

1 Jessica Jansepar Ross, Arizona Bar No. 030553  
(jgross@azdisabilitylaw.org)  
2 Rose Daly-Rooney, Arizona Bar No. 015690  
(rdalyrooney@azdisabilitylaw.org)  
3 ARIZONA CENTER FOR DISABILITY LAW  
177 North Church Avenue, Suite 800  
Tucson, Arizona 85701  
4 Tel: (520) 327-9547  
Fax: (520) 884-0992  
5

6 Mary-Lee Smith, California Bar No. 239086\*  
(msmith@dralegal.org)  
7 Michelle Iorio, California Bar No. 298252\*  
(miorio@dralegal.org)  
8 Freya Pitts, California Bar No. 295878\*  
(fpitts@dralegal.org)  
9 DISABILITY RIGHTS ADVOCATES  
2001 Center Street, Fourth Floor  
Berkeley, CA 94704-1204  
10 Tel: (510) 665-8644  
Fax: (510) 665-8511  
11 \*Pro Hac Vice Admission Pending

12 Attorneys for Plaintiffs  
13

14 **IN THE UNITED STATES DISTRICT COURT**  
15 **FOR THE DISTRICT OF ARIZONA**  
16

18 BILL STOKES, DONNA POWERS,  
19 JENNIFER LONGDON, on behalf of  
themselves and a class of those similarly  
20 situated,

21 Plaintiffs,

22 v.

23 TOTAL TRANSIT, INC. (D/B/A  
DISCOUNT CAB),

24 Defendant.  
25  
26  
27  
28

**Case No.**

**CLASS ACTION**

**COMPLAINT FOR VIOLATIONS OF  
THE AMERICANS WITH  
DISABILITIES ACT, 42 U.S.C. §§  
12101, ET SEQ. AND THE  
ARIZONANS WITH DISABILITIES  
ACT, A.R.S. §§ 41-1492, ET SEQ.**

1 Plaintiffs Bill Stokes, Donna Powers, and Jennifer Longdon (collectively,  
2 “Plaintiffs”), file this Complaint against Defendant Total Transit, Inc. (“TTI”), doing  
3 business under the trade name of Discount Cab, for violating Title III of the Americans  
4 with Disabilities Act (“ADA”) and the Arizonans with Disabilities Act (“AzDA”),  
5 which prohibit discrimination in public transportation services provided by private  
6 entities. Plaintiffs allege as follows:

### 7 INTRODUCTION

8 1. This action seeks to put an end to systemic discrimination by Total Transit,  
9 Inc., (“TTI”) doing business as Discount Cab. TTI has a policy of imposing a \$10 charge  
10 per trip in addition to the standard taxi fare for customers with disabilities who need an  
11 accessible taxi (i.e. one with a ramp or lift). Accessible taxis are needed by customers  
12 with mobility disabilities who cannot transfer from their wheelchairs to a vehicle seat and  
13 by persons with mobility disabilities who cannot stow their wheelchair in the trunk of a  
14 car (such as persons who use power wheelchairs). If a person without a mobility  
15 disability hires a Discount Cab taxi, that person will pay the standard rate and nothing  
16 more. If, on the other hand, a person with a mobility disability who requires an  
17 accessible taxi hires a Discount Cab taxi, that person will pay the standard rate and an  
18 additional \$10 per one-way trip for an accessible taxi. Neither the Americans with  
19 Disabilities Act (“ADA”) nor the Arizonans with Disabilities Act (“AzDA”) permit such  
20 a policy or practice. Thus, in implementing this policy, TTI discriminates against  
21 residents of and visitors to the Phoenix and Tucson areas who have mobility disabilities  
22 and who require accessible taxis to use taxi service.

23 2. The importance of accessible taxi service should not be underestimated. In  
24 passing the ADA, Congress recognized the isolating effects of disability and the need to  
25 promote societal integration and sought to eradicate discrimination in several critical  
26 areas, including transportation. 42 U.S.C. § 12101 (a)(2),(3). Indeed, transportation is a  
27 linchpin to societal integration, providing access to jobs, to health care, business, and  
28 other appointments, and to places of public accommodation, such as restaurants, movie

1 theaters, museums, service establishments, and parks. Accessible taxis are one aspect of  
2 that transportation, often more reliable and flexible than paratransit, a good alternative to  
3 owning one's own vehicle, and a replacement for public transportation that has its own  
4 access issues. As a necessary part of transportation in this country, taxi service is  
5 covered under the ADA and the AzDA.

6 3. Three individuals have come forward to represent the class of persons  
7 affected by this inequitable policy: Mr. Stokes, Ms. Longdon, and Ms. Powers. All three  
8 individuals have mobility disabilities that necessitate the use of power wheelchairs, which  
9 in turn require lifts or ramps to board taxis. From November 2013 to the present,  
10 Plaintiffs used or attempted to use TTI's accessible taxis and were charged, or told they  
11 would be charged, a \$10 charge in addition to the standard taxi fare for an accessible taxi.

