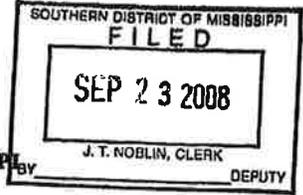


# Attachment E

Initial MS Date 1/8/19  
*TSL*  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION

SCOTT M. CRAWFORD, DEWONE BANKS, JASON )  
BUNCHE, GWENDOLYN BYRD, LEE COLE, JAN )  
HAWTHORNE, IRENE MYERS, BONNIE )  
THOMPSON, MELVINA TOBIAS, EDDIE TURNER, )  
JERRI WALTON, MISSISSIPPI COALITION FOR )  
CITIZENS WITH DISABILITIES, MISSISSIPPI )  
COUNCIL FOR THE BLIND JACKSON CHAPTER, )  
ON BEHALF OF THEMSELVES AND ALL OTHERS )  
SIMILARLY SITUATED, )  
Plaintiff, )  
vs. )  
CITY OF JACKSON AND CITY OF JACKSON )  
PUBLIC TRANSPORTATION SYSTEM ("JATRAM"), )  
Defendant )

Case No.: 3:08cv586 TSL-JCS

COMPLAINT

Plaintiffs, by and through their undersigned counsel, on behalf of themselves and all others similarly situated, sue the City of Jackson, ("Jackson" or "the city" or "City") and the City of Jackson Public Transportation System ("JATRAM"), (collectively "defendants" or "Defendants") and allege as follows:

**INTRODUCTION**

1. This is a class action for declaratory and injunctive relief to remedy Defendants' continuing violations of the rights of the individual Plaintiffs and the Plaintiff class to basic

and essential transportation services under Title II of the Americans with Disabilities Act of 1990 ("ADA"), 42 U.S.C. § 12131 et. seq.; Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, et. seq. ("Rehabilitation Act"), 42 U.S.C. § 1983 et. seq. ("Civil Rights Act") and the enacting regulations promulgated under these statutes.

2. Jackson, Mississippi is the capitol city of Mississippi with a population of 180,000 and a population of approximately 13,000 people with disabilities.
3. The defendants are responsible for operating a fixed route bus system with a fleet of approximately 24 buses. The fixed route buses operate six days per week, Monday through Saturday, from 4 AM through 7 PM. As required by Title II of the ADA, Defendants also provide complementary "paratransit services" ("handilift" or "paratransit") to individuals with disabilities.
4. On information and belief, JATRAM's paratransit service, handilift, transports approximately 150 riders per day between the hours of 5 AM and 7 PM. There are 12 handilift buses, but only 8 are used each day. Despite being approximately five years old, the handilift buses break down regularly because of the extensive mileage put on each of these buses.
5. Many individuals with disabilities, including the individual Plaintiffs, must depend on JATRAM's paratransit service and fixed route buses to conduct crucial aspects of their daily lives. In many cases, JATRAM riders, including Jan Hawthorne, Gwendolyn Byrd, Lee Cole, Jason Bunche and Jerri Walton rely upon handilift to travel to and from work. Other Plaintiffs, including Plaintiffs Scott Crawford, Dewone Banks, Jason Bunche, Irene Myers, and Melvina Tobias, must depend on handilift as a fallback because the fixed route buses and bus stops are not accessible to people with disabilities. Specifically, the lifts on the fixed route buses often do not work and many of the fixed route bus stops are not accessible to the plaintiffs and other individuals with disabilities. As a result, many of the individual

plaintiffs have used handilift to pick them up to transport them to public events, doctor's appointments, the post office, and the grocery store.

6. The handilift paratransit service is not foolproof. The buses are old and in disrepair. The dispatchers are untrained and, at times, insensitive to the needs of people with disabilities. Rides are circuitous, causing riders to schedule large amounts of time to take short trips. The handilift buses and lifts break down regularly because of their regular use.
7. Because of the unreliability of JATRAN for persons with disabilities, the Plaintiffs risk being unable to work in some cases. In all cases, they risk isolation and being deprived of the personal rewards of being interactive members of society. In many cases, the plaintiffs and other people with disabilities are unable to conduct life-saving functions such as buying groceries or getting to a doctor's appointment without these services. There are no taxi services for mobility impaired people with disabilities in Jackson. All handilift users depend on handilift for important personal appointments much as individuals without disabilities rely on their personal automobiles, JATRAN, and even walking to conduct their personal affairs. Because of the unreliability of the fixed route bus system, handilift users also depend on handilift to exercise certain of their fundamental rights including the right to access courts, serve on a jury, vote, exercise religion, engage in free speech and assembly, petition the government and to obtain services that are essential to engaging in society in addition to the above-referenced survival needs. These services range from education and employment to food and medical care.
8. Despite the crucial role that JATRAN's fixed route bus, and by necessity, handilift service must play in the lives of its users, it fails to provide even minimally adequate service and is materially inferior to the JATRAN public transportation available to people without disabilities. In order to increase their chance of scheduling a ride, handilift users must call one week in advance. When calling, users must be prepared to be on hold for up to 45

minutes. After making an appointment for pick-up, there is no guarantee that the ride will come any time near when it is scheduled. Because of driver or dispatcher negligence, a substantial portion of rides are late, often very late. Some rides arrive unreasonably early and leave before the scheduled arrival time. Some rides do not appear at all. When dispatch is called, users are sometimes given inaccurate information about the status of their ride and its proximity to their pick-up location. The air-conditioning on many of these buses is broken. This exacerbates serious medical conditions in many of its users. During these trips, riders are denied access to food and water, medicine and bathroom facilities. JATRAN's inadequate performance poses a threat to the health and safety of many of its users while effectively denying access to public transportation to users with conditions that cannot tolerate the risk of prolonged exposure to heat.

9. As stated earlier, the Defendants' paratransit service handilift, is heavily and over-relied upon because JATRAN has a pattern and practice of failing to fix inoperable lifts on its fixed route buses. By failing to train its staff to maintain the lifts on the buses, the plaintiffs and other individuals with disabilities are routinely left on the side of the road at bus stops while persons without disabilities board the buses. JATRAN's fixed route buses operate 24 buses, 6 days a week, between the hours of 4 AM and 7 PM. The fact that the fixed route buses operate for an additional hour each day gives persons without disabilities an additional six hours per week of public transportation access than plaintiffs and similarly situated individuals in the class who only use handilift and constitutes discrimination under the ADA.
10. On information and belief, the fleet of fixed route buses is approximately 15 years old. The buses regularly break down, the air-conditioning does not work, and the lifts do not work on approximately one-half of the buses. With this limited schedule, persons in wheelchairs have been left at the bus stops on a regular basis after being told by the driver that the lift does not work. On the smaller "El Dorado" buses, this occurs almost every time

a bus approaches and a mobility impaired rider is waiting. The larger Gillig buses have a lift that is less complex and can be deployed manually.

11. The Plaintiffs who do not exclusively use handlift, such as Plaintiff Crawford, Banks, Bunche, and Myers, have all experienced this problem within the last one year. The impact of this continuing problem with inoperable lifts is that mobility impaired riders are regularly left at the bus stop and told by the bus driver that they will send paratransit or to wait for another bus with an operable lift causing the rider embarrassment, lost time, prolonged exposure to the elements, inconvenience, and humiliation. The plaintiffs who use the fixed route buses have all experienced watching a bus leave without them only to wait for up to several hours for handlift to arrive.
12. On information and belief, riders with visual or hearing impairments do not have the same access to information other riders have. The only schedule or route information that is provided to riders is provided at the main bus terminal in downtown Jackson or on its website and it is not provided in any alternative formats for those who are visually-impaired or hearing-impaired. The schedule and route information are impossible to access if a rider cannot make it on a fixed route bus down to the terminal. When riders call, they are directed to the terminal. The internet website does not provide accessible route or schedule information for those who are visually-impaired.
13. The impact of the defendants' ADA violations on the individual plaintiffs and on members of the Plaintiff class who rely on fixed route buses and who need reliable and accessible public transportation to travel to the grocery store, to the drug store, to participate in civic life, and for other fundamental right and crucial life activities, is profound. The riders are put through a frustrating gauntlet of attempting to ride handlift, which is not reliable or always safe, and waiting for a bus on the off-chance that its lift will be operable. If it is operable when they board the bus, there is the chance that the lift will become

inoperable while they are riding and the rider – as Plaintiffs Crawford and Banks have experienced – will be stranded on the bus until it can be repaired or the lift can be manually lowered. Again, the persistent second class treatment takes both a physical and psychological toll on the riders.

14. In 1990, Congress enacted the ADA to address pervasive discrimination against persons with disabilities, including discrimination in the crucial area of public transportation. Congress states that the purpose of the ADA is “(1) provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities; (2) to provide clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities; (3) to ensure that the Federal Government plays a central role in enforcing the standard established in this chapter on behalf of individuals with disabilities; and (4) to invoke the sweep of congressional authority, including the power to enforce the fourteenth 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)-(4).
15. Title II of the ADA prohibits discrimination by public entities on the basis of disability, and specifically provides that no qualified individual with a disability shall be excluded from participation in or denied the benefits of the services, programs, or activities of such public entity. 42 U.S.C. § 12131, et. seq. The federal enacting regulations explicitly protect individuals with disabilities from discrimination by a public entity “in connection with the provision of transportation service.” 49 C.F.R. § 37.5 (a).
16. The Rehabilitation Act and its implementing regulations prohibit recipients of federal funding from discriminating against people with disabilities. It provides in part that “no otherwise qualified individual with a disability...shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to

discrimination under any program or activity receiving Federal financial assistance....” 29 U.S.C. § 794(a).

17. Appreciating the fact that a lack of reliable transportation is a significant barrier encountered by persons with disabilities, the ADA expressly requires state and public entities that provide public transportation provide fixed route transportation that allows persons with disabilities full and equal enjoyment (42 U.S.C. § 12182) and complementary “paratransit services” to individuals with disabilities who, by virtue of their disabilities, cannot otherwise use the public transportation system. 42 U.S.C. § 12101(a).
18. The transportation JATRAM provides for people with disabilities is materially inferior to the public transportation available to people without disabilities. By, among other things, failing to provide fixed route buses with operable lifts on the majority of its routes and failing to properly train dispatchers, drivers, and repair persons and thus allowing broken lifts to remain broken, and keeping bus stops inaccessible to people with disabilities, the defendants have excluded the individual plaintiffs and the Plaintiff class from participating as full citizens in Jackson and denied them the benefit of the public transportation system by reason of their disabilities.
19. The defendants’ failure to provide a paratransit system that complies with federal law – specifically, routinely failing to schedule eligible trips, providing fewer hours of operation, failing to maintain paratransit buses, and providing exceedingly long trips – also discriminates against the Plaintiff class by reason of their disabilities. The non-compliance with federal law of the Defendants’ fixed route and paratransit system has the effect of unlawfully excluding the plaintiffs and those similarly situated from equal participation in public transportation services, and unlawfully denying them the benefit of equal access to public transportation services. The plaintiff class is therefore entitled to declaratory, injunctive, and equitable relief.

## **JURISDICTION AND VENUE**

20. This Court has jurisdiction under 28 U.S.C. § 1331 because the claims arise under federal law.
21. This Court has jurisdiction over the Plaintiffs' request for declaratory judgment pursuant to 28 U.S.C. §§ 2201 and 2202.
22. Venue of this action properly lies in the Southern District of Mississippi, Jackson Division pursuant to 28 U.S.C. 1391(b)(2) because all of the events and omissions giving rise to this claim arise in this district. The Coalition for Citizens with Disabilities has its principle place of business in Jackson, Mississippi and is a coalition of individuals with disabilities in the greater Jackson, Mississippi area. The Mississippi Council for the Blind Jackson Chapter, ("MCB") is headquartered in Jackson, Mississippi. The individual plaintiffs all reside in Jackson, Mississippi. The City of Jackson and JATRAN have their principle place of business in the city of Jackson, Mississippi.

## **PARTIES**

23. Plaintiff Mississippi Coalition for Citizens with Disabilities is a non-profit membership organization that works on behalf of people with disabilities throughout the state of Mississippi to, among other things, ensure that laws important to people with disabilities are enforced.
24. Plaintiff Mississippi Council of the Blind, Jackson Chapter, is the Jackson Chapter of the Mississippi affiliate of the American Council of the Blind. It is a membership organization with over one hundred (100) members devoted to serving as a support organization and an information source for blind and visually impaired individuals and their families in Jackson, Mississippi.
25. Plaintiff Scott M. Crawford resides in Jackson, Mississippi and uses JATRAN's handlift and fixed route system weekly as his primary method of transportation. Mr. Crawford

suffers from multiple sclerosis and is mobility impaired, requiring the use of a wheelchair. As a result, he is a "qualified individual with a disability" pursuant to 42 U.S.C. § 12131(2). At all times relevant to this Complaint, he has been eligible for paratransit services and he has been a fixed route bus rider.

