

Exhibit 1

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

TIFFANY CALDWELL, on behalf of her
minor Daughter, T.C., PATRICIA DAVIS,
JACQUELINE GUY, LAWRENCE OLIN,
and BARBARA WALSH, on their own behalf
and on behalf of all others similarly situated,

Plaintiffs,

-against-

NEW YORK CITY TRANSIT AUTHORITY;
THOMAS PRENDERGAST, in his official
capacity as Chairman and Chief Executive
Officer of New York City Transit Authority;
and CARMEN BIANCO, in his official
capacity as President of New York City Transit
Authority,

Defendants.

No. 15 CV-3682 (JMF)

SETTLEMENT AGREEMENT

(Subject to Court Approval)

I. INTRODUCTION

This Settlement Agreement (the “Agreement”) is made and entered into on this 13th day of May 2016 between the New York City Transit Authority (“NYCTA”) and Plaintiffs Tiffany Caldwell, on behalf of her minor Daughter, T.C., Patricia Davis, Jacqueline Guy, Lawrence Olin, and Barbara Walsh (collectively, “Plaintiffs”), on their own behalf and on behalf of all others similarly situated (collectively the “Parties”).

WHEREAS, NYCTA operates the federally-mandated paratransit service in New York City, which service is called Access-A-Ride (“AAR”); and

WHEREAS, on May 12, 2015, in an action now entitled *Caldwell, et al. v. New York City Transit, et al.*, No. 15 Civ. 3682 (JMF)(BM), Plaintiffs filed a putative class action lawsuit alleging that NYCTA, Thomas Prendergast, in his official capacity as Chairman and Chief

Executive Officer of New York City Transit Authority (“Prendergast”), and Carmen Bianco, in his official capacity as President of New York City Transit Authority (“Bianco”) (collectively, “Defendants”), are in violation of the Fourteenth Amendment of the U.S. Constitution; Article I § 6 of the New York State Constitution; the Americans with Disabilities Act, 42 U.S.C. § 12131 *et seq.*, and New York state regulations, by failing to give persons applying or recertifying for AAR service sufficient notice of the reason an application was denied and a meaningful opportunity to be heard; and

WHEREAS, Defendants filed an answer to the complaint on July 6, 2015 denying the allegations in the complaint and contending that Plaintiffs had failed to state a claim, that Defendants had at all times acted in accordance with applicable federal, state and local constitutions, laws, rules, regulations and procedures, and further asserting that the complaint was barred in whole or in part by the applicable statute of limitations, *res judicata*, and/or collateral estoppel; and

WHEREAS, the Parties have stipulated that class certification is appropriate under Federal Rule of Civil Procedure 23(b)(2), and on November 10, 2015, the Court certified a class consisting of “all New York City residents with disabilities who have applied or have sought to recertify for paratransit service since May 12, 2012, and/or New York City residents with disabilities who will seek to apply to recertify for paratransit service in the future” (the “Class” or “Class Members”); and

WHEREAS, the Parties agree that the claims against Prendergast and Bianco should be dismissed and the caption amended to remove them as defendants, as the relief sought pertains only to NYCTA;

WHEREAS, the Parties, in order to avoid burdensome, protracted, expensive, and unnecessary litigation, agree to the entry of a final judgment which incorporates the terms of this Agreement to resolve the claims for relief raised in Plaintiffs' complaint.

THEREFORE, the parties now hereby stipulate to this Agreement, subject to the approval of and so ordering by the Court pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, and the terms set forth below, as follows:

II. STATEMENT OF AGREEMENT

A. General Provisions

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331 as a case arising under the laws of the United States, 28 U.S.C. § 1343(a) for actions under laws providing for the protection of civil rights, and 28 U.S.C. § 1367 for supplemental jurisdiction. Venue in the United States District Court for the Southern District of New York is proper under 28 U.S.C. § 1391(b) and (d).

2. Nothing in this Agreement shall constitute an admission, concession, adjudication or finding of liability against any party.

B. Equitable Relief

3. The Effective Date of this Agreement is defined as the date of the Court's final approval of the Agreement. Unless otherwise agreed by the parties, the provisions in Section B will be implemented within 60 days of the Effective Date of the Agreement.

4. NYCTA will establish a procedure whereby applicants¹ may request their internal AAR Assessment Records² by calling a toll-free number listed on the eligibility determination notice³ and receive the records free of charge within 30 days of the request.

¹ The term applicant includes initial applicants as well as AAR registrants, current or past, who are recertifying or requesting additional AAR services.

5. For current registrants who are fully denied AAR services or whose level of service is reduced following a recertification or other application, such denial or change of service shall not be effective until the 60-day time to appeal has expired or, if the registrant timely files an appeal, until the resolution of the appeal.

6. For letters informing applicants that they have been denied AAR service, NYCTA will include sufficient notice of the reasons for denial by enclosing a copy of the “Denial Form,” an internal quality control form that includes a “synopsis” section with a non-automated, individualized explanation of the reasons for denial. The Denial Forms will continue to include their current level of non-automated individualization and detail as evidenced in the Denial Forms produced by Defendants in the course of discovery in this action.

7. Letters notifying applicants that their AAR applications have been denied will conform to the template attached hereto as Exhibit A.

8. Letters notifying applicants that they have been granted conditional service⁴ will conform to the template attached hereto as Exhibit B.

9. Letters notifying applicants that the Eligibility Appeals Board has denied a written or in-person appeal will inform applicants that they may request a copy of their Appeal

² Internal AAR Assessment Record means the Certifier In-Depth Review Report; the Denial Form; and the Eligibility Determination Notice from the applicant’s most recent application. Certifier In-Depth Review Report means the multi-page written document filled out by an assessor when reviewing an AAR applicant’s application, assessment, and any medical documentation or other support submitted by the applicant. As an example, a blank copy is attached hereto as Exhibit F.

³ Eligibility Determination Notice means the letter mailed or otherwise given to an applicant with NYCTA’s decision on their application for AAR eligibility.