#### 12 **JURISDICTION AND VENUE**

13 4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 for  
14 Plaintiffs' claims arising under the ADA, 42 U.S.C. §§ 12181, et seq. This Court has  
15 supplemental jurisdiction pursuant to 28 U.S.C. § 1367(a) for claims arising under the  
16 AzDA, A.R.S. §§ 41-1492, et seq.

17 5. Venue is proper in the District of Arizona pursuant to 28 U.S.C. § 1391(b)-  
18 (c) because the events giving rise to Plaintiffs' claims occurred in the District of Arizona.

#### 19 **PARTIES**

20 6. Mr. Stokes is substantially limited in the major life activity of walking and  
21 utilizes a power wheelchair. Mr. Stokes requires an accessible vehicle, specifically  
22 equipped with a ramp or lift, when utilizing transportation services. He is a resident of  
23 Maricopa County and travels in and around the Phoenix area. Mr. Stokes routinely uses  
24 taxi services to travel to appointments and to run errands. Mr. Stokes has used Discount  
25 Cab on multiple occasions, including as part of a City subsidy program, and would have  
26 liked to continue to use Discount Cab but for the fact that it imposes a \$10 charge for an  
27 accessible taxi in addition to the regular taxi fare.

1           7.       Ms. Longdon is substantially limited in the major life activity of walking  
2 and utilizes a power wheelchair. Ms. Longdon requires an accessible vehicle,  
3 specifically equipped with a lift or ramp, when utilizing transportation services. She is a  
4 resident of Maricopa County. Ms. Longdon frequently uses taxi services to travel to  
5 appointments, speaking engagements, and to travel to and from the airport. Ms. Longdon  
6 contacted Discount Cab and learned that Discount Cab charges more for its accessible  
7 taxis than for its standard taxis. Based on this fact, Ms. Longdon does not use and is  
8 deterred from using Discount Cab for her taxi service needs.

9           8.       Ms. Powers is substantially limited in the major life activity of walking and  
10 utilizes a power wheelchair. Ms. Powers requires an accessible vehicle, specifically  
11 equipped with a lift or ramp, when utilizing transportation services. She is a resident of  
12 Maricopa County. Ms. Powers does not own a vehicle, and relies on public paratransit  
13 services and taxi services as her primary methods of transportation to work, to run  
14 errands, for healthcare and other appointments, and to travel to places of public  
15 accommodation, such as movie theaters and restaurants. Ms. Powers has used Discount  
16 Cab on more than one occasion. She has been charged an additional \$10 “lift fee” as a  
17 part of the fare.

18           9.       TTI is a privately owned Arizona corporation founded in 1984 with  
19 headquarters in Glendale, Arizona.

20           10.       TTI is a comprehensive mobility management company that provides  
21 private transportation, public transportation, and transportation management services.

22           11.       Each year, TTI manages or provides service for more than 4.5 million  
23 passengers throughout the southwestern United States.

24           12.       TTI provides the general public with transportation by bus, van, or car on a  
25 regular and continuing basis. TTI provides such travel services throughout Arizona and  
26 in several other states, including California and Utah.

27           13.       TTI has contracts with public and private entities in the Phoenix and  
28 Tucson metropolitan areas, as well as others, to provide transportation and travel services

1 to individuals by bus, van or car. For example, TTI provides nonemergency medical  
2 transportation brokerage services to managed care organizations and government entities.  
3 TTI also provides public transportation via its Independent Paratransit Network, Total  
4 Response, and its Fixed Route Transit Service, ValuTrans.

5 14. TTI provides on-demand taxi service via its company Discount Cab.

6 15. TTI's Discount Cab is one of the largest taxi companies in the United  
7 States, operating a fleet of more than 1,100 taxis.

8 16. TTI's Discount Cab is the largest provider of "on-demand" accessible  
9 transportation service, with 108 accessible taxis in Phoenix and 24 in Tucson.

10 17. By its own estimate, with 132 accessible taxis in a fleet of over 1,100 taxis,  
11 TTI's fleet consists of 12% accessible taxis.

12 18. Upon information and belief, TTI's Discount Cab provides "on-demand"  
13 service 24 hours a day and dispatches approximately 250 accessible taxis for wheelchair  
14 trips each week.

15 19. TTI's Discount Cab drivers are not employees but independent contractors.  
16 The drivers lease vehicles from TTI's Discount Cab.

17 **FACTS APPLICABLE TO ALL CLAIMS**

18 20. Plaintiffs Mr. Stokes, Ms. Longdon, and Ms. Powers, and a class of  
19 similarly-situated individuals, are all individuals with mobility disabilities who have  
20 sought, or may seek in the future, to use Discount Cab's on-demand taxi service to obtain  
21 an accessible taxi and who all require accessible taxis to utilize the taxi services provided  
22 by TTI.

