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8 **IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON**
9 **IN AND FOR KING COUNTY**

10 THE WASHINGTON STATE
11 COMMUNICATION ACCESS PROJECT, a
12 Washington Non-Profit Corporation,

13 Plaintiff,

14 vs.

15 REGAL CINEMAS, INC., a subsidiary of Regal
16 Entertainment Group, a Delaware Corporation,
17 AMC ENTERTAINMENT, INC., a/k/a
18 American Multi-Cinema, Inc., a Delaware
19 Corporation, CINEMARK HOLDINGS, INC., a
20 Delaware Corporation, SILVER CINEMAS
21 ACQUISITION CO., LLP., d/b/a Landmark
22 Theaters, a Delaware Limited Partnership,
23 LINCOLN SQUARE CINEMAS, LLC, a
24 Delaware limited liability company, and
25 KIRKLAND PARKPLACE CINEMAS LLC, a
26 Washington liability company,

Defendants.

NO. 08-2-27208-7 SEA

**ORDER GRANTING IN PART AND
DENYING IN PART PLAINTIFF'S
MOTION FOR PARTIAL SUMMARY
JUDGMENT, AND DENYING
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT**

21 THIS MATTER came before the Court on Plaintiff's Motion for Partial Summary
22 Judgment, and Defendants' Motion for Summary Judgment. The Court heard oral arguments
23 and considered the following:
24

- 25 1) Plaintiff's Motion for Partial Summary Judgment against Defendants' Regal, AMC,
26 Cinemark, Silver Cinemas, and Lincoln Square, and exhibits thereto;

ORDER GRANTING IN PART AND DENYING IN
PART PLAINTIFF'S MOTION FOR PARTIAL
SUMMARY JUDGMENT, AND DENYING
DEFENDANTS' MOTION FOR SUMMARY
JUDGMENT – PAGE 1 OF 4

Judge Regina S. Cahan
King County Superior Court
516 Third Avenue
Seattle, WA 98104

ORIGINAL

- 1 2) Defendants' Opposition to Plaintiff's Motion for Partial Summary Judgment;
- 2 3) Defendants' Motion for Summary Judgment, and exhibits thereto;
- 3 4) Plaintiff's Response to Defendants' Motion for Summary Judgment;
- 4 5) Plaintiff's Post Hearing Brief concerning Agency Rulemaking and Due Process;
- 5 6) Plaintiff's Submission of Supplemental Authority.

6 No replies were filed by stipulation of the parties.

7
8 The Court being fully advised, now therefore, it is hereby ORDERED, ADJUDGED
9 AND DECREED that Plaintiff's Motion for Partial Summary Judgment is GRANTED in part
10 and DENIED in part. The Defendants' Motion for Summary Judgment is DENIED.

11 **FINDINGS OF FACT:**

12 The Court enters the following FINDINGS OF FACT that were stipulated to by the
13 parties:
14

- 15 1) Plaintiff Washington State Communication Access Project (Wash-CAP) is a
16 Washington non-profit corporation whose stated purpose is" to enable those with
17 hearing losses to enjoy public places and participate in public life as fully as those
18 without hearing losses to the extent such full participation is technologically and
19 economically possible."
20
- 21 2) Most of Wash-CAP's members have hearing losses of significant magnitude that they
22 are unable to discern some or all movie spoken content when they attend movie
23 exhibitions at a movie theatre even with the use of an Assistive Listening Device.
- 24 3) Defendants Regal Cinema, Inc., AMC Entertainment, Inc., Cinemark Holdings, Inc.,
25 Silver Cinemas Acquisition Co., LLP, and Lincoln Square Cinemas, LLC own and
26

1 operate movie theaters in King County, WA and elsewhere either directly or through
2 wholly-owned subsidiaries.

- 3 4) Defendants are public accommodations engaged primarily in the business of exhibiting
4 motion pictures and selling concession items. No defendant excludes, denies services,
5 segregates or otherwise treats differently any Wash-CAP's members desiring to attend
6 a theatrical showing or purchase concession items on the same terms on for the same
7 cost as the general public.
8

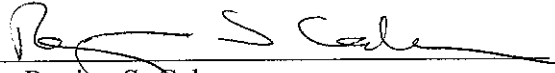
9 **CONCLUSIONS OF LAW:**

- 10 1) Defendant movie theaters are "places of public accommodation" within the meaning of
11 RCW 49.60. et seq.
12
13 2) Hearing loss is a sensory disability within the meaning of RCW 49.60. et seq.
14
15 3) Defendants provide the same service to Plaintiff's members and other patrons with
16 hearing loss as they provide to patrons without hearing loss. However, providing
17 Plaintiff's members with the same service as is provided to non-disabled patrons does
18 not permit Plaintiff's members to fully enjoy the movies shown at defendant theaters.
19
20 4) Because providing "same service" to Plaintiff's members does not allow them to fully
21 enjoy the services provided by defendant theaters, Defendants are required by
22 Washington law and regulations to offer "reasonable accommodations" instead of
23 "same service."
24
25 5) "Reasonable accommodations" mean actions, reasonably possible in the circumstances,
26 to make a business' services "accessible", which is defined by regulation as being
"usable or understandable."

1 6) Public accommodations such as movie theaters are required to make “reasonable
2 accommodations” to the extent it is reasonably possible in the circumstances for them
3 to do so.

4 7) Trial in this matter is limited to the question of what is a “reasonable accommodation”
5 for each Defendant. (Open and closed captioning was discussed in depth during oral
6 argument and in the briefing. Although captioning might be a viable option to allow
7 plaintiffs to understand a movie, there may be other technology that would also serve
8 the same purpose. The determination of which, if any, type of accommodation would
9 be reasonable for each defendant is for the fact-finder at trial to decide.)
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12 DATED this 4th day of May, 2010.
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16 Judge Regina S. Cahan
17 King County Superior Court
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