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Judge rules Franklin Institute violated ADA

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The **Franklin Institute** violated the Americans with Disabilities Act multiple times over several years when it required a visitor, a quadriplegic man, to pay for his personal care attendant to enter the museum and accompany him to special exhibits and movies in its IMAX Theater, according to a judge's ruling issued Friday.

Michael Anderson is a 35-year-old man who "requires a personal care attendant ('PCA') twenty-four hours a day, seven days a week, to assist with eating, dressing, toileting, bathing, manual dexterity, safety, and physical mobility, including transfer to and from bed and wheelchair direction, among other activities."

In a civil suit filed in the U.S. District Court for the Eastern District of Pennsylvania, Anderson said the Franklin Institute, the city's beloved interactive science museum, required him to have a dual membership – which is \$25 more than a single membership – in 2013 and 2014 to cover the cost of general admission for himself and his PCA, and expected payment for the PCA to enter the IMAX Theater or any special exhibits with Anderson.

U.S. District Court Judge Gerald Austin McHugh ruled in favor of Anderson and



K. CIAPPA FOR VISIT PHILADELPHIA

The Franklin Institute

his co-plaintiff, nonprofit Vision for Equality, saying the Franklin must halt its "discriminatory practices and [is] ordered to adopt a clear and enforceable policy and practice of waiving any and all admission fees for paid Personal Care Attendants accompanying severely disabled clients in a formal capacity..."

The museum, however, isn't ready to accept the judge's decision, according to a statement.

"We strongly disagree with the decision of the District Court, and will explore all of our options. Since the start of this unprecedented case, the Institute made numerous attempts to resolve this matter with the Plaintiffs. We are committed to continuing to serve the disabled community as we always have."

The Franklin also said it "is proud of its long history of serving the disabled community, and we have done so with respect through access programs, and far-reaching education and outreach initiatives."

Anderson's claims first surfaced in summer 2013 when he and his family contacted the museum about the admission policy for PCAs.

His mother, Susan Tachau, explained her son has "very little control over his body" and "requires readjustment in his wheelchair about two times every hour. If his head falls to one-side, the personal attendants must straighten his head," and they help him "go to the bathroom, prepare his foods, feed him, help him direct his wheelchair all aspects of all activities of daily living," court documents show.

In a letter to Anderson in July 2013, the Franklin's director of membership and group sales said its "policy regarding medical assistants accompanying guests to The Franklin Institute is in full compliance with the law" and "all ticketed upgrades such as special exhibitions and theater shows remain subject to additional fees for both parties," court records show.

But Anderson says 17 months after receiving this letter, Franklin staff members remained confused about the policy, telling him in December 2014 that his PCA could enter for free during that visit, but they would be charged a child's general admission for his attendant next time.

Other parties associated with nonprofit Vision for Equality also presented the judge with further evidence that the museum staffers expected their PCAs to pay for their admission.

The lawsuit also points out it was Anderson's dual membership, not a policy regarding ADA, that allowed his PCA to enter free of charge.

At one point, the Franklin said by allowing the PCAs to have full access to the museum at no charge would "have severe economic consequences, going so far as to suggest that such a policy could expose FI as a nonprofit institution to running at a deficit, causing ineligibility for certain grants and charitable donations," the judge wrote in his decision, before calling the reasoning illogical.

"Not only is free admission of the PCA revenue neutral, because such persons would otherwise not be visitors, but failure to admit them for free might result in the loss of revenue from the disabled. Unless free admission of a PCA displaces a paying customer, and it does not, the economic impact is negligible to non-existent," wrote McHugh.

The museum proposed allowing free admission for PCAs to IMAX and special exhibits, which have limited ticketing, when below 85 percent capacity 15 minutes before start time, court documents show. The PCAs may sit in folding chairs, which are not normally sold to other patrons, alongside the area designated for wheelchairs.

But the judge called this suggestion discriminatory.

"Severely disabled patrons would be forced to wait until 15 minutes prior to show time to learn if they could be admitted to limited capacity events, while able-bodied patrons could purchase their tickets in advance and plan their time accordingly," McHugh said. "Even more compelling, it is nonsensical to establish an admission policy correlating to the percentage of seats sold when PCAs do not even sit in fixed seats in the IMAX Theater."

McHugh also noted some of the Franklin's charitable work includes giving away tickets to groups and individuals.

"I remain frankly puzzled by FI's determination to resist Plaintiffs' manifestly reasonable request for modification under the ADA....," wrote McHugh, who added that the ADA often requires costly changes to infrastructure like putting in ramps.

"These modifications result in real costs. If the ADA can require such affirmative expenditures, then certainly it can require an entity simply to forgo charging a fee," he continued.

Anderson, who visited the Franklin often as a child and about 3 times a year as an adult, hasn't returned since his December 2014 visit.

Alison Burdo

Digital Producer

Philadelphia Business Journal

