

**U.S. District Court  
Eastern District of Virginia – (Richmond)  
CIVIL DOCKET FOR CASE #: 3:09-cv-00686-REP**

Arc of Virginia, Inc., The v. Kaine et al  
Assigned to: District Judge Robert E. Payne  
Case in other court: 10-01005  
Cause: 42:12101 Americans with Disabilities Act

Date Filed: 10/27/2009  
Date Terminated: 12/17/2009  
Jury Demand: None  
Nature of Suit: 446 Civil Rights:  
Americans with Disabilities – Other  
Jurisdiction: Federal Question

**Plaintiff**

**Arc of Virginia, Inc., The**  
*a not-for-profit corporation*

represented by **Jonathan Gerald Martinis**  
Virginia Office for Protection and  
Advocacy  
1910 Byrd Ave  
Suite 5  
Richmond, VA 23230  
(804) 225-2042  
Email: [jonathan.martinis@vopa.virginia.gov](mailto:jonathan.martinis@vopa.virginia.gov)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Kalena Cimone Marie Ek**  
Virginia Office for Protection and  
Advocacy  
1910 Byrd Ave  
Suite 5  
Richmond, VA 23230  
804-225-2042  
Fax: 804-662-7057  
Email: [Kalena.Ek@VOPA.Virginia.Gov](mailto:Kalena.Ek@VOPA.Virginia.Gov)  
**ATTORNEY TO BE NOTICED**

**Defendant**

**Timothy M. Kaine**  
*in his official capacity as Governor of the  
Commonwealth of Virginia*

represented by **Ishneila I. G. Moore**  
Office of the Attorney General (Richmond)  
900 E Main St  
Richmond, VA 23219  
804-786-2071  
Fax: 804-786-1991  
Email: [imoore@oag.state.va.us](mailto:imoore@oag.state.va.us)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Defendant**

**Viola O. Baskerville**  
*in her official capacity as Secretary of  
Administration of the Commonwealth of  
Virginia*

represented by **Ishneila I. G. Moore**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Defendant**

**Marilyn B. Tavenner**  
*in her official capacity as Secretary of  
Health and Human Resources of the  
Commonwealth of Virginia*

represented by **Ishneila I. G. Moore**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Defendant**

**Dr. James S. Reinhard**  
*in his official capacity as Commissioner*

represented by **Ishneila I. G. Moore**  
(See above for address)

of the Department of Behavioral Health  
and Developmental Services of the  
Commonwealth of Virginia

LEAD ATTORNEY  
ATTORNEY TO BE NOTICED

**Defendant**

**P.E. Richard F. Sliwoski**  
in his official capacity as Director of the  
Department of General Services of the  
Commonwealth of Virginia

represented by **Ishneila I. G. Moore**  
(See above for address)  
LEAD ATTORNEY  
ATTORNEY TO BE NOTICED

**Movant**

**United States Of America**

represented by **Debra Jean Prillaman**  
Office Of The U.S. Attorney  
600 East Main Street  
Suite 1800  
Richmond, VA 23219  
(804) 819-5400  
Email: [debra.prillaman@usdoj.gov](mailto:debra.prillaman@usdoj.gov)

**Robert P. McIntosh**  
United States Attorney's Office  
600 E Main St  
18th Fl  
Richmond, VA 23219  
(804) 819-5400  
Email: [Robert.McIntosh@usdoj.gov](mailto:Robert.McIntosh@usdoj.gov)  
ATTORNEY TO BE NOTICED

**Sheila Katherine Delaney**  
U S Department of Justice  
Civil Rights Division  
950 Pennsylvania Ave NW  
PHB 4022  
Washington, DC 20530  
\*\*NA\*\*  
202-307-6309  
Fax: 202-305-9775  
Email: [sheila.k.delaney@usdoj.gov](mailto:sheila.k.delaney@usdoj.gov)  
PRO HAC VICE  
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
10/27/2009	<u>1</u>	COMPLAINT against Timothy M. Kaine, Viola O. Baskerville, Marilyn B. Tavenner, James S. Reinhard, Richard F. Sliwoski (Filing fee \$350.00 receipt number 34683005759) filed by Arc of Virginia, Inc., The (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Receipt)(lsal) (Entered: 10/27/2009)
10/27/2009	<u>2</u>	MOTION for Preliminary Injunction by Arc of Virginia, Inc., The. (lsal) (Entered: 10/27/2009)
10/27/2009	<u>3</u>	Memorandum in Support of <u>2</u> MOTION for Preliminary Injunction filed by Arc of Virginia, Inc., The. (lsal) (Entered: 10/27/2009)
10/27/2009	<u>4</u>	Summons Issued as to Timothy M. Kaine, Viola O. Baskerville, Marilyn B. Tavenner, James S. Reinhard, Richard F. Sliwoski; attorney telephoned for pickup as instructed; (lsal) (Entered: 10/27/2009)
10/28/2009	<u>5</u>	NOTICE by Arc of Virginia, Inc., The re <u>3</u> Memorandum in Support <i>Substitute Page 9</i> (Martinis, Jonathan) (Entered: 10/28/2009)
11/03/2009	<u>6</u>	NOTICE of Appearance by Ishneila I. G. Moore on behalf of Ishneila I.G. Moore (Moore, Ishneila) (Entered: 11/03/2009)

