

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

RHJ MEDICAL CENTER, INC. , on its own behalf	:	
and on behalf of its patients,	:	
	:	CIVIL ACTION
Plaintiff,	:	
	:	
vs.	:	
	:	
CITY OF DUBOIS ,	:	
	:	
Defendant.	:	

COMPLAINT

INTRODUCTION

1. Plaintiff **RHJ Medical Center, Inc.** (“RHJ”) files this action seeking declaratory and injunctive relief against Defendant the **City of DuBois** (“City” or “DuBois”). Plaintiff asserts claims under the United States Constitution, 42 U.S.C. § 1983, the Americans with Disabilities Act, 42 U.S.C. § 12101, *et seq.* (“ADA”), and Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 793. Plaintiff also seeks to recover damages for the harm it suffered as a result of Defendant’s discriminatory actions.

2. Plaintiff brings this action to challenge the City of DuBois’ refusal to issue RHJ occupancy and use permits for a methadone treatment facility within the City limits. RHJ sought the permits to provide comprehensive, medically supervised and licensed outpatient methadone treatment directed at rehabilitating persons living in DuBois and its surrounding community who require the treatment to alleviate their opiate dependency.

3. In 1999, the General Assembly of the Commonwealth passed legislation – which the United States Court of Appeals for the Third Circuit has since found to be facially invalid under both the ADA and Rehabilitation Act, *see New Directions Treatment Services v. City of Reading*, 490 F.3d 293 (3d Cir. 2007) (attached hereto as Exhibit A) – that prohibited the establishment and operation of any methadone treatment facilities within 500 feet of a public park unless the governing body of the municipality where such facility was proposed gave express permission following a public hearing. 53 P.S. § 10621 (hereinafter, “Section 621”).

4. Beginning in February 2006, RHJ began its search for an appropriate site to operate a methadone treatment facility within the City of DuBois. RHJ selected a site in a location zoned as the “Transitional District,” a subset of the “Industrial Park District,” at 994 Beaver Drive, DuBois, Pennsylvania, 15801. The occupancy permit then in place for the site included use as a medical facility.

5. Following negative press coverage of RHJ’s planned opening at the proposed site, on October 19, 2006, the DuBois City Council held a work session during which it authorized its solicitor to advise RHJ that the proposed site of the facility was within 500 feet of a public walkway that qualified as a public park under Section 621. At a meeting of the DuBois City Council held on October 23, 2006, the Council distributed a letter directed to RHJ stating that RHJ would not be able to open at the proposed site.

6. RHJ opened the center as planned on October 25, 2006.

7. On October 27, 2006 the City of DuBois filed a complaint in the Clearfield County Court of Common Pleas to enjoin RHJ’s operation at the site until it obtained approval

from the City pursuant to Section 621. The Court of Common Pleas granted the injunction without hearing. RHJ and the City stipulated that the public walkway at issue constituted a public park under Section 621 and the Court entered a permanent injunction again prohibiting RHJ's operation at the site until it obtained approval from the City.

8. On May 15, 2007 – following the statutorily mandated public hearing – DuBois' City Council voted unanimously to deny RHJ's application for a permit. 53 P.S. § 10621(b). The Council opined that RHJ had failed to demonstrate that the health and safety of the citizens of DuBois would be served by locating a methadone facility within 500 feet of a public park – despite the fact that the City of DuBois had an identifiable heroin addiction problem, lacked a methadone treatment facility, and had an existing zoning ordinance that permitted a methadone treatment facility at that site, as consistent with the health and safety of its citizens.

9. Methadone treatment programs – regulated by the Food and Drug Administration until 2001 – are now regulated by the Center for Substance Abuse Treatment (“CSAT”) and the Drug Enforcement Administration (“DEA”) and are licensed by the state in which the program is located. RHJ is fully certified by both the CSAT and the DEA and licensed by the Commonwealth to operate a methadone clinic. RHJ has maintained the appropriate federal certifications and state licenses since 2002 and has operated methadone treatment facilities successfully in Pennsylvania since that time.

