2009

The Decision in *American Council of the Blind v. Paulson*: The Department of the Treasury Violated the Rehabilitation Act by Failure to Issue Currency That was Readily Distinguishable by the Visually Impaired

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The Decision in *American Council of the Blind v. Paulson*: The Department of the Treasury Violated the Rehabilitation Act by Failing to Issue Currency That Was Readily Distinguishable by the Visually Impaired

I. A FINDING OF DISCRIMINATION IN UNITED STATES CURRENCY ........................................133
II. THE BACKGROUND OF SECTION 504 CLAIMS SUPPORT THE FINDING OF DISCRIMINATION ............136
III. WHAT DOES "MEANINGFUL ACCESS" REQUIRE? ........................................140
IV. (NO)WHERE TO GO FROM HERE? ........................................145

I. A FINDING OF DISCRIMINATION IN UNITED STATES CURRENCY

A recent decision by the United States Court of Appeals for the District of Columbia Circuit has the potential to radically change the shape, size, color, and/or texture of American currency as we know it.¹ In a 2-to-1 decision, the panel of judges in *American Council of the Blind v. Paulson*² upheld the district court's decision, finding that the United States Treasury Department discriminates against the blind and people with limited vision because each denomination of its paper currency is exactly the same size, shape, and texture.³

The case began in 2002, when the American Council of the Blind ("Council") and two individuals with visual impairments filed suit alleging that the physical design of United States paper currency violates Section 504 of the Rehabilitation Act of 1973 ("Section 504").⁴ The complaint declared that the ability to use currency in a fast and easy manner is an "essential ingredient of independent living" and that millions of Americans are presently unable to recognize the denominations of bank notes in their current form because of blindness or poor vision.⁵ The plaintiffs proposed a num-

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². *Paulson I*, 525 F.3d 1256.
³. *Id.* at 1259-60.
⁵. *Paulson II*, 525 F.3d at 1261.
ber of possible accommodations relating to the size, color, texture, and shape of paper currency and sought declaratory and injunctive relief prohibiting the Secretary of the Treasury from continuing to manufacture paper currency greater than the one-dollar bill in its present form. While not naming a specific remedy, the Council sought to require the Secretary to “create and implement a corrective action plan, including development of an inexpensive portable electronic device capable of accurate and rapid determination of banknotes.”

The two visually impaired individuals named as plaintiffs in the Section 504 lawsuit provided substance to the Council’s allegations of obstacles faced by these individuals in the use of paper currency. The two individually named plaintiffs are highly educated and accomplished, and while each has developed coping mechanisms to address his disability, both continue to experience difficulties in using paper currency. Namely, the plaintiffs described instances when they were defrauded and related feelings of insecurity and vulnerability with every cash transaction they make. The Council also provided evidence of additional harm caused by the current design of paper currency in that it inhibits the ability of visually impaired individuals to work at entry-level jobs that require handling money.

Few people dispute that the physical design of United States paper currency makes it nearly impossible for people with extremely low or no vision to distinguish the denominations with their own senses. Studies conducted over the past few decades have addressed the increasing number of individuals with visual impairments and the difficulty they face in making purchases with United States banknotes that are “remarkably uniform in size, color and general design.” The Department of the Treasury has itself identified the problem and examined several possible accommodating features, such as the addition of an embossed fea-

6. Id.
7. Id.
8. Id. Patrick Sheehan has limited vision in one eye, and Otis Stephens is completely blind. Id.
9. Id.
10. Paulson II, 525 F.3d at 1261.
11. Id.
12. Id. at 1262.
13. Id. (citing the National Research Council of the National Academy of Sciences, Currency Features For Visually Impaired People 1 (1995)). [hereinafter 1995 NRC Report]. According to the report, only the United States prints bills that are identical in size and color in all denominations. 1995 NRC Report.
tured to paper currency and the development of a low-cost portable currency reader. However, despite undertaking major redesigns of paper currency in 1996 and 2004, the primary purpose of doing so was to protect against counterfeiting rather than to assist the visually impaired in identifying the denomination of United States bills.

