

FILED
U.S. DISTRICT COURT
DISTRICT OF COLORADO**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

25 JUL 21 PM 1:01

Civil Action No. 1:25-cv-00063-JLK-TPO

Teresita Reyes,

Plaintiff,

v.

McDonald's (14th Amendment Corporate Personhood, Public Function Exception & 42 U.S.C. § 1983),

McDonald's Restaurant No. 11148 et al. (State Actor under Nexus and entanglement Exception to the State Action Doctrine & 42 U.S.C § 1983),

Officer August Barber (official capacity), Police Chief Jeff Swoboda (Chief of Police & City Council member), City of Fort Collins. (by respondeat superior & person under 42 U.S.C. § 1983),

The State of Colorado,

Defendant(s).

PLAINTIFF'S MOTION FOR LEAVE TO AMEND NAMING CHIEF OF POLICE JEFF SWOBODA, THE CITY OF FORT COLLINS AND MCDONALD'S (Under Public Function) AS DEFENDANTS UNDER
42 U.S.C § 1983

The Plaintiff is respectfully asking for the Court's permission, to amend the Complaint by adding Police Chief Jeff Swoboda in his official capacity as the Chief Decision Maker of the Fort Collins Police Services, the City of Fort Collins under vicarious liability and McDonald's Corporation under Nexus and Public Function exception to State Action as Defendants under 42 U.S.C § 1983.

Owing to lack of legal representation, the complexities of the case and the Plaintiff's discovery of crucial evidence integral to the Complaint, the Plaintiff is earnestly appealing for the District Court's redetermination of motions denied, as they apply to newly discovered evidence.

Brief history of the Complaint

I am an individual with a recognized disability. On September 25, 2023, I presented at McDonald's no. 11148's drive-thru and ordered a milkshake without whipped cream. I was thrown money at and threatened not to come back to the Restaurant because I refused to take the blame for an employee's mistake and because I asked for a refund. The Police Event Report, the drive thru cameras, and transaction tickets relevant to the incident will show that; in retaliation for my exercise of a right to a refund for a wrong order, the Restaurant retaliated against me by calling the Police to report that, I was *yelling at the employees* and *holding the line*, even though cameras will show, I never exited my vehicle at any time and was not creating a commotion. Camera footage that I asked Officer Barber to preserve, will show that, I was inside my vehicle in front of drive thru window no. 2 because I was instructed by an employee to wait for the manager there.

CLAIM I

MCDONALD'S EXERCISES A SPECIAL RIGHT AND POWER THAT IS RESERVED
EXCLUSIVELY TO THE STATE

DEFENDANTS

MCDONALD'S - THE STATE OF COLORADO

ARGUMENTS

1. Do laws that directly prohibit discrimination effected by lobbyists hired by big corporations exist as a single identifiable statute?
2. Has McDonald's hired a lobbyist in Colorado to follow legislation in the State?
3. Does Corporate lobbying influence policy and regulation?
4. Can Corporation lobbying of government officials and agencies to advocate for their interests, include shaping legislation or regulations that impact various aspects of society?
5. Can reshaping of legislation and regulations by lobbyists and big Corporations, serve to disadvantage the disabled, by interfering with disability rights and the ADA?(emphasis added)
6. Can McDonald's lobbying government officials and agencies impact anti-discrimination laws?
7. Did McDonald's exercise Public Function, by imposing a Waiver that infringed on the Plaintiff's right to due process and equal protection of the 14th Amendment?
Did McDonald's exercise of Public Function deny the Plaintiff's right to the 7th Amendment and the ADA? (emphasis added)
8. Does Symbiosis and a beneficial relationship between McDonald's and the State of Colorado exist?

9. Can the Nexus between McDonald's and the State of Colorado be construed as entanglement exception to the State Action Doctrine, and the basis for the State's failure to prohibit McDonald's from enforcing a waiver that deprived the disabled Plaintiff (and others similarly situated) of rights to the ADA, the 7th and 14th Amendments? (**emphasis added**)
10. Is McDonald's a private entity?
11. Is McDonald's allowed by law to use of a Waiver that denies Consumers ADA protection, jury trial under the 7th Amendment and equal protection of the 14th Amendment?
12. Can McDonald's use of the Waiver, be construed as a private entity's exercise of an exclusive prerogative traditionally reserved to the State? (**emphasis added**)
13. Can McDonald's exercise of a prerogative exclusively reserved to the State be construed as Public Function exception to the State Action Doctrine and action that can be attributed to the State?(**emphasis added**)

The Nexus Explained:

How Colorado benefits from McDonald's presence:

- 1) Economic Impact - Over 200 McDonald's restaurants in Colorado contribute significantly to the State's economy, generating \$197.9 million annually and employing 8,180 people.
- 2) Government Partnerships - McDonald's works with State health authorities like the Colorado Department of Public Health and Environment

- 3) University Partnerships - McDonald's has formed marketing relationships with Colorado universities like the University of Colorado and the Colorado State University.
- 4) Charitable Initiatives - McDonald's supports the Ronald McDonald House Charities
- 5) McDonald's Corp PAC contributed funds to **Federal candidates** in 2021 - 2022 amounting to \$117,500 to Democrats and \$168,500 to Republicans.

