

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

THE STATE OF ARIZONA *ex rel.* TERRY
GODDARD, the Attorney General; and THE CIVIL
RIGHTS DIVISION OF THE ARIZONA
DEPARTMENT OF LAW,

No. CV07-703 PHX ROS

Plaintiff,

CONSENT DECREE

&

FREDERICK LINDSTROM, by and through his
legal guardian, RACHEL LINDSTROM, LARRY S.
WANGER, and JUSTIN GOPEN,

Plaintiffs-Intervenors,

vs.

HARKINS ADMINISTRATIVE SERVICES, INC.,
et al.,

Defendants.

I. INTRODUCTION

The State filed suit against Defendants, affiliated entities doing business under the trade name of “Harkins Theatres” (“Harkins”) and currently operating 25 theater complexes throughout Arizona, with a total of 346 auditoriums. The State filed the lawsuit on behalf of Frederick Lindstrom, and Justin Gopen, individuals who are profoundly deaf; Larry Wanger, an individual who is blind; and similarly-situated persons living with sensory disabilities in

1 Arizona. The lawsuit alleged that Harkins failed to take the necessary steps to ensure that
2 individuals with sensory disabilities are not excluded, denied services, or otherwise treated
3 differently than other individuals because of the absence of auxiliary aids and services.
4 Subsequently, the Court granted intervention by Lindstrom, Gopen, and Wanger, who were
5 represented in this action by the Arizona Center for Disability Law (“ACDL”).

6 The State’s complaint alleged a violation of the Arizonans with Disabilities Act
7 (“AzDA”). The Plaintiff-Intervenors’ Complaint alleged violations of Title III of the
8 Americans with Disabilities Act (“ADA”) and the AzDA. The State sought class-wide relief to
9 address Harkins’ alleged violations of the AzDA’s auxiliary aids and services provision,
10 including declaratory relief and injunction(s) to require Harkins to install equipment to provide
11 auxiliary aids and services in the auditoriums of their existing, newly-built, or acquired theaters,
12 to implement an effective training program and evaluation of their employees regarding
13 assisting customers with auxiliary aids and services, and to provide information about the
14 availability of auxiliary aids and services during movies in a format that is accessible to people
15 with sensory disabilities. The ACDL sought similar relief on behalf of the Plaintiffs-
16 Intervenors.

17 Harkins denies that it violated the auxiliary aids and services provision because it
18 voluntarily scheduled and displayed open captioned films at some of its theater complexes
19 (despite that it was not required to do so), provided assistive listening devices to patrons who
20 were hard of hearing, equipped video description equipment at Harkins Tempe Marketplace 16,
21 and allowed a person accompanying a patron with a vision impairment to describe visual
22 aspects of the movie to the patron at its other theaters. Harkins further alleged that it was an
23 undue burden to equip its theaters with closed captioning and video description equipment
24 because the movie theater industry was transitioning from 35 mm film to digital cinema and it
25 would be required to invest in equipment that was a poor technology and would soon become
26 obsolete and/or invest in equipment that was not commercially available.

1 The film studios provide captions and descriptions for selected movies, and the number
2 of movies that are being captioned and described by the film studios is increasing. Captions
3 provide the aural information from the soundtrack. Video descriptions provide a description of
4 the key visual aspects of the film. The film studios provide the captions and descriptions on
5 CD-roms (for use with 35 mm projectors) and in digital cinema packages (for use with digital
6 auditoriums) to theaters at no cost to the theaters. For customers to access the captions and
7 descriptions on a captioned or described movie, theater owners must install closed captioning
8 and video description equipment and provide receivers (for captions) and headsets (for video
9 descriptions).

10 The transition to digital cinema is now occurring. Film studios are providing captions
11 and descriptions for more movies. Equipment manufacturers have recently developed new
12 technologies to provide captions and descriptions in digital theaters that are available for
13 purchase.