10. Numerous studies have found that addiction to heroin and other opiates is a chronic medical illness that produces significant and lasting changes in brain chemistry and function. Numerous studies have also found that this medical illness can be effectively treated in a

methadone treatment program. For example, in 1997, an expert panel convened at a National Institutes of Health (NIH) Consensus Development Conference on Effective Medical Treatment of Heroin Addiction concluded that opiate addiction is a medical disorder that can be effectively treated in a methadone treatment program. Methadone, by acting on opiate receptors in the brain that are implicated in the changes in brain chemistry and function associated with drug dependence, reduces patients' cravings for opiates and blocks its effects, thereby enabling patients to lead productive lives. Some patients stay on methadone indefinitely, while others move from methadone to abstinence.

11. Federal law prohibits public entities from excluding persons with disabilities or discriminating against them in the provision of benefits, programs or activities. These protections extend to persons participating in supervised drug rehabilitation programs, such as the program RHJ proposed to locate in DuBois. This action challenges this discrimination and seeks injunctive relief and damages.

JURISDICTION AND VENUE

12. This action is brought pursuant to 42 U.S.C. §§ 1983 and 1988, the United States Constitution, the Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.*, and Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794.

13. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1337, 1343(a) and 1391(b)(2), 29 U.S.C. § 794(a) and 42 U.S.C. § 12182(a).

14. Venue lies in the Western District of Pennsylvania pursuant to 28 U.S.C. § 1391.

PARTIES

15. **Plaintiff RHJ Medical Center, Inc.** is a corporation with its principal place of business at 1005 Old State Route 119, Hunker, Pennsylvania, 15639. RHJ meets the standards for outpatient treatment and methadone maintenance for the Pennsylvania Department of Health, CSAT and the DEA. RHJ sues on its own behalf and on behalf of its patients.

16. RHJ began operating a methadone maintenance treatment center in the Borough of Hunker, Pennsylvania in 2002. RHJ now provides methadone treatment services in the Borough of Vandergrift, Pennsylvania as well.

17. RHJ views chemical dependency as a life threatening disease, which, if left untreated, poses a serious risk to the health, safety and well-being of the victim, his/her family and the community in which he/she resides. RHJ targets clients with a primary dependence on opiates.

18. RHJ uses the latest medical technologies to address the physical symptoms of the addiction in combination with the psychotherapeutic interventions proven most effective to address the emotional, cognitive and behavioral symptoms of its patients.

19. RHJ's programs are "supervised rehabilitation programs" for persons with disabilities as described under federal law.

20. **Defendant City of DuBois**, with a population of less than 10,000 persons, is a political subdivision of the Commonwealth located in Clearfield County and is identified as a city of the third class.

21. DuBois, with its principal place of business at the City Building, 16 West Scribner Avenue, DuBois, Pennsylvania, 15801, receives federal financial assistance for its programs and

activities and has the capacity to sue and be sued under the federal anti-discrimination statutes relied upon by Plaintiff.

FACTS

22. At all times relevant to this action, Defendant acted under color of state law.

In 1999, the Pennsylvania General Assembly passed discriminatory legislation prohibiting the location of methadone treatment facilities in certain locations. 53 P.S. § 10621. Specifically, the statute prohibited any:

methadone treatment facility from being established or operated within 500 feet of an existing school, public playground, public park, residential housing area, child-care facility, church, meetinghouse or other actual place of regularly stated religious worship established prior to the proposed methadone treatment facility.

Id. § 10621(a)(1).

23. Under Section 621, a methadone treatment facility could be established and operated closer than 500 feet of the protected establishments if a municipality's governing body voted "in favor of the issuance of an occupancy permit or certificate" after a public hearing held on the matter that allowed the owners of the affected real property an opportunity to be heard. 53 P.S. § 10621(b).

24. The nearest methadone treatment provider to DuBois is located 20 miles away in the Borough of Clearfield. However, the Clearfield facility, which serves a county of nearly 85,000 residents, has a waiting list numbering in the hundreds.

