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SHE WINS \$1.3M LIBEL SUIT

BY HELEN PETERSON

NEW YORK DAILY NEWS Friday, June 8, 2001, 12:00 AM

A Manhattan jury awarded \$1.

34 million to a Harlem woman who sued the Nation of Islam's weekly newspaper for publishing a picture that was altered to show her wearing prison stripes. The doctored photo of Tatia Morsette, 33, was used to illustrate a June 3, 1997, article in The Final Call, headlined "Mothers in Prison, Children in Crisis.

" Morsette has never been jailed. The photo was altered to show Morsette wearing a prison jumpsuit, with stripes and an inmate number. She sued the paper for libel and was awarded \$640,000 in compensatory damages for loss of reputation and pain and suffering, and \$700,000 in punitive damages. Morsette testified that she suffered the humiliation of being asked: "When did you get out [of prison]?"

" said her lawyers, Alan Rich and Barea Hassett. Lawyers for the newspaper said they will appeal.

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SUPPER CLUB'S GAY-BIAS TAB: \$10M

By [Dareh Gregorian](#)

June 23, 2000 4:00am

A gay man who said he was terrorized and then fired by his bosses at a hip Midtown club because of his sexual orientation was awarded more than \$10million in damages by a Manhattan jury yesterday.

Steven Minichiello, 42, broke down in tears when the seven-person jury found he'd been subjected "to a hostile work environment" while working as a manager at the Supper Club from 1994 to 1995 and gave him the multimillion dollar award for past and present suffering.

"I'm just glad the nightmare is over. This took five years of my life," Minichiello, who now works at the Copacabana, said afterward. "It's not even money – it's being proven to be right. I just thank [the jury] for believing me."

Minichiello said that he was abused and humiliated when new ownership took over the club in 1994, constantly being bombarded with anti-gay slurs. On one occasion, he charged, three of his bosses pinned him to a desk and threatened to cut off his pony tail to make him "more of a man."

The club maintains he was never discriminated against and that his dismissal had nothing to do with his sexual orientation. The club's lawyer refused comment on the verdict.

The jury will continue deliberations today over punitive damages against the club.

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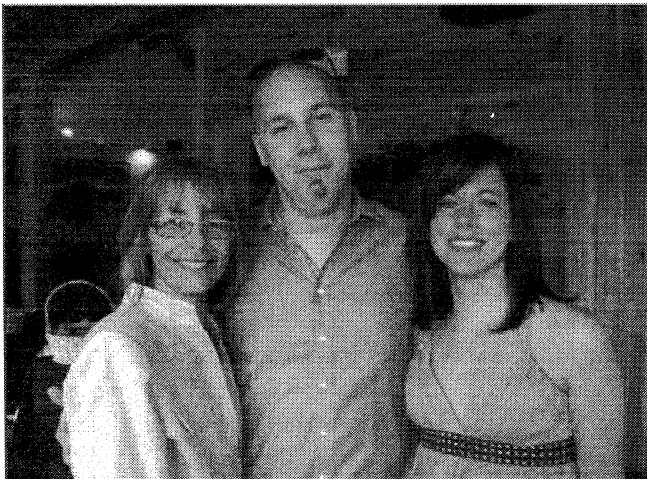
Important Note About Case Below:

After the case below was reinstated by the appellate court, the case was settled for between the parties for an amount which defendant hospital refused to be specifically stated publicly. It did agree that the settlement amount could be described in general terms as in **"the low 7 figures" which means somewhere on the lower end of between \$1 million and \$9,999,999.99. Fairly stated, it was an amount we cannot specify but was between \$1 million and \$5 million dollars.** The landmark appellate decision changed the status of the law. That decision, *Loeffler v. Staten Island University Hosp.*, 582 F. 3d 268 - Court of Appeals, 2nd Circuit 2009, can be read on-line at <https://casetext.com/case/loeffler-v-staten-island-univ-hosp> It has been cited over 700 times in other court decisions and widely written about in law journals and elsewhere. It remains the leading appellate case to date on the rights of deaf hospital patients and their families.