14 The parties agree that the Consent Decree will further the objectives of the AzDA and
15 Title III of the ADA, and that the Decree protects the parties and the public with respect to the
16 provision of auxiliary aids and services at the movie theaters owned and operated by Harkins
17 for individuals living with sensory disabilities.

18 Based on the foregoing, the State, Plaintiffs-Intervenors, and Harkins desire to resolve
19 the issues regarding the provision of captioned and described movies at Harkins theaters in
20 Arizona by agreeing to the provisions set forth in this Consent Decree rather than face the time,
21 expense and uncertainty of further contested litigation. The State, Plaintiffs-Intervenors, and
22 Harkins acknowledge that this Decree is the compromise of disputed claims, that there was no
23 adjudication of any claim, and that consent to entry of this decree does not constitute any
24 admission or proof of fault or liability. The parties agree to be bound by this Consent Decree
25 and not to contest that it was validly entered into in any subsequent proceeding to implement or
26 enforce its terms. The parties have therefore consented to the entry of this Consent Decree,
27
28

1 waiving trial, findings of fact, and conclusions of law.

2 **II. ORDER**

3 It appearing to the Court that entry of this Decree will further the objectives of the
4 Arizonans with Disabilities Act (“AzDA”) and Title III of the Americans with Disabilities Act
5 (“ADA”), and that the Decree fully protects the parties and the public with respect to the
6 matters within the scope of this Decree, **IT IS HEREBY ORDERED, ADJUDGED AND**
7 **DECREED** as follows:

8 **JURISDICTION**

9 1. This Court has jurisdiction over the subject matter of this action and over the
10 parties under 28 U.S.C. §§ 1331, 1367, and 1441.

11 **RESOLUTION OF THE COMPLAINT**

12 2. This Consent Decree resolves all issues and claims set forth in the State’s and
13 Plaintiffs-Intervenors’ Complaints.

14 **RELEASE**

15 3. Except for the obligations of Harkins that are expressly set forth in this Decree,
16 Harkins, its agents, employees, successors, assigns and all persons in active concert or
17 participation with Harkins, are released from any and all civil liability to the State and the
18 Plaintiffs-Intervenors for the subject matter addressed in the counts alleged in the Second
19 Amended Complaints in this matter.

20 **CLOSED CAPTIONING AND VIDEO DESCRIPTION EQUIPMENT**
21 **INSTALLATION**

22 4. By June 15, 2012, Harkins will install and have in operation any and all
23 equipment that is necessary to provide closed captioning and video description for its customers
24 with sensory disabilities in 50% of the total number of auditoriums in the movie theaters that
25 Harkins owns and operates in Arizona as of that date.

26 5. By January 15, 2013, Harkins will install and have in operation any and all
27
28

1 equipment that is necessary to provide closed captioning and video description for its customers
2 with sensory disabilities on the remainder of the auditoriums in the movie theaters that Harkins
3 owns and operates in Arizona that were not equipped under ¶ 4 of this Consent Decree, except
4 as provided in ¶ 6.

5 6. For purposes of this Consent Decree, the use of the term “in operation” means
6 operation other than initial testing of the closed captioning and video description technology by
7 Harkins or its agents during and immediately following installation. For purposes of ¶ 4 and ¶
8 5 of this Consent Decree, the auditoriums at Harkins Arcadia 8 Theatre, which is expected to be
9 closed, and the IMAX Theatre at Harkins Arizona Mills 25 will not be included in the total
10 number of theater auditoriums.

11 7. If, at any time during the term of this Consent Decree, (1) a digital projection
12 system is developed for use on full-size IMAX theaters, such as the one Harkins operates, (2) a
13 closed captioning and/or video description compatible technology is commercially available
14 and compatible with the digital projection system, and (3) Harkins elects to convert its film
15 projection system to such digital projection system, then Harkins will equip its IMAX theater
16 with closed captioning and video description technology. This obligation extends through the
17 date the Consent Decree ends.