⁴ Access-A-Ride services on a conditional basis means eligibility to use AAR only when a specific condition, such as cold weather or stairs at subway stations, is present on a trip.

Hearing Docket Sheet⁵ and seek judicial review of the Eligibility Appeals Board's decision. The language to be inserted into the appeal notification letters is attached hereto as Exhibit C.

10. A statement of the criteria for AAR eligibility, attached hereto as Exhibit D, will be included on the AAR Website in a readable, legible, and visible manner. When the current stock of AAR applications is depleted, or in nine months, whichever is sooner, the statement will also be included on all new AAR applications in a readable, legible, and visible manner.

11. NYCTA will adopt the AAR Equal Access Policy, attached hereto as Exhibit E, and will post the policy on its website in a readable, legible, and visible manner and incorporate it into training materials.

12. NYCTA will re-train the following personnel on the AAR Equal Access Policy: contracted assessors, Paratransit Internal Certifiers, and anyone who sits on the Eligibility Appeal Board. NYCTA will continue to train newly hired AAR employees and contractors who serve in those roles thereafter.

C. Individual Relief

13. Within 60 days of the Effective Date of this Agreement, NYCTA agrees to pay a service award of Two Thousand Five Hundred Dollars (\$2,500) to each of the Named Plaintiffs.

D. Auditing

14. Beginning on the Effective Date and continuing for 30 months (the "Auditing Period"), MFY Legal Services, Inc. (the "Auditor") shall audit NYCTA's compliance with this Agreement.

15. At the end of the 4th, 10th, 16th, 22nd, and 28th months of the Auditing Period, NYCTA will supply the Auditor with the following information for the preceding six month

⁵ The Appeal Hearing Docket sheet means the document used by NYCTA's Eligibility Appeals Board in connection with its determination of any Appeal.

period (except at the end of the 4th month, NYCTA will provide the following information for the preceding four month period):

a. A random sample of 20 Files for each of the below categories of applicants. NYCTA may redact from the File the applicant's personally identifiable information and the names of NYCTA employees/contractors, however the File must contain a reference number that will allow the Auditor to compare the File to the data provided pursuant to Sections b and d below.

i. Applicants denied AAR services. For the purposes of this subsection, a "File" consists of: the application (excluding medical records and other attachments); the Certifier In-Depth Review Report; the Denial Form; the Eligibility Determination Notice sent to the applicant; and any requests from the applicant for their file; copies of any emails sending the file to the applicant, or if the file was sent in hard copy, any record of the file being sent.

ii. Applicants granted AAR services on a conditional basis. For the purposes of this subsection, a "File" consists of: the application (excluding medical records and other attachments); the Certifier In-Depth Review Report; the Eligibility Determination Notice sent to the applicant; and any requests from the applicant for their file; copies of any emails sending the file to the applicant, or if the file was sent in hard copy, any record of the file being sent.

iii. Applicants who appeal denials of their application and whose appeals are denied. For the purposes of this subsection, a "File" consists of: the application (excluding medical records and other attachments); the Certifier In-Depth Review Report; the Denial Form; the Eligibility Determination Notice sent

to the applicant; the notice of intent to appeal form; the appeal hearing docket sheet; the notice of decision on appeal; and any requests from the applicant for their file; copies of any emails sending the file to the applicant, or if the file was sent in hard copy, any record of the file being sent.

b. For each applicant who NYCTA determined was not eligible for the level of Access-a-Ride services the applicant requested:

i. The date each applicant was notified of the adverse eligibility determination;

ii. Whether the applicant requested a copy of his or her file, and if so the date the applicant requested his or her file and the date the file was sent to the applicant; and

iii. Whether the applicant appealed, and if so the date the notice of intent to appeal was submitted, the date the written appeal was submitted or the in-person hearing was held, and the date the appeal was decided.

c. The total number of initial applicants, “not initial applicants” (i.e., applicants who are recertifying and applicants requesting additional AAR services), and applicants who were granted AAR services on a conditional basis.

d. For each “not initial applicant” whose application was denied:

i. The date the applicant was notified of the adverse eligibility determination;

ii. Whether the applicant appealed, and if so the date the notice of intent to appeal was submitted, the date the written appeal was submitted or the in-person hearing was held, and the date the appeal was decided; and

iii. The date AAR service was terminated by NYCTA.

e. Copies of any training materials relating to eligibility determinations and appeals, the AAR Equal Access Policy, and this Agreement, as well as proof that NYCTA employees and assessors received the training (to be provided at the end of the initial 4-month period and then supplement for new training materials or new employees/assessors every 6 months thereafter).

f. Copies of unredacted written complaints or summaries of oral complaints (except that NYCTA may redact applicants' personally identifiable information and the names of NYCTA employees/contractors) concerning (i) customer requests for, and the production of, assessment records and (ii) the provision of continuing service pending appeals.

16. Upon the Auditor's request following delivery of the above information, NYCTA shall promptly meet with the Auditor to discuss any issues concerning compliance with this Agreement.

17. NYCTA agrees to pay the Auditor's reasonable fees at the end of the 6th, 12th, 18th, 24th, and 30th months of the Auditing Period. The fees shall be capped at \$62,500 total for the 30 month period. The Auditor shall submit to NYCTA an accounting of the time and expenses spent on auditing every six months of the Auditing Period. NYCTA shall timely remit payment to the Auditor within forty-five (45) days of each submission, or notify the Auditor of any objections within 15 days and, in that case, pay all undisputed amounts within 45 days of each submission. In the event of disagreement, NYCTA and Auditor shall meet and confer in an attempt to resolve their dispute within 15 days of NYCTA's objections, and NYCTA shall pay any amounts no longer objected to within 15 days of such resolution. The Court retains the

authority to resolve any dispute that NYCTA and Auditor have been unable to resolve regarding the reasonableness of fees and costs charged by the Auditor.

III. NOTICE TO THE CLASS

18. NYCTA will issue a notice that will inform Class Members of the relief they will receive under the Agreement (the “Class Notice”).