After 14 years, former Graniteville man's lawsuit against SIUH coming to trial

By **Frank Donnelly** | fdonnelly@siadvance.com[Email the author](#) | [Follow on Twitter](#)

on October 16, 2009 at 10:45 AM, updated October 16, 2009 at 10:50 AM

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Loeffler's children, Josephine Loeffler, left, Robert C. "Bobby" Loeffler and Kristy Steiner.

STATEN ISLAND, N.Y. -- It's been 14 years since a former Graniteville resident's family filed a lawsuit against Staten Island University Hospital for failing for almost two weeks to get a sign-language interpreter for Robert A. Loeffler, a deaf patient undergoing heart surgery.

And, nine years after Loeffler's death, the \$10 million suit still remains in limbo.

Now, the case will finally move forward after a federal appellate court recently restored it to the calendar for trial. No date has been set.

The U.S. Court of Appeals for the Second Circuit ruled a jury should determine whether SIUH acted with "deliberate indifference" when it failed for almost two weeks to get a sign-language interpreter for Robert A. Loeffler, a deaf patient undergoing heart surgery. The delay forced Loeffler's two teenaged children to translate complicated medical terms to him under extremely stressful conditions, the family contends.

The Oct. 6 decision vacates a 2007 ruling in Brooklyn federal court that had dismissed the claims of former Graniteville residents Josephine Loeffler and her children, Robert C. (Bobby) Loeffler and Kristy Steiner. Josephine Loeffler was Robert A. Loeffler's wife and is in charge of his estate.

Read Frank Donnelly's story in today's Advance.

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The New York Times**Health****Deaf Woman Wins Suit Against Two Hospitals**

Published: August 22, 1997

An elderly deaf woman has won a \$250,000 judgment against two Long Island hospitals that failed to provide her with a sign-language interpreter while she was hospitalized for bypass surgery and rehabilitation.

After a seven-day trial, a federal jury in Hauppauge, N.Y., awarded Susan Lamonica, 74, of Shirley, N.Y., \$125,000 in compensatory damages from North Shore University Hospital in Manhasset, N.Y., and the same amount from Southside Hospital in Bay Shore, N.Y.

Yesterday, both hospitals said they were considering an appeal.

Joel Ziev, former director of the New York Society for the Deaf and a consultant on issues affecting deaf people, said the jury award "really puts hospitals on notice."

"I think the hospital did an excellent job with her -- medically," said Mr. Ziev, who was familiar with Mrs. Lamonica's case. "But on the issue of communication, the jury disagreed with the hospital's position regarding her ability to understand and participate in the process."

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- SCI-TECH
- TRAVEL
- STYLE
- SHOWBIZ
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- CONTENTS
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Jury award tells hospitals to accommodate the deaf

August 26, 1997

Web posted at: 11:00 p.m. EDT (0300 GMT)



"Nobody talked to me, nobody" (CNN)

From Correspondent Christine Negroni

There was nothing wrong with the medical care Susan Lamonica received when she was hospitalized several times in 1994. But the 74-year-old deaf woman says something was very wrong in the way she was treated.

"Terrible," she said aloud, signing at the same time. "Nobody talked to me. Nobody."

A federal jury agreed last week, and ordered two Long Island hospitals to pay Lamonica \$250,000 under the Americans with Disabilities Act for failing to accommodate her disability.

The hospitals did not provide a sign language interpreter or other means of communication for Lamonica, which left her cut off. "She would ring the call bell, and the nurse would respond on the intercom by saying, 'may I help you?'," said [Alan Rich](#), Lamonica's



attorney. "Obviously, my client couldn't respond to that."

In a statement, hospital officials said that Lamonica didn't request an interpreter until near the end of her final stay.

Title III of the Americans with Disabilities Act has regulated public accommodations, including hospitals. The act requires that hospitals ensure communication for hearing-impaired patients. The U.S. Justice Department is currently investigating more than a dozen complaints about the issue.



Providing a sign language interpreter around the clock is a difficult and expensive option; written conversations on paper

or on computer terminals are other options, and all may be acceptable under the law.

"Determining what's effective communication in any particular situation is really a case-by-case determination," said the Justice Department's [John Wodatch](#).

That's too vague, said lawyer Carla Walsworth. "If there's a case-by-case approach, there's always a risk you're going to get it wrong," Walsworth said. With Lamonica and her \$250,000 jury verdict fresh in their minds, hospital officials want to guess right the first time.