18 8. Harkins will install any and all equipment that is necessary to provide closed
19 captioning and video description for its customers with sensory disabilities in any theater
20 acquired or built prior to the end of this Consent Decree.

21 9. Harkins will provide a type of closed captioning and video description systems
22 and end use devices that will result in effective communication. For purposes of this Consent
23 Decree, an effective closed captioning and video description system is one that provides the
24 aural or visual information in accessible formats, in a timely manner, and in such a way as to
25 protect the privacy and independence of the individual with a disability. Nothing in this
26 Consent Decree shall be construed as prohibiting Harkins from selecting, or requiring Harkins
27
28

1 to select, different end use devices during the term of the Consent Decree.

2 10. Harkins has chosen to purchase and install the USL closed caption boxes and
3 narration headsets because the devices are currently commercially available, are compatible
4 with the digital equipment that Harkins will install, and meet the industry standards created by
5 the Society for Motion Picture and Television Engineers. For the term of the Consent Decree,
6 use of these devices, as well as compliance with ¶¶ 4-20 of the Consent Decree, will be deemed
7 compliance with the AzDA's and Title III's requirement to provide auxiliary aids and services
8 during the exhibition of movies, unless the U.S. Department of Justice adopts Title III
9 regulations that become effective during the term of the Consent Decree and result in a higher
10 standard for any of these provisions.

11 **PROVISION OF RECEIVERS AND HEADSETS**

12 11. Harkins will provide a minimum of one closed captioning receiving device and
13 one video description headset for every two auditoriums in each Arizona theater or a minimum
14 of eight closed captioning receiving devices and eight video description headsets, whichever is
15 greater, at each of its theaters in Arizona, except as provided in subparagraph A-D. In the event
16 that the minimum device and headset requirement results in a half number, Harkins will
17 provide an additional device and headset. For example, Harkins Superstition Springs 25 would
18 be required to provide 13 devices and headsets rather than 12.5.

19 A. Harkins will provide a minimum of 3 closed captioning receiving devices
20 and 3 video description headsets at Harkins Valley Art Theatre.

21 B. Harkins will provide a minimum of 3 closed captioning receiving devices
22 and 3 video description headsets at Harkins Camelview 5 Theatres.

23 C. Harkins will provide a minimum of 4 closed captioning receiving devices
24 and 4 video description headsets at Harkins Fashion Square 7 Theatres.

25 D. Harkins will provide a minimum of 4 closed captioning receiving devices
26 and 4 video description headsets at Harkins Sedona 6 Theatres.

1 12. Harkins will provide a sufficient number of closed caption receivers and video
2 description headsets to meet customer demand for each auditorium at which demand exceeds
3 the number of receivers required by ¶ 11 of this Consent Decree. To comply with this
4 obligation, Harkins will develop an appropriate method for tracking and recording when, if
5 ever, the demand for closed caption receivers and video description headsets exceeds the
6 available devices in its Arizona theaters. If the demand exceeds the available supply of devices
7 (i.e. headsets or receivers) by two or more devices for two out of four weeks in any month,
8 Harkins will purchase more devices for that location, unless this standard was exceeded by
9 unexpected large groups of six or more customers with sensory disabilities. Nothing in this
10 Consent Decree should be construed as requiring large groups of six or more sensory disabled
11 customers to reserve equipment in advance of a movie. Advance requests for equipment for
12 large groups are encouraged to ensure that there are enough receivers or headsets to
13 accommodate customers.

14 13. Harkins may relocate closed caption receivers and video description headsets
15 from one theater to another to accommodate the demand during a special event or a group
16 request for auxiliary aids and services. Nothing in this Consent Decree, however, shall be
17 construed as allowing Harkins to reduce the total number of receivers and/or headsets required
18 under ¶ 11 of this Consent Decree. Nothing in this Consent Decree shall be construed as
19 prohibiting Harkins from using open captioning to meet the demand for a large group request
20 for auxiliary aids and services.