26. Plaintiff Dewone Banks resides in Jackson, Mississippi and uses JATRAN's handlift and fixed route system weekly as his primary method of transportation. Mr. Banks suffers from osteogenesis imperfecta and is mobility impaired, requiring the use of a wheelchair. As a result, he is a "qualified individual with a disability" pursuant to 42 U.S.C. § 12131(2). At all times relevant to this Complaint, he has been eligible for paratransit services and he has been a fixed route bus rider.
27. Plaintiff Jason Bunche resides in Jackson, Mississippi and uses JATRAN's handlift system weekly as his primary method of transportation. Mr. Bunche suffers from cerebral palsy and is mobility impaired, requiring the use of a wheelchair. As a result, he is a "qualified individual with a disability" pursuant to 42 U.S.C. § 12131(2). At all times relevant to this Complaint, he has been eligible for paratransit services.
28. Plaintiff Jerri Walton resides in Jackson, Mississippi and uses JATRAN's handlift system weekly as her primary method of transportation. Ms. Walton suffers from cerebral palsy and is mobility impaired, requiring the use of a walker. As a result, she is a "qualified individual with a disability" pursuant to 42 U.S.C. § 12131(2). At all times relevant to this Complaint, she has been eligible for paratransit services.
29. Plaintiff Lee Cole resides in Jackson, Mississippi and uses JATRAN's handlift system weekly as her primary method of transportation. Ms. Cole is visually impaired, as a result, she is a "qualified individual with a disability" pursuant to 42 U.S.C. § 12131(2). At all times relevant to this Complaint, she has been eligible for paratransit services.

30. Plaintiff Jan Hawthorne resides in Jackson, Mississippi and uses JATRAN's handilift system daily as her primary method of transportation to her job at the Mississippi School for the Blind. Ms. Hawthorne is visually impaired and as a result she is a "qualified individual with a disability" pursuant to 42 U.S.C. § 12131(2). At all times relevant to this Complaint, she has been eligible for paratransit services.
31. Plaintiff Irene Myers resides in Jackson, Mississippi and uses JATRAN's handilift and fixed route bus system weekly as her primary method of transportation. Ms. Myers is mobility impaired due to multiple medical problems and as a result she is a "qualified individual with a disability" pursuant to 42 U.S.C. § 12131(2). At all times relevant to this Complaint, she has been eligible for paratransit services.
32. Plaintiff Melvina Tobias resides in Jackson, Mississippi and uses JATRAN's handilift and fixed route bus system weekly as her primary method of transportation. Ms. Tobias is "mobility impaired" and as a result she is a "qualified individual with a disability" pursuant to 42 U.S.C. § 12131(2). At all times relevant to this Complaint, she has been eligible for paratransit services.
33. Plaintiff Eddie Turner resides in Jackson, Mississippi and uses JATRAN's handilift system as a supplementary method of transportation. Mr. Turner is visually impaired and as a result, he is a "qualified individual with a disability" pursuant to 42 U.S.C. § 12131(2). At all times relevant to this Complaint, he has been eligible for paratransit services.
34. Plaintiff Bonnie Thompson resides in Jackson, Mississippi and uses JATRAN's handilift system as a supplementary method of transportation. Ms. Thompson is visually impaired and as a result, she is a "qualified individual with a disability" pursuant to 42 U.S.C. § 12131(2). At all times relevant to this Complaint, she has been eligible for paratransit services.

35. Plaintiff Gwendolyn Byrd resides in Jackson, Mississippi and uses handlift as her primary method of transportation. Ms. Byrd is visually impaired and as a result, she is a "qualified individual with a disability" pursuant to 42 U.S.C. § 12131(2). At all times relevant to this Complaint, she has been eligible for paratransit services.
36. Defendant JATRAN is an instrumentality of the City of Jackson created to provide public bus and trolley transportation.
37. Defendant City of Jackson ("the City" or "City") is the public entity responsible for JATRAN and a "public entity" within the meaning of 42 U.S.C. § 12131.

#### CLASS ACTION ALLEGATIONS

38. Plaintiffs Coalition for Citizens with Disabilities, Mississippi Council of the Blind, Jackson Chapter, Scott M. Crawford, Dewone Banks, Jason Bunche, Napoleon Campbell, Jerri Walton, Lee Cole, Jan Hawthorne, Irene Myers, Bonnie Thompson, Melvina Tobias, and Eddie Turner bring this action on behalf of themselves and all other persons similarly situated, pursuant to Fed. R. of Civ. Pro. 23(a), (b)(1) and (b)(2). The class members consist of organizations representing individuals with disabilities in Jackson, Mississippi and residents of Jackson, Mississippi who are individuals with disabilities and rely on JATRAN as their primary method of transportation and who are, have been, or will be: 1) denied fixed route bus access because of inoperable lifts or inaccessible bus stops; and 2) denied paratransit services comparable to the level of services provided to individuals without disabilities who use JATRAN's fixed-route bus system.
39. Each individual member of the proposed class is a "qualified individual with a disability" pursuant to 42 U.S.C. § 12131(2).
40. The exact size of the class is unknown to the Plaintiffs, but on information and belief the class number is approximately equal to the 13,000 people in Jackson, Mississippi who are

people with disabilities who are being denied full and equal enjoyment of JATTRAN's fixed route bus and paratransit service system and who would use the public transportation system if it were ADA-compliant. The class is so numerous that joinder of all members is impracticable.

41. The questions of law and fact common to the class include:
42. Whether the Defendants are violating Title II of the ADA and its implementing regulations by: consistently failing to provide fixed-route buses with operable lifts; failing to repair inoperable lifts on fixed route buses when they are broken; failing to train its employees to service bus lifts when they break; failure to provide buses with air-conditioning; providing materially inferior paratransit service to persons with disabilities compared to service provided to persons without disabilities; denying eligible paratransit trips; requiring eligible paratransit trips to be scheduled one week in advance; requiring riders with disabilities to schedule trips more than one hours prior to their desired departure time; failing to make information accessible to people with hearing and visual impairments; and failing to provide bus stops that are wheelchair accessible.
43. Whether the Defendants are violating the Rehabilitation Act by consistently failing to provide fixed-route buses with operable lifts; failing to repair inoperable lifts on fixed route buses when they are broken; failing to train its employees to service bus lifts when they break; failure to provide buses with air-conditioning; providing materially inferior paratransit service to persons with disabilities compared to service provided to persons without disabilities; denying eligible paratransit trips; requiring eligible paratransit trips to be scheduled one week in advance; requiring riders with disabilities to schedule trips more than one hours prior to their desired departure time; failing to make information accessible to people with hearing and visual impairments; and failing to provide bus stops that are wheelchair accessible.

44. The claims of the named Plaintiffs are typical of those of the class. The named Plaintiffs' claims arise from the same source of conduct. Namely, the Plaintiffs' claims arise from the Defendants' consistently failing to provide fixed-route buses with operable lifts; failing to repair inoperable lifts on fixed route buses when they are broken; failing to train its employees to service bus lifts when they break; failure to provide buses with air-conditioning; providing materially inferior paratransit service to persons with disabilities compared to service provided to persons without disabilities; denying eligible paratransit trips; requiring eligible paratransit trips to be scheduled one week in advance; requiring riders with disabilities to schedule trips more than one hours prior to their desired departure time; failing to make information accessible to people with hearing and visual impairments; and failing to provide bus stops that are wheelchair accessible.
45. The named Plaintiffs will fairly and adequately represent the interests of the class. They have no interests that are antagonistic to the class and seek relief which will benefit all members of the class.
46. The attorneys representing the Plaintiffs include experienced civil rights attorneys with specific experience representing persons with disabilities.
47. The Defendants have acted and continue to act on grounds generally applicable to the class, making injunctive and declaratory relief appropriate to the class as a whole.

#### **FACTUAL ALLEGATIONS**

#### **FAILURE TO PROVIDE FIXED ROUTE BUSES**

#### **WITH OPERABLE LIFTS**

48. On information and belief, approximately one-half of the City's fixed route buses do not have operable lifts. A representative of JATRAM's subcontractor, Jim Bender, reported this information to the city's ADA Council on June 18, 2008.

49. With the exception of riders who exclusively use handlift, each plaintiff who uses JATRAN's fixed route system has been left on the side of the road because of an inoperable lift. One of the most egregious incidents occurred in December 2006 when Plaintiff Crawford took a JATRAN fixed route bus to North Park mall. After shopping, he went to the bus stop to catch the bus back to his home. Three buses left him stranded at the bus stop stating that their lift(s) did not function and that another bus with a functioning lift would be arriving. After the buses had stopped running for the evening, a Ridgeland police officer gave him a ride home. Otherwise, he would have been stranded for the evening.
50. As recently as April 2008, Plaintiff Crawford was left on the side of the road when the fixed route bus he was waiting for arrived with an inoperable lift. The occasion was memorable because a crew from the Mississippi Department of Transportation waited with him until a handlift bus was dispatched to pick him up. On July 29, 2008, Plaintiff Crawford filed one of several Federal Transit Administration ("FTA") complaints with the City's newly appointed ADA Coordinator to complain about the fact that the Defendants' still have many buses that do not have operable lifts. See Exhibit 1 (Complaints of Dr. Scott Crawford Detailing ADA Violations of Defendants). In the July 29, 2008 complaint to the Defendants' ADA Coordinator, Plaintiff Crawford described riding his power wheelchair from the Capitol to 1304 Vine Street in 100 degree Fahrenheit heat because he knows that the lift on the #4 bus does not work and refers the ADA Coordinator back to a previous complaint. In an attempt to ride the #1 bus home, he was informed by the driver of the first bus that the lift was inoperable. He was forced to wait in the heat for another bus to arrive with an operable lift. His inability to take public transportation because of the defendants' failure to comply with the law exacerbates his already fragile medical condition (Multiple Sclerosis).

51. Plaintiff Irene Myers began a public transportation trip from her apartment home in Willow Point Apartments on Glen Cross Road traveling to North Park Shopping Mall on County Line Road during the last Christmas shopping season. She approached the fixed route bus stop near her house, but the bus arrived with an inoperable lift. The bus driver agreed to call handilift for her. The handilift arrived and took her to the shopping mall on County Line Road. After she finished a short shopping trip, Plaintiff Myers called the dispatcher to get a handilift ride back to her home from the mall. The dispatcher told her to take the fixed route bus. Plaintiff Myers explained that she did not know where the bus stop was because she had not arrived on the fixed route bus and that the lift on the fixed route bus was inoperable. The dispatcher told her that the lift was repaired and that she would not send a handilift bus out there because she had not scheduled the trip.
52. In her wheelchair, Plaintiff Myers went searching through the busy mall parking lot for the bus stop. A kind motorist assisted her by stopping traffic while she crossed a busy intersection to get to the bus stop only to wait for approximately 45 minutes for a bus to arrive with an inoperable lift. The bus driver informed her that his lift had not been operable for some time and agreed to call handilift for her. After handilift was called, she waited for an hour before calling dispatch when she was told that the handilift driver was dispatched to the bank at the mall to pick her up and could not find her there even though she had been instructed to go to the bus stop. Finally, well after dark and approaching the hour when handilift and buses discontinue running, she was picked up by the handilift, exhausted and fearful of ever returning to the mall.
53. Plaintiff Dewone Banks relies on JATRAN as his primary method of transportation and has been left at bus stops on numerous occasions because the lifts on the fixed route buses do not work. Approximately one year ago, Plaintiff Banks was stranded on a fixed route bus when he was able to be put onto the bus, but it would not deploy to allow him to get off the

bus. JATRAN had to carry him off the bus, causing him great embarrassment and humiliation.

54. On another occasion, Plaintiff Banks went to North Jackson near North Park Mall and the bus on which he was riding caught on fire. Not only was he stranded, but given the inconsistency of the lifts, Plaintiff Banks was put in grave danger by this situation because unlike his able-bodied peers, had the bus become engulfed, he likely would have perished. As a result, Plaintiff Banks suffered additional anxiety and distress from the fire and the resulting inconvenience of being stranded while waiting for another bus to arrive. In December 2007 and March 2008, Plaintiff Banks documented these complaints.
55. The defendants admit that one-half of the City's bus lifts are inoperable, it is clear that the Defendants are not maintaining the inoperable lifts on the fixed route buses, nor do they intend to make them accessible for people with disabilities. There is no reasonable accommodation for the plaintiffs, who are forced to accept the fact that the lifts on the buses do not work more often than not. This problem has been on-going for several years. Furthermore, as evidenced by complaints made to the Defendants, even after getting recent notice of inoperable lifts, the Defendants do nothing to repair them.
56. As a result of the Defendants' failure to comply with applicable laws, the plaintiff class is forced to over-rely upon handlift. Handlift is not well-maintained, the buses are subject to breakdown because of the excessive use, and it is not an adequate substitute for access to the fixed route system.

