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**LAWSUIT FILED AGAINST DENVER COUNTY COURT ALLEGING
DISCRIMINATION AGAINST JUROR WITH DISABILITY
Court refuses to follow Colorado law regarding excusing lawyer from
jury panel based on hearing disability**

(Denver – September 9, 2022) Today, Spencer Kontnik and the [Colorado Cross-Disability Coalition](http://www.ccdconline.org) (“CCDC”) filed a lawsuit in Denver District Court in Colorado against the Denver County Court or unlawfully excluding Mr. Kontnik, a qualified juror with a disability, by reason of his disability in violation of Part 8 the [Colorado Anti-Discrimination Act](#) (“CADA”). The lawsuit alleges Denver County Court failed to follow the appropriate rules regarding dismissal of a qualified juror and did so in violation of the CADA. As alleged in the Complaint and information available from sources referenced:

Plaintiff Spencer Kontnik

- Spencer Kontnik is an accomplished attorney in Denver, Colorado and a founding partner of his own law firm. Information about the law firm can be found on their website at [Kontnik | Cohen, LLC](#).
- Much of the work Mr. Kontnik’s law firm accomplishes are set forth on the firm website. Details about Mr. Kontnik himself can be found at <https://www.kontnikcohen.com/about>.
- Information about Mr. Kontnik himself can be found at <https://www.kontnikcohen.com/spencer-kontnik>.
- Mr. Kontnik specializes in representing D/deaf and hard of hearing clients in disability civil rights cases like this one.
- Mr. Kontnik was born with a profound hearing loss in his right ear and, as the result of an injury caused by being struck with a baseball bat when he was six years old, he lost hearing in his left ear as well. With the use of a cochlear implant and hearing aids, as

- well as certain accommodations in courtrooms and other legal settings, Mr. Kontnik has excelled in his legal practice.
- As a result, Mr. Kontnik has a disability as defined under the CADA.
 - The nature of Mr. Kontnik's disability allows him to be able to communicate one-on-one with individuals in most settings, but in situations like court proceedings (a situation very familiar to Mr. Kontnik) at which there are multiple speakers in multiple locations, the services of a CART interpreter are Mr. Kontnik's preferred accommodation.

July 15, 2021 Denver County Court Incident

- Mr. Kontnik received a summons to appear for jury service at the Lindsey-Flanigan Courthouse for a case in Denver County Court on July 15, 2021. Mr. Kontnik had made arrangements to have a [communications access real-time translation \(“CART”\)](#) interpreter at the courthouse as provided by the [City and County of Denver Office of Sign Language Services](#).
- A CART interpreter was waiting to assist the court and Mr. Kontnik with providing the accommodation sought.
- Denver County Court was aware the CART interpreter was available and ready to provide the interpreting services needed for the court and for Mr. Kontnik.
- Mr. Kontnik was wanted to go through the jury service process and serve as a juror. He wanted to see how the process worked from the other side: Although he has been a lawyer for years and had practiced in front of juries, he has never served as a juror.
- A criminal trial was scheduled before the Honorable Judith A. Smith. The CART interpreter was in Judge Smith’s courtroom prepared to provide services during the jury selection process and the trial.
- Mr. Kontnik waited with 20 other jurors outside of Judge Smith’s courtroom prior to entering the courtroom for jury selection.
- Before Mr. Kontnik (who was first in line and designated as Juror Number 1) even entered the courtroom, the CART interpreter met

- him in the hallway in front of all of the other jurors and explained that Judge Smith excluded him as a juror and the reasons why.
- Judge Smith said in court records the Court excused Mr. Kontnik as a juror because the attorneys reached a stipulation to exclude him from participating as a juror, and, according to Judge Smith, doing so “might be tough for him.” Judge Smith also said “the court would be required to have alternative just in the event there’s -- there’s [sic] issues with the interpretation or with the juror’s ability to serve.” Judge Smith added she thought “it would have been a cool experience”.
 - There was no reason why Mr. Kontnik’s jury service would have been “tough for him” or why an alternate juror was needed.
 - Judge Smith then requested time to talk to the CART reporter. This discussion occurred off the court record.
 - Judge Smith did not talk to Mr. Kontnik or communicate directly with him in any way and instead sent the CART interpreter out to the hallway to tell Mr. Kontnik he was excluded.
 - The CART interpreter explained to Mr. Kontnik the reasons given.
 - All of the other jurors were lined up in a single file line behind Mr. Kontnik. Jurors could easily hear the conversation between the CART interpreter and Mr. Kontnik.
 - As a result of Judge Smith excusing Mr. Kontnik as a juror and letting the CART leave, Mr. Kontnik left the courthouse without being able to participate in the jury selection process.