21 14. Harkins warrants that it has an effective method of keeping assistive listening
22 devices in proper working order, including not storing the devices with batteries and using a
23 new or recharged battery when providing the device to a customer. Harkins will establish a
24 similar protocol to ensure that the closed captioning receivers and video description headsets
25 are maintained in proper working order at all Arizona theaters, including establishing
26 procedures under which theaters will be required to immediately test any receiver and/or
27
28

1 transmitter about which a customer complaint is received; requiring all theaters to report any
2 maintenance or repair problems with equipment to Harkins corporate office if they were not
3 corrected by theater personnel; and requiring repairs be made or new equipment be obtained,
4 when necessary, as soon as is practicable.

5 15. Harkins will require all of its Arizona theaters to treat customers with a sensory
6 disability and his or her companion, who cannot attend a movie because a closed captioning
7 receiving device or a video description headset was not made available and in working order
8 when they arrived to attend a captioned and/or described movie, in the same manner as other
9 customers who cannot attend a movie due to the fault of Harkins. Harkins' present practice is,
10 subject to certain limitations set forth in a letter provided by Harkins to the State, to refund the
11 admission, if any has been paid, and provide a free movie pass to a customer who is unable to
12 attend a movie due to the fault of Harkins. Harkins will not change this practice during the
13 term of the Consent Decree for customers with a sensory disability and his or her companion
14 who cannot attend a movie because a device or receiver was not made available and in working
15 order, except if the demand for devices or receivers exceeds Harkins' total devices or receivers
16 available within Arizona during the promotional events addressed in ¶ 20(H) or in the event
17 the unavailability of end-user equipment is the result of an unexpected large group addressed in
18 ¶ 12.

19 **INSTRUCTIONS FOR CLOSED CAPTIONING TECHNOLOGY**

20 16. No later than June 15, 2012, Harkins will provide a placard or sticker on the
21 closed captioning devices used in Arizona theaters. The placard or sticker will include printed
22 instructions, using graphics and/or pictures and simple directions on how to use the closed
23 captioning device. At least 30 days prior to the use of an informational placard or sticker in
24 Harkins theaters, Harkins will provide a draft of the placard or sticker to the Arizona
25 Commission for the Deaf and Hard of Hearing ("ACDHH") or similar organization serving the
26 deaf community and request comments and feedback about whether the content can be
27
28

1 improved to enhance effective communication for individuals who are culturally deaf and
2 whose first and primary language is American Sign Language. Harkins, in its reasonable
3 discretion, will include the organization's suggestions and feedback in the final version of the
4 placard or sticker to be used in its theaters. To the extent that the ACDHH and Harkins do not
5 agree on effective communication of the instructions on the placard or sticker, Harkins will
6 provide the State with Harkins' proposed draft of the placard and the parties will attempt to
7 resolve the matter under ¶ 25.

8 **TRAINING**

9 17. Over the years, Harkins has provided a training curriculum for employees as part
10 of its orientation program that includes information about serving its customers with
11 disabilities. Harkins will modify and/or expand its existing Arizona training curriculum, to the
12 extent that any topic is not covered or covered sufficiently because of the installation of
13 additional technologies and implementation of new procedures, to cover serving its customers
14 with disabilities, to include the following topics:

- 15 • the auxiliary aids and services provision of Title III of the ADA and the AzDA;
- 16 • the availability of closed captioning, video description, and assistive listening systems at
17 Harkins Theatres;
- 18 • where the closed captioning devices, video description headsets, and assistive listening
19 devices are located at each theater so that requests for them can be honored promptly;
- 20 • how each system operates, so that employees are able to provide basic instruction to
21 customers who are unfamiliar with them and troubleshoot basic problems with
22 operation, such as replacement of batteries, and provide an explanation about when
23 captions and descriptions will appear (e.g. not in opening trailers);
- 24 • effective communication with persons who are sensory disabled, sensory disability
25 etiquette, and deaf culture;
- 26 • how to respond to customer questions or complaints, including directing Harkins'
- 27
- 28

1 customers to the guest comment cards, the website, or other methods for customer
2 feedback;

- 3 • how to track and record demand as required by ¶ 12;
- 4 • how to conduct testing as required by ¶ 14; and
- 5 • Harkins' procedures for handling guest services issues regarding equipment under ¶ ¶ 12
6 and 15.