In response to both parties' requests for summary judgment, the district court denied the Secretary's motion and granted the Council's motion in part. While rejecting the Council's claim that the visually impaired have no access to paper currency, the district court found that the Council had met its burden in showing that people with limited or no vision are denied "meaningful access" to the use of United States currency. Casting aside the Secretary's assertion that "existing coping mechanisms sufficed," the district court held that meaningful access to currency could not possibly be successfully argued where a blind person must rely on assistance to accurately identify paper money.

The district court found that the Council presented several reasonable accommodations and that the Secretary failed to meet his burden of demonstrating that each of these accommodations would pose an undue burden. Noting that it has "neither the expertise, nor . . . the power, to choose among the feasible alternatives, approve any specific design change, or otherwise dictate to the Secretary of the Treasury how he can come into compliance with the law," the district court entered a declaratory judgment. The court held that "the Secretary's failure to design, produce and issue paper currency that is readily distinguishable to blind and visually impaired individuals violates § 504 of the Rehabilitation Act," and ordered further proceedings on the Council's request for injunctive relief.

14. Paulson II, 525 F.3d at 1263. In 2001, the Bureau of Engraving and Printing [hereinafter BEP], the agency to which the Secretary delegated the responsibility for making currency, examined the possibility of adding an embossed feature to paper currency. Id. In 2004, the BEP requested proposals for low-cost portable currency readers. Id. As of the date of this litigation, the only available portable reader costs $270 and has difficulty identifying $20 bills. Id.
15. Id.
17. Id. (emphasis added).
18. Id.
19. Paulson II, 525 F.3d at 1264.
20. Id. at 1264-65 (citing Paulson I, 463 F. Supp. 2d at 63).
On appeal to the three-judge panel, the Secretary of the Treasury contended that the various coping techniques utilized by the visually impaired, the availability of portable currency readers to identify the bill, and the use of credit cards instead of cash demonstrate that no denial of meaningful access to currency exists and thus, the court should never have reached the question of whether changing the currency would impose an undue burden. However, in the event that the court of appeals would find a denial of meaningful access, the Secretary asserted that the district court erred in concluding that the accommodations identified would not pose an undue burden on the Department and the public.

Given a limited record for review, the court of appeals did not consider any specific alteration or accommodation but instead relied largely upon the purpose and language of the Rehabilitation Act to determine whether United States currency, in its current form, discriminates against the visually impaired. After concluding that it does, the court of appeals determined that "the Secretary has not met his burden to show, as an affirmative defense, that each identified accommodation that is facially reasonable, effective, and feasible would impose an undue burden." Based upon these determinations, the court of appeals affirmed the district court's grant of partial summary judgment and remanded the case to the district court to address the Council's request for injunctive relief.

II. THE BACKGROUND OF SECTION 504 CLAIMS SUPPORT THE FINDING OF DISCRIMINATION

In concluding that United States currency in its current form discriminates against blind and visually impaired individuals, both courts relied heavily upon the purpose and history of the Rehabilitation Act, which, to their understanding, was enacted "to ensure that members of the disabled community could live independently and fully participate in society." In passing the Rehabilitation Act, Congress expressly found that:

23. Id.
25. Paulson II, 525 F.3d at 1259-60.
26. Id. at 1259.
27. Id. at 1260.
28. Id.
(3) Disability is a natural part of the human experience and in no way diminishes the right of individuals to—

(A) live independently;

(B) enjoy self-determination;

(C) make choices;

(D) contribute to society;

(E) pursue meaningful careers; and

(F) enjoy full inclusion and integration in the economic, political, social, cultural, and educational mainstream of American society.²⁹

In addition to these findings by Congress, one of the primary purposes stated in the Act is “to empower individuals with disabilities to maximize employment, economic self-sufficiency, independence, and inclusion and integration into society, through . . . the guarantee of equal opportunity.”³⁰ It is with these purposes in mind that Section 504 of the Rehabilitation Act provides:

No otherwise qualified individual with a disability in the United States . . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency. . . .³¹

“Originally proposed as an amendment to Title VI of the Civil Rights Act of 1964”,³² Section 504 sought to “extend civil rights to disabled individuals and provide them a full opportunity to participate in American society.”³³

