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CLERK U.S. DISTRICT COURT  
DISTRICT OF ARIZONA  
BY \_\_\_\_\_ DEPUTY

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

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Bonnie Sncad,  
Plaintiff,  
v.  
Aloha Shuttles of Arizona,  
Defendant.  

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State of Arizona,  
Plaintiff - Intervenor,  
v.  
Aloha Shuttles of Arizona,  
Defendant.

No. CIV 02-0911-PCT-EHC  
**FINDINGS OF FACT; CONCLUSIONS  
OF LAW; AND ORDER FOR JUDGMENT**

On May 26 - 27, 2004, the Court held a bench trial in the above-entitled case.  
The Court, being fully advised, enters the following Findings of Fact and  
Conclusions of Law.<sup>1</sup>

<sup>1</sup> The Court has concurrent jurisdiction with the State of Arizona with respect to claims arising under the Arizonans with Disabilities Act, discussed *infra*. The Court exercised its supplemental jurisdiction to hear those claims in this matter. See 28 U.S.C. § 1367.

(97)

1  
2 **FINDINGS OF FACT**

3 1. Bonnie Mae Snead's<sup>2</sup> ("Snead") left leg is amputated above the knee.

4 2. Snead uses a wheelchair for mobility.

5 3. Snead suffers from Milroy's disease and she retains large amounts of water,  
6 she has Pickwickian's disease, whereby she is deprived of oxygen, and a torn rotator cuff  
7 in her right shoulder.

8 4. Snead relies on administered oxygen as needed.

9 5. Aloha Shuttles of Arizona ("Aloha Shuttles") was a sole proprietorship  
10 transportation service that provided a demand response system, as opposed to a fixed  
11 route system, as of May 20, 2000.

12 6. Aloha Shuttles is now a limited liability company with a Kingman, Arizona  
13 business license and base of operations in Kingman, Arizona.

14 7. On or about April 10, 2000, Snead called Aloha Shuttles, at its office in the Cape's  
15 residence, from her home in Cleveland, Ohio, and made reservations for Aloha Shuttles to  
16 meet Snead, and three (3) friends who would be traveling with her, at McCarran  
17 International Airport ("Las Vegas Airport") in Las Vegas, Nevada, on May 20, 2000, and  
18 transport them to Snead's new home in Golden Valley, Arizona.

19 8. On May 20, 2000, Snead traveled from Cleveland, Ohio, to Las Vegas, Nevada, by  
20 air with her fiancée, Ray Mounts ("Mounts"), and friends Walter Dell and Wendy Dell.  
21 Snead had a pet cat, which traveled on a separate flight and arrived in time for Mounts to  
22 retrieve the cat when they arrived.

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25 \_\_\_\_\_  
26 <sup>2</sup> Snead proceeded in pro per. The State of Arizona filed a Motion to Intervene in this  
27 matter on November 26, 2003. The Court granted the Motion to Intervene on January 6,  
28 2004. The State of Arizona alleged identical facts in the state court case and those proffered  
by Snead, and counsel for the State of Arizona ably assisted Snead in examining her and  
other witnesses during the trial.

1 9. At the time the reservation was made, Snead informed Bruce "Sonny" Cape<sup>3</sup>  
2 ("Sonny"), who owned Aloha Shuttles with his wife, Joanne, that she used a wheelchair  
3 for mobility. Snead did not mention that she was dependent on oxygen because she  
4 planned to be without the oxygen for this trip, and had a hand held cooling fan.<sup>4</sup>

5 10. Snead did not need a wheelchair accessible van.

6 11. Snead informed Sonny when she made the reservation that she needed an  
7 Econoline or similar van so that she could lift herself into the seat. Snead told Sonny  
8 about her handicapped accessible house that was being built in Golden Valley, Arizona.

9 12. Aloha Shuttles makes notations of an individual's special needs, if any, at the time  
10 the reservation is made, by writing the special need underneath the passenger's name on  
11 the daily manifest. There was no separate column for special needs on the daily manifests  
12 as of May 20, 2000.

13 13. Snead's name is reflected on the manifest of May 20, 2000, but no special needs  
14 were listed under Snead's name.