7 In addition to these subjects for all employees, the training for Arizona General Managers,
8 Senior Managers and Assistant Managers will also include the procedures for relocating closed
9 captioning devices and video description receivers from other Harkins theaters to honor group
10 requests or special events. To the extent that Harkins uses questions and answers to test
11 effectiveness of the training for the employee, Harkins will include some questions about the
12 new topics in the revised training. Harkins will train its existing employees using the revised
13 training curriculum within the deadlines set forth in ¶ 4 and ¶ 5 for installation of equipment so
14 that all existing employees will be retrained with the revised curriculum prior to the installation
15 of equipment in the theater in which they are employed. For the duration of the Consent
16 Decree, Harkins will use the revised training curriculum in its new hire orientation. Harkins
17 Director of Training will maintain records of the training dates, training curriculum, and
18 spreadsheets or other suitable documentation of attendance by employees and managers.

19 18. By April 15, 2012, Harkins Director of Training will revise its existing training
20 curriculum to address the topics in ¶ 17 and will present its draft training curriculum and
21 material, including video materials, if any, to the Arizona Commission for the Deaf and Hard of
22 Hearing or similar organization providing outreach and education to consumers who are deaf or
23 hard of hearing and to the Foundation for Blind Children or similar organization providing
24 outreach and education to consumers who are blind or visually impaired for and request
25 comments, suggestions, and feedback. Harkins will request that feedback be provided within
26 30 days of the date the materials are provided for review. Prior to June 15, 2012, Harkins, in its
27
28

1 reasonable discretion, will revise its draft training curriculum and materials to include the
2 suggestions and feedback from these organizations. To the extent that Harkins and the
3 ACDHH, the Foundation for the Blind, or other similar organization that Harkins consults do
4 not agree on an effective training curriculum, Harkins will provide the State with Harkins'
5 proposed draft of the training curriculum and the parties will attempt to resolve the matter
6 under ¶ 25. For purposes of this paragraph and ¶ 16, reasonable discretion means objectively
7 reasonable.

8 **WEBSITE ACCESSIBILITY**

9 19. Over the years, Harkins has made a concerted effort to improve access on
10 www.harkinstheatres.com for individuals with disabilities. Specifically, Harkins has taken steps
11 to provide effective communication of its website content on www.harkinstheatres.com by
12 incorporating screen reading features. In addition, Harkins will continue to meet the
13 needs of individuals with disabilities by: continuing to provide screen reader-specific features
14 such as JAWS software compliant navigation on www.harkinstheatres.com and on any new
15 web content required under ¶ 20(C); and continuing to provide a way for online visitors to give
16 Harkins feedback if they find the website content to be inaccessible.

17 **OUTREACH, PROMOTION AND MARKETING**

18 20. Harkins will undertake the following actions to advertise the availability and
19 promote the use of closed captioning and video descriptions systems in its theaters:

20 A. No later than June 15, 2012, Harkins will advertise that closed captioning
21 and video description systems are now available in the Arizona theaters in which
22 equipment has been installed pursuant to ¶ 4 for every show time of captioned and
23 described movies and will indicate where customers can pick up a closed caption device
24 or a video description headset. The advertisement will also direct the customers to
25 Harkins' website or guest services for more information. The advertisement will be a
26 still slide in similar appearance as other advertisements and will play on auditorium
27
28

1 screens before the trailers and on the lobby monitors whenever other similar
2 advertisements are shown. No later than January 15, 2013, Harkins will perform the
3 same obligations outlined in this subparagraph for the theaters in which equipment has
4 been installed pursuant to ¶ 5.