The landmark case in analyzing Section 504 claims is Alexander v. Choate,³⁴ which provides that “any interpretation of § 504 must . . . be responsive to two powerful but countervailing considerations – the need to give effect to the statutory objectives and the

³². See S. 3044, 92d Cong. (1972).
³³. Paulson II, 525 F.3d at 1260.
desire to keep § 504 within manageable bounds." In striking a balance between these competing considerations, the Court emphasized that "Section 504 seeks to assure evenhanded treatment and the opportunity for handicapped individuals" but does not guarantee "equal results" in the enjoyment of benefits from various programs or activities. Thus, the appropriate question, in determining whether a disabled individual is being discriminated against, is whether those individuals are denied "meaningful access" to the government benefit being provided.

The court of appeals in the Paulson case relied on Choate and several other cases in considering whether the production of United States currency in its current form amounts to a violation of Section 504. To prove a Section 504 violation, the court cited four elements that must be shown by the plaintiffs: 1) they are disabled within the meaning of the Rehabilitation Act; 2) they are otherwise qualified; 3) they were excluded from, denied the benefit of, or subject to discrimination under a program or activity; and 4) the program or activity is carried out by a federal executive agency or with federal funds. No dispute exists as to three of these four elements, and the controversy focused solely upon whether or not the blind and visually impaired are subject to discrimination because of the current form of United States currency. In other words, the court was tasked with determining whether or not the blind and visually impaired are provided "meaningful access" to the use of currency.

The courts have provided some guidance for measuring "meaningful access" by distinguishing those cases where discrimination was found from cases in which it was not, based on interpretations of the Section 504 requirements. The first interpretation of Section 504 by the Supreme Court came in Southeastern Community College v. Davis, in which the Court considered whether a federally-funded nursing school was required to make "substantial modifications" to their programs to allow disabled persons to par-

35. Choate, 469 U.S. at 299.
36. Id. at 304.
37. Id. at 302.
38. Paulson II, 525 F.3d at 1260-61.
39. Id. at 1266.
40. Id.
41. 442 U.S. 397 (1979). This case involved a suit brought against a college by a licensed practical nurse who, because of hearing disability, was denied admission to the college's nursing program. Id.
The Court held that Section 504 did not require that the school provide individual supervision by faculty whenever the disabled student was attending to patients directly because such a fundamental alteration to the school's program was far beyond the evenhanded treatment Section 504 intended to require. Specifically, the Court found that Congress “did not impose an 'affirmative action' requirement under Section 504” and that the school's “unwillingness to make major adjustments” to its nursing program did not constitute discrimination.

The “meaningful access” standard presently in use emerged from the Court's consideration of whether a State's decision to reduce the number of inpatient hospital days reimbursed under Medicaid from 20 to 14 discriminated against disabled individuals in violation of Section 504. Noting that the reduction would undoubtedly have a distinct and measurable impact upon disabled individuals, the Court stressed that not “all action disparately affecting the handicapped” is actionable and the proper inquiry was whether disabled individuals would have “meaningful access” to the Medicaid benefits provided by the State. Section 504 does not require a state to alter its definition of a benefit being offered "simply to meet the reality that the handicapped have greater medical needs."

In determining whether an individual is denied meaningful access, the court will often distinguish whether the plaintiff is seeking to eliminate an obstacle that is preventing his or her access to a government program or benefit, or whether he or she is seeking to expand or alter the existing program or benefit. For example, courts have held that the physically impaired lack meaningful access where mass transit or public buildings do not provide wheelchair access, but a physically disabled individual was not denied meaningful access to City-provided free parking when the City denied her request for the grant of a special privilege to park near her office. Likewise, a court has found that deaf individuals lack