15 14. Aloha Shuttles expected an individual who needed special assistance or special  
16 equipment to inform Aloha Shuttles of any special needs at the time of making the  
17 reservation.

18 15. Aloha Shuttles was informed at the time the reservation was made that Bonnie  
19 Snead was an amputee and used a wheelchair for mobility.

20 16. Snead is able to board a Ford F-150 truck, which measures approximately 35  
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22 <sup>3</sup> The Court heard conflicting testimony from Joanne Cape and Sean Cape, Sonny's  
23 wife and son, respectively, about Aloha's other actions of arranging motorcycle tours led by  
24 Sonny in the United States and overseas. Joanne Cape testified that the tours occurred in  
25 Europe, while Sean Cape testified that the tours occurred primarily in Australia and New  
26 Zealand. In either event, Sonny is often away from Aloha Shuttles for weeks at a time. He  
was not present at the trial due to his leading a motorcycle tour in California.

27 <sup>4</sup> The Court notes Snead's penchant for accuracy and preciseness. Snead speaks  
28 slowly and deliberately and often adds minutia to ensure accuracy. The Court finds that these  
characteristics add credence to her testimony.

1 inches from the ground to the bottom of the seat.

2 17. Snead is able to board, with some effort, a 2000 Dodge Caravan, which is  
3 approximately 16.5 inches from the ground to the step and 35 inches from the ground to  
4 the bottom of the front seat.

5 18. On a video, Snead demonstrated boarding a Ford F-150 truck and a 2000 Dodge  
6 Caravan to show her ability and determination to board different vehicles.

7 19. On May 20, 2000, Aloha Shuttles owned and operated four (4) vehicles, namely a  
8 1) 1997 Dodge Ram 3500; 2) 1999 Dodge Ram 3500; 3) 1986 Chevrolet Ventura; and 4)  
9 1998<sup>5</sup> Ford Escort station wagon.

10 20. None of the above vehicles had a ramp or a wheelchair accessible lift as of May  
11 20, 2000.

12 21. Aloha Shuttles considered the 1986 Chevrolet Ventura and 1998 Ford Escort  
13 station wagon as private vehicles, but used them as necessary in the scope of their  
14 transportation business.

15 22. Aloha Shuttles claims it transported handicapped individuals in their transportation  
16 business. who did not require special accommodation.

17 23. Rose Bailey ("Bailey") worked for Aloha Shuttles as a Driver on May 20, 2000.  
18 Aloha Shuttles hired Bailey in February 2000. Bailey did not have a Commercial Driver's  
19 License (CDL).

20 24. Mounts informed Bailey on April 29, 2000, on his advance trip to Arizona, that the  
21 Dodge Ram 3500 would not be suitable to transport Snead on May 20, 2000 because of  
22 the height of the seat from the ground..

23 25. On April 29, 2000, Mounts pointed to a Ford Windstar minivan at a stoplight  
24 during the trip between Las Vegas and Golden Valley and advised Bailey as to the type of  
25 vehicle Snead needed for May 20, 2000. Bailey telephoned the office to advise them of

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26  
27 <sup>5</sup> Joanne Cape did not identify the model year of the Ford Escort station wagon during  
28 her testimony. Her son, Sean Cape, testified that the Ford Escort station wagon was either  
a 1998 or a 1999. The Ford Escort station wagon primarily is used for luggage.

1 Mounts' request and was informed that the request would be fulfilled. Bailey told Mounts  
2 that the request would be fulfilled.

3 26. Bailey was sent to Las Vegas Airport in a Dodge Ram 3500, with seating for  
4 fifteen (15) passengers, to meet Snead and her party on May 20, 2000 and arrived at  
5 approximately 4:00 p.m.

6 27. Snead, with the assistance of Mounts and Walter Dell, made a determined attempt  
7 to board the Dodge Ram 3500.

8 28. The Dodge Ram 3500 measured 30 inches to the step and 44 inches to the bottom  
9 of the seat.

10 29. Snead was unable to board the Dodge Ram 3500.

11 30. The front and back seats of the Dodge Ram 3500 sit approximately 9 inches higher  
12 than a Ford F150 or Dodge Caravan.

13 31. The seats of the Dodge Ram 3500 came up to Mounts' ribs and were above Snead's  
14 head when she is seated in her wheelchair.

