

Eva Janosi Settles first case Against Doctor for Failure to Provide Interpreters

In the first case of its kind in New Jersey, a doctor has entered into a public consent order agreeing to utilize certain protocol to ensure that reasonable accommodation will be provided to future deaf patients under the Americans with Disabilities Act and the Rehabilitation Act of 1973. This consent judgment has been used as a model in various other hospitals throughout the country.

Eva Janosi began going to Dr. Goldberg in 1997 and, on repeated occasions, requested an interpreter be provided to her. However despite her many requests and those of various advocates on her behalf, the doctor refused to provide one. Dr. Goldberg performed surgery at St. Peter's Medical Center (who was the other defendant in this case) and also provided aftercare to Eva Janosi. The plaintiff continued to request an interpreter from Dr. Goldberg at which point, he stated to her that he would not provide her with an interpreter and, if she desired those services, she would have to go to another doctor. Ms. Janosi was not provided with a qualified interpreter, despite federal and state law which requires that all doctors' offices provide reasonable accommodation, including qualified interpreters, to ensure that effective communication take place with all patients. It was only after the filing of this lawsuit, did Dr. Goldberg finally provided Ms. Janosi with an interpreter.

After experiencing the terror, frustration and emotional anguish of receiv-

ing medical treatment, surgery and aftercare without understanding much of what went on, Eva Janosi decided to sue Dr. Goldberg so this would not happen to other deaf patients. She

was represented in the case by Clara R. Smit, an attorney in East Brunswick, who specializes in serving the deaf.

After three years of litigation, the

parties agreed to enter into a consent judgment, wherein reasonable accommodations now will be obtained to ensure effective communication. The consent order was filed with the Middlesex County Court on February 25, 2002. The consent order provides for signage to be posted throughout the doctor's office to alert both patients and staff alike of their responsibility to provide interpreters to deaf patients who require them for effective communication. In addition the consent order mandates, the doctor and his office follow several steps to ensure all possible efforts are made to obtain an interpreter whenever required, day or night. Training and policy changes to implement the consent order, which will become part of the doctor's policy, are also required as part of the order. The order was entered as a judgment against the doctor. Therefore, failure to comply with the order by the doctor in the future will subject him to contempt charges.

Eva Janosi and Ms. Smit are extremely pleased and excited with the settlement and hope to see major resultant changes in doctors' offices across the country. Although the ADA and the Rehabilitation Act specifically require that a doctor provide reasonable accommodation, it is only recently that deaf people have begun to feel empowered to file these kinds of lawsuits.

In the past, communication difficulties created extremely limited access to the legal community and to the courts in general, for deaf individuals. Thus, Clara R. Smit, who is fluent in American Sign Language and whose parents are deaf, is the first attorney in New Jersey to file these suits. Ms. Smit has already settled 25 other cases against various New Jersey hospitals, including Bayonne Hospital; Jersey City Medical Center; Raritan Bay Medical Center; St. Peter's University Hospital; St. Barnabas Medical Center; Irvington Hospital, Newark Beth Israel Medical Center; St. Joseph's Hospital; Mountainside Hospital; Rahway Hospital; Clara Maass Medical Center; Valley Hospital; Jersey Shore Medical Center; Southern Ocean County Hospital; Warren Hospital; Saint Clare's Hospital, Inc.; Saint Clare's Denville Campus; & Saint Clare's Dover Campus; St. Michael's Medical Center; and St. James Hospital. She currently has other cases pending against New Jersey hospitals including Kennedy Health System; Burdette Tomlin Memorial Hospital; Monmouth Medical Center; and Clara Maass Medical Center, as well as another two cases pending against another doctor, Dr. Robert Ponzio, for failure to provide interpreters to deaf patients. For further information, please contact Clara R. Smit, Esq. at (732) 843-6600.