5 B. At least by April 15, 2012, Harkins will upgrade its website to include a link
6 from the main page to a webpage with more information about closed captioning and
7 video description, the type of closed captioning and video description systems that
8 Harkins will be installing in Arizona (if not already installed), a notice that installation is
9 coming soon and the projected date(s) for the closed captioning and video description to
10 be available (if not already installed), and an advisory to check the amenities on each
11 theater's webpage to determine when the service is available at their preferred theater(s)
12 (if not already installed).

13 C. No later than June 15, 2012, the webpage on closed captioning and video
14 description will be updated to include the following information:

- 15 • closed captioning and video description systems are now available at Harkins;
- 16 • the amenities section of each Arizona theater's web page will identify whether
17 closed captioning and video description are available at that location, using
18 the logos for closed captioning ("cc") and video description ("dvs");
- 19 • indicate the projected date for the completion of the remaining installation;
- 20 • provide—by link or Harkins web content—a list of the current movies that are
21 captioned and described;
- 22 • closed captions and video descriptions are no additional cost;
- 23 • closed captions and/or video descriptions are available for any movie at any
24 show time (as long as the movie has captions or descriptions);
- 25 • how to use the systems Harkins has installed;
- 26 • where to pick up the receiver/headset at the theater;

- 1 • how to make reservations for more equipment for Arizona group events; and
- 2 • how to contact Harkins with comments or concerns about their experience.

3 D. No later than January 15, 2013, the webpage on closed captioning and video
4 description will be updated to also advise that the closed captioning and video
5 description is now available at virtually all Harkins Arizona theaters and direct
6 customers to the amenities section of each theater's web page. For the remainder of the
7 Consent Decree, Harkins will maintain its website to include all of the topics identified
8 in § C of this paragraph.

9 E. At least by June 1, 2012 and through the duration of the Consent Decree,
10 Harkins will include information about the availability of closed captioning and video
11 description technology as an amenity in the Arizona theaters where installation has been
12 completed, in its telephone recordings, and in newspaper show time listings (if Harkins
13 continues to list such show times in newspaper advertisements). Harkins will also post a
14 notice at each Arizona box office where installation has been completed that states that
15 closed captioning and video descriptions are available and will maintain a list of the
16 current movies with captions and descriptions in the box office for use by box office
17 employees to answer questions or provide information to customers with sensory
18 disabilities and their companions.

19 F. No later than February 15, 2012, Harkins will prepare and disseminate a
20 press release (or public service announcement) to Arizona disability organizations about
21 the availability of closed captioning and video technology at its Arizona theatres and
22 requesting assistance in getting the information to individuals they serve, including
23 publications in the organizations' newsletters, websites, client mailings, or email
24 distribution lists. At a minimum, the press release (or public service announcement) will
25 include the information outlined in § C of this paragraph and will be sent to the
26 following disability organizations:
27
28

- 1 • Foundation for Blind Children (Phoenix)
- 2 • Arizona Center for the Blind and Visually Impaired (Phoenix)
- 3 • Tucson Society of the Blind (Tucson)
- 4 • Southern Arizona Association for the Blind and Visually Impaired
- 5 (Tucson)
- 6 • National Federation of the Blind of Arizona-Phoenix Chapter
- 7 • Community Outreach Program for Deaf (Tucson)
- 8 • Valley Center of the Deaf (Phoenix)
- 9 • Arizona Council of the Blind (Phoenix)
- 10 • Arizona Association of the Deaf
- 11 • Arizona Commission for the Deaf and Hard of Hearing (Phoenix)
- 12 • Arizona School for the Deaf and the Blind (Tucson)
- 13 • Phoenix Day School for the Deaf
- 14 • Sequoia School for the Deaf (Phoenix)
- 15 • Adults with Loss of Hearing Association (ALOHA) (Arizona chapters)
- 16 • Arizona Center of the Deaf (Phoenix)
- 17 • Arizona Bridge to Independent Living (Phoenix)
- 18 • Direct Center for Independence (Tucson)
- 19 • Smile Center for Independence (Yuma)
- 20 • New Horizons Independent Living Center (Prescott Valley)
- 21 • Sun Sounds
- 22 • University of Arizona Disability Resources Center
- 23 • Arizona State University Disability Resources Center
- 24 • Northern Arizona University Disability Resources Center

