weight on the back of her wheelchair, which is not that sturdy or attached to the frame of the chair. The driver then got in Ms. Reiskin's face and put his hands on an armrest of her wheelchair.
- p. On May 23, 2000, the securement area in which Mr. Taylor parked his wheelchair on a bus had only one strap for attachment to his wheelchair. Consequently, there was no equipment to tie down one side of his wheelchair.
- q. On May 25, 2000, a bus driver put a strap where the "Secure Here" sticker is located on Ms. Reiskin's wheelchair and another strap on the front fork of the chair. Although she told him that the strap

was to be placed only where the “Secure Here” sticker is located, he would not remove the strap from the front fork and stated that he could put the straps anywhere else he wished in addition to the “Secure Here” sticker location. He took five minutes to secure Ms. Reiskin’s wheelchair during the rush hour commute.

r.

On May 30, 2000, Ms. Lucas parked her wheelchair in a securement area on a bus. When the bus driver came back to secure the chair, Ms. Lucas pointed to the front of the frame of her wheelchair and requested the driver to put the strap on the frame. The driver replied that she needed to put a strap on the other side of the wheelchair and started to put it on an armrest to Ms. Lucas’s wheelchair. Ms. Lucas told the driver that she could not put a strap on the armrest because it would break the wheelchair. Ms. Lucas told the driver that the strap could only go on the frame. Because the other side of her wheelchair was adjacent to the side of the bus, Ms. Lucas told the driver that the frame on the other side of her wheelchair was inaccessible. The driver then insisted that Ms. Lucas had to have the strap on her wheelchair and again tried to put it on the armrest. Ms. Lucas again explained why she could not put it on the armrest. She told the driver to call Mr. Gil (RTD Manager, Dispatch and Street Supervision). The driver called dispatch and told Ms. Lucas that they were sending a Street Supervisor. After her previous experiences with people on buses threatening her for delaying the bus and her concern that she would not have time to complete her assignment, Ms. Lucas got off the bus. One of her supervisors at CCDC had to perform her assignment.

- s. On June 1, 2000, when a bus driver could only attach one tie-down securement strap on Ms. Lucas's wheelchair, he insisted that Ms. Lucas use a lap-belt as a means of securing her chair. Ms. Lucas informed the driver that it would be dangerous to do so. Eventually, the driver relented and did not require Ms. Lucas to wear the lap-belt.
- t. On June 4, 2000, a bus driver attempted to tie down Ms. Lucas's wheelchair with straps that had hooks on them. Because there was no way to put the hooks on the frame of Ms. Lucas's wheelchair, the driver kept attempting to put them on the armrests, footrests, and other parts of her chair that could become damaged. Ms. Lucas repeatedly told the driver to stop placing the hooks on parts of her wheelchair that would break.
- u. On June 6, 2000, a bus driver insisted on tying a strap to one side of the front wheel area of Ms. Reiskin's wheelchair, which was unsafe, inconsistent with RTD's "Secure Here" policy, and took too long, resulting in making Ms. Reiskin and other passengers late and risking passenger anger being directed toward Ms. Reiskin.
- v. On June 13, 2000, Ms. Reiskin attempted to board a bus. Before she boarded, the driver stated that the seat in the securement area would not go up so that Ms. Reiskin could not ride. Ms. Reiskin offered to sit in the aisle during the short ride. After Ms. Reiskin boarded the bus, she discovered that the seat for two people in one of the securement areas was up and only the seat for one person in the other securement area was down. Ms. Reiskin was easily able to lift that seat. The driver stated several times the importance of putting two straps on Ms. Reiskin's

wheelchair and proceeded to attach one to an armrest on the chair and the other to a footrest, forcing Ms. Reiskin to ride with one hand on each strap so that she could avoid damage to her chair in the event the bus stopped short.

w. On June 14, 2000, Ms. Lucas and her foster daughter, who also uses a wheelchair, boarded a bus. The driver tried to pull out a securement strap to attach to Ms. Lucas's wheelchair, but she could not pull the strap out fully because of a malfunction of the securement device. Consequently, the strap would not reach the frame of Ms. Lucas's wheelchair. The driver then tried to attach the strap to parts of Ms. Lucas's wheelchair other than the frame, which Ms. Lucas would not allow. In an effort to enable the driver to attach the strap to the frame of the wheelchair, Ms. Lucas backed up her wheelchair in the securement area, closer to the location where the strap was housed. Ms. Lucas always attempts to ride in the front of the securement area because riding in the back of it has resulted in the clutch levers to her chair becoming bent and has resulted in her wheelchair sliding forward when buses stop. When Ms. Lucas backed up in the securement area, the strap reached the frame of her wheelchair, but when Ms. Lucas pulled up to the front of the securement area, the strap cut into the wire for the battery charger to her chair. To avoid damaging her wheelchair, Ms. Lucas unhooked the strap and attempted to pull it out farther herself, but was unable to do so. The driver came back and again attempted to attach the strap to parts of Ms. Lucas's chair other than the frame. When Ms. Lucas asked her not to do so, the driver informed Ms. Lucas that she could not ride the bus