25. Due to the lack of available methadone treatment in proximity to their homes, DuBois residents seeking treatment are forced to make the daily three hour round trip to RHJ's methadone treatment facility in the Borough of Vandergrift in Westmoreland County and back.

26. To serve the need for methadone treatment in the City of DuBois and Clearfield County, RHJ began searching for a site in DuBois in early 2006 and soon found the site at 994 Beaver Drive. The site previously housed an insurance agency, although its occupancy permit was appropriate for use as a medical facility, as confirmed by the City's own inspection service. The site was zoned as the "Transitional District," a subset of the "Industrial Park District" and permitted medical facilities as of right.

27. A public sidewalk known as Beaver Meadow Walkway (the "Walkway") adjoined the rear of the site. Unbeknownst to RHJ, the Walkway was maintained by the City of DuBois as part of its system of public parks and recreational sites.

28. RHJ signed a ten-year lease for the site at 994 Beaver Drive on March 31, 2006, and soon after commenced renovations of the space to meet the standards of the Pennsylvania Department of Health.

29. In preparation for opening, RHJ incurred expenses relating to the hiring of staff, setting up utilities, and advertising, in addition to rent and renovations.

30. In September 2006, representatives from the Division of Drugs and Alcohol of the Pennsylvania Department of Health and the DEA conducted an on-site inspection of RHJ's DuBois facility. Thereafter, news of RHJ's planned methadone treatment facility became public.

31. Following the news of RHJ's plans to open a methadone treatment facility in DuBois, RHJ began to receive negative press coverage, including a radio interview during which the Mayor of DuBois, John "Herm" Suplizio, announced that RHJ most likely would not receive approval from the City to open its facility due to its proximity to the Walkway. Demonstrating the prejudice and discrimination persons with a history of opiate addiction face, Mayor Suplizio and the host of the show compared a methadone facility in DuBois to other cities dumping their garbage in DuBois.

32. In the wake of these negative press reports, on October 19, 2006, the DuBois City Council held a work session during which it authorized its solicitor to advise RHJ that the proposed site of the facility was within 500 feet of the Walkway which qualified as a public park under Section 621.

33. At a meeting of the DuBois City Council held on October 23, 2006, the Council distributed a letter directed to RHJ stating that RHJ would not be able to open at the proposed site. RHJ did not receive a copy of the letter at the meeting.

34. RHJ opened the center as planned on October 25, 2006.

35. On October 27, 2006 the City of DuBois filed a complaint in the Clearfield County Court of Common Pleas to enjoin RHJ's operation at the site until it obtained approval from the City pursuant to Section 621. The Court of Common Pleas granted the injunction without hearing and RHJ immediately complied. Thereafter, on December 7, 2006, RHJ and the City stipulated that the public walkway at issue constituted a public park under Section 621, and

the Court entered a permanent injunction again prohibiting RHJ's operation at the site until it obtained approval from the City.

36. On January 9, 2007, RHJ submitted its application with supporting documentation to the City of DuBois requesting approval of its operation as a Medically Assisted Treatment Center and seeking an Occupancy Permit or Certificate of Use Permit as needed.

37. The City failed to schedule the statutorily required public hearing until April 23, 2007.

38. According to local press reports, on May 14, 2007 – following the hearing – DuBois' City Council voted unanimously to deny RHJ's application for a permit. RHJ did not learn of the Council's vote until June 4, 2007, when it received formal notice of the Council's Findings of Fact and Conclusions of Law, dated May 29, 2007. The Council opined that RHJ had failed to demonstrate that the health and safety of the citizens of DuBois would be served by locating a methadone facility within 500 feet of a public park, although the City of DuBois – with an identifiable and admitted opiate addiction problem – had no methadone treatment facility.

39. The City of DuBois denied RHJ's application for a permit because it would be used by persons with a disability: persons with a history of opiate addiction who are being treated with methadone.