42. Davis, 442 U.S. at 405.
43. Id. at 410.
44. Id. at 410, 413.
45. Choate, 469 U.S. at 301.
46. Id. at 298, 302.
47. Id. at 303.
48. Paulson II, 525 F.3d at 1267. (citing Rodriguez v. City of N.Y., 197 F.3d 611, 619 (2d Cir. 1999) (“Section 504 does not mandate the provision of new benefits”).
49. See Dopico v. Goldschmidt, 687 F.2d 644 (2d Cir. 1982).
meaningful access to government activities without the provision of interpretive assistance;\textsuperscript{51} however, providing disabled voters with third-party voting aids, rather than altering the voting system in order to provide unassisted voting, did not violate the Rehabilitation Act.\textsuperscript{52}

The Court of Appeals for the D.C. Circuit described the Council's efforts as seeking "only to remove an obstacle that the visually impaired confront in using paper currency" rather than "to obtain a substantively different benefit than is already provided."\textsuperscript{53} Based upon this distinction, the \textit{Paulson II} court found that the United States paper currency, designed without features that are detectable by the visually impaired, was the result of precisely the type of "thoughtlessness and indifference" targeted under Section 504.\textsuperscript{54} Applying the logic of the courts in distinguishing the removal of an obstacle from the creation of a new benefit, the court viewed the currency in its current form as an obstacle, preventing the blind and visually impaired from having meaningful access to the use of currency in the United States.

\section*{III. What Does "Meaningful Access" Require?}

Despite a general understanding that not every situation in which disabled people are treated differently than non-disabled people amounts to a violation of Section 504, the parties passionately disagree as to whether or not United States currency in its current form amounts to one of those situations.\textsuperscript{55} The court of appeals ultimately agreed with the Council's position, finding that the Secretary of the Treasury's "thoughtlessness and indifference" in designing currency in such a way that it cannot be readily distinguished by the entire blind community is clearly violation of Section 504.\textsuperscript{56} On the other hand, the Secretary of the Treasury and various Amici, including the National Federation of the Blind ("Federation"), find no such thoughtlessness on the part of the Secretary of the Treasury and cite the undisputed evidence demonstrating the use of currency on a regular basis by visually im-

\textsuperscript{51} See Rothschild v. Grottenhaler, 907 F.2d 286, 291 (2d Cir. 1990).
\textsuperscript{52} Nelson v. Miller, 170 F.3d 641, 649-50 (6th Cir. 2002).
\textsuperscript{53} Paulson II, 525 F.3d at 1268.
\textsuperscript{54} Id. at 1269 (citing Choate, 469 U.S. at 295).
\textsuperscript{55} Paulson II, 525 F.3d at 1267.
\textsuperscript{56} Id. at 1269.
paired individuals with little to no measurable difficulty using various coping mechanisms.\textsuperscript{57}

Most interesting to the Section 504 debate is the countervailing views held by the Council and the Federation, who took divergent positions in the case, regarding the definition and requirements of "meaningful access." Relying heavily upon the idea that Section 504 claims "generally parallel" claims brought under the Americans with Disabilities Act ("ADA"), the Council asserts that the government programs must provide "equally effective access" to the benefits of those programs.\textsuperscript{58} The Council points out that individuals who are completely blind are only able to use United States currency with assistance from a sighted person or with the use of external electronic devices.\textsuperscript{59} According to the Council, neither of these alternatives render the visually impaired individual's use of currency "equally effective" to that of ordinary citizens.\textsuperscript{60} By providing a government service, the benefits of which cannot be equally enjoyed by visually disabled people, the Council concludes that the Treasury has failed to meet the standard for "meaningful access" established by the Supreme Court in \textit{Alexander v. Choate}.\textsuperscript{61}

The Council and the Federation differ on whether or not the use of currency, with assistance from sighted individuals, can be considered meaningful access due to occurrences of fraud, error and embarrassment. The Council acknowledges that honest and kind individuals are willing to assist a person with poor vision without defrauding that person and that many blind people have developed methods of conducting their cash transactions in ways that reduce the opportunity for someone to defraud them.\textsuperscript{62} However, both plaintiffs in this case have testified that fraud does indeed occasionally occur.\textsuperscript{63} Furthermore, no one disputes that, no matter how "honest" the sighted individual is, the blind individual does not have an equal opportunity to confirm that the correct amount of currency was exchanged.\textsuperscript{64} In the event of a mathematical er-

\textsuperscript{57} \textit{Id.} at 1269-70.