#### **FAILURE TO ADEQUATELY TRAIN STAFF**

57. Plaintiffs Crawford, Cole, Banks, Hawthorne and Myers have all experienced JATRAN dispatch staff who have been disrespectful or dishonest with them during the last one year. Worst of all, plaintiffs Hawthorne, Crawford, Cole, and Myers report that the dispatch staff is incompetent. The dispatch staff does not accurately record or relay information from the

rider to the driver, including an address change from one rider that was not changed in the system for over a year. As a result, Plaintiff Jan Hawthorne has experienced the handlift going to the wrong address to pick her up (or to pick others up), resulting in additional lost time and late arrivals for work and appointments. Plaintiff Lee Cole experienced staff incompetence when she called to confirm a scheduled pick up of 11:45 AM and the dispatcher never called her back to inform her that her time had been changed to 12:30 PM.

58. All of the plaintiffs have experienced the results of Defendants' inability to train staff to maintain and repair the buses. As a result of the failure to maintain and repair the buses, all of the individual plaintiffs have been late or stranded or both in their attempts to travel throughout the city on their personal and business trips. Also, when drivers cannot or will not manually deploy a lift (either out of lack of know-how or lack of sensitivity training), this leaves mobility impaired riders – such as Plaintiffs Crawford, Banks, Myers, and Tobias stranded because of JATTRAN's failure to train its employees. When lifts stay broken for weeks or months and engines fail routinely, the riders who rely on public transportation are put at a huge disadvantage to persons without disabilities who can ride in cars or taxis to conduct their daily routines. Despite the intent of the ADA, many of JATTRAN's riders are literally left behind.

#### **FAILURE TO OPERATE BUSES WITH AIR-CONDITIONING**

59. In addition to operating buses that are literally inaccessible for mobility-impaired riders because of inoperable lifts, because of the failure to maintain the 15 year-old fleet, many of the plaintiffs – specifically Crawford, Banks, Hawthorne, Myers and Cole – are constructively denied access to the buses when the air conditioning does not work as is often the case. Because the lack of air-conditioning in the sub-tropical climate of Jackson, Mississippi exacerbates the health conditions of many persons with disabilities, those riders are forced to either suffer serious health consequences from riding the bus in extremely hot conditions or

are denied access to the bus system all together even if the bus arrives with an operable lift. The heat harms Plaintiffs with multiple sclerosis like Plaintiff Crawford, and high blood pressure, like Plaintiffs Banks, Cole, Crawford, and Myers, or migraines, like Plaintiff Hawthorne. As a result, they are taking extreme risk or effectively denied the benefits of public transportation in the summer if the air-conditioning is not working.

#### **DENIAL OF ELIGIBLE PARATRANSIT TRIPS**

60. All of the plaintiffs have had the experience of being denied handilift service because it is "booked." As a result, they call one week in advance to reserve a ride. This practice hampers their ability to fully participate as full members of Jackson society because many things, such as illness and social events, cannot be scheduled a week in advance.
61. In May 2007, Plaintiff Crawford called defendants to reserve handilift for a ride to the hospital on the following day for treatment of multiple sclerosis exacerbation. He was denied serviced because the schedule was full. He protested that the need was urgent, but was still not given service. The dispatcher suggested he call an ambulance, but Crawford knew that an ambulance was not necessary and would be prohibitively expensive.
62. Plaintiff Banks has been denied handilift rides approximately 8 times in the past one year. One time, the ride request was for a doctor's appointment, but he was told that the schedule was full and he had to urge a friend to take him.
63. Plaintiff Myers had a similar experience in spring 2008. After speaking to her doctor, she was told to go to the hospital because of an infection to a non-healing wound on her leg, but was denied handilift service. She was told that next day service was not available. Prior to speaking with her doctor, she was unaware of the urgency of going to the hospital and could not possible have scheduled the trip earlier. Yet, the trip was denied.
64. Plaintiff Jerri Walton relies on JATRAN to get to her volunteer position at Living Independence for Everyone ("LIFE") each week. As recently as September 2008, Plaintiff

Walton called to reserve paratransit transportation to LIFE and was told that handilift was booked. On September 18, 2008, Plaintiff Walton took at a handi-lift bus to LIFE and was able to board the bus by its lift. However, the lift was difficult to get back up. When she arrived at her job, she was forced to use the van's stairs with the help of the driver and others to disembark. On no less than one other occasion in the last year, the handilift bus that arrived to take her from her home to LIFE has had an inoperable lift. When that occurred, she was picked up and placed in the back of a cargo-type van that she could not easily get into.

65. Plaintiff Jason Bunche relies on JATLAN as his primary method of transportation. He has experienced numerous problems with buses breaking down, overheating, and lifts not working causing him not to be able to travel throughout the city. For three months during the spring of 2008 he worked at the Mississippi Arts Center Monday through Saturday. On at least one occasion, he was late because the lift on his bus was inoperable.
66. As evidenced by the denial of eligible paratransit trips, the Defendants have a practice of requiring one weeks' notice for paratransit service for eligible rides. Defendants Crawford, Banks, Cole, Myers and Walton have all been denied trips when giving 24 hours' notice (or more) in the last year.
67. The Defendants have a practice of refusing to allow handilift reservations to be made on Saturdays, even though the Defendants operate on Saturdays. As a result, a rider seeking to schedule a trip for a Monday must schedule the trip on Friday to give 24 hours' notice. With the one week practice in place, Monday trips essentially need to be made ten days in advance.

#### **LATE AND EXTENDED PARATRANSIT TRIPS**

68. Plaintiffs Hawthorne, Byrd, Cole and Walton have experienced the routine failure of the handilift to arrive on time and the failure to arrive at their destinations on time. Plaintiffs Byrd and Hawthorne rely on handilift to take them to work at the Mississippi School for the

Blind. During the course of the year, Plaintiff Hawthorne was up to an hour late on more than five occasions. As a visually impaired rider, she was dropped off in the wrong location on one occasion causing her to be late for work. On another occasion, the bus broke and the dispatcher lied and told her it was on its way. Another rider called her and told her to find another way to work, but she still arrived late. On other occasions, she arrived late at work after the bus waited at a certain pick up on the route for ten to fifteen minutes. All of these instances cause her to arrive to her job late even though she only lives a few miles from the facility where she works and she allots over an hour to get there.

69. Plaintiff Cole, as recently as July 2008, had an extended handilift trip because she and the other passengers were moved from a bus to a utility van. The seats were not equipped with seat belts, the seats were not secured fully to the floor of the van, and after other passengers disembarked, when the bus turned corners Plaintiff Cole almost fell off of the van's seat.
70. Plaintiff Bunche, on two occasions, arrived late for work at the Mississippi Center for the Arts because the handilift van that picked him up broke down.

**FAILURE OF DISPATCHERS TO SEND PARATRANSIT DRIVERS  
TO CORRECT ADDRESS**

71. Plaintiff Hawthorne was late to work on several occasions because for a year, despite her notice to dispatch, the drivers of the handilift vehicles had her old address in the system. As a result, when she called for a ride, they would be dispatched to the wrong address. The dispatchers, when corrected, were rude and often failed to accommodate her request that they be immediately sent to her new address.
72. Plaintiff Walton recently moved and was informed by drivers that her new address made it difficult to find her home. She lives on Woodway Dr. in Jackson and defendants' drivers have informed her that there are two Woodway drives. However, the plaintiffs are unable to locate more than one Woodway Dr. in Jackson.

## FAILURE TO PROVIDE ACCESSIBLE BUS STOPS

73. On September 12, 2007, a complaint was filed with the Department of Justice alleging that Jackson is non-compliant with Title II for having no ADA Coordinator, no public notice or grievance procedure, and poor access to public rights-of-way, specifically sidewalks, bus stops, and some City buildings. See Exhibit 1. On information and belief, to date, many of the issues raised in the September 12, 2007 complaint have not been addressed.
74. The Reverend Sam Gleese was subsequently hired as Jackson's ADA Coordinator, and a public notice and grievance procedure is in the process of being distributed. However, addressing access to public rights-of-way was thought to require a survey of Jackson's streets. Plaintiff Crawford worked with a disability rights organization, LIFE, to document the inaccessibility of many of JATRAN's bus stops from January through March of 2008. See Exhibit 2 (City of Jackson Sidewalk and Bus Stop Surveys). A complete report was submitted to the City of Jackson in April, 2008, detailing the deficiencies with recommendations for how to address them.
75. Even with these strides and numerous attempts on the part of the plaintiffs to ask the Defendants to comply with the ADA, mobility impaired riders cannot access JATRAN's fixed route system at many of its bus stops because there are no curb ramps, no crosswalks, no sidewalks, no crossing signals and no loading platforms. These conditions make the bus stops dangerous for persons with disabilities attempting to access the fixed route system at these locations, if not completely inaccessible. The surveys finding were:
- a. At the fixed route bus stop at Canton Mart Road and Interstate-55, the southbound stop for the #1 bus is completely inaccessible for the plaintiffs and similarly situated persons with disabilities because there are no curb ramps; there is no sidewalk; there is no crosswalk; there is no crossing signal; and there is no shelter. On information and belief,

the #1 route is heavily used by persons with disabilities including plaintiffs Crawford, Banks and Myers.

b. At the fixed route bus stop at the Central Mississippi Medical Center, there are no curb cuts, there is no sidewalk, and there is no shelter. The Plaintiffs who use this hospital and mobility-impaired persons with disabilities attempting to access medical care through the bus stop at this location are forced to wait in the street.

c. The #9 bus stop at Chadwick Drive in front of the Sumner Park Apartments has no sidewalk, no curb cuts and no shelter. On this heavily traveled street between the only Jackson Wal-Mart and the Central Mississippi Medical Center, there is clear use of heavy pedestrian traffic, but no way for the Plaintiffs or mobility-impaired persons with disabilities to access the bus stop without riding in the street. Riding in a wheelchair in the street at this location would be impossible without risking one's life.

d. The bus stop at East Beasley Road near the I-55 Frontage Road has no side walk, no curb cuts, and a shelter that does not comply with ADA standards.

e. On the south side of County Line Road, the bus stops are inaccessible to the Plaintiffs and persons with disabilities because the sidewalks are non-existent or broken, there are inadequate curb ramps, cross signals are inaccessible, and there are no shelters. On such a busy Jackson thoroughfare, the bus stops along this major shopping road are completely inaccessible. Plaintiffs Crawford, Banks and Myers have all experienced the inaccessibility of the stops along this route.

f. The bus stops serving the #2 and the #9 bus routes near Jackson Stew Pot Community Services on West Capitol Street are equally inaccessible to persons with disabilities because the curb ramps do not meet ADA standards, there are no crosswalks, and there are no shelters to protect power chair users from the elements. Plaintiff

Crawford occasionally delivers food to the Stewpot using those bus stops and has witnessed others in wheelchairs using this bus stop.

g. The bus stop at Jackson-Hinds Comprehensive Health Center is dangerous for persons with disabilities because mobility-impaired riders are forced to wait in the street for the bus at the stop. In fact, when Plaintiff Crawford was at the site several months ago, he was approached by a security guard and warned that he may be struck by a careless driver.

h. The bus stop for the #4 bus at an elderly housing complex on 550 Houston Road in Jackson, Madonna Manor, does not meet the ADA's minimum requirements because there is no shelter and there is a non-compliant curb ramp.

i. The bus stop on North State Street near the Piggly Wiggly violates ADA's requirements because it does not have a shelter, there are no curb cuts, and there is no sidewalk. This makes it completely inaccessible for riders such as Plaintiff Scott Crawford who lives only a block from there and is forced to wait for the bus in the street or ride over uneven concrete to access public transportation.

j. The bus stop for route #12 at Old Canton Road at Parham Park violates the ADA because it lacks curb ramps, the sidewalk ends abruptly causing mobility-impaired riders to go through grass and potentially damage their chairs, and there are no shelters. In addition, there is no crosswalk or signal, causing a rider to have to ride in the street to access the park.

k. The bus stop for route #12 at Ridgewood Road near the Brookshire's grocery store is inaccessible for many of the Plaintiffs and other mobility impaired riders because there are no curb ramps, there is no shelter, there is no cross walk, there are no signals, and there is no realistic way for a rider to get from the East side of the street to the shopping area on the West side of the street without dodging traffic.

l. The bus stop at the Target Shopping Center at County Line Road and I-55 in Jackson was built after the implementation of the ADA and is still out of compliance. There are no curb ramps providing access to the bus stop, and the sidewalks and shelter slab are too small for wheelchairs to navigate. Also, the shelter bench has no cut-out for wheelchair users. Plaintiff Banks has used this stop on occasion in the last year.

m. The Village Apartment bus stop for Route #7 on Raymond Road is in need of sidewalk improvements, crosswalks, and bus shelters. Without these modifications, it is dangerous for all riders, especially the plaintiffs and others with disabilities.

n. There is a non-compliant bus stop immediately in front of G.V. (Sonny) Montgomery Veteran's Medical Center in which there is no paved slab, no curb ramps, no bench, and no shelter. Elderly and medically frail veterans are forced to stand in the weather. It is inaccessible or extremely difficult to access for mobility impaired riders.

o. There is no longer a bus stop in the Willow Point Apartments where Plaintiffs Myers and Tobias reside. As a result, they are either forced to ride in traffic to a busy street and cross traffic to catch a fixed-route bus or they must rely on handilift.

p. JATRAM Route #2 serves West Capital Street and Clinton Boulevard heading toward the neighborhoods of Northwest Jackson. On Flag Chapel Road, the Westwick Apartments house people with lower incomes who frequently ride the bus. There are no curb ramps, no shelters, no sidewalks, no crosswalk and no crossing signals.

