

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
THE CIVIC ASSOCIATION OF THE DEAF OF :  
NEW YORK CITY, INC. (also known as :  
the New York City Civic Association :  
of the Deaf) and STEVEN G. YOUNGER II, :  
on behalf of themselves and all :  
others similarly situated, :

Plaintiffs, :

95 Civ. 8591 (RWS) :

V. :

RUDOLPH GIULIANI, as Mayor of the :  
City of New York, HOWARD SAFIR, as :

Commissioner of the Fire Department :  
of the City of New York, CARLOS :  
CUEVAS, as City Clerk and Clerk of :  
The New York City Council, PETER :  
VALLONE, as Speaker and Majority :  
Leader of the New York City Council, :  
THOMAS OGNIBENE, as minority Leader :  
of the New York City Council, and :  
the CITY OF NEW YORK, :

Defendants. :

**CORRECTED  
DECLARATION OF  
ROBERT B. STULBERG  
IN SUPPORT OF  
PLAINTIFFS'  
OPPOSITION TO  
DEFENDANTS' MOTION  
TO VACATE OR  
MODIFY INJUNCTION**

-----X  
**EXHIBIT 14**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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THE CIVIC ASSOCIATION OF THE DEAF OF NEW YORK CITY, INC. (also known as the New York City Civic Association of the Deaf) and STEVEN G. YOUNGER II, on behalf of themselves and all others similarly situated,

Plaintiffs, 95 Civ. 8591 (RWS)

-against-

RUDOLPH GIULIANI, as Mayor of the City of New York, HOWARD SAFIR, as Commissioner of the Fire Department of the City of New York, CARLOS CUEVAS, as City Clerk and Clerk of The New York City Council, PETER VALLONE, as Speaker and Majority Leader of the New York City Council, THOMAS OGNIBENE, as minority Leader of the New York City Council, and the CITY OF NEW YORK,

Defendants.

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**DEFENDANTS' OBJECTIONS  
AND RESPONSES TO  
PLAINTIFFS' MODIFIED  
INTERROGATORIES 4 & 5**

Pursuant to Rule 33 of the Federal Rules of Civil Procedure and Rule 33.3 of the Local Civil Rules for the Southern and Eastern Districts of New York, defendants object and respond to Plaintiffs' Revised Set of Interrogatories as follows:

**GENERAL STATEMENT**

1. By responding to any interrogatory, defendants do not concede the materiality of the subject to which it refers. Defendants' responses are made expressly subject to, and without waiving or intending to waive, any questions, or objections as to the competency, relevancy, materiality, privilege, or admissibility as evidence or for any other purpose, of any of the information produced, or of the subject matter thereof, in any proceeding including the trial of this action or any subsequent proceeding.

2. Defendants object to these interrogatories to the extent they demand information that is protected by the attorney-client, work-product, executive, or government operations privileges, that constitutes material prepared for litigation purposes, or that is otherwise immune from disclosure.

3. Inadvertent production of any information that is privileged, was prepared in anticipation of litigation, or is otherwise immune from discovery, shall not constitute a waiver of any privilege or of another ground for objecting to discovery with respect to that subject matter, or of defendants' right to object to the use of any such information during any proceeding in this litigation or otherwise.

4. The fact that defendants object to a particular interrogatory should not be construed to mean that information responsive to that interrogatory exists. Furthermore, the production of any information that is otherwise subject to an objection is not a waiver of any objection as to any other information not produced.

5. Defendants reserve the right to supplement their response to each interrogatory with additional information, if and when such information becomes available to defendants' counsel. Defendants also reserve the right to object to the future disclosure of any such information.

6. Defendants object to any request for information or production from entities not represented by the Corporation Counsel of the City of New York.

7. Insofar as these interrogatories request information for the period of time from July 29, 1997 to the present or from even earlier time periods, defendants object to the interrogatories as overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

8. Each of the foregoing objections is incorporated in each of the following responses.

**INTERROGATORIES**

**MODIFIED INTERROGATORY NO. 4:**

Identify the notification alternative proposed by defendants in the Motion, by which (a) deaf or hearing impaired persons; and (b) non-deaf and non-hearing impaired persons would be able, from the street, to signal or report and confirm the type of emergency assistance required.

**OBJECTION AND RESPONSE TO MODIFIED INTERROGATORY NO. 4:**

Defendants object to this Modified Interrogatory on the grounds previously set forth in their objections and response to the original Interrogatory. Notwithstanding these objections, and in lieu of a response to this Interrogatory, defendants offer the following statement which, if acceptable to the plaintiffs, the parties can submit to the Court as a stipulated fact:

In the pending motion, defendants discuss one available method by which deaf and hard-of-hearing individuals can report emergencies from the street – namely, the tapping protocol (repeated single tap for Police services; repeated double tap for Fire/EMS services) on a public pay telephone – because this method has already been determined by the Court to meet the requirements of the ADA. This method would continue to be available after the deactivation of the street alarm box system. In addition, other methods by which hearing, deaf, or hard-of-hearing persons report emergencies from the street would continue to be available. For example, if hearing, deaf, or hard-of-hearing individuals reported emergencies to a 911 call-taker or dispatcher via public pay telephone or cell phone by speaking or voicing, they would continue to be able to do so. If hearing, deaf, or hard-of-hearing individuals reported emergencies by asking a friend or bystander to contact 911 on behalf of themselves or others needing assistance, they would continue to be able to do so. If deaf or

hard-of-hearing persons reported emergencies by using a portable TTY device to contact 911, they would continue to be able to do so.