\textsuperscript{59} Brief of Appellee, \textit{supra} note 58, at 17.

\textsuperscript{60} \textit{Id.}

\textsuperscript{61} \textit{Id.} at 17-18 (citing \textit{Choate}, 469 U.S. at 306, 308).

\textsuperscript{62} Brief of Appellee, \textit{supra} note 58, at 20-21.

\textsuperscript{63} \textit{Id.} at 20-21.

\textsuperscript{64} \textit{Id.} at 19.
ror, for example, the number of people available to check for errors
is reduced from two to one. Additionally, being forced to rely on
the assistance of a third person to verify the amount of currency
eliminates the notion of privacy in purchases made by unsighted
individuals.

The Council maintains that it is not seeking a “precisely tai-
lored” solution for every visually disabled person, as claimed by
the Treasury but rather seeks only to assure that blind individu-
als are given the opportunity to enjoy equally in the benefits pro-
vided for all citizens. Emphasizing the feelings of insecurity felt
by these otherwise independent and highly educated individuals,
the Council finds the forced reliance upon the “kindness of strang-
ers” in order to conduct the day-to-day activities of life is contrary
to the fundamental purposes of the Rehabilitation Act, regardless
of any occurrence or non-occurrence of fraud in the transaction.

The Council balks at the suggestion that portable electronic de-
vices may be used by the blind in order to obtain meaningful ac-
cess to currency. Currently, these devices are bulky, expensive,
and often unreliable if the bill is not in good condition. Likewise,
the Council wholly disputes the assertion that credit cards are an
adequate substitute for cash. Many families in the United
States do not own a credit card, and many establishments and
non-retail service providers, such as taxi cabs, which the blind
often rely on for transportation, will not accept a credit card.
Further, even the use of a credit card requires a visual verification
of the amount being charged that is then attested to by a signa-
ture of the person using the card. Based upon these facts and
others, the Council maintains that, even if the use of credit cards
or electronic devices were deemed to be effective, the suggestion
that they would be an adequate substitute to the use of currency
runs counter to the purpose of the Rehabilitation Act.

65. Id.
66. Id. at 26.
67. Brief of Appellee, supra note 58, at 25 (citing 29 U.S.C. § 701(b)(1)) (indicating that
the findings and purposes of the Act are to “empower the individuals with disabilities to
maximize employment, economic self-sufficiency, independence, and inclusion and integra-
tion into society”).
68. Brief of Appellee, supra note 58, at 27.
69. Id. at 27-28.
70. Id. at 32.
71. Id.
72. Id.
73. Brief of Appellee, supra note 58, at 31-33.
Taking a position opposing that of the Council is the National Federation of the Blind ("Federation"), the oldest and largest organization of the blind in this country. The Federation, one of the most influential membership organizations of blind people in the United States, seeks to improve blind individuals' lives "through advocacy, education, research, technology and programs encouraging independence and self-confidence." In its brief, the Federation expressed deep concern with the negative perception that may be created toward blind people as a result of this decision in particular and the overemphasis placed on issues the blind face in their use of paper currency. The Federation takes great issue with the Council's classification of blind people as "the most vulnerable individuals" in society, refuting it by proudly asserting that these individuals have adeptly developed alternative techniques that allow them to participate meaningfully in the use of commerce.

The underlying reason for the divergent positions taken by these organizations is rooted in the attempt to define the meaning of equality. Blind individuals will inevitably use currency in a way that is different from sighted individuals. The debate lies in determining exactly what role the court should play in assuring equality. The Council's position purports that the Rehabilitation Act requires more than the use of currency readers, credit cards, or third persons in order to have "meaningful access." The Federation, on the other hand, considers "an opportunity to participate meaningfully and an opportunity to access the resources necessary to live a complete and full life" sufficient to meet the requirement of the Rehabilitation Act.