How McDonald's benefits from being in Colorado:

1. Market Presence - McDonald's operates a significant number of restaurants throughout Colorado, indicating a profitable market presence in the State.
2. Access to workforce - The Colorado economy provides a pool of employees for McDonald's restaurants.
3. Potential for Growth - The business climate and economy in Colorado offer opportunities for expansion and success for McDonald's.
4. Lobbying - McDonald's has hired a lobbyist in Colorado to follow local legislation - suggesting McDonald's involvement in the State's political landscape. (emphasis added)

RELIEF

1. In lieu of Plaintiff's claims of State Action through Public Function, that had effected discrimination and deprivation of the Plaintiff's Federal right to the ADA, and Constitutional rights to the 14th and 7th Amendments, the Plaintiff is appealing to the Court for Scrutiny of McDonald's use of an oppressive Waiver that, denies disabled Consumers the fundamental right to justice by denying access to Federal Courts with original jurisdiction over prospective violations of Constitutional and Federal laws by McDonald's and other Foreign Entities that are authorized to transact and conduct business in Colorado.
2. The Plaintiff is asking the Court to revisit Olmstead; in advocacy for the disabled who are disadvantaged and unable to assert their rights in Court, due to limitations imposed by their disability, limited financial means and/or lack of Counsel.
3. The Plaintiff is pleading to the Court for relief under 42 U.S.C. § 1983 for the following reasons:
 - 1) McDonald's use of a Waiver that deprived the Plaintiff of the 14th Amendment right to due process and equal protection of the law
 - 2) The Plaintiff understands that, McDonald's as a '*person*' under the 14th Amendment's legal concept of Corporate Personhood, can sue and be sued under **42 U.S.C. § 1983**
 - 3) McDonald's is a State Actor under the Nexus and Public Function exception to State Action
 - 4) To the best of the Plaintiff's understanding:

- a. McDonald's is a Foreign Entity incorporated in the foreign State of Delaware.
- b. Consumers' claims of discrimination under Section 504 and violations of the Constitution by foreign entities such as McDonald's, fall under Federal Court jurisdiction.
- c. McDonald's uses a Waiver that essentially denies access to Federal Court jurisdiction to disabled Consumers entitled to substantial monetary relief for McDonald's prospective violations of Section 504 under Nexus to the Public Function Exception.
(emphasis added)
- d. McDonald's denies Consumers access to Court and the 7th Amendment right to jury trial for a reason.

Inference:

Jury trial before Federal Court awards substantial monetary relief to Plaintiffs alleging discrimination and McDonald's prospective violations of Section 504. (*pls. see Pandazides v Virginia Board of Education*)

- 5) The 14th Amendment establishes McDonald's as a 'person' under the legal concept of Corporate Personhood. (*pls. see Santa Clara County v Southern Pacific Railroad*)
- 6) Because, Corporate Personhood establishes McDonald's as a person that can sue and be sued under the 14th Amendment, the Plaintiff argues that McDonald's can be held liable under **42 U.S.C. § 1983** for

discrimination and deprivation of the Plaintiff's Constitutional rights to the 14th and 7th Amendments.

- 7) And that, McDonald's deprivation of the Plaintiff's Federal and Constitutional rights through use of a Waiver that denies fundamental right to access Court, establishes, McDonald's exercise of a prerogative exclusively reserved to the State; inferring Public Function and action attributed to the State.(emphasis added)

CLAIM II

STATE ACTORS' CONJOINED ACTION TO DENY THE DISABLED PLAINTIFF ACCESS TO A PLACE OF PUBLIC ACCOMMODATION

Did the Fort Collins Police Services (FCPS) and the City of Fort Collins, conjoin action to enforce McDonald's Restaurant no.11148's trespassing policy, instead of the City of Fort Collins trespassing ordinance, to deny access to a place of public accommodation to the disabled Plaintiff who is a member of a protected class and an individual of a different race and national origin?

Did the Defendants' conjoined action to segregate the Plaintiff, constitute discrimination and infringement on the Plaintiff's right to the due process and equal protection of the 14th Amendment?