unsecured. The driver called dispatch and told Ms. Lucas that she had just received a bulletin from RTD that no passenger in a wheelchair was permitted to ride unsecured. When the next bus arrived, the other passengers boarded it. Ms. Lucas told the driver that RTD needed to provide alternative transportation because she and her foster daughter could not connect with their next bus for more than an hour. When Ms. Lucas asked the driver for her employee number, the driver refused to give it to her and concealed it with the flap of her shirt pocket. A Street Supervisor arrived, and Ms. Lucas and her foster daughter attempted to change places, but the securement strap in the securement area in which her foster daughter had been riding would not pull out all the way. The supervisor was ultimately successful in getting a strap to pull out sufficiently for Ms. Lucas to ride halfway out of the middle of the securement area. Ms. Lucas again asked for the driver's employee number, and she refused to provide it. The supervisor finally gave the driver's employee number to Ms. Lucas.

x. On June 15, 2000, Ms. Lucas boarded a bus that did not have a securement strap that would pull out far enough to reach the frame of her wheelchair.

y. On June 19, 2000, when Ms. Lucas boarded a bus, the driver attempted to secure her wheelchair by putting a strap on a footrest. When she pointed to a place on the frame of her chair for securing it, the driver objected because the place identified by Ms. Lucas was on the frame of the chair. Ms. Lucas stated that the frame was exactly where the

strap was supposed to be placed, and the driver ultimately put the strap there.

z. On June 26, 2000, Ms. Lucas boarded a bus that did not have a securement strap that would pull out far enough to reach the frame of her wheelchair.

aa. On July 6, 2000, a bus driver refused to listen to Ms. Reiskin about where she wanted securement straps attached to her wheelchair. He attempted to put one of the straps on a footrest of her wheelchair. The driver was adamant about where he would place them. When she pointed out the “Secure Here” sticker on her wheelchair, the driver finally put the straps where she had asked.

bb. On August 4, 2000, Ms. Reiskin asked a bus driver to put the securement straps on the back bar of her wheelchair. He refused. Instead, he put one strap on a place on her wheelchair that could tip it backwards and put another on the armrest of her wheelchair. He then roughly yanked on the straps.

cc. On August 13, 2000, Ms. Lucas and her foster daughter, who also uses a wheelchair, boarded a bus. The securement straps in the securement area where her foster daughter’s wheelchair was located would not pull out.

dd. On August 13, 2000, a bus driver secured Ms. Lucas’s wheelchair in such a fashion that, when the bus turned the corner to leave the station, Ms. Lucas swung out into the aisle of the bus. The securement strap caught a clutch lever on her chair and bent it. With the clutch lever bent, it could not disengage the motor to the wheelchair. Ms. Lucas had to

obtain a temporary remedy to this problem because she needed to fly at the end of August, 2000, and the airline needed to disengage her motor to stow the wheelchair. Ms. Lucas filed a claim with RTD on August 18, 2000, and has not yet received a response. In its current condition, there is left motor failure when the wheelchair goes over a large bump.

ee. On August 14, 2000, a bus driver refused to honor the “Secure Here” sticker on Ms. Reiskin’s wheelchair, placing one of the securement straps on the left footrest of the chair. Less than one hour later, a piece broke off of this footrest at the place where the driver had placed the strap.

ff. On August 24, 2000, a bus driver placed the hook of a securement strap on the armrest of Ms. Lucas’s wheelchair. She told him that it could not be placed there. The driver replied that it could go wherever he wanted it to go. Ms. Lucas then showed the bus driver the “Secure Here” sticker on her wheelchair. The driver had Ms. Lucas back up her wheelchair. She did so, but the driver could not get the hook of the securement strap on the frame of her wheelchair. He then tried to put it on a different place on an armrest of her wheelchair. She told him that the securement strap needed to go on the frame. She told him her idea about how to get it around the frame, but the driver would not listen. He threw the strap on the ground and yelled that he could not give Ms. Lucas a ride.

gg. On September 5, 2000, the securement straps would not come out for use in securing Ms. Lucas’s wheelchair.