Related sites:

Note: Pages will open in a new browser window

- [ADA Access](#)
- [DeafWeb](#)

External sites are not endorsed by CNN Interactive.

April 17, 1999

Judge Finds Bias at Hospital In Dealings With Deaf Man

By **BARBARA STEWART**

Mount Sinai Medical Center illegally discriminated against the deaf husband of a pregnant woman by refusing to provide a sign language interpreter while the couple were attending Lamaze classes, a Federal judge has ruled.

As a result of the hospital's refusal, Jeffrey Bravin, a teacher at the Lexington School for the Deaf in Manhattan, was unable to learn the Lamaze method of assisting a woman giving birth, Judge Robert W. Sweet of Federal District Court in Manhattan said in his opinion on Wednesday. Mr. Bravin's wife, Naomi, needed a birthing partner to take part in the classes and to learn the techniques being taught, the judge wrote.

The hospital did not provide interpreters during the birth or the week after, when the Bravins' newborn son, Ethan Raymond, was being treated for low blood sugar in Mount Sinai's neonatal intensive care unit.

"The essence of Lamaze is team effort," said Alan J. Rich, the lawyer for the Bravins, who now live in South Hempstead, N.Y., but were living in New York City in 1997, when Mrs. Bravin was pregnant.

The birth, Mr. Rich said, was like a "Marx Brothers movie," with Mrs. Bravin "trying to interpret between contractions," to explain what Mr. Bravin was supposed to be doing.

Early in 1997, when the Bravins first requested an interpreter for the Lamaze classes, the hospital turned them down, according to court papers. Mr. Bravin obtained a letter from the United States Department of Health and Human Services stating that they had a legal right to an interpreter, but the hospital disagreed, saying that Mrs. Bravin, who can hear, was the patient, not her husband, court papers said.

Laura Alfredo, one of Mount Sinai's lawyers, said she had not yet seen the decision and would not comment.

The judge said that the hospital violated state and Federal laws requiring accommodations for the disabled, but rejected the class-action claim of the Bravins and the Civic Association of the Deaf of New York City, a watchdog group on the legal rights of the deaf.

Though the lawsuit focuses on the Lamaze classes, the Bravins were more upset when the hospital refused to provide an interpreter during the birth and the week that their baby was in the neonatal intensive care unit.

"My wife is hearing, but she has been so upset at what has been happening to our baby that she cannot interpret," Mr. Bravin wrote in an affidavit on Sept. 19, attempting to obtain a court order to force the hospital to provide an interpreter. "She has been crying. I want to speak directly with those in charge of my baby's case."

"I am, naturally, like any other parent, concerned about the well being of my baby, but especially here, my baby is in an intensive care unit," Mr. Bravin said.

The judge, after ruling in favor of the Bravins, scheduled the decision on the amount of damages for next month.

N.Y. / REGION

Ex-Hosts to Sue QVC Network, Charging Bias

By DAVID ROHDE DEC. 30, 1998

Two former hosts of the nation's largest television home shopping network are expected to file a \$100 million class action lawsuit today in Manhattan Federal court, accusing the network of discriminating against its black and Hispanic hosts.

Victor Velez and Gwen Owens, two former hosts of the QVC network, say in their lawsuit that the network relegates its black and Hispanic hosts to late-night programs that have fewer viewers, and therefore lower sales. The lawsuit says that QVC has never featured a black or Hispanic salesman or woman as the permanent host of one of its lucrative daytime or prime-time programs in the network's 12-year history.

"It's more than just a glass ceiling," Mr. Velez said, referring to the inability of minority members to become prime-time hosts. "It's concrete. You can't penetrate it at all."

Ellen Rubin, a spokeswoman for QVC, said yesterday that she would not comment on the specific allegations of the lawsuit. But she called the suit's central

charge an "erroneous statement," saying that black and Hispanic hosts do appear on QVC during the day and prime time.

"One of our hosts, who is an African-American, just hosted a two-hour, prime-time special on Harley Davidsons which was a huge, huge hit," Ms. Rubin said.