25 Harkins will provide each disability organization with 12 free movie passes, except the
26 Arizona School for the Deaf and Blind which will be provided 24 tickets, with
27
28

1 instructions that the movie passes may be distributed to clients, students, board
2 members, or employees who have sensory disabilities and agree to use the movie pass to
3 attend a movie using Harkins' closed captioning or video description systems.

4 G. No later than July 15, 2012 and February 15, 2013, Harkins will prepare
5 and disseminate a press release (or public service announcement) to state and local
6 media outlets where Harkins has Arizona theaters about the availability of closed
7 captioning and video technology. At a minimum, the press release (or public service
8 announcement) will include the information outlined in § C of this paragraph.

9 H. Harkins will hold a total of six promotional events to debut the installation
10 of the closed captioning and video description systems in the following locations:
11 Phoenix (at an east side theater and a west side theater), Tucson Spectrum 18, Prescott
12 Valley 14, Yuma Palms 14, and Flagstaff 11. During the events, Harkins will provide a
13 maximum total of 1,000 free movie admissions to individuals with sensory disabilities
14 attending the events who wish to use the closed captioning or video description services.
15 The free movie admissions will be available as follows: 300 admissions for each of the
16 Phoenix events, 175 admissions for the Tucson Spectrum 18 event, and 75 admissions
17 for each of the events at the Yuma Palms 14, the Prescott Valley 14, and the Flagstaff
18 11. Harkins will provide advance advertisement and promotion of these events on its
19 website and in press releases to local media outlets where the events will take place, and
20 in public service announcements to all the disability organizations identified in § E of
21 this paragraph and to further promote these events in a manner similar to other
22 promotional events that Harkins hosts. Harkins shall not be required to provide end-user
23 equipment for patrons attending these promotional events beyond Harkins' total end-
24 user equipment inventories available within Arizona. If the RSVP for the Phoenix
25 events appears to exceed the available number of closed caption receivers or video
26 description headsets needed to meet the demand of the Phoenix events, Harkins will
27
28

1 request that USL loan Harkins additional devices for the events (with the parties'
2 understanding that USL may accept or decline any such request). The events will take
3 place on weekends or weekday evenings. The events may be scheduled at Harkins'
4 discretion as long as they are held after the closed captioning technology and video
5 description equipment has been installed and the employee training outlined in ¶ 16 has
6 been completed and at least 60 days prior to the end of the Consent Decree, except that
7 the event at the Yuma Palms 14 will be scheduled during Yuma's winter visitor season.
8 Harkins will provide at least a two-week advance written notice of each event to the
9 Arizona Attorney General Civil Rights Division and the Arizona Center for Disability
10 Law, which may be satisfied by providing them a copy of press releases.

11 **ATTORNEY'S FEES, COSTS, AND MONITORING FEES**

12 21. Within 30 days of the effective date of this Consent Decree, Harkins will pay
13 partial attorney's fees and costs in the amount of \$24,000 to the Arizona Center for Disability
14 Law, which represented Plaintiffs-Intervenors Lindstrom, Wanger, and Gopen.

15 22. Within 30 days of the effective date of this Agreement, Harkins will pay the Civil
16 Rights Division \$4,175 for a partial reimbursement of the State's actual costs of litigation,
17 which the Division will use for monitoring and enforcement of civil rights in Arizona.