hh. On September 12, 2000, Ms. Reiskin was waiting to board a bus. When the bus arrived, the driver allowed the others who were

waiting with her to board the bus and then asked her if she wanted to get on the bus. When she responded affirmatively, the driver made some sort of hand gesture, throwing his hands in the air. The driver did not appear to be able to operate the securement straps. A passenger had brought a large stroller on the bus, and another had brought onto the bus a walker with a seat. At one point, the stroller rolled across the aisle, hitting another passenger in the knees. It took two passengers to hold the walker in place during the ride.

ii. On September 24, 2000, a bus driver attempted to secure Ms. Reiskin's wheelchair with hooks on parts of her wheelchair other than where the "Secure Here" sticker is located. Ms. Reiskin explained to the driver about the "Secure Here" sticker, but the driver insisted upon placing the hooks elsewhere on the chair. Another passenger intervened on Ms. Reiskin's behalf, at which point the driver stopped attempting to force the issue.

jj. Upon information and belief, the hooks used on some securement straps are improper because bus drivers with average dexterity cannot use them. The hooks are too small to fit on the frame of some wheelchairs, which prompted a bus driver to tell Ms. Lucas on August 18, 2000, that she needed to obtain a wheelchair upon which the hooks would fit. The bus driver kept attempting to put them on the footrests and armrests of Ms. Lucas's wheelchair.

kk. In an effort to address some of the problems she has had with RTD's improper securement of her wheelchair, Ms. Lucas has told bus drivers that she will attach securement straps on her wheelchair

herself. A few bus drivers have refused to allow her to do so. Likewise, she has attempted to put the securement hooks on her chair herself, but some drivers have refused to allow her to do so.

- ll. Bus drivers have routinely placed securement straps on the footrests of Ms. Lucas's foster daughter's wheelchair. The footrests then release, and the wheelchair slides out of the securement area. Despite the "Secure Here" stickers on her foster daughter's wheelchair, when Ms. Lucas has asked bus drivers to put the securement straps in the correct places on that wheelchair, some drivers have appeared to become irritated.

- mm. On September 28, 2000, Ms. Lucas and her foster daughter, who also uses a wheelchair, were waiting to board a bus. The bus driver told Ms. Lucas that they could not ride the bus because one of the seats would not go up to enable Ms. Lucas or her foster daughter to enter one of the two securement areas. Ms. Lucas told the driver that her foster daughter could transfer to a passenger seat in the vehicle and that her foster daughter's wheelchair could be folded, if necessary. Ms. Lucas asked the driver to report the malfunctioning seat. The driver refused, stating that she was not going to be driving much longer and that RTD would not replace the bus. The driver stated that she would write up the problem. Ms. Lucas and her foster daughter boarded the bus, and her foster daughter transferred from her wheelchair to a passenger seat on the vehicle. Ms. Lucas's foster daughter's wheelchair fit in the front of the securement area and in front of the seat that would not go up. Ms. Lucas requested that the driver secure the chair at that location. The driver initially refused, claiming that the straps would not reach. Ms. Lucas

pulled the strap that she could reach and put it on her foster daughter's wheelchair. Ms. Lucas requested that the driver put the other strap on her foster daughter's wheelchair. The driver put that strap on the wheelchair, and Ms. Lucas put a strap on her own wheelchair.

10. In addition to the problems discussed above, bus drivers have insisted that Mr. Taylor and Ms. Lane back onto lift platforms rather than honor their preference to enter the platforms by going forward in their respective wheelchairs. For example, on January 12, 2000, Ms. Lane was attempting to board a bus by entering the lift platform facing forward. The bus driver insisted that she board facing backwards. Ms. Lane explained that she was not required to face backwards and that her wheelchair would fishtail when driving backwards, creating the risk of running into people and objects. The driver then chastised Ms. Lane for not getting on the bus, stating that she was holding up everyone. He then told her that she was to do just what he said. When she refused, the driver announced to all of the passengers that this "crippled girl" was the reason they would all be late, pointing his finger at Ms. Lane while providing this explanation. The driver called security and a bus supervisor. The supervisor stated that he had been with RTD for 15 years and that Ms. Lane had to enter the bus backwards. The supervisor later apologized, stating that he had to support his employees, but that he had examined RTD policy and that Ms. Lane was correct. Both the driver and supervisor refused to provide their names or employee numbers upon Ms. Lane's initial request for them to do so.

11. Plaintiffs have also experienced problems as a result of RTD's failure to train drivers proficiently in operating lifts safely, to train them properly to assist individuals with disabilities, and to train them to treat such individuals in a non-discriminatory manner. In addition to the examples described throughout this Amended Complaint, the following are additional examples:

- a. On December 7, 1999, and January 17, 2000, Plaintiff Lucas was forced to remain outside of light rail vehicles in cold weather

while the drivers of the vehicles were on break. Nondisabled passengers were able to enter the vehicles during these breaks. Ms. Lucas, however, could not enter them because the ramps or bridge plates, which bridge the horizontal gap between the light rail vehicle and the station platform, were not in place.

