

Testimony of Linda M. Dardarian before the United States Department of Justice on Advance Notice of Proposed Rule Making Regarding Non-Discrimination on the Basis of Disability: Equipment and Furniture, January 10, 2011, San Francisco, California.

Good morning. My name is Linda Dardarian, and I'm a partner at Goldstein, Demchak, Baller, Borgen and Dardarian, one of the oldest private law firms in the country representing plaintiffs in civil rights class actions.

For the past 15 years I, along with my co-counsel Lainey Feingold, have been representing the blind community in negotiations with the largest financial institutions in the country to create and implement Talking ATMs, and have worked on making other flat screen kiosks and electronic information technology accessible to people with visual impairments.

I thank you for the opportunity to address you today on the Equipment Advanced Notice of Proposed Rule Making, and I ask you to not delay in requiring that all electronic and information technology be accessible to individuals with disabilities, now.

Two decades ago, when enacting the ADA, Congress expressed its intent that the accommodations and services provided to individuals with disabilities would quote "Keep pace with the rapidly changing technology of the times." [House Report 101-485(II) at 108 (1990), reprinted in 1990 USCCAN 303, 391.]

We are here today because that has not happened.

What has happened in the past two decades is that businesses and institutions have moved away from having live personnel provide services to customers, patients, students, and others, and switched instead to touch screen self-service kiosks and ATMs, which have allowed businesses and institutions to cut back staff and save significant personnel costs, and increase operational efficiencies.

These machines are commonly used for everything from banking transactions, ticketing, bill paying, grocery purchases, and appointment registration, as well as hotel check-in, class registration, medication dispensing, and other everyday services.

But, touch screen machines are inaccessible to people with visual impairments and others who cannot read the information and instructions that are on the touch screen, or cannot locate and touch the place on the screen to input information or select options.

People with disabilities are therefore either shut out of these services, or they are required to become dependent upon other people to input their private and confidential personal ID numbers, and other sensitive financial, health, or personal information, at the risk of their safety and their dignity.

This should not be the case, 20 years after the ADA.

This should not be the case, because, as the Department recognizes, the law already requires the provision of accessible equipment.

This also should not be the case because accessible equipment already exists on the market.

For more than 10 years, major ATM manufacturers have been making Talking ATMs that deliver all instructions and information for use privately through an earphone jack, and have tactile controls for all inputs. These “talking” capabilities as part of the standard ATM package, and there are more than 100,000 talking ATMs in place throughout this country.

Major equipment manufacturers, like IBM, also make self-service kiosks that are similarly accessible to people with visual impairments, as evidenced by the EZ Access self service kiosks that are available in post offices across the country.

The same hardware and software that make these kiosks accessible to people with visual impairments can be applied to other electronic information technology, at minimal to no extra cost.

Accordingly, we urge the Department to issue regulations that clearly stress the urgency of installing accessible self service kiosks, and ATMs similar equipment. As detailed further in our written comments, we ask that the Department adopt technical and performance standards for these types of equipment that are similar to those in Section 707 of the 2010 Standards for Accessible Design, as well as the technical standards in Section 508 of the Rehabilitation Act. And, we ask that these standards be made effective without delay.

Moreover, accessible EIT should be required everywhere.

Every machine should be accessible.

That should be the norm.

That should be the standard.

If meeting this 100% requirement would be an undue burden for any individual entity, the entity can demonstrate undue burden on a case by case basis.

But the expectation – 20 years after the ADA, should be access now, access everywhere. This will ensure that people with disabilities keep pace with emerging technology, as Congress intended. Thank you.