The Federation refers to a "partnership" that must exist between society and the disabled in order to affect solutions that provide blind and disabled people with the opportunity to succeed. In its view, society's role in accommodating the needs of blind people does not extend beyond eliminating barriers that
would prevent them from being accepted.\textsuperscript{83} Blind and visually impaired individuals have been able to effectively spend their cash just as easily as sighted individuals, evidencing the success of these individuals in developing their own unique alternative techniques to use currency. Many blind individuals have developed systems of folding their bills or placing them in their wallets in such a way as to accurately identify the value of currency without the assistance of any third person or electronic device.\textsuperscript{84} These and other techniques demonstrate that the visually disabled have done their part in finding "meaningful access" to this benefit, and no further assistance is needed from the courts.

In addition to the negative connotation arising with the suggestion that blind individuals need "special accommodation" to use currency, the blind community's present use of currency with little or no trouble supports the Federation's notion that bigger problems remain to be addressed.\textsuperscript{85} The Federation suggests that, still to this date, significant barriers shut blind individuals out from employment, goods, or services and that these are much more worthy of the government's time and attention.\textsuperscript{86} The case of Massachusetts v. E\textsuperscript{*}Trade Access, Inc.\textsuperscript{87} demonstrates a real barrier faced by blind individuals, where the largest developer of ATMs refused to provide non-visual access to their equipment.\textsuperscript{88} The Federation proposes that the need for the blind to be given access to their money through the use of an ATM and similar issues, such as website design that is compatible with assistive technology, are indicative of a more pressing need for government interference.\textsuperscript{89} Given the progress made by blind individuals in developing adaptive techniques that allow them to use currency with little to no assistance, the reformation of currency pales in comparison to the wide spectrum of hurdles that blind individuals are faced with everyday.\textsuperscript{90}

Despite taking a position in opposition to, and in large part offended by, the views asserted by the Council, the Federation's brief clarifies that it "does not categorically oppose an alteration to US currency" that will assist the blind and visually impaired in

\textsuperscript{83} Id. at 7.
\textsuperscript{84} Id. at 10.
\textsuperscript{85} Id. at 12-13.
\textsuperscript{86} Brief for National Federation of the Blind, supra note 74, at 13.
\textsuperscript{88} E\textsuperscript{*}Trade Access, 464 F. Supp. 2d at 55.
\textsuperscript{89} Brief for National Federation of the Blind, supra note 74, at 13.
\textsuperscript{90} Id. at 14.
using currency more efficiently.\textsuperscript{91} Rebuffing the suggestion that the blind are in any way denied meaningful access to the currency, the Federation's brief provokes discussion of what "equal participation for the blind" requires our society to do.\textsuperscript{92} The divergent positions taken by the two leading organizations for blind people demonstrate that this question remains unanswered. While the court of appeals weighed in with its opinion that more is required, it is unclear whether other courts in our country would likewise find that the blind are denied equal participation in the use of currency.

IV. \textit{(No)Where To Go From Here?}

In addition to the question of whether or not the blind are denied meaningful access to the use of currency, as is required to establish a Section 504 claim, some controversy exists surrounding the appropriateness of using the court as a means of changing our nation's currency. This controversy begins with the understanding that Congress has vested broad authority in the Secretary of the Treasury:

In order to furnish suitable notes for circulation as Federal reserve notes, the Secretary of the Treasury shall cause plates and dies to be engraved in the best manner to guard against counterfeits and fraudulent alterations, and shall have printed therefrom and numbered such quantities of such notes of the denominations of $1, $2, $5, $10, $20, $50, $100, $500, $1,000, $5,000, $10,000 as may be required to supply the Federal Reserve banks. Such notes shall be in form and tenor as directed by the Secretary of the Treasury under the provisions of this chapter and shall bear the distinctive numbers of the several Federal reserve banks through which they are issued.\textsuperscript{93}

The Secretary then delegated the development of currency design and production to the Bureau of Engraving and Printing, which sells the currency to the Federal Reserve System at a price adequate to recover the costs of production.\textsuperscript{94}