- b. On March 8, 2000, a driver on a bus on which Ms. Reiskin traveled had trouble operating the lift, stopping and starting it constantly. Ms. Reiskin tried to offer suggestions about remedying the problem because she had been on the same bus earlier in the day with a different driver. The driver did not follow Ms. Reiskin's suggestions. The driver then insisted upon lowering the lift into the mud at an inaccessible bus stop, despite being informed by Ms. Reiskin that the lift would not work there. The driver refused Ms. Reiskin's request to get off the bus approximately one-half block before the inaccessible stop, where there is a flat area at which Ms. Reiskin has gotten off buses without incident. When the driver put the lift down in the mud and it became stuck, the driver tried to jam it through with overdrive, resulting in the need for passenger assistance to push the lift back into place. The driver then drove to the next street and, again, would not listen to Ms. Reiskin about where she wanted to get off the bus. When the driver did stop the bus, Ms. Reiskin asked the driver to move the bus a few inches so that she would not have to exit into a large puddle. The driver refused, and Ms. Reiskin had to drive her wheelchair through the puddle, resulting in her wheelchair becoming filthy. Ms. Reiskin had paid \$50.00 to have her wheelchair cleaned professionally several days before this incident.

- c. On April 5, 2000, Ms. Lucas was the second person in line, waiting at a bus stop. The person in line ahead of her was not riding the bus. When the bus arrived at the stop, the driver permitted all of the people in line behind Ms. Lucas to board the bus and then asked her if she intended to ride. When she responded affirmatively, the driver asked her whether she was sure that she wanted to get on the bus, pointing out all of the other passengers who would have to move. Ms. Lucas asked the driver if he was telling her not to ride the bus. The driver then informed the passengers, very loudly, that they would all have to move because there was a “wheelchair” getting on the bus. Ms. Lucas was embarrassed and told him that she would not be riding. She reconsidered her decision to forego riding the bus and beat it to the next stop. She boarded the bus and discovered that it was not even full. There were a few people standing, but there were also empty seats.
- d. Bus drivers have announced to other passengers that they were being delayed or otherwise inconvenienced because Plaintiffs Taylor, Reiskin, Lane, or Lucas was traveling on the bus, creating danger in some circumstances to several Plaintiffs.
- e. RTD has refused to permit Ms. Lane to board RTD buses with her service animal.
- f. Bus drivers have refused to distinguish between differences in wheelchairs or other mobility aids with respect to how such devices should be secured.
- g. On May 16, 2000, during the incident described above in paragraph 39(m), the driver asked Mr. Taylor for his pass or ticket, despite

refusing to help Mr. Taylor pull out the fanny pack mounted on the side of his wheelchair. The driver stated that he understood Mr. Taylor's difficulties, but that he would, nevertheless, write an incident report on Mr. Taylor for not providing a pass or ticket. Mr. Taylor did not argue with the driver, but offered to provide the tickets, which were in his fanny pack. Near the end of their conversation, the driver stated that if he had taken the tickets out of Mr. Taylor's fanny pack, Mr. Taylor would have accused him of taking his personal belongings.

- h. On June 21, 2000, Ms. Lucas and her foster daughter, who uses a wheelchair, boarded a bus. When they attempted to get off the bus at an inaccessible stop, the driver lowered the lift into the street, with the curb right at the end of the lift. The driver tried again, this time lowering the lift too close to the grass for Ms. Lucas and her foster daughter to exit the bus. The driver tried a third time, again lowering the lift onto grass, which prevented Ms. Lucas and her foster daughter from getting off the bus. He finally lowered the lift to a place from which Ms. Lucas and her foster daughter could at least exit the bus, but the location where Ms. Lucas exited was difficult to negotiate, and her chair nearly tipped over as she attempted to get to the corner with the curb-cut. The next day, Ms. Lucas and her foster daughter had the same driver on the same route. Ms. Lucas asked him to let them off before the stop because of its inaccessibility. He refused and took off with Ms. Lucas and her foster daughter still on the bus, letting them off three blocks from the inaccessible stop. He put the lift down into a curb-cut, and Ms. Lucas again came close to tipping over in her wheelchair. The wheelchair tipped

forward, and she hit her footrests on the ground, bending one of them. She could not get her foster daughter off the lift at all. The driver had to get her foster daughter off the lift. Ms. Lucas and her foster daughter had to ride in the middle of the street for four blocks because the driver would not honor Ms. Lucas's request to let them off before the bus reached the inaccessible stop.