The lawsuit offers a rare, behind-the-scenes glimpse of the lucrative home shopping networks. QVC, which is based in West Chester, Pa., near Philadelphia, is the nation's largest network, followed by the Home Shopping Network in St. Petersburg, Fla., and the Minneapolis-based Valuevision. QVC earned over \$2 billion in sales in 1997, according to the company's Web site.

Ms. Rubin said that hosts are paid a fixed salary no matter how much they sell. But Mr. Velez, a 34-year-old from Astoria, Queens, who is now pursuing an acting career, said yesterday that hosts are under pressure to sell. A host's salary is not formally based on sales commissions, he said, but contended that sales volumes affected raises, bonuses and contract renewals.

Mr. Velez said that as a late-night host, he earned \$80,000 a year. Some hosts working the prime-time periods earned over \$500,000, he said, because of their higher sales totals.

He said that he and other black or Hispanic hosts were occasionally offered prime-time specials -- such as the one Ms. Rubin cited -- as "bones" to keep them happy. But white hosts who "look like they came out of a Norman Rockwell painting" repeatedly leapfrogged over them onto the busier daytime and prime-time programs during his two-year stint at QVC, Mr. Velez said.

"Their idea of being politically correct is to do a Kwanzaa show at 2:30 in the morning when no one is watching," Mr. Velez said. "I repeatedly suggested that we do something for Hispanic Heritage month, but nothing happened."

Alan J. Rich, Ms. Owens' lawyer, said his client did not wish to be interviewed yesterday. He said that Ms. Owens, a native of Philadelphia and a former television news anchor, worked as a host for QVC for just under four years.

Mr. Velez's contract with QVC was not renewed in December 1997 and Ms. Owens' contract was not renewed this November.

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EX-HOSTS LASH OUT AT QVC SAY MINORITIES WERE TOLD TO 'LIGHTEN UP'

BY GREG B. SMITH

NEW YORK DAILY NEWS Friday, June 25, 1999, 12:00 AM

Four former hosts spoke out yesterday about their \$100 million lawsuit against QVC, charging TV's largest home-shopping channel with pervasive racial bias. Victor Velez said his moment of truth about how minorities are treated at QVC came when he was told he wasn't "relating to the public."

"Daliza Ramirez Crane claimed her moment of truth arrived when the channel told her to "lighten up" her image. "No other host was ever asked to do this, but I wanted to keep this job, the job of my dreams," said Crane, who got a New York cosmetics stylist to make her look "whiter" and stuck with QVC for five years. Yesterday Velez and Crane who were both fired from QVC struck back, stepping forth along with two black ex-QVC hosts, Clarence Reynolds and Gwen Owens, to publicize the \$100 million suit they filed against the hugely popular and profitable shopping channel. QVC boasts 40 million viewers and \$2 billion in sales. The four allege in the suit, filed in Federal Court in Brooklyn, that Pennsylvania-based QVC has never promoted minority hosts to lucrative prime-time or even daytime shifts, relegating them instead to the overnight, so-called graveyard, shift and sticking them with tough-to-sell products. QVC officials counter that the channel promotes solely on the merits of its staffers. They also challenge the contention that the overnight shift is less valuable air time, noting that some of QVC's most popular products debut at midnight. "QVC believes in equal opportunity in the work place and has a number of active programs to enhance the diversity of its work place, both on and off-air," QVC officials said in a statement released yesterday. "These allegations have absolutely no merit and QVC will defend itself vigorously against these baseless and unsubstantiated charges."

"At a press conference in the office of their lawyer, Alan Rich, Velez who was born in Brooklyn and reared in Queens said he has been pursuing an acting career since losing his QVC job in 1997. He said after two years of overnight shifts selling Elvis memorabilia and other difficult-to-move items, he was shocked when his bosses said, "We don't think you're relating to the public."

"He claimed QVC routinely passed over minority on-air hosts and chose white employees instead to host shows featuring Spanish and African goods. "I don't want a handout, I don't want special treatment," he said. "I just wanted the same opportunity as everyone else."

"Crane is now pursuing a doctorate in media studies after being fired from QVC in 1995, following five years of hosting during the overnight shift. Six months into her job in 1990, she said, she was upset when a TV exec offered advice about "lightening up" her look, but did what she had to do."