Neither the street alarm box system, which plaintiffs are seeking to preserve by Court order, nor public pay telephones provides any means by which profoundly deaf persons (*i.e.*, persons with total lack of hearing) can confirm that a request for emergency services was actually transmitted, received, or responded to. Persons without hearing loss, as well as some hard-of-hearing persons with less than total hearing loss, will be able to confirm, through direct communication with the operator or dispatcher, that a request for emergency services was transmitted, received, and responded to.

**MODIFIED INTERROGATORY NO. 5:**

Identify how public telephones are readily accessible to and usable by deaf and hearing-impaired persons for reporting emergencies from the street.

**OBJECTION AND RESPONSE TO MODIFIED INTERROGATORY NO. 5:**

Defendants object to this Modified Interrogatory on the grounds previously set forth in their objections and response to the original Interrogatory. Notwithstanding these objections, defendants refer plaintiffs to *Civic Association of the Deaf v. Giuliani*, 970 F. Supp. 352, 356, 361-62 (S.D.N.Y. 1997). See also *Civic Association of the Deaf v. Giuliani*, 915 F. Supp. 622, 637-38 (S.D.N.Y. 1996).

Dated: New York, New York  
April 14, 2011

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DECLARATION OF  
ROBERT B. STULBERG  
IN SUPPORT OF  
PLAINTIFFS'  
OPPOSITION TO  
DEFENDANTS' MOTION  
TO VACATE OR  
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-----X  
**EXHIBIT 15**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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THE CIVIC ASSOCIATION OF THE DEAF OF NEW YORK CITY, INC. (also known as the New York City Civic Association of the Deaf) and STEVEN G. YOUNGER II, on behalf of themselves and all others similarly situated,

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**DEFENDANTS' SECOND SUPPLEMENTAL OBJECTIONS AND RESPONSES TO PLAINTIFFS' MODIFIED INTERROGATORY 4**

Defendants.

----- X

Pursuant to Rule 33 of the Federal Rules of Civil Procedure and Rule 33.3 of the Local Civil Rules for the Southern and Eastern Districts of New York, defendants object and respond to Plaintiffs' Revised Set of Interrogatories as follows:

**GENERAL STATEMENT**

1. By responding to any interrogatory, defendants do not concede the materiality of the subject to which it refers. Defendants' responses are made expressly subject to, and without waiving or intending to waive, any questions, or objections as to the competency, relevancy, materiality, privilege, or admissibility as evidence or for any other purpose, of any of the information produced, or of the subject matter thereof, in any proceeding including the trial of this action or any subsequent proceeding.



2. Defendants object to these interrogatories to the extent they demand information that is protected by the attorney-client, work-product, executive, or government operations privileges, that constitutes material prepared for litigation purposes, or that is otherwise immune from disclosure.
3. Inadvertent production of any information that is privileged, was prepared in anticipation of litigation, or is otherwise immune from discovery, shall not constitute a waiver of any privilege or of another ground for objecting to discovery with respect to that subject matter, or of defendants' right to object to the use of any such information during any proceeding in this litigation or otherwise.
4. The fact that defendants object to a particular interrogatory should not be construed to mean that information responsive to that interrogatory exists. Furthermore, the production of any information that is otherwise subject to an objection is not a waiver of any objection as to any other information not produced.
5. Defendants reserve the right to supplement their response to each interrogatory with additional information, if and when such information becomes available to defendants' counsel. Defendants also reserve the right to object to the future disclosure of any such information.
6. Defendants object to any request for information or production from entities not represented by the Corporation Counsel of the City of New York.
7. Insofar as these interrogatories request information for the period of time from July 29, 1997 to the present or from even earlier time periods, defendants object to the interrogatories as overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

8. Each of the foregoing objections is incorporated in each of the following responses.

**INTERROGATORIES**

**MODIFIED INTERROGATORY NO. 4:**

Identify the notification alternative proposed by defendants in the Motion, by which (a) deaf or hearing impaired persons; and (b) non-deaf and non-hearing impaired persons would be able, from the street, to signal or report and confirm the type of emergency assistance required.

**SUPPLEMENTAL OBJECTIONS AND RESPONSE TO MODIFIED INTERROGATORY NO. 4:**

Defendants object to this Modified Interrogatory on the grounds previously set forth in their Objection and Response to Interrogatory No. 4 within Defendants' Objections and Responses to Plaintiffs' Revised Set of Interrogatories, dated October 26, 2010; and in their Supplemental Objections and Response to Modified Interrogatory No. 4 within Defendants' Supplemental Objections and Responses to Plaintiffs' Modified Interrogatories 4 & 5, dated April 20, 2011. Notwithstanding the above objections, defendants further respond as follows:

The notification alternative described in defendants' motion is New York City's E-911 system accessed via a public pay telephone system, which automatically provides a caller's location to a 911 operator, in combination with a tapping protocol that allows deaf and hard of hearing callers to indicate the type of emergency services they are requesting (a repeated single tap for Police assistance, and a repeated double tap for Fire/EMS response).