- i. On July 25, 2000, Ms. Reiskin exited from a light rail vehicle to board a bus. Before she and the others who had exited from the light rail vehicle could get to the bus, the bus driver pulled out and stopped in the street where the driver allowed those who were not in wheelchairs to board. Ms. Reiskin then boarded the bus. After she did so, the driver told her never to ask to be let on the bus at that location again. Ms. Reiskin replied that she saw others getting on the bus at that location and had assumed that it was okay for her to do so as well. The driver said that it was not okay.
- j. On August 12, 2000, a bus driver extended the wheelchair lift for Ms. Lucas. When she drove her wheelchair onto the lift, he refused to raise it, telling her that the seat in the securement area was broken and that he could not get it to go up.
- k. On August 13, 2000, an RTD employee called an "Express Starter" told Ms. Lucas at the Market Street Station in Denver that he wanted her and her foster daughter to get on another bus because the lift on the other bus worked better. Ms. Lucas insisted upon riding the bus that they were planning to ride because they would have been late if they had ridden the bus the "Express Starter" told them to ride, and Ms. Lucas

had seen the lift on the first bus function properly. When they attempted to ride the first bus, the lift became stuck. The “Express Starter” stated that he had told Ms. Lucas that the lift on the other bus worked better. Ms. Lucas stated that all that needed to be done was to re-position the bus. There was not enough space on the sidewalk for a bus situated where the first bus was parked to let out its lift at that particular gate of the Market Street Station. The bus driver then backed up the bus several feet, the lift worked without a problem, and Ms. Lucas and her foster daughter were able to board the bus.

- l. On August 24, 2000, Ms. Lucas was riding a bus. While the bus was still traveling to her destination, the driver asked her if she was going to get off at the light rail station. She replied affirmatively. When the bus arrived at the light rail station, he let all of the other passengers off at the station. Ms. Lucas told the bus driver that she was trying to catch the light rail train. Nevertheless, the driver waited until all of the other passengers were off the bus and had walked past the front of it before he would extend the lift for Ms. Lucas to exit the bus. She missed her connection to the light rail train. She waited for more than a quarter of an hour for the next train, making her late for work.

- m. On August 24, 2000, as Ms. Lucas was going up a lift, the bus driver said something to her. Ms. Lucas asked him what he had said, and the driver became very irritated and snapped that he had told her to go slowly. As Ms. Lucas backed her wheelchair into a securement area of the bus, the driver glared at her the entire time. After the securement incident described above in paragraph 39(ff), the driver stated to all of the other

passengers that Ms. Lucas would not allow him to put the securement strap on her wheelchair, he could not give her a ride, pointed to the lift, and yelled at Ms. Lucas to get off the bus. Ms. Lucas told the driver that if he would get another bus to wait for her that was coming right then, she would get off and catch it. The driver refused to listen and kept yelling for her to get off the bus. A passenger then attempted to put a securement strap on the front caster of Ms. Lucas's wheelchair. The passenger yelled at Ms. Lucas when she refused to allow the passenger to attach the strap at that location. The passenger told Ms. Lucas that she was stupid. Two other passengers then told Ms. Lucas that they would wait for her when she got off the bus. One of them told her that, when she got off the bus, he would give her a "piece of me." The driver then yelled that all of the passengers were being delayed because of her and that she was to get off the bus. Ms. Lucas was very afraid to get off until another bus arrived on which she could board. Ms. Lucas again requested that he get the other bus to wait for her, and she told him that she would get on it. He refused and yelled at her in between his conversation with dispatch. She requested to speak to dispatch, and the driver refused. She called dispatch. Just after someone from dispatch got on the line, a passenger came up behind Ms. Lucas, hit her in the head, and stole her telephone. Ms. Lucas asked the driver, who had witnessed the incident, to call dispatch and the police. Instead, he kept yelling for Ms. Lucas to get off the bus. Ms. Lucas got the telephone back and called 911 because the driver continued to incite the other passengers even more. Ms. Lucas told the driver that she was staying on the bus until the police arrived. The passenger who had hit Ms.

