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14 UNITED STATES DISTRICT COURT
15 EASTERN DISTRICT OF CALIFORNIA
16 SACRAMENTO DIVISION

18 DERRIL HEDRICK, DALE ROBINSON,
KATHY LINDSEY, MARTIN C. CANADA,
19 DARRY TYRONE PARKER, individually and
on behalf of all others similarly situated,

20 Plaintiffs,

21 v.

22 JAMES GRANT, as Sheriff of Yuba County;
23 Lieutenant FRED J. ASBY, as Yuba County
Jailer; JAMES PHARRIS, ROY LANDERMAN,
24 DOUG WALTZ, HAROLD J. "SAM"
SPERBEK, JAMES MARTIN, as members of
25 the YUBA COUNTY BOARD OF
SUPERVISORS,

26 Defendants.

Case No. 2:76-CV-00162-GEB-EFB

**[PROPOSED] SUPPLEMENTAL
CIVIL CLASS ACTION
COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

Judge: Hon. Garland E. Burrell, Jr.

Trial Date: None Set

**Failure to Provide Reasonable
Accommodations to Prisoners with
Disabilities:** Violations of Americans
with Disabilities Act, Rehabilitation Act,
and California Government Code § 11135

NATURE OF ACTION

1
2 1. For decades, Defendants Yuba County Supervisors (“Yuba County
3 Supervisors,” or “Yuba County”), the Yuba County Jailer and the Yuba County Sheriff’s
4 Office (“Sheriff’s Office,” collectively “Defendants”) have failed to comply with a
5 Consent Decree entered by this Court aimed at remedying constitutional violations in the
6 Yuba County Jail in Marysville, California (the “Jail”). Defendants also routinely fail to
7 comply with laws that protect prisoners¹ with disabilities from discrimination and require
8 them to operate their programs, services, and activities in a manner that is readily
9 accessible to prisoners with disabilities.

10 2. Plaintiffs are members of a certified class of “all prisoners at the Yuba
11 County Jail ... at any time during the pendency of this lawsuit” who bring this
12 Supplemental Civil Rights Class Action Complaint (“Supplemental Complaint”) to remedy
13 the conditions in the Jail that violate the Americans with Disabilities Act (“ADA”), Section
14 504 of the Rehabilitation Act (the “Rehabilitation Act”), and California Government Code
15 section 11135 for a subclass of prisoners with disabilities at the Jail.

16 3. Under the ADA, the Rehabilitation Act, and California Government Code
17 section 11135, Plaintiffs seek declaratory and injunctive relief against Defendants as a
18 remedy for their systemic failure to provide reasonable accommodations in programs,
19 services, and activities and discrimination against prisoners in the Jail who have
20 disabilities. Defendants lack adequate policies and practices for identifying and tracking
21 prisoners with disabilities and the accommodations those prisoners require. Defendants
22 have no adequate administrative grievance process available to prisoners to request
23 accommodations for their disabilities. Defendants do not provide effective communication
24 or basic accommodations, such as sign language interpreting services and hearing aids, to
25

26 _____
27 ¹ All types of arrestees, detainees, and inmates held at the Jail are hereinafter referred to as
28 “prisoners.”

1 prisoners with hearing, speech, and other communication impairments, even for critical
2 interactions with Jail staff, including for intake and classification, disciplinary hearings,
3 and medical and mental health appointments. Defendants discriminate against and
4 unlawfully segregate individuals with physical and mental impairments and developmental
5 disabilities. Many areas of the Jail are physically inaccessible to prisoners with physical
6 limitations, because Defendants refuse to permit prisoners with disabilities to possess
7 needed assistive devices, because Defendants do not house them in accessible areas, and
8 because, as an accessibility evaluation commissioned by Defendants acknowledges, the
9 Jail fails to meet federal and state accessibility standards. Defendants systemically
10 segregate prisoners with disabilities, including those who use canes, crutches, and
11 wheelchairs, and those who are developmentally disabled, causing them to be locked in
12 their cells for 23 hours or more every day because they have disabilities, excluding them
13 from interaction with the general population. Defendants' systemic failure to
14 accommodate prisoners with disabilities results in the widespread exclusion of prisoners
15 with disabilities from many of the programs, services, and activities offered by
16 Defendants, including medical and mental care services, exercise, religious services, and
17 educational and vocational programs. Defendants' lack of adequate policies and
18 procedures makes prisoners with disabilities vulnerable to exploitation and violence by
19 other prisoners and increases their risk of serious injury or death.

20 JURISDICTION

21 4. This Court has jurisdiction over the claims brought under federal law
22 pursuant to 28 U.S.C. §§ 1331 and 1343. This Court has jurisdiction over the claims
23 brought under California law pursuant to 28 U.S.C. § 1367. Plaintiffs seek declaratory and
24 injunctive relief under 28 U.S.C. §§ 1343, 2201, and 2202, 29 U.S.C. § 794a, 42 U.S.C.
25 §§ 1983 and 12117(a), and California Government Code § 11135.

26 VENUE

27 5. Venue is properly in this Court, pursuant to 28 U.S.C. § 1391(b)(1), in that
28 Plaintiffs' claims for relief arose in this District and one or all of the Defendants reside in

1 this District.

2 **PARTIES**

3 6. Plaintiff DENNIS CARL BARNES has been detained at Yuba County Jail
4 since June 27, 2016. Plaintiff BARNES is a person with a disability as defined in 42
5 U.S.C. § 12102, 29 U.S.C. § 705(9)(B), and California Government Code § 12926.
6 Plaintiff BARNES has diabetes and a mobility impairment due to a stroke that paralyzed
7 him. As a result, Plaintiff BARNES is substantially limited in major life activities,
8 including but not limited to walking and standing, and uses a wheelchair for mobility.
9 After being booked in the Jail, Plaintiff BARNES was immediately placed in the Jail's
10 medical unit, where he was completely isolated and unable to shower or use the bathroom
11 because the cell was not wheelchair accessible. After being moved from the medical unit,
12 Plaintiff BARNES had to use another inaccessible shower with misplaced grab bars that he
13 had to roll into with his electric wheelchair. Due to a slippery floor, Plaintiff BARNES has
14 fallen in the shower several times, including one instance in which he was left naked and
15 injured on the floor for a long period of time before being taken to Rideout Hospital
16 partially clothed and handcuffed to a stretcher. When he was discharged, the sheriff's
17 deputies realized he would not be able to use the Jail's van to transport him and shoved
18 him into the back seat of a police cruiser, where he had to lie down. After grieving the
19 lack of physical therapy at the Jail, he was threatened with being returned to the isolated
20 medical cell if he did not withdraw his grievance. After he continued to grieve, he was
21 taken to the hospital, where he was diagnosed with loss of motion due to the lack of
22 physical therapy. Plaintiff BARNES's electric wheelchair now malfunctions because the
23 Jail has not provided him an accessible shower or sufficient covering for the wheelchair to
24 keep it from getting wet in the shower, and sallyport doors have repeatedly slammed into
25 the wheelchair. Due to the Jail's inaccessible physical facilities, Plaintiff BARNES is
26 housed in the Jail's lower level and cannot access the Jail's activities for prisoners, which
27 are held on a higher floor, except when other prisoners help him go up stairs. Plaintiff
28 BARNES is also incontinent and given ill-fitting diapers by custody staff, but only one at a

1 time, even when he requests more, forcing him to sit in a wet diaper for long periods of
2 time. Plaintiff BARNES has tried to file over ten grievances with the Jail, but he does not
3 believe they have all been filed, and was threatened with being sent to a medical cell if he
4 did not withdraw one of them. Despite medical clinicians' advocacy for Plaintiff
5 BARNES to be released from the Jail on account of the Jail's inability to house someone
6 with his disability, Plaintiff BARNES remains in custody.

7 7. Plaintiff JESSE ERWIN THOMAS has been detained at Yuba County Jail
8 since October 9, 2016 on a parole violation. Plaintiff THOMAS is a person with a
9 disability as defined in 42 U.S.C. § 12102, 29 U.S.C. § 705(9)(B), and California
10 Government Code § 12926. When incarcerated by the California Department of
11 Corrections and Rehabilitation ("CDCR"), Plaintiff THOMAS regularly used a cane. He
12 suffers from arthritis and back and hip pain which substantially limit him in major life
13 activities, including but not limited to walking and standing. Because of the arthritis,
14 Plaintiff THOMAS's knees hurt when he walks and he needs a cane to maintain balance.
15 Arthritis pain in his shoulders makes dressing and showering difficult for him. Plaintiff
16 THOMAS is incapable of using stairs due to his mobility problems. Plaintiff THOMAS's
17 cane was confiscated by the Sheriff's deputy who arrested him, and he did not receive a
18 cane upon being booked at the Jail. Without a cane, Plaintiff THOMAS was incapable of
19 moving much beyond his bed in his cell without a lot of pain and having to support himself
20 against the walls. Plaintiff THOMAS also could not go to yard because it is offered at
21 unreasonable times when the cold weather exacerbates his joint pain and makes it difficult
22 to move around, especially without the cane. Plaintiff THOMAS asked repeatedly for a
23 cane from Jail staff and did not receive one for weeks. Only after Plaintiffs' counsel
24 appeared at the Jail after having filed a Motion to Enforce the Consent Decree, and met
25 with Plaintiff THOMAS, did he then receive a cane from Defendants. Plaintiff THOMAS
26 fears the cane will be removed and that it will be denied again if he is re-incarcerated at
27 Yuba County Jail.