11/03/2009		Notice of Correction re <u>6</u> Notice of Appearance. Counsel has been asked to contact the Clerk's Office for proper instructions on how to file a Notice of Appearance as soon as possible (kyou, ) 11-4-09 Notice of Appearance has been corrected by Clerk's Office (Entered: 11/03/2009)
11/06/2009	<u>7</u>	MOTION for Extension of Time to File Response to <u>2</u> MOTION for Preliminary Injunction by Timothy M. Kaine, Viola O. Baskerville, Marilyn B. Tavenner, James S. Reinhard, Richard F. Sliwoski. (Moore, Ishneila) (Entered: 11/06/2009)
11/09/2009	<u>8</u>	SUMMONS Returned Executed: Timothy M. Kaine served on 10/26/2009, answer due 11/16/2009; Viola O. Baskerville served on 10/26/2009, answer due 11/16/2009; Marilyn B. Tavenner served on 10/26/2009, answer due 11/16/2009; James S. Reinhard served on 10/26/2009, answer due 11/16/2009; Richard F. Sliwoski served on 10/26/2009, answer due 11/16/2009 (lsal) (Entered: 11/09/2009)
11/12/2009	<u>9</u>	Memorandum in Opposition re <u>2</u> MOTION for Preliminary Injunction filed by Timothy M. Kaine, Viola O. Baskerville, Marilyn B. Tavenner, James S. Reinhard, Richard F. Sliwoski. (Attachments: # <u>1</u> Exhibit Advisory Committee Mtg, # <u>2</u> Exhibit Petition Against Closure of SEVTC, # <u>3</u> Exhibit Letter, # <u>4</u> Exhibit SEVTC Advisory Committee, # <u>5</u> Exhibit DBHDS Preliminary Plan and Timeline for Downsizing SEVTC, # <u>6</u> Exhibit Letter, # <u>7</u> Exhibit Budget Bill Item 315, # <u>8</u> Exhibit Letter, # <u>9</u> Exhibit Letter)(Moore, Ishneila) (Entered: 11/12/2009)
11/12/2009	<u>10</u>	MOTION to Dismiss by Timothy M. Kaine, Viola O. Baskerville, Marilyn B. Tavenner, James S. Reinhard, Richard F. Sliwoski. (Moore, Ishneila) (Entered: 11/12/2009)
11/12/2009	<u>11</u>	Memorandum in Support re <u>10</u> MOTION to Dismiss filed by Timothy M. Kaine, Viola O. Baskerville, Marilyn B. Tavenner, James S. Reinhard, Richard F. Sliwoski. (Attachments: # <u>1</u> Exhibit Advisory Committee Meeting, # <u>2</u> Exhibit Petition Against Closure of SEVTC, # <u>3</u> Exhibit Letter, # <u>4</u> Exhibit SEVTC Advisory Committee, # <u>5</u> Exhibit DBHDS Preliminary Plan and Timeline for Downsizing SEVTC, # <u>6</u> Exhibit Letter, # <u>7</u> Exhibit Budget Bill Item 315)(Moore, Ishneila) (Entered: 11/12/2009)
11/12/2009		for proceedings held before District Judge Robert E. Payne: Telephone Conference held on 11/12/2009. (sneal, ) (Entered: 11/24/2009)
11/13/2009		Set/Reset Hearings: Motion Hearing set for 11/30/2009 at 10:00 AM before District Judge Robert E. Payne. (sneal, ) (Entered: 11/13/2009)
11/13/2009		for proceedings held before District Judge Robert E. Payne: Telephone Conference held on 11/13/2009. (sneal, ) (Entered: 11/24/2009)
11/16/2009	<u>12</u>	ORDER that defendants shall file an Answer by 11/19/09; plaintiff shall file a reply to defendant's Memorandum in Opposition to Motion for Preliminary Injunction by 11/19/09; further ORDERED that plaintiff shall file a response to the Motion to Dismiss by 11/19/09; defendant shall file reply by 11/23/09; further ORDERED that oral arguments on motions are SET for 11/30/09 at 10:00 a.m.; Signed by District Judge Robert E. Payne on 11/13/09. (lsal) (Entered: 11/16/2009)
11/19/2009	<u>13</u>	ANSWER to <u>1</u> Complaint, <i>and Ground of Defense</i> by Timothy M. Kaine, Viola O. Baskerville, Marilyn B. Tavenner, James S. Reinhard, Richard F. Sliwoski.(Moore, Ishneila) (Entered: 11/19/2009)
11/19/2009	<u>14</u>	REPLY to Response to Motion re <u>2</u> MOTION for Preliminary Injunction filed by Arc of Virginia, Inc., The. (Attachments: # <u>1</u> Exhibit G, # <u>2</u> Exhibit H, # <u>3</u> Exhibit I, # <u>4</u> Exhibit J, # <u>5</u> Exhibit K, # <u>6</u> Exhibit L)(Ek, Kalena) (Entered: 11/19/2009)
11/19/2009	<u>15</u>	ORDER DENYING as MOOT <u>7</u> Motion for Extension of Time to File Response to plaintiff's Motion for Preliminary Injunction; Signed by District Judge Robert E. Payne on 11/18/09. (lsal) (Entered: 11/19/2009)
11/19/2009	<u>16</u>	Memorandum in Opposition re <u>10</u> MOTION to Dismiss filed by Arc of Virginia, Inc., The. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F, # <u>7</u> Exhibit G, # <u>8</u> Exhibit H, # <u>9</u> Exhibit I, # <u>10</u> Exhibit J, # <u>11</u> Exhibit K)(Ek, Kalena) (Entered: 11/19/2009)