Lucas then exited the bus. Until the police arrived, the driver continued to yell at Ms. Lucas.

n. On or about August 29, 2000, Ms. Orrell was waiting for a bus at what she believed to be the bus stop. When the bus driver pulled the bus up to the stop, Ms. Orrell asked the bus driver to wait for her. She knew that she was close to the bus stop, but there was nothing to indicate to her the exact location of the stop. The bus driver angrily yelled at her that the bus was right there. He then yelled at her that she was in the wrong spot. When she boarded the bus, she asked the driver to let her know when the bus reached a particular stop.

o. Bus drivers frequently do not verbally acknowledge requests to call out bus stops. When Ms. Orrell boards buses, she asks bus drivers to call out the bus stop at which she wishes to exit from the bus. Many of the drivers either do not acknowledge her request or snap at her for having made the request more than once.

p. On September 1, 2000, Ms. Lucas attempted to board a bus. The driver had difficulty getting the lift door open and determining how to get the lift out of the bus. He went back and forth between the bus controls and the lift controls several times before he figured out how to make the lift work. After Ms. Lucas boarded the bus, she overheard the driver call dispatch and state that he was late due to having to transport a wheelchair.

q. On September 4, 2000, Ms. Lucas attempted to board a bus. The bus driver did not appear to know how to operate the lift. He attempted to unfold the lift before swinging it out, and the lift would not

fit through the door of the bus in that manner. After several tries, he managed to extend the lift, but could not get it to go up or down. Ms. Lucas asked him what he had done when he had cycled the lift that morning, and he said that he had done the same things. When Ms. Lucas informed him that the next bus would not arrive for more than 30 minutes and that she needed alternative transportation, it appeared to Ms. Lucas that the driver was unaware of the requirement to provide such transportation.

12. RTD has failed to provide adequate space for interior circulation on several types of its buses. On one type, Plaintiffs Taylor and Lucas have run into or over tool boxes with their wheelchairs as they have proceeded to and from lift platforms to wheelchair securement locations. On another type, they have hit the footrests of their wheelchairs on fare boxes as they have proceeded to and from lift platforms to wheelchair securement locations. For example, on May 16, 2000, as Ms. Lucas was attempting to get around a fare box while exiting a bus, the wheel of her wheelchair hit the fare box, causing her wheelchair to lurch forward, and the “joystick” on the chair got jammed between the handle on the lift and the door to the bus, cracking the glass on the door. After much maneuvering, her wheelchair was dislodged from this position.

13. RTD has also engaged in acts of retaliation, coercion, intimidation, making threats and/or interference, in violation of 42 U.S.C. § 12203. In addition to the incidents described throughout this Amended Complaint, examples of this conduct include:

a. On February 16, 2000, a bus driver attempted to secure Ms. Lucas’s wheelchair by looping a strap around one of its armrests. For her own safety and that of her wheelchair, Ms. Lucas removed the strap. The driver stated that Ms. Lucas’s wheelchair had to be secured before the bus

could move. Ms. Lucas told the driver that she was welcome to secure the chair. The driver again looped the strap on an armrest. Ms. Lucas unlatched the strap, but did not remove it from her chair. After asking other passengers whether Ms. Lucas had removed the strap and receiving an affirmative response, the driver came back to where Ms. Lucas was seated, ripped the strap from her wheelchair, threw it on the ground, and announced to all of the passengers that Ms. Lucas was causing their delay. The driver then passed out cards to passengers, asking them to fill them out as witnesses. The driver collected three of the cards and refused to give one to Ms. Lucas to fill out. The driver also refused Ms. Lucas's repeated requests for the driver's name and employee number. Ms. Lucas asked the driver to call a supervisor. During this time, passengers berated Ms. Lucas, with several of them discussing picking up her wheelchair and throwing Ms. Lucas off the bus. When a passenger began to approach her, Ms. Lucas stated that she would call the police if she were touched. Not only did the driver do nothing to stop the passengers, she incited them by repeating several times that it was Ms. Lucas's fault that the bus was being delayed and that the ADA required that Ms. Lucas be strapped. At that point, another bus arrived, and most of the passengers boarded it. Several passengers offered to stay. The driver encouraged them to do so, and they continued to berate Ms. Lucas. When the supervisor arrived, he stated that Ms. Lucas's wheelchair would have to be secured for the bus to travel, despite his inability to find an appropriate place on her wheelchair to secure it. Ms. Lucas stated several times that she would leave the bus, if asked to do so.

- b. Ms. Lucas complained about an incident that occurred on March 10, 2000, in which the bus driver had inappropriately secured her wheelchair. Ms. Lucas requested a written response to her complaint. On April 17, 2000, Ms. Lucas attempted to board a bus driven by the driver who had inappropriately attempted to secure her wheelchair on March 10, 2000. The driver would not let Ms. Lucas aboard the bus because she had registered a complaint about his conduct. A Street Supervisor for RTD supported the driver's position, stating that Ms. Lucas could not ride the bus because of her complaint about the driver.
- c. On April 26, 2000, the same bus driver who had refused to permit Ms. Lucas to board the bus on April 17, 2000, again refused to permit her to ride on the bus because she had registered a complaint about his conduct. He also incited passengers on the bus to behave in a threatening manner to Ms. Lucas. One passenger even put her face within inches of Ms. Lucas's face and stated that she should punch Ms. Lucas in the face. One of Ms. Lucas's supervisors at CCDC, who arrived on the scene after Ms. Lucas had called her, told Ms. Lucas that she must not ride the bus because it would be unsafe to do so.
- d. During a meeting that was held on May 3, 2000, between RTD and Plaintiffs Reiskin, Lane, and Lucas, these Plaintiffs were informed that RTD would seek to have them charged with a criminal offense for refusing securement, if the refusal resulted in delaying a bus, and that RTD would not tolerate buses being held up for securement, broken lifts, or anything else.