40. Two weeks later, on June 15, 2007, the Third Circuit Court of Appeals decided the *New Directions* case, holding that Section 621 violated the ADA and the Rehabilitation Act by singling out methadone treatment facilities for different zoning treatment and thereby

discriminating against this effective treatment therapy for persons with drug addictions. *New Directions* invalidated Section 621 throughout the Commonwealth.

41. Defendant DuBois asserted it had a duty under Section 621 to decide whether or not to permit a methadone treatment facility within 500 feet of a public park. As Section 621 is unconstitutional and facially invalid and violates the ADA and Rehabilitation Act, Defendant, in denying RHJ occupancy and use permits, has discriminated against persons with disabilities living in DuBois and its surrounding community who need methadone treatment to maintain their independence from opiate addiction and has caused RHJ to suffer economic damages.

42. Defendant DuBois applied a different standard to RHJ than to other medical facilities when it determined that RHJ did not demonstrate that the health and safety of its citizens would be served by allowing a methadone treatment center at 994 Beaver Drive.

43. In November 2007, based on the *New Directions* decision, RHJ filed a Motion to Dissolve the Injunction with the Clearfield County Court of Common Pleas. On March 7, 2008, the Court granted the motion and dissolved the preliminary injunction issued on October 27, 2006 and the permanent injunction issued on December 7, 2006.

44. The City opposed RHJ's Motion and refused to reconsider its evaluation of RHJ's application for use and occupancy permits, even though its vote to deny RHJ's application was based on Section 621, an invalid and discriminatory statute. RHJ was forced to give up its lease of the site at 994 Beaver Drive in July 2008, as the City continued to discriminate against persons with drug addictions being treated with methadone in refusing to grant RHJ's application for use and occupancy permits.

45. In November 2007, RHJ discussed with DuBois City officials the possibility of filing a Change of Use application to locate the facility in an alternative site, also in the Transition District. Notwithstanding this discussion, on November 22, 2007, the DuBois City Council proposed an ordinance prohibiting drug treatment centers in the Transition District and the Commercial Highway District, and permitting them only in the O-1 Office District. This ordinance was passed at the November 27, 2007 Council meeting. There are no suitable sites for a methadone treatment facility located within the O-1 Office District.

46. For all the same reasons that the Third Circuit found Section 621 to be invalid, the new ordinance is unconstitutional and violates 42 U.S.C. § 1983, the ADA, and Rehabilitation Act in placing an undue burden on individuals with disabilities by singling them out for disparate treatment and relegating their medical treatment facilities to the unsuitable O-1 Office District.

COUNT I: FOURTEENTH AMENDMENT VIOLATIONS OF DUE PROCESS AND EQUAL PROTECTION CLAUSES – DEFENDANT’S ACTIONS UNDER SECTION 621

47. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 46.

48. This claim is brought pursuant to 42 U.S.C. § 1983.

49. City action barring the establishment or operation of a methadone clinic within 500 feet of a public park, while permitting other medical facilities is discriminatory on its face against persons with disabilities, a discrete and insular minority that faces restrictions and limitations and has been subjected to a history of purposeful unequal treatment.

50. Defendant’s refusal to grant RHJ a permit to establish and operate a methadone clinic in the City of DuBois is arbitrary, based upon irrational prejudices against, and perceptions

of, methadone patients and is not rationally related to any legitimate governmental interest. It therefore violates the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the United States Constitution and has harmed and continues to harm RHJ and the disabled individuals it serves.

51. Because of Defendant's discriminatory reaction and behavior, RHJ has expended time and financial resources and has lost the opportunity to conduct its business and provide a much-needed service.

52. RHJ has suffered economic injury from this violation, including expenses of approximately \$200,000 and estimated lost profits of at least \$200,000 per year over the course of the ten-year lease of the 994 Beaver Drive site.

**COUNT II: CLAIMS UNDER THE REHABILITATION ACT – DEFENDANT'S
ACTIONS UNDER SECTION 621**

53. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 52.