28 8. Plaintiff MARIA ORTIZ-CORTEZ has been detained at Yuba County Jail

1 since February 2016. She is an immigration detainee awaiting resolution of her
2 immigration case. Plaintiff ORTIZ-CORTEZ is a person with a disability as defined in 42
3 U.S.C. § 12102, 29 U.S.C. § 705(9)(B), and California Government Code § 12926(1).
4 Plaintiff ORTIZ-CORTEZ was involved in a car accident while in the custody of the
5 United States Immigration and Customs Enforcement (“ICE”), and suffers from lingering
6 pain that impairs her mobility and substantially limits her in major life activities, including
7 but not limited to walking, sleeping, bathing, cleaning her cell, and sitting. In addition to
8 her physical impairments, Plaintiff ORTIZ-CORTEZ suffers from depression and anxiety
9 which substantially limits her additional major life activities, including but not limited to
10 caring for herself, thinking, and concentrating. Plaintiff ORTIZ-CORTEZ’s untreated
11 depression has often resulted in lethargy, which has caused her to skip meals and miss
12 Bible study sessions. When she asked for treatment for the pain resulting from the
13 accident, she received a video consultation with a clinician who prescribed medication, but
14 the medication works only sporadically. Plaintiff ORTIZ-CORTEZ has requested medical
15 treatment so she could walk, sit, and sleep, and was told by a nurse that she was “fine.”
16 Repeatedly being denied access to medical services for her injuries from the car accident
17 and mental health treatment has exacerbated Plaintiff ORTIZ-CORTEZ’s anxiety and
18 depression, and made her feel despondent.

19 9. Defendant COUNTY OF YUBA (the “COUNTY” or “YUBA COUNTY”)
20 is a public entity, duly organized and existing under the laws of the State of California.
21 Under its authority, Defendant COUNTY operates and manages the Jail and is, and was at
22 all relevant times mentioned herein, responsible for the actions and inactions and the
23 policies, procedures, practices, and customs of the Yuba County Sheriff’s Office and its
24 respective employees and agents. Yuba County and its Board of Supervisors retain the
25 ultimate authority over and responsibility for the treatment of Plaintiffs and the subclass
26 they seek to represent. Yuba County employs 50 or more persons. The COUNTY by law
27 retains the ultimate responsibility for the treatment and safekeeping of Plaintiffs and the
28 subclass they seek to represent. Upon information and belief, the COUNTY receives state

1 and federal funds for the operation of the Jail and has received such funds at all times
2 relevant to this Supplemental Complaint. The total budget approved by the COUNTY for
3 fiscal year 2015-2016 was \$168,485,566.

4 10. Defendants ANDY VASQUEZ JR., JOHN NICOLETTI, MARY JANE
5 GRIEGO, ROGER ABE, and RANDY FLETCHER (collectively “BOARD OF
6 SUPERVISORS”),² are members of the Board of Supervisors of Yuba County a public
7 entity, duly organized and existing under the laws of the State of California. The BOARD
8 OF SUPERVISORS is the executive and legislative body for Yuba County, and the
9 supervisors provide policy direction for all branches of Yuba County’s government,
10 including the Sheriff’s Office.

11 11. Defendant YUBA COUNTY SHERIFF’S OFFICE (the “SHERIFF’S
12 OFFICE”) is a public entity, duly organized and existing under the laws of the State of
13 California. The SHERIFF’S OFFICE is responsible for the day-to-day operations of the
14 Jail facilities, including promulgating policies and procedures for the operation of the
15 facilities. *See* Cal. Penal Code §§ 4000 *et seq.* The SHERIFF’S OFFICE by law retains
16 the ultimate authority over and responsibility for the health care, treatment, and
17 safekeeping of prisoners in the Jail. The SHERIFF’S OFFICE employs 50 or more
18 persons. Upon information and belief, the SHERIFF’S OFFICE receives state and federal
19 funds for the operation of the Jail and has received such funds at all times relevant to this
20 Supplemental Complaint. The total budget for the SHERIFF’S OFFICE for fiscal year

21 _____
22 ² Federal Rule of Civil Procedure 25(d) provides that when a public officer being sued in
23 his or her official capacity is replaced in his or her position, the officer’s successor is
24 automatically substituted as a Defendant in the case. *See* Fed. R. Civ. P. 25(d). These
25 individuals have replaced James Pharris, Roy Landerman, Doug Waltz, Harold J. “Sam”
26 Sperbek, and James Martin as members of the Yuba County Board of Supervisors and
27 therefore are Defendants in this case. Similarly, Steven Durfor has replaced James Grant
28 as Sheriff of Yuba County and therefore is a Defendant in this case. Captain Brandon
Barnes is the Jail Division Commander, replacing Lieutenant Fred J. Asby sued as Yuba
County Jailer and therefore is a Defendant in this case.

1 2015-2016 was \$13,126,250. The total budget for the Jail in 2015-2016 was \$10,328,063.

2 12. Defendant STEVEN DURFOR is the elected Sheriff of YUBA COUNTY.
3 He is head of the Yuba County Sheriff's Office.

4 13. Defendant BRANDON BARNES is the Commander of the Jail Division of
5 the Yuba County Sheriff's Office (the "Jail Division"). The Jail Division is responsible for
6 the administration and operation of the Jail.

7 14. Plaintiffs are ignorant of the true names and capacities of defendants sued in
8 this complaint as DOES 1 through 20, inclusive, and therefore sue these defendants by
9 such fictitious names. Plaintiffs will amend this complaint to allege their true names and
10 capacities when ascertained. Plaintiffs are informed and believe and thereon allege that
11 each of the fictitiously named Defendants is responsible in some manner for the
12 occurrences alleged in this complaint.

13 15. At all times mentioned in this complaint, each Defendant was the agent of
14 the others, was acting within the course and scope of this agency, and all acts alleged to
15 have been committed by any one of them was committed on behalf of every other
16 Defendant.

17 **FACTUAL ALLEGATIONS**

18 **I. DEFENDANTS DISCRIMINATE AGAINST, FAIL TO ACCOMMODATE,
19 AND VIOLATE THE RIGHTS OF PRISONERS WITH DISABILITIES**

20 16. Defendants YUBA COUNTY and YUBA COUNTY SHERIFF'S OFFICE
21 currently incarcerate in the Jail significant numbers of individuals with disabilities, as that
22 term is defined in the ADA, the Rehabilitation Act, and California Government Code
23 section 11135. The Jail has a capacity of 426 prisoners and houses pre-trial detainees,
24 CDCR parolees, prisoners sentenced to terms of incarceration in a county jail, and
25 individuals held by ICE. The approximately 200 ICE detainees are held pursuant to a
26 multi-million dollar annual contract between ICE and the County of Yuba. Another small
27 number of prisoners are held pursuant to California Assembly Bill 109 (Public Safety
28 Realignment) on Post-Community Release Supervision, under which low-level offenders

1 released from CDCR are supervised by County probation offices instead of CDCR and
2 sentenced to Jail terms if they violate the terms of their release. The Jail's daily population
3 is approximately 407.

4 17. The Jail's programs for prisoners include a GED course offered to prisoners
5 on a rotating housing unit basis, a sewing class, a "life skills" class, recovery classes, an
6 Alcohol and Chemical Treatment Series course, and a keyboarding/computer skills class.

7 18. Defendants fail to accommodate prisoners with disabilities and maintain
8 various policies designed to segregate these prisoners from the general population.
9 Defendants fail to meet accessibility standards mandated by federal and state law, resulting
10 in further isolation for disabled prisoners.

11 19. Defendants fail to provide prisoners with disabilities with reasonable
12 accommodations to ensure equivalent access to all of the programs, activities, and services
13 offered at the Jail. Defendants' failure to accommodate prisoners with disabilities not only
14 denies them access to prison programs and services, but also substantially increases the
15 risk that they are injured in an emergency or are the victim of violence or abuse from other
16 prisoners. Defendants' refusal to accommodate prisoners with disabilities results in the
17 provision of inadequate medical and mental health care and the trampling of prisoners' due
18 process rights in Jail disciplinary proceedings.

19 **A. Defendants Lack Adequate Policies and Practices to Identify and Track**
20 **Prisoners With Disabilities and Provide Them With Needed**
21 **Accommodations**

22 20. Defendants have failed to create and maintain a system to identify and track
23 prisoners with disabilities who are in their custody and the accommodations they require.
24 Without such a system, Defendants are unable to ensure prisoners with disabilities are
25 housed in the appropriate facilities or provided with meaningful access to programs,
26 services, and activities of the Jail. Defendants fail to identify prisoners with disabilities
27 both when they are booked into the Jail and during their detention. During the intake
28 process, custody officers collect various pieces of information about new prisoners.
Custody staff use the information to make a number of determinations, including how to

1 classify a prisoner. A prisoner's classification determines which other prisoners the new
2 prisoner can share space with and in what parts of the Jail the prisoner can be housed.