18 **REPORTING REQUIREMENTS**

19 23. Harkins will submit reports to the Civil Rights Division outlining their
20 compliance with the terms of the Consent Decree on June 30, 2012, January 30, 2013, and
21 August 15, 2013. The reports will include sufficient detail for the Division to review
22 compliance with the terms of the agreement and will provide supporting documentation
23 regarding installation of the equipment; tracking information regarding devices; training, such
24 as the new training curriculum, suitable documentation of training attendance, such as spread
25 sheets, and input from disability organizations; marketing and outreach activities, such as press
26 releases, public service announcements, and issuance of tickets.

1 24. All checks, notices, reports or other such documents required by this Agreement
2 will be delivered via mail, courier, overnight delivery service, electronic transmission, or fax as
3 follows:

4 For notices to the Civil Rights Division: Rose Daly-Rooney or Cathleen Dooley
5 or their successor(s), Arizona Attorney General's Office, Civil Rights Division, 400
6 West Congress, Suite S-215, Tucson, Arizona, 85701, 520.628.6765 (facsimile),
7 rose.daly-rooney@azag.gov or cathleen.dooley@azag.gov.

8 For notices to the Arizona Center for Disability Law, c/o JJ Rico, Managing
9 Attorney, Arizona Center for Disability Law, 100 North Stone, Suite 305, Tucson,
10 Arizona 85701.

11 For notices to Harkins, c/o Richard Lustiger, Esq., General Counsel, Harkins
12 Theatres, 7511 East McDonald Drive, Scottsdale, AZ 85250-0001.

13 25. If the Civil Rights Division or Plaintiffs-Intervenors believes that this Consent
14 Decree or any portion of it has been violated, it will raise its concern(s) in writing with Harkins'
15 General Counsel and the parties will attempt to resolve the concern(s) in good faith. The Civil
16 Rights Division will allow Harkins thirty days from the date it notifies Harkins of any alleged
17 breach of this Consent Decree to cure the breach or otherwise resolve the alleged breach, prior
18 to instituting any court action to enforce the Consent Decree.

19 **DURATION OF CONSENT DECREE**

20 26. The Consent Decree will be in existence for two years from the date it is signed
21 by the Court and filed. The Consent Decree resolves the lawsuit brought by the State for class-
22 wide relief and by the Plaintiffs-Intervenors.

23 **CONTINUING JURISDICTION OF THE COURT**

24 27. The Court shall retain jurisdiction over both the subject matter of this Consent
25 Decree and the Civil Rights Division, Plaintiffs-Intervenors, and Harkins for two years from
26 the date of entry of the Decree to effectuate and enforce this Decree. The State or Plaintiffs-
27

1 Intervenor may, for good cause shown, petition this Court for compliance with this Decree at
2 any time during the period that this Court maintains jurisdiction over this action after
3 complying with the requirements in ¶ 25. Should the Court determine that Harkins has not
4 complied with this Consent Decree, appropriate relief, including extension of this Decree for
5 such period as may be necessary to remedy its non-compliance, may be ordered. In the event
6 either the Civil Rights Division does not submit any petitions for compliance with the Decree
7 or the Court determines Harkins has complied with the Decree, the Decree shall automatically
8 expire and the Court shall lose jurisdiction over this action on the date two years after entry of
9 the Decree.

10 **MISCELLANEOUS PROVISIONS**

11 28. This Decree shall be governed in all respects by the laws of the State of Arizona.

12 29. This Decree shall be binding on all of the defendants with respect to their operation
13 of Harkins Theatres in Arizona, and on their agents, employees, successors, assigns and all
14 persons in active concert or participation with them respecting such Arizona theatre operations.

15 30. The Civil Rights Division, Plaintiffs-Intervenors, and Harkins represent that they
16 have read this Decree in its entirety and are satisfied that they understand and agree to all its
17 provisions, and represent that they have freely signed this Decree without coercion.

18 31. Except as specifically set forth in this Consent Decree, the parties shall bear
19 their respective attorneys' fees and costs. In any proceeding brought to enforce the terms of
20 this Consent Decree, the Court may award to the prevailing party reasonable costs and
21 attorneys' fees incurred in such enforcement action.

22 ///