### **CLAIMS**

#### **FIRST CLAIM FOR RELIEF – VIOLATION OF TITLE II OF THE AMERICANS WITH DISABILITIES ACT, 42 U.S.C. § 12143**

76. Plaintiffs reallege and incorporate paragraphs 1-75 as if specifically set forth herein and further allege:

77. Plaintiffs are qualified persons with disabilities as defined by Title II of the ADA and the Rehabilitation Act. 42 U.S.C. § 12102(2); 29 U.S.C. § 705(20)(B).
78. The City of Jackson and JATRAM are public entities covered by Title II of the ADA and its implementing regulations. 42 U.S.C. § 12131(1); 49 C.F.R. 37.1-37.175.
79. The ADA requires that public entities which operate fixed route transportation systems provide comparable paratransit and other special transportation services to individuals with disabilities, including individuals who use wheelchairs. 42 U.S.C. § 12143(a).
80. The ADA specifically sets forth categories of individuals who qualify as eligible recipients of paratransit service and who must be provided with such service. 42 U.S.C. § 12143(C)(1)(A)(i)-(iii).
81. The ADA mandates that paratransit and other special transportation services be provided to:
- Any individual with a disability who needs the assistance of a wheelchair lift or other boarding assistance device (and is able with such assistance) to board, ride, and disembark from any vehicle which is readily accessible to and usable by individuals with disabilities if the individual wants to travel on a route on the system during the hours of operation of the system at a time (or within a reasonable period of such time) when such a vehicle is not being used to provide designated public transportation on the route. 42 U.S.C. § 12143(C)(1)(A)(ii).
82. The implementing regulations for the ADA and the Rehabilitation Act's paratransit requirements also mandate that paratransit service or other special transportation service must be provided to:
- Any individual with a disability who needs the assistance of a wheelchair lift or other boarding assistance device and is able, with such assistance, to board, ride, and disembark from any vehicle which is readily accessible to and usable by individuals with disabilities if the individual wants to travel on a route on the system during the hours of operation of the system at a time, or within a reasonable period of such time, when such a vehicle is not being used to provide designated public transportation on the route. 49 C.F.R. § 37.123(e)(2).
83. The ADA's implementing regulations define equivalent service for persons with disabilities as:

When viewed in its entirety, shall be deemed to provide equivalent service if the service available to individuals with disabilities, including individuals who use wheelchairs, is provided in the most integrated setting appropriate to the needs of the individual and is equivalent to the service provided other individuals with respect to the following service characteristics:

- a. Schedules/headways (Fixed Route)
- b. Response Time (On Demand)
- c. Fares
- d. Geographic area of service
- e. Hour and days of service
- f. Availability of information
- g. Reservation capability
- h. Any constraints on capacity or service availability
- i. Restriction priorities based on trip purpose. 49 C.F.R. §37.105

84. The Defendants are not providing equivalent service to the named and class Plaintiffs in violation of Title II of the ADA, 42 U.S.C. § 12131, et. seq.
85. The Defendants have discriminated against the named and class Plaintiffs by reason of their disability in violation of Title II of the ADA, 42 U.S.C. § 12131, et. seq.
86. The Defendants have discriminated against the named and class Plaintiffs in violation of Title II of the ADA, 42 U.S.C. § 12143 (a) by failing to provide transportation services to individuals with disabilities, including individuals who are mobility impaired, that are sufficient to provide these individuals a level of service that is comparable to the level of designated public transportation services provided to individuals without disabilities.
87. The Defendants have unlawfully failed to meet required service criteria for their complementary paratransit system. See 49 C.F.R. § 37.131. Specifically, the Defendants have permitted an operational pattern and practice that significantly limits service to ADA paratransit-eligible persons. 49 C.F.R. § 37.131(f)(3).
88. The Defendants are violating the ADA by having a pattern and practice of operating their fixed route buses without operable lifts, by failing regularly check and maintain the lifts, and by failing to repair inoperable lifts within five (5) days. 49 C.F.R. § 37.163.

89. The Defendants are discriminating against the named and class Plaintiffs by requiring passengers to reschedule eligible paratransit trips or by having a pattern and practice of denying eligible paratransit trips. 49 C.F.R. § 37.207.
90. The Defendants are discriminating against the named and class Plaintiffs by failing to adequately train personnel to properly assist and treat individuals with disabilities who use their services in a respectful and courteous way. 49 C.F.R. § 37.173.

**SECOND CLAIM FOR RELIEF – VIOLATION OF § 504 OF THE  
REHABILITATION ACT, 29 U.S.C. § 794**

91. Plaintiffs reallege and incorporate paragraphs 1-90 as if specifically set forth herein and further allege:
92. The named and class plaintiffs are “qualified individuals with a disability” under Section 504 of the Rehabilitation Act of 1973. 29 U.S.C. § 794.
93. The Defendants receive federal financial assistance and thus are subject to the Rehabilitation Act. 29 U.S.C. §§ 794 (a); 794(b)(1)(A).
94. The Defendants operate a “program or activity receiving Federal financial assistance” under Section 504 of the Rehabilitation Act.
95. The Defendants have subjected the named and class Plaintiffs to discrimination solely by reason of their disability.

**THIRD CLAIM FOR RELIEF – VIOLATION OF THE CIVIL RIGHTS ACT,  
42 U.S.C. § 1983**

96. Plaintiffs reallege and incorporate paragraphs 1-95 as if specifically set forth herein and further allege:
97. Defendants’ violations of the ADA and Section 504 of the Rehabilitation Act, as set forth above establish a cause of action under 42 U.S.C. § 1983. Specifically, the conduct of the

defendants, acting under color of state law, has violated the federally protected rights of the plaintiffs.

**REQUEST FOR RELIEF**

Plaintiffs request that this Court:

1. Certify this case to proceed as a class action pursuant to Federal Rule of Civil Procedure 23(b)(2).
2. Declare that the Defendants' actions and inactions violate the ADA, the Rehabilitation Act and § 1983 of the Civil Rights Act.
3. Issue appropriate injunctive relief on behalf of the named and class Plaintiffs ordering Defendants to develop and implement a remedial plan, complying with the requirements of the ADA and Rehabilitation Act, and subject to approval by this Court, ending the unlawful practices, acts, and omissions complained of herein, and to submit this plan to the Court and to the attorneys for Plaintiffs' counsel for their review and approval.
4. Grant Plaintiffs such additional relief as this Court may deem just, proper, and equitable, including an award of reasonable attorneys' fees, litigations expenses, and costs pursuant to 42 U.S.C. § 12205 and 29 U.S.C. § 794(a).

Dated this 23<sup>rd</sup> day of September, 2008

By:



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U.S. Department of Justice Press Release

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION

SCOTT M. CRAWFORD, )  
DEWONE )  
BANKS, JASON BUNCHE, )  
GWENDOLYN BYRD, LEE )  
COLE, JAN )  
HAWTHORNE, IRENE MYERS, )  
BONNIE )  
THOMPSON, MELVINA )  
TOBIAS, EDDIE )  
TURNER, JERRI WALTON, )  
MISSISSIPPI )  
COALITION FOR CITIZENS )  
WITH )  
DISABILITIES, MISSISSIPPI )  
COUNCIL )  
FOR THE BLIND JACKSON )  
CHAPTER, )  
ON BEHALF OF THEMSELVES )  
AND )  
ALL OTHERS SIMILARLY )  
SITUATED, )  
Plaintiffs, )

Civil Action No. 3:08-cv-586-TSL-  
FKB

**CONSENT DECREE**

and

THE UNITED STATES OF  
AMERICA,

Plaintiff-Intervenor,

v.

CITY OF JACKSON AND CITY  
OF  
JACKSON PUBLIC  
TRANSPORTATION

SYSTEM ("JATTRAN"),

Defendants.

## I. INTRODUCTION

1. The United States intervened in this action against the City of Jackson, Mississippi, and the City of Jackson Public Transportation System, the entity which operates the City's public transit system known as "JATTRAN" (collectively, the "Defendants" or "City"), to enforce title II of the Americans with Disabilities Act ("ADA"), 42 U.S.C. § 12131 *et seq.*, section 504 of the Rehabilitation Act of 1973, as amended ("section 504"), 28 U.S.C. § 794, and the regulations implementing title II and section 504, 49 C.F.R. Parts 27 and 37 and 28 C.F.R. Part 35. In their Complaint filed on September 23, 2008, the individual plaintiffs, the Mississippi Coalition for Citizens with Disabilities, and the Mississippi Council for the Blind, Jackson Chapter ("Private Plaintiffs"), alleged that Defendants had failed to provide *fixed route*<sup>1</sup> buses with *operative lifts*, failed to adequately train staff, failed to operate buses with air-conditioning, denied eligible *paratransit* trips, provided late and extended *paratransit* trips, failed to dispatch *paratransit operators* to correct addresses, and failed to provide accessible sidewalks and bus stops in violation of title II of the ADA and section 504.

## II. BACKGROUND

2. On June 23, 2009, the United States filed an unopposed Motion to Intervene, and subsequently, on July 27, filed its Complaint in Intervention.

3. The Complaint in Intervention alleged that Defendants discriminated against "qualified individual[s] with a disability," within the meaning of the ADA, 42 U.S.C. §§ 12131 and 12102(2)(A), 49 C.F.R. § 37.3, and 28 C.F.R. § 35.104, and section 504, 29 U.S.C. §§ 705(20) and 794 and 49 C.F.R. § 27.5, excluding them from participation in or denying them the benefits of their public transportation system, and subjecting them to discrimination in violation of title II of the ADA, 42 U.S.C. § 12132, and its implementing regulations at 28 C.F.R. Part 35 and 49 C.F.R. Part 37, and section 504, 29 U.S.C. § 794, and its implementing regulations at 49 C.F.R. Part 27. Specifically, the United States alleged that the Defendants' violations of title II and section 504 included, but were not necessarily limited to: (1) failure to maintain, promptly repair, and keep *vehicle lifts* in *operative condition*, in violation of 49 C.F.R. §§ 37.161(a) and (b); 163(b), (d) and (e); and 28 C.F.R. § 35.133; (2) failure to promptly provide *alternative transportation* to individuals with disabilities in any case in which a vehicle is operating on a *fixed route* with an *inoperative lift* and the *headway* to the next accessible vehicle on the route exceeds thirty (30) minutes, in violation of 49 C.F.R. § 37.163(f); (3) failure to train personnel to proficiency so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, in violation of 49 C.F.R. § 37.173; (4) failure to provide *paratransit* services to individuals with disabilities "that are sufficient to provide to such individuals a level of service . . . which is comparable to the level of designated public transportation services provided to individuals without disabilities" who use defendants' *fixed route system*, in violation of 42 U.S.C. § 12143(a) and 49 C.F.R. § 37.121(a); (5) failure to schedule and provide *paratransit* service to any ADA *paratransit* eligible person at any requested time on a particular day in response to a request for service made the previous day, in violation of 49 C.F.R. § 37.131(b); (6) failure to plan to meet *paratransit* demand, in violation of 49 C.F.R. § 37.131(b); and (7) capacity constraints significantly limiting the availability of service to ADA *paratransit* eligible persons, including substantial numbers of *trip denials*, *missed trips*, significantly *untimely pickups* for initial or return trips,

trips with excessive trip length, and telephone reservation capacity constraints, including busy signals and long *telephone hold times*, in violation of 49 C.F.R. § 37.131(f)(3). Many of these allegations are identical or similar to allegations in the Private Plaintiffs' Complaint.