3 21. Rather than employing dedicated medical staff with training to screen for
4 physical and mental impairments and developmental disabilities, the Jail's policy is for
5 custody officers who receive no specialized training in the identification of disabilities to
6 screen incoming prisoners. As a result, these prisoners' disabilities and the
7 accommodations they require are not adequately noted or tracked at intake.

8 22. The forms that custody staff use to capture the information obtained at
9 booking only require the booking officer to answer two vague questions: whether the
10 person being booked "appears to be mentally or developmentally disabled," and whether
11 the person has "visible signs of illness/injury." The answers are left entirely to the
12 officer's subjective, untrained, and uninformed assessment. These forms lack adequate
13 fields and spaces to document what disability the prisoner has and what reasonable
14 modifications to policies and procedures and accommodations the prisoner requires.

15 23. Defendants' policy and practice is for this limited, inadequate, and subjective
16 screening to be conducted in an open area where new prisoners are visible and within
17 earshot of other custody officers and prisoners. This lack of confidentiality decreases the
18 likelihood that individuals will self-report to the booking officer conditions they may be
19 ashamed of or that may mark them as vulnerable, and increases the chance that, if they do
20 self-report, they will be exposed to victimization and manipulation by prisoners who can
21 overhear the unprotected information.

22 24. Upon information and belief, Defendants do not maintain any central list,
23 electronic or otherwise, of prisoners with disabilities and the disability-related
24 accommodations, including assistive devices, they require. Defendants also do not
25 maintain adequate information about prisoners' disabilities and related accommodations in
26 the prisoners' custody or medical files.

27 25. Due to the failure to identify and track the disabilities of prisoners, even
28 when Defendants should be aware of the accommodation needs of an incoming prisoner,

1 they often fail to take the necessary steps to ensure those accommodations are provided.
2 Although Plaintiff THOMAS was previously booked at the Jail and allowed to have a
3 cane, at the time he was booked most recently, he was without a cane and not allowed one
4 for more than two weeks. This caused him pain and prevented him from accessing
5 programs and services offered by the Jail.

6 **B. Defendants Lack an Effective Grievance Procedure for Prisoners to**
7 **Request Disability Accommodations**

8 26. Defendants fail to provide a disability-specific grievance process as required
9 by the ADA, which provides that “[a] public entity that employs 50 or more persons shall
10 adopt and publish grievance procedures providing for prompt and equitable resolution of
11 complaints alleging any action that would be prohibited by this part.” *See* 28 C.F.R.
12 § 35.107(b).

13 27. At no point during a prisoner’s stay in the Jail do Defendants provide
14 information about their rights to request accommodations and to not be discriminated
15 against under the ADA.

16 28. The Jail’s Orientation Video, which upon information and belief is played by
17 Defendants for all incoming prisoners, makes no mention of rights under the ADA and
18 other disability laws. A transcript of the video is not available in braille or large print for
19 blind and/or low-vision prisoners, and the video is also not available with closed
20 captioning or with American Sign Language interpretation for deaf prisoners.

21 29. Similarly, the Yuba County Jail Information Handbook, which details Jail
22 rules and procedures and is given to prisoners upon admission (hereinafter “Information
23 Handbook”), contains no information about prisoners’ right not to be discriminated against
24 on account of disabilities and how they can request accommodations for disabilities. As a
25 result, prisoners are not informed of any specific process for complaining about disability
26 discrimination or requesting disability accommodations. The Information Handbook is
27 also not available in large print or braille.

28 30. Defendants fail to provide an effective or functional grievance system for

1 prisoners with disabilities and do not have any way for a prisoner to mark grievances as
2 disability-related as required by the ADA.

3 31. Upon information and belief, the only formal notice prisoners receive
4 regarding any Jail grievance procedure comes from the Information Handbook, which is
5 supposed to be provided to prisoners when booked into the Jail and which makes no
6 mention of the ADA or disability processes or accommodations.

7 32. While Defendants provide an Inmate Request Form for prisoners to make
8 requests from jail staff regarding classification, Defendants' policies require the prisoner to
9 submit the form to an officer who then responds to the request, with no appeal mechanism.
10 The lack of privacy, such as a lockbox where the form can be submitted, also has the effect
11 of discouraging prisoners from submitting a request via the Inmate Request Form.

12 33. Because there is no formal and independent process for requesting disability
13 accommodations, prisoners have to resort to the regular grievance process to request
14 accommodations

15 34. Defendants routinely deny prisoners access to the forms they would need to
16 request reasonable modifications to policies and procedures necessary to ensure disability-
17 related accommodations. Grievance forms are not available in large print or Braille.

18 35. Defendants do not adequately train staff in how to provide, appropriately
19 process, and timely respond to grievance forms. Many prisoners who have filed
20 grievances have waited inordinate amounts of time for a response, and often received no
21 response at all.

22 36. Defendants' policy is that grievance forms are available upon request from
23 officers. This policy discourages prisoners from filing grievances because it requires
24 prisoners to request the form from the officers who may be responsible for the condition
25 they seek to remedy and raises the possibility that they will be considered "troublemakers."
26 Keeping grievance forms in separate spaces accessible only to officers also obscures the
27 existence of a grievance process, with particular impact on prisoners with mental and
28 developmental disabilities. For example, a developmentally disabled prisoner described by

1 Defendants as having the mental capacity of a nine-year-old wanted to file a grievance, but
2 did not know how to do so and could not find the form. Because he was provided no
3 guidance or assistance, he was unable to make any formal requests for accommodation
4 from the Jail.

5 37. When prisoners are able to obtain the forms and file grievances, Defendants
6 routinely ignore them, fail to meaningfully address the prisoners' requests, or the response
7 is so delayed that it is not meaningful. Plaintiff ORTIZ-CORTEZ, who suffers from
8 debilitating pain that makes sleeping and other basic activities difficult, as well as
9 depression that keeps her from participating in jail activities and causes her to skip meals,
10 submitted a grievance requesting mental health treatment and a consultation with a doctor
11 about her mobility issues. The day after she submitted the grievance, she was told by a
12 deputy that the doctor was on vacation and would not be able to see her. Plaintiff ORTIZ-
13 CORTEZ never received any further response from the Jail regarding the requests she had
14 made in the grievance.

15 38. When Defendants do provide a response to a grievance, the response is often
16 not adequate or comprehensive, and may be arbitrary and counterproductive. A prisoner
17 with mobility limitations had his cane confiscated during a cell search and was disciplined
18 by the officer when he protested the confiscation. When he filed a grievance complaining
19 about the confiscation and the discipline, the reviewing sergeant agreed to change the
20 search procedure for the prisoner, but upheld the disciplinary charge against the prisoner
21 for simply complaining about the confiscation of his cane.

22 39. Similarly, a prisoner with a mobility disability who uses a cane to ambulate
23 asked an officer informally for additional time to get ready to attend a GED class. This
24 prisoner was written up when he made this request of a Jail officer. When the prisoner
25 filed a grievance on this issue, the reviewing sergeant told him that guards "give inmates
26 ample time to get ready" and that they "cannot wait for inmates who want to wait until the
27 last minute as the officers have to operate the Jail in a timely manner." The prisoner then
28 had to sign off on the grievance without obtaining any accommodation allowing for extra

1 time or help to prepare for the class, excluding him from participation in the Jail's GED
2 program.

3 40. Other times, Defendants intimidate prisoners into withdrawing grievances.
4 When Plaintiff BARNES, who is partially paralyzed from a stroke, filed a grievance
5 seeking physical therapy, he was threatened by custody staff with being returned to a
6 medical cell, where he would be locked in a cell for 23 hours a day and completely
7 isolated, if he did not sign off on the grievance. After filing further grievances, Plaintiff
8 BARNES was able to see a physician at Rideout Hospital and was told that he had loss of
9 mobility due to the lack of physical therapy.

10 41. Often times, Defendants simply discourage the filing of grievances by not
11 taking them seriously. Plaintiff BARNES filed a grievance after his wheelchair was
12 damaged by officers who repeatedly shut a door when he was going through it. The
13 officers who took the grievance laughed and made him feel badly about it which
14 discouraged him from filing future grievances.

15 42. Defendants further discourage the filing of grievances by resolving them
16 against prisoners at an overwhelming rate. Only a minimal number of grievances filed by
17 prisoners result in a favorable decision: According to an inspection report prepared for
18 U.S. Immigration and Customs Enforcement, the Jail reported that only 4 out of 793
19 grievances, **or around 0.5%**, were resolved in favor of the prisoner during the calendar
20 year evaluated in 2013. In effect, this amounts to a policy that the Jail is never wrong,
21 preventing persons with disabilities from having access to a workable and effective
22 grievance system.

23 43. Defendants lack adequate policies and procedures instructing health care
24 staff and correctional officers how to respond if prisoners request accommodations through
25 means other than the grievance process.

26 **C. Defendants Fail to Make Reasonable Modifications to Policies, Practices**
27 **and/or Procedures to Accommodate Plaintiffs With Developmental**
28 **Disabilities**

44. Under state and federal disability laws, public entities are required to provide

1 services to persons with disabilities in the most integrated setting appropriate that enables
2 them to interact with non-disabled persons to the fullest extent possible. Public entities are
3 further required to make reasonable modifications in policies, practices, or procedures
4 when necessary to avoid discrimination on the basis of disability. The failure to make such
5 reasonable modifications to ensure prisoners with developmental disabilities are provided
6 with access to programs and services, including mental health services in the most
7 integrated setting appropriate to their needs, violates the law.