23 21. An accessible taxi contains a boarding device such as a lift or ramp,  
24 sufficient clearances to allow a wheelchair user to navigate into the taxi, and securement  
25 devices to ensure the wheelchair is secured in place during the ride.

26 22. Accessible taxis are needed by persons with mobility disabilities who  
27 cannot transfer from their wheelchairs to a vehicle seat. In addition, accessible taxis are  
28

1 required for power wheelchair users whose wheelchairs cannot be stowed, even if these  
2 wheelchair users can transfer.

3 23. The only accessible taxis that TTI offers are vans, specifically, mini-vans.  
4 These vans are equipped with either lifts or ramps.

5 24. Effective September 2013, TTI began imposing a \$10 charge for taxi trips  
6 using a van, regardless of whether the van had a lift or ramp and regardless of whether  
7 the customer needed a lift or ramp to access the taxi.

8 25. In the Phoenix area, Discount Cab's flag drop standard rate is \$2.95, and  
9 the per mile charge is \$2.25.

10 26. TTI's customers may obtain a Discount Cab taxi in one of two ways: (1)  
11 request a taxi through the Discount Cab dispatcher (using telephone, website, or mobile  
12 App) or (2) hail a Discount Cab taxi on the street. Currently, it appears that an accessible  
13 taxi can only be requested by telephone and not, for instance, online at Discount Cab's  
14 website.

15 27. If a customer hails an accessible Discount Cab taxi on the street, TTI does  
16 not impose the \$10 charge in addition to the standard fare.

17 28. If a customer requests an accessible taxi through the dispatcher and one is  
18 dispatched, TTI imposes the \$10 additional charge. Based on the limited number of  
19 accessible taxis in TTI's fleet, it is disproportionately difficult to locate and hail an  
20 accessible Discount Cab taxi on the street as compared with a non-accessible Discount  
21 Cab taxi.

22 29. Therefore, customers requiring an accessible taxi are far more likely to rely  
23 on dispatch taxi service and pay the \$10 charge in addition to their standard fare.

24 30. In sum, non-disabled individuals who use a Discount Cab taxi are charged  
25 the standard flag drop and rate per mile without higher fares or fees, special charges, or  
26 surcharges, while individuals with mobility disabilities who require a ramp or lift to  
27 access a Discount Cab taxi are charged the standard flag drop and rate per mile in  
28

1 addition to \$10 extra, whether characterized as a higher fare or fee, special charge or  
2 surcharge.

### 3 **PLAINTIFFS' INDIVIDUAL ALLEGATIONS**

4 31. Bill Stokes is an individual with a disability within the meaning of Title III  
5 of the ADA and the AzDA. By reason of his mobility disability, Mr. Stokes requires an  
6 accessible taxi to utilize the taxi services provided by TTI.

7 32. On May 15, 2014, Bill Stokes called TTI to reserve an accessible taxi for a  
8 doctor's appointment, as provided under TTI's contract with Mr. Stokes' state-provided  
9 healthcare provider. During the telephone call, Mr. Stokes inquired about taxi service  
10 rates with Discount Cab because he anticipated making a reservation for a future trip.  
11 TTI's dispatcher told him that Discount Cab would impose a \$10 charge in addition to  
12 the standard fare because he required an accessible van.

13 33. On December 30, 2014, Mr. Stokes called Discount Cab and made a  
14 reservation for an accessible taxi. Mr. Stokes was charged a \$10 surcharge because he  
15 required an accessible taxi.

16 34. Jennifer Longdon is an individual with a disability within the meaning of  
17 Title III of the ADA and the AzDA. By reason of her mobility disability, Ms. Longdon  
18 requires an accessible taxi to utilize the taxi services provided by TTI.

19 35. On November 8, 2013, Ms. Longdon called Discount Cab to request  
20 information on its rates for accessible taxis. Specifically, Ms. Longdon wanted to know  
21 the cost of travelling by accessible taxi from her home in Phoenix, Arizona to a speaking  
22 engagement in another area of the city. Discount Cab's dispatcher told Ms. Longdon that  
23 she would need to reserve an accessible taxi at least 24 hours in advance of her trip.

24 36. On November 14, 2013, Ms. Longdon called to reserve an accessible taxi  
25 for her trip the following day. Discount Cab's dispatcher informed her that there would  
26 be a \$10 fee because she required an accessible van. Because of the additional fee, Ms.  
27 Longdon did not make a reservation with Discount Cab. Instead, she made other  
28 arrangements for transportation to the speaking engagement. Ms. Longdon attempted to

1 contact the CEO of TTI to complain about the imposition of the additional fee, but she  
2 was unable to reach him.

3 37. On November 13, 2015, Ms. Longdon wanted to travel to the Ability360  
4 Center and called to reserve an accessible taxi with Discount Cab. Ms. Longdon was once  
5 again informed that there would be a \$10 charge in addition to the standard fare to hire an  
6 accessible taxi. Ms. Longdon did not hire an accessible taxi from Discount Cab.