19. The form and language of the Class Notice agreed upon by the Parties is attached as Exhibit G in English.

20. The Class Notice will be translated by NYCTA into Spanish, French Creole, Chinese, Russian, and Korean.

21. No later than 14 days after preliminary District Court approval of the Agreement, until the date of the Fairness Hearing, NYCTA shall ensure that the Class Notice is posted conspicuously in a readable, legible, and visible manner in English, Spanish, French Creole, Chinese, Russian, and Korean on NYCTA’s Paratransit website.

22. No later than 14 days after preliminary District Court approval of the Agreement, NYCTA shall ensure that the Class Notice is posted conspicuously in a readable, legible, and visible manner — and made available for review upon request — in English, Spanish, French Creole, Chinese, Russian, and Korean, in the reception areas of all its contracted assessment centers and the waiting area of the AAR office where Eligibility Appeal Hearings are held.

23. No later than 14 days after preliminary District Court approval of the Agreement, NYCTA will mail the Class Notice in English, Spanish, French Creole, Chinese, Russian, and Korean to the list of disability rights organizations attached hereto as Exhibit H, advising that they may post or otherwise disseminate the Class Notice to their constituents and the public.

24. No later than 14 days after preliminary District Court approval of the Agreement, MFY Legal Services, Inc., will prominently post the Class Notice, with a copy of the complete proposed Agreement, on its website, www.mfy.org.

25. With the exception of those costs incurred in Paragraph 24, the costs of translating, posting and mailing the Class Notice shall be borne by NYCTA.

IV. RELEASE

26. Subject to final District Court approval, this Agreement resolves in full any and all claims or rights of action that exist as of the Effective Date of this Agreement, other than claims for individual monetary damages, against the Defendants and their predecessors, successors, or assignees together with past, present, and future officials, employees, representatives, and agents of NYCTA and any of its past or present affiliates or subsidiaries now or as they and/or their successors may be constituted in the future, including but not limited to, MTA Bus Company, the Metropolitan Transportation Authority, the Manhattan and Bronx Surface Transit Operating Authority, Metro-North Commuter Railroad Company, Long Island Rail Road, Metropolitan Suburban Bus Authority (Long Island Bus), Triborough Bridge and Tunnel Authority, Staten Island Rapid Transit Operating Authority, and MTA Capital Construction Company (the “Released Persons”), by Class Members (other than the Named Plaintiffs) contained in or arising from the complaint in this action, and any other claims or rights of action that Class Members (other than the Named Plaintiffs) may have based upon or arising from alleged due process violations in AAR policies, practices and procedures that could have been raised at this time in this action and for which the Named Plaintiffs had standing to raise at the time the Complaint in this action was filed.

27. Subject to final District Court approval, Class Members hereby release and waive any and all claims and rights of action, other than individual monetary damages claims, that exist

as of the Effective Date of this Agreement to pursue, initiate, or prosecute any and all causes of action, claims, awards, equitable relief, legal and administrative relief, interest, demands, or rights, before any court, administrative agency, or other tribunal, or to file any complaint with regard to acts of commission or omission by the Released Persons related to, connected with, arising out of, or based upon, the allegations contained in, or arising from, the complaint in this action for which the Named Plaintiffs had standing to raise when filing the complaint. This release does not prevent Class Members from enforcing the terms of this Agreement pursuant to Part VI of the Agreement. This Release does not prevent any Class Member from pursuing an administrative Appeal or Article 78 challenging any individual eligibility determination, suspension of services, or other individual claim related to individual AAR services, or filing individual monetary damages claims.

28. Subject to final District Court approval, this Agreement resolves in full any and all claims or rights of action, other than individual monetary damages claims, that exist as of the Effective Date of this Agreement by the Named Plaintiffs against the Released Persons, contained in or arising from the complaint in this action, and any other claims or rights of action that the Named Plaintiffs may have based upon or arising from alleged due process violations in AAR policies, practices and procedures that could have been raised at this time in this action and for which the Named Plaintiffs had standing to raise at the time the Complaint in this action was filed.

29. Subject to the date of final District Court approval, the Named Plaintiffs hereby release and waive any and all claims and rights of action, other than individual monetary damages claims, that exist as of the Effective Date to pursue, initiate, or prosecute any and all causes of action, claims, awards, equitable relief, legal and administrative relief, interest,

demands, or rights, before any court, administrative agency, or other tribunal, or to file any complaint with regard to acts of commission or omission by the Released Persons related to, connected with, arising out of, or based upon, the allegations contained in, or arising from, the complaint in this action. This release does not prevent Named Plaintiffs from enforcing the terms of this Agreement pursuant to Part VI of the Agreement. This Release does not prevent any Named Plaintiff from pursuing an administrative Appeal or Article 78 challenging any eligibility determination, suspension of AAR services, or other claim related to individual AAR services, or filing individual monetary damages claims.

30. To the extent individual monetary damage claims arising out of this complaint are asserted by Named Plaintiffs or Class Members, the fact or substance of this Agreement may not be used by or against Defendants or Named Plaintiffs or Class Members as evidence of a violation or lack of violation concerning NYCTA's AAR policies and procedures.

V. MODIFICATION OR TERMINATION OF AGREEMENT

31. The terms and provisions of this Agreement may be amended, modified, or expanded by written agreement of the Parties with approval of the Court, provided however, that the Parties may agree to effect such amendments, modifications or expansions of this Agreement and their implementing documents (including any exhibits to them) without notice to or approval by the Court if such changes are consistent with the Court's Order Approving Settlement and Final Judgment.

32. If, during the term of this agreement, NYCTA wants to discontinue or materially alter the Denial Form or Appeal Hearing Docket Sheet, NYCTA must give Plaintiffs' counsel written notice of such proposed change. Within 21 days of the receipt of such notice, Plaintiffs' counsel will inform NYCTA in writing whether or not they object to the proposed change. If Plaintiffs' counsel does not object to the proposed change within 21 days, NYCTA may then

implement the change. If Plaintiffs' counsel objects to the proposed change and NYCTA seeks to make the change over the objection of Plaintiffs' counsel, NYCTA must apply to the Court for the Court to approve the proposed change over Plaintiff's objection.