MITCH (BLOOD) GREEN TAKES ON MIKE TYSON IN 25M COURT FIGHT OVER '88 FISTICUFFS

BY BARBARA ROSS

NEW YORK DAILY NEWS Tuesday, September 30, 1997, 12:00 AM

Boxer Mike Tyson sucker-punched rival Mitch (Blood) Green, triggering their infamous 1988 street corner brawl, Green's lawyer charged yesterday. Tyson alternately scowled and yawned as attorney Alan Rich kicked off opening arguments in Green's \$25 million lawsuit against the former champ bringing a decade-long feud to courts, following bouts at Madison Square Garden and on 125th St. Green maintains the injuries he suffered in the brawl outside Dapper Dan's, a 24-hour leather store on 125th St., derailed his career. Rich, Green's attorney, told a Manhattan State Supreme Court jury that Tyson sucker-punched his client in the Harlem fight and "continued to brutalize him.

" Rich said his client approached Tyson who beat Green in a 1986 bout at Madison Square Garden seeking a rematch, because promoter Don King wouldn't return his phone calls. It was when Green told Tyson, "you didn't beat me, Don King beat me," that the fight ensued, with Tyson displaying "a fire and rage that only this man is capable of releasing," Rich said. Tyson's lawyer, Robert Hirth, said the then-champion fought back only when, after trying to walk away, Green grabbed and ripped his shirt. Much of the arguments centered on Green's charges that King would not let Tyson fight him again because they were "scared of me.

" King was expected to take the stand today. But without saying a word, Tyson who was indefinitely banned from boxing in June after biting Evander Holyfield during a championship bout was the main event yesterday. Court officers took turns peering into the packed courtroom for a look at Tyson, 31. The former champ, clad in a plaid suit, ducked reporters outside but obliged young fans seeking autographs. The 39-year-old Green, wearing matching purple pants and shirt and white sneakers, sat with his mother in court. He later mugged for cameras, shadow-boxing and declaring he was ready to take on Tyson again.

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[← Back to Original Article](#)

Deaf Lifeguard's Lawsuit Accuses YMCA of Bias in Revoking Certificate

Massachusetts: David Schultz says decision was made without observing him. Organization says it rewrote job requirements because of disabilities law.

February 25, 1996 | CHRISTOPHER B. DALY | WASHINGTON POST

BOSTON — Sandy-haired and square-jawed, 32-year-old David Schultz has spent much of his life in, on and around the water.

An accomplished competitive swimmer who sails, swims and dives for fun, Schultz also has made the water his career. He has been a lifeguard since 1979, holding advanced certifications from the Red Cross and the YMCA. He has handled several lifesaving rescues and has never lost a swimmer in his care. He even trains lifeguards.

David Schultz also is deaf, a fact that has brought him reluctantly to federal court here, where he has filed a \$20-million lawsuit against one of the nation's best-known institutions—the YMCA. He charges that the Y stripped him of his lifeguard certification just because he is deaf.

In a case of unintended consequences, much of the blame for Schultz's predicament arises from the Americans With Disabilities Act of 1990, a broadly drafted attempt to create opportunities for people like Schultz.

Although Schultz still works for the YMCA's Hockomock branch in North Attleboro in southeastern Massachusetts, he is angry that the national YMCA decertified him without taking the time to observe his abilities.

"They chose to prejudge my capabilities rather than fairly judge them. That is what prejudice is all about," Schultz said. "It has dehumanized me to have my ability to save lives as a lifeguard prejudged by people who have never met me. That is why I am taking this legal action."

At the Chicago headquarters of the national YMCA, officials say they are trying to ensure safety at the thousands of YMCA pools and camps nationwide.

"This is a situation where the Y had a choice to make between the safety of the people in its pools and the desire of an individual to be a lifeguard," said spokesman Steve Hockensmith. "The Y opted to stick with its rules to ensure the safety of those people in the pools. It's unfortunate that it has come to this."

The YMCA, which certified more than 13,000 lifeguards last year, rewrote its training manual in 1994 in response to the disabilities law, Hockensmith said.

"One of stipulations of [the act] is that for certain kinds of jobs, you have to be very specific about the kinds of abilities people have to have to carry out those jobs," the YMCA spokesman added.

