

## FAD E-zine - DEAF PATIENTS IN FLORIDA STAND UP TO MAKE CHANGE

For the first time in Florida, deaf patients are asserting their rights in lawsuits across the state and winning! Doctors and Hospitals in Miami, West Palm Beach, Palm Beach, Ormond Beach and Daytona Beach have all agreed to pay monetary damages and utilize certain protocol to ensure that future deaf patients receive sign language interpreters, telecommunication devices for the deaf and closed captioning. These private and public entities have agreed to enter into Settlement Agreements whereby the doctors' offices and hospitals will make changes in their policies, post signs and use special admission forms to ensure deaf patients have equal access to communication during medical treatment. These Settlement Agreements are similar to those entered into with twenty-five other hospitals and several doctors' offices in the State of New Jersey in addition to being used in various other hospitals throughout the country.

The plaintiffs in these cases; Samuel & Nancy LaForte, Florence & Cardell Beaubien, Carlos Machado, Carrie Cobb & George Boyd are all profoundly deaf and communicate primarily in American Sign Language. They all made many requests to the medical providers involved for sign language interpreters and were repeatedly denied these accommodations during serious medical care despite federal law which requires that all doctors' offices and hospitals provide reasonable accommodations, including qualified interpreters, to ensure that effective communication takes place with all patients. They were all represented in these cases by Clara R. Smit, an attorney from East Brunswick, New Jersey who specializes in serving the deaf and is presently beginning to work on discrimination cases in Florida. Local counsel in these cases was Matthew Dietz who also specializes in discrimination cases in Coral Gables, Florida.

When Samuel LaForte was seen by Dr. Montijo of West Palm Beach in January of 2002 prior to reconstructive surgery of right hip, he requested an interpreter be provided. However, despite his requests none was provided and the doctor instead used a friend of the LaFortes who was hearing impaired herself to interpret for them. Subsequently when Samuel LaForte had to undergo the surgery to his right hip which was performed by Dr. Montijo at Wellington Regional Medical Center, he and his wife, again requested an interpreter, only to be denied one once again by the hospital this time. A few months later in October of 2002 Dr. Montijo told Mr. LaForte he required surgery of his left hip and the LaFortes then attempted to have a local agency, Deaf Services, intercede on their behalf with Wellington prior to the surgery. This again was futile as no interpreter was provided when Samuel LaForte arrived for his surgery. A few weeks later Mr. LaForte was readmitted to Wellington for some complications and no interpreter was again provided. With no real understanding as to what took place during his three hospitalizations, he and his wife decided to sue the doctor and the hospital.

The Beaubiens were both treated at Bethesda Memorial Hospital on several occasions for various medical conditions beginning in 2000 and ending in 2003. It wasn't until after the filing of their lawsuit and repeated requests during their many visits and hospitalizations that an interpreter was finally provided to Florence Beaubien during her last hospital visit of December 15, 2003. Without any effective communication between the Hospital and the Beaubiens they did not completely understand what treatment was being provided or what procedures were being performed. They were unable to effectively ask questions or voice concerns regarding risks or benefits of recommended procedures and treatments. Due to the Hospital's repeated failure to provide interpreters to Florence & Cardell Beaubien they decided to sue the hospital.

Carlos Machado began going to Dr. Arocha of Miami in April of 2003 and on repeated occasions requested an interpreter be provided to him. However despite his many requests in addition to advocates for the deaf who also requested an interpreter be provided to Carlos Machado, the doctor refused to provide one. Dr. Arocha was Carlos Machado's primary care physician who repeatedly refused to provide accommodation for his disability despite being provided with copies of the ADA Law. This lack of accommodation for Carlos Machado's disability forced him to search elsewhere for another primary doctor his insurance company would accept and who would provide a qualified sign language interpreter to ensure effective communication with him.

Carrie Cobb & George Boyd experienced this inability to understand and the terror that accompanied it when they rushed their infant daughter, Celine Boyd to Memorial Health Systems of Ormond Beach for dehydration and a high temperature in October of 2002. When Carrie Cobb and George Boyd arrived at the hospital they requested an interpreter in writing. During the hospitalization a doctor wrote on a piece of paper the word "appendix" but did not explain anything further. Based on this communication they thought their daughter needed treatment for her appendix. The hospital attempted to use a hospital employee to communicate who only gestured and used finger spelling and had to keep repeating himself 5-10 times to try to communicate with them. This only resulted in ineffective communication and mis-information. Their daughter was then transferred for further treatment to Halifax Medical Center of Daytona Beach without their knowledge, consent or understanding. When they arrived at Halifax Medical Center, they again asked for an interpreter. Plaintiffs did not understand why their daughter was transferred. When the Plaintiffs asked about their about an appendix. They were not given any further information. A qualified interpreter was never provided by either hospital, despite repeated requests. Plaintiffs were terrified as they thought their daughter needed surgery for her appendix and nothing was being done. They also were terrified because they had no idea why their daughter was transferred, and then released. They do not know for what, why or how their daughter was being treated, and they had no way to confirm that she was properly treated for all possible conditions or problems.

After experiencing the terror, frustration and emotional anguish of receiving medical treatment without understanding much of what went on, these deaf individuals all decided to sue so this would not happen to other deaf patients in the future. Following the filing of these complaints, the hospitals and doctors all agreed to enter into Settlement Agreements wherein reasonable accommodations will now be obtained to ensure effective communication. The Settlement Agreements provide for signage to be posted throughout the doctors' offices and the hospitals to alert both patients and staff alike of their responsibility to provide interpreters to deaf patients who require same for effective communication. In addition the Settlement Agreements mandate the doctors, their office staff, the hospitals and hospital staff all follow several steps to ensure all possible efforts are made to obtain an interpreter whenever required throughout the day or night. Training and policy changes to implement the Settlement Agreements will become part of the doctors' and hospitals' policies are also required as part of the Settlement Agreements.

Samuel & Nancy LaForte, Florence & Cardell Beaubien, Carlos Machado, Carrie Cobb, George Boyd, Ms. Smit and Mr. Dietz are extremely pleased and excited with the settlements and hope to see major changes in doctors' offices, hospitals and those across the country, in their policies and practices, as more and more of these cases are brought. Although the Americans with Disabilities Act and the Rehabilitation Act have long required medical providers have procedures in place to ensure that they have effective communication with deaf patients, they have often failed to comply with the law. However it is only recently that deaf people have begun to feel empowered to start bringing these lawsuits. Communication difficulties in the past created extremely limited access to the legal community and the courts in general for deaf individuals. Thus Clara R. Smit, who is fluent in American Sign Language and whose parents were deaf is one of the first attorneys in Florida to bring these suits. She currently has several other cases pending against Hospitals and Doctors for these failures and hopes to continue to make change. For further information please contact Clara R. Smit, Esq. at (732) 843-6600 or Matthew Dietz, Esq. at (305) 669-2822.