11/20/2009	<u>17</u>	MOTION for Leave to Participate as Amicus Curiae filed by United States; (lsal) (Entered: 11/20/2009)
11/20/2009	<u>18</u>	Memorandum in Support of <u>17</u> MOTION for Leave to Participate as Amicus Curiae filed by United States (lsal) (Entered: 11/20/2009)
11/23/2009	<u>19</u>	RESPONSE in Support re <u>10</u> MOTION to Dismiss filed by Timothy M. Kaine, Viola O. Baskerville, Marilyn B. Tavenner, James S. Reinhard, Richard F. Sliwoski. (Moore, Ishneila) (Entered: 11/23/2009)
11/23/2009	<u>20</u>	NOTICE by Timothy M. Kaine, Viola O. Baskerville, Marilyn B. Tavenner, James S. Reinhard, Richard F. Sliwoski <i>of Filing</i> (Attachments: # <u>1</u> Affidavit of Dix, # <u>2</u> Affidavit of Shrewsberry, # <u>3</u> Affidavit of Sivertson, # <u>4</u> Affidavit of Seward, # <u>5</u> Affidavit of Banks)(Moore, Ishneila) (Entered: 11/23/2009)
11/24/2009	<u>21</u>	Notice of Substitution of Counsel of Debra J. Prillaman by Robert P. McIntosh on behalf of United States Of America (McIntosh, Robert) (Entered: 11/24/2009)
11/24/2009	<u>22</u>	ORDER granting <u>17</u> Motion for Leave to Participate as Amicus Curiae; the United States shall file a brief by November 24, 2009; the Plaintiff and the Defendant shall file any responses by November 27, 2009. Signed by District Judge Robert E. Payne on 11/23/09. (kyou, ) (Entered: 11/24/2009)
11/24/2009	<u>23</u>	MOTION for Pro hac vice for Sheila Katherine Delaney by United States Of America. (kyou, ) (Entered: 11/24/2009)
11/24/2009	<u>24</u>	Memorandum in Opposition re <u>10</u> MOTION to Dismiss filed by United States Of America. (Attachments: # <u>1</u> Exhibit Wagner (case), # <u>2</u> Exhibit Martinez (case), # <u>4</u> Exhibit Feeley (case), # <u>5</u> Exhibit Brantley (case))(McIntosh, Robert) (Entered: 11/24/2009)
11/25/2009	<u>25</u>	So Ordered re <u>23</u> MOTION for Pro hac vice for Sheila Katherine Delaney filed by United States Of America. Signed by District Judge Robert E. Payne on 11/24/09. (kyou, ) (Entered: 11/25/2009)
11/25/2009	<u>26</u>	Response to the United States' Memorandum of Law filed by Timothy M. Kaine, Viola O. Baskerville, Marilyn B. Tavenner, James S. Reinhard, Richard F. Sliwoski. (Moore, Ishneila) (Entered: 11/25/2009)
11/25/2009	<u>27</u>	NOTICE by Timothy M. Kaine, Viola O. Baskerville, Marilyn B. Tavenner, James S. Reinhard, Richard F. Sliwoski (Attachments: # <u>1</u> Affidavit Second Declaration of Dix)(Moore, Ishneila) (Entered: 11/25/2009)
11/26/2009	<u>28</u>	Response to <u>24</u> Memorandum in Opposition, filed by The United States filed by Arc of Virginia, Inc., The. (Martinis, Jonathan) (Entered: 11/26/2009)
11/30/2009	<u>29</u>	Minute Entry for proceedings held before District Judge Robert E. Payne: Motion Hearing held on 11/30/2009. Arguments had on Def't's Motion To Dismiss. Arguments had on Plaintiff's Motion for a Preliminary Injunction. Motions taken under advisement by the Court. (Court Reporter Diane Daffron, OCR.) (sneal, ) (Entered: 11/30/2009)
12/17/2009	<u>30</u>	MEMORANDUM AND OPINION. Signed by District Judge Robert E. Payne on 12/16/09. (kyou, ) (Entered: 12/17/2009)
12/17/2009	<u>31</u>	ORDER denying <u>2</u> Motion for Preliminary Injunction; granting <u>10</u> Motion to Dismiss without prejudice. Signed by District Judge Robert E. Payne on 12/16/09. (kyou, ) (Entered: 12/17/2009)
12/28/2009	<u>32</u>	NOTICE OF APPEAL as to <u>31</u> Order on Motion for Preliminary Injunction, Order on Motion to Dismiss, <u>30</u> Memorandum & Opinion by Arc of Virginia, Inc., The. (Martinis, Jonathan) (Entered: 12/28/2009)
12/28/2009	<u>33</u>	USCA Appeal Fees received \$ 455 receipt number 34683006528 re <u>32</u> Notice of Appeal filed by Arc of Virginia, Inc., The (lbre, ) (Entered: 12/29/2009)
12/29/2009	<u>34</u>	Transmission of Notice of Appeal to US Court of Appeals re <u>32</u> Notice of Appeal (All case opening forms, plus the transcript guidelines, may be obtained from the Fourth Circuit's website at www.ca4.uscourts.gov) (lbre, ) (Entered: 12/29/2009)