In reviewing its lifeguard requirements, the YMCA stated that lifeguard candidates needed—among other things—to "hear noises and distress signals." That provision had never been required before.

But Schultz and many advocates for the hearing-impaired say deafness is not an impediment to safe lifeguarding. Indeed, they argue that deafness can be an asset.

Deaf lifeguards, because of their deafness, have developed a "visual alertness" that is usually greater than that of hearing people, Schultz said. He added that deaf lifeguards are not distracted by false cries for help or by people stopping by the lifeguard chair to chat, flirt, ask directions and the like.

He conceded that in some cases, deafness could be a problem for a lifeguard—for example, at an ocean beach where whistles or radios are used to coordinate rescues in the surf. Schultz can hear some sounds when using a hearing aid, but the aid cannot get wet, so he cannot wear it while on lifeguard duty.

Some legal observers believe that Schultz's case probably will hinge on how the federal court weighs the facts of his specific abilities and disabilities, as they relate to the practicalities of the task.

"There's certainly an arguable claim. The bottom line will be whether he can do the job safely," said Harvard Law School Prof. Elizabeth Bartholet, who teaches about employment discrimination. She said there is so little case law under the disabilities act that each court case helps define the law.

"I would say that under the law, there is a real push to individualize so that arguments like that can come out," Bartholet said. "But there is also deference to the principle that if the employer can show that safety is involved, it will win."

In many ways, Schultz is a model plaintiff.

Born in Illinois, he was reared in Minnesota, where his father is a vice president at Tonka Corp., the toy manufacturer. He was deaf at birth and is considered "profoundly deaf."

He attended mainstream public schools near Minnetonka, then went to the Rochester Institute of Technology in New York before earning a degree in 1988 from the University of Massachusetts at Amherst in recreation administration. Schultz also earned a master's degree in education in 1994 from Boston University.

Since college, Schultz has worked in aquatics, first as a youth director for the National Assn. of the Deaf, then as aquatics director for the Boys and Girls Club of Billerica, Mass. Since 1993, he has worked at the Hockomock YMCA as aquatics director, which involves turns as lifeguard.

In April, Schultz needed to communicate with the YMCA's national program coordinator, Mary Zoller, in Kenner, La. He used a device called a "relay service," a sort of telephone for the hearing-impaired. Zoller demanded that the local YMCA furnish proof that Schultz could hear.

YMCA officials in Massachusetts responded by chiding the national office for not being more committed to helping staffers such as Schultz "reach their full potential." But without proof of hearing, Zoller insisted on nullifying Schultz's certification as a lifeguard.

Schultz's attorney, Alan Rich of New York, said that amounted to discrimination. "The Y made a conscious decision to choose ignorance over enlightenment. That is certainly unforgivable," Rich said.

With more than 2,000 facilities nationwide and an annual budget approaching \$2 billion, the YMCA calls itself the largest nonprofit community service organization in America, serving 13.8 million adults and children. Its mission is to "put Christian principles into practice through programs that build healthy body, mind and spirit for all."

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SEARCH**HOUSTON CHRONICLE ARCHIVES****Paper:** Houston Chronicle**Date:** SUN 07/30/2000**Section:** State**Page:** 1**Edition:** 2 STAR**Finding a way to be heard / \$230,000 settlement in deaf man's erroneous DWI arrest hailed as an advance in rights of the hearing impaired**By JAMES PINKERTON, Houston Chronicle Rio GrandValley Bureau
Staff

BROWNSVILLE - Victoria County officials still maintain they had good reason to arrest Butch Pyle after he rear-ended another motorist, appeared incoherent and admitted to taking pills.

But Pyle, 58, insists his real offense was being deaf and not being able to communicate with sheriff's deputies who arrested him for driving while intoxicated as he drove home to South Texas after visiting his daughter in the summer of 1998.

Because he could not hear the officer's instructions, Pyle claims he flunked two sobriety tests and spent three days in jail when Victoria County jailers would not help him call a lawyer or his family.

"Basically, the guy would be in jail today if it weren't for a fellow inmate who made a call for him," said Alan J. Rich, a New York City lawyer who was co-counsel in a civil rights case Pyle brought against the county.