Applicable Laws

- Under the Colorado Municipal Court Rules of Procedure that applies to the Denver County Court, no juror is permitted to be challenged and excused for cause unless the court determines the juror is not qualified to serve for reasons set forth in the law.
- There was nothing about Mr. Kontnik’s disability or the use of a CART interpreter that would have disqualified him from the jury selection process. Denver County Court did not ask about Mr. Kontnik’s qualifications and excused him because of his disability and the attorneys’ and court’s assumptions about his disability and need for an accommodation.

- Also, the CADA, just like the Americans with Disabilities Act, prohibits courts from excluding any person with the disability from participation in jury service by reason of disability.

Efforts to Resolve this Matter before Filing this Lawsuit

- Mr. Kontnik first wrote letters trying to resolve the claims he had prior to taking any action. He had to file a charge of discrimination within a certain amount of time in order to get the attorneys in the court to change their conduct. He did not hear back in time.
- As a result, Mr. Kontnik filed charges of discrimination against the district attorney's office, the public defender's office and the Denver County Court alleging discrimination under the CADA with the Colorado Civil Rights Division ("CCRD"). During the CCRD proceedings, Mr. Kontnik was able to negotiate settlement agreements with the Denver District Attorney's office as well as the Colorado Office of the State Public Defender, requiring that they change their policies in order to comply with Colorado law as well as requirements of the ADA when seeking to excuse potential jurors with disabilities.
- But the Denver County Court refused to reach a similar agreement.
- Denver County Court's then-Presiding Judge, the Honorable Teresa Spahn, submitted a response to Mr. Kontnik's complaint against the Denver County Court in the CCRD proceeding.
- Judge Spahn, without any justification, suggested that somehow Mr. Kontnik's participation in the use of a CART reporter "would cause delay in a one-day trial". This reason did not appear in the Denver County Court transcript explaining why Mr. Kontnik was excluded from jury service.
- Judge Spahn's response made clear Denver County Court and downed the conduct of Judge Smith excluding Mr. Kontnik.
- Because Denver County Court refused to resolve the case or recognize its duty to allow qualified jurors like Mr. Kontnik to proceed through the jury process, Mr. Kontnik and CCDC filed this lawsuit.

Plaintiff CCDC

- CCDC is a statewide nonprofit organization run by and for people with disabilities with a mission and purpose of ensuring social justice for people with all types of disabilities. CCDC was founded in 1990 to ensure that the promises of the recently enacted ADA would be made a reality in the state of Colorado and beyond. CCDC is a membership organization and has many members who are deaf or hard of hearing who like to and are more than qualified to serve on juries. Mr. Kontnik is a member of CCDC.
- CCDC seeks to vindicate the rights of its members and all people with disabilities in this case as it has in cases in the past. CCDC has a particular interest in people with disabilities serving on juries because of its strong belief that too many jurors are excluded from jury service by lawyers and judges engaging in the same type of discriminatory conduct alleged in this case.

“It is impossible to believe that 32 years after the passage of the most comprehensive civil rights legislation protecting people with disabilities from discrimination that lawyers and courts, who are supposed to know the law, would discriminate against a potential juror by reason of disability from serving as a juror based on unfounded stereotypes,” said Julie Reiskin, co-executive director of CCDC. “That they would do so against someone as qualified and experienced as Spencer Kontnik is outrageous! CCDC strongly believes as has been said by both the United States Supreme Court and the Colorado Supreme Court that jury service is as important a duty, responsibility and right our democracy as is voting. If people with disabilities—a very large segment of the population—are excluded from juries, it cannot be said that juries are comprised of a fair cross-section of the community.”

According to Spencer Kontnik, “I was absolutely astounded to find out all of the reasons why Denver County Court excluded me from participating in the jury selection process. I have spent a lifetime combating discrimination against me because of a perceived lack of my abilities, and I have spent a very large part of my legal career defending the rights of my deaf and hard of hearing friends, colleagues and other clients

ensuring that exactly this type of discrimination does not happen. The fact that I was not even given the opportunity to explain to a court and lawyers my qualifications and that I absolutely wanted to be involved in the jury selection process and to serve as a juror further demonstrates people with disabilities like me still have a very long way to go before we are treated as equal members of our society and democratic process.”

“Of the hundreds of cases our Civil Rights Legal Program has brought on behalf of people with disabilities over my 25 years practicing in this area, and as a lawyer with a disability myself, I am both extremely saddened by the conduct of Denver County Court and extremely pleased that we have the opportunity to represent an outstanding leader in our community who has helped so many others who are deaf and hard of hearing obtain their civil rights,” said Kevin Williams, the CCDC Civil Rights Legal Program Director and one of the attorneys representing Mr. Kontnik and CCDC in this lawsuit. “Spencer Kontnik is one of a handful of attorneys with disabilities who shares in the lived experience of having a disability and has done so much good for others who are similarly situated. It is time to put an end to this shameful unfounded belief system about the abilities of those of us who have disabilities especially by our own colleagues and judges before whom we practice.”

Information regarding this case as well as the documents filed in the Denver District Court today can be found on CCDC’s website at [Kontnik et al. v. Denver County Court](#).