Dated: New York, New York  
May 5, 2011

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By:

  
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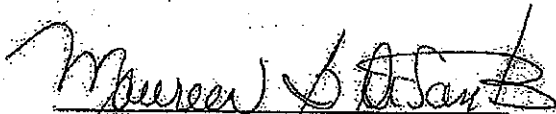
**VERIFICATION**

STATE OF NEW YORK    )  
                                  : ss.  
COUNTY OF NEW YORK )

MATTHEW P. SAPOLIN, being duly sworn, says that the foregoing response within Defendants' Second Supplemental Objections and Response to Modified Interrogatory No. 4 is true to the best of his knowledge, except as to any matters therein stated to be alleged upon information and belief, and as to those matters he believes it to be true.

  
MATTHEW P. SAPOLIN

Sworn to before me this  
6th day of May, 2011.

  
NOTARY

THOMAS B. DESANTIS  
Notary Public, State of New York  
No. 0105048901  
Qualified in Kings County  
My Commission Expires 4/5/13

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-----X  
**EXHIBIT 16**



February 2, 2011

To Whom It May Concern:

**Introduction:**

My name is Alfred Sonnenstrahl. I submit this opinion in support of plaintiffs' opposition to defendant's Motion to Modify or Vacate the Permanent Injunction ("defendant's Motion") in *The Civic Association of the Deaf of New York City, Inc. v. Giuliani*, 95 Civ. 8591 (S.D.N.Y.). Defendant's Motion seeks to deactivate the street alarm boxes in New York City and to substitute public pay telephones as the notification alternative for persons who are deaf or hard of hearing. I was asked to submit my opinion as to whether that notification alternative is accessible to deaf or hard of hearing persons.

**My Credentials**

I was the executive director of Telecommunications for the Deaf, Inc. from 1987 to 1996. During my tenure, I was involved in developing Title II of the Americans with Disabilities Act (ADA) that mandated direct accessibility to emergency services for all individuals with disabilities. I assisted the Federal Communications Commission (FCC) in the process of developing minimum text telephone (TTY) relay service standards. I also advised the FCC in the creation of its Disability Rights Office, which was established to monitor all disability-related telecommunications services and ensure compliance with the ADA. Currently, this office is also responsible for ensuring compliance with the 21<sup>st</sup> Century Communications & Video Accessibility Act, which was signed by President Obama last October.

Specifically related to emergency services, during my tenure as TDI Director, I worked with the U.S. Department of Justice to develop guidelines for text telephone networks to facilitate access to all emergency services nationwide. I produced materials to train emergency personnel to handle equipment to communicate with people who were deaf or hard of hearing. Since then, I have continued to be involved in consumer-related efforts to ensure functional equivalencies for deaf and hard-of-hearing consumers. For example, I am currently a member of the FCC Emergency Access Advisory Council, and teach a course on communication accessibility at Gallaudet University in Washington, DC. Also, I have served as an expert witness in several litigations related to access issues, including the *Michael Chatoff v. New York City* case, which was heard by Judge Robert W. Sweet in or around 1992.

**Demographics**

The term "hearing loss" reflects multiple hearing levels, ranging from the 16 decibel (dB) cutoff for identifying a slight hearing loss to 26dB for mild hearing loss, 41dB for moderate hearing loss, 71dB for severe deafness and 91dB and up for profound deafness (Clarke, 1981). Individuals who are profoundly deaf cannot hear without auditory amplification, but those who are moderately to severely deaf may be able to hear something, depending on the amount of hearing they have at each frequency within the speech range of 500 to 2,000Hz. Those with hearing levels between 26dB and 70dB are generally considered to be hard of hearing. They have the capability of developing or using linguistic skills primarily through auditory pathways with appropriate amplification, but they may also rely on vision as a backup (Ross, 2005).

The estimated number of persons with hearing loss ranging from mild to profound levels in the United States is approximately 34 million adults, most of whom have age-related hearing loss (Plies & Coles, 2002). In proportion, there are approximately 215,000 New York City residents with significant hearing loss. To date, there has been only one national census of the deaf population; this was published in 1974 (Schein & Dell, 1974). Consequently the numbers of New York City residents are based on extrapolated estimates. In proportion, estimates based on the 1974 census suggest that there are approximately 215,000 New York City residents with significant hearing loss. Considering that the population of the U.S. has increased, as has the proportion of deaf and hard of hearing persons, we can roughly estimate that currently at least approximately 250,000 New York City residents are unable to either understand speech or hear more than a few words.

Because of the wide range of age of onset of hearing loss, variety of communication skills, and variety of educational programs, the deaf and hard of hearing community is quite heterogeneous in its makeup.

