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COMMON PLEAS COURT
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IN THE COURT OF COMMON PLEAS OF LUCAS COUNTY, OHIO

STATE OF OHIO	*	CASE NO: CR23-2126 and 23-2204
	*	
Plaintiff,	*	Judge Joseph V. McNamara
	*	
vs.	*	**MOTION IN LIMINE TO ADMIT VIDEO EVIDENCE WITH SUBTITLES PURSUANT TO THE AMERICANS WITH DISABILITIES ACT**
ADAM ALEKHTIAR	*	
	*	
Defendant.	*	
	*	Mark Hanusz (103870) Assistant Prosecuting Attorney Lucas County Prosecutor's Office 700 Adams St., Ste. 250 Toledo, Ohio 43604 T: 419-213-4700 F: 419-213-4595 E: mhanusz@co.lucas.oh.us
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NOW COMES the State of Ohio, by and through the undersigned Assistant Prosecuting Attorney, Mark Hanusz, and hereby moves this Honorable Court for an order in limine to admit video evidence with subtitles in the above-captioned trial, pursuant to the Americans with Disabilities Act (ADA), 42 U.S.C. §§ 12101 *et seq*. In support of this motion, the State respectfully represents the following:

I. INTRODUCTION

The State intends to introduce substantial audio and video evidence in the trial of Adam Alekhtiar. To ensure full accessibility and compliance with the ADA, the State has prepared

subtitles for this audio and video evidence, recognizing the necessity of accommodating all participants and observers, including those who are deaf or hard of hearing.

II. ARGUMENT

A. Legal Basis for Subtitled Video Evidence

Title II of the ADA, which applies to public entities, states in 42 U.S.C. § 12132:

> Subject to the provisions of this title, 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.

The Department of Justice's regulations implementing Title II of the ADA further clarify this requirement in 28 C.F.R. § 35.160:

> (a)(1) A public entity shall take appropriate steps to ensure that communications with applicants, participants, and members of the public with disabilities are as effective as communications with others.
> (b)(1) A public entity shall furnish appropriate auxiliary aids and services where necessary to afford individuals with disabilities an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity of a public entity.

Similarly, Title III of the ADA, which covers public accommodations and commercial facilities, includes provisions in 42 U.S.C. § 12182(b)(2)(A)(iii) that prohibit discrimination on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation. It specifically mentions the requirement to provide auxiliary aids and services, barring a fundamental alteration or undue burden.

B. *Feldman v. Pro Football, Inc.* as Persuasive Authority

In *Feldman v. Pro Football, Inc.*, 419 Fed. Appx. 381 (4th Cir. 2011) the Fourth Circuit addressed the ADA's applicability to services provided by entities, underscoring the necessity of auxiliary aids for ensuring accessibility. While *Feldman* concerned the provision of auxiliary

aids in a stadium, the principles established therein are directly applicable to the courtroom setting. The *Feldman* decision illuminates the broad scope of the ADA, emphasizing that effective communication is paramount, irrespective of the service's nature or the medium through which it is delivered.

C. Application to the Present Case

Pursuant to Title II of the Americans with Disabilities Act (ADA), codified at 42 U.S.C. §§ 12131-12134, the Lucas County Court of Common Pleas is recognized as a public entity, thereby obligating it to adhere to the ADA's requirements for ensuring accessibility for individuals with disabilities. This mandate is not merely a broad directive but encompasses a specific obligation to facilitate effective communication through the provision of auxiliary aids and services, thereby ensuring that individuals with disabilities are afforded an equal opportunity to participate in and benefit from the judicial process.

The ADA's applicability to the judicial system, as underscored by the Department of Justice's (DOJ) regulations and the legal principles affirmed in *Feldman*, extends the requirement for effective communication to all facets of the judicial process.

As such, the Lucas County Court of Common Pleas, by virtue of its status as a state court and hence a public entity under Title II, is compelled to comply with the ADA's mandates. This compliance necessitates not only the provision of auxiliary aids and services, such as subtitles for video evidence, to ensure that all participants, including those with hearing impairments, have equal access to crucial information but also may require modifications to policies, practices, and procedures to eliminate any form of discrimination against individuals with disabilities. The overarching goal of these requirements is to dismantle barriers to participation and guarantee the full and equal enjoyment of public services, as envisioned by the ADA.

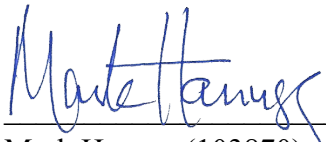
In practical terms, the obligation of the Lucas County Court of Common Pleas under the ADA translates into a proactive duty to ensure that court proceedings and services are accessible to individuals with disabilities. This duty is not limited to the physical layout of the courtroom but extends to all aspects of judicial communication and information dissemination. The provision of subtitles for video evidence, therefore, is not merely a facilitative measure but a necessary auxiliary aid that directly aligns with the ADA’s mandate for effective communication. Such measures ensure that individuals with disabilities, particularly those with hearing

impairments, are not excluded from full participation in the judicial process but are instead provided with the means to engage with and benefit from the court's programs and activities on an equal basis with others.

III. CONCLUSION

WHEREFORE, for the foregoing reasons, the State respectfully requests that this Honorable Court grant this Motion in Limine, permitting the admission of audio and video evidence with subtitles in the trial of *State of Ohio vs. Adam Alekhtiar*. Such a ruling would not only be in compliance with the ADA but would also exemplify this Court's commitment to upholding the principles of justice, equity, and accessibility.

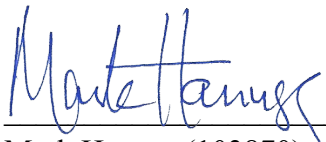
Respectfully submitted,



Mark Hanusz (103870)
Assistant Prosecuting Attorney

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing Motion was served on Martin Dow, counsel for the defendant, via email to martindow@bex.net on February 4, 2024.



Mark Hanusz (103870)
Assistant Prosecuting Attorney