54. Congress intended that individuals seeking to overcome their addiction would be protected by the Rehabilitation Act when seeking access to services, benefits, and employment provided by a federally-funded program. The Rehabilitation Act specifically recognizes as handicapped those individuals with drug-addiction who are "participating in a supervised rehabilitation program and [are] no longer engaging [in the illegal use of drugs]." 29 U.S.C. § 706 (8)(C)(ii)(II).

55. Section 504 of the Rehabilitation Act prohibits discrimination against persons with disabilities by any entity that receives federal financial assistance:

no otherwise qualified individual with a disability . . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance

29 U.S.C. § 794(a).

56. Because the Rehabilitation Act broadly defines “program or activity” to include “all of the operations of” a local government receiving federal financial assistance, 29 U.S.C. § 794(b)(1)(A) (1999), zoning, a normal function of a governmental entity, is a covered activity within the meaning of the Act.

57. Defendant’s actions violate Section 504 of the Rehabilitation Act and such actions harmed and continue to harm RHJ and the persons with disabilities RHJ serves.

58. Because of Defendant’s discriminatory reaction and behavior, RHJ has expended time and financial resources and has lost the opportunity to conduct its business and provide a much-needed service.

59. RHJ has suffered economic injury from this violation, including expenses of approximately \$200,000 and estimated lost profits of at least \$200,000 per year over the course of the ten-year lease of the 994 Beaver Drive site.

COUNT III: CLAIMS UNDER TITLE II OF THE ADA – DEFENDANT’S ACTIONS UNDER SECTION 621

60. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 59.

61. RHJ’s prospective patients are qualified individuals with disabilities within the meaning of 42 U.S.C. § 12101.

62. The City of DuBois is a qualifying public entity within the meaning of the ADA, 42 U.S.C. § 12131(1)(A) (1999).

63. Section 12132 constitutes a general prohibition against discrimination on the basis of disability by public entities:

subject to the provisions of this subchapter, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.

42 U.S.C. § 12132.

64. Congress' stated broad goal in enacting the ADA was to provide "a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities." 42 U.S.C. § 12101(b)(1).

65. Zoning is an activity covered under Title II of the ADA. In the preamble to the regulations implementing 42 U.S.C. § 12132, the Department of Justice notes that "title II applies to anything a public entity does," 28 C.F.R. pt. 35, app. A at 438 (1998), and, in the Technical Assistance Manual compiled to interpret the Act, expressly uses zoning as an example of a public entity's obligation to avoid discrimination.

66. Defendant's actions violate Title II of the Americans with Disabilities Act and such actions harmed and continue to harm RHJ and the persons with disabilities RHJ serves.

67. Because of Defendant's discriminatory reaction and behavior, RHJ has expended time and financial resources and has lost the opportunity to conduct its business and provide a much-needed service.

68. RHJ has suffered economic injury from this violation, including expenses of approximately \$200,000 and estimated lost profits of at least \$200,000 per year over the course of the ten-year lease of the 994 Beaver Drive site.

COUNT IV: FOURTEENTH AMENDMENT VIOLATIONS OF DUE PROCESS AND EQUAL PROTECTION CLAUSES – DEFENDANT’S NEW ZONING ORDINANCE

69. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 68.

70. This claim is brought pursuant to 42 U.S.C. § 1983.

71. A city zoning ordinance that bars the establishment or operation of drug treatment clinics in districts where other medical treatment clinics are permitted to operate is discriminatory on its face against persons with disabilities, a discrete and insular minority that faces restrictions and limitations and has been subjected to a history of purposeful unequal treatment.

72. Defendant’s refusal to permit the establishment and operation of methadone or drug treatment clinics in the City of DuBois is arbitrary, based upon irrational prejudices against, and perceptions of, methadone patients and is not rationally related to any legitimate governmental interest. It therefore violates the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the United States Constitution and has harmed and continues to harm RHJ and the persons with disabilities RHJ serves.

73. Because of Defendant’s discriminatory reaction and behavior, RHJ has expended time and financial resources and has lost the opportunity to conduct its business and provide a much-needed service.

74. RHJ has suffered economic injury from this violation.

COUNT V: CLAIMS UNDER THE REHABILITATION ACT – DEFENDANT’S NEW ZONING ORDINANCE

75. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 74.