#### **Public Payphones:**

The number of street payphones has diminished tremendously, including in New York and New York City. (Cheng, 2009; Diperna, 2004; McGinty, 2007; Woller, 2010). Of the remaining street payphones, including those in New York City, many are inoperable, mostly due to vandalism. (Coatino, 2009; Diperna, 2004; Hanks, 2010; Lueck, 2006; Mallozzi, 2006; McGinty, 2007; Striker, 2006).

Should a deaf or hard of hearing person find a public payphone on the street in an emergency situation, s/he can lift the phone from the hook and dial 9-1-1 but s/he will not know if the telephone is working. This is because public pay phones do not have any non-audio indicator that the telephone line is active. For the same reason, deaf or hard of hearing persons cannot tell whether the call s/he placed on a public pay telephone has been transmitted or if a responder is on the line. In short, for a deaf or hard of hearing person, using a public pay telephone is as effective as talking to a wall. For these reasons, deaf or hard of hearing persons do not use public pay telephones to communicate, let alone to report emergencies from the street. Thus, in my opinion, public pay telephones do not and cannot provide a notification

alternative for deaf and hard of hearing persons who need to report emergencies from the street.

#### **Dissemination of the Protocol:**

It is my understanding that the Court in this case required New York City to effectively disseminate the alarm box tapping protocol to the deaf and hard of hearing community. For the following reasons, it is my opinion that the tapping protocol has not been effectively disseminated to that community.

To effectively disseminate the tapping protocol to the deaf and hard of hearing community, certain measures are required. First, instructions for the tapping protocol should be posted on the alarm boxes, so that a deaf or hard of hearing person facing an emergency will have the instructions at the moment they need them. On January 22, 2011, I observed a two-button alarm box at the corner of Barclay and Church Streets in New York City, in the presence of defendant's counsel. Instructions for using the tapping protocol were not posted on the alarm box. Instead, the instructions that did appear on the alarm box stated that a caller must speak with the call takers in order to obtain emergency assistance. As an expert on deaf communications issues, it is my opinion that those instructions actually discourage deaf or hard of hearing persons from using the boxes in an emergency.

Second, the tapping protocol should be disseminated on an ongoing basis to strategic locations of deaf and hard of hearing communities. Following are the examples of such strategic locations:

1. Educational programs for the deaf and hard of hearing (Annals, 2010);
2. University and college programs for personnel in deafness (Annals, 2010);
3. Advocacy, support and rehabilitation programs (Annals, 2010);
4. Interest groups including churches and organizations (TDI, 2010); and
5. Local, regional and national websites for deaf and hard of hearing such as:
  - a. National Association of the Deaf
  - b. Association of Late Deafened Adults
  - c. AARP
  - d. National Black Deaf Advocates
  - e. Hearing Loss Association of America
  - f. iDeafNews.com
  - g. DeafNewspaper.com

I am not aware of any ongoing efforts by New York City to disseminate the tapping protocol to these locations. For this reason as well, dissemination of the tapping protocol has been ineffective. I note further that, after having conversations with a number of deaf New York City residents, I have yet to meet one who is familiar with the tapping protocol.



Although a video depicting the tapping protocol is on the website for the New York City Mayor's Office for People with Disabilities ([www.MOPD](http://www.MOPD), undated) and YouTube, posting a video on those websites, as stated above, is insufficient to effectively disseminate information to the deaf and hard of hearing community. (According to YouTube, that video has had only about 6,000 hits, including hits from viewers outside of New York City, since it was put on YouTube).

**Opinion**

For the above reasons, it is my opinion that:

1. Public pay telephones are not accessible notification alternatives to deaf and hard of hearing individuals who need to request emergency services from the street;
2. Defendant has not effectively disseminated the tapping protocol to the deaf community, including deaf and hard of hearing individuals who reside in, work in and/or visit New York City.

It is my further opinion that all street alarm boxes in New York City should remain intact while research continues in the effort to develop a product that can effectively provide direct access to emergency services for deaf and hard-of-hearing people from the street. Moreover, the distribution of the current protocol to use the emergency alarm system should be made effective, taking advantage of current technology to disseminate this information.

In closing, in 2009 I served as an expert witness in the *Howard v Alabama* case (09 CV 1245)(N.D. Ala.). I have not published any materials related to emergency access in the past ten years.

Respectfully submitted by:



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**References:**

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Twenty-First Century Communications and Video Accessibility Act of 2010.  
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[archive.pulp.tc/html/public\\_pay\\_phone\\_use\\_down\\_asjw.html](http://archive.pulp.tc/html/public_pay_phone_use_down_asjw.html)

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IN SUPPORT OF  
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**EXHIBIT 17**

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

2 -----X

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9 New York, HOWARD SAFIR, as Commissioner of  
10 Fire Department of the City of New York,  
11 CARLOS CUEVAS, as City Clerk and Clerk of  
12 the New York City Council, PETER VALLONE,  
13 as Speaker and Majority Leader of The New  
14 York City Council, THOMAS OGNIBENE, as  
15 Minority Leader of the New York City  
16 Council, and the CITY OF NEW YORK,

13 DEFENDANTS.

14 -----X

15 DATE: February 28, 2011

16 TIME: 10:10 a.m.

17  
18 EXAMINATION BEFORE TRIAL of the Plaintiff,  
19 THE CIVIC ASSOCIATION OF THE DEAF OF NEW YORK CITY, INC.,  
20 by the Witness, ALFRED SONNENSTRAHL, taken by the  
21 Defendants, pursuant to a Notice and to the Federal Rules  
22 of Civil Procedure, held at the offices of the New York  
23 City Law Department, 100 Church Street, New York, New York  
24 10007, before Ephraim Jacobson, a Notary Public of the  
25 State of New York.