\textsuperscript{91} Id. at 15-16.
\textsuperscript{92} Id. at 1.
Given this delegation of money-making power, despite the court's determination that United States currency in its current form discriminates against the visually impaired, it is presently without authority to change it. Ultimately, Congress, through the BEP, will be responsible for implementing any change in the form of currency that may occur. It is also asserted that "technology will obviate the need to redesign radically the U.S. currency."95 Development efforts are currently underway to gather information and seek the creation of smaller, accurate, and affordable technology that will scan and read the denominations of bills, eliminating the need for a redesign of currency.96 It is reasonable to predict that the rapid progression of technology may generate an accurate currency reader that is small enough to fit inside a cellular phone, affordable to the average citizen, making currency transactions unproblematic for blind individuals. However, even such a device still creates a dependence that arguably counters the Rehabilitation Act's purpose of promoting independence.

On the other hand, the position of the Federation is uniquely persuasive, as it purports to convey the Federation's goal of assimilating blind individuals in society while recognizing the strides of achievement they have made. Recently testifying before the House Subcommittee on Domestic and International Monetary Policy, Trade, and Technology, the Federation's president, Dr. Marc Maurer, explained the Federation's disagreement with the federal court's decision.97 Dr. Maurer testified, on behalf of the many blind members of the Federation, that he takes offense to the court's ruling because its premise is that "the blind of America are being unlawfully made victims of discrimination."98 Dr. Maurer's testimony emphasized the danger of this finding, which creates the fiction that identifying items by touch is essential to an individual's full participation in society.99 He states that many items, in addition to currency, cannot be identified by touch but must be managed by the blind in business, industry, and education and a finding that blind persons cannot appropriately manage these things would be a real denial of equality.100

96. Id.
98. Id.
99. Id.
100. Id.
The remarks offered by the president adequately express the view of the Federation: blind persons have made impressive advancements in finding their place in society and accomplishing the day-to-day tasks of life in their own unique ways. This view is one shared by many people, sighted and unsighted alike, and in many ways represents real progress in our society. However, the president fails to consider the fact that not all blind individuals have adapted quite as easily, and many areas exist where additional assistance may be needed for blind people to accomplish the daily tasks of life. Take, for example, the prevalence of Braille on restaurant menus, elevators, and buildings. Surely a blind person could order a cheeseburger or navigate through a building with little to no difficulty, even without the use of Braille. However, Braille is provided in order to provide the unsighted person easier access to these things, without the assistance of another person.

The same is true of currency. As both sides concede, the blind are presently using currency and enjoying the benefits of our economy on a daily basis. Their use of currency is not identical to a sighted person's; however, the Federation suggests that people have different ways of enjoying a similar benefit. What the Federation's view fails to consider is the possibility that some people may not be able to enjoy the benefit without some sort of assistance, which the court has found to be a denial of meaningful access. Just as Braille is provided as a convenience for performing functions that could arguably be performed without it, a distinguishable feature could be placed on United States currency to assist blind individuals in their use of cash.

Ultimately, two of the three judges of the Court of Appeals for the D.C. Circuit sided with the Council, determining that United States currency in its current form amounts to a denial of meaningful access and that facially reasonable accommodations can be made.\textsuperscript{101} In making this determination, the court held that any accommodation selected would not pose an undue burden upon the Secretary of the Treasury and left the Secretary to select a specific remedy.\textsuperscript{102} Given the Secretary's broad authority in designing and printing currency, the redesign of paper currently is certainly a feasible option. Further, a currency design that is distinguishable by touch would be consistent with the BEP's goal of preventing counterfeiting; these bills would be more difficult to copy.

\textsuperscript{101} Paulson \textit{II}, 525 F.3d at 1274.
\textsuperscript{102} Id. at 1271.
While the D.C. court concluded that the currency presently discriminates, the lack of clarity in the court’s holding, in large part due to its inability to order a specific redesign of currency, makes it hard to predict where this issue will go from here. Likewise, the divergent views taken by two of the leading organizations for advocating society’s acceptance of blind people, makes it even more difficult to predict how a higher court might rule on the case if it were brought to either the full 13-member appeals court or the United States Supreme Court. True, the D.C. court has weighed in on the side of the Council; however, given the strong views expressed by the Federation, it is unlikely that this ruling will be the final word on this subject.

Jennifer Snyder