



## The NAD Argues in Section 504 Case

The National Association of the Deaf (NAD) filed on an amicus curiae (friends of the court) brief with 17 other disability rights advocacy groups, arguing that victims of disability discriminations by states should be entitled to fully exercise their rights and remedies under Section 504 of the Rehabilitation Act of 1973, including recovering monetary damages.

The brief, filed in the United States Court of Appeals for the Eleventh Circuit, support plaintiffs-appellants Patricia Garrett and Milton Ash's brief supporting reversal of a federal district court's dismissal of their Section 504 of the Rehabilitation Act claims "...against the Trustees of the University of Alabama at Birmingham and the Alabama Department of Youth Services, both defendants in this case."

"Monetary damages are a necessary remedy under Section 504 to ensure that states do not discriminate against their own employees and applicants for employment," said Marc Charnatz, NAD Staff Attorney. "If a state denies employment to a job applicant due to the applicant's disability, or refuses to accommodate an employee, the state has discriminated

against the individual. Who wants to work for a state that discriminates? Monetary damages compensate individuals who have been victims of discrimination and may have no other form of relief."

In Board of Trustees v. Garrett, 531 U.S. 356 (2001), the Supreme Court of the United States held that states are Immune from suit for monetary damages under Title I of the Americans with Disabilities Act. The Supreme Court did not decide the issue of whether states can be sued for monetary damages under Section 504. Section 504 of the Rehabilitation Act of 1973 prohibits discrimination based on disability by recipients of federal funds, states agree to comply with Section 504. On remand of this case, a federal district court held that private individuals cannot file monetary damage claims under Section 504. The friend of the court brief asks a federal appeals court to reverse this decision.

"This is one of the many issues that the NAD Law and Advocacy Center (LAC) is tacking to address important issues affecting all deaf and hard of hearing individuals as well as other individuals with disabilities," commented NAD LAC Director Kelby Brick. "This brief was partially written by a deaf attorney, John Stanton, a senior associate at Howrey

Simon Arnold & White. The NAD LAC recognizes and appreciates his valuable contribution."

*-From NAD Publications Editor*

## Deaf Employees File Suit Against UPS

When Eric Bates was finally promoted from working the loading docks to becoming a delivery driver at United Parcel Service Inc., he suspected his lawsuit was much of the reason.

Bates, who is 30 and nearly deaf, claimed the nation's fourth-largest private employer rampantly discriminates against the hearing impaired in violation of federal laws. Lawyers for the firm deny the allegations.

Bates obtained a U.S. Department of Transportation certification to drive a delivery truck over 10,000 pounds. But UPS, he said, gave him the run-around until he filed suit.

"They told me to wait and they ignored me," Bates said.

His case has mushroomed into class-action litigation. On Tuesday, a trail began for more than 900 current and former employees nationwide claiming they were either passed over for promotions or given inadequate training and safety instruction - all because they were hearing impaired.

*See Against UPS on page 2*

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## **Against UPS**

"Every morning, when I wake up and put on my brown uniform, I'm proud that I can drive because I thought that it might never happen," Bates said in an interview via a sign-language interpreter.

UPS attorney Christopher Martin said the plaintiffs' allegations are "hyperbole" and the judge should not infer accusations by individuals as being representative of company policy.

There is no jury in the case, which is expected to last months and includes a sign-language interpreter capturing the trial for deaf plaintiffs in attendance.

"There may have been an instance when something wasn't perfect. That's going to happen in a big company," Martin said of Atlanta-based UPS, which employs 320,000 workers nationwide.

Oakland-based Disability Rights Advocates lawyer Larry Paradis said hearing impaired UPS employees are "systematically marginalized." He said they are not provided sign-language interpreters during emergency and workplace training, and are rarely promoted to delivery driving or supervisory roles.

Plaintiffs lawyers also are attacking UPS's policy of denying hearing impaired workers jobs operating delivery trucks weighing under 10,000 pounds.

Federal rules demand that trucks exceeding 10,000 pounds be staffed by those meeting certain vision and hearing requirements, and demands those drivers become certified. But the government leaves it up to companies to decide which

drivers are qualified to operate lighter vehicles.

Martin told the judge the company's policy is "consistent with business necessities and therefore not unlawful." He said the "bread and butter of UPS is prompt and efficient service."