15 32. The Dodge Ram 3500 was not equipped with a ramp or a mechanical lift. Aloha  
16 Shuttles only proffered a step stool, which was of no use to Snead. Snead is unable to use  
17 a step stool because her right leg is too weak to support her body.

18 33. Bailey told the Snead group that she had a bad back and did not attempt to assist  
19 Snead in her effort to board.

20 34. As of May 20, 2000, Aloha Shuttles had no written policies for how to board  
21 passengers with disabilities.

22 35. If a special needs individual could not be accommodated, Aloha Shuttles'  
23 unwritten practice was to refer the party to another transportation company in Kingman,  
24 Arizona, or Bullhead City, Arizona.

25 36. Bailey, pursuant to Aloha Shuttles unwritten policy, telephoned the office of Aloha  
26 Shuttles in Kingman, Arizona, from Las Vegas Airport to inform them that Snead was  
27 unable to board the Dodge Ram 3500.

28

1 37. Joanne Cape answered Bailey's call as Sonny arrived and he took the phone from  
2 her.

3 38. Sonny told Bailey that the 1986 Chevrolet Venture, which Snead would have been  
4 able to board, was at least two (2) hours away from the airport, somewhere between  
5 Tempe, Arizona, and Kingman, Arizona.

6 39. After the telephone call to the office, Bailey advised Snead and her party that  
7 Snead needed to make a decision as to whether to board the Dodge Ram 3500, or to make  
8 alternative arrangements, because Bailey had a schedule to keep and was going to leave.

9 40. Neither Aloha Shuttles nor Bailey made an effort to secure an alternative means of  
10 transportation for Snead.

11 41. As of May 20, 2000, Aloha Shuttles used a competing company, Lucky's in  
12 Bullhead City, Arizona, to assist them with the transportation of individuals with  
13 disabilities.<sup>6</sup>

14 42. Mounts and Walter Dell boarded the Dodge Ram 3500, with their luggage and the  
15 cat, and were driven to Golden Valley, Arizona, to obtain Snead's personal vehicle and an  
16 oxygen tank.

17 43. Mounts requested that Bailey go to Golden Valley, Arizona, first so they could  
18 return to Las Vegas as quickly as possible to assist Snead.

19 44. Bailey first dropped off other passengers in the van in Laughlin, Nevada, before  
20 taking Mounts and Dell to Golden Valley.

21 45. Upon arrival in Golden Valley, Mounts gave Bailey a \$10.00 tip, the smallest bill  
22 he had in his wallet.

23 46. Mounts removed Snead's vehicle from storage, fed the cat, and then drove back to  
24 Las Vegas to pick up Snead.

25 47. Las Vegas, Nevada is 110 to 125 miles from Golden Valley, depending on the  
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27 <sup>6</sup> Aloha Shuttles now refers individuals to another transportation company, Pike's in  
28 Kingman, Arizona, in addition to Lucky's in Bullhead City, Arizona.

1 route. The trip usually takes approximately two and one half (2.5) hours.  
2 48. Mounts became lost for a short time on the return trip in Las Vegas and stopped to  
3 ask for directions to the airport.  
4 49. Snead remained at the airport with Wendy Dell from approximately 4:30  
5 p.m., when the Dodge Ram 3500 departed, until at least 11:00 p.m., when Mounts and  
6 Walter Dell returned with Snead's personal vehicle and an oxygen tank.  
7 50. Snead became hyper-stressed and began to experience dry heaves and nausea,  
8 which resulted in her soiling her clothes and wheelchair.  
9 51. Snead was unable to use a bathroom during her entire time at the airport because  
10 she requires the assistance of a strong individual, usually Mounts, to assist her. Snead did  
11 not ask airport employees for assistance to the bathroom based on her personal  
12 circumstances.  
13 52. Snead did not call 9-1-1 because she feared that if she was hospitalized, Mounts  
14 would have no idea where she was or how to find her. Mounts instructed Snead to remain  
15 close to the same location so he could locate her when he returned. The parties' cellular  
16 phone(s) had not worked at the Las Vegas Airport.  
17 53. Snead suffered humiliation, embarrassment, and stress as airport patrons viewed  
18 her circumstances; she was exhausted, oxygen deprived, and had become incontinent.  
19 54. Upon returning to Las Vegas Airport and seeing Snead, Mounts exclaimed "my  
20 god your lips are blue!" Snead was pale, with blue lips, and was nearly incoherent.  
21 55. Snead and her party drove to Kingman, Arizona, and stayed in the Imperial Hotel  
22 in Kingman, Arizona, the night of the incident rather than attempting to stay at the new  
23 residence in Golden Valley, Arizona.  
24 56. Snead suffers panic attacks when she contemplates returning to Las Vegas or  
25 making travel arrangements to go elsewhere.  
26 57. Snead telephoned Aloha Shuttles the first Monday after the incident to request a  
27 \$70 refund and an apology.