7 38. Donna Powers is an individual with a disability within the meaning of Title  
8 III of the ADA and the AzDA. By reason of her mobility disability, Ms. Powers requires  
9 an accessible taxi to utilize the taxi services provided by TTI.

10 39. On August 26, 2014, Ms. Powers contacted Discount Cab and reserved an  
11 accessible taxi to take her to a community event. The driver did not charge her any  
12 additional amount for the accessible taxi taking her to the community event. However,  
13 the driver charged her \$10 in addition to her standard fare for her return taxi trip home.

14 40. On February 18, 2015, Ms. Powers reserved an accessible taxi with TTI  
15 under its contract as the Dial-a-Ride provider for the East Valley of Phoenix, Arizona.  
16 She asked the driver to take her to a further destination than the reservation provided,  
17 changing the remainder of the trip into a private fare (e.g., a Discount Cab taxi fare). TTI  
18 charged Ms. Powers \$10 in addition to the standard fare for the remainder of the trip.  
19 When she asked Discount Cab's driver why she was charged the additional amount, the  
20 driver stated that it was a lift fee.

21 41. On March 18, 2015, Ms. Powers contacted Discount Cab to make a  
22 reservation for an accessible taxi because she needed to travel to a meeting, it was  
23 raining, and the paratransit service provider from a different company was late. On the  
24 telephone, TTI's dispatcher told her that there may be a delay because there were a lot of  
25 accessible taxi requests. She also told Ms. Powers there would be a \$10 additional  
26 charge. When asked why there was an additional charge, the dispatcher stated that it was  
27 a lift fee. Ms. Powers made the reservation with Discount Cab. She was charged \$10 in  
28 addition to her standard fare because she required an accessible taxi with a lift.



1           42.    On July 14, 2015, Plaintiffs sent a letter to TTI and demanded that it stop  
2 imposing the \$10 surcharge on wheelchair users who require accessible taxis.

3           43.    TTI refused to stop imposing the \$10 surcharge because, according to TTI,  
4 their accessible taxis – all of which are vans – are less fuel efficient and more costly to  
5 operate than TTI’s standard taxis. Further, ignoring the discriminatory impact on  
6 wheelchair users, TTI claimed that their \$10 van surcharge is not unlawful because it is  
7 applied universally.

8           44.    TTI has also indicated in writing that its additional charges for accessible  
9 taxi service are not as high as the additional charges imposed by other taxi companies in  
10 the same geographical area.

11          45.    TTI has twice threatened – in writing – to discontinue its on-demand  
12 wheelchair-accessible service if Plaintiffs pursue legal action. In ceasing dispatch taxi  
13 service, TTI’s Discount Cab will continue to offer street hail taxi service. However, as  
14 explained above, street hail taxi service disproportionately burdens persons with mobility  
15 disabilities who require an accessible taxi because only 12% of the Discount Cab taxi  
16 fleet is accessible.

17                   **FACTUAL ALLEGATIONS APPLICABLE TO CLASS CLAIMS**

18          46.    Plaintiffs bring this action on behalf of themselves and all other persons  
19 similarly situated pursuant to Federal Rules of Civil Procedure 23(a) and 23(b)(2).

20          47.    Plaintiffs seek to represent a class composed of all individuals with  
21 mobility disabilities who require a lift or ramp to access taxi services, and who have  
22 sought, or may seek in the future, to use TTI’s Discount Cab taxi service to obtain an  
23 accessible taxi ride.

24          48.    The persons in the class are so numerous that joinder of all such persons is  
25 impractical and the disposition of their claims in a class action is a benefit to the parties  
26 and to the Court.

1 49. There are questions of law and fact common to the class in that all persons  
2 with disabilities who require an accessible taxi ride and who use Discount Cab taxi  
3 service are subject to the same \$10 additional charge.

4 50. Plaintiffs' claims are typical of those of the class. Each Plaintiff is a  
5 wheelchair user who has either reserved an accessible van through TTI's dispatch system  
6 and been charged an additional \$10 fee for the use of an accessible taxi, or who has been  
7 deterred from using TTI's Discount Cab because of the additional \$10 charge.

8 51. Plaintiffs will fairly and adequately represent and protect the interests of the  
9 members of the class. There is no conflict between Plaintiffs and the other class  
10 members. Plaintiffs have retained counsel experienced in class action litigation,  
11 including class actions brought under the Americans with Disabilities Act and equivalent  
12 state laws.

13 52. Defendant has acted and refused to act on grounds generally applicable to  
14 the class, in that the \$10 additional charge applies to all customers who require an  
15 accessible taxi. Declaratory and injunctive relief is therefore appropriate with respect to  
16 Plaintiffs and the class as a whole.