On July 14, a federal jury in Brownsville found that Victoria County violated Pyle's rights and awarded him \$230,000. A blood sample taken from Pyle showed he had no alcohol in his system along with a less-than-intoxicating level of pain medication for a recent shoulder operation.

"It means everything to me," said Pyle, a former heavy equipment operator from the Rio Grande Valley city of La Feria. Deaf since birth, Pyle has learned to speak and can be understood without an interpreter.

"It means I've helped all the deaf people in the country," he said. "I feel good now when I wake up in the morning, for the first time in two years."

Pyle's courthouse victory, following a landmark settlement by the Houston Police Department in March over the arrest of two deaf men, has encouraged advocates for Texas' 1.7 million deaf and hard of hearing.

Too many routine police encounters, they note, result in arrest and lengthy jail stays of hearing-impaired people because of a police officer's failure to communicate or to provide translators as required by the Americans With Disabilities Act.

"I hate to say this, but it happens pretty often," said David Myers, executive director for the Texas Commission for the Deaf and Hard of Hearing in Austin. "We hear about situations maybe once a month, but there's probably lots of situations that we don't hear about."

Myers, who is deaf, explained through an interpreter an incident a year ago in Northeast Texas where a deaf woman was arrested and spent six weeks in jail before she was able to communicate with anyone.

"From time to time we get calls from deaf people who are in jail who have not been provided with an interpreter or any means to communicate. So it's a big issue," said Wendy Wilkerson, director of the Southwest Disability and Business Technical Assistance Center in Houston, which answers calls from Texas and four neighboring states.

Myers was called as a witness in Pyle's trial to rebut the testimony of defense witness Cmdr. Albert Rodriguez, who heads the Texas Department of Public Safety training academy in Austin. Rodriguez testified that under the circumstances, Pyle's arrest for DWI was proper and the Victoria County sheriff's deputy acted in good faith.

Pyle testified that he did not ask for an interpreter while he was in jail.

"If Mr. Pyle had asked us to make a phone call, we would have done it in a heartbeat," said Kevin Cullen, the attorney who represented Victoria County. "If he had asked for an interpreter, we would have brought him one because we have them."

Myers told the jury the ADA requires police departments and other governments to ensure that there is effective communication with deaf people they encounter. The law requires governments to have a written ADA policy, to designate an ADA coordinator and to ensure that the hearing-impaired can communicate with officers, either through writing materials or qualified interpreters.

Rodriguez told the court that the basic training required for all peace officers provides limited instruction for interacting with the hearing-impaired.

"He said they teach them basic methods of identifying persons with hearing loss, but they don't go into specifics of how to ensure effective communication," Rich said. "Things like making sure your lips are easily visible, not turning away from a person who needs to read your lips."

Rich contends police training of this type is vital "so that Butch (Pyle) and all the other (hearing-impaired) people across Texas are not automatically going to go to jail simply because some of their symptoms - whether it's their speech or balance - may be similar to people who are actually intoxicated."

In the July 17, 1998, videotape of Pyle's field sobriety tests shown to the jury, it is obvious Pyle could not hear the rapid-fire questions and instructions from Victoria County Sheriff's Deputy Anthony Daniels. Several times, Pyle placed his hand next to his ear to indicate he could not hear, or he attempted to approach the deputy so he could read his lips.

Pyle's jury verdict is the latest in a growing effort by deaf and hearing-impaired people - along with the U. S. Department of Justice and private attorneys - to force police departments, jails, prisons and even courts to afford them a level playing field in the criminal justice system.

"Here we are, 10 years into the ADA, and deaf people are getting service, they're starting to feel empowered, and they're starting to demand their civil rights," said Deborah Gunter, owner of Sign Shares, a Houston communication access company that provides sign language interpreters.

Gunter said government leaders need to realize that making accommodations that allow deaf people to function more independently is cheaper in the long run.

"If deaf people are dependent on others, it costs society," she said. "If they can take care of their own business, the cost is much lower and it brings a better quality of life. It's not a matter of being expensive, it's a matter of putting it into the budget."

In March, the Justice Department announced it reached what it considered a model settlement with the Houston Police Department over complaints by two deaf men taken into custody.

The first was brought by Michael Joseph Edwards, a deaf man who, because of a neurological condition, has a balance problem. Edwards failed a field sobriety test, was arrested for public intoxication and placed in jail where jailers ignored his request to arrange for his medication. Edwards was brought before a municipal judge several times without an interpreter, even though he had requested one in writing.