4. The parties agree that settlement of these matters without further protracted, expensive, and unnecessary litigation is in the public interest and that entry of this Consent Decree ("Decree") is the most appropriate means of resolving these matters. Accordingly, they agree to the entry of this Decree without trial or further adjudication of any issues of fact or law. The parties further agree that the entry of this Decree resolves all issues raised in the Complaint in Intervention filed by the United States and all issues raised in the Complaint filed by the Private Plaintiffs, except for issues relating to sidewalks and bus stops, subject to Paragraph 94.

It is therefore ORDERED, ADJUDGED, AND DECREED as follows:

### III. JURISDICTION AND VENUE

5. This Court has jurisdiction of this action under 28 U.S.C. §§ 1331 and 1345, 42 U.S.C. § 12133, and 29 U.S.C. § 794a.

6. The parties agree that venue is proper. The Court may grant the relief sought in this action under 42 U.S.C. § 12133, 29 U.S.C. § 794a, and 28 U.S.C. §§ 2201 and 2202.

7. The United States is authorized to bring suit to enforce title II of the ADA and section 504, 42 U.S.C. §§ 12133; 29 U.S.C. § 794a(a)(2).

8. Plaintiffs Scott M. Crawford, Dewone Banks, Jason Bunche, Gwendolyn Byrd, Lee Cole, Jan Hawthorne, Irene Myers, Bonnie Thompson, Melvina Tobias, Eddie Turner, and Jerri Walton, the Private Plaintiffs, are individuals with mobility or vision disabilities and are each a "qualified individual with a disability" within the meaning of the ADA and section 504, 42 U.S.C. § 12131(2), 29 U.S.C. §§ 705(20) and 29 U.S.C. § 794, 49 C.F.R. §§ 27.5 and 37.3, and 28 C.F.R. § 35.104.

9. Plaintiff Mississippi Coalition for Citizens with Disabilities is a nonprofit membership organization and works on behalf of persons with disabilities in Mississippi.

10. Plaintiff Mississippi Council for the Blind, Jackson Chapter, is the Jackson Chapter of the Mississippi affiliate of the American Council for the Blind and serves as a support organization and an information source for blind and visually impaired individuals and their families in Jackson, Mississippi.

11. Defendant City of Jackson is a city incorporated under the laws of the State of Mississippi and is a "public entity" within the meaning of the ADA, 42 U.S.C. § 12131(1), 28 C.F.R. § 35.104, and 49 C.F.R. § 37.3, and is, therefore, subject to title II of the ADA, 42 U.S.C. § 12131 *et seq.*, and its implementing regulations, 49 C.F.R. Parts 27 and 37 and 28 C.F.R. Part 35.

12. Defendant City of Jackson is charged with funding, providing, and overseeing the provision of transportation services throughout the City of Jackson, Mississippi, including complementary *paratransit* services required by the ADA, 42 U.S.C. § 12143.

13. Defendant City of Jackson, has "operate[d] a *fixed route system* (other than a system which provides solely commuter bus service)" within the meaning of 42 U.S.C. § 12143(a) and 49 C.F.R. §§ 37.3 and 121.

14. Defendant City of Jackson has been a recipient of Federal financial assistance within the meaning of 49 C.F.R. § 27.5, and is therefore subject to section 504, 29 U.S.C. § 794 and 42 U.S.C. § 12131 *et seq.*, and its implementing regulations, 49 C.F.R. Parts 27 and 37 and 28 C.F.R. Part 35.

15. Defendant City of Jackson Public Transportation System ("JATRAM") is an instrumentality of the City, overseen by the City of Jackson Transit Service Division of the Department of Planning and Development.

#### IV. INJUNCTIVE RELIEF

16. The City agrees to comply with title II of the ADA, 42 U.S.C. §§ 12131 *et seq.*, and section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and the implementing regulations, at 28 C.F.R. Part 35 and 49 C.F.R. Parts 27 and 37, and to modify its policies, practices, and procedures as necessary to bring its *fixed route* and complementary *paratransit* service into compliance with title II and section 504.

17. The City agrees not to engage in any act or practice, directly or through contractual, licensing, or any other arrangement, that has the effect of unlawfully discriminating against any individual with a disability and agrees to take appropriate steps to ensure compliance with the accessible public transportation requirements of title II and section 504. The City shall ensure that its agents, vendors, and service providers also comply with the accessible transportation requirements of title II and section 504.

18. The City agrees not to retaliate against or coerce in any way any person who is trying to exercise his or her rights under this Decree, title II, or section 504.

#### V. TERMS OF AGREEMENT

19. The City shall maintain in *operative condition* the *accessibility features* on all existing vehicles and any vehicle acquired in the future for use in the City's *fixed route system*.

##### Wheelchair Lifts and Ramps

20. All *wheelchair lifts* shall be in *operative condition*. All buses with *inoperative lifts* shall be removed from service until those *lifts* are repaired or replaced, as described below. To ensure that all buses have *operative lifts* the City shall:

(A) Maintain a centralized system to track reported *wheelchair lift* failures and *wheelchair lift* repair, by date and vehicle.

(B) Make daily checks of *wheelchair lifts* on all buses that are being placed into service at the beginning of the service day. These checks shall include cycling the *lift*, which involves deploying the *lift* as if to allow a rider in a *wheelchair* to embark in order to test the *lift's* function and stowing the *lift* as if preparing to continue in service.

(C) Record the results of the daily checks and cycling on the Bus Operator's Report & Inspection Check List and enter the information in the JATRAM computer system.

(D) Have a yard mechanic on duty at all times to repair minor problems.

(E) Remove from service any bus with an *inoperative lift* at the beginning of the service day. If there is no replacement bus available and removing the bus from service will substantially delay or disrupt the

bus service schedule, the City may keep the bus with an *inoperative lift* in service for no more than three (3) service days.

(F) Remove from service any bus found to have an *inoperative lift* while the bus is in service either at the end of that service day or as soon as a bus with a functioning *lift* can be substituted, whichever comes first. If the City has no available substitute, and removal from service of the bus with the *inoperative lift* will substantially delay or disrupt the bus service schedule, the City may keep the bus with an *inoperative lift* in service for no more than three (3) service days.

21. The Bus Operator's Report & Inspection Check List shall indicate:

- (A) the bus number,
- (B) the date and time of the cycling of the *wheelchair lift*,
- (C) the *bus operator's* name or identification number,
- (D) the bus route number,
- (E) whether the *wheelchair* securement system was functioning, and
- (F) whether the *wheelchair lift* was functioning.

#### Preventive Maintenance

22. The City shall perform preventive maintenance on the *accessibility features* of its buses in accordance with, at a minimum, the manufacturer's recommendations, schedules, and procedures for performing preventive maintenance, but in no case will a bus accumulate more than 6,000 miles since the last preventive maintenance was done.

23. Records of preventive maintenance shall be maintained by the City and include:

- (A) the bus number, make, and model;
- (B) the date of the maintenance;
- (C) the bus mileage; and
- (D) the maintenance performed on the *accessibility features*.

#### Alternative Transportation

24. Within thirty (30) days of the *effective date of this Decree* the City will implement the following procedure whenever a rider in a *wheelchair* cannot board a bus because the *wheelchair lift* does not operate:

- (A) Before proceeding further, the vehicle *operator* shall contact and confer with the JATRAN *dispatchers*;
- (B) If a bus with a known *operative lift* is scheduled and expected to arrive within thirty (30) minutes,

the vehicle *operator* shall notify the rider;

(C) In the event no bus with a known *operative lift* is scheduled to arrive at that stop within thirty (30) minutes, the *dispatcher* will be required to arrange for *alternative transportation* and the vehicle *operator* will notify the rider of the estimated time of the *alternative transportation* vehicle's arrival;

(D) The *bus operator* will provide the rider with a completed Missed Bus card; and

(E) The *dispatcher* will maintain a daily log recording the time, the date, the location of the incident, the identity of the *bus operator*, the time of arrival of the bus with an *operative lift* or *alternative transportation*, and the time the passenger arrived at his or her final destination. This log will be provided to the United States on a quarterly basis.

25. The City will provide a Missed Bus card to any rider who is unable to board a bus because the *wheelchair lift* is not functioning. The Missed Bus card, to be completed by the *bus operator*, shall include the following information:

(A) the bus route number and the bus identification number;

(B) the time, date, and location of the incident;

(C) an explanation of JATRAN's *alternative transportation* policy;

(D) directions for filing a complaint; and

(E) contact information including relevant telephone numbers.

26. To ensure that the *bus operator* is able to communicate with the *dispatcher* without exiting the bus, the City will install radio transmission equipment in all vehicles, inspect the equipment daily, and replace or repair non-functioning radios.

27. A dedicated telephone number will be available to *fixed route* riders during the hours of operations to check on the status of their *alternative transportation* or to communicate with a *dispatcher*. This telephone number will be displayed on the City's website, all bus schedules, the Missed Bus card, and in all *fixed route* buses above the *wheelchair* securement area.

28. *Alternative transportation* will arrive within thirty (30) minutes of the *bus operator's* call to the *dispatcher* requesting *alternative transportation* 95 percent of the time; within forty five (45) minutes 99 percent of the time; and within one (1) hour 100 percent of the time. In instances where the next accessible bus arrives prior to the *alternative transportation*, it is assumed that the passenger will board the bus.

#### Bus Operator Conduct

29. The City shall ensure that all *bus operators*:

(A) Operate buses and equipment safely and assist and treat all riders—including riders with disabilities—in a courteous manner;

(B) Stop the bus at the nearest location accessible to the rider in inclement weather or where

construction work or other road conditions impede access to the bus stop;

(C) Do not bypass any rider in a *wheelchair* waiting at or near a bus stop;

(D) Assist individuals with disabilities with the use of the lift, ramp, or *wheelchair* securement system upon request, even if this service requires the *operator* to leave the driver's seat.

*Handilift Paratransit Service*

30. Before implementing any changes to its current *Handilift* eligibility procedures or requirements, the City will consult and submit them to the United States for approval.

31. Within six (6) months of the *effective date of this Decree* the City will accept telephone reservations during normal business hours on all days that precede a day of service.

32. The City will ensure that direct communications on its *Handilift* telephone lines are as effective for persons who are deaf or hard of hearing as it is for others, by using and maintaining operable teletypewriter ("TTY") devices or by other devices accessible to deaf or hard of hearing.

33. The City shall ensure that no caller receives a busy signal when attempting to reach a *Handilift* reservationist, that all calls to schedule a trip during business hours are answered, and that no caller is told to call back later to schedule a trip.

34. The City shall implement a standard script for use by *Handilift* reservationists. The script shall include collection of information required to make a reservation; an explanation of the pickup window, cancellation policies, and *rider no-show* penalties; and confirmation of trip details.

35. If a *requested pickup time* is unavailable, the reservationist may not *negotiate a pickup time* that is more than sixty (60) minutes before or after the *requested pickup time*.

36. The City shall ensure that every request to schedule a trip and the City's response to such requests are recorded. The record shall include whether a pickup time was offered within the *negotiation window*, whether a pickup time was scheduled within the *negotiation window*, and whether the trip was a denial (including trips scheduled outside the *negotiation window*).

37. When a *Handilift* vehicle arrives to pick up a rider prior to the *on-time pickup window*, the vehicle *operator* shall contact the *dispatcher*. The *dispatcher* may contact and notify the rider, but will also advise the rider that he or she is not required to board before the *on-time pickup window*.

38. A vehicle *operator* shall wait at least five (5) minutes within the *on-time pickup window* before departing. If a rider is not present when the *operator* arrives, the *operator* will call the *dispatcher*, who will attempt to contact the rider. If, following attempts to contact the rider and the passage of at least five (5) minutes within the *on-time pickup window*, the rider still fails to board, this will be counted as a *rider no-show*. If the *Handilift* vehicle arrives after the *on-time pickup window*, and the passenger takes the trip, this will be counted as a *late pickup*. If the *Handilift* vehicle fails to arrive, or arrives after the *on-time pickup window* and the passenger cannot be found or declines the trip, this will be counted as a *missed trip*.

39. In all circumstances where attempts to contact the rider are unsuccessful, the *vehicle operator* will await authorization from the *dispatcher* before leaving the location. The *dispatcher* shall log the date,

time, location, and vehicle operator information in a "Rider No-Show/Missed Trip" log.