17 **STATEMENT OF CLAIMS**

18 **COUNT I**

19 **Violation of Title III of the Americans with Disabilities Act**

20 **Discrimination in Specified Public Transportation by Private Entity**

21 **(42 U.S.C. § 12184 *et seq.*)**

22 **Accessible Vans**

23  
24 53. Plaintiffs incorporate by reference each and every allegation contained  
25 herein.

26 54. Section 12184 of Title III of the ADA states in relevant part:

27 "[n]o individual shall be discriminated against on the basis of  
28 disability in the full and equal enjoyment of specified public

1 transportation services provided by a private entity that is  
2 primarily engaged in the business of transporting people and  
whose operations affect commerce.” 42 U.S.C. § 12184(a).

3 55. Plaintiffs Stokes, Longdon, and Powers, and members of the Plaintiff class  
4 are individuals with disabilities within the meaning of Title III of the ADA.

5 56. TTI provides extensive transportation services across the southwestern  
6 United States in the form of private transportation, public transportation, and  
7 transportation management. As such, TTI is a private entity that is primarily engaged in  
8 the business of transporting people and whose operations affect commerce pursuant to 42  
9 U.S.C. § 12184(a).

10 57. “Specified public transportation” as referenced in 42 U.S.C. § 12184(a)  
11 means “transportation by bus, rail or any other conveyance (other than by aircraft) that  
12 provides the general public with general or special service (including charter service) on  
13 a regular and continuing basis.” 42 U.S.C. § 12181(10).

14 58. TTI’s Discount Cab provides the general public with general or special  
15 transportation service via “conveyance” – specifically taxi service – on a regular and  
16 continuing basis.

17 59. In addition to the statutory authority of Title III, Congress directed the  
18 Secretary of Transportation to issue regulations to implement the Title III transportation  
19 provisions, specifically 42 U.S.C. § 12184. *See* 42 U.S.C. § 12186(a)(1). Pursuant to  
20 this mandate, the United States Department of Transportation (“DOT”) promulgated 49  
21 C.F.R. Part 37 and accompanying guidance that explain DOT’s construction and  
22 interpretation of its implementing regulations. *See* 49 C.F.R. pt. 37, app. D.

23 60. The DOT’s implementing regulations and guidance further clarify that TTI  
24 and its Discount Cab company are subject to 42 U.S.C. § 12184 because they are  
25 primarily engaged in the business of transporting people, their operations affect  
26 commerce, and they provide specified transportation services. The DOT regulations are  
27 explicit that the transportation services subject to Title III include taxi services (49 C.F.R.

1 § 37.29; 49 C.F.R. pt. 37, app. D § 37.29) and that taxi services are private entities  
2 primarily engaged in the business of transporting people (*See* 49 C.F.R. § 37.29(a)).

3 61. TTI’s Discount Cab violates Section 12184 of Title III and its  
4 implementing regulations by discriminating against people with disabilities in numerous  
5 ways.

6 62. Section 12184 of Title III provides that discrimination includes the  
7 purchase or lease of a new van with a seating capacity of less than 8 passengers including  
8 the driver, which is to be used to provide specified public transportation, but that is not  
9 readily accessible to or useable by individuals with disabilities, including individuals who  
10 utilize wheelchairs. 42 U.S.C. § 12184(b)(3).

11 63. Similarly, the DOT regulations specify the instances when accessible taxi  
12 services are legally required, namely “[w]hen a provider of taxi service purchases or  
13 leases a vehicle other than an automobile, the vehicle is required to be accessible.” 49  
14 C.F.R. § 37.29(b). *See also* 49 C.F.R. § 37.103(c) (for demand responsive systems new  
15 vans with seating capacities of less than eight must be accessible); 49 C.F.R. § 37.103(d)  
16 (for either fixed route or demand responsive systems, new vans with seating capacity of  
17 fewer than eight must be accessible).

18 64. TTI’s Discount Cab admits providing van service. Ensuring that their vans  
19 are accessible to wheelchair users is not optional but a measure required under the ADA.

20 65. Upon information and belief, TTI’s Discount Cab’s fleet includes vans  
21 which are not readily accessible to or usable by individuals with disabilities. That is,  
22 only a portion of TTI’s Discount Cab’s vans are in fact accessible.

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**COUNT II**

**Violation of Title III of the Americans with Disabilities Act  
Discrimination in Specified Public Transportation by Private Entity**

**(42 U.S.C. § 12184 *et seq.*)**

**Surcharges**

6           66. Plaintiffs incorporate by reference each and every allegation contained  
7 herein.

8           67. DOT regulations mandate that private entities providing taxi services shall  
9 not discriminate by “charging higher fares or fees for carrying individuals with  
10 disabilities and their equipment than are charged to other persons.” 49 C.F.R. § 37.29(c).

11           68. DOT regulations more broadly prohibit the imposition of “special charges”  
12 on individuals with disabilities, including those who use wheelchairs, by entities  
13 providing any transportation services, not just taxi services. 49 C.F.R. § 37.5(d).