SONNENSTRAHL

1 street; is that correct?

2 A. Accuracy? What do you mean.

3 Q. Adequacy.

4 A. I don't believe I said that the pay phone is  
5 adequate.

6 Q. I mean, did you offer an opinion about whether or  
7 not public pay phones are --

8 A. Yes, I did give an opinion that it's not adequate  
9 enough.

10 Q. Is it true you conclude that public pay phones do  
11 not provide a notification alternative to the street alarm  
12 box system for deaf and hard of hearing people requesting  
13 emergency services from the streets?

14 A. You're saying the pay phone is not providing  
15 notification?

16 Q. I'm asking whether you've concluded in your  
17 report that the public pay phones do not provide a  
18 notification alternative?

19 A. Correct. I want to make sure that I answered  
20 appropriately. You gave me a negative question so I just  
21 wanted to make sure that not, it's not, so, I agree if it  
22 was a negative?

23 Q. Yes. Forgive me. It was a badly phrased  
24 question. But I think you've understood my question and I  
25 believe I understand your answer. You're saying that the.

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1 coin slot is blocked?

2 A. Yes, if the phone is working.

3 Q. You can call on it if the phone is working?

4 A. You don't need money for it. I wanted to mention  
5 on the front page it says "b. Worst: 68th Street-Hunter  
6 College." That was where Lexington School was. So that  
7 was the first school I went to. You see a sign there, they  
8 have a plaque on that corner that talks about a deaf  
9 school, and that's the very same location where it says  
10 it's the worst pay phone.

11 Q. I understand.

12 A. That's where I grew up. My first ten years, I  
13 was in that area.

14 Q. I understand.

15 A. So I do know that the phone will connect to 911  
16 without paying, if the phone itself is working.

17 Q. Let me ask you the same question about if the  
18 coin falls straight through. That's another one of the  
19 categories listed here. Does that mean you can't call 911  
20 or can you call 911 even when the coin falls straight  
21 through, assuming the phone is otherwise working?

22 A. Again, I'm not a scientist. I have no idea if it  
23 works or it doesn't. I have no way of being alerted if it  
24 works.

25 Q. Have you ever called a 800 number, a toll-free

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1           A.       I just focused on not working because the purpose  
2 of -- for example, I'm a deaf person. When I pick up the  
3 phone, I feel like I'm talking to the wall. There's no  
4 reaction from the wall. So, it's a scary experience for  
5 me, and I'm sure it's the same for other deaf people, and I  
6 need reliability, you know, a good product, to ensure that  
7 it will work. There's no acknowledgement that's built into  
8 the phone except for the TTY light that will flash.

9           A pay phone without the TTY, there's no way to  
10 tell me if it's working or not. So, if I see it's not  
11 working, if the TTY is built in, you know, again I can tell  
12 if it works or not. But without that light from the TTY, I  
13 have no way of knowing if it worked or not. It's kind of  
14 like having wall in front of me.

15          Q.       You used one of the intercom-style ERS boxes  
16 during your test last month; is that correct?

17          A.       Yes.

18          Q.       Were you able to confirm independent of anyone  
19 else around you to talk to what's going on? Were you able  
20 to tell that someone had answered the ERS box?

21          A.       I have to admit there was some difficulty. It  
22 was not loud enough for me to feel anything.

23          Q.       Was there any light on that box to confirm, as  
24 you described the TTY, if someone was on the line?

25          A.       No.



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1 undamaged handset and is able to contact a specific 1-800  
2 test number."

3 I'm just asking you, were you aware of the fact  
4 that using a test of whether a toll-free call could be made  
5 with pay phone in the subways, that the PES survey found a  
6 much higher operability rate, compared to the Straphangers,  
7 who found a twenty-five percent inoperability rate in their  
8 study?

9 A. Like I said earlier I'm not a scientist. All I  
10 can say is that when I use the pay phone, I have no idea  
11 whether it works or it doesn't, and like I said before, I  
12 feel like I'm talking to the wall. Is it working; I don't  
13 know. Based on my experience with different places, many  
14 phones are inoperable and many handsets are missing, so I  
15 have no idea. I basically experience that feeling of fear  
16 and when I say that I experience that feeling of fear I'm  
17 not the only deaf person that would be scared.

18 Q. Have you spoken to others about that feeling when  
19 they've used pay phones or if they've used pay phones?

20 A. Yes, well, they've said they don't want to use  
21 pay phones because they have no idea whether it works or it  
22 doesn't work.

23 Q. Have you spoken to --

24 A. So they may not have used the word scared but  
25 it's the idea.

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1 exactly, but there is a percentage that work, but I don't  
2 remember that percentage. I would have more confidence in  
3 an ERS box than in a pay phone, though.