VI. MISCELLANEOUS

33. Approval of this Agreement is subject to the provisions of Rule 23(e) of the Federal Rules of Civil Procedure, including without limitation, the direction of notice, the consideration of any objections filed by any class members, and a hearing or finding by the Court that the Agreement is fair, reasonable and adequate.

34. This Agreement constitutes the entire agreement between the parties relating to the issues raised in the complaint, and no other statement, promise, or agreement, either written or oral, made by either party or agents of either party prior, that is not contained in this Agreement, shall be enforceable, with the exception of individual General Releases from the Named Plaintiffs, and any Infant Compromise Orders, if necessary.

35. The provisions of this Agreement shall be binding on all parties (including class members) and their assigns or successors in interest.

36. Upon final District Court approval of this Agreement, all claims in this action against Prendergast and Bianco shall be dismissed with prejudice.

37. The "Term of the Agreement" is defined as the period commencing with the date of the Court's approval ("the Effective Date") and ending 30 months thereafter. The Court shall retain jurisdiction over this action for all purposes during the Term of the Agreement, after which time the case shall be dismissed with prejudice. The Court shall retain jurisdiction over the Parties to enforce and administer the terms of this Agreement and the Court's Order Approving Settlement and Final Judgment during the Term of the Agreement.

38. If, during the Term of the Agreement, Plaintiffs believe that NYCTA has violated any portion of this Agreement, Plaintiffs must, within 30 days of receiving notice of the alleged violation, forward written notifications of such alleged noncompliance to NYCTA at the address set forth in Paragraph 44 of this Agreement. This notification should include the nature and specifics of any alleged noncompliance, and shall specify the evidence of the claimed violation(s). NYCTA shall reply to this written notification within fourteen days of receipt. The Parties shall in good faith attempt to resolve the reported noncompliance within 45 days thereafter; such attempts may include, but are not limited to, conducting the meetings described in Paragraph 16 of this Agreement as part of the auditing plan. If, at the end of the 45 day period, the parties have been unable to reach satisfactory resolution of the alleged noncompliance, Plaintiffs may move for an order to enforce the terms of this Agreement.

39. *Fees and Costs:* NYCTA will pay Plaintiffs' attorneys' the sum of Two Hundred Ninety Thousand Dollars (\$290,000), which payment shall be in full satisfaction of any and all claims for attorneys' fees and costs in connection with this litigation.

40. *Construction:* For purposes of construction, this Agreement shall be deemed to have been drafted by each of the parties and shall not, therefore, be construed against either party in any subsequent dispute.

41. The Parties agree that this Agreement was drafted by counsel for the Parties at arm's length.

42. *Severability:* If any provision of this Agreement is hereafter determined to be invalid for any reason, the balance of this Agreement shall remain in full force and effect.

43. *Authorized Representatives:* The undersigned signatories represent that they are fully authorized to enter into the terms and conditions of this Agreement and to execute and legally bind to this document the party that they represent.

44. Whenever this Agreement requires or contemplates that one Party will or may give notice to the other, notice will be provided by e-mail and next-day (excluding weekend days) overnight delivery service as follows:

a. If to NYCTA, then to:

New York City Transit Authority
Office of the General Counsel
130 Livingston Street, 12th Floor
Brooklyn, NY 11201

b. If to Plaintiffs, then to:

Nahid Sorooshyari
Kevin Cremin
MFY Legal Services, Inc.
299 Broadway, 4th Floor
New York, NY 10007

45. The Parties agree not to appeal any aspect of this Agreement, under any condition or circumstance, or to otherwise collaterally attack or challenge this Agreement.

46. This Agreement may be signed in counterparts, each of which will constitute a duplicate original.

FOR THE NAMED PLAINTIFFS AND CLASS MEMBERS:

PILLSBURY WINTHROP SHAW PITTMAN LLP

By: 

David G. Keyko
Jay D. Dealy
Amanda Senske
1540 Broadway
New York, NY 10036
(212) 858-1000

MFY LEGAL SERVICES, INC.

By: Jeanette Zelhof/EB
Kevin M. Cremin (KC-4319)
Nahid Sorooshyari (NS-0614)
Daniel Ross (DR-7677), of counsel to
Jeanette Zelhof, Esq.
299 Broadway, 4th Floor
New York, NY 10007
(212) 417-3700

FOR DEFENDANTS:

HOGUET NEWMAN REGAL & KENNEY, LLP

By: _____
Ira J. Lipton
Helene R. Hechtkopf
Miriam J. Manber
10 East 40th Street, 35th Floor
New York, New York 10016
(212) 689-8808

NEW YORK CITY TRANSIT AUTHORITY

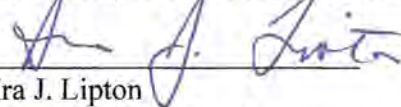
By: _____
Eamonn F. Foley
James L. Kerwin
James J. Gallagher
Office of the General Counsel
New York City Transit Authority
130 Livingston Street, 12th Floor
Brooklyn, New York 11201
(718) 694-3989/5714

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FOR DEFENDANTS:

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NEW YORK CITY TRANSIT AUTHORITY

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(212) 689-8808

NEW YORK CITY TRANSIT AUTHORITY

By: Eamonn F. Foley
Eamonn F. Foley
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James J. Gallagher
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Brooklyn, New York 11201
(718) 694-3989/5714

Exhibit A

Caldwell, et al. v. NYCTA, et al.
Settlement Agreement Exhibit A

September 15, 2015

SAMPLE CUSTOMER
1234 MAIN ST
NEW YORK, NY 10000

Dear Mr. CUSTOMER:

