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Terry Goddard Announces Groundbreaking Reversal in Movie Theater Disability Case

(Phoenix, Ariz. – April 30, 2010) Attorney General Terry Goddard announced that the Ninth Circuit Court of Appeals today reversed U.S. District Court Judge Roslyn Silver's dismissal of *State v. Harkins Amusement Enterprises, Inc.*, a lawsuit in which the State sought the installation of equipment needed to display captions and audio descriptions for people with sensory disabilities.

"This is a groundbreaking legal decision because it is the first time that a Circuit Court of Appeals has ruled on whether the Americans with Disabilities Act requires captions or descriptions in movie theaters," Goddard said.

In 2006, the Attorney General filed a lawsuit against Harkins Theatres on behalf of Arizonans with sensory disabilities. Larry Wanger, a Phoenix resident who is blind, and Rachel Lindstrom whose son, Frederick Lindstrom, is deaf, joined the lawsuit against Harkins. The Lindstrom's were represented by the Arizona Center for Disability law.

The U.S. District Court in Phoenix dismissed the lawsuit in 2008, concluding that the Americans with Disabilities Act (ADA) and the Arizonans with Disabilities Act (AzDA) do not require movie theaters to provide captions and descriptions. The State appealed that decision to the Ninth Circuit, which today ruled that closed captions and descriptions are auxiliary aids and services included under Title III of the ADA.

Captioning provides the text of the soundtrack of a movie for people who are deaf or hard of hearing. The text is transmitted to a reflector or receiver at the customer's seat. Audio descriptions provide information about key visual aspects of a movie through descriptions of scenery, facial expressions, costumes, action, and scene changes during pauses in dialogue.

Major movie studios distribute many wide-release movies with captions and/or descriptions, but accessibility is limited to theaters that have installed the equipment. For a look at current movies now showing that are available with captions or descriptions, go to <http://ncam.wgbh.org/mopix/>. For a video demonstration of how captioning and description technology works, visit <http://ncam.wgbh.org/richmedia/media/lionking/>.

The Attorney General's Office received support from many disability and civil rights organizations in appealing the dismissal of this significant legal case that advances the rights of Arizonans with hearing and visual disabilities. The following groups filed briefs in support of the State's appeal:

- U.S. Department of Justice
- Screen Actors Guild
- The National Association of the Deaf
- Alexander Graham Bell Association for the Deaf and Hard of Hearing
- Telecommunications for the Deaf and Hard of Hearing, Inc.
- Deaf Seniors Association
- National Cued Speech Association
- American Society for Deaf Children
- National Council of Hispano Deaf and Hard of Hearing
- American Academy of Audiology
- Conference of Educational Administrators of Schools and Programs for the Deaf
- American Association of the Deaf-Blind
- American Council of the Blind
- American Foundation for the Blind
- American Association of People with Disabilities
- Disability Rights Advocates
- Disability Rights Education and Defense Fund
- National Disability Rights Network
- Washington State Communication Access Project
- Hearing Loss Association of America
- Arizona Commission for the Deaf and Hard of Hearing
- State and numerous local chapters of Hearing Loss Association in Arizona and Washington
- Association of Late-Deafened Adults
- Rio and Helen Popper, a blind child and her mother, California residents.

"We are gratified that the Ninth Circuit rejected Harkins' argument that the ADA and the AzDA require only that individuals with disabilities gain entrance to the theater, but not access to the soundtrack or key visual features of the films shown," Goddard said. "This decision makes it clear that the ADA is about more than physical access to a public accommodation – it is also about ensuring access to the services that the public accommodation provides."

Assistant Attorneys General Rose Daly-Rooney, Cathleen Dooley and Ann Hobart represented the State in this appeal.

The Arizonans with Disabilities Act prohibits disability discrimination in places of public accommodation, such as movie theaters, hotels, restaurants, retail stores, professional offices and day care centers. People who believe that their civil rights have been violated should contact the Attorney General's Civil Rights Division for assistance in filing a complaint. Individuals wishing to file a civil rights complaint may call a statewide toll-free number at

1.877.491.5742 or go to www.azag.org to either submit an online complaint or find the nearest satellite office to speak to a community volunteer.

A copy of the Ninth Circuit Court of Appeals' ruling is attached.

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