DEFENDANTS – Police Officer August Barber (official capacity), FCPS Chief of Police Jeff Swoboda (by Respondeat Superior), City of Fort Collins (vicarious liability - Monell) McDonald's Manager-on-duty (name unknown), McDonald's Restaurant No.11148

(Franchisee), McDonald's Corporation (Discrimination under Title III of the ADA & State
Action under Public Function exception)

Argument

1. To this day, the Plaintiff feels apprehensive and confused because she remains unaware of the reason why she is being segregated and denied access to McDonald's Restaurant no. 11148.
2. To this day, Officer Barber and the Fort Collins Police Services have not given the Plaintiff reason for being prohibited from accessing McDonald's, which is a place of public accommodation.
3. The Plaintiff understands that, McDonald's and the FCPS conjoined action to deny the Plaintiff's 14th Amendment right to due process and equal protection, by deliberately denying the Plaintiff **Notice** that, McDonald's Restaurant no. 11148 was accusing the Plaintiff of trespassing.
4. The Plaintiff understands that, the **ADA** and the Department of Justice (**DOJ**) recognize McDonald's Restaurant no. 11148 as a place of public accommodation?
5. And that, **42 U.S.C. § 2000a(a)(b)(2)** affirms that McDonald's 11148 is a place of public accommodation.
6. The Plaintiff argues that, FCPS and McDonald's conjoined action to deny the Plaintiff equal access to McDonald's Restaurant no.11148, by prohibiting the Plaintiff from entering the Restaurant and going near the employees, even though, Officer Barber was aware that:
 - a. The Plaintiff was assaulted by the Manager-on-duty out in the parking lot.

- b. The Plaintiff is disabled and could not walk?
7. Officer Barber, FCPS and the Franchise colluded to segregate and deny Plaintiff access to the restaurant by using a trespassing policy that - although neutral on its face, had segregated and effected discrimination against the Plaintiff, because the Police and the Franchise had intentionally applied the Franchise's trespassing policy without regard for the Plaintiff's right to due process and equal protection of the 14th Amendment. (**emphasis added**)
8. The Plaintiff construes that, cooperation between the Police and McDonald's compounded by their conjoined action to segregate and deny access to McDonald's Restaurant 11148, to the disabled Plaintiff, who is of a different ethnicity, infers Entanglement and Nexus exception to the State Action Doctrine - establishing McDonald's as a State Actor and 'Person' liable under 42 U.S.C. § 1983 and that, McDonald's as a State Actor, through encouragement and legal advice from the Officer August Barber, had acted under color of law to baselessly segregate and deny the Plaintiff access to a place of public accommodation, violates the Civil Rights Act, codified under 42 U.S.C. § 2000a(a)(b)(2)(d), in effect depriving the Plaintiff of the 14th Amendment right to equal protection of the law. (**emphasis added**)
9. Officer Barber and the FCPS infringed on the Plaintiff's right to due process and equal protection of the law by applying the law unequally and with bias in favor of the Manager-on-duty who threw refund money at the Plaintiff and threatened the Plaintiff not to come back to the Restaurant.

10. Axon Police body cam and parking lot camera monitoring the space where the assault happened, will show, Officer Barber applied the law unequally by giving the Aggressor (the MOD), the benefit of legal advice by suggesting filing trespassing charges against the Plaintiff.
11. Officer Barber and the FCPS infringed on the Plaintiff's right to due process by intentionally denying **Notice** informing the Plaintiff that the Restaurant was accusing her of trespassing.(emphasis added)
12. McDonald's and the Police conjoined action to deny the Plaintiff access to a place of public accommodation under **42 U.S.C. § 2000a(a)(b)(2)**
13. FCPS and McDonald's conjoined action, to deny the disabled Plaintiff who is of a different race and national origin, access to McDonald's which is a place of public accommodation.
14. Police and McDonald's denial of access to the Restaurant infers discrimination and deprivation of rights under color of law by State Actors, prohibited by **42 U.S.C. § 2000a(a)(b)(2)(d)**, establishing both Defendants' action to discriminate and segregate the Plaintiff is supported by State Action.
15. Therefore: It is asserted, that, arguments no. 13 & 14 above, establish that although McDonald's no. 11148 is a private Entity, entanglement exception to the State Action doctrine and 42 U.S.C. § 2000a(a)(2)(d) help establish McDonald's as a State Actor liable under 42 U.S.C. § 1983. (emphasis added)
16. For no known cause, the Police and the Manager conjoined action to deny the Plaintiff access to the Restaurant, which is a place of public accommodation; action prohibited by **42 U.S.C § 2000a** et seq.

17. To this day, the disabled Plaintiff who is of a different race and ethnicity, remains segregated, because the Police applied the law unevenly in favor of McDonald's by denying the Plaintiff's 14th Amendment right to Notice and opportunity to present reason why, Plaintiff was not guilty of a crime that she did not commit and was not guilty of. (emphasis added)
18. To this day, in violation of **Title II of the ADA and Title II and Title VI of the Civil Rights Act**, I remain discriminated against and unjustly denied access to a place of public accommodation because:
 - a. The Fort Collins Police, failed a duty to enjoin the Police ADA Coordinator to help me assert my protected rights as a disabled, that otherwise would have averted McDonald's unjust denial of access to the Restaurant.
 - b. It is to my understanding that, the Fort Collins Services is a Public Entity that receives Federal Funding assistance and that, the Police Department's act of omission in providing me with a Public Entity benefit of services from the ADA Coordinator, infers intentional discrimination on the basis of disability in State and local government services, prohibited by **28 C.F.R. § 35.177** and **29 U.S. Code § 794**.
 - c. The FCPS failed a law enforcement duty to enjoin the ADA Coordinator to help protect the Plaintiff who is a disabled member of a protected class, against unjust segregation and denial of access to a place of public accommodation, prohibited by **42 U.S.C. § 12132**
 - d. To this day, almost 2 years after the Plaintiff had been thrown refund money at, libeled and slandered, baselessly denied access to a place of

public accommodation and arbitrarily denied access to website services by McDonalds - the disabled Plaintiff who is of limited means, continues to endure emotional distress, anxiety and undue physical hardship in pursuit of relief from McDonald's and the Police's infringement on the Plaintiff's Constitutional and Federal rights.

- e. To date, neither, McDonald's Franchisor or McDonald's Franchisee has made any effort to contact the Plaintiff to help address the incident, even though McDonald's had assured the Plaintiff that, the incident would be transferred to the Franchisee's attention, for the Franchise to address.
- f. McDonald's used an unconscionable Waiver to deny Plaintiff the benefit of McDonald's website services, because the Plaintiff refused to waive fundamental right to the ADA and Constitutional rights to the 7th & 14th Amendments, that, McDonald's had demanded, in exchange for the disabled Plaintiff's access to McDonald's services and benefits.
- g. McDonald's interfered with the Plaintiff's exercise of protected rights under **42 U.S.C. § 12182**, by imposing a Waiver that served as an intangible barrier, that took away ease of access in communicating with McDonald's via the website, in the most integrated setting of the mobility-impaired Plaintiff's home.
- h. McDonald's failure to abide by **Article 90 of the Colorado Corporations and Associations Act**, that had required McDonald's to ensure that an accurate Registered agent's information would be on file with the Secretary of State (SOS), effected obstruction of justice that prevented

the Plaintiff from serving crucial legal documents, notifying McDonalds that, a lawsuit had been filed against the Restaurant.

- i. McDonald's failure to register an accurate Registered Agent information with the Secretary of State, caused the Plaintiff to endure further physical and financial hardship, frustration and emotional distress in seeking remedy for being assaulted by a McDonald's employee who had been entrusted with a duty of dispute resolution - inferring Negligence, vicarious liability and McDonald's failure to train employees.

CLAIM III

PUBLIC FUNCTION EXCEPTION TO STATE ACTION & A WAIVER THAT INFRINGES ON DISABLED CONSUMERS' FEDERAL & CONSTITUTIONAL RIGHTS

DEFENDANTS – McDonald's Corporation - State of Colorado

Argument

1. The Plaintiff understands that, McDonald's does not have have the inherent authority of Congress or the Courts to directly nullify or waive Consumers' Constitutional or Federal rights?
2. McDonald's used a waiver to deny website access to the disabled Plaintiff and others similarly situated who refused to waive ADA and Constitutional rights.

3. The Plaintiff understands that, only the U.S. Supreme Court has the ultimate authority to interpret and rule on the application of Constitutional rights and Federal laws.
4. Therefore, it appears that, McDonald's action to use a Waiver, that in effect, denied the disabled Plaintiff's right to ADA protection, 7th Amendment right to jury trial in Court and 14th Amendment right to refuse mandatory arbitration, infers, Public Function and McDonald's exercise a prerogative that is traditionally reserved to the State.
5. The Plaintiff therefore asserts that, Franchisor McDonald's exercise of a prerogative that is exclusively reserved to the State and the Courts, establishes McDonald's as a State Actor, who can be held liable under 42 U.S.C. § 1983.
(emphasis added)
6. And that, McDonald's exercise of a prerogative that is traditionally reserved to the State, infers Nexus and Public Function exception to State Action Doctrine - action that can be attributed to the State.
7. McDonald's imposes a Waiver that not only denies disabled Consumers access to trial in Court, but one that also denies access to jury trial under the 7th Amendment which provides victims of discrimination opportunity to avail of monetary damages awarded by Section 504 of the Rehabilitation Act of 1973, codified under **29 U.S.C. § 794.**

8. The Plaintiff understands that, the 7th Amendment and Section 504 of the Rehabilitation Act intersect in terms of the right to jury trial, in cases where a claim is made under Section 504?
9. Simplified: The McDonald's Waiver is misleading. The Waiver not only denies disabled Consumers the right to trial in Court. The Waiver also takes away disabled Consumers' 7th Amendment right to jury trial, when it is only through jury trial that Consumers with claims of discrimination under Section 504 are able to avail of monetary compensation, secured by Jury Trial under the 7th Amendment. (*pls. see Pandazides v. Virginia Board of Education*)
10. The ADA and the DOJ recognize Websites as a places of public accommodation. McDonald's discriminated against the disabled Plaintiff and others similarly situated, by imposing a Waiver that denied website access to Consumers who refused to waive ADA protection and Constitutional rights, including fundamental right to access justice in Court.
11. McDonald's exercised prerogative traditionally reserved to the State by denying website access and services to disabled Consumers who refused to waive ADA rights, after the fact that ADA rights cannot be waived. McDonald's exercise of Public Function to deny ADA protection constituted exclusion and discrimination in violation of **42 U.S.C. § 12182** and **42 U.S.C. § 1983**, which the Plaintiff understands as action that can be attributed to the State.

12. McDonald's action to deny Website access to the Plaintiff and others similarly situated, infers, **exclusion supported by STATE ACTION, under 42 U.S.C. § 2000a(a)(b)(2)(d)** (emphasis added)
13. **McDonald's fails to inform Consumers that**, access to justice is a fundamental right, and that, agreeing to waive one's right to trial in Court that was demanded by the Waiver, would consequently deny the disabled Consumer a crucial right to 7th Amendment jury trial and monetary relief from Federal Court with original jurisdiction over Federal and Constitutional rights violations including discrimination in violation of Section 504. (emphasis added)
14. **McDonald's interferes with Consumers' exercise of Constitutional and Federal rights, by failing to inform Consumers, particularly the disabled, that, waving the right to trial in Court would take away the Consumer's 7th Amendment right to jury trial, that grants Consumers the right to receive monetary damages awarded by Court to victims of discrimination under Section 504.** (*Pandazides v Virginia Board of Education*)
15. McDonald's violated Article 90 of the Colorado Corporations and Associations Act, by failing an obligation as a Franchisor to ensure that an accurate Registered Agent information would be on file with the Secretary of State?
16. **McDonald's failure to file an accurate Registered Agent's name and address with the SOS,** imposed further pain, hardship and physical challenge that the mobility-impaired and financially-challenged Plaintiff was forced to endure in the pursuit of remedy, for being baselessly accused of trespassing and disparately denied:
 - 1) Physical access to McDonald's Restaurant 11148
 - 2) Digital access to McDonald's Website services

17. The Plaintiff asserts that, the following help establish McDonald's as a State Actor who can be held liable under **42 U.S.C. § 1983**:
- a. McDonald's is a '*Person*' under the 14 Amendment's doctrine of Corporate Personhood
 - b. McDonald's use of a Waiver that, infringed on Consumers' exercise of rights protected by the ADA and rights to the 7th & 14th Amendments, infer McDonald's exercise of a prerogative traditionally reserved to the State.
 - c. McDonald's infringement on Consumers' Constitutional and Federal rights, infers Entanglement Exception to State Action Doctrine - establishing McDonald's as a State Actor.
 - a. McDonald's exercised Public Function exception to State Action by denying the disabled Plaintiff and others similarly situated, the following:
 - 1) Website access
 - 2) Fundamental right to access Court
 - 3) Access to due process and equal protection under the 14th Amendment
 - 4) 7th Amendment right to jury trial
 - 5) Federal right to the ADA protection
18. McDonald's exercised Public Function by denying the Plaintiff and others similarly situated, access to McDonald's website services, when McDonald's website is recognized by the ADA and the Department of justice as a place of public accommodation, and denial of website access to a disabled by McDonald's constitutes discrimination prohibited by Title II of Civil Rights Act under **42 U.S.C. § 2000a et seq.**
19. Consumers' loss is McDonald's gain.
McDonald's uses the Waiver to compel disabled Consumers to surrender 7th Amendment right to jury trial, when doing so, would take away opportunity for the

disabled to seek remedy and receive monetary compensation awarded by Court for discrimination and McDonald's prospective violation of Section 504.

20. McDonald's denied access to website services and benefits to the Plaintiff and continues to deny the same to others similarly situated, because the Plaintiff exercised a 14th Amendment right to equal protection by refusing to engage in mandatory arbitration, that, the Plaintiff understood would place McDonald's in a position of control and leave the Plaintiff disadvantaged with limited bargaining power.
21. McDonald's denial of Website services to the disabled Plaintiff and others similarly situated infers discrimination and denial of access to a place of public accommodation to the disabled prohibited by **42 U.S.C. § 12182** et seq.?

CLAIM IV

A POLICE POLICY THAT IS NEUTRAL ON ITS FACE BUT DISCRIMINATES WHEN APPLIED WITH AN UNEVEN HAND

DEFENDANTS - Fort Collins Chief of Police Jeff Swoboda - the City of Fort Collins
(vicarious liability, Monell)

Argument

1. The Plaintiff understands that, a strong nexus exists between **Section 504** and the **Civil Rights Act of 1964** and that, both statutes establish discrimination against the disabled as a civil rights issue.

2. The Plaintiff understands that, the Fort Collins Police Services (FCPS) and the City of Fort Collins are recipient(s) of Federal Funding.
3. Evidence supports that, the FCPS, the City of Fort Collins and McDonald's, conjoined action to deny the Plaintiff Notice. The Defendants did not inform the Plaintiff that, she was being accused of trespassing by the Franchise.
4. The Fort Collins Police Services and McDonald's put the Plaintiff at further risk of malicious persecution by deliberately denying Notice informing Plaintiff that, the Franchise was accusing her of trespassing.

Rationale:

1. Plaintiff's inquiries to the Secretary of State and returned service of process documents from the Corporation Service Company, will show that, McDonald's Franchisor and Franchisee did not have an accurate Registered Agent information on file with the Secretary of State
2. Because the Plaintiff had not been made aware that the Restaurant was accusing her of trespassing, the Plaintiff's return to the Restaurant to obtain the Restaurant's Registered Agent's information for service of process; would have given the MOD and the Restaurant further reason to maliciously persecute the Plaintiff by calling the Police to report that the Plaintiff had been trespassing ... AGAIN. (emphasis added)
5. The Police arbitrarily denied the Plaintiff's right to due process and equal protection by intentionally filing an Event Report instead of a more detailed Police Report that is required by Court proceedings, even though, the Plaintiff informed Officer Barber that, she was disabled and would be filing a Complaint for being assaulted by the Manager-on-duty.
6. The Event Report evidences that, the Police applied the law unequally and with bias in favor of McDonald's by:

- 1) Officer Barber acting under color of law to make an unfounded determination that, the Plaintiff had lied about being assaulted, even though camera footage will show the manager hurling refund money at the Plaintiff who was sitting inside her vehicle.
 - 2) Police body cam will show Officer Barber giving the Manager legal advice and adversely, denying the Plaintiff Notice that she was being accused of trespassing by McDonald's.
7. The Fort Collins Police and McDonald's did not have a legal basis to segregate and deny the Plaintiff access to a place of public accommodation because:
- 1) The Police and McDonald's failed to give the unsuspecting Plaintiff Notice that she was being accused of a crime
 - 2) The Police did not give the Plaintiff opportunity to present reason why the Restaurants allegations of trespassing were baseless and unfounded
 - 3) The Police failed a duty to review material evidence supporting the Plaintiff's claims that, she had been assaulted and threatened not to come back to the Restaurant, for no just cause.
 - 4) McDonald's, the Fort Collins Police Services under Chief of Police Jeff Swoboda and the City of Fort Collins, conjoined action to close the case and to continue segregating and denying the disabled Plaintiff access to the Restaurant, FOR NO JUST CAUSE, and even though, denial of equal access to a place of public accommodation to a disabled individual of a different race and national origin constitutes discrimination prohibited by the ADA and the violation of the Plaintiff's civil rights.
8. To the best of the Plaintiff's understanding, McDonald's does not keep a record of Consumers who are denied access to McDonald's Restaurants because of Trespassing. The Plaintiff asserts that McDonald's trespassing policy, although

neutral on its face when applied with an evil eye and an uneven hand can effect injustice and discrimination.

9. The FCPS failed a duty to enjoin the Police ADA coordinator. The Plaintiff asserts that, the Public Entity's denial of ADA Coordinator to help the disabled Plaintiff assert her rights against discrimination and malicious persecution by McDonald's, infers Police failure to comply with Section 504 justifying Plaintiff's claim for relief under 42 U.S.C. § 2000d-7.
10. Can the ongoing and unaddressed baseless denial of access to a place of public accommodation to the Plaintiff, be attributed to Police failure to enjoin the ADA Coordinator?
11. **29 U.S.C. § 794** prohibits the Police, a Recipient of Federal funding assistance, from excluding and denying the disabled Plaintiff, the Public Entity benefit of ADA Coordinator service to help avert discrimination and unjust segregation of the disabled Plaintiff who is of a different race and national origin.
12. The Plaintiff asserts that, Police failure to abide by **29 U.S.C. § 794** caused the *ongoing* unjust denial of access to a place of public accommodation to the disabled Plaintiff. And that, had the Plaintiff waived the right to trial in Court and the 7th Amendment right to jury trial that, the McDonald's Waiver demanded, that, the Plaintiff would have fortuitously forfeited the right to monetary damages awarded by Federal Court for McDonald's and the Police's violation of section 504 and relief under 42 U.S.C. § 2000d-7 (emphasis added)
13. The Plaintiff argues that, Police denial of access to ADA Coordinator services infers, discrimination prohibited by **42 U.S.C. § 12132.**

14. The Plaintiff asserts that, **28 C.F.R. § 177** states that the FCPS shall not be excused from unavailability of technical assistance from the ADA Coordinator.
15. The Plaintiff is appealing to the Court for relief under **42 U.S.C. § 2000d-7** by reason that, FCPS failed a Federal Funding Recipient's duty to enjoin the ADA Coordinator, resulting in discrimination and the unjust denial of access to a place of public accommodation to the disabled Plaintiff who is a member of a protected class.

The Plaintiff respectfully asks the Court to accept Fort Collins Police Services Chief of Police Swoboda as a Defendant to the Complaint for the following reasons:

1. The Plaintiff understands that, Chief of Police Jeff Swoboda is a member of the City Council of Fort Collins.
2. And that, the City Council of Fort Collins is the legislative body that makes final decisions about the City's policies and operations
3. To the best of the Plaintiff's understanding, in the State of Colorado, a Chief of Police is the chief administrative and law enforcement officer of a police department.
4. Therefore, as the head of the Fort Collins Police Services and a member of the City Council, Chief of Police Swoboda, is responsible for the overall management and direction of the Fort Collins Police department's operations by directing police operations, managing personnel, developing and implementing police policies and ensuring compliance with Federal, State and local regulations.

Therefore, the Plaintiff asserts that:

1. By Respondeat Superior, Chief Jeff Swoboda, could be held accountable for Officer August Barber's deprivation of the Plaintiff's right to due process and equal protection under the 14th Amendment and Officer Barber's failure to comply with the ADA and to the dictates of the U.S. Constitution.
2. And that, Chief Swoboda, being the FCPS Chief Decision maker; failed a duty to ensure Officer Barber's compliance with the ADA, due process and equal protection clause of the 14th Amendment - the failure of which caused the disabled Plaintiff to endure undue hardship and emotional distress from the ongoing segregation and discrimination brought about by unfounded accusations of trespassing against the Plaintiff, that, the Police failed to investigate.
3. **Police violation(s) of the Fort Collins Police Department Policy Manual that the Plaintiff presented in ECF-72**, evidence Police deprivation of the Plaintiff's rights to due process and equal protection under color of law prohibited by **42 U.S.C § 1983**
4. The Plaintiff argues that, Fort Collins Police's failure to enjoin the ADA coordinator for help in asserting the Plaintiff's protected rights under the ADA, infers discrimination and denial of Public Entity benefits and services to the disabled, which is prohibited by **42 U.S.C. § 12132** and **28 C.F.R. § 35.177**.

Rationale:

28 C.F.R. § 35.177 states that, Fort Collins Police is not excused from any claims of discrimination by the disabled Plaintiff or any individual similarly

situated, for any failure to receive technical assistance from the Police ADA coordinator.

Conclusion

1. **Ongoing, conjoined action** by the Fort Collins Police, McDonald's and the City of Fort Collins, to segregate and deny the Plaintiff access to McDonald's Restaurant No. 11148, which the ADA recognizes as a place of public accommodation, attests to the fact that, McDonald's, the Fort Collins Police and the City of Fort Collins have an existing policy that although neutral on its face, effects discrimination on the basis of disability, race and national origin. (emphasis added)
2. The Plaintiff understands that, the Fort Collins Police is not directly responsible to the people but to the Municipal Government of Fort Collins.
3. Therefore, because of the ongoing intentional segregation and deprivation of the Plaintiff's 14th Amendment right to due process and equal protection by the Police, the Plaintiff argues that, the City of Fort Collins has an ongoing policy, that, although neutral on its face is one that when applied with an evil eye and an uneven hand, violates civil rights and effects discrimination against the disabled people of Fort Collins.
4. The Plaintiff understands that, McDonald's use of a Waiver that, infringes on Consumers' Constitutional rights and Federal rights to the ADA - constitutes McDonald's exercise of a prerogative that is exclusively reserved to the State.

5. And that, McDonald's exercise of a prerogative that is traditionally reserved to the State, infers Public Function exception to State Action and action that can be attributed to the State.
6. The Plaintiff understands, that, the Public Function test establishes McDonald's as a State Actor and the State of Colorado as a Respondent to the Complaint.
7. And that, because the FCPS is not accountable to the people but to the Municipal Government of Fort Collins; the Plaintiff asserts that under a **Monell** claim, the City of Fort Collins is recognized as a '*person*' that can be held liable under **42 U.S.C. § 1983**, for the enforcement of an official policy, practice or custom that condones and encourages the ongoing unlawful denial of access to a place of public accommodation to the disabled Plaintiff.
8. And that, ongoing Police segregation and Police denial of access to a place of public accommodation, infers that, the City of Fort Collins has an existing policy or practice that condones Police deprivation of Constitutional and disability rights, and that, the City of Fort Collins under vicarious liability, can be held liable for Police misconduct under **42 U.S.C. § 1983 and a Monell claim**.
9. The Plaintiff therefore petitions the Court to accept the City of Fort Collins as a proper Defendant in the Complaint.

RELIEF REQUESTED

The Plaintiff is respectfully petitioning the Court for relief under **42 U.S.C. § 1983** for the following reasons:

1. State Action is inferred by McDonald's and the FCPS conjoined action to deprive the disabled Plaintiff of protected rights under the ADA, and Constitutional rights under the 7th Amendment right to jury trial and equal protection of the 14th Amendment.
2. McDonald's used a Waiver to deny the Plaintiff and others similarly situated, a fundamental right to access justice in Court, consequently denying the Plaintiff's 7th Amendment right to jury trial and 14th Amendment right to equal protection - inferring Public Function and McDonald's exercise of a prerogative traditionally reserved to the State - action that can be attributed to the State.

The Plaintiff is asking the Court for the following relief under **42 U.S.C. § 1983.**

1. McDonald's (Franchisor) - \$ 1.5 M for McDonald's exercise of prerogative traditionally reserved to the State (PUBLIC FUNCTION) - Denial of access to website services and benefits - Deprivation of Plaintiff's Constitutional and Federal rights through Public Function - State Actor under **42 U.S.C. § 1983** - Discrimination and denial of website access prohibited by **Title III of the ADA**
2. McDonald's (Franchisee) - \$ 300,000.00 for violation of Plaintiff's rights under **42 U.S.C. § 1983**

3. City of Fort Collins - \$ 300,000.00 for violation of Plaintiff's rights under 42 U.S.C. § 1983

- a. Injunctive Relief - Plaintiff asks that McDonald's maintain a record of Consumers, particularly the disabled, that are denied access to the Restaurants because of Trespassing for purpose of transparency in application of McDonald's trespassing policy.
- b. Non-economic Damages - \$ 75,000.00 for pain and suffering, medical bills, loss of enjoyment of life
- c. Compensatory damages - \$ 75,000.00 for damage to reputation, Attorneys fees, legal research, office supplies, vehicle wear and tear, mileage (Fort Collins to Denver and back), vehicle damage
- d. Punitive damages as the Court may deem just

I. McDonald's Franchisor

- a. Injunctive Relief - Plaintiff requests for more transparency in McDonald's Waiver
- b. Non-economic Damages - \$ 300,000.00 for pain and suffering, medical bills, loss of enjoyment of life effected by segregation - hardship that resulted from McDonald's failure to file and accurate Registered Agent's information with the secretary of State
- c. Compensatory damages - Attorneys fees, legal research (300 hrs. at \$30.00/hr), office supplies (paper, ink) vehicle mileage (Fort Collins to Denver and back), vehicle damage,
- d. Punitive damages as the Court may deem just

II. City of Fort Collins

- a. Injunctive Relief
- b. Non-economic Damages - pain and suffering, medical bills, vehicle mileage (Fort Collins to Denver and back), vehicle damage, quality of life
- c. Compensatory damages - Attorneys fees, (legal research - approx. 25 hrs. at \$30.00/hr), office supplies (paper, ink), postage and mailing cost
- d. Punitive damages as the Court may deem just

I confirm that, for purpose of affording opposing counsel opportunity to respond as required under local rule D.C.COLO.LCivR 7.1(a), that, I have made reasonable effort to confer by sending defense counsel an email of this motion herein in advance prior to filing this motion in Court.

Dated at Fort Collins, Colorado, this 21st day of July, 2025.

Teresita Reyes
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(970) 488-9916
E-mail: reyet144@gmail.com
Unrepresented Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on July 21, 2025, a copy of the foregoing PLAINTIFF'S
MOTION FOR APPOINTMENT OF COUNSEL was filed with the office of the Clerk of
Court and served on the below-listed party by email:

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Rachel Elizabeth Ryckman

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and was mailed via United States Postal Service to the following:

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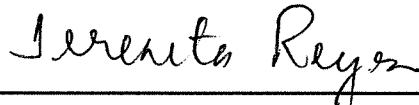
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