4 Q. What is that based on?

5 A. Based on New York City reputation.

6 Q. But not based on your actual knowledge or lack of  
7 knowledge about the operability of ERS boxes?

8 A. Now if I had a choice, if I'm in an emergency  
9 situation and I'm desperate, I would choose an ERS box over  
10 a phone.

11 Q. Why?

12 A. Because I know that pay phones don't generally  
13 work. Many of them are not working and it's harder to find  
14 them, and the number of pay phones are decreasing, and when  
15 they're there, I have no idea whether they work or not.  
16 So, the ERS is supposed to work.

17 Q. If I were to tell you that the number of phones  
18 and boxes are about the same in New York City, and if I  
19 were to tell you that the operability rate, or let's assume  
20 the operability rate of both ERS boxes and pay phone is  
21 roughly the same, would that change your answer?

22 MR. SIEGEL: Objection; calls for  
23 speculation by the Witness.

24 MR. PINES: He's an expert, so I can ask him  
25 to test his thesis.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
THE CIVIC ASSOCIATION OF THE DEAF OF :  
NEW YORK CITY, INC. (also known as :  
the New York City Civic Association :  
of the Deaf) and STEVEN G. YOUNGER II, :  
on behalf of themselves and all :  
others similarly situated, :

Plaintiffs, :

95 Civ. 8591 (RWS)

V. :

RUDOLPH GIULIANI, as Mayor of the :  
City of New York, HOWARD SAFIR, as :

Commissioner of the Fire Department :  
of the City of New York, CARLOS :  
CUEVAS, as City Clerk and Clerk of :  
The New York City Council, PETER :  
VALLONE, as Speaker and Majority :  
Leader of the New York City Council, :  
THOMAS OGNIBENE, as minority Leader :  
of the New York City Council, and :  
the CITY OF NEW YORK, :

Defendants. :

**CORRECTED  
DECLARATION OF  
ROBERT B. STULBERG  
IN SUPPORT OF  
PLAINTIFFS'  
OPPOSITION TO  
DEFENDANTS' MOTION  
TO VACATE OR  
MODIFY INJUNCTION**

-----X  
**EXHIBIT 18**

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 -----X  
4 THE CIVIC ASSOCIATION OF THE DEAF OF NEW YORK CITY, INC.,  
5 (also known as the New York City Civic Association of the  
6 Deaf) and Steven G. YOUNGER II, on behalf of themselves  
7 and all others similarly situated,

8 PLAINTIFFS,

9 -against-

10 Case No.:  
11 95-cv-08591

12 RUDOLPH GIULIANI, as Mayor of the City of New York, HOWARD  
13 SAFIR, as Commissioner of the Fire Department of the City  
14 of New York, CARLOS CUEVAS, as City Clerk and Clerk of The  
15 New York City Council, PETER VALLONE, as Speaker and  
16 Majority Leader of the New York City Council, THOMAS  
17 OGNIBENE, as Minority Leader of the New York City Council,  
18 and the CITY OF NEW YORK,

19 -----X  
20 DEFENDANTS.

21 DATE: March 8, 2011

22 TIME: 10:18 a.m.

23 EXAMINATION BEFORE TRIAL of the Plaintiff,  
24 THE CIVIC ASSOCIATION OF THE DEAF OF NEW YORK CITY, INC.,  
25 by a witness, HUBERTA G. SCHROEDEL, taken by the  
Defendants, pursuant to a Notice and Federal Rules of Civil  
Procedure, held at the offices of the New York City Law  
Department, 100 Church Street, New York, New York 10007,  
before QUINTINA HASKINS, a Notary Public of the State of  
New York.

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H. SCHROEDEL

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1 communication.

2 Q. What were some of those ideas?

3 A. Technology, technology resources.

4 Q. Can you give me some examples?

5 A. Our pagers don't have 911 accessibility, what  
6 good is it (indicating)?

7 MR. SIEGEL: Let the record reflect that the  
8 witness was holding up a mechanical pager.

9 Q. So one recommendation was to improve personal  
10 technology devices?

11 A. What would you do on the street?

12 Q. I wanted to clarify. When you were talking about  
13 pagers and technology, are you referring, then, to personal  
14 devices that people use, like pagers and cell phones,  
15 and --

16 A. We don't use cell phones, I don't.

17 Q. BlackBerries?

18 A. I use texting.

19 Q. Smart phones, I guess?

20 A. I don't have a smart phone, I don't know that  
21 technology. All I know is the texting, and the e-mailing,  
22 I don't have -- I only have data plan, I don't have a cell  
23 phone.

24 Q. In talking about technology, were there any  
25 discussions about street alarm boxes?

H. SCHROEDEL

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1 A. Yes.

2 Q. What was discussed?

3 A. Why so many fire boxes are broken. And I can use  
4 a pay phone, and every time I put in 50 cents, and I wanted  
5 to call my son at home, like, if I'm going to be late, I  
6 dial the number, and speak, hang up, and my 50 cents comes  
7 back, I didn't know why the phone was working, so, I can't  
8 use a pay phone.