8 45. Defendants' policies segregate prisoners with developmental disabilities,
9 precluding them from interaction with other prisoners or participation in activities.

10 46. Defendants provide minimal training on how to identify individuals with a
11 developmental disability at booking. Officers are instructed to consider individuals as
12 having a developmental disability only upon receipt of an opinion from Jail medical staff
13 or a physician. Upon information and belief, because custody staff perform intake and
14 booking of prisoners, Jail medical personnel rarely if ever provide such opinions at the
15 time of booking. The Jail's guidance to booking officers for identifying developmental
16 disabilities is inadequate for staff that is not professionally trained to render such a
17 determination.

18 47. Until recently, Jail policies also required housing prisoners with
19 developmental disabilities in segregation. The current policy is that officers should
20 consider a person's developmental disability in identifying housing, and, upon information
21 and belief, it is Defendants' practice to continue to house prisoners with developmental
22 disabilities in isolated housing such as administrative segregation and medical cells.

23 48. When Defendants do attempt to identify prisoners with developmental
24 disabilities on the basis of the booking officer's subjective perception, the Jail requires the
25 booking officer to consider this as a factor favoring placement of the prisoner in an
26 administrative segregation cell, which is the most restrictive setting at the Jail.

27 Defendants' policy makes determinations without evaluating the appropriateness of
28 different settings for prisoners with developmental disabilities and exacerbates their

1 isolation and exclusion. For example, a prisoner whom an officer described as having a
2 “childlike mentality” was placed in administrative segregation, where he was locked by
3 himself in the cell for approximately 23 hours a day with minimal out-of-cell time and no
4 stimulation.

5 49. Upon information and belief, Defendants’ practice of segregating individuals
6 with perceived developmental disabilities from other prisoners in holding cells where
7 minimal out-of-cell time is permitted excludes individuals with developmental disabilities
8 from participation in programs, services, and activities at the Jail.

9 50. Upon information and belief, Defendants’ official policies towards
10 individuals who may be developmentally disabled do not include any guidance for staff
11 except that staff should consider housing prisoners with developmental disabilities
12 separately from other prisoners. Defendants do not have any policies in place to allow
13 prisoners with developmental disabilities to obtain accommodations they may require,
14 such as assistance from staff for filling out forms, and Jail staff receive no training in
15 assisting such prisoners. As a result, prisoners with developmental disabilities receive no
16 assistance and are unable to avail themselves fully of programs, services, and activities at
17 the Jail.

18 **D. Defendants Fail to Make Reasonable Modifications to Policies, Practices**
19 **and/or Procedures to Accommodate Plaintiffs With Mental Disabilities**

20 51. The Jail estimates that 17% of its population has some form of mental
21 illness, and many of these conditions constitute disabilities. The ADA, the Rehabilitation
22 Act, and California Government Code section 11135 prohibit discrimination against
23 individuals with mental disabilities, and require public entities to provide reasonable
24 modifications in policies, practices, and procedures to avoid discrimination on the basis of
25 disability.

26 52. The Jail’s policies regarding prisoners with mental disabilities are
27 dysfunctional, discriminatory, and actively harmful to the prisoners who are considered
28 mentally disabled. The Jail fails to train staff to recognize individuals with mental

1 disabilities and to modify policies to accommodate and house them in the most integrated
2 setting appropriate to their needs. In fact, it is the Jail's policy to segregate and exclude
3 individuals with mental disabilities upon identification.

4 53. At the time of intake, booking officers are required to determine if an
5 arrestee is "gravely disabled," defined under California law as "unable to provide for his or
6 her basic personal needs for food, clothing, or shelter" as a result of a mental health
7 disorder. This definition is similar to the ADA's definition of disability as an impairment
8 that substantially limits a major life activity. Rather than placing them in more appropriate
9 settings or referring them to psychiatric health care providers in accordance with their
10 individual needs, Jail policies state prisoners who are "gravely disabled" are to be placed
11 in padded safety cells, separate from all other prisoners. The safety cells lack natural light
12 and provide for no social interaction or environmental stimulation, exacerbating a
13 prisoner's condition and endangering their mental health. Upon information and belief,
14 although Jail policy is for gravely disabled prisoners to be evaluated by mental health for
15 treatment or retention within 24 hours and transferred to a hospital, it is the Jail's practice
16 to keep them in safety cells for longer periods.

17 54. Defendants routinely house individuals with mental disabilities in
18 administrative segregation and medical cells because of their mental disabilities, where
19 they are locked for 23 hours a day. Numerous Jail incident reports describe prisoners with
20 bipolar disorder, post-traumatic stress disorder, and schizophrenia as being housed in cells
21 where they cannot interact with others, have no environmental stimulation, and cannot
22 access Jail programs, services, and activities. Such isolation is punitive and has dangerous
23 effects on their mental health.

24 55. Due to fear of being placed in a safety cell, prisoners, with mental disabilities
25 are less likely to seek mental health treatment, even when experiencing thought of self-
26 harm or suicidal ideations. Prisoners suffering from disabilities like major depression,
27 anxiety disorders, and other mental disabilities, have no means to cope with their
28 conditions when locked in cells for 23 hours a day with limited access to structured and

1 unstructured out-of-cell activities. A prisoner who suffered from depression due to his
2 daughter's death spent long periods of time incarcerated in a medical cell with no
3 interaction with others and allowed only one hour a day to spend outside in a small space
4 adjacent to the cell to use the telephone and shower. He reported that being socially
5 isolated for so long made his depression even worse.

6 56. The Jail has no designated mental health beds, and suicidal prisoners are
7 placed in an empty "safety cell" with a padded floor. The Yuba County Grand Jury report
8 examining the conditions at the Jail admitted that "little stabilization can be expected under
9 such bleak conditions."

10 57. Because Defendants lack an adequate disability grievance process, prisoners
11 with mental disabilities have to rely on requests for mental health treatment to obtain
12 needed services and accommodations. These requests for treatment are routinely denied or
13 ignored. A prisoner who needed emotional support for depression following the death of
14 his brother filed four mental health slips, was not seen by a physician, and was told there
15 were "too many people to provide individual counseling." The grievances he filed
16 regarding lack of access to mental health care were denied and he never received a
17 response to his appeal.

18 58. Upon information and belief, prisoners who suffer from depression constitute
19 a large proportion of the Jail's population. When they request help, it is the Jail's practice
20 and policy to issue them Benadryl, an allergy medication, to help them sleep. As a result,
21 rather than receiving treatment or accommodations to allow them to participate in the Jail's
22 activities, they are put in a drowsy state that further isolates them. Prisoners who are
23 depressed have no access to positive means of treating their depression, such as exercise,
24 and resort to unhealthy coping mechanisms which worsen their conditions, like overeating
25 or sleeping.

26 59. Exercise, natural light and fresh air are rarely available in the Jail.
27 Defendants routinely offer yard access to prisoners at arbitrary and undesirable hours such
28 as 5:00 a.m., leading prisoners to decline it. Defendants also often allow one prisoner's

1 refusal to categorically deny yard time for the prisoner's entire pod. This practice excludes
2 prisoners with disabilities who need exercise, fresh air, and exposure to natural light from
3 accessing these therapeutic benefits even briefly. When a prisoner refuses yard, they are
4 not allowed yard for the rest of the day, and sometimes for several days. When prisoners
5 request yard access outside of Defendants' offered time, they are denied. For example, a
6 prisoner whose mother had recently died asked to be allowed access to yard. He was told
7 by the officer to whom he made the request that the yard was occupied and he could not
8 go.

9 60. Upon information and belief, patients with other mental disabilities requiring
10 medication, such as schizophrenia, bipolar disorder, and others, are routinely denied
11 medication upon admission to the Jail and can spend weeks and even months without their
12 prescriptions, resulting in exacerbation of their condition, and often leading to segregation
13 and isolation in safety cells and to frequent suicide attempts. A prisoner diagnosed with
14 bipolar disorder was not allowed to have his prescribed medication for more than 30 days,
15 even when his family tried to provide the medication to the Jail. Without the mood-
16 stabilizing effect of his medication, he went from depression to anger to despondency,
17 eventually threatening to kill himself.

18 61. Even when prisoners follow the process for making official requests for
19 accommodations for mental disabilities, Defendants fail to respond meaningfully. Plaintiff
20 ORTIZ-CORTEZ suffers from major depressive disorder and anxiety. Her depression has
21 made her despondent and lethargic, and she has skipped meals and activities offered by the
22 Jail. When she filed a grievance requesting help with her depression, she was told that the
23 doctor was on vacation and unable to see her, and she received no further treatment or
24 response.

25 62. The Jail is inadequately staffed to provide mental health treatment to persons
26 with mental disabilities. An in-person psychiatrist provides services only one day a week
27 for a few hours at a time, and generally only conducts competency evaluations. The Jail's
28 solution to provide telemedicine appointments is inadequate for patients whose disabilities

1 require in-person attention from a physician. As a result, patients who need psychiatric
2 evaluations to determine accommodations go for long periods without receiving adequate
3 attention.