40. The City shall ensure that *dispatchers* will resolve all outstanding requests for accessible transportation and will ensure that no riders have been stranded without transportation to their destination before shutting down *fixed route* and *Handilift* operations for the day.

41. Where necessary, the *Handilift operator* will provide beyond curb-to-curb service, as required by the United States Department of Transportation's guidance on origin-to-destination service.

42. Any policy instituted to penalize riders who fail to notify the *dispatcher* of a trip cancellation within thirty (30) minutes of their *scheduled pickup time* or riders who do not show up for a scheduled trip will be done in consultation with the United States.

#### ADA Complementary Paratransit Demand

43. Within six (6) months of the *effective date of this Decree* the City shall design, fund, implement, and operate its *paratransit* service to satisfy all requests by ADA eligible riders for service, including next-day trip requests.

44. The City shall estimate future demand for *Handilift* service annually. These demand estimations should conform with industry-accepted standards and include calculations of current demand, unmet demand, previous trends in demand, and service area population demographics.

#### ADA Coordinator

45. The Director for the Department of Planning and Development will be responsible for implementing and administering the City's obligations under this Decree and will be responsible for JATRAM's overall compliance with title II of the ADA and section 504.

46. The Director shall designate an ADA Coordinator to carry out the day-to-day responsibility for compliance with title II of the ADA and section 504 provisions in this Decree. The selection of the ADA Coordinator will be made in consultation with the United States. The ADA Coordinator shall be a full-time City employee in the Department of Planning and Development, experienced in public transit and *paratransit* systems, and be knowledgeable or receive training on the City's obligations under title II of the ADA and section 504 as they relate to public transportation.

47. The ADA Coordinator will serve as a liaison between the individuals in the Department of Planning and Development, the City, and JATRAM who will carry out the City's obligations under this Consent Decree and shall be a resource to these individuals on ADA issues. The ADA Coordinator shall also participate in reviewing and revising any of the City's policies relating to the ADA and riders with disabilities and the curriculum for employee training with regard to ADA obligations and riders with disabilities.

48. The ADA Coordinator shall be responsible for handling all complaints from riders including ensuring that disability-related problems and complaints reported by riders are addressed in accordance with the policies and procedures set forth below in Paragraphs 55-59. The ADA Coordinator shall have the authority to incur incidental expenses, for example taxi fare, to ensure that riders are not stranded without transportation to their destination.

49. The ADA Coordinator will serve as the City's primary contact on accessible transportation issues for

the public. The name, address, and telephone number of the ADA Coordinator shall be posted prominently on the City's and JATTRAN's websites.

### Training

50. The City shall provide training for all newly hired JATTRAN *fixed route, Handilift, and alternative transportation operators*. This training shall include the requirements under title II of the ADA; hands-on training on the operations, deployment, and stowing of all of the different models of *wheelchair lifts* in the JATTRAN *fleet*; hands-on training in the use of *wheelchair* securement systems; and appropriate conduct toward individuals with disabilities. The City shall provide annual refresher training for all JATTRAN *operators*.

51. The City shall provide training for all newly hired JATTRAN mechanics. The training shall include repair and maintenance of all models of *wheelchair lifts* in the JATTRAN *fleet*. The City shall provide annual refresher training for all JATTRAN mechanics.

52. The City shall provide training for all newly hired JATTRAN office staff, including managers, reservationists, *dispatchers*, and administrative support, and any Department of Planning and Development employees with JATTRAN oversight responsibilities, including the Transit Service Division. Reservationists shall be trained in all trip reservation and record keeping requirements as outlined in Paragraphs 31-36 above. *Dispatchers* shall be trained in the procedures for *alternative transportation* as outlined in Paragraphs 24-28, 37, and 40 above. All staff shall be trained to treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the differences among individuals with disabilities. The City shall provide annual refresher training for any office or oversight staff.

53. All training materials will be subject to review and approval by the United States.

54. The City shall maintain, for the duration of this Decree, records showing the dates and hours of training and names of instructors and attendees.

### Complaint Procedure

55. The City shall maintain a dedicated telephone number to accommodate incoming complaints and comments from JATTRAN riders during normal business hours. The telephone number and hours of operation shall be posted on the City's and JATTRAN's web sites and printed on all schedules and other JATTRAN print materials published by the City.

56. Within sixty (60) days of the *effective date of this Decree* the City shall develop various print and electronic forms or templates designed to record the information for each rider complaint and a method of tracking progress and the resolution of the complaint. The templates shall include the name of the complainant, the date of the incident, the vehicle number, the location (e.g., address or closest intersection), the nature of the complaint, whether the complainant was using a *wheelchair* at the time of the incident (for *fixed route* complaints), the *bus operator's* or City employee's response to the complaint, and the resolution of the complaint. The City shall submit these templates to the United States for approval.

57. The rider's complaint line shall be staffed by JATTRAN personnel trained in recording the relevant information on the complaint templates. Sufficient staff will be assigned so that 95 percent of all calls by riders will be answered by JATTRAN personnel within three (3) minutes, and 99 percent of all calls will

be answered within five (5) minutes. A complaint form will also be available on the City's website to allow electronic filing of a complaint form.

58. All complaints shall be entered into a customer complaint database. All alleged violations of the ADA shall be identified in the database. A complaint will be categorized as:

(A) A *fixed route* complaint if the rider uses a *wheelchair lift* and alleges: (1) being bypassed by a bus; (2) being unable to board or disembark a bus because the *wheelchair lift* was not functioning; (3) a discourteous *operator*; (4) a delay of more than thirty (30) minutes in receiving *alternative transportation*; (5) failure of the *bus operator* to request *alternative transportation*; (6) failure of the *bus operator* to stop and cycle a *lift*; (7) failure of a *bus operator* to secure the rider in the bus; or (8) any other subjects that a complainant or the City determines are *wheelchair lift* complaints.

(B) A *Handilift* complaint if the rider is complaining about: (1) access to telephone reservations; (2) *trip denials*; (3) *late pickups*; (4) late drop-offs; (5) *missed trips*; (6) *excessively long trips*; (7) failure to provide origin-to-destination service; or (8) any other subjects that a complainant or the City determines are *Handilift* complaints.

59. Each day, the ADA Coordinator shall retrieve the ADA complaints entered into the customer complaint database. The ADA Coordinator shall investigate and ensure that all complaints are resolved. The complaint investigation may include interviewing relevant persons, such as *bus operators*, garage managers, mechanics, reservationists, *dispatchers*, and the complainant, and reviewing relevant records, such as bus *dispatch*, *lift* cycling, reservation log, and *alternative transportation* records. The ADA Coordinator shall send the complainant a written response within one (1) month advising him or her of the status of the complaint. The ADA Coordinator shall record in the rider complaint database the resolution of each complaint. The ADA Coordinator shall evaluate whether the complaints indicate systemic ADA-related problems or trends and report them to the Director. The City shall implement changes necessary in order to remedy such problems or trends.

#### Public Outreach

60. The City will create a flyer that outlines the City's services for riders who use *wheelchairs*. The flyer will include the role and duties of *bus operators*, the protocol for operating the *wheelchair lift* (for example: the requirement to cycle the *lift* at any stop to allow a rider in a *wheelchair* to board, the *operator's* responsibility to courteously assist the rider, etc.), the provision of *alternative transportation*, the procedures for filing complaints, and information on how to contact the ADA Coordinator. Within sixty (60) days of the *effective date of this Decree* the City will submit a prototype of the flyer for the approval of the United States. Within thirty (30) days of approval by the United States, the City shall post the flyer on its website, provide sufficient copies for public distribution on all *fixed route* buses, and provide copies to organizations who provide services to individuals with disabilities. The City shall ensure that the materials are available in accessible formats.

61. Within sixty (60) days of the *effective date of this Decree* the City shall revise and update the *Handilift* Policies and Procedures manual, and all publicly available information for *Handilift* riders, to be consistent with the provisions of this Decree, and submit a draft of the manual for the approval of the United States. Within thirty (30) days of approval by the United States, the City shall post the manual on its website, and provide a copy of the manual to each registered *Handilift* rider with a cover letter explaining the resolution of this litigation, the right of riders to have service free of capacity constraints, and a description of the procedure for filing a complaint. The City shall ensure that the materials are available in accessible formats.

62. The City's and JATRAN's websites will be accessible to individuals with visual disabilities by January 1, 2011.

63. The City shall continue to work closely with its ADA Advisory Committee to ensure accessibility issues are addressed and that the disabled community is aware of the JATRAN services available. This committee shall meet at least every other month. The General Manager of JATRAN, Director of Planning and Development or his/her designee, and other appropriate City personnel, as designated by the Director of Planning and Development, shall attend each meeting. Within thirty (30) days after the final approval of the minutes, they will be provided to the United States and posted on JATRAN's website.

64. The Director of the Department of Planning and Development will meet a minimum of four (4) times per calendar year with the City's JATRAN ADA Coordinator and the JATRAN General Manager.

65. The Director of the Department of Planning and Development will meet a minimum of four (4) times per calendar year with members of the City ADA Advisory Committee to discuss JATRAN's service to individuals with disabilities.

#### Data Maintenance and Reporting Requirements

66. The City shall maintain the following electronic data and records:

(A) Maintenance and Repair. For each *lift* malfunction incident: (1) the bus identification number; (2) the date and time of the incident; (3) the location of the incident (e.g., during pull-out, while in service, during an inspection); (4) the date and time the bus was removed from service for repair; (5) a description of the cause of the malfunction and the repair performed; (6) the date and time the bus was returned to service.

(B) Preventive Maintenance. For each bus: (1) the bus identification number; (2) the date and time that preventive maintenance was performed on the *wheelchair lift*; (3) the bus mileage at the time of the maintenance; and (4) the maintenance performed.

(C) Rider Usage. For each instance where a rider using a *wheelchair* was unsuccessful in boarding because of a malfunctioning *lift*: (1) the bus identification number; (2) the date and time of the incident; (3) the location; and (4) the bus route and direction the bus was traveling.

(D) Alternative Transportation. For each *alternative transportation* request: (1) the date and time of the request; (2) the location of the rider; (3) whether and time *alternative transportation* was *dispatched*; and (4) the time the *alternative transportation* arrived at the bus stop.

(E) Vehicle Deployment. For each garage, a list of each bus deployed each day, identified by number, and indicating if the bus was *dispatched* with an *inoperative* or *disabled lift*.

(F) Vehicle Inventory. By month, a complete vehicle inventory (including vehicles acquired and retired).

(G) Paratransit Telephone Access. By month: (1) the number of telephone requests for reservations; (2) the number of telephone calls that exceed the standards defined in Attachment A; and (3) the names of the individuals who were subjected to those long hold times as defined in Attachment A.

(H) Paratransit Ridership. By month the number of: (1) trips requested; (2) trips scheduled; (3) trips

denied; (4) trips cancelled; (5) trips provided; (6) *rider no-shows*; and (7) JATRAN *missed trips* and (8) for each trip denied or missed by JATRAN, the name of the rider affected.

(I) Paratransit On-Time Performance. By month the number of: (1) early pickups; (2) on-time pickups; (3) *late pickups*; (4) on-time drop-offs (where an *appointment time* is known); and (5) late drop-offs (where an *appointment time* is known). For each *late pickup* or drop-off record: (6) the number of minutes late for each *late pickup* or drop-off and (7) the name of the individuals for whom their pickup or drop-off was late.

(J) Paratransit Ride Time. By month the number of *excessively long trips*, and for each *excessively long trip*: (1) the length of the on-board ride time; (2) the length of the comparable *fixed route* ride time; (3) the number of minutes by which the *excessively long trip* exceeded the threshold for excessively long; and (4) the name of the rider subjected to the *excessively long trip*.

(K) Complaints. For each complaint: (1) the name of the complainant; (2) the date of the incident; (3) the location of the incident; (4) the nature of the complaint (see Paragraph 58); (5) whether the complainant uses a *wheelchair*; (6) the bus number; and (7) the outcome and whether any City personnel, including the *operator*, was disciplined.

(L) Training. The dates, subject matter, number of hours, names of instructors and identity and job title of each employee attending.

(M) Daily Bus Operator's Report & Inspection Check List. Copies of the check lists completed during vehicle pull-outs.

67. Within thirty (30) days of the *effective date of this Decree*, and thereafter on a quarterly basis, the City will submit the data and records identified in Paragraph 66 in an electronic format, to be identified, to the United States, counsel for Private Plaintiffs, and the Independent Monitor (see Paragraphs 69-78).