The second case was brought by Rashid Jade Gordon, a 19-year-old man arrested on sexual assault charges and held in jail for 14 days before he was provided an interpreter, said William Jonson, an attorney with the federally funded Advocacy Inc., which represented both men.

"As a result of the Gordon case, the city now has a contract with an interpreter service and will provide an interpreter, or at least they claim they will, if asked," Jonson said.

Under terms of the Justice Department settlement, the Houston Police Department, jail division and municipal court will adopt written policies for the hearing impaired, designate ADA coordinators and provide qualified interpreters. Houston police must call an interpreter when a deaf person is arrested, tested for sobriety, involved in a major accident, suspected of a felony or asked to give a statement in a criminal case.

Mark Chamatz, director of the National Association of the Deaf's Law Center which assisted in the

Houston cases, said Pyle's \$230,000 verdict should "signal that there's been a serious problem" in Texas.

"Hopefully, with the two settlements in Houston and this large jury verdict, the signal will be sent to police departments across the state that they need to come into compliance with the ADA," he said.

However, Pyle's legal attack of his arrest two years ago is far from over.

"We intend to appeal and we're convinced the 5th Circuit will reverse the case," said Cullen, referring to the 5th U.S. Circuit Court of Appeals in New Orleans.

Pyle, who refused to eat during the three days he spent in jail, said he began to fear he might never be able to contact someone who could help him get out.

"It's the worst feeling you can ever have," he said. "I don't know how you can feel any worse."

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Tuesday, September 8, 2009

NYC lawsuit seeks wheelchair tennis coverage

Associated Press

NEW YORK -- A New York City documentary filmmaker sued the U.S. Tennis Association on Tuesday, claiming it discriminates against wheelchair players by refusing to sell broadcast licensing rights to their matches.

State Supreme Court Justice Michelle Weston reserved decision on a request to allow Brooklyn filmmaker Alan Rich to record the wheelchair competition at this week's U.S. Open.

The wheelchair division, which features 20 of the top players, begins competition Thursday and ends Sunday.

Rich, a lawyer who is representing himself and seven handicapped players in the case, has been filming a documentary about the players called "Fire in the Belly." He said his immediate goal is to be permitted to film the competition and later argue in court over whether the footage can be used in his documentary.

He contends that because the major networks covering the tournament -- CBS, ESPN and the Tennis Channel -- do not cover the wheelchair events, he should be given the rights.

"No doubt, many of us in society are not comfortable watching amputees in wheelchairs play sports yet," Rich said in his court papers. "While I do not fault the broadcasters for doing what, at present, they view as commercially viable, the USTA cannot have a policy that has the result of discriminating against these outstanding athletes with disabilities."

USTA spokesman Chris Widmaier said his organization limits filming of matches to the three television companies that have contracts with them. He noted international television companies have separate agreements.

Widmaier also said that two years ago, the Tennis Channel aired the wheelchair finals competition live and produced a half-hour highlights show of the tournament.

"That's our policy," Widmaier said. "If Mr. Rich were to apply for a credential so he could capture some of the on-grounds experience and post-match interviews, we would consider that request as we do all other newsgathering requests."

Rich said he expected a ruling from the judge Wednesday.

Contents of Selected Media listings:

Cover page/disclaimer

NY Daily News, "She Wins 1.3 Million Libel Suit," Tatia Morsette v the Final Call

NY Post, "Supper Club's Gay Bias Tab-10M," Jun. 23, 2000, Minichiello v Supper Club, \$10 million verdict

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NY Times, Judge Finds Bias in Dealing with Deaf Man, Apr. 17, 1999 [Bravin v. Mt. Sinai]

NY Times, Ex-Host to Sues QVC Network, Charging Bias, Dec. 30, 1998, Gwen Owens and Victor Velez

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Houston Chronicle, "Finding a Way to Be Heard/\$230 Settlement [Verdict] in Deaf Man's Erroneous DWI Arrest Hailed as Advance in the Rights of Hearing Impaired, Jul. 30, 2000, Butch Aubray Delano-Pyle

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Last page is article/case list