

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
CHATTANOOGA DIVISION**

**ELIZABETH SHEFFIELD, Individually)
And as Representative of the Estate)
of HAROLD SHEFFIELD;)
WENDY WATTENBARGER,)
ALLEN FRISBEE,)
SHANA NOLAN,)**

PLAINTIFFS

v.

**CHATTANOOGA-HAMILTON)
COUNTY HOSPITAL AUTHORITY,)
d/b/a ERLANGER HEALTH SYSTEM)
DEFENDANT.)**

**Civil Action No. _____
Judge**

COMPLAINT

INTRODUCTION

All allegations in this Complaint are based upon information and belief.

1. Plaintiffs institute this action against Defendant alleging that by failing to consistently provide Plaintiff Elizabeth Sheffield (hereinafter, "Plaintiff E. Sheffield") and Harold Sheffield (hereinafter, "H. Sheffield") with effective communication Defendant discriminated against all Plaintiffs solely by reason of Plaintiff E. Sheffield's and H. Sheffield's disabilities in violation of Section 504 of the Rehabilitation Act of 1973, as amended (hereinafter, "Section 504"), 29 U.S.C. § 794, and its implementing regulation 45 C.F.R. § 84.52.

2. Plaintiffs allege that Defendant denied all Plaintiffs equal benefits and services solely by reason of Plaintiff E. Sheffield's and H. Sheffield's disabilities in violation of Section 504 and its implementing regulation 45 C.F.R. § 84.52.

3. Plaintiffs allege that Defendant discriminated against Plaintiffs Wendy Wattenbarger, Allen Frisbee and Shana Nolan (hereinafter, "Plaintiff Wattenbarger," "Plaintiff Frisbee," and "Plaintiff Nolan") due to their association with H. Sheffield and Plaintiff E Sheffield solely by reason of the disabilities of H. Sheffield and Plaintiff E. Sheffield in violation of Section 504 and its implementing regulation 45 C.F.R. § 84.52.

4. Plaintiffs allege that Defendant denied Plaintiffs Nolan, Frisbee, and Wattenbarger equal benefits and services due to their association with H Sheffield and Plaintiff E Sheffield solely by reason of the disabilities of H. Sheffield and Plaintiff E. Sheffield in violation of Section 504 and its implementing regulation 45 C.F.R. § 84.52.

5. Plaintiffs allege that Defendant's failure to promptly provide Plaintiff E. Sheffield and H. Sheffield with effective communication including a qualified sign language interpreter (hereafter, "Interpreter") constitutes discrimination against all Plaintiffs solely by reason of Plaintiff E. Sheffield's and H. Sheffield's disabilities in violation of Section 504 and its implementing regulation 45 C.F.R. §84.52.

6. Plaintiffs allege that Defendant's failure to consistently provide Plaintiff E. Sheffield and H. Sheffield with effective communication including an Interpreter constitutes discrimination against all Plaintiffs solely by reason of Plaintiff E. Sheffield's and H. Sheffield's disabilities in violation of Section 504 and its implementing regulation 45 C.F.R. § 84.52.

7. Plaintiffs allege that Defendant discriminated against all Plaintiffs solely by reason of Plaintiff E. Sheffield's and H. Sheffield's disabilities in violation of Section 504 and its implementing regulation 45 C.F.R. § 84.52 by failing to have a pattern or practice for promptly and consistently providing effective communication to Plaintiff E. Sheffield and H. Sheffield and other deaf persons seeking medical treatment.

JURISDICTION AND VENUE

8. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343 for claims arising under Section 504, 29 U.S.C. §794.

9. Venue in this Court is proper pursuant to 28 U.S.C. § 1391 in that the acts and omissions giving rise to the claims contained herein occurred in the Eastern District of Tennessee and the Defendant conducts business in the Eastern District of Tennessee.

10. This action is properly brought in the Eastern District of Tennessee at Chattanooga pursuant to 28 U.S.C. § 123.

PARTIES

11. H. Sheffield died on September 2, 2013.

12. H. Sheffield was a resident of Hamilton County at all times relevant to the facts of this Complaint.

13. At all times relevant to the facts of this Complaint, Elizabeth Sheffield was H. Sheffield's legal wife.

14. Plaintiff E. Sheffield brings this action on behalf of herself and as representative of the Estate of H. Sheffield.

15. All Plaintiffs are residents of Hamilton County, Tennessee.

16. Plaintiffs Wattenbarger and Frisbee are Plaintiff E. Sheffield's children and the stepchildren of H. Sheffield.

17. Plaintiff Nolan is Plaintiff E. Sheffield's granddaughter and the step-granddaughter of H. Sheffield.

18. Defendant is a governmental hospital authority with its principal place of business in Chattanooga, Tennessee.

19. Defendant is principally engaged in the business of providing comprehensive healthcare services.

20. Defendant owns, controls, and/or operates a hospital facility which is located on the Baroness campus of Erlanger Medical Center at 975 East Third Street, Chattanooga, Tennessee (hereinafter, "Hospital").

21. Defendant is a recipient of federal funds.

22. Defendant participates in Medicare.

23. Defendant participates in Medicaid.

24. Defendant employs more than fifteen persons.

FACTS

25. H. Sheffield was deaf.

26. H. Sheffield's deafness was a physical impairment which limited the major life activity of hearing.

27. H. Sheffield's deafness was a physical impairment which limited the major life activity of speaking.

28. H. Sheffield's deafness was a physical impairment which limited the major life activity of receptive and expressive spoken communication.

29. H. Sheffield communicated primarily through American Sign Language (hereinafter "sign language").

30. H. Sheffield required the services of a qualified sign language interpreter to effectively communicate about complex information.

31. H. Sheffield required the services of a qualified sign language interpreter to effectively communicate about lengthy information.