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1 58. Aloha Shuttles informed Snead that, at a rate of \$35 per person, Aloha Shuttles  
2 only charged the Snead party for two passengers, namely Mounts and Walter Dell, and  
3 there would be no refund. There was no refund or apology.

4 **CONCLUSIONS OF LAW**

5 **A. Americans with Disabilities Act**

6 1. Section 12182 (b)(2)(C) of the Americans with Disabilities Act ("ADA"), 42  
7 U.S.C. § 12101, *et seq.*, provides, in relevant part:

8 For purposes of subsection (a) of this section, discrimination  
9 includes –

10 (i) a failure of a private entity which operates a demand  
11 responsive system and *which is not subject to section 12184*  
12 of this title to operate such system so that, when viewed in its  
13 entirety, such system ensures a level of service to individuals  
14 with disabilities, including individuals who use wheelchairs,  
15 equivalent to the level of service provided to individuals  
16 without disabilities; and

17 (ii) the purchase or lease by such entity for use on such system  
18 of a vehicle with a seating capacity in excess of 16 passengers  
19 (including the driver) . . . that is not readily accessible to and  
20 usable by individuals with disabilities (including individuals  
21 who use wheelchairs) unless such entity can demonstrate that  
22 such system, when viewed in its entirety, provides a level of  
23 service to individuals with disabilities equivalent to that  
24 provided to individuals without disabilities.

(emphasis added).

25 2. Section 12184 (b)(3) and (b)(5) provide, in relevant part:

26 For purposes of subsection (a) of this section, discrimination  
27 includes –

28 (3) the purchase or lease by such entity of a new vehicle  
(other than an automobile, a van with a seating capacity of  
less than 8 passengers, including the driver, or an over-the-  
road-bus) which is to be used to provide specified public  
transportation. . . that is not readily accessible to and usable  
by individuals with disabilities, including individuals who use  
wheelchairs; except that a new vehicle need not be readily  
accessible to and usable by such individuals if the new vehicle  
is to be used solely in a *demand responsive system* and if the  
entity can demonstrate that such system, when viewed in its  
entirety, provides a level of service to such individuals  
equivalent to the level of service provided to the general  
public;

1 (5) the purchase or lease by such entity of a new van with a  
2 seating capacity of less than 8 passengers, including the  
3 driver, which is to be used to provided specified public  
4 transportation. . . that is not readily accessible to or usable by  
5 individuals with disabilities, including individuals who use  
6 wheelchairs; except that the new van need not be readily  
accessible to and usable by such individuals if the entity can  
demonstrate that the system for which the van is being  
purchased or leased, when viewed in its entirety, provides a  
level of service to such individuals equivalent to the level of  
service provided to the general public[.]

(emphasis added).

7 3. Section 12182 (b)(2)(C) applies only to new vehicles.

8 4. Section 12182 (b)(2)(C) applies only if Section 12184 does not apply.

9 5. Aloha Shuttles was a demand responsive system as of May 20, 2002, and,  
10 therefore, Section 12184 applies to Aloha Shuttles.

11 6. Section 12182 does not apply to Aloha Shuttles.

12 7. Regulations can serve to reconcile any ambiguity in a statute. See Chevron U.S.A.,  
13 Inc. v. Natural Resources Defense Council, Inc., 104 S.Ct. 2778, 2793 (1984).