68. Six (6) months following the *effective date of this Decree*, and every six (6) months thereafter for the duration of this Decree, the City shall provide the United States, counsel for the Private Plaintiffs, and the Independent Monitor with a written report setting forth:

(A) Progress implementing the terms of this agreement;

(B) Progress implementing recommendations of the Monitor's Initial Report of Findings and Recommendations;

(C) Compliance with the performance standards set forth in Attachment A;

(D) A description of any modifications in the operation of the *fixed route* or *paratransit* system; and

(E) The name, address, and telephone number of any individual who files any lawsuit, complaint, or allegation alleging discrimination on the basis of disability in the provision of public transportation.

#### Independent Monitor

69. An Independent Monitor ("Monitor") to be selected by the United States will serve for the first three (3) years beginning with the *effective date of this Decree*. The purpose of the Monitor is to assist the parties in evaluating and assessing the City's compliance with the Decree.

70. The Monitor shall have experience evaluating whether public transportation systems comply with title II of the ADA and section 504.

71. No party, nor any employee or agent of any party, shall have any supervisory authority over the Monitor's activities, reports, findings, or recommendations.

72. The City agrees to pay the Monitor's fee and expenses, not to exceed \$140,000.

73. Unless approved in writing by the parties, the Monitor shall not accept employment or provide consulting services that would present a conflict of interest with the Monitor's responsibilities during the term of this Decree including retention (on a paid or unpaid basis) by any current or future litigant or claimant, or such litigant's or claimant's attorney, in connection with a claim or suit against the City or their components, officers, agents, or employees.

74. The City shall provide the Monitor and representatives of the United States with reasonable access to all City staff, facilities, meetings, and documents that are relevant to evaluate compliance with this Decree. The City shall direct all employees to cooperate fully with the Monitor and representatives of the United States. Except as required or authorized by the terms of this Decree or the parties together in writing, the Monitor shall not make any public statements or issue findings with regard to any act or omission of the City, its agents, representatives, or employee, or disclose any information provided to the Monitor under this Decree. The Monitor and representatives for the United States shall be permitted to make reasonable unannounced inspections and visits of JATTRAN operations and facilities in the course of implementing this Decree, during JATTRAN's normal operating hours.

75. The duties of the Monitor shall be to report the City's compliance with the terms of this Decree and include, but are not limited to, the following:

- (A) On-site observations of JATTRAN operations and making recommendations for complying with the terms of this Decree;
- (B) Collecting and assessing the accuracy of the data provided by the City under Paragraph 66 above;
- (C) Assessing the City's compliance with the performance standards set forth in Attachment A; and
- (D) Determining the penalties, if any, that the City is required to pay under Paragraph 79 below.

76. Within ten (10) days of his or her appointment, the Monitor will conduct an initial review of all available information on the City's transportation system. Within sixty (60) days, the Monitor will conduct an on-site visit to observe and assess the JATTRAN system. This site visit will include a tour of each JATTRAN facility; a review of JATTRAN's operations, records, databases, and procedures; and interviews with JATTRAN staff, including *dispatchers*, reservationists, *operators*, mechanics, and supervisors.

77. Within thirty (30) days of the site visit, the Monitor will provided an Initial Report of Findings and Recommendations to all parties outlining observations and recommendations for compliance with this Decree.

78. Within thirty (30) days of the City's bi-annual written report, the Monitor will submit a report to all parties describing the City's ongoing compliance with this Decree. The City will have twenty-one (21) days to file a response to each report. The Monitor's report and the City's response will be filed bi-

annually each year for a period of three (3) years following the *effective date of this Decree*.

#### Penalties

79. Upon entry of this Decree, and barring violations of the performance standards identified in Attachment A caused by operational circumstances beyond the City's control, the Monitor shall assess penalties according to the following schedule;

(A) *Fixed Route*: For each *wheelchair* user who is not able to board a bus because the City has failed to comply with any provision relating to operative *accessibility features, wheelchair lifts, maintenance, alternative transportation, or bus operator* conduct, the City will provide the aggrieved rider four (4) free vouchers for future trips on the *fixed route system*.

(B) *Handilift*: For each month the City fails to meet the standards provided for in Attachment A, or fails to comply with any of the provisions relating to *Handilift paratransit* service, the City shall provide each aggrieved rider four (4) free vouchers for future trips on the *Handilift* system.

(C) The City shall deliver the vouchers within ten (10) days following the date any penalties are assessed by the Monitor.

#### **VI. IMPLEMENTATION AND ENFORCEMENT**

80. The City shall retain during the life of this Decree records required by this Decree, and any other records necessary to document the implementation of and continued compliance with this Decree.

81. Any JATRAM service contract negotiated during the life of this Decree will be subject to approval by the United States. The United States will have thirty (30) days to comment before any contract is awarded.

82. The United States or Private Plaintiffs may review compliance with this Decree at any time and may enforce this Decree if either believes that it or any of its provisions have been violated. If any party believes that this Decree or any portion of it has been violated, it will raise any concern(s) with the City and the parties will attempt to resolve the concern(s) in good faith. The City will have twenty-one (21) days from the date it is notified of any breach of this Decree to cure that breach, before a party can institute any action with the Court.

83. Failure by the United States or Private Plaintiffs to enforce any provision or deadline of this Decree shall not be construed as a waiver of their right to enforce other provisions or deadlines of this Decree. Likewise, failure of the City to perform, object to, comply with, or seek modification of any provision of this Decree shall not be construed as a violation of other provisions of this Decree.

84. This Decree shall remain in effect for five (5) years from the *effective date of this Decree*. The Court shall retain jurisdiction to enforce this Consent Decree.

85. This Decree constitutes the entire agreement between the parties relating to Crawford, et al. and United States of America v. City of Jackson, et al., No. 3:08-cv-586-TSL-JCS (S.D. Miss.), and Department of Justice No. 204-41-141, and no other statement, promise, or agreement, either written or oral, made by any party or agents of any party, that is not contained in this written Order shall be enforceable, except that this agreement does not address issues raised in the Complaint filed by Private Plaintiffs relating to sidewalks or bus stops. This Decree does not purport to remedy any other potential

violations of the ADA or any other federal law. This Decree does not affect the City's ongoing responsibility to comply with all aspects of the ADA.

86. Nothing in this Decree shall preclude the United States or Private Plaintiffs from filing a separate action under the ADA or section 504 for any alleged violation not covered by this Decree.

87. This Decree shall be binding on the City, its agents, and employees. In the event the City seeks to transfer or assign all or part of its operation of Jackson's public transportation system, as a condition of transfer the City shall obtain the written accession of the successor or assignee to any obligations remaining under this Decree for the remaining term of this Decree.

88. Nothing in this Decree shall preclude the parties from exercising any rights a party may otherwise have outside the scope of this agreement.

89. Titles and other headings contained in this Decree are included only for ease of reference and shall have no substantive effect.

90. All notices, demands, or other communications to be provided pursuant to this Decree shall be in writing and delivered by fax or overnight mail to the following persons and addresses (or such other persons and addresses as any party may designate in writing from time to time)

:For the Department of Justice

John L. Wodatch, Chief  
Disability Rights Section  
Civil Rights Division  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW - NYA  
Washington, D.C. 20530  
Telephone: (202) 307-0663  
Fax: (202) 307-1198  
Attn. David W. Knight

For the Private Plaintiffs

Courtney A. Bowie, Esq.  
The Mississippi Youth Justice Project  
921 North President Street, Suite B  
Jackson, Mississippi 39206  
Telephone: (601) 948-8882  
Fax: (601) 948-8885

Frances Kay Hardage, Esq.  
Disability Rights Mississippi  
5305 Executive Place  
Jackson, Mississippi 39206  
Phone: (601) 981-8207  
Fax: (601) 981-8313

For the City of Jackson, Mississippi

OFFICE OF THE CITY ATTORNEY  
Pieter Teeuwissen, Esq.

City Attorney  
455 East Capitol Street  
Jackson, Mississippi 39207  
Telephone: (601) 960-1799  
Fax: (601) 960-1756

91. The United States and the City shall bear their own costs and expenses. Nothing in this Consent Decree shall preclude counsel for Private Plaintiffs from seeking fees and costs from the City.

SO ORDERED this 30th day of March, 2010,

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Tom S. Lee  
United States District Judge

AGREED AND CONSENTED TO:

FOR THE UNITED STATES:

ERIC H. HOLDER, JR.  
Attorney General of the United States

DON BURKHALTER  
United States Attorney  
Southern District of Mississippi

THOMAS E. PEREZ  
Assistant Attorney General  
Civil Rights Division

PSHON BARRETT  
Assistant United States Attorney  
United States Attorney's Office  
Southern District of Mississippi  
188 E. Capitol Street, Ste. 500  
Jackson, Mississippi 39201  
Telephone: (601) 973-2842

SAMUEL R. BAGENSTOS  
Deputy Assistant Attorney General  
Civil Rights Division

JOHN L. WODATCH, Chief  
ALLISON NICHOL, Deputy Chief  
PHILIP L. BREEN, Special Legal Counsel  
Disability Rights Section  
Civil Rights Division

---

DAVID W. KNIGHT

EUGENIA ESCH  
Trial Attorneys  
Disability Rights Section  
Civil Rights Division  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW - NYA  
Washington, D.C. 20530  
Telephone: (202) 616-2110

FOR THE PRIVATE PLAINTIFFS:

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FRANCES KAY HARDAGE  
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Phone: (601) 981-8207

FOR THE CITY OF JACKSON:

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PIETER TEEUWISSEN  
MSB # 8777  
CLAIRE BARKER HAWKINS  
MSB # 101312  
AZANDE W. WILLIAMS  
MSB # 100161  
Office of the City Attorney  
455 East Capitol Street  
Jackson, Mississippi 39207  
Telephone: (601) 960-1799

Attachment A

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION

SCOTT M. CRAWFORD, *et. al*

Plaintiffs,

and

THE UNITED STATES OF  
AMERICA,

Civil Action No. 3:08-cv-586-TSL-  
FKB

Plaintiff-Intervenor,

**CONSENT DECREE**

v.

CITY OF JACKSON *et. al*

Defendants.

## ATTACHMENT A

### I. Definitions

The parties agree and stipulate that for purposes of this Consent Decree certain terms shall be defined as follows:

- (a) "Accessibility features" shall mean *wheelchair lifts* and ramps, kneeling mechanisms, and securement devices.
- (b) "Alternative transportation" shall mean a dedicated accessible vehicle that can be dispatched to a location where an individual with a disability is waiting because he or she was unable to board one or more *fixed route* buses.
- (c) "Appointment time" shall mean the communicated time at which the ADA *paratransit* eligible rider has a scheduled obligation at their destination, such as a medical appointment or the start of work.
- (d) "Bus operator," "vehicle operator," and "operator" shall mean the JATRAM employee who drives and operates the bus.
- (e) "Disabled lift" shall mean a lift that has been permanently disabled such that there is no intention to repair or make the *lift* operative.
- (f) "Dispatch" or "dispatcher" shall mean the individual(s) responsible for communicating with all vehicle operators, including, road supervisors, fixed route bus drivers to coordinate the dispatch of *alternative transportation*, and *Handilift* drivers to track progress of runs.
- (g) "Effective date of this Decree" shall mean the date the Decree is signed and entered by the District Judge.

- (h) "Excessively long trip" shall mean any *Handilift* trip where the time from pickup to drop-off is more than fifteen (15) minutes longer than the transportation time would be from origin to destination if traveled using the *fixed route system*.
- (i) "Fixed route system" and "fixed route" means a system of transporting individuals (other than by aircraft), on which a vehicle is operated along a prescribed route according to a fixed schedule, as defined in 49 C.F.R. § 37.3.
- (j) "Fleet" shall mean and refer to all of the buses and vans owned or leased by the City for public transportation use by JATRAN.
- (k) "Headway" shall mean the anticipated time between two *fixed route* buses operating on the same route.
- (l) "Inoperative lift" shall mean a *lift* that JATRAN has determined is a non-functioning *lift*.
- (m) "Late pickup" or "untimely pickup" shall mean when a *Handilift* van arrives after the *on-time pickup window* and the ADA paratransit eligible person is transported to their destination.
- (n) "Missed trip" shall mean when a *Handilift* van arrives after the *on-time pickup window* and the ADA paratransit eligible person is not transported, either because they cannot be located or because they declined the *late trip*.
- (o) "Negotiate a pickup time" and "negotiation window" shall refer to JATRAN's right to negotiate a *scheduled pickup time* within sixty (60) minute of the *requested pickup time*. This negotiation may not be an offer and acceptance or refusal, however. JATRAN must take into consideration the particular needs of the passenger and attempt to schedule a pickup time that is responsive to the riders constraints, while balancing scheduling efficiencies.
- (p) "On-time pickup window" shall mean the thirty (30) minute period of time starting with the *scheduled pickup time*.
- (q) "Operative condition" is the condition in which the *accessibility features* function so as to enable a passenger who uses a *wheelchair* to board and ride the *fixed route* bus.
- (r) "Operative lift" shall mean a functioning *lift*, usable by persons with disabilities to board or disembark a vehicle.
- (s) "Operator," "bus operator," or "vehicle operator" shall mean the JATRAN employee who drives and operates the bus.
- (t) "Paratransit" and "Handilift" shall mean comparable transportation service required by the ADA for individuals with disabilities who are unable to use the *fixed route system*, as defined in 49 C.F.R. § 37.3.
- (u) "Requested pickup time" shall mean the original time that the ADA *paratransit* eligible person requests to be picked up to commence their trip.
- (v) "Rider no-show" shall mean when a *Handilift* vehicles arrives within the *on-time pickup window* and the rider cannot be found or declines to board the vehicle, provided that no sanction for a pattern or practice of rider no-shows will penalize a rider for legitimate circumstances beyond their control.