76. Congress intended that individuals seeking to overcome their addiction would be protected by the Rehabilitation Act when seeking access to services, benefits, and employment provided by a federally-funded program. The Rehabilitation Act specifically recognizes as handicapped those individuals with drug-addiction who are “participating in a supervised rehabilitation program and [are] no longer engaging [in the illegal use of drugs].” 29 U.S.C. § 706 (8)(C)(ii)(II).

77. Section 504 of the Rehabilitation Act prohibits discrimination against persons with disabilities by any entity that receives federal financial assistance:

no otherwise qualified individual with a disability . . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance

29 U.S.C. § 794(a).

78. Because the Rehabilitation Act broadly defines “program or activity” to include “all of the operations of” a local government receiving federal financial assistance (29 U.S.C. § 794(b)(1)(A) (1999)), zoning, a normal function of a governmental entity, is a covered activity within the meaning of the Act.

79. Defendant's actions in amending its zoning ordinance in November 2007 to prohibit methadone treatment facilities where previously permitted violate Section 504 of the Rehabilitation Act and such actions harmed and continue to harm RHJ and the persons with disabilities RHJ serves.

80. Because of Defendant's discriminatory reaction and behavior, RHJ has expended time and financial resources and has lost the opportunity to conduct its business and provide a much-needed service.

81. RHJ has suffered economic injury from this violation.

COUNT VI: CLAIMS UNDER TITLE II OF THE ADA – DEFENDANT'S NEW ZONING ORDINANCE

82. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 81.

83. RHJ's prospective patients are qualified individuals with disabilities within the meaning of 42 U.S.C. § 12101.

84. The City of DuBois is a qualifying public entity within the meaning of the ADA. 42 U.S.C. § 12131(1)(A) (1999).

85. Section 12132 constitutes a general prohibition against discrimination on the basis of disability by public entities:

subject to the provisions of this subchapter, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.

42 U.S.C. § 12132.

86. Congress' stated broad goal in enacting the ADA was to provide "a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities." 42 U.S.C. § 12101(b)(1).

87. Zoning is an activity covered under Title II of the ADA. In the preamble to the regulations implementing 42 U.S.C. § 12132, the Department of Justice notes that "title II applies to anything a public entity does," 28 C.F.R. pt. 35, app. A at 438 (1998), and, in the Technical Assistance Manual compiled to interpret the Act, expressly uses zoning as an example of a public entity's obligation to avoid discrimination.

88. Defendant's actions in amending its zoning ordinance in November 2007 to prohibit methadone treatment facilities where previously permitted violate Title II of the Americans with Disabilities Act and such actions harmed and continue to harm RHJ and the persons with disabilities RHJ serves.

89. Because of Defendant's discriminatory reaction and behavior, RHJ has expended time and financial resources and has lost the opportunity to conduct its business and provide a much-needed service.

90. RHJ has suffered economic injury from this violation.

REQUESTED RELIEF

WHEREFORE, Plaintiff prays that this Court award them the following relief:

1. Find and declare the Defendant's action and inaction in failing to issue occupancy and operation permits for a methadone treatment facility at 994 Beaver Drive, DuBois, Pennsylvania, 15801, or anywhere in the City of DuBois, violates the U.S. Constitution and 42

U.S.C. § 1983, Title II of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973.

2. Issue a permanent injunction enjoining Defendant from continuing to violate the U.S. Constitution, Title II of the American with Disabilities Act and Section 504 of the Rehabilitation Act of 1973.

3. Issue an injunction requiring Defendant, promptly and without delay, to issue RHJ an occupancy and operation permit for a methadone treatment facility at an accessible and appropriate site within the City of DuBois acceptable to RHJ.

4. Award RHJ damages for the harm it experienced as a result of Defendant's discriminatory practices.

5. Award RHJ its reasonable attorney fees and costs.

6. Award such other relief as this Court may deem appropriate.

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Date: May 13, 2009

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