

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

KEVIN BALL, ET AL.	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 1:00CV00-867
	)	Judge Gladys Kessler
AMC ENTERTAINMENT, INC. ET AL.	)	
	)	
Defendants.	)	

**AFFIDAVIT OF LAWRENCE R. GOLDBERG**

COMES NOW Affiant Lawrence R. Goldberg and makes this affidavit based on his personal knowledge and belief:

1. I am 49 years old.
2. I am presently Director of Media Access at WGBH Educational Foundation, which is located in Boston, MA. I am not affiliated with any party to this case and have not been paid for any testimony or participation in this case.
3. I am providing this Affidavit at the request of counsel for Plaintiff to clarify information regarding the planned installation of open captioning equipment in the United Kingdom, which was testified to at the April 1, 2004 Fairness Hearing by Mr. Kelby Brick.
4. Contrary to Mr. Brick's description of the equipment as "closed captioning," the equipment that will be installed is, in fact, open captioning equipment. Specifically, it is a form of open captioning known as Digital Theater Systems-Cinema Subtitling System, or DTS-CSS. Through DTS-CSS, caption files are sent to movie theaters on CD-ROMs and are loaded onto an exhibitor's DTS-CSS drive (basically a personal computer with a hard disk and CD-ROM drives). DTS-CSS utilizes the same hardware and file delivery mechanism as RWC. The difference from RWC, however, is that instead of displaying captions discretely in the rear of a theater on a data wall and reflecting the text on reflectors at individual seats as RWC does, DTS-CSS includes a modified video projector that, at the press of a button, projects the captions directly onto the movie screen for the entire audience to see. DTS-CSS does not provide any means for closed captioning, i.e., giving each audience member the choice of seeing captions or not. Instead, its chief benefit (in the present context) is that it makes open captioning easier for the theaters, by eliminating the need for special prints with "burned-in" captions.
5. In addition, the DTS-CSS (and Dolby) open-captioning equipment that is being installed in the UK is funded in part by the UK Film Council's £500,000 National Lottery-funded Cinema Access Programme. It is estimated that this sum of money will equip more than 10% of the theaters

in the UK with captioning and audio description systems. This is the 10% figure that was incorrectly described by Mr. Brick as a legally required amount of captioning in the UK. This level of installation is possible because 50% of the exhibitors' costs are subsidized by the lottery fund. An article describing the national lottery and its funding of this program can be found at the following link:

<http://www.ukfilmcouncil.org.uk/news/?p=D4A15725054641BC4801H1D1C9CA&skip=>

6. Finally, contrary to Mr. Brick's testimony, there is no law in the United Kingdom requiring 10% of theaters to provide captioning, open or closed. Instead, the United Kingdom has its own ADA, known as the "Disability Discrimination Act" or DDA. It was enacted in 1995 and comes into full force later in 2004. The DDA applies to all buildings that are used by the public, but does not explicitly require theaters to offer captions, open or closed. Instead, the dissemination of the open captioning equipment in the UK mentioned by Mr. Brick (and discussed above) is due to the special lottery funding made available to exhibitors. The text of the DDA is available at the following link:

<http://www.legislation.hmso.gov.uk/acts/acts1995/1995050.htm>.

I swear under penalty of perjury that the foregoing is true and accurate to the best of my recollection.

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Lawrence R. Goldberg