- (w) "Scheduled pickup time" shall mean the agreed upon time between *Handilift* and the ADA *paratransit* eligible person that the passenger will be picked up to commence their trip.
- (x) "Telephone hold time" shall mean the amount of time an ADA *paratransit* eligible person waits after calling *Handilift* during reservation hours to speak to a reservationist regarding their trip request.
- (y) "Trip denial" shall mean when an ADA *paratransit* eligible person calls *Handilift* during reservation hours, requests a pickup time for a trip during service hours at least the next day, and at most fourteen (14) days in advance, and the ADA *paratransit* eligible person is either offered a pickup time more than one (1) hour earlier or later than the *requested pickup time* or is offered no pickup time at all.
- (z) "Wheelchair" shall mean a wheelchair, scooter, or other mobility device as defined in 49 C.F.R. § 37.3.
- (aa) "Wheelchair lift," "vehicle lift," or "lift" shall mean both a lift mechanism or a ramp mechanism that allows individuals with mobility disabilities, such as those who use *wheelchairs*, to board a City van or bus.

## II. Paratransit Performance Standards

The parties agree and stipulate that for purposes of this Consent Decree the City shall meet the following performance standards:

- (a) Telephone Hold Times: The City shall ensure that, on a monthly basis, 95 percent of individuals calling into any of its paratransit telephone lines shall experience a *telephone hold time* of no longer than three (3) minutes; and 99 percent of individuals calling into any of its paratransit telephone lines shall experience a *telephone hold time* of no longer than five (5) minutes.
- (b) Trip Denials: The City shall not deny more than ten (10) trips per month.
- (c) Timeliness of Pickups: The City shall meet the following standards:
- (i) At least 95 percent of all pickups, on a monthly basis, shall occur within the *on-time pickup window* (i.e., within thirty (30) minutes of the *scheduled pickup time*); and
- (ii) At least 99 percent of all pickups, on a monthly basis, shall occur within the *on-time pickup window* or up to fifteen (15) minutes after the *on-time pickup window* (i.e., within forty-five (45) minutes of the *scheduled pickup time*).
- (d) Timeliness of Drop-offs: The City shall provide, on a monthly basis, at least 95 percent of drop-offs prior to the *appointment time*.
- (e) Trip Length: The City shall not provide *excessively long trips* for more than 5 percent of all paratransit trips in a single month and no trip shall last more than one hundred and twenty (120) minutes.
- (f) Missed Trips: The City shall not miss more than twenty (20) trips in a single month.

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March 31, 2010

# 1st Extension of Consent Decree

Subject to Court Approval

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION

SCOTT M. CRAWFORD, *et. al.*,

Plaintiffs,

and

THE UNITED STATES OF AMERICA,

Plaintiff-Intervenor,

v.

CITY OF JACKSON AND

CITY OF JACKSON PUBLIC

TRANSPORTATION SYSTEM

("JATRA")

Defendants.

Civil Action No. 3:08-cv-586-TSL-

FKB

HON. TOM S. LEE

United States Senior District Judge

HON. F. KEITH BALL

Magistrate Judge

Press Release

**JOINT MOTION TO EXTEND AND REVISE CONSENT DECREE**

On March 30, 2010, this Court entered a Consent Decree to resolve this case. Paragraph 84 states that the Order shall remain in effect for five years from that effective date, until March 30, 2015.

The City of Jackson has made improvements in its provision of accessible public transportation services ("JATTRAN"). However, the parties are in agreement that the City of Jackson has not reached full compliance with the Consent Decree, and an 18 month extension is warranted to allow for additional time to meet all of the terms of the Decree, until September 30, 2016.

The parties agree the City needs additional time to comply with the following requirements of the Consent Decree:

1. Maintaining the accessibility features on all vehicles in operative condition (e.g., wheelchair lifts/ramps). Consent Decree ¶¶ 19-20.
2. Conducting daily operational checks of wheelchair lifts/ramps each morning, which includes cycling the lifts and record the results. Consent Decree ¶ 20(B)-(C).
3. Removing buses with inoperable lifts/ramps from service at the beginning of the service day or when discovered to be inoperable, or within three days if there is no replacement bus available and removing the bus from service would substantially delay or disrupt the bus service schedule. Consent Decree ¶ 20(E)-(F).
4. Performing preventative maintenance on the accessibility features of its buses in accordance with, at a minimum, the manufacturer's recommendations. Consent Decree ¶¶ 22-23.
5. Establishing an ADA Coordinator in the Department of Planning and Development, who reports to the Director, and who is responsible for carrying out day-to-day compliance of JATTRAN with title II of the ADA. Consent Decree ¶¶ 45-49.

6. Maintaining and reporting certain data and records, including each lift/ramp malfunction and subsequent servicing, lift/ramp preventative maintenance, and paratransit telephone access. Maintain certain data for compliance assessment by the Auditor and the United States. Consent Decree ¶ 66.

To facilitate reporting by the City and monitoring by the United States going forward, the City agrees to submit the data in Paragraph 66 on a monthly basis for the remainder of the Decree. The City will also continue to submit written report provided every six months, as outlined in Paragraph 68.

Paragraph 84 will be amended to state that the Consent Decree will expire on September 30, 2016, unless the interests of justice require further extension.

Accordingly,

IT IS SO  
ORDERED

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Tom S. Lee  
United States Senior District Judge

---

Date

AGREED AND CONSENTED TO BY:

FOR THE UNITED STATES:

ERIC H. HOLDER, JR.  
Attorney General of the United States

GREGORY K. DAVIS  
United States Attorney  
Southern District of Mississippi

VANITA GUPTA  
Acting Assistant Attorney General  
Civil Rights Division

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Special Litigation Counsel

KEVIN KIJEWSKI  
Deputy Chief  
Disability Rights Section  
Civil Rights Division

/s/ David W. Knight

DAVID W. KNIGHT

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FOR PRIVATE PLAINTIFFS:

/s/ Frances Kay Hardage

March 10, 2015

FRANCES KAY

Date

HARDAGE

MSB # 3061

Disability Rights Mississippi

210 East Capitol Street

Suite 600

Jackson, Mississippi 48334

Phone: 601-968-0600

FOR THE CITY OF

March 10, 2015

JACKSON:

Date

/s/ Claire Barker Hawkins

MONICA JOINER

MSB # 102154

Azande Williams

MSB # 100161

Claire Barker Hawkins

MSB # 101312

Office of the City Attorney

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March 12, 2015

## 2nd Extension of Consent Decree

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION

SCOTT M. CRAWFORD, *et. al.*,

Plaintiffs,

and

THE UNITED STATES OF AMERICA,

Plaintiff-Intervenor,

v.

CITY OF JACKSON AND CITY OF  
JACKSON PUBLIC TRANSPORTATION  
SYSTEM ("JATRAM")

Defendants.

Civil Action No. 3:08-cv-586-TSL-FKB

HON. TOM S. LEE  
United States Senior District Judge

HON. F. KEITH BALL  
Magistrate Judge

**ORDER**

Before the Court is a Joint Motion to Extend and Revise the Consent Decree first entered by this Court on March 30, 2010, and extended on March 13, 2015. Having considered the Motion, the Court ORDERS as follows:

To comply with the requirements of the Consent Decree, the City agrees shall take the following steps in addition to those require by the March 30, 2010, Consent Decree and the previous March 13, 2015, extension of that Decree:

1. To ensure that daily checks of wheelchair lifts and ramps are conducted on each bus:
  - a. A JATRAM supervisor will be present to observe a majority of vehicle pullouts each day.

b. Electronic Vehicle Inspection Reports (EVIR) will be reviewed by JATTRAN supervisors daily. In the event the wheelchair "zone" is not inspected, bus operators will be counseled regarding this requirement. Repeated failures to properly check the wheelchair "zone" will result in progressive discipline of bus operators.

2. To ensure buses with inoperable lifts/ramps are removed from service in a timely manner:

a. The JATTRAN maintenance supervisor will run a "defect report" each morning upon arrival at work. Repair of defective accessibility features will be prioritized.

b. Vehicles with inoperable lift/ramps will be removed from service within three days if there is no replacement bus available.

c. Counsel for the Plaintiffs will be sent daily "defect" and other reports from the ZONAR fleet management system and any other fleet management system used by the City, as negotiated by the parties, so that all parties are aware of the current state of the JATTRAN vehicle fleet.

The City of Jackson will submit the data in Paragraph 66 on a monthly basis for the remainder of the Decree. The City will also continue to submit written reports every six months, as outlined in Paragraph 68.

Paragraph 84 will be amended to state that the Consent Decree will expire on September 30, 2018, unless the interests of justice require further extension.

SO ORDERED this the 29<sup>th</sup> day of September, 2016,

  
\_\_\_\_\_  
Tom S. Lee  
United States Senior District Judge

## 3rd Extension of Consent Decree

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION

SCOTT M. CRAWFORD, DEWONE BANKS,  
JASON BUNCHE, GWENDOLYN BYRD,  
LEE COLE, JAN HAWTHORNE, MELVINA  
TOBIAS, EDDIE TURNER, JERRI WALTON,  
MISSISSIPPI COALITION FOR CITIZENS WITH  
DISABILITIES, MISSISSIPPI COUNCIL FOR THE  
BLIND JACKSON CHAPTER, On behalf of themselves  
and all others similarly situated

PLAINTIFFS

v.

Civil Action No. 3:08-CV-586 TSL-FKB

THE CITY OF JACKSON AND JACKSON  
PUBLIC TRANSPORTATION SYSTEM (JATRAM)

DEFENDANTS

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ORDER

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Before the Court is a Motion to Extend the Consent Decree first entered by this Court on March 30, 2010, and extended on September 16, 2018. Having considered the Motion, the Court ORDERS as follows:

To comply with the requirements of the Consent Decree, the City has made some improvements but in an effort to better serve the ADA-eligible riders, the City agrees to continue taking the required actions as required by the March 30, 2010 Consent Decree and any and all subsequent revisions that have previously been granted by this Court on March 13, 2015 and September 29, 2016 including the following:

1. Ensuring that daily checks of wheelchair lifts and ramps are conducted on each bus:
2. Providing a JATRAM supervisor to observe a majority of vehicle pullouts each day.
3. Ensuring that Electronic Vehicle Inspection Reports (EVIR) will be reviewed by JATRAM supervisors daily. In the event the wheelchair “zone” is not inspected, bus operators will be

counseled regarding this requirement. Repeated failures to properly check the wheelchair “zone” will result in progressive discipline of bus operators.

4. Ensuring that buses with inoperable lifts/ramps are removed from service in a timely manner:
5. Requiring that a JATRAN maintenance supervisor will run a “defect report” each morning upon arrival at work. Repair of defective accessibility features will be prioritized.
6. Removing vehicles with inoperable lift/ramps from service within three days if there is no replacement bus available.
7. Providing Counsel for the Plaintiffs daily “defect” and other reports from the ZONAR fleet management system and any other fleet management system used by the City, as negotiated by the parties, so that all parties are aware of the current state of the JATRAN vehicle fleet.
8. Continue designing, implementing, and operating its paratransit service to satisfy all requests by ADA eligible riders for service, including next-day trip requests pursuant to Paragraph 43 of the Consent Decree.

The City of Jackson will submit the data in Paragraph 66 on a monthly basis for the remainder of the Decree, including for the month of October 2018 as this Order will be retroactively enforceable. The City will also continue to submit written reports every six months, as outlined in Paragraph 68.

Paragraph 84 will be amended to state that the Consent Decree will expire on September 30, 2020, unless the interests of justice require further extension.

SO ORDERED this the 8<sup>th</sup> day of November 2018.

/s/Tom S. Lee

Tom S. Lee

United States Senior District Judge