9 Q. Who was talking about the street alarm boxes?

10 A. The deaf people themselves, hard-of-hearing  
11 people, they were worried about our safety.

12 Q. Are these members of CAD?

13 A. Yes.

14 Q. How did this discussion happen?

15 A. I remember this very well. I remember in Times  
16 Square, there was a would-be bomber in Times Square, and  
17 they were discussing how would deaf people know or hearing  
18 -- it's really confusing, I don't feel very safe here in  
19 New York sometimes because of the terrorism.

20 Q. The discussions about the street alarm boxes that  
21 you mentioned, were there multiple discussions about the  
22 street alarm boxes, are you talking about one discussion?

23 A. We were discussing how to report crimes on the  
24 street. And one person was telling us that he saw a  
25 shooting. He couldn't use the alarm box, where were they?

H. SCHROEDEL

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1 the meeting with the Mayor's Office to discuss those  
2 meetings or you wanted the Mayor's Office to attend a  
3 meeting of CAD to discuss those issues?

4 A. To come and present, tell them about the program.

5 Q. Prior to that attempt or prior to that time that  
6 you spoke with the Mayor's Office about two years ago, were  
7 there any other times that CAD has expressed concerns about  
8 the alarm boxes to a City agency or official?

9 A. No.

10 Q. At the October meeting, were there any  
11 discussions about this lawsuit?

12 A. No.

13 Q. At the October meeting, were there any  
14 discussions about using pay phones to report emergencies  
15 from the street?

16 A. Several deaf members complained that they never  
17 work, the pay phones. And it's no use for the deaf  
18 community at all, no use. There is nothing visually there  
19 to say that it's working, nothing.

20 Q. Are you aware of whether there is a way to know  
21 whether the alarm box is working, anything visual that  
22 indicates whether it's working?

23 A. No. No light, I depend on light, a light  
24 indicator. If you pull it to see whether or not it's  
25 working, there is nothing visually there.

H. SCHROEDEL

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1 A. I never heard of that.

2 Q. -- is there a reason why you, when you needed to  
3 summon help chose one over the other?

4 MS. GANTZ: Objection.

5 A. You mean using a pay phone that has an alarm  
6 system or what?

7 Q. No, the incident that you described of the person  
8 on the street who was hit by the car. Is there a reason  
9 that you chose an alarm box rather than a pay phone?

10 A. ~~I'm afraid that the phone was not going to work,~~  
11 ~~the pay phone never works, I know that.~~

12 Q. But you knew the alarm box would work?

13 A. I took a risk.

14 MR. SIEGEL: I have no further questions.

15 CONTINUED EXAMINATION BY

16 MS. GANTZ:

17 (Whereupon, the interpreting was continued  
18 by Interpreter Frawley.)

19 Q. I just have a few follow-up questions from those  
20 questions. You just stated that sometimes CAD operates by  
21 consultation with its members, how do they do that?

22 A. We discuss the issues at a round table and decide  
23 which ones we'll pursue, and decide on the discussion,  
24 which is important, which can wait until later, how do we  
25 approach these issues.

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
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ROBERT B. STULBERG  
IN SUPPORT OF  
PLAINTIFFS'  
OPPOSITION TO  
DEFENDANTS' MOTION  
TO VACATE OR  
MODIFY INJUNCTION**

-----X  
**EXHIBIT 19**

3.

1 12idvecd Vecchi

2 MICHAEL VECCHI,

3 called as a witness by the Plaintiffs,  
4 having been duly sworn, testified as follows:

5 EXAMINATION

6 BY MS. SHULMAN:

7 Q. Mr. Vecchi, my name is Amy Shulman,  
8 and I am one of the attorneys for the plaintiffs  
9 in this action in which you have been noticed  
10 for a deposition. I am going to be asking you  
11 some questions today, and if at any point you  
12 don't understand my question, please let me know  
13 and I will try to clarify it for you. If you  
14 need a question repeated, please let me know and  
15 either I or the court reporter will read it  
16 back. And if you need a break at any time, just  
17 let me know and as long as there is no question  
18 pending we'll accommodate your request.

19 Would you state your name and work  
20 address for the record?

21 A. Michael Vecchi, FDNY Headquarters, 9  
22 MetroTech Center, Brooklyn, New York.

23 MR. PINES: Just let me interrupt.

24 We are requesting the right to review  
25 and correct the record.

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29

1 12idvecd Vecchi

2 Q. Did you review any information  
3 regarding the number of out-of-service boxes in  
4 connection with preparation or review -- strike  
5 that -- in connection with your declaration that  
6 you submitted in this case?

7 A. I don't know.

8 Q. You don't know one way or another?

9 A. Correct.

10 Q. OK. Did you review or obtain that  
11 information in connection with the city's  
12 motion, whether with respect to your declaration  
13 or some other aspect of the motion, did you  
14 review -- did you obtain the information  
15 regarding the total number of out-of-service  
16 alarm boxes in connection with the city's motion  
17 to remove alarm boxes?