14           69. Similarly, the Department of Justice regulations contained in 28 C.F.R. §  
15 36.301-36.306 (with which DOT requires compliance, *see* 49 C.F.R. § 37.5(f)) similarly  
16 prohibit surcharges, in particular those meant to cover the costs of measures required by  
17 the ADA to provide individuals with disabilities nondiscriminatory treatment. 28 C.F.R.  
18 § 36.301(c).

19           70. As described above, TTI’s Discount Cab charges an additional amount,  
20 whether characterized as a higher fee, special charge or surcharge, for carrying  
21 individuals with disabilities, namely wheelchair users, than are charged to other persons.  
22 These individuals require accessible vehicles by reason of their disabilities because they  
23 cannot get into a taxi without the use of ramp or lift. Disabled passengers pay more for  
24 the taxi service than non-disabled passengers because non-disabled passengers do not  
25 require an accessible taxi and do not have to pay a \$10 additional fee every time they take  
26 a taxi trip.

27           71. If an individual who can physically access TTI’s standard taxi takes a taxi  
28 trip, the individual is charged the standard flag drop and per mile rate.

1           72. If an individual in a wheelchair who requires an accessible taxi takes a taxi  
2 trip, the individual is charged \$10 in addition to the standard flag drop and per mile rate.

3           73. Moreover, it is not a defense – in fact, it is a further violation – to impose a  
4 surcharge to cover the costs of providing accessible taxi service. 28 C.F.R. § 36.301(c).

5           74. However, this is precisely what TTI does. TTI maintains that such a  
6 surcharge is needed to compensate the driver for the extra expenses associated with the  
7 fuel inefficiency of the van, as well as with the additional loading and travel time needed  
8 to carry a wheelchair.

9   **COUNT III**

10   **Violation of Title III of the Americans with Disabilities Act**  
11   **Discrimination in Specified Public Transportation by Private Entity**

12   **(42 U.S.C. § 12184 et seq.)**

13   **Reasonable Modifications**

14           75. Plaintiffs incorporate by reference each and every allegation contained  
15 herein.

16           76. It is discrimination under Section 12184(b)(2) to fail “to make reasonable  
17 modifications in policies, practices or procedures when such modifications are necessary  
18 to afford such goods, services, facilities, privileges, advantages, or accommodations to  
19 individuals with disabilities. . . .” 42 U.S.C. § 12184(b)(2)(A). See also 28 C.F.R. §  
20 36.302(a).

21           77. TTI and Discount Cab have failed to waive the \$10 amount that they  
22 impose to offset the costs of operating a van (e.g., lower fuel-efficiency) as a reasonable  
23 modification to their policy. Their current policy is to charge \$10 for the hiring of a van  
24 regardless of the accessibility of the van or the accessibility needs of the passenger. The  
25 additional \$10 charge should be waived as a reasonable modification because persons  
26 with mobility disabilities who require accessible taxi service have no choice if they need  
27 taxi service but to hire an accessible van, which in turn triggers the \$10 amount. They

1 are not afforded the full and equal enjoyment of taxi service in light of the \$10 charge by  
2 reason of their disability.

3 **COUNT IV**

4 **Violation of Title III of the Americans with Disabilities Act**  
5 **Discrimination in Specified Public Transportation by Private Entity**  
6 **(42 U.S.C. § 12184 *et seq.*)**

7 **Eligibility Criteria**

8 78. Plaintiffs incorporate by reference each and every allegation contained  
9 herein.

10 79. It is also discrimination to impose eligibility criteria that screen out or tend  
11 to screen out an individual with a disability or any class of individuals with disabilities  
12 from fully enjoying the specified public transportation services provided. 42 U.S.C. §  
13 12184(b)(1).

14 80. TTI and Discount Cab impose eligibility criteria in the form of a \$10  
15 additional charge to the standard rate for accessible taxi service. The \$10 additional  
16 charge screens out persons with mobility disabilities who require a lift or ramp to access  
17 taxi service by deterring them from using Discount Cab which, by its own admission, has  
18 the largest accessible taxi fleet in the Phoenix and Tucson area.

19 **COUNT V**

20 **Violation of Title IV of the Americans with Disabilities Act**  
21 **Coercion and Retaliation**  
22 **(42 U.S.C. § 12203)**

23 81. Plaintiffs incorporate by reference each and every allegation contained  
24 herein.

25 82. The ADA makes it unlawful to coerce, intimidate, threaten, or interfere  
26 with any individual in the exercise or enjoyment of, or on account of his or her having  
27 exercised or enjoyed, or on account of his or her having aided or encouraged any other  
28

1 individual in the exercise or enjoyment of, any right granted or protected by the ADA. 42  
2 U.S.C. § 12203(b); 28 C.F.R. § 36.206(b).