The U.S. Postal Service and Federal Express allow some deaf drivers to operate delivery vehicles under 10,000 pounds.

*-From Associated Press*

## **Deaf, blind schools conduct graduations**

The West Virginia School for the Deaf and West Virginia School for the Blind held commencement ceremonies Friday, June 6, 2003.

### **School for the Deaf**

Bernadette Cewulka was selected as valedictorian, of the School for the Deaf. She is the daughter of Mary Conklin and stepdaughter of Edward Conklin of Keyser; Cewulka participated in FBLA, VICA, and was a member of the Lions' Tale staff. Her plans include furthering her education in criminal law on animals, working for the ASPCA, and owning her own business.

Other graduates of the School for the Deaf were: Phillip Fraley, the son of Phyllis DeBruyn and stepson of James DeBruyn of Martinsburg. His plans include a summer job and attending the University of Illinois in Chicago. Also Graley has an interest in James Rumsey Technical Institute and business.

Jared Helsel, son of Mr. and

Mrs. William Helsel of Wellsburg, plans include working at Wal-Mart in his hometown and having his own apartment.

Amy Lett, daughter of Cornelia Lett of Berkeley Springs, plans to volunteer at the library in Berkeley Springs.

## **Graduated from Gallaudet University**

Tammy Ennis is the daughter of James and Regina Ennis of Rivesville. She graduated with a bachelor's degree from Gallaudet University on May 16, 2003.

Melora Brock also graduated with a bachelor's degree from Gallaudet University.

Congratulations!

## **Obituaries**

### **Eldon Ernest Shipman**

Eldon Ernest Shipman, 77, Fulton, Missouri, died March 20, 2003, at his home.

He was born Sept. 22, 1925, in Carthage, a son of Ernest G. and Ivy Lee Stewart Shipman. He was married June 6, 1947, in Fulton, to Anna Jean Kidwell, who survives at his home.

He graduated in 1943 from Fulton High School. He graduated from Westminster in 1950 and received his master's degree from Gallaudet College in 1952. He also received a master's degree from Mississippi College and a master's degree from California State University. He taught as the West Virginia School for the Deaf and was later the principal.

*See Obituaries on page 3*



# West Virginia Association of the Deaf, Inc.

## 34th Biennial Conference

August 7-9, 2003

at

Holiday Inn - On the Hill

US Route 460

Bluefield, WV 24701

# \$1,000.00

## Cash Prizes Giveaways

(Depends Upon Attendance)

Reception	Socialize with Old & New Friends	Workshops
Exhibitors	West Virginia Deaf Pageant	Meetings
Entertainment	Banquet	Ballroom

If you are an early bird and purchase a combo ticket before July 18, 2003, you will get two tickets per person for cash prizes. If you purchase a combo ticket after July 19, 2003, you will get one ticket per person for cash prizes.

**Come one, Come all, and Have Fun!**  
**Please Don't Miss A Chance to Win!**

# West Virginia Association of the Deaf, Inc.

## 34th Biennial Conference

**Holiday Inn Hotel – On the Hill**

US Route 460

Bluefield, WV

Phone: (304) 325-6170

1-800-465-4329

FAX: (304) 323-2451

**August 7-9, 2003**

### Event Fees

Conference	Registration	Friday Night Social & Game Reception	Saturday Night Banquet & Ballroom	Miss Deaf WV Pageant	Total
WVAD Member	\$20.00	\$20.00	\$50.00	\$15.00	\$105.00
Non-Member	\$20.00	\$25.00	\$55.00	\$15.00	\$115.00
Student (13 to 18)	\$10.00	--	\$20.00 (Banquet Only)	\$15.00	\$45.00

Conference	Early Bird Combo Till – July 18	How many?	Included Miss Deaf WV Pageant (Optional)	How many?
WVAD Member	\$55.00 (Save \$35.00)		\$70.00	
WVAD Senior Citizen (55+)	\$50.00 (Save \$40.00)		\$65.00	
Non-Member	\$65.00 (Save \$35.00)		\$80.00	
Non-Member Senior Citizen (55+)	\$60.00 (Save \$40.00)		\$75.00	
Student (13 to 18)	\$20.00 (Save \$10.00)		\$35.00	

### Combo Tickets

NAME \_\_\_\_\_

SPOUSE \_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY/STATE/ZIP \_\_\_\_\_

AMOUNT ENCLOSED: \$ \_\_\_\_\_

Are you diabetic? \_\_\_\_\_ Are you allergic to foods? \_\_\_\_\_ What? \_\_\_\_\_

**\*No Personal Checks Accepted after July 18, 2003\***

**Deadline on August 2, 2003 For Cancellation of Any Events.**

Please make personal check or money order payable to **WVAD** and mail to: WVAD Conference, Elizabeth Leisure, Treasurer,  
3302 Central Avenue, Parkersburg, WV 26104.