4 63. The Jail's physical layout is not conducive to providing adequate mental
5 health treatment to prisoners. A grant application submitted to the California Board of
6 State and Community Corrections by Yuba County ("Grant Application") concedes that
7 "[t]he existing mental health and medical treatment, dental treatment, medical holding,
8 medical and mental health beds, inmate programs, staff support, and laundry spaces are **all**
9 **deficient or non-existing in this facility,**" "**no dedicated mental health treatment space**
10 **exists in the Jail.**" Grant Application at 11 (emphasis added). The Grant Application
11 further notes that "[i]t is common to see the Crisis Counselor standing at the open door of
12 one of the booking holding rooms talking to inmates, or at cell fronts, or in sallyports due
13 to the non-existing space for conducting mental health assessments," and that this practice
14 "of providing mental health services in hallways, sallyports and open holding rooms is
15 unsafe and also not in the best interest of the confidentiality for the service provider, or the
16 inmate." *Id.* at 12.

17 64. For the large number of prisoners detained on immigration charges who do
18 not speak English, the provision of interpretation is done through a telephonic service of
19 spotty quality. For prisoners who speak Spanish, Jail custody staff without appropriate
20 qualifications often also serve as interpreters during mental health treatment, violating
21 standards of confidentiality and frustrating treatment.

22 65. Defendants' lack of medical staffing also results in lack of accommodation
23 for prisoners with neurological and mental impairments. A prisoner with a lifelong history
24 of episodic petit mal seizures informed an officer that she was about to experience one.
25 The officer ignored her and the nurse handing out medicines told the prisoner that she "had
26 other things to do." When the prisoner did have the seizure that night, she received no
27 help and soiled herself in her cell.

28

1 **E. Defendants Fail to Make Reasonable Modifications to Policies, Practices**
2 **and/or Procedures to Accommodate Prisoners With Disabilities That**
3 **Affect Communication**

4 66. Prisoners with developmental disabilities, mental illness, and other cognitive
5 impairments that affect their ability to communicate may require accommodations such as
6 the use of simple language, being spoken to slowly, pausing at appropriate times to ensure
7 understanding, and being asked to repeat the information in their own words. Prisoners
8 with hearing disabilities may require hearing aids, amplified phones, captioning and/or
9 sign language interpreters in order to understand the information presented. Prisoners with
10 speech disabilities may require the ability to write information down or extra time to speak
11 in order to ensure information is effectively communicated. These accommodations are
12 crucial to ensure effective communication in the Jail, especially during medical and due
13 process encounters, but they are rarely provided to prisoners who need them. Because
14 Defendants fail to provide such accommodations, prisoners with disabilities that affect
15 communication are not able to effectively communicate and are denied the benefits of
16 programs, services, and activities at the Jail. These prisoners are also more likely to be
17 subjected to discipline and to be found guilty of Jail infractions, and to receive more
18 serious sanctions for infractions. Upon information and belief, Defendants fail to
19 adequately train staff in how and when to provide such accommodations.

20 67. Defendants do not provide prisoners with hearing, speech, and other
21 communication impairments with hearing aids, staff assistance, sign language interpreters,
22 captioning of videos, videophones, or other auxiliary aids during the booking and intake
23 process, which harms these prisoners by preventing them from communicating specific
24 concerns, including emergency medical issues, and understanding Jail policies and
25 practices. The Yuba County Jail Manual (“Jail Manual”), promulgated by the Sheriff’s
26 Office to establish operating policies for the Jail, states that deaf individuals will be given a
27 “Notice to Hearing Impaired Persons” during booking that advises them of the option of
28 having a sign language interpreter and the use of a Telecommunications Device for the
Deaf/Teletype (“TDD/TTY”). Upon information and belief, Defendants fail to make these

1 accommodations available at booking. Defendants further fail to provide videophones for
2 use by prisoners with hearing disabilities who primarily rely on sign language. The
3 “Notice to Hearing Impaired Persons” includes no provision for accommodation of
4 individuals with hearing impairments who instead require hearing aids, amplification
5 devices, or staff assistance during booking.

6 68. Upon information and belief, Defendants fail to provide prisoners with
7 hearing and speech impairments with sign language interpreters, hearing aids, or other
8 auxiliary aids to permit participation in other Jail programs and services, including medical
9 and mental care appointments, religious services, and educational and other activities. The
10 “Notice to Hearing Impaired Persons” described in the Jail Manual does not contain any
11 provision for deaf individuals to have a sign language interpreter available to them at any
12 time other than booking, nor does it indicate any provisions to assist individuals with
13 hearing disabilities who require accommodations other than sign language interpretation.

14 69. Upon information and belief, Defendants also fail to provide sign language
15 interpreters, hearing aids, staff assistants, and other auxiliary aids at disciplinary hearings
16 even though prisoners risk a loss of credits and privileges if they are found guilty of
17 disciplinary infractions.

18 70. By failing to provide prisoners with communication disabilities with sign
19 language interpreters, hearing aids, other auxiliary aids, or staff assistance at disciplinary
20 hearings, Defendants deny such prisoners the same opportunity to participate in hearings
21 regarding their guilt or innocence of the disciplinary charges and to present their evidence
22 to the hearing officer that prisoners without disabilities have.

23 71. Defendants fail to provide equal access to telephone services to prisoners
24 with communication disabilities. Upon information and belief, prisoners without
25 disabilities have access to telephones any time they are permitted in the common area of
26 their housing unit. By contrast, there are no videophones at the Jail. There is only one
27 TDD/TTY in the entire Jail, and it is not located within the secure housing area. Many
28 prisoners and their families no longer know how to use a TDD/TTY, as it is considered an

1 outmoded technology by the deaf community. TDD/TTY machines are not usable by
2 individuals who rely primarily on sign language to communicate because TDD/TTY
3 machines require the user to be able to type out messages in written English and then read
4 the written responses from the person. TDD/TTY machines can also not be used to call
5 other individuals, such as family members, who also rely on sign language because they
6 require the recipient of the call to be able to understand written English sufficiently to read
7 and type back responses.

8 72. Prisoners who wish to use the TDD/TTY must ask a custody officer to
9 transport them outside of the secure housing area and to the office where the TDD/TTY is
10 located. Even when they are allowed to use the TDD/TTY, prisoners are denied sufficient
11 time to conduct a conversation, since using a TDD/TTY takes longer than using a
12 telephone. The time limit for a TDD/TTY phone call is only 30 minutes, despite there
13 being no indication that prisoners with hearing disabilities make excessive use of it. Upon
14 information and belief, this arbitrary time limit is a result of Defendants' inadequate
15 staffing.

16 73. Defendants do not provide equal access to television to prisoners who are
17 hearing impaired. Upon information and belief, most non-disciplinary housing units have
18 televisions installed for prisoners to watch, but Defendants have either not installed
19 televisions with the ability to display closed captioning or they fail to alter the settings to
20 the televisions to display closed captioning.

21 74. Upon information and belief, Defendants fail to communicate effectively
22 with prisoners with disabilities that affect cognitive functions, including prisoners with
23 learning disabilities, developmental disabilities, mental illness, and brain injuries. For
24 example, a nurse identified a prisoner as having limited cognitive function and being
25 incapable of reading and writing, and noted that he was "aggravated easily if he thinks you
26 do not understand him." Two weeks later, the prisoner became frustrated when he could
27 not turn on the television in his housing unit and pushed the television. According to the
28 incident report, "at the time of the incident there was no power running to Q-4's television

1 due to jail staff removing the fuse.” Nonetheless, the officer concluded that the prisoner
 2 was problematic and moved him, rather than providing the prisoner with an explanation for
 3 why the television did not work. When the prisoner acted out in frustration, the officers
 4 used force against him, resulting in blood on his nose and a tear in his shoulder. The
 5 prisoner received a punishment of “3 days loaf.”³ When he filed a grievance against the
 6 use of force, the response he received, written in formalistic language that a prisoner with
 7 cognitive impairments and no reading skills would not be able to understand, stated that he
 8 was punished for failure to follow directions and hostility towards the officer. No effective
 9 communication was provided, either during the incident or in responding to the grievance.

10 **F. Defendants Routinely Fail to Provide Prisoners With Disabilities With**
 11 **Needed Assistive Devices**

12 75. Generally, Defendants lack policies and practices to ensure that prisoners
 13 with disabilities who require assistive devices, including, but not limited to, wheelchairs,
 14 walkers, crutches, canes, braces, tapping canes, hearing aids, and personal amplification
 15 devices such as pocket talkers as accommodations are provided with and allowed to retain
 16 those devices. Defendants fail to adequately train staff in how to timely and appropriately
 17 provide assistive devices to prisoners with disabilities.

18 76. Because of Defendants’ deficient disability screening procedure and
 19 inadequate grievance process, prisoners who require assistive devices to access Jail
 20 programs are frequently not identified. As a result, those prisoners do not receive needed
 21 assistive devices and cannot access the programs, services, and activities offered at the Jail.