The review of your application, supporting documentation and in-person functional assessment for New York City Transit's Access-A-Ride paratransit program is complete. Based on this information, we have determined that you are not eligible for AAR paratransit service. The information indicates that you are able to perform all of the necessary tasks associated with independent travel on fixed-route service. It also indicated that your disability does not vary, nor is it affected by temperature, ice or snow in such a way that prevents you from using fixed route buses or trains. According to federal regulations, a person is eligible for paratransit service under the Americans with Disabilities Act (ADA) only if he/she cannot use regular fixed-route bus and subway service because of his/her disability. You demonstrated that:

- You are able to go up/down subway steps
- You are able to travel 3 to 4 blocks to fixed-route bus/subway station
- You are able to get on, ride and exit the subway
- You are able to get on, ride and exit the fixed-route bus
- You are able to use the fixed-route bus lift
- You are functionally able to independently ride and navigate the fixed route system
- You have good functional gait, balance, endurance, strength and range of motion
- You have no cognitive/psychological limitations that would prevent you from using fixed-route bus/subway

You have the right to appeal this determination to the Eligibility Appeals Board within 60 days from the date of this notice. The applicable AAR eligibility appeal form and instructions are enclosed.

This letter provides notice of the grounds for AAR's decision. If you would like to receive a copy of your full assessment record free of charge, please call xxx-xxx-xxxx. Your record will be sent to you within 30 days of your request. If you plan to appeal this decision and want to receive your assessment record before the deadline to submit your appeal form, you should request the record within 30 days of the date of this notice. For your convenience, the summary page from your assessment record is enclosed with this letter.

If you are not a new applicant, and you currently use Access-A-Ride, your service will continue for 60 days from the date of this notice, or if you appeal this decision, until your appeal has been decided.

If your ability to use the fixed route system changes and you wish to reapply, please contact us at 1-877-337-2017 and press “1” to speak with a representative.

Sincerely,

Exhibit B

Caldwell, et al. v. NYCTA, et al.
Settlement Agreement Exhibit B

September 15, 2015

SAMPLE CUSTOMER
1234 MAIN ST
NEW YORK, NY 10000

Dear Mr. CUSTOMER:

We have reviewed your application, supporting documentation, and in-person functional assessment for the Access-A-Ride (AAR) paratransit program. That information shows that you can use fixed-route buses and subways for some trips. However, your disabilities prevent you from using buses and subways in certain situations. You may use AAR when the following condition(s) apply to your trip:

[insert current fields]

See page 11 of the enclosed Guide to AAR for more information.

Your eligibility for AAR expires on 9/30/2020. Your AAR ID card and a copy of the Access-A-Ride Guide are enclosed. Please take a moment to read the enclosed document.

TRAVEL INSTRUCTIONS: To request a trip on AAR, you must call the Paratransit Call Center at 1-877-337-2017 one to two days in advance and have the following information ready:

- Your AAR ID Number **9999963**
- The date and time of your trip(s)
- Your pickup address (include the cross streets)
- Your destination address (include the cross streets)
- If possible, a telephone number at your destination where you can be reached.

Note: The one-way paratransit fare for all riders is the same as the full fare on mass transit. Please pay the driver the exact fare when boarding the vehicle. If you have been determined eligible to travel with a Personal Care Attendant (PCA), the PCA does not pay a fare. If you do not pay the required fare, you will be denied the trip.

If you have any questions, please call our Information Center for assistance at 1-877-337-2017, between 9:00 AM and 5:00 PM, Monday through Friday.

You have the right to appeal this determination to the Eligibility Appeals Board within 60 days from the date of this notice. The applicable AAR eligibility appeal form and instructions are enclosed.

This letter provides notice of the grounds for AAR's decision. If you would like to receive a copy of your full assessment record free of charge, please call xxx-xxx-xxxx. Your record will be sent to you within 30 days of your request. If you plan to appeal this decision and want to receive your assessment record before the deadline to submit your appeal form, you should request the record within 30 days of the date of this notice.

If you are not a new applicant, and you currently use Access-A-Ride, your current level of service will continue until 60 days after the date of this notice, or if you appeal this decision, until that appeal is decided.

Sincerely,

Else Mullins, Certification Manager
Paratransit Division, Department of Buses

Exhibit C

Caldwell, et al. v. NYCTA, et al.
Settlement Agreement Exhibit C

September 15, 2015

SAMPLE CUSTOMER
1234 MAIN ST
NEW YORK, NY 10000

Dear Mr. CUSTOMER:

Under the Americans with Disabilities Act (ADA), paratransit service is available only to individuals whose disabilities prevent them from independently using New York City Transit bus and/or subway service. Upon review of your appeal, the Appeals Board has made the determination to uphold the decision denying you Access-A-Ride (AAR) service for the following reason(s):

[one or more of the following reasons will be selected]

- You did not demonstrate that your medical condition/disability prevents you from taking the bus or subway.
- The medical documentation you submitted provided only general information or a diagnosis and failed to support your claim that your medical condition or disability prevents you from traveling on buses and subways.
- At the functional assessment, you were able to walk well without using an assistive device, navigate stairs on the bus, and perform other tasks associated with the use of buses and subways.
- You failed to complete the assessment, making it impossible to determine whether your impairments prevent you from using buses and subways.
- You currently use fixed route bus/subway.
- Child is able to safely travel on fixed-route bus/subway accompanied by a parent or guardian who is not prevented from traveling via fixed-route service.

If you disagree with this decision, you are entitled to judicial review under Article 78 of the New York Civil Practice Law and Rules. You must file your case in New York Supreme Court within four (4) months of the date of this notice. Further information can be found on the New York State Unified Court System website: <http://www.nycourts.gov/>

This letter provides notice of the grounds for AAR's decision. If you would like to receive a copy of your Appeal Hearing Docket Sheet, which contains additional information regarding the reasons for this decision, please call xxx-xxx-xxxx. Your Appeal Hearing Docket Sheet will be sent to you, free of charge, within 30 days of your request.

If your ability to use the fixed route system changes and you wish to reapply, please contact us at 1-877-337-2017 and press "1" to speak with a representative.