01/05/2010		USCA Case Number 10-1005, Case Manager R.Sewell, for <u>32</u> Notice of Appeal filed by Arc of Virginia, Inc., The. (lbre, ) (Entered: 01/05/2010)
03/18/2010	<u>35</u>	TRANSCRIPT of proceedings for the date of November 30, 2009, before Judge Robert E. Payne, re <u>32</u> Notice of Appeal, USCA Case Number Court Reporter Diane Daffron, Telephone number 804 916-2267. Transcript may be viewed at the court public terminal or purchased through the Court Reporter before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 4/19/2010. Redacted Transcript Deadline set for 5/18/2010. Release of Transcript Restriction set for 6/16/2010.(daffron, diane) (Entered: 03/18/2010)
03/22/2010	<u>36</u>	Notice of Filing of Official Transcript re <u>35</u> Appeal Transcript of hearing held on November 30, 2009 (kyou, ) (Entered: 03/22/2010)
10/12/2010	<u>37</u>	ORDER of USCA as to <u>32</u> Notice of Appeal filed by Arc of Virginia, Inc.: Upon consideration of the joint motion to dismiss, the Court dismisses this appeal, upon such terms as have been agreed to by the parties, pursuant to Rule 42(b) of the Federal Rules of Appellate Procedure.(lbre, ) (Entered: 10/15/2010)
10/12/2010	<u>38</u>	USCA Mandate re <u>32</u> Notice of Appeal : This Court's order dismissing this appeal pursuant to Rule 42(b) of the Federal Rules of Appellate Procedure takes effect today. This constitutes the formal mandate of this Court issued pursuant to Rule 41(a) of the Federal Rules of Appellate Procedure. (lbre, ) (Entered: 10/15/2010)