32. H. Sheffield required the services of a qualified sign language interpreter to effectively communicate about his health.

33. H. Sheffield required the services of a qualified sign language interpreter to effectively communicate about his medical treatment.

34. H. Sheffield was unable to read lips.

35. H. Sheffield was unable to communicate effectively through written notes about complex information, lengthy information, health information, and his medical treatment.

36. Plaintiff E. Sheffield is deaf.

37. Plaintiff E. Sheffield's deafness is a physical impairment which limits the major life activity of hearing.

38. Plaintiff E. Sheffield's deafness is a physical impairment which limits the major life activity of speaking.

39. Plaintiff E. Sheffield's deafness is a physical impairment which limits the major life activity of receptive and expressive spoken communication.

40. Plaintiff E. Sheffield communicates primarily through sign language.

41. Plaintiff E. Sheffield requires the services of a qualified sign language interpreter to effectively communicate about complex information.

42. Plaintiff E. Sheffield requires the services of a qualified sign language interpreter to effectively communicate about lengthy information.

43. Plaintiff E. Sheffield requires the services of a qualified sign language interpreter to effectively communicate about her health and the health of her family members.

44. Plaintiff E. Sheffield requires the services of a qualified sign language interpreter to effectively communicate about medical treatment.

45. Plaintiff E. Sheffield is unable to read lips.

46. Plaintiff E. Sheffield is unable to communicate effectively through written notes about complex information, lengthy information, health information, and medical treatment.

47. At all times relevant to the facts of this Complaint, Plaintiff E. Sheffield was visiting H. Sheffield as his wife.

48. At all times relevant to the facts of this Complaint, Plaintiff E. Sheffield was visiting H. Sheffield to help him make medical decisions.

49. Plaintiff Wattenbarger is a hearing individual.

50. Plaintiff Wattenbarger is a certified sign language interpreter.

51. At all times relevant to the facts of this Complaint, Plaintiff Wattenbarger was visiting H. Sheffield and Plaintiff E. Sheffield as a family member.

52. At all times relevant to the facts of this Complaint, Plaintiff Wattenbarger was visiting H. Sheffield and Plaintiff E. Sheffield to help them make medical decisions.

53. Plaintiff Nolan is a hearing individual.

54. Plaintiff Nolan knows sign language.

55. Plaintiff Nolan is not a sign language interpreter.

56. At all times relevant to the facts of this Complaint, Plaintiff Nolan was visiting H. Sheffield and Plaintiff E. Sheffield as a family member.

57. At all times relevant to the facts of this Complaint, Plaintiff Nolan was visiting H. Sheffield and Plaintiff E. Sheffield to help them make medical decisions.

58. Plaintiff Frisbee is a hearing individual.

59. Plaintiff Frisbee has a limited knowledge of sign language.

60. At all times relevant to the facts of this Complaint, Plaintiff Frisbee was visiting H. Sheffield and Plaintiff E. Sheffield as a family member.

61. At all times relevant to the facts of this Complaint, Plaintiff Frisbee was visiting H. Sheffield and Plaintiff E. Sheffield to help them make medical decisions.

62. During the period relevant to the facts of this Complaint, H. Sheffield was admitted to the Hospital on three separate occasions in 2013.

63. During the period relevant to the facts of this Complaint, Plaintiff E. Sheffield was admitted to the Hospital on one occasion in 2014.

64. At all times relevant to the facts of this Complaint, Hospital knew or should have known H. Sheffield was deaf.

65. At all times relevant to the facts of this Complaint, Hospital knew or should have known Plaintiff E. Sheffield is deaf.

66. At all times relevant to the facts of this Complaint, Hospital knew or should have known H. Sheffield needed the services of a qualified sign language interpreter for effective communication.

67. At all times relevant to the facts of this Complaint, Hospital knew or should have known Plaintiff E. Sheffield needed the services of a qualified sign language interpreter for effective communication.

68. At all times relevant to the facts of this Complaint, Hospital knew or should have known Plaintiffs Wattenbarger, Frisbee, and Nolan were visiting H. Sheffield and Plaintiff E. Sheffield as family members.

69. At all times relevant to the facts of this Complaint, Hospital knew or should have

known Plaintiffs Wattenberger, Frisbee, and Nolan were visiting with H. Sheffield and Plaintiff E. Sheffield as family members.

70. At all times relevant to the facts of this Complaint, Hospital knew or should have known Plaintiff E. Sheffield was visiting H. Sheffield as his wife.

71. At all times relevant to the facts of this Complaint, Hospital knew or should have known Plaintiff E. Sheffield was visiting H. Sheffield to help him make medical decisions.

Plaintiff H. Sheffield's July 2013 Hospitalization

72. On July 23, 2013, H. Sheffield had surgery at the Hospital.

73. On July 23, 2013, H. Sheffield had a radical cystectomy with urinary diversion.

74. On July 23, 2013, the Hospital removed H. Sheffield's bladder and redirected his urine to drain into a bag.

75. After undergoing surgery at the Hospital on July 23, 2013, H. Sheffield remained at the Hospital until he was discharged on August 2, 2013 (hereinafter, "July 2013 Hospitalization"). Prior to the July 2013 Hospitalization, Plaintiff Wattenbarger was aware of technical issues that had arisen at the Hospital when Hospital health care providers tried to access Interpreters remotely using video remote interpreting machines (hereinafter, "VRI").

76. Plaintiff Wattenbarger repeatedly contacted Hospital health care providers and/or Hospital's consumer call center (hereinafter, "HealthLink") to ensure that an Interpreter would be present for H. Sheffield during the July 2013 Hospitalization.

77. Plaintiff Wattenbarger repeatedly contacted Hospital health care providers and/or HealthLink to ensure that an Interpreter would be present for Plaintiff E. Sheffield during the July 2013 Hospitalization.