22 77. When an assistive device does come to Defendants’ attention, Jail policy is
 23 to deny it to prisoners, claiming that such items are not permitted in the Jail. For example,
 24 according to the Jail Manual, it is the Defendants’ policy for prisoners who require canes,
 25 _____

26 ³ “Loaf” is a compost of various ingredients mashed, frozen, and then baked into a
 27 tasteless and unappetizing loaf designed to meet minimum nutrition requirements while
 28 punishing a prisoner.

1 walkers, or other walking aids which “could be used as weapons” to be provided
2 wheelchairs instead “**in most cases**” (emphasis added). The Jail Manual provides no
3 further guidance as to which cases call for the confiscation of an assistive device and the
4 substitution of a wheelchair. The Sheriff’s Policy Manual also states that “it may present
5 officer safety or other logistical problems to allow a physically disabled individual to
6 retain devices such as a wheel chair or crutches during a custodial situation,” and that the
7 “the removal of such items will require that other reasonable accommodations be made to
8 assist such individuals with access to all necessary services,” giving officers wide latitude
9 to remove assistive devices without consulting medical staff and with little guidance on
10 providing alternate accommodations to ensure access to programs, services, and activities.

11 78. Plaintiff THOMAS was not allowed to keep his cane upon arrest and
12 booking because it was made of metal. While Jail officials repeatedly told Plaintiff
13 THOMAS he would receive a new cane from the Jail in order to safely move around, he
14 was not issued a cane, despite asking for it daily.

15 79. Defendants’ policy is to deny assistive devices even when they are offered
16 by outside parties to prisoners. Plaintiff THOMAS contacted his wife, who brought his
17 cane to the Jail. The Jail told her that Plaintiff THOMAS could not have it because it was
18 made of metal, even though he had been allowed to retain it during a previous
19 incarceration at the Jail.

20 80. Defendants routinely put off making decisions regarding the provision of
21 assistive devices to prisoners with disabilities, constituting constructive denials. Plaintiff
22 THOMAS asked the nurse for a cane every day after he was booked and was told only that
23 the Jail was “looking into it.” He talked to medical staff about it and received no response
24 for more than a week.

25 81. Defendants’ denial of Plaintiff THOMAS’s cane kept him confined to his
26 bed except when he hobbled in pain to the bathroom and to the shower.

27 82. Plaintiff THOMAS did not receive a cane until minutes after he met with
28 Plaintiffs’ attorneys who were on site at the Jail investigating disability discrimination, just

1 days after they filed a Motion to Enforce this Court’s Consent Decree and for Further
2 Remedial Orders against Defendants.

3 83. Defendants’ policies result in the majority of prisoners with canes, walkers,
4 and other assistive devices needed for mobility being limited to a wheelchair and
5 segregated, since prisoners in wheelchairs are routinely assigned to medical, holding, or
6 ad-seg cells, which upon information and belief are the cells that have accessibility
7 features, unlawfully excluding them from interaction with other prisoners and programs,
8 services, and activities offered in the Jail. The practice of confiscating assistive devices
9 also harms prisoners’ ability to maintain strength and agility by relegating them to
10 wheelchairs when they are not necessary.

11 84. Prisoners with mobility disabilities need additional time to shower. Upon
12 information and belief, prisoners housed in restrictive settings at the Jail generally have an
13 hour or less to spend out of their cells and bathe and use the telephone. Because of the
14 time limitations, prisoners with mobility disabilities are forced to choose between calling
15 loved ones or their legal counsel and tending to their basic needs. If they are not let out of
16 their cells, they are denied access to all of these activities.

17 85. Even when the Jail provides prisoners with assistive devices, Defendants
18 often unjustifiably remove these devices from prisoners. A Jail incident report describes a
19 prisoner in a wheelchair exercising in the holding cell to which he was assigned. After an
20 officer observed the prisoner using the wheelchair to exercise, he noted that “given enough
21 time he could disassemble [it] and use it as a weapon or hide contraband in it” and stated
22 that if the prisoner “is truly in need of his wheelchair, he should have access to it during
23 his every other day hallway time.” The report alleges that taking away the prisoner’s
24 wheelchair will “help us with our mission of providing safe, secure, humane incarceration”
25 for him. Jail staff did, in fact, confiscate the wheelchair two weeks later. Another prisoner
26 who expressed suicidal thoughts was placed in a medical cell and told he had no choice but
27 to get out of his wheelchair and sit on the floor, aggravating a hip injury. While Plaintiff
28 THOMAS was finally accommodated after he met with attorneys for the Plaintiff class, he

1 is fearful that Jail staff may take away his cane and he will once again be largely confined
2 to his bed at all times while incarcerated at the Jail.

3 86. When assistive devices are provided to prisoners, Defendants also fail to
4 provide properly operational assistive devices to prisoners, placing them at unjustifiable
5 risk of injury. An incident report describes a prisoner who spent months in a wheelchair
6 without brakes before he was finally provided one with a working brake unit. Plaintiff
7 BARNES's wheelchair sustained damage after officers allowed doors to repeatedly close
8 on it and has a damaged wheel, which the Jail will not repair.

9 87. Although the Sheriff's Office's Manual requires allowing persons with
10 prosthetic devices to keep them, the Jail's policies and practices functionally deprive
11 prisoners of prosthetic devices. A prisoner with a problematic prosthetic leg had it detach
12 several times and filed a grievance because medical staff had not fixed it, causing him to
13 fall repeatedly, including twice in the shower. The grievance also complained that the
14 shower chairs were broken. The Jail's initial response to the grievance was that the falls
15 were not attributable to the prosthetic's sleeve, and that it was "not in dire need of
16 replacement." Two weeks later, the prisoner fell again in the presence of officers when the
17 prosthetic detached again. Another two days later, the Jail finally approved the
18 replacement of the prisoner's prosthetic's sleeve, but twelve days after the approval, the
19 Jail still had not provided the new prosthetic sleeve or made efforts to obtain the prosthetic
20 sleeve at the prisoner's home. Instead, a nurse told the prisoner the Jail would place him in
21 a wheelchair, which would have necessarily resulted in his segregation in the medical
22 cells. The prisoner's grievance also alleged that the nurse made fun of the prisoner due to
23 his prosthetic leg. The Jail "resolved" the grievance by closing it when the prisoner was
24 released from custody four days later.

25 88. Defendants fail to provide accommodations for prisoners with mobility
26 disabilities who require assistive devices when they leave the Jail. A prisoner who
27 required a wheelchair while incarcerated was released by Defendants after being told he
28 would get three days off his sentence if he signed off on a grievance alleging he was

1 assaulted by Jail officers. He was then transported in the wheelchair all the way to the exit
2 door of the Jail, where officers took the wheelchair back, leaving him without a safe means
3 to ambulate in his injured state. He then had to hobble to a nearby business to make
4 transportation arrangements home which caused him pain and put him at risk of physical
5 injury.

6 89. Defendants also routinely discriminate against and fail to accommodate
7 prisoners with mobility disabilities to provide them with access to yard. Plaintiff
8 THOMAS's arthritis results in increased pain to his joints in cold weather, and
9 Defendants' practice of offering yard time at times when the weather is uncomfortably
10 cold makes it impossible for him to take advantage of yard time, which would allow him to
11 exercise and lessen the stiffness in his joints. Upon information and belief, there is no
12 accessible exercise equipment at the Jail.

13 **G. Defendants Fail to Provide Needed Accessibility Features Within the**
14 **Jail, Precluding Prisoners With Disabilities From Safe and Full Use of**
15 **the Facilities**

16 90. The Jail was originally built in 1962 and has undergone several additions and
17 alterations since then including the addition of an adjoining connected building in the mid-
18 1990s. The new addition is referred to as the "New Jail" and the older section is referred
19 to as the "Old Jail". The Jail contains four holding cells adjacent to the booking area.
20 There are two "safety cells" nearby for prisoners allegedly at risk of self-harm, consisting
21 only of padded surfaces and a grate for sanitation. The Jail also has three sobering cells for
22 detoxing prisoners. The New Jail contains three pods on the first level, holding around
23 125 prisoners, of which A-Pod is used for administrative segregation. Another three pods
24 are located on the upper level. Medical cells are located in the New Jail. The Old Jail
25 contains several tanks housing between eight and twenty prisoners and the women's ad-seg
26 unit and other smaller rooms for women, a female dorm, cells for kitchen workers, and a
27 few smaller cells for men.

28 91. The housing units differ in their design, and, importantly, in their
accessibility to prisoners with disabilities. Some of the housing units are dorm housing

1 units, where beds are placed in an open area that is shared by the prisoners. Other housing
2 units consist of celled housing, where the unit is divided into a number of cells with doors
3 in which one or two prisoners are housed. Cells that house two prisoners typically have
4 bunk beds in them.

5 92. Upon information and belief, the Jail has undergone construction and/or
6 alterations since July 26, 1992, including but not limited to the addition of the New Jail.
7 Pursuant to 28 C.F.R. § 35.151(c)(1), these alterations were required to be performed in
8 compliance with the ADA Standards for Accessible Design published by the Department
9 of Justice (“DOJ”) to implement Title II of the ADA on July 26, 1991 and republished as
10 Appendix D to 28 C.F.R. Part 36. Upon information and belief, the New Jail has
11 undergone additional construction or alterations since it was built.