14 8. 49 CFR 38.21 provides that "[n]ew, used or remanufactured buses and vans. . . to  
15 be considered in part 37 of this title[,] shall comply with the applicable provisions of this  
16 subpart."

17 9. 49 CFR 38.23 requires that "[a]ll vehicles covered by this subpart provide a level-  
18 change mechanism or boarding device (e.g., lift or ramp) complying with paragraph (b) or  
19 (c) of this section and sufficient clearances to permit a wheelchair or other mobility aid  
20 user to reach a securement location."

21 10. 49 CFR 38.1, entitled "Purpose," instructs that "[t]his part provides minimum  
22 guidelines and requirements for accessibility standards in part 37 of this title for  
23 transportation vehicles required to be accessible by the Americans with Disabilities Act  
24 (ADA) of 1990, 42 U.S.C. 1201, *et seq.*"

25 11. The applicable regulations require that used vans provide a "level-change  
26 mechanism or boarding device. . . to permit a wheelchair. . . to reach a securement  
27 location." 49 CFR 38.21, 49 CFR 38.23.  
28

1 12. Section 12184 covers used vehicles as well as new vehicles.

2 13. Aloha Shuttles discriminated against Snead in violation of the Americans  
3 with Disabilities Act, 42 U.S.C. §12101, *et seq.*, by failing to accommodate Snead.

4 14. "Injunctive relief shall include an order to alter facilities to make such facilities  
5 readily accessible to and usable by individuals with disabilities to the extent required by  
6 this subchapter. Where appropriate, injunctive relief shall also include requiring the  
7 provision of an auxiliary aid or service, modification of a policy, or provision of  
8 alternative methods, to the extent required by this subchapter." 42 U.S.C. § 12188(a)(2).

9 B. Arizonans with Disabilities Act

10 15. Snead has a disability as defined by the Arizonans with Disabilities Act, A.R.S. §  
11 41-1492, *et seq.* A.R.S. § 41-1492(5).

12 16. Aloha Shuttles is a provider of "specified public transportation" as defined by the  
13 Arizonans with Disabilities Act. A.R.S. § 41-1492(13).

14 17. Discriminatory actions include "[a] failure to make reasonable modifications in  
15 policies, practices or procedures, if these modifications are necessary to afford these . . .  
16 services. . . to individuals with disabilities, unless the entity can demonstrate that making  
17 these modifications would fundamentally alter the nature of these. . . services." A.R.S. §  
18 41-1492.02(F)(2).

19 18. Discriminatory actions includes "[a] failure of a private entity that operates a  
20 demand responsive system. . . to operate the system so that, if viewed in its entirety, the  
21 system ensures a level of service to individuals with disabilities, including individuals  
22 who use wheelchairs, equivalent to the level of service provided to individuals without  
23 disabilities." A.R.S. § 41-1492(G)(1).

24 19. "Discriminated against" includes "[t]he failure of the entity to [m]ake reasonable  
25 modifications consistent with those required under § 41-1492.02. . . , [p]rovide auxiliary  
26 aids and services consistent with the requirements of § 41-1492.02. . . , [and] [r]emove

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1 barriers consistent with the requirements of § 41-1492.02. . ." A.R.S. § 41-1492.05  
2 (A)(2)(a) and (b).

3 20. Any person who is discriminated against in violation of A.R.S. § 41-1492, *et seq.*,  
4 "may institute a civil action for preventative or mandatory relief, including an application  
5 for a permanent or temporary injunction, restraining order or other order." A.R.S. § 41-  
6 1492.08(A).

7 21. "Injunctive relief [may] include[] an order to alter facilities to make these facilities  
8 readily accessible to and usable by individuals with disabilities to the extent required by  
9 this article." A.R.S. § 41-1492.08(B).

10 22. Aloha Shuttles' demand responsive system, when viewed in its entirety, failed to  
11 "ensure a level of service to individuals with disabilities, including individuals who use  
12 wheelchairs, equivalent to the level of service provided to individuals without  
13 disabilities." See A.R.S. § 41-1492.02(G)(1).

14 23. Aloha Shuttles discriminated against Snead in violation of the Arizonans with  
15 Disabilities Act, A.R.S. § 41-1492, *et seq.*

16 24. A civil penalty of \$5,000 may be assessed for a first-time violation of the  
17 Arizonans with Disabilities Act. A.R.S. § 41-1492.09(C)(1).