Sincerely,

Exhibit D

Caldwell, et al. v. NYCTA, et al.
Settlement Agreement Exhibit D

ELIGIBILITY CRITERIA

You are eligible for Access-A-Ride if you have a disability that prevents you from using the public buses or subways. We will review your application, any medical documentation you provide, and ask you to undergo an individualized assessment. During the assessment, we will ask you to demonstrate whether you can: go up or down subway stairs; travel to a subway or bus station; get on, ride, and exit a subway or bus; and ride or navigate the bus or subway system independently. Evaluating your ability to do these things will help us determine if you are eligible for conditional or full Access-A-Ride services. We will also evaluate your gait, balance, endurance, strength, range of motion, and, if applicable, assess whether you have any cognitive or psychological conditions that may prevent you from using the bus or subway.

Exhibit E

Caldwell, et al. v. NYCTA, et al.
Settlement Agreement Exhibit E

New York City Transit Authority
Access-A-Ride Equal Access Policy

New York City Transit Authority (the “Authority”) has always been committed to providing paratransit service to all people whose disabilities prevent them from using the Authority’s fixed-route transit services, in accordance with all applicable federal, state, and local anti-discrimination laws. It continues to be the policy and practice of the Authority not to engage in or assist the efforts of others to engage in discrimination. Discrimination includes, but is not limited to, discrimination in eligibility determinations.

Consistent with that policy and applicable law, the Authority provides equal access to its paratransit service to all people whose disabilities prevent them from using fixed-route transit services. The Authority recognizes that one or more disabilities may independently or in combination cause functional limitations that prevent a transit customer from riding fixed-route transit services. Disabilities that are episodic in nature may be sufficient to qualify an individual for paratransit services if the disability, when present, prevents the individual from using the Authority’s fixed-route service. The Authority further recognizes that medical diagnoses can manifest differently in different individuals and is committed to an individualized assessment of each paratransit applicant’s abilities.

Exhibit F

**CERTIFIER IN-DEPTH REVIEW REPORT
INTERVIEW & FUNCTIONAL TESTING**

Start Time: _____ (AM/PM)

End Time: _____ (AM/PM)

I. General Information (Please Type or Print Legibly)

Applicant's Name: _____

Applicant's ID Number: _____ Date of Birth: _____ / _____ / _____

Primary Transportation Related Disability/Disabilities: _____

Other Medical Conditions: _____

Mobility Range: ½ - 1 - 2 - 3 - 4 - 5 (_____) Blocks

Is applicant traveling alone? Yes No **If No, Relationship** _____

Was a rest period needed? Yes No

Are any support device(s) used? Yes No

If yes, please specify the type of support device(s) used: _____

What limits more distance? _____

1. How do you travel currently? _____

2. Do you have any limitations when traveling on level ground? Yes No

If yes, please explain: _____

3. Is medical documentation(s) being provided? Yes No

If yes, please specify: _____

(Assessor: Please forward any medical documentation to NYCT along with this certification report)

4. Are you receiving treatment for this condition? Yes No For how long? _____

If yes, please specify: _____

5. Is medication taken for this condition? Yes No

If yes, does it affect your ability to travel? Yes No For How Long? _____

6. Was any medication taken today? Yes No

If no, please explain: _____

II. Current Use of Fixed Route System

ID#: _____

A. Subways

How far from your home is the nearest subway? _____ Blocks, or by Bus __ Yes __ No

a) When was the last time you traveled on the subway independently? _____

(*Please reference application page 7 – Subway question – for any inconsistency)

Why did you stop? _____

b) Are you able to walk or use a wheelchair to travel to and from subway stations for:

__ All Trips __ Some Trips __ No Trips

__ How long does it take? _____ Minutes

Note: If applicant states “Some Trips”, please indicate when the applicant cannot travel to and from the subway station: _____

c) Are you able to enter and exit a subway station?

__ Yes, without limitation __ Yes, with limitation (explain)

__ No (explain) __ Only if equipped with an elevator

Provide explanation: _____

d) Are you able to climb up and down subway steps?

__ Yes, without limitation __ Yes, with limitation (explain)

__ No (explain) __ How long does it take? _____ Minutes

Provide explanation: _____

e) Are you able to ride on an escalator?

__ Yes, without limitation __ Yes, with limitation (explain)

__ No (explain)

Provide explanation: _____

f) Are you able to get on, ride, and get off a subway car without assistance?

__ Yes, without limitation __ Yes, with limitation (explain)

__ No (explain)

Provide explanation: _____

g) Are accessible subway stations available for:

__ All Trips __ Some Trips __ No Trips __ There are no accessible subway stations

Name of starting station: _____

B. Buses

ID#: _____

How far from your home is the nearest Bus? _____ Blocks.

a) When was the last time you traveled on the bus independently? _____

(*Please reference the application page 5 – Bus question – for any inconsistency)

b) Why did you stop? _____

c) Are you able to get to and from bus stops for:

___All Trips ___Some Trips ___No Trips

___How long does it take? _____ Minutes

Note: If applicant states “Some Trips”, please indicate when the applicant cannot travel to and from the bus stops: _____

d) Are you able to get on, ride and get off a bus without assistance?

___Yes, without limitation ___Yes, with limitation (explain) ___No (explain)

Note: If response is “Yes, without difficulty”, Skip Questions (d) and (e)

Provide explanation: _____

e) If “No”, are you able to board the bus if the kneeler is lowered?

___Yes, without limitation ___Yes, with limitation (explain) ___No (explain)

Provide explanation: _____

f) If “No”, are you able to board the bus using the lift?

___Yes, without limitation ___Yes, with limitation (explain) ___No (explain)

Provide explanation: _____

C. Personal Care Attendant

1. Do you currently travel with a Personal Care Attendant (PCA, a person such as a home attendant who assists you regularly when you travel outside your home)?

___Yes ___No ___Sometimes (explain)

Provide explanation: _____

Note: If response is “Yes” or “Sometimes”, proceed to Question (a).

a) Who is your PCA?