3 83. On two separate occasions, in writing, TTI has indicated that if the  
4 individual Plaintiffs choose to pursue their legal right to challenge the \$10 charge for  
5 accessible taxi service through a lawsuit, TTI will discontinue its dispatch service for all  
6 vans. In ceasing dispatch taxi service, TTI's Discount Cab will continue to offer street  
7 hail taxi service. However, because only approximately 12% of Discount Cab's taxis are  
8 accessible, street hail taxi service disproportionately burdens persons with mobility  
9 disabilities who require an accessible taxi and who will have much difficulty in hailing an  
10 accessible taxi without assistance from a dispatcher.

11 84. TTI has also indicated in writing that its additional costs for accessible taxis  
12 are not as high as other taxi companies in the same geographical area, suggesting that if  
13 Discount Cab ceases offering dispatch taxi service, the remaining companies that do offer  
14 such dispatch service will charge more for an accessible taxi than Discount Cab did.

15 85. All of these written positions maintained by TTI constitute threats intended  
16 to intimidate Plaintiffs into not exercising their rights granted and protected under the  
17 ADA.

18 86. Moreover, if TTI ceases dispatch taxi service for vans as it has threatened  
19 to do, it will have engaged in retaliation against Plaintiffs and the Plaintiff class. The  
20 ADA is clear: no private or public entity may discriminate against any individual because  
21 that individual has opposed any act or practice made unlawful by Title III the ADA. 42  
22 U.S.C. § 12203(a); 28 C.F.R. § 36.206(a).

23 87. If the threats detailed above become reality, persons with mobility  
24 disabilities who rely on accessible taxis will become disproportionately burdened  
25 compared to their non-disabled counterparts while paying a great deal more for accessible  
26 taxi service. All of this solely because they chose to exercise their right to full and equal  
27 enjoyment of taxi service.



1 **COUNT VI**

2 **Violation of A.R.S. § 41-1492.05**

3 **Discrimination in Specified Public Transportation Services by Private Entities**  
4 **Accessible Vans**

5 88. Plaintiffs incorporate by reference each and every allegation contained  
6 herein.

7 89. Arizona Revised Statute (A.R.S.) § 41-1492.05 prohibits discrimination in  
8 specified public transportation services provided by private entities primarily engaged in  
9 the business of transporting people and whose operations affect commerce.

10 90. Plaintiffs Stokes, Longdon, and Powers, and members of the Plaintiff class  
11 are individuals with disabilities within the meaning of the AzDA. A.R.S. § 41-  
12 1492(6),(8).

13 91. As discussed above, TTI is a private entity that is primarily engaged in the  
14 business of transporting people and whose operations affect commerce. A.R.S. § 41-  
15 1492.05(A). TTI and Discount Cab provide specified public transportation in the form of  
16 taxi service. *See* A.R.S. § 41-1492(15). TTI and Discount Cab are, therefore, subject to  
17 the prohibitions against discrimination under A.R.S. § 41-1492.05. TTI and Discount  
18 Cab's imposition of the \$10 charge for accessible taxi service violates the AzDA in  
19 numerous ways.

20 92. The AzDA provides that discrimination includes the purchase or lease of a  
21 new van with a seating capacity of less than 8 passengers, including the driver, which is  
22 to be used to provide specified public transportation that is not readily accessible to or  
23 useable by individuals with disabilities, including individuals who utilize wheelchairs.  
24 A.R.S. § 41-1492.05(5).

25 93. TTI and Discount Cab admit providing van service. Ensuring that their  
26 vans are accessible to wheelchair users is not optional but a measure required under the  
27 AzDA.

1           94. Upon information and belief, TTI's Discount Cab's fleet includes vans  
2 which are not readily accessible to or usable by individuals with disabilities. That is,  
3 only a portion of TTI's Discount Cab's vans are in fact accessible.

4   **COUNT VII**

5   **Violation of A.R.S. §41-1492.05**

6   **Discrimination in Specified Public Transportation Services by Private Entities**

7   **Reasonable Modifications**

8           95. Plaintiffs incorporate by reference each and every allegation contained  
9 herein.

10          96. It is also discrimination under A.R.S. § 41-1492.05 to fail “to make  
11 reasonable modifications in policies, practices or procedures when such modifications are  
12 necessary to afford such goods, services, facilities, privileges, advantages, or  
13 accommodations to individuals with disabilities. . ..” See A.R.S. § 41-1492.05(2)(a),  
14 citing § 41-1492.02.

15          97. As discussed above, TTI and Discount Cab should waive their \$10  
16 additional charge as a reasonable modification. Persons with mobility disabilities who  
17 require accessible taxi service have no choice if they need taxi service but to hire an  
18 accessible van, which in turn triggers the \$10 charge. Paying an additional charge for a  
19 modification required by reason of disability is not full and equal enjoyment of taxi  
20 services.