18 25. The Court "may grant any equitable relief that the court considers to be  
19 appropriate, including, to the extent required by this title. . . [g]ranting temporary,  
20 preliminary, or permanent relief. . . , [p]roviding an auxiliary aid or service, a  
21 modification of a policy, practice, or procedure, or an alternative method. . . , and  
22 [m]aking facilities readily accessible to an usable by individuals with disabilities." A.R.S.  
23 § 41-1492.09(B)(1).

24 26. "In a civil action, when considering what amount of civil penalty, if any, is  
25 appropriate, the court shall give consideration to any good faith effort or attempt to  
26 comply with this article by the entity. In evaluating good faith, the court shall consider,  
27 among other factors it deems relevant, whether the entity could have reasonably  
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1 anticipated the need for an appropriate type of auxiliary aid needed to accommodate the  
2 unique needs of a particular individual with a disability." A.R.S. § 41-1492(E).

3 27. "In any action or proceeding under this section, the court may allow the prevailing  
4 party, *other than the attorney general*, reasonable attorney fees as part of the costs."  
5 A.R.S. § 41-1492.09(E) (emphasis added).

6 28. Additionally, the Court "may award such other relief as the court considers to be  
7 appropriate, including monetary damages to aggrieved persons. In this paragraph  
8 'monetary damages' and 'such other relief' do not include punitive damages." A.R.S. § 41-  
9 1492.09(B)(2).

10 The Court being fully advised,

11 **IT IS ORDERED** that Defendant Aloha Shuttles comply with the Americans with  
12 Disabilities Act, 42 U.S.C. § 12101, *et seq.*, and the Arizonans with Disabilities Act,  
13 A.R.S. § 41-1492, *et seq.*, effective July 1, 2004.

14 **IT IS FURTHER ORDERED** that Defendant Aloha Shuttles is permanently  
15 enjoined from discriminating against individuals based on a disability or disabilities,  
16 pursuant to 42 U.S.C. § 12188(a)(2) and A.R.S. § 41-1492.09(B)(1).

17 **IT IS FURTHER ORDERED** that Defendant Aloha Shuttles either 1) make  
18 reasonable modifications to each of Aloha Shuttles' vehicles used for transporting  
19 individuals, or 2) ensure that a vehicle or vehicles, which can accommodate any disabled  
20 individual who requests to be transported, is available for prompt dispatch, such that no  
21 individual with a disability or disabilities who requests to be transported is left unserved  
22 or required to experience an unreasonable delay in service, pursuant to 42 U.S.C. §  
23 12188(a)(2) and A.R.S. § 41-1492.09(B)(1).

24 **IT IS FURTHER ORDERED** that Defendant Aloha Shuttles provide every  
25 disabled individual, who requests to be transported, with a level of service equivalent to  
26 the level of service provided to individuals without disabilities, pursuant to 42 U.S.C. §  
27 12184(a), (b)(3), (b)(5), and A.R.S. § 41-1492(G)(1).

28



IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

BONNIE M. SNEAD, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 ALOHA SHUTTLES OF ARIZONA, )  
 CO., )  
 Defendant. )

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CIV-02-911-PCT-EHC

SECOND AMENDED JUDGMENT

STATE OF ARIZONA ex rel. )  
 TERRY GODDARD, the Attorney )  
 General, and the CIVIL )  
 RIGHTS DIVISION OF THE )  
 ARIZONA DEPARTMENT OF LAW, )  
 )  
 Plaintiff-Intervenor, )  
 )  
 v. )  
 )  
 BRUCE CAPE and JOANNE CAPE, )  
 husband and wife, d/b/a Aloha )  
 Shuttles of Arizona )  
 )  
 Defendants, )

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\_\_\_\_\_ Jury Verdict. This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.

XX Decision by Court. This action came for consideration before the Court. The issues have been considered and a decision has been rendered.

IT IS THEREFORE ORDERED AND ADJUDGED that judgment is entered in favor of Plaintiff Snead and Plaintiff-Intervenor State of Arizona and against Defendant Aloha Shuttles as follows.