12 93. Upon information and belief, Defendants did not conduct any Self-
13 Evaluation and/or Transition Plans for the Jail in compliance with Title II of the ADA or
14 Section 504 of the Rehabilitation Act.

15 94. The County made no expenditures on any County facilities, including the
16 Jail, for ADA compliance between fiscal years 2012 and 2014.

17 95. The Jail’s proposed budget for 2016-2017 makes no provision for
18 accessibility improvements in order to attain compliance with the ADA, the Rehabilitation
19 Act, or California Government Code section 11135.

20 96. Defendants have failed to modify the Jail facility to provide minimal
21 accessibility for prisoners with disabilities. Defendants commissioned an accessibility
22 evaluation by California Certified Accessibility Specialists Inc. in 2015, which is attached
23 hereto as **Exhibit A** and entitled “Site Accessibility Evaluation: Yuba County Jail”
24 (hereinafter “Accessibility Evaluation”). The Accessibility Evaluation identifies **51**
25 **accessibility barriers** that present serious risks to prisoners with physical disabilities and
26 preclude them from the full use of the facilities that prisoners without disabilities enjoy.
27 However, the number of barriers listed is artificially low, as the Accessibility Evaluation
28 acknowledges:

1 Due to the limited access and security issues for the detention cells or “pod”
2 areas, we have made assumptions that similar or like conditions exist in other
3 cells and pods of the facility. **We did not attempt to catalog each and
4 every barrier to access found, but have provided a sample of the typical
5 barriers to access found for this facility.** All areas of the facility were not
6 evaluated and recommend that jail operators us[e] the following report to
7 determine specific compliance needs for other areas of the facility where
8 applicable.

6 (Accessibility Evaluation, Summary (emphasis added).)

7 97. The Accessibility Evaluation indicates that the Jail lacks the minimal number
8 of accessible cells mandated by law. “[T]he total number of Jail cells available at the time
9 of our evaluation [was] approximately 428 cells. This includes both men and women
10 inmates and various security levels.” (*Id.*) The Accessibility Evaluation notes that the
11 number of cells must also take into account “inmate classification levels and all Jail
12 programs ... in determining the number of mobility cells required for all areas and
13 programs used by inmates or detainees for visitation, dining, recreation, educational
14 programs, medical services, work programs, religious services, and participation in other
15 programs that the facility offers to inmates or detainees.” (*Id.*) After reviewing the Jail
16 and discussions with facility staff, the Accessibility Evaluation concludes **“that the
17 number of cells providing mobility features does not meet or exceed the current 3%
18 standard, and is out of substantial compliance with current standards.”** (*Id.*
19 (emphasis added).)

20 98. The Accessibility Evaluation documents that the cells that the Jail considers
21 accessible all fail to comply with federal and state accessibility standards for mobility-
22 impaired individuals. According to the Accessibility Evaluation, **“[n]one of [the Jail’s
23 ‘accessible’ cells] were fully compliant with current federal and state accessibility
24 standards.”** (*Id.* (emphasis added).) Medical cells, where wheelchair-using prisoners are
25 routinely housed, lack numerous important accessibility features that make it hard or
26 impossible for prisoners who need wheelchairs to use the toilet, shower, or access the
27 telephone. The so-called accessible cells in the new section of the Jail also contain
28 multiple major architectural barriers that the Accessibility Evaluation urged Defendants to

1 modify as soon as possible.

2 99. Upon information and belief, many of Defendants' housing units and their
3 yard are inaccessible to prisoners with mobility disabilities. Some of the housing units in
4 the Jail are located up flights of stairs, resulting in barriers for prisoners with mobility
5 disabilities that preclude stair use. A prisoner who was not capable of walking up stairs
6 could only use the shower on the first level, which was malfunctioning. Another prisoner
7 using a cane to ambulate who refused an officer's orders to go up the stairs and asked to
8 use the elevator was punished with loss of yard privileges for a week. Yet another prisoner
9 who uses a cane to ambulate and cannot climb more than one flight of stairs could not
10 access the yard, because guards offered him no accommodations such as allowing him to
11 use the elevator. Plaintiff BARNES, who uses a wheelchair to ambulate, is unable to
12 access programs and services at the Jail, which are held on the second floor, except when
13 other prisoners help him up the stairs.

14 100. Showers at the Jail do not have shower seats and/or grab bars that are
15 properly positioned. This means that prisoners with mobility disabilities who are not able
16 to support themselves cannot shower safely and independently. A prisoner with a
17 prosthetic leg repeatedly asked for a chair to assist him in showering. When officers could
18 not find one for him, he was given a "potty chair" which lacked the proper grip in the
19 shower and slipped, causing the prisoner to fall. Plaintiff BARNES has fallen several
20 times due to the shower being inaccessible. After an especially bad fall, he was left lying
21 naked on the floor of the shower for fifteen minutes, after which he was transported to
22 Rideout Hospital for evaluation, handcuffed to a stretcher. A letter from the Sheriff to
23 Plaintiffs' counsel admits to "incidents of persons with disabilities falling in the shower."

24 101. Defendants fail to ensure that prisoners with mobility disabilities are
25 assigned to and are actually housed in units and bed assignments, including general
26 population units and special housing units, that are architecturally accessible and safe.
27 Upon information and belief, Defendants fail to adequately train staff in how to house
28 prisoners with disabilities in accessible and safe housing.

1 102. Defendants control housing assignments. In housing units with celled
2 housing, Defendants also assign prisoners to a particular cell. Defendants' policy is for the
3 classification officer to consider "the need to accommodate a disability" in making housing
4 assignments, housing individuals with prosthetics in medical cells, and taking into account
5 "physical plant limitations in each housing unit" before making a housing assignment
6 involving a disabled prisoner. Upon information and belief, Defendants' practice is to
7 place individuals with significant mobility disabilities in isolated medical cells, which
8 results in their not being in the most integrated setting possible and being excluded from
9 socialization and activities at the Jail. Upon information and belief, it is Defendants'
10 policy to house prisoners with wheelchairs in medical cells or single cells unless the
11 prisoner specifically requests to be moved to general population. Plaintiff BARNES was
12 housed in a medical cell for several days upon arrival at the Jail, without access to a
13 shower he could use. A prisoner who was confined to a wheelchair for a period of time
14 and suffered from depression was housed exclusively in a medical cell, where he was
15 isolated, could not move freely, and had no activities to occupy his days. The Grant
16 Application noted that the medical cells "are poorly configured, and that the lack of mental
17 health beds "is a serious concern for the proper treatment and safety of inmates as well as
18 staff."

19 103. Other prisoners with mobility disabilities are also routinely housed in
20 isolated, non-accessible cells. One prisoner who ambulated with a cane was moved to a
21 medical cell "for his safety" after being accused of fighting. The prisoner had to demand
22 repeatedly to be returned to an integrated setting before a lieutenant allowed him to move
23 more than a month later. Plaintiff THOMAS was in a cell by himself without his cane and
24 had to repeatedly request to be moved to a different pod where he could socialize with
25 other prisoners.

26 104. Because of Defendants' general failure to identify and track prisoners with
27 disabilities, Defendants lack information and make housing decisions for prisoners without
28 individualized assessments of the prisoners' needs and disabilities. This practice

1 significantly increases the risk that a prisoner will be assigned to a housing unit that is not
2 accessible to him or her, because, for example, it lacks adequate toilets or grab bars in the
3 shower, is up a flight of stairs, or lacks space for a wheelchair. When Plaintiff BARNES
4 was finally removed from the medical cell and placed in B Pod, he asked the officers if he
5 would be able to shower in B pod. He was told they did not know, and B Pod, in fact, had
6 a shower with misplaced grab bars and no slip resistant material on the floor. A shower
7 chair is only available to Plaintiff BARNES if other prisoners place it in the shower for
8 him.

9 105. Defendants fail to ensure that prisoners with disabilities are assigned to and
10 actually housed in housing units and bed assignments that are accessible and safe. Upon
11 information and belief, Defendants fail to adequately train staff in how to house prisoners
12 with disabilities in accessible and safe housing. For example, a prisoner who was given a
13 wheelchair was put in a holding cell that the Jail's own incident report described as seven
14 feet wide, six feet deep, "cluttered and potentially unsafe for him."

15 106. Upon information and belief, Defendants lack policies and practices for
16 ensuring the prisoners who require lower bunk bed assignments actually receive lower
17 bunk bed assignments. As a result, prisoners who require lower bunk and non-bunkbed
18 assignments as accommodations for their disabilities may be forced to sleep on the floor
19 rather than experience the pain and danger of sleeping in an inaccessible bed. When
20 Plaintiff THOMAS was reassigned to a new housing unit after requesting a transfer, the
21 only bed available to him was an upper bunk. It was not until a fellow prisoner let Plaintiff
22 THOMAS have his lower bunk that Plaintiff THOMAS had a bed that was accessible to
23 him.

24 107. Jail housing with bunks also contains physical barriers for prisoners with
25 mobility disabilities. The bunks are arranged close together, thus limiting or even
26 precluding physical access to the bunks for people who use wheelchairs, walkers, or other
27 assistive devices.

28 108. Prisoners with mobility disabilities cannot safely and independently get to

1 classrooms where programs are offered because of physical barriers, including but not
2 limited to stairs and heavy doors. These same physical barriers, among others, impede
3 their ability to access medical treatment.