What is your relationship to your PCA? _____

How does your PCA assist you in traveling? _____

b) If you were receiving door-to-door service, would you still need a PCA? ___Yes ___No

Provide explanation: _____

ID#: _____

III. Functional Testing (APPLICANT IS TO BEGIN ASSESSMENT IN AN ARMLESS CHAIR)
(If no Functional performed, explain _____)

List the assistive device(s) that the applicant is using today: _____

If manual wheelchair was used, how did applicant maneuver the wheelchair?

___ Both hands ___ One Hand ___ With Feet and/or ___ With PCA

Observation: _____

1. Is the applicant able to walk 676-1014 feet (2-3 city blocks)? ___ Yes ___ No
How long did it take? _____ Minutes If no, how far did the applicant walk: _____
If no, explain: _____

Certifier's Observation (Describe gait/ambulation):

Was there any distress noted? (Assessor, please make casual conversation and eye contact.)

2. Based on your observations, is applicant able to cross a multi-lane intersection in a safe and timely manner? ___ Yes ___ No, explain: _____

3. Is the applicant able to climb the bus steps?
___ Yes, without limitation ___ Yes, with limitation (explain) ___ No (explain): _____

Note: If the applicant is unable to climb the bus steps, go to question #4

- 3a. How long did it take the applicant to climb the bus steps? _____ Minutes _____ Seconds
Certifier's Observation (Describe balance): _____

4. Is the applicant able to use the bus lift? ___ Yes ___ No, explain: _____

- 4a. How long did it take the applicant to use the bus lift? _____ Minutes _____ Seconds
Certifier's Observation: _____

5. Can the applicant use the fare box? ___ Yes ___ No, explain: _____
Certifier's Observation: _____

ID#: _____

6. Is the applicant able to sit with ease? Yes No, explain: _____

Certifier's Observation: _____

7. Is the applicant able to grab and hold on to the overhead support rails?
 Yes No, explain: _____

Certifier's Observation: _____

8. Is the applicant able to use the stop requester? Yes No, explain: _____

Certifier's Observation (Can the applicant ask the driver to announce their stop?): _____

9. Is the applicant able to determine destination signs? Yes No, explain: _____

Certifier's Observation: _____

10. Can the applicant ask the driver to announce their stop? Yes No

11. Based on your observation, will the applicant occupy two (2) seats on an AAR vehicle?

Yes No

12. Are you currently employed? Yes No Retired
If no and over 18 years of age, do you plan to reenter the workforce Yes No
What do you do? _____

What may that entail? _____

13. Do you live in a private house? Yes No
If yes, do you climb stairs to enter and exit your home? _____ How many? _____
If no, what floor do you live on? _____ Is it a walk up? _____ How many flights? _____

IV. COGNITIVE ONLY

ID# : _____

1. What was the date of onset and the diagnosis of the cognitive disability? _____

2. How does the cognitive disability prevent the applicant from using the bus or subway? _____

3. Is the applicant on any medication to treat this condition? Yes No
If yes, what is the medication and dosage? _____

4. Will he or she be able to travel independently when the applicant is under the influence of the medication? _____

5. Did applicant take the medication prior to the assessment? Yes No
If yes, are any side affects observed that would limit the applicant's ability to travel on buses or subways? _____

6. Does the applicant currently experience hallucinations? Yes No
If yes, how does this limit his/her ability to travel on the bus or subway? _____

7. Can the applicant read, identify and understand the destination and route number signs on public transit buses or subways? Yes No

8. Can the applicant follow simple instructions (needed for traveling)? Yes No

9. What's the highest level of education you have received? _____
(*Reference the ability to comprehend and complete higher education learning)

START TIME: _____

END TIME: _____

Psychologist's Assessment

Client's Name: _____

Date: _____

Psychological Dx: _____

Applicant's Doctor's Name: _____

Comments:

Final Recommendation:

1. Based on the above psychological evaluation, the applicant ___ **can** ___ **cannot** (check one) independently navigate the public transportation system.
2. From a psychological/cognitive point of view, can the applicant travel on Access-A-Ride alone?
 Yes **No**

___ DENIED (check all that apply)

___ D20 Psychological/Cognitive Issues Does Not Affect Use of Bus/Subway

___ D21 Other: _____

ID#: _____

CHILDREN ONLY

1. What was the date of onset of the disability? _____
2. What device(s) does the child use? Please describe: _____

3. Can the parent or guardian travel on the bus or subway system while managing the applicant with or without the assistive device? Yes No
Please describe: _____

4. Is the child able to use the bus (or subway), with assistance, for:
 All Trips Some Trips No Trips
5. With the help of a parent or guardian, is the child able to use the bus kneeler or wheelchair lift?
 Yes No, why?: _____

6. Is the child capable of any independent travel, without assistance? Yes No
Please describe: _____

7. How often does the child travel on public transit bus (or subway) with assistance? _____

8. Is the child able to communicate information about himself (or herself)? Yes No
(Assessor: Ask the applicant his/her name, address and telephone number)
9. Can the child read, identify and understand the destination and route number signs on public transit buses? Yes No **(Assessor: Test with "Stop" requestor sign)**
10. Is the child taking prescription medication for the condition (examples: seizure control or behavioral problems)? Yes No
11. Does the child's disability prevent use of travel or the regular transit system, with assistance?
 Yes No
12. In your professional assessment, can the child be travel trained? Yes No, why? _____

V. Verification

ID#: _____

1. Verify assistive device(s) used by applicant:

- | | | |
|---|---|---|
| <input type="checkbox"/> Braces | <input type="checkbox"/> Walker | <input type="checkbox"/> Manual Wheelchair |
| <input type="checkbox"/> Crutches | <input type="checkbox"/> Prosthesis | <input type="checkbox"/> Motorized Wheelchair |
| <input type="checkbox"/> Cane | <input type="checkbox"/> Respirator/Oxygen Tank | <input type="checkbox"/> Scooter |
| <input type="checkbox"/> Long cane | <input type="checkbox"/> Service/guide animal | <input type="checkbox"/> Electronic travel aids |
| <input type="checkbox"/> Other (specify): _____ | | |