- e. On May 5, 2000, Plaintiff Lucas attempted to board a bus driven by the same driver who had refused to allow her to board on April 17 and April 26, 2000. When she appeared at the door of the bus, the driver glared at her for approximately 30 seconds, without saying a word. Ms. Lucas then stated that she needed the lift. The driver turned around in his seat and loudly asked whether anyone would give up his or her seat for a “wheelchair.” He then turned around and faced Ms. Lucas, glaring at her and did not lower the lift. Apparently some passengers cleared the wheelchair securement location. The driver then put down the lift, and Ms. Lucas boarded the bus.
- f. On May 26, 2000, a driver asked Mr. Taylor whether he wished to board a bus after other, nondisabled passengers had been allowed to board, and the driver claimed that the bus was getting rather full. Mr. Taylor stated that he wished to board the bus, and the driver attempted unsuccessfully to get Mr. Taylor to take the next bus. After Mr. Taylor boarded the bus, he learned that there was sufficient room and that all that was required was for several passengers to move from their seats while Mr. Taylor traveled to a securement area. After Mr. Taylor had boarded the bus, the driver appeared angry while securing Mr. Taylor’s wheelchair.
- g. On June 15, 2000, RTD informed CCDC that its Eco Pass Contract with RTD was being audited. The Eco Pass Contract enables CCDC, as an employer, to receive a discount for its employees to ride on RTD buses. RTD had never before audited CCDC’s Eco Pass Contract. At the time the Complaint in this case was filed on May 11, 2000, RTD

was aware that Plaintiffs Reiskin, Lane, and Lucas were CCDC employees.

h. After Ms. Reiskin had difficulties with a driver securing her wheelchair on August 14, 2000, as alleged above in paragraph 39(ee), the bus driver pulled into a light rail station, where he boarded all of the individuals who were waiting for the bus. The bus driver then delayed in lowering the lift, causing Ms. Reiskin to miss her light rail connection.

14. Upon information and belief, some or all of the accessibility deficiencies in Defendant's public transportation system are due to Defendant's failure to train and/or discipline bus drivers properly.

15. On December 20, 1999, at approximately 4:30 p.m., Ms. Reiskin visited RTD's office at 1600 Blake Street in Denver, Colorado. The main entrance to the building is inaccessible, but there is an accessible entrance on the side of the building. The accessible, side entrance was locked, and Ms. Reiskin rang the buzzer and informed RTD's guard that she wished to drop something off. The guard stated that she had to go to the front door. When she explained that she was in a wheelchair, the guard repeated that she had to go to the front door. Finally, Ms. Reiskin came to the front of the building, which has steps, and asked someone who was going into it to ask the guard to open the door of the accessible entrance. When Ms. Reiskin asked if the building was officially closed, the guard replied that the accessible door is locked after 4:00 p.m., but the building does not close to the public until 5:30 p.m.

16. Several of the Plaintiffs have met with RTD officials to attempt to address some of the deficiencies in Defendant's system of public transportation, to no avail. In addition, Plaintiffs have registered numerous complaints with Defendant concerning deficiencies

in Defendant's system. Defendant has not adequately responded to Plaintiffs' complaints and continues to violate the ADA and the Rehabilitation Act.

17. Plaintiffs Taylor, Reiskin, Lane, Lucas, Orrell, and CCDC have been and continue to be injured by the inaccessibility of RTD's public transportation system, including without limitation those injuries set forth above.

18. As a result of the accessibility barriers to RTD's public transportation system, Plaintiff Orrell and Plaintiffs Taylor, Reiskin, Lane, and Lucas and other CCDC staff and members have suffered injuries, including without limitation emotional distress, embarrassment, and anguish.

19. Plaintiff Orrell and Plaintiffs Taylor, Reiskin, Lane, and Lucas and other CCDC staff and members would like to -- and are ready, willing and able to -- utilize Defendant's services, programs, and activities when the discriminatory barriers are removed or cured.

FIRST CLAIM FOR RELIEF

(Violation of the Americans with Disabilities Act)

1. Plaintiffs re-allege and incorporate by reference the allegations set forth in paragraphs 1 - 49 above as if fully set forth herein.