ORDERED that Defendant Aloha Shuttles comply with the Americans with Disabilities Act, 42 U.S.C. §12101, et seq., and the Arizonans with Disabilities Act, Arizona Revised Statute §41-1492, et seq., effective July 1, 2004.

FURTHER ORDERED that Defendant Aloha Shuttles is permanently enjoined from discriminating against individuals based on a disability or disabilities, pursuant to 42 U.S.C. §12188(a)(2) and Arizona Revised Statute §41-1492.09(B)(1).

FURTHER ORDERED that Defendant Aloha Shuttles either 1) make reasonable modifications to each of Aloha Shuttles' vehicles used for transporting individuals, or 2) ensure that a vehicle or vehicles, which can accommodate any disabled individual with a disability or disabilities who requests to be transported, is available for prompt dispatch, such that no individual with a disability

or disabilities who requests to be transported is left unserved or required to experience an unreasonable delay in service, pursuant to 42 U.S.C. § 12188(a)(2) and Arizona Revised Statute §41-1492.09(B)(1).

FURTHER ORDERED that dft Aloha Shuttles provide every disabled individual who requests to be transported with a level of service equivalent to the level of service provided to individuals without disabilities, pursuant to 42 U.S.C. §12184(a), (b)(3), (b)(5) and Arizona Revised Statute §41-1492(G)(1).

FURTHER ORDERED that Defendant Aloha Shuttles pay a civil penalty to the State of Arizona of **five thousand dollars (\$5,000.00)** for a first time violation of the Arizonans with Disabilities Act, pursuant to Arizona Revised Statute §41-1492.09(C)(1) and (E).

FURTHER ORDERED that Defendant Aloha Shuttles pay Plaintiff-Intervenor State of Arizona all costs associated with this litigation, pursuant to Arizona Revised Statute §41-1492.09(B)(2) and (F).

FURTHER ORDERED that Defendant Aloha Shuttles pay Plaintiff Snead all costs associated with this litigation, pursuant to Arizona Revised Statute §41-1492.09(B)(2), (E) and (F).

FURTHER ORDERED that the Civil Rights Division of the State of Arizona monitor Defendant Aloha Shuttles' compliance with the Arizonans with Disabilities Act, pursuant to Arizona Revised Statute §41-1492.09(B)(2).

FURTHER ORDERED that Defendant Aloha Shuttles pay Plaintiff Snead the sum of **fifteen thousand (\$15,000.00)** in monetary damages, pursuant to Arizona Revised Statute §41- 1492.09(B)(2).

DATED at Phoenix, Arizona, this 11th day of August, 2005.

RICHARD H. WEARE  
DCE/Clerk of Court

By: s/ Linda S. Patton  
Deputy Clerk

CIV-21 (7/94)

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

Bonnie M. Snead,  
Plaintiff,

vs.

Aloha Shuttles of Arizona,  
Defendant.

No. CIV 02-0911-PCT-EHC

**ORDER**

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The State of Arizona ex rel. Terry  
Goddard, the Attorney General, and the  
Civil Rights Division of the Arizona  
Department of Law,

Plaintiff-Intervenor,

vs.

Bruce Cape and Joanne Cape, husband  
and wife, d/b/a Aloha Shuttles of Arizona,

Defendants.

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On July 27, 2005, Plaintiff-Intervenor filed a "Motion to Modify the Caption  
Appearing on the Amended Order of Judgment To Conform with the Pleadings" [Dk.  
108] and a "Motion to Set a Status Conference" [Dk. 109]. On August 10, 2005, the Court  
held a status conference. Plaintiff, who is pro se, appeared telephonically. Attorney Robin  
M. Coulon, representing Plaintiff-Intervenor, was present. Defendants did not appear.

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Accordingly,

**IT IS ORDERED GRANTING** Plaintiff-Intervenor's "Motion to Modify the  
Caption Appearing on the Amended Order of Judgment To Conform with the Pleadings"  
[Dk. 108].

**IT IS FURTHER ORDERED** that the Clerk modify the caption of the Amended  
Judgment [Dk. 101] to conform to the caption of this Order.

DATED this 11<sup>th</sup> day of August, 2005.



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Earl H. Carroll  
United States District Judge