18 A. Yes.

19 Q. OK. Did you include any information  
20 regarding the number of out-of-service boxes in  
21 your declaration?

22 A. No.

23 Q. I would like to show you what was  
24 previously marked as double E.

25 Have you ever seen this document  
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1 12idvecd Vecchi

2 dispatch office, it's captured in the CAD.

3 Q. OK. Does the Fire Department maintain  
4 data regarding activations of the blue button on  
5 the ERS alarm boxes?

6 A. No.

7 Q. And no data of any kind?

8 A. From the blue box -- from the police  
9 button?

10 Q. Yes.

11 A. No.

12 Q. So the Fire Department would not have  
13 information regarding the number of times the  
14 blue -- a blue button -- strike that. Would not  
15 have information regarding the number of  
16 activations of blue buttons on alarm boxes in a  
17 given year?

18 A. That's correct.

19 Q. Now, I would like to take a look at  
20 Exhibit -- strike that.

21 And none of the data -- strike that.

22 None of the statistics that you  
23 mentioned in your declaration include any data  
24 regarding activation of the blue buttons on  
25 alarm boxes?

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1 12idvecd Vecchi

2 A. That's correct.

3 Q. OK. I would like to turn to Exhibit D  
4 on your declaration.

5 Just to back up for a second. Does  
6 the Fire Department maintain data regarding the  
7 number of calls placed to the 911 system?

8 A. No.

9 Q. And that's true for calls that were  
10 ultimately received by -- strike that.

11 Does it maintain data on any calls  
12 placed with the 911 system, any type of calls  
13 placed with the 911 system?

14 A. Yes.

15 Q. What types of calls does it maintain  
16 data on?

17 A. The ones that come to the Fire  
18 Department.

19 Q. Which ones that come -- which types of  
20 calls that come to the department does the  
21 department maintain data on?

22 MR. PINES: You said -- I'm sorry.  
23 You can answer, if you can. I'm sorry. No  
24 objection.

25 A. The calls that come through our CAD  
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Vecchi

to modify the injunction in this case?

MR. PINES: Objection to form.  
You can answer, if you can.

A. I don't know.

Q. Do you know why the city is seeking to -- has made the motion seeking to remove the alarm boxes now as opposed to anytime in the last ten years?

MR. PINES: Objection.

You can answer it.

A. No.

Q. What, if you know, is the alternative to alarm boxes that the city is proposing deaf or hearing-impaired persons use to report emergencies from the street?

A. I don't know.

Q. What, if you know, is the alternative to alarm boxes that the city is proposing in this motion deaf or hearing-impaired persons use to confirm emergencies from the street?

MR. PINES: Objection.

You can answer the question.

A. I don't know.

Q. Do you know whether public pay phones

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2 are usable by persons who are deaf or  
3 hearing-impaired?

4 MR. PINES: To report?

5 Q. To report emergencies from the street.  
6 Sorry.

7 A. I don't know.

8 Q. You don't know one way or another?  
9 (The witness shook his head)

10 Q. Do you know whether deaf persons can  
11 confirm a request for emergency services from  
12 the street using a public pay phone?

13 A. I don't know.

14 Q. Are you aware of any inquiries or  
15 studies done by the department to determine  
16 whether deaf persons can use public pay phones  
17 to report emergencies from the street?

18 A. No.

19 Q. You referred to the tapping protocol  
20 before. Are you aware of any tests of that  
21 protocol that the department has done?

22 A. No.

23 Q. Do you know -- strike that.  
24 So you're not aware of any tests of  
25 that protocol that the department did on pay

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2 to?

3 A. The one minute and five seconds --

4 Q. Yes.

5 A. -- is the dispatch time, the time it  
6 took the dispatcher to process the phone call.

7 Q. What does the 3:16 refer to?

8 A. The 3:16 is the time it took the fire  
9 company to get to the fire scene.

10 Q. And what is 4:21?

11 A. The combination of both of those  
12 numbers.

13 Q. OK. Does this break down the number  
14 of calls made from the street anywhere?

15 A. No.

16 Q. OK. Does it break down the number of  
17 calls from pay phones?

18 A. No.

19 Q. In the BARS category, does the BARS  
20 category break down the number of calls made  
21 from BARS' boxes that are inside facilities, if  
22 any?

23 A. No.

24 Q. OK. What does the "ERS" category  
25 refer to?

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- 1 12idvecd Vecchi  
2 A. Emergency Reporting System.  
3 Q. The alarm boxes -- the two-button  
4 boxes?  
5 A. Yes.  
6 Q. OK. Does this refer to alarms  
7 generated by the activation of the red button on  
8 the ERS boxes?  
9 A. Yes.  
10 Q. Does it include activation of the  
11 ERS -- of the blue button on the ERS boxes?  
12 A. No.  
13 Q. OK. Does the Class 3 category include  
14 the -- does that refer to the private alarm --  
15 the automatic private alarm sources you  
16 mentioned earlier?  
17 A. Yes.  
18 Q. Does it refer to anything else?  
19 A. Automatic alarms anywhere that I  
20 mentioned earlier.  
21 Q. Is the "Verbal" category the same  
22 verbal category you described on Exhibit D to  
23 your declaration?  
24 A. Yes.  
25 Q. What does "ERS No Contact" refer to?
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