4 109. In addition to inadequate cells, the Jail's small amount of programming is
5 held in two cluttered and inaccessible rooms. The first room, on the Jail's fourth floor, is
6 inaccessible to prisoners if elevators break down, and can only house six to twelve people
7 "depending on furniture layout," according to the Grant Application. The space, which
8 becomes restricted when configured in a cluttered layout, presents difficulties for prisoners
9 with mobility disabilities due to the lack of clearance space for them to move about. The
10 second designated program area is even smaller and only has capacity for six people.
11 According to the Grant Application, "[d]ue to heavy equipment required for a sewing class
12 and computer skills / keyboarding class and lack of appropriate storage space for this
13 equipment, the room layout is not flexible for many additional programs," and "[a]ny
14 alternative arrangements become cumbersome." Such a reduced space precludes
15 individuals with mobility disabilities from accessing programs.

16 **H. Defendants Subject Prisoners With Disabilities to Dangerous Conditions**
17 **in the Jail**

18 110. Defendants fail to accommodate prisoners with disabilities that affect
19 communication in interactions with medical and mental health care staff, despite the grave
20 importance of such interactions. Specifically, Defendants fail to provide sign language
21 interpreters, hearing aids, staff assistants, and other auxiliary aids, or use other methods to
22 achieve effective communication. Defendants fail to provide these accommodations
23 despite knowledge that such prisoners cannot effectively communicate with staff without
24 the accommodations and that the failure to communicate effectively places such prisoners
25 at an increased risk that medical or mental health issues will not be diagnosed or will be
26 misdiagnosed.

27 111. Upon information and belief, Defendants endanger prisoners with hearing
28 disabilities by failing to institute any system for identifying such prisoners. If a fight

1 breaks out in a housing unit, Jail staff may order all prisoners to get down on the ground,
2 line up against a wall, or return to their cells. For any number of reasons, Jail staff may
3 also order a specific prisoner to cease or engage in certain behavior. Upon information and
4 belief, Jail staff are authorized to initiate disciplinary proceedings and/or use force against
5 prisoners who fail to comply with orders. Upon information and belief, the use of force for
6 failure to comply with an order can include the use of Tasers, non-lethal firearms (like
7 “flash bang” grenades), and lethal firearms.

8 112. Without an identification system by which staff can identify prisoners with
9 communication disabilities, there is an increased risk that staff will not recognize that a
10 prisoner has a disability and will interpret such prisoner’s actions as a failure to comply
11 with an order, rather than as a failure to hear or understand the order. As a result, prisoners
12 with hearing and other communication disabilities are at increased risk that staff will
13 initiate disciplinary proceedings or use against them force for failure to comply with an
14 order that they have not heard or understood.

15 113. Defendants endanger prisoners with mobility disabilities by failing to
16 institute any system for identifying these prisoners. Upon information and belief,
17 Defendants fail to adequately train staff in how to visually identify prisoners with mobility
18 disabilities and do not provide staff with any lists or other information to assist them in
19 identifying individuals with mobility disabilities. Upon information and belief, in response
20 to alarms or other incidents in the Jail, custody staff order prisoners to “prone out,” i.e., lay
21 down on the ground, face down. Upon information and belief, Jail staff are authorized to
22 initiate disciplinary proceedings and/or use force against prisoners who fail to “prone out”
23 when ordered to do so. Upon information and belief, the use of force for failure to comply
24 with an order to “prone out” can include the use of Tasers, non-lethal firearms and lethal
25 firearms.

26 114. Some prisoners with mobility disabilities are incapable of complying with an
27 order to “prone out” because of their mobility disability. Without an identification system
28 by which staff can identify prisoners with such mobility disabilities, there is an increased

1 risk that custody staff will not recognize that a prisoner has a mobility disability and will
2 interpret such a prisoner's failure to "prone out" as a failure to comply with an order,
3 rather than an inability to comply with the order. As a result, prisoners with mobility
4 disabilities are at increased risk that staff will initiate disciplinary proceedings and/or use
5 force against them for failure to comply with an order to "prone out" with which they
6 cannot comply because of their disability.

7 115. Upon information and belief, Defendants also do not provide a system to
8 track where prisoners with disabilities are housed. In the event of an emergency,
9 Defendants would have no effective way to know which prisoners would require assistance
10 evacuating the Jail.

11 116. Prisoners with disabilities that are not accommodated are susceptible to
12 exploitation by other prisoners. For example, in exchange for help getting to the toilet,
13 shower, or meals, or communicating with prison staff, prisoners with disabilities may be
14 extorted or required to pay other prisoners, and are at increased risk of violence or even
15 rape.

16 CLASS ACTION ALLEGATIONS

17 117. All Plaintiffs to this action are members of the certified class in *Hedrick et*
18 *al. v. Grant*, No. 2:76-CV-00162-GEB-EFB, consisting of "all prisoners at the Yuba
19 County Jail on March 24, 1976, or at any time during the pendency of this lawsuit" (Dkt.
20 No. 15) ("Plaintiffs" or the "Plaintiff Class").

21 118. All Plaintiffs bring this Supplemental Complaint on their own behalf and,
22 pursuant to Rule 23(a), (b)(1), and (b)(2) of the Federal Rules of Civil Procedure, on behalf
23 of a subclass of all qualified individuals with a disability, as that term is defined in 42
24 U.S.C. § 12102, 29 U.S.C. § 705(9)(B), and California Government Code § 12926(j) and
25 (m), and who are now, or will be in the future, incarcerated in the Jail ("Prisoners with
26 Disabilities Subclass"). All Prisoners with Disabilities who are incarcerated in the Jail are
27 at risk of being discriminated against or denied access to programs, services and activities
28 offered at the Jail as a result of the policies and practices of Defendants YUBA COUNTY,

1 YUBA COUNTY SHERIFF'S OFFICE, and YUBA COUNTY BOARD OF
2 SUPERVISORS.

3 **Numerosity: Fed. R. Civ. P. 23(a)(1)**

4 119. The proposed Prisoners with Disabilities Subclass as defined is sufficiently
5 numerous that joinder of all members of the Subclass is impracticable and unfeasible. The
6 exact number of members of the Prisoners with Disabilities Subclass is unknown.
7 According to data regarding the incidence of disabilities among the general population, at
8 least 30% of the prisoners in the Jail are qualified individuals with disabilities as that term
9 is defined in 42 U.S.C. § 12102, 29 U.S.C. § 705(9)(B), and California Government Code
10 § 12926(j) and (m). Given the reported average daily population of around 400 prisoners,
11 thirty percent of that number is sufficiently numerous, especially given the ever-changing
12 Jail population.

13 120. Members of the Prisoners with Disabilities Subclass are identifiable using
14 records maintained in the ordinary course of business by Defendants.

15 **Commonality: Fed. R. Civ. P. 23(a)(2)**

16 121. There are questions of law and fact common to the Prisoners with
17 Disabilities Subclass, including, but not limited to: Whether Defendants' failure to
18 reasonably accommodate prisoners with disabilities violates the Americans with
19 Disabilities Act, Section 504 of the Rehabilitation Act, and California Government Code
20 § 11135.

21 122. Defendants are expected to raise common defenses to these claims, including
22 denying that their actions violate the law.

23 **Typicality: Fed. R. Civ. P. 23(a)(3)**

24 123. The claims of the named Plaintiffs are typical of the claims of the members
25 of the proposed Subclass. Plaintiffs and all other members of the Subclass have sustained
26 similar injuries arising out of and caused by Defendants' common course of conduct and
27 policies in violation of the law as alleged herein.

28

1 **Adequacy: Fed. R. Civ. P. 23(a)(4)**

2 124. Plaintiffs are members of the Subclass and will fairly and adequately
3 represent and protect the interests of the putative Subclass members because they have no
4 disabling conflict(s) of interest that would be antagonistic to those of the other Subclass
5 members. Plaintiffs, like all members of the putative Prisoners with Disabilities Subclass,
6 seek to enjoin the unlawful acts and omissions of Defendants. Plaintiffs have retained
7 counsel who are competent and experienced in complex class action litigation and
8 prisoner's rights litigation.

9 **Fed. R. Civ. P. 23(b)(1)(A) and (B)**

10 125. Since the Subclass consists of more than 30% of the prisoner population in
11 the Jail, separate actions by individuals could result in inconsistent and varying decisions,
12 which in turn would result in conflicting and incompatible standards of conduct for
13 Defendants.

14 **Fed. R. Civ. P. 23(b)(2)**

15 126. This action is also maintainable as a class action pursuant to Fed. R. Civ. P.
16 23(b)(2) because Defendants have acted and refused to act on grounds that apply generally
17 to the Subclass, so that final injunctive relief or corresponding declaratory relief is
18 appropriate respecting the Subclass and will apply to all members of the Class and
19 Subclass.

20 **FIRST CAUSE OF ACTION**
21 **(Americans with Disabilities Act, 42 U.S.C. § 12132)**

22 127. Plaintiffs re-allege and incorporate by reference herein all allegations
23 previously made in paragraphs 1 through 126, above.

24 128. The ADA provides that “no qualified individual with a disability shall, by
25 reason of such disability, