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VIA FACSIMILE 609-752-0004 & U.S. Mail

June 25, 2008

Judge James D. Clyne
Benchmark Resolution Services, LLC
261 E. Colliers Mills Road
New Egypt, NJ 08533

RE: Advocates For Disabled Americans (AFDA); Carolyn Schwebel;
Carmena Stoney v. Middletown Township
Case No. 04-3030 (SRC)

Dear Judge Clyne:

The situation in Middletown Township as described in my letters of January 23, 2008 and March 14, 2008 has not improved. I come to review the situation and inform you of recent egregious behavior toward plaintiff Schwebel by Middletown's Attorney Bernard Reilly. Middletown has not even made minimal good faith efforts to meet the consent orders of February 2006 and August 2008. Ten months have elapsed since the latter agreement, yet the consent orders have still not even been placed on the Middletown Web page.

The township has not sent the required 60-day summaries reporting its ADA corrections. A March 20, 2008 letter by Attorney Leahy merely reiterates what they plan to do. It also falsely states that the "trained ADA coordinator's contact information" was posted on the Web with a link in August 2007. At that time only a "news note" was posted stating that "the EEO" officer was designated as ADA coordinator, but with no name or specific number, and it quickly disappeared as more news was added. ADA-required actual contact information was posted only in mid-January 2008 after repeated urging by plaintiff Schwebel. The coordinator is not "ADA trained," she disclosed to Schwebel.

The March 20, 2008 Leahy letter and subsequent assertions by Attorney Reilly simply refer to a transition plan in progress as meeting the consent orders. Mr. Leahy

concludes, ***"Further and more detailed reports shall be forthcoming upon completion of the transition plan and the recommendations arising from the Plan."*** His statement ignores the consent order's requirement for 60-day reports of completed items and ignores the work he agreed to in February 2006. In the February 2006 consent order Town Hall was to have been made accessible by August 2006 as per William Cody's expert report. Two years later, it has not. At the July 2007 settlement conference it was discussed that the township should move on all the identified needs and not wait for the transition plan. In addition, five parks should have been made accessible and as of this date none have been altered.

Leahy's non-responsive March 2008 letter both betray a lack of understanding of the ADA and a demeaning, patronizing attitude to people with disabilities: ***"To the extent that certain constructed features could not be budgeted or renovations not scheduled, Township personnel have been instructed to accommodate all disabled individuals by attending to them individually in ADA accessible compliant areas."*** Plaintiffs do not want embarrassing, untrained "attendants"; they want the independent, equal access the ADA promises.

In January 2008, the Defendant retaliated against Dr. Schwebel in her First Amendment and LAD rights by not reappointing her to the Middletown Human Rights Commission, on which she had served for 17 years, the last three as chairperson. The mayor and Attorney Reilly admitted on the public record that the action was taken because of her filing this civil rights suit. (Yet it was filed in 2004 and they only fired her after it was settled the second time!) When she asked why she was not reappointed, Mayor Scharfenberger replied, ***"I'll let Bernie (attorney) elaborate a little here, but you're involved in litigation against the township and we just felt, temporarily, it was better until that was settled that we don't reappoint you right now and consider you for the next year or the next opening. We felt it was, you know, a bit of a conflict... would give the appearance of a conflict..."*** Attorney Bernard Reilly confirmed, ***"I think the recommendation related to the litigation..."***

A committeeman stated that the mayor and deputy mayor alone had decided to remove Schwebel; he had no input. He made a motion to reinstate her, which was tabled for more "litigation" details. Despite Schwebel's overwhelming support from local dignitaries, Attorney Reilly refuses to allow discussion of the matter.

At the June 16, 2008 Middletown committee meeting, citing "pending litigation," Attorney Reilly again refused to allow committee members to answer her or her husband's questions about undone ADA corrections, why the consent orders are not even on the Web page, and why the MHRC has five vacancies on the 11-member commission.

Attorney Reilly then exhibited shockingly egregious behavior. He verbally attacked Schwebel personally and stated lies about her: "Mrs. Schwebel is trying to revive litigation... has filed 50 lawsuits... wants to get money... is litigious..." When Schwebel replied that it was not true, he replied: "Maybe you have settled some."

His public accusations caused great anxiety and damaged her excellent reputation and credibility.

In sum, Your Honor, we beseech your order upon the Defendant to finally adhere without further delay to both consent orders. There are serious issues regarding both Attorney Bernard Reilly's retaliatory recommendation that she be fired, which is illegal under NJ LAD and the ADA, and his slanderous, public lies about Dr. Schwebel. He and Mayor Scharfenberger should be told to cease and desist from further false, disrespectful public personal attacks about her.

If the Defendant chooses not to agree with mediation, then kindly let me know in order that I may file the appropriate action with the federal Court.

I thank Your Honor for your kind attention.

Respectfully submitted,

Anthony J. Brady, Jr., Esquire
AJB/fel

cc: Bernard M. Reilly, Esquire – via fax: 732-530-8113 & U.S. Mail
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