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### Obituaries

He was also principal at Mississippi School for the Deaf.

In 1973 he returned to Fulton and was principal of the vocational department and later supervisor of the high school and vocational department at the Missouri School for the Deaf. He was supervisor of the junior high school. He retired in 1989 and was given with the Truman L. Ingle award. He was a member of First Baptist Church, where he interpreted services for the deaf education. He was a member of the Lions International, serving as district governor. He was a member of the Mason's Lodge, Order of the Eastern Star and the American Legion. He was a Navy veteran of World War II.

**Editor's Note:** Eldon Shipman was the superintendent of the West Virginia School for the Deaf.

### Lawrence Carroll

Lawrence Carroll, 68, of Shinnston passed away Sunday, June 1, 2003, following a brief illness.

He is survived by his wife, Bernadine Yeager, whom he married October 30, 1980.

At Mr. Carroll's request he was cremated.

### David Paul McWilliams

David Paul McWilliams, 67, of Watkins Street, Grafton, died Monday, June 2, 2003, at Grafton City Hospital, following a sudden illness.

Surviving, in addition to his mother, Bonnie McVicker of Grafton and a special friend, Leslie Pysell of Grafton.

Mr. McWilliams was a retired composer with The Washington Post and The Washington Star newspapers in Washington, DC. He was a graduate of the West Virginia School for the Deaf in 1956. He was a member of the Fairmont Association of the Deaf.

### Goldie M. Bills

Goldie M. Bills, 88, died Friday, Jan. 3, 2003.

Arrangements by Wallace & Wallace Funeral Home, Lewisburg.

### Stanley Robert Harris

Stanley Robert Harris, 95, formerly of 89 Kingwood Street, Morgantown, died June 2, 2003, at Martha's Manor on Halleck Road.

He first teaching assignment was at Wayne County High School where he taught for three years followed by one year at Vinson High School in Huntington. At age 27 he was appointed principal of Romney High School. He served as principal for six years and often said that those were the best days of his school work. He was superintendent of the West Virginia School for the Deaf and Blind for the next 12 years except for a short stint in the United States Army during World War II.

He came to West Virginia University in 1953 as assistant registrar. He was in school work in West Virginia for 40 years.



## News

Pierre Sevigny, local discus guru and a selfless donor of time as well as experience in his field, was bestowed with the Ralph Nealis "Tiger" Award for his dedication to Hampshire High School athletics.

Bay Area Coalition of Deaf Senior Citizens, Inc. (BACDSC) plans to host the 8th biennial national conference of Deaf Seniors of America, Inc. (DSA) in San Francisco on August 30-September 5, 2005.

### WVAD Selling T-Shirt

The WVAD is selling the T-Shirts with ILY. It costs \$15.00 and \$17.00 for XXL and XXXL.

On the back T-Shirt:

"Why Learn Sign Language"

1. American Sign Language is the third most used language in the USA.

2. You can sign anywhere - even under the water.

3. Sign Language is beautiful and expressive.

4. You can sign while eating.

5. Sign Language is fun to learn.

6. Sign Language is a 3-Dimensional language.

7. Sign Language is a visual language.

8. Sign Language is quiet.

9. Sign Language is unique.

10. Finally, Sign Language bridges the "communication gap" between Deaf and hearing people.

by West Virginia Association of the Deaf

If you would like to purchase the T-shirt, ask Donna M. Williams or Jimmy Harrison.

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**Announcement From Editor**

Issue for Date.....July-Sept.  
Editor's Deadline.....Aug. 20  
Date You Receive Your Copy.....Sept.

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Name \_\_\_\_\_  \$15 for one year Regular  
Address \_\_\_\_\_  \$30 for two years Regular  
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