2. Confirm if applicant has been travel trained: Yes No In the process

Assessment of Travel Training Potential

Applicant: would benefit would not benefit

3. In your assessment of the applicant, does the applicant as a result of his/her disability/disabilities have any weakness or balance difficulty that would affect his/her ability to travel on the bus/subway? Yes No, explain: _____

4. In your assessment and observation of the applicant, is there a need for the applicant to travel with a personal care attendant when riding on buses or subway? Yes No, explain: _____

5. In your assessment and observation of the applicant, is there a need for the applicant to travel with a personal care attendant, if you recommend Access-A-Ride? Yes No, explain: _____

6. Do any of the applicant's comments or answers contradict your observation?

Please explain: _____

VI. Recommendation

Please explain the reasons for your recommendation:

Comments: _____

Certifier's Name: _____ Date: _____

Exhibit G

Caldwell, et al. v. NYCTA, et al.
Settlement Agreement Exhibit G

**NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION LAWSUIT
REGARDING NEW YORK CITY TRANSIT AUTHORITY'S
ACCESS-A-RIDE SERVICES**

If you have applied or tried to recertify for New York City Transit Authority's ("NYCTA") Access-A-Ride ("AAR"), or you will in the future, you should read this notice.

BACKGROUND

In May 2015, five plaintiffs brought a lawsuit, *Caldwell et al. v. New York City Transit Authority*, No. 15-CV-03682 (JMF) (S.D.N.Y. 2015), in federal court. The lawsuit claims that certain policies and procedures in the AAR eligibility determination process violate applicants' right to due process under state and federal law.

On November 10, 2015, the Court certified a class consisting of "all New York City residents with disabilities who have applied or have sought to recertify for paratransit service since May 12, 2012, and/or New York City residents with disabilities who will seek to apply to recertify for paratransit service in the future." NYCTA denies the claims in the lawsuit. The parties have agreed to a settlement in the case, and the Court must now decide whether to approve the settlement.

PROPOSED SETTLEMENT

This is a summary of the proposed settlement. You can read the full proposed settlement on the website of MFY Legal Services, Inc. at www.mfy.org.

The main points of the settlement are:

1. When NYCTA denies an AAR application, it will mail a copy of the applicant's "Denial Form" with the eligibility determination letter. The Denial Form provides information about why the applicant was denied.
2. NYCTA will allow applicants it denies or finds conditionally eligible to request their internal AAR Assessment Records and receive them within 30 days of the request at no cost. This procedure will be explained on the letters NYCTA sends when it denies applicants or finds them conditionally eligible.
3. For current AAR users who are found ineligible or whose level of AAR service is decreased after recertifying or otherwise re-applying, NYCTA will continue to provide service at the same level until the 60-day time to appeal has expired or, if the AAR user files an appeal, until the appeal is decided.
4. NYCTA will include a statement of its eligibility criteria for AAR services on its website and on all new AAR application forms.
5. NYCTA will adopt a non-discrimination policy called the Equal Access Policy and will post the policy on its website and train its staff on it.

6. For two and a half years after approval of this settlement, MFY Legal Services, Inc. will review certain documents and data provided by NYCTA to ensure compliance with the settlement agreement. The Court will retain jurisdiction to enforce this settlement during that time.
7. NYCTA will pay \$2,500 to each of the five named plaintiffs, who were certified as representatives of the class for the necessary services they provided in connection with the lawsuit.
8. The class is represented by attorneys at MFY Legal Services, Inc., a non-profit law firm that provides free legal assistance to residents of New York City on a wide range of civil legal issues, and Pillsbury Winthrop Shaw Pittman LLP, a national law firm with a longstanding record of providing legal services to those in need. NYCTA will pay class counsel \$290,000 for all legal fees and services in this lawsuit, plus fees and costs of auditing up to \$62,500. Pillsbury Winthrop Shaw Pittman LLP has acted as class counsel on a pro bono basis and will donate its fees.
9. Any person who is a class member will not be allowed to seek any injunctive relief against NYCTA for claims that exist at this time based upon, or related to, the allegations in the complaint in this case. Individual claims for monetary damages arising out of the complaint in this case are not barred by the settlement, but the settlement agreement may not be used to prove or defend against such damages claims. The settlement does not prevent any class member from pursuing an administrative appeal or Article 78 proceeding challenging any individual eligibility determination, suspension of services, or other individual claim for individual AAR services that is unrelated to the allegations in the complaint.

RIGHT TO OBJECT

Any class member has the right to object to the proposed settlement as unfair, unreasonable and inadequate by appearing and stating his or her objections at the hearing. The Court has set a fairness hearing for this purpose on _____ at _____ at the following address:

Honorable Jesse M. Furman, United States District Judge
United States Courthouse for the Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 1105, New York, NY 10007

Class members may also object to the settlement by sending a letter marked “Caldwell Class Action” and postmarking it by _____ to the address listed above.

If you are a class member and have any questions, please contact MFY Legal Services, Inc. at (877) 417-2427 or at the following address:

Caldwell Class Action Counsel
MFY Legal Services, Inc.
299 Broadway, 4th Floor
New York, NY 10007

Exhibit H

Caldwell, et al. v. NYCTA, et al.
Settlement Agreement Exhibit H

1. AARP New York
2. AHRC New York City
3. Bronx Independent Living Services
4. Brooklyn Center for Independence of the Disabled (BCID)
5. Center for Independence of the Disabled in New York (CIDNY)
6. Community Access
7. Disabled In Action
8. Easter Seals
9. Harlem Independent Living Center (HILC)
10. Health Advocates for Older People
11. Henry Street Settlement
12. Independence Care System
13. Lenox Hill Neighborhood House
14. NAMI New York City Metro
15. Queens Independent Living Center
16. Services & Advocacy for GLBT Elders (SAGE)
17. Staten Island Center for Independent Living
18. United Cerebral Palsy of New York City (UCP)
19. YAI Network