21   **COUNT VIII**

22   **Violation of A.R.S. §41-1492.05**

23   **Discrimination in Specified Public Transportation Services by Private Entities**

24   **Eligibility Criteria**

25          98. Plaintiffs incorporate by reference each and every allegation contained  
26 herein.

27          99. It is also discrimination to impose eligibility criteria that screen out or tend  
28 to screen out an individual with a disability or any class of individuals with disabilities

1 from fully enjoying the specified public transportation services provided. A.R.S. § 41-  
2 1492.05(A)(1).

3 100. As discussed above, TTI and Discount Cab impose unlawful eligibility  
4 criteria in the form of a \$10 additional charge to standard taxi fare for accessible taxi  
5 service. The \$10 charge screens out persons with mobility disabilities by deterring them  
6 from using Discount Cab.

## 7 **COUNT IX**

### 8 **Discrimination in Violation of A.R.S. § 41-1492.10**

#### 9 **Retaliation and Coercion**

10 101. Plaintiffs incorporate by reference each and every allegation contained  
11 herein.

12 102. According to the AzDA, it is unlawful to coerce, intimidate, threaten, or  
13 interfere with any individual in the exercise or enjoyment of, or on account of his or her  
14 having exercised or enjoyed, or on account of his or her having aided or encouraged any  
15 other individual in the exercise or enjoyment of, any right granted or protected by the  
16 AzDA. A.R.S. § 41-1492.10(B).

17 103. In two separate letters, TTI has indicated that if Plaintiffs chose to pursue  
18 their legal right to challenge TTI's \$10 additional charge for accessible taxi service,  
19 through a lawsuit, TTI will discontinue its dispatch service for all taxis. As explained  
20 above, ceasing dispatch taxi service will disproportionately burden persons with mobility  
21 disabilities who require an accessible taxi.

22 104. TTI has also implied, in writing, that wheelchair users will be worse off if  
23 TTI discontinues its dispatch taxi service because its accessible taxi surcharge is not as  
24 high as other taxi companies in the same geographical area.

25 105. All of these written positions maintained by TTI constitute threats intended  
26 to coerce Plaintiffs into not exercising their rights granted and protected under the AzDA.

27 106. Moreover, if TTI ceases dispatch taxi service as it has threatened to do, it  
28 will have engaged in retaliation against Plaintiffs and the Plaintiff class. The AzDA is

1 clear: no person may discriminate against any individual because that individual has  
2 opposed any act or practice made unlawful by the AzDA. A.R.S. § 41-1492.10(A).

3 107. If the threats detailed above become reality, persons with mobility  
4 disabilities who rely on accessible taxis will become disproportionately burdened  
5 compared to their non-disabled counterparts while paying a great deal more for accessible  
6 taxi service. All of this solely because they chose to exercise their right to full and equal  
7 enjoyment of taxi service.

8 **RELIEF REQUESTED**

9 Wherefore, Plaintiffs respectfully request that this Court:

- 10 A. Order that Plaintiffs may maintain this action as a class action pursuant to  
11 Rule 23(b)(2) of the Federal Rules of Civil Procedure.
- 12 B. Issue a permanent injunction pursuant to the Americans with Disabilities  
13 Act and the Arizonans with Disabilities Act requiring TTI to:
- 14 1. immediately cease implementation of its policy to impose a \$10  
15 charge for accessible taxis to individuals with mobility impairments  
16 who require a lift or ramp to access taxi service;
  - 17 2. put in writing a new policy (“new policy”) stating that individuals  
18 with mobility disabilities who require a lift or ramp to access taxi  
19 service will not incur additional charges for such accessible taxis;
  - 20 3. provide immediate training, to continue annually for the next five  
21 years, to all employees, including dispatchers and drivers, regarding  
22 the new policy as well as review appropriate inquiries of passengers  
23 with mobility disabilities;
  - 24 4. agree to testing by an outside agency to ensure that, in the future,  
25 staff are adequately trained to implement the new policy and do not  
26 impose charges upon individuals with mobility impairments who  
27 require accessible taxis.
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- C. Issue a declaratory judgment that TTI’s policies, procedures, and practices have and continue to subject Plaintiffs to discrimination in violation of Title III of the Americans with Disabilities Act and the Arizonans with Disabilities Act.
- D. Retain jurisdiction of this case until TTI has complied with the orders of this Court, and there is a reasonable assurance that TTI will continue to comply in the future, absent continuing jurisdiction;
- E. Award Plaintiffs’ attorneys’ fees and costs, as provided by statute and law; and
- F. Order any such other and further relief as this Court may deem just and proper.

Dated this 19th day of November, 2015.

**ARIZONA CENTER FOR DISABILITY LAW**



\_\_\_\_\_  
Rose Daly Rooney  
Jessica Jansepar Ross

**DISABILITY RIGHTS ADVOCATES**



\_\_\_\_\_  
Mary-Lee K. Smith  
Michelle Iorio  
Freya Pitts