2. Title II of the ADA prohibits public entities from denying, on the basis of disability, the benefits of the services, programs, or activities of the public entity, and from subjecting persons with disabilities to discrimination. 42 U.S.C. § 12131 *et seq.*; 28 C.F.R. Part 35; 49 C.F.R. Parts 37 and 38.

3. Further, it is considered discrimination for purposes of the ADA "for a public entity to fail to operate a designated public transportation program or activity conducted in [existing] facilities so that, when viewed in the entirety, the program or activity is readily accessible to and usable by individuals with disabilities." 42 U.S.C. § 12148.

4. Defendant has violated the ADA by failing to make its public transportation system readily accessible to and usable by Plaintiffs Taylor, Reiskin, Lane, Lucas, and Orrell and other individuals with disabilities including without limitation CCDC staff and members.

5. Defendant has violated the ADA by denying Plaintiffs and other individuals with disabilities including without limitation CCDC staff and members the benefits of its services, programs, and activities, as more fully set forth above.

6. Defendant is a public entity under the ADA.

7. In engaging in the conduct described above, Defendant has either intentionally discriminated against Plaintiffs or been deliberately indifferent to the strong likelihood that pursuit of its policies would result in violations of federally protected rights.

8. Defendant's violations of the ADA have harmed and will continue to harm Plaintiffs in the future.

SECOND CLAIM FOR RELIEF

(Violation of the Americans with Disabilities Act - Retaliation and Coercion)

1. Plaintiffs re-allege and incorporate by reference the allegations set forth in paragraphs 1 - 57 above as if fully set forth herein.

2. Defendant has also violated the ADA by retaliating against Plaintiffs for their protected activity, in violation of 42 U.S.C. § 12203 and 28 C.F.R. § 35.134(a).

3. In addition, Defendant has violated the ADA by coercing, intimidating, threatening, or interfering with Plaintiffs' exercise of their enjoyment of rights granted or protected by that statute, in violation of 42 U.S.C. § 12203 and 28 C.F.R. § 35.134(b).

4. In engaging in the conduct described above, Defendant has either intentionally discriminated against Plaintiffs or been deliberately indifferent to the strong likelihood that pursuit of its policies would result in violations of federally protected rights.

5. Defendant's violations of the ADA have harmed and will continue to harm Plaintiffs in the future.

THIRD CLAIM FOR RELIEF

(Violation of the Rehabilitation Act of 1973)

1. Plaintiffs re-allege and incorporate by reference the allegations set forth in paragraphs 1 - 62 above as if fully set forth herein.

2. The Rehabilitation Act prohibits recipients of federal funding from denying to persons with disabilities, on the basis of disability, the benefits provided by the recipient, or from subjecting persons with disabilities to discrimination. 29 U.S.C. § 794; 49 C.F.R. Part 27.

3. Defendant receives federal funding.

4. Defendant has violated the Rehabilitation Act by denying Plaintiffs Taylor, Reiskin, Lane, Lucas, and Orrell and other individuals with disabilities including without limitation CCDC staff and members its benefits, including access to its public transportation system, as more fully set forth above.

5. Further, it is considered discrimination for purposes of Section 504 of the Rehabilitation Act "for a public entity to fail to operate a designated public transportation program or activity conducted in [existing] facilities so that, when viewed in the entirety, the program or activity is readily accessible to and usable by individuals with disabilities." 42 U.S.C. § 12148; 29 U.S.C. § 794; 49 C.F.R. Part 27.

6. In engaging in the conduct described above, Defendant has either intentionally discriminated against Plaintiffs or been deliberately indifferent to the strong likelihood that pursuit of its policies would result in violations of federally protected rights.

7. Defendant's violations of the Rehabilitation Act have harmed and will continue to harm Plaintiffs in the future.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully pray:

1. That this Court assume jurisdiction.
2. That this Court declare Defendant to be in violation of the ADA and the Rehabilitation Act.
3. That this Court issue an injunction ordering Defendant to comply with the ADA and the Rehabilitation Act by making its services, programs, and activities, including its public transportation system, readily accessible to and usable by Plaintiffs Taylor, Reiskin, Lane, Lucas, and Orrell and other individuals with disabilities including without limitation CCDC staff and members.
4. 3. That this Court award compensatory damages to Plaintiffs.
5. 4. That this Court award Plaintiffs' reasonable attorneys' fees and costs.
6. 5. That this Court award such additional or alternative relief as may be just, proper and equitable.
7. **JURY DEMAND:** Plaintiffs demand a jury on all issues which can be heard by a jury.

Respectfully submitted,

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