78. Hospital failed to consistently provide an Interpreter during the July 2013

Hospitalization.

79. On approximately, July 29, 2013, Hospital health care providers told Plaintiff Wattenbarger to stop contacting HealthLink and said that requests for an Interpreter must be made by Hospital health care providers.

80. On or about August 1, 2013, Hospital failed to provide an Interpreter for H. Sheffield for a period exceeding 24 hours.

81. On or about August 1, 2013, Hospital failed to provide an Interpreter for Plaintiff E. Sheffield for a period exceeding 24 hours.

82. During this greater than 24 hour period on approximately August 1, 2013, Hospital health care providers attempted to communicate through written notes with H. Sheffield in order to prepare a case management plan for H. Sheffield's home health care.

83. During this greater than 24 hour period on or about August 1, 2013, Hospital health care providers attempted to communicate through written notes with Plaintiff E. Sheffield in order to prepare a case management plan for H. Sheffield's home health care.

84. During this greater than 24 hour period on approximately August 1, 2013, a Hospital health care provider attempted to communicate with Plaintiff E. Sheffield through written notes in order to teach Plaintiff E. Sheffield how to change H. Sheffield's colostomy bag.

85. On approximately August 1, 2013, Plaintiff E. Sheffield did not understand the Hospital health care provider's instructions about how to change H. Sheffield's colostomy bag.

86. During this greater than 24 hour period on or about August 1, 2013, the Hospital health care providers postponed an examination of H. Sheffield due to the Hospital's failure to provide effective communication.

87. In the absence of an Interpreter during the July 2013 Hospitalization, H. Sheffield

was confused by the efforts of Hospital health care providers to communicate with him and did not understand what they were trying to communicate.

88. In the absence of an Interpreter during the July 2013 Hospitalization, Plaintiff E. Sheffield was confused by the efforts of Hospital health care providers to communicate with her and did not understand what they were trying to communicate.

89. In the absence of an Interpreter during the July 2013 Hospitalization, H. Sheffield was not able to ask questions or express himself regarding his health care.

90. In the absence of an Interpreter during the July 2013 Hospitalization, Plaintiff E. Sheffield was not able to ask questions or express herself regarding H. Sheffield's health care.

91. During the July 2013 Hospitalization, Plaintiff Nolan was at the Hospital with H. Sheffield and Plaintiff E. Sheffield at some of the times when an Interpreter was not present.

92. During the July 2013 Hospitalization, a Hospital health care provider asked Plaintiff Nolan to serve as an interpreter in order for the provider to instruct Plaintiff E. Sheffield about how to change H. Sheffield's colostomy bag.

93. During the July 2013 Hospitalization, Plaintiff Nolan refused to serve as an interpreter for instructions about how to change H. Sheffield's colostomy bag because Plaintiff Nolan is a family member and not an interpreter.

94. During the July 2013 Hospitalization, Plaintiff Nolan observed Plaintiff E. Sheffield's confusion when a Hospital health care provider attempted to teach her how to change H. Sheffield's colostomy bag.

95. During the July 2013 Hospitalization, Plaintiff Nolan observed Plaintiff E. Sheffield's blank look when a Hospital health care provider attempted to teach her how to change H. Sheffield's colostomy bag.

96. During the July 2013 Hospitalization, H. Sheffield experienced hallucinations.

97. During the July 2013 Hospitalization, due to the Hospital's failure to provide an Interpreter, H. Sheffield was unable to tell the Hospital health care providers about his hallucinations.

98. During the July 2013 Hospitalization, due to the Hospital's failure to provide an Interpreter, H. Sheffield attempted to communicate through sign language with Plaintiff Nolan about his hallucinations.

99. During the July 2013 Hospitalization, due to the Hospital's failure to provide an Interpreter, Plaintiff Nolan had no choice but to attempt to convey information between H. Sheffield and Hospital health care providers about H. Sheffield's hallucinations.

100. Being asked and/or relied upon to interpret during the July 2013 hospitalization caused Plaintiff Nolan stress and caused her to suffer and continue to suffer panic attacks.

Plaintiff H. Sheffield's First August 2013 Hospitalization

101. On or about August 14, 2013, H. Sheffield went to the Hospital's emergency room accompanied by Plaintiff E. Sheffield.

102. On or about August 14, 2013, H. Sheffield went to the Hospital's emergency room due to shortness of breath.

103. After going to the Hospital's emergency room on approximately August 14, 2013, H. Sheffield remained at the Hospital until he was discharged on August 20, 2013 (hereinafter, "First August 2013 Hospitalization").

104. During the First August 2013 Hospitalization, H. Sheffield was diagnosed with pulmonary embolism and urosepsis.

105. On or about August 14, 2013 Plaintiff Nolan was the first family member to

arrive at the Hospital.

106. On or about August 14, 2013 Hospital health care providers asked Plaintiff Nolan to serve as an interpreter.

107. On or about August 14, 2013 Plaintiff Nolan refused the Hospital health care providers' request to serve as an interpreter because she is a family member and not an interpreter.

108. On or about August 14, 2013 Plaintiff Nolan informed Hospital health care providers that the Hospital is required to provide effective communication.

109. On or about August 14, 2013 after being informed by Plaintiff Nolan that the Hospital is required to provide effective communication, Hospital health care providers attempted to set up a VRI.

110. On or about August 14, 2013 Hospital health care providers struggled to operate the VRI.

111. On or about August 14, 2013 Hospital health care providers could not get the VRI to work well enough to provide effective communication for H. Sheffield or Plaintiff E. Sheffield.

112. On or about August 14, 2013 Hospital health care providers were so preoccupied with trying to get the VRI to work that they ignored the medical needs of H. Sheffield.

113. On or about August 14, 2013 because Hospital health care providers were so preoccupied with trying to get the VRI to work, they again asked Plaintiff Nolan to serve as an interpreter for H. Sheffield.

114. On or about August 14, 2013 because Hospital health care providers were so

preoccupied with trying to get the VRI to work, Plaintiff Nolan felt she had no choice but to try to assist with communication between Hospital providers and H. Sheffield.

115. On or about August 14, 2013 Plaintiff Nolan conveyed to Hospital health care providers information such as the pain that H. Sheffield was experiencing and his need to use the restroom.

116. Being asked and/or relied upon to interpret during the First August 2013 Hospitalization caused Plaintiff Nolan stress and caused her to suffer and continue to suffer panic attacks.

117. On August 14, 2013 no Interpreter was present when Plaintiff Wattenbarger arrived at the Hospital.

118. On August 14, 2013 Hospital used Plaintiff Wattenbarger as an Interpreter for several hours until Hospital finally provided an Interpreter.

119. On August 14, 2013 Plaintiff Wattenbarger felt coerced into acting as an Interpreter.

120. During the First August 2013 Hospitalization, which was approximately one week long, Hospital provided an Interpreter for H. Sheffield approximately six percent of the time.

121. During the First August 2013 Hospitalization, which was approximately one week long, the Hospital provided an Interpreter for Plaintiff E. Sheffield approximately six percent of the time.

122. During the First August 2013 Hospitalization, the Hospital failed to provide an Interpreter for H. Sheffield for three consecutive days from approximately August 17, 2013, through August 19, 2013.

123. During the First August 2013 Hospitalization, the Hospital failed to provide an

Interpreter for Plaintiff E. Sheffield for three consecutive days from approximately August 17, 2013 through August 19, 2013.

124. On or about August 17, 2013 Dr. Bentley attempted to communicate with H. Sheffield through written notes and/or delayed communication until Plaintiff Wattenbarger's arrival.

125. On August 18, 2013 Dr. Bentley requested an interpreter.

126. On August 19, 2013 Hospital failed to provide an Interpreter for H. Sheffield when his pulmonary test(s) were performed.

127. On August 20, 2013 H. Sheffield's urostomy wound was leaking and/or having problems and the Hospital health care providers waited for hours for the arrival of an interpreter.

128. During the First August 2013 Hospitalization, Hospital health care providers repeatedly attempted to communicate with H. Sheffield using VRI.

129. During the First August 2013 Hospitalization, Hospital health care providers repeatedly attempted to communicate with Plaintiff E. Sheffield using VRI.

130. During the First August 2013 Hospitalization, Hospital health care providers repeatedly had difficulty using VRI.

131. Medical records from the First August 2013 Hospitalization contain a note stating "Tried using computer but online interpreter couldn't hear."

132. Medical records from the First August 2013 Hospitalization contain a note stating "VRI laptop didn't work."

133. Medical records from the First August 2013 Hospitalization contain a note stating "Laptop connection not working. Awaiting daughter who signs to arrive."

134. Medical records from the First August 2013 Hospitalization contain a note stating

“Trouble ... with the laptop service freezing.”

135. Medical records from the First August 2013 Hospitalization contain a note stating “Slow to boot up and get interpreter on line.”

136. During the First August 2013 Hospitalization, Hospital health care providers relied on Plaintiff Wattenbarger on at least one occasion to provide instructions on how to use the VRI.

137. During the First August 2013 Hospitalization, Hospital health care providers were never able to get VRI to work well enough to provide effective communication for H. Sheffield.

138. During the First August 2013 Hospitalization, Hospital health care providers were never able to get VRI to work well enough to provide effective communication for Plaintiff E. Sheffield.

139. During the First August 2013 Hospitalization, Plaintiff Wattenbarger repeatedly contacted Hospital health care providers to request an Interpreter for H. Sheffield in an attempt to ensure he received effective communication.

140. During the First August 2013 Hospitalization, Plaintiff Wattenbarger repeatedly contacted Hospital health care providers to request an Interpreter for Plaintiff E. Sheffield in an attempt to ensure she received effective communication.

141. During the First August 2013 Hospitalization, the limited amount of time that the Hospital provided an Interpreter for H. Sheffield resulted from efforts of Plaintiff Wattenbarger rather than Hospital’s efforts.

142. During the First August 2013 Hospitalization, the limited amount of time that Hospital provided an Interpreter for Plaintiff E. Sheffield resulted from the efforts of Plaintiff Wattenbarger rather than Hospital’s efforts.

143. During the First August 2013 Hospitalization, Hospital health care providers repeatedly called Plaintiff Wattenbarger to ask when she could come to the Hospital to interpret for H. Sheffield, Plaintiff E. Sheffield and/or Hospital health care providers.

144. During the First August 2013 Hospitalization, the Hospital scheduled treating doctors' visits to H. Sheffield's bedside around Plaintiff Wattenbarger's work schedule so that the Hospital and doctors could utilize her as an Interpreter.

145. Being forced to serve as an Interpreter over the course of the First August 2013 Hospitalization restricted Plaintiff Wattenbarger's ability to assist with health care decisions and provide emotional support for Plaintiff E. Sheffield.

146. On August 16, 2013, during a time when Hospital had failed to provide an Interpreter, H. Sheffield became highly confused and disoriented.

147. On August 16, 2013 medical records indicate that Hospital health care providers decided to place H. Sheffield in restraints "till am until daughter is present to assist and give the patient instructions."

148. On August 16, 2013, Plaintiff Frisbee arrived at the Hospital and found H. Sheffield restrained.

149. On August 16, 2013, due to Hospital's failure to provide an Interpreter, Plaintiff Frisbee felt obligated to use finger spelling to attempt to communicate between the Hospital and H. Sheffield.

150. On August 16, 2013, Plaintiff Frisbee learned from H. Sheffield that H. Sheffield merely had to go to the bathroom.

151. On August 16, 2013, Plaintiff Frisbee convinced Hospital health care providers to remove the restraints so that H. Sheffield could go to the bathroom.

152. In the absence of an Interpreter during the First August 2013 Hospitalization, H. Sheffield was confused by the attempt of Hospital health care providers to communicate with him regarding his health care and did not understand what they were trying to communicate.

153. In the absence of an Interpreter during the First August 2013 Hospitalization, H. Sheffield was not able to ask questions or express himself regarding his health care.

154. In the absence of an Interpreter during the First August 2013 Hospitalization, Plaintiff E. Sheffield was confused by the attempts of Hospital staff to communicate with her regarding H. Sheffield's health care and did not understand what they were trying to communicate.

155. In the absence of an Interpreter during the first August 2013 Hospitalization, Plaintiff E. Sheffield was not able to ask questions or express herself regarding H. Sheffield's health care.

156. In the absence of an Interpreter during the first August 2013 Hospitalization, Plaintiff E. Sheffield did not understand the Hospital's discharge instructions for H. Sheffield.

157. For approximately 94 percent of the First August 2013 Hospitalization, H. Sheffield was effectively shut out of his own health care due to being prevented from effectively communicating with Hospital health care providers.

158. For approximately 94 percent of the First August 2013 Hospitalization, Plaintiff E. Sheffield was effectively shut out of her husband's health care due to being prevented from effectively communicating effectively with Hospital health care providers.

159. The failure of the Hospital to consistently and promptly provide an Interpreter during the First August 2013 Hospitalization interfered with the ability of Plaintiff E. Sheffield,

Plaintiff Wattenbarger, Plaintiff Frisbee, and Plaintiff Nolan to participate in decisions regarding H. Sheffield's health care.

Plaintiff H. Sheffield's Second August 2013 Visit

160. On August 21, 2013, H. Sheffield returned to the Hospital's emergency room.

161. Medical records indicate the cause of H. Sheffield's August 21, 2013 emergency room visit was due to Plaintiff E. Sheffield giving him the wrong medication.

162. Medical records indicate Plaintiff E. Sheffield gave H. Sheffield the wrong medication due to confusion about the discharge instructions from H. Sheffield's First August 2013 Hospitalization.

163. After returning to the Hospital's emergency room on August 21, 2013, H. Sheffield remained at the Hospital until he was discharged on August 24, 2013 (hereinafter, "Second August 2013 Hospitalization").

164. During the Second August 2013 Hospitalization, the Hospital continued to fail to consistently provide Interpreters for H. Sheffield.

165. During the Second August 2013 Hospitalization, Hospital continued to fail to consistently provide Interpreters for Plaintiff E. Sheffield.

166. On August 22, 2013 Hospital provided H. Sheffield with an Interpreter for less than two hours.

167. For the rest of the day on August 22, 2013 Hospital health care providers attempted to communicate with H. Sheffield through written notes.

168. On August 22, 2013 Hospital provided Plaintiff E. Sheffield with an Interpreter for less than two hours.

169. For the rest of the day on August 22, 2013, Hospital health care providers attempted to communicate with Plaintiff E. Sheffield through written notes.

170. In the absence of an Interpreter during the Second August 2013 Hospitalization, H. Sheffield was confused by the failed attempts of Hospital health care providers to communicate with him regarding his health care and did not understand what they were trying to communicate.

171. In the absence of an Interpreter during the Second August 2013 Hospitalization, H. Sheffield was not able to ask questions or express himself regarding his health care.

172. In the absence of an Interpreter during the Second August 2013 Hospitalization, Plaintiff E. Sheffield was confused by the failed attempts of Hospital health care providers to communicate with her regarding H. Sheffield's health care and did not understand what they were trying to communicate.

173. In the absence of an Interpreter during the Second August 2013 Hospitalization, Plaintiff E. Sheffield was not able to ask questions or express herself regarding H. Sheffield's health care.

174. During the Second August 2013 Hospitalization, Plaintiff Wattenbarger repeatedly contacted Hospital health care providers to request an Interpreter for H. Sheffield in an attempt to ensure he received effective communication.

175. During the Second August 2013 Hospitalization, Plaintiff Wattenbarger repeatedly contacted Hospital health care providers to request an Interpreter for Plaintiff E. Sheffield in an attempt to ensure she received effective communication.

176. The stressful and burdensome nature of this role restricted Plaintiff Wattenbarger's ability to assist with health care decisions and provide emotional support for H. Sheffield during the Second August 2013 Hospitalization.

177. The stressful and burdensome nature of this role restricted Plaintiff Wattenbarger's ability to assist with health care decisions and provide emotional support for Plaintiff E. Sheffield during the Second August 2013 Hospitalization.

178. The failure of the Hospital to consistently and promptly provide an Interpreter during the Second August 2013 Hospitalization interfered with the ability of Plaintiff E. Sheffield and Plaintiff Wattenbarger to participate in decisions regarding H. Sheffield's health care.

179. Shortly after this third hospitalization, H. Sheffield died on September 2, 2013.

Plaintiff E. Sheffield's February 2014 Hospitalization

180. On February 26, 2014 Plaintiff E. Sheffield was involved in an automobile accident and was taken to the Hospital's emergency room.

181. After being taken to the Hospital's emergency room on February 26, 2014 Plaintiff E. Sheffield remained at the Hospital until she was discharged on March 1, 2014 (hereinafter, "February 2014 Hospitalization").

182. Plaintiff Wattenbarger repeatedly contacted Hospital health care providers during the February 2014 Hospitalization to request an Interpreter for Plaintiff E. Sheffield in an attempt to ensure she received effective communication.

183. Even with Plaintiff Wattenbarger's efforts, Hospital failed to consistently provide an Interpreter during the February 2014 Hospitalization.

184. On or about February 27, 2014 Plaintiff E. Sheffield had an MRI at the Hospital.

185. On or about February 27, 2014 Hospital failed to provide an Interpreter for Plaintiff E. Sheffield during her MRI.

186. On or about February 27, 2014 Hospital failed to provide an Interpreter for Plaintiff E. Sheffield immediately prior to her MRI.

187. On approximately February 27, 2014 Hospital failed to provide an Interpreter for Plaintiff E. Sheffield immediately after her MRI.

188. Due to the lack of effective communication before, during, and after her MRI, Plaintiff E. Sheffield did not know what was being done to her and was scared.

189. On or about February 28, 2014 Hospital failed to provide an Interpreter for Plaintiff E. Sheffield when she was seen by a Hospital cardiology team.

190. On or about February 28, 2014 the Hospital used Plaintiff Frisbee to attempt to communicate between Plaintiff E. Sheffield and the Hospital cardiology team.

191. On or about February 28, 2014 Plaintiff Wattenbarger arrived when Plaintiff Frisbee was attempting to assist with communication between the cardiology team and Plaintiff E. Sheffield.

192. On or about February 28, 2014 Plaintiff Wattenbarger requested the Hospital provide an Interpreter so Plaintiff E. Sheffield could have effective communication with the cardiology team.

193. On or about February 28, 2014 following Plaintiff Wattenbarger's request for an Interpreter for Plaintiff E. Sheffield, Hospital health care providers retrieved a VRI that they subsequently could not get to function properly.

194. On or about February 28, 2014 due to the Hospital's failure to provide an Interpreter, Plaintiff E. Sheffield was confused and had difficulty understanding the cardiology team.

195. In the absence of an Interpreter during the February 2014 Hospitalization, Plaintiff E. Sheffield was confused by the efforts of Hospital health care providers to communicate with her regarding her health care and did not understand what they were trying to communicate.

196. In the absence of an Interpreter during the February 2014 Hospitalization, Plaintiff E. Sheffield was not able to ask questions or express herself regarding her health care.

197. Throughout all three of H. Sheffield's 2013 hospitalizations and Plaintiff E. Sheffield's 2014 hospitalization, Hospital failed to provide effective communication.

198. Hospital's failure to provide effective communication is the result of discriminatory policies, practices, conduct, and procedures.

199. Hospital's discriminatory policies, practices, conduct, and procedures include but are not limited to the failure to provide sign language interpreters, failure to provide working VRI, and reliance on hearing family members to communicate with patients and companions who are deaf.

200. Because of their association with H. Sheffield and Plaintiff E. Sheffield and solely due to the disabilities of H. Sheffield and Plaintiff E. Sheffield, the Hospital treated Plaintiffs Wattenbarger, Nolan, and Frisbee differently than the family members of other patients.

201. The Hospital is the closest hospital facility to Plaintiff E. Sheffield's residence.

202. The Hospital is the tri-state region's only Level One Trauma Center which provides trauma care for adults.

203. In the event Plaintiff E. Sheffield experiences an emergency health problem, Plaintiff E. Sheffield is at risk of being transported to the Hospital by an ambulance service without regard as to whether Hospital has taken steps to ensure the provision of an Interpreter whenever necessary for effective communication.

CAUSES OF ACTION

204. Plaintiffs repeat the allegations of paragraphs 1 through 203 as fully set forth herein.

205. At all times relevant to the facts of this Complaint, the Hospital and/or its health care providers were acting as agents of Defendant.

206. Defendant, through Hospital's conduct as described above, discriminated against H. Sheffield and all Plaintiffs solely by reason of Plaintiff E. Sheffield's and H. Sheffield's disabilities.

207. Defendant, through Hospital's policies, practices, and procedures as described above, discriminated against H. Sheffield and all Plaintiffs solely by reason of Plaintiff E. Sheffield's and H. Sheffield's disabilities.

208. The Hospital's discriminatory conduct against H. Sheffield and Plaintiffs as described above was intentional and committed with reckless disregard of and with deliberate indifference to H. Sheffield's and Plaintiffs' rights.

209. Due to the discriminatory policies, practices, procedures and conduct of the Hospital as described above while acting as Defendant's agent, H. Sheffield suffered irreparable loss and injury, including but not limited to emotional distress, stigma, exclusion from full participation in the benefits and services provided by Defendant, and receipt of benefits that are not equal to or as equally effective as the benefits provided by Defendant to persons without disabilities.

210. Due to the discriminatory policies, practices, procedures, and conduct of the Hospital as described above while acting as Defendant's agent, Plaintiffs have suffered and continue to suffer irreparable loss and injury, including but not limited to emotional distress, stigma, exclusion from full participation in the benefits and services provided by Defendant, and receipt of benefits that are not equal to or as equally effective as the benefits provided by Defendant to persons without disabilities.

211. Due to the discriminatory policies, practices, procedures, and conduct of the Hospital as described above while acting as Defendant's agent, H. Sheffield was prevented from understanding information about his health, participating in decisions about his health care, and benefitting from Plaintiffs' companionship, support, and assistance with health care decisions.

212. Due to the discriminatory policies, practices, procedures, and conduct of the Hospital as described above while acting as Defendant's agent, Plaintiff E. Sheffield was prevented from understanding information about her health and H. Sheffield's health, participating in decisions about her health care and H. Sheffield's health care, and benefitting from Plaintiff Wattenbarger, Nolan and Frisbee's companionship, support, and assistance with health care decisions for her and H. Sheffield.

213. Due to the discriminatory policies, practices, procedures, and conduct of the Hospital as described above while acting as Defendant's agent, Plaintiff Wattenbarger, Nolan and Frisbee were prevented from providing companionship, support, and assistance with health care decisions to H. Sheffield and Plaintiff E. Sheffield.

214. Due to discriminatory policies, practices, procedures, and conduct of the Hospital as described above while acting as Defendant's agent, Plaintiff Wattenbarger, Nolan and Frisbee were prevented from engaging in intimate interactions with H. Sheffield and Plaintiff E.

Sheffield during the last months of H. Sheffield's life and during Plaintiff E. Sheffield's hospitalization due to a serious car accident.

215. Due to discriminatory policies, practices, procedures, and conduct of the Hospital as described above while acting as Defendant's agent, Plaintiffs Wattenbarger, Nolan and Frisbee were prevented from benefitting from the services and support the Hospital provides to family members of patients.

216. Section 504 provides "no otherwise qualified individual with a disability in the United States ... shall, solely by reason of her or his disability, be ... subjected to discrimination under any program or activity receiving Federal financial assistance." 29 U.S.C. § 794(a).

217. 45 C.F.R. § 84.52(a) specifies "[i]n providing health ... services or benefits, a recipient may not, on the basis of [a disability] ... (2) [a]fford a qualified [person with a disability] an opportunity to receive benefits or services that is not equal to that offered [persons without disabilities]; (3) [p]rovide a qualified person with a disability with benefits and services that are not as effective ... as the benefits or services provided to others."¹

218. Under Section 504, a qualified individual with a disability is any person who "has a physical or mental impairment which substantially limits one or more of such person's major life activities." 29 U.S.C. § 794; 29 U.S.C. § 705(20) (B).

219. Plaintiff E. Sheffield is a qualified individual with a disability and protected person under Section 504 and implementing regulation 45 C.F.R. § 84.52.

220. H. Sheffield was a qualified individual with a disability and protected person under Section 504 and implementing regulation 45 C.F.R. § 84.52.

¹ Substituted references to "disability" for references to "handicap" for purposes of consistency with the language of the Americans with Disabilities Act as amended.

221. Section 504 provides “the term ‘program or activity’ means all operations of— ... (3)(A) an entire corporation ... (ii) which is principally engaged in the business of providing ... health care.” 29 U.S.C. § 794(b).

222. Defendant’s health services are programs and benefits receiving federal financial assistance.

223. Defendant is an entity subject to the non-discrimination requirements of Section 504 and implementing regulation 45 C.F.R. § 84.52.

Count I: Violation of Section 504 and implementing regulation 45 C.F.R. § 84.52 by discriminating against Plaintiffs

224. Plaintiffs allege and incorporate by reference each and every allegation contained in paragraphs 1 through 223 above.

225. Section 504 provides “no otherwise qualified individual with a disability in the United States ... shall, solely by reason of her or his disability, be ... subjected to discrimination under any program or activity receiving Federal financial assistance.” 29 U.S.C. § 794(a).

226. 45 C.F.R. § 84.52(a) specifies “[i]n providing health ... services or benefits, a recipient may not, on the basis of [a disability] ... (2) [a]fford a qualified [person with a disability] an opportunity to receive benefits or services that is not equal to that offered [persons without disabilities]; (3) [p]rovide a qualified person with a disability with benefits and services that are not as effective ... as the benefits or services provided to others.”²

227. 45 C.F.R. § 84.4(b)(2) states that “ benefits, and services ... must afford [persons with disabilities] equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement, in the most integrated setting appropriate to the person's needs.”

² Substituted references to “disability” for references to “handicap” for purposes of consistency with the language of the Americans with Disabilities Act as amended.

228. At all times H. Sheffield and Plaintiff E. Sheffield sought and received health care at the Hospital, H. Sheffield and all Plaintiffs had a right to participate in H. Sheffield and Plaintiff E. Sheffield's health care and effectively communicate about H. Sheffield and Plaintiff E. Sheffield's medical treatment by, among other things, receiving explanations of risks, benefits, and alternatives for each procedure; receiving instructions for each procedure; providing informed consent for each procedure; expressing any concerns or questions regarding each procedure; and having an opportunity to resolve any complications or concerns arising from each procedure.

229. Because H. Sheffield and Plaintiff E. Sheffield's first language is American Sign Language, not written or spoken English, and the communications in a medical setting are particularly complex, Plaintiff E. Sheffield and H. Sheffield required the services of an Interpreter to effectively communicate with physicians and other health care providers regarding their health care at all times relevant to the facts of this Complaint.

230. Because Hospital only provided Plaintiff E. Sheffield and H. Sheffield with inconsistent and limited access to an Interpreter as discussed above, they did not receive effective communication for each procedure performed on them and could not effectively receive explanations of the risks, benefits, and alternatives to each procedure; effectively receive instructions for each procedure; provide informed consent for each procedure; express concerns or questions regarding each procedure; or have the opportunity to resolve concerns arising from each procedure.

231. Because the Hospital failed to provide Plaintiff E. Sheffield with effective communication as discussed above, the Hospital prevented Plaintiff E. Sheffield from participating in H. Sheffield's health and health care as his wife and companion and from assisting H. Sheffield with health care decisions.

232. Hospital health care providers repeatedly requested or relied upon Plaintiffs Nolan Frisbee, and Wattenbarger to serve as sign language interpreters or otherwise attempt to facilitate communications between H. Sheffield, Plaintiff E. Sheffield and the Hospital by relying upon or requesting them to undertake that role, Hospital placed them in stressful environments where they were required to attempt to interpret complex, lengthy, and important medical information for loved ones. In so doing, Defendant denied Plaintiffs Nolan, Frisbee, and Wattenbarger the full and equal opportunity to provide emotional support for H. Sheffield and Plaintiff E. Sheffield, to assist H. Sheffield and Plaintiff E. Sheffield with health care decisions and to have Hospital personnel communicate difficult or complex issues directly to the patient. In addition, Defendant denied Plaintiffs Nolan, Frisbee, and Wattenbarger the full and equal opportunity to participate in the hospital's programs and services as family members and/or companions of Plaintiff E. Sheffield and H. Sheffield.

233. Hospital health care providers repeatedly requested or relied upon Plaintiffs Nolan, Frisbee, and Wattenbarger to serve as sign language interpreters for the H. Sheffield and Plaintiff E. Sheffield by relying upon or requesting them to undertake that role. Hospital placed them in stressful environments where they were required to attempt to interpret complex, lengthy, and important medical information for loved ones. In so doing, Defendant denied H. Sheffield and Plaintiff E. Sheffield the full and equal opportunity to receive emotional support from Plaintiffs Nolan, Frisbee, and Wattenbarger and to have Hospital personnel communicate difficult or complex issues directly to H. Sheffield and Plaintiff E. Sheffield.

234. By limiting Plaintiff E. Sheffield's and H. Sheffield's participation in their own health care and limiting Plaintiff E. Sheffield's participation in H. Sheffield's health care, Defendant discriminated against them and subjected them to services and benefits that were not

equal to or as effective as the services and benefits Defendant provides at the Hospital to persons without hearing disabilities.

235. By limiting Plaintiffs Nolan, Frisbee, and Wattenbarger's participation in the health care decisions for H. Sheffield and Plaintiff E. Sheffield and by requiring Plaintiffs Nolan, Frisbee, and Wattenbarger to attempt to serve as interpreters for H. Sheffield and Plaintiff E. Sheffield, Defendant discriminated against these Plaintiffs and subjected them to services and benefits that were not equal to or as effective as the services and benefits Defendant provides at the Hospital to family members of patients without hearing disabilities.

236. Defendant's discriminatory conduct against H. Sheffield and Plaintiffs was intentional and committed with reckless disregard of and with deliberate indifference to their rights.

Count II: Violation of Section 504 and implementing regulation 45 C.F.R. § 84.52 by failure to provide appropriate auxiliary aids to Deaf Plaintiffs

237. Plaintiffs allege and incorporate by reference each and every allegation contained in paragraphs 1 through 236 above.

238. Implementing regulation 45 C.F.R. § 84.52(d) mandates that a recipient of Federal financial assistance employing fifteen persons or more "shall provide appropriate auxiliary aids to persons with impaired sensory, manual, or speaking skills, where necessary to afford such persons an equal opportunity to benefit from the service...."

239. Defendant employs more than 15 persons.

240. Because H. Sheffield's and Plaintiff E. Sheffield's first language is sign language, not written or spoken English and the communications in a medical setting are particularly complex, Plaintiff E. Sheffield and H. Sheffield did not and could not effectively communicate with Hospital health care providers through the exchange of written notes.

241. Because Plaintiff E. Sheffield and H. Sheffield could not effectively communicate through the exchange of written notes, they required the services of an Interpreter to effectively communicate with physicians and other health care providers.

242. Defendant's discriminatory conduct against H. Sheffield and Plaintiffs was intentional and committed with reckless disregard of and with deliberate indifference to their rights.

REQUEST FOR RELIEF

Wherefore, Plaintiffs request that this Court:

1. Declare the actions of Defendant pled herein to be in violation of Section 504 and its implementing regulations.

2. Order Defendant, its members, partners, agents, employees, successors, and transferees to cease discriminating against Plaintiffs and all similarly situated persons solely by reason of disability in the provision of health care services.

3. Permanently enjoin Defendant, its agents, employees, successors, and transferees from discriminating on the basis of disability against any person with a disability or any person associated with a person with a disability in violation of Section 504 and its implementing regulation.

4. Order Defendant to confer with Plaintiffs' counsel to develop a new nondiscrimination policy and detailed procedure for ensuring effective communication with people with disabilities and to obtain approval of Plaintiffs' counsel prior to implementing such policy and procedure.

5. Award Plaintiffs compensatory damages in an amount sufficient to compensate Plaintiffs for Plaintiffs' injuries, including but not limited to emotional distress, stigma, and violation of Plaintiffs' civil rights, as a result of Defendant's discriminatory policy and practice.

6. Award Plaintiff E. Sheffield compensatory damages in an amount sufficient to compensate her for H. Sheffield's injuries, including but not limited to emotional distress, stigma, and violation of H. Sheffield's civil rights, as a result of Defendant's discriminatory policy and practice.

7. Award Plaintiffs all fees and costs of this lawsuit, including litigation expenses, out-of-pocket expenses, and reasonable attorneys' fees in accordance with all applicable provisions of law, including but not limited to the provisions of 29 U.S.C § 794A(b).

8. Order Defendant to timely provide for all existing and newly hired Hospital health care providers mandatory training on Section 504 compliance including but not limited to requirements and procedures for use of Interpreters and disability sensitivity including information about deaf culture.

9. Order Defendant to provide to attorneys for Plaintiffs an annual written report confirming receipt of the training referenced above by all Hospital health care providers at all facilities operated by Defendant in Tennessee. This report should be provided for a period of five years from the date of this Order with the first report provided no later than one year of the date of this Order.

10. Order Defendant to provide to attorneys for Plaintiffs an annual written report listing the number of patients and companions who were offered an Interpreter and the number of patients and companions who were provided an Interpreter at all Defendant's facilities in Tennessee. This report should be provided for a period of five years from the date of this Order

with the first report provided no later than one year of the date of this Order.

11. Order Defendant to pay reasonable attorneys' fees to Plaintiffs' attorneys for future monitoring of compliance with remedies listed herein.

12. Order such other and further relief as the Court may deem just and proper.

Dated: July 21, 2014

Respectfully Submitted,

/s/ Sherry A. Wilds

Sherry A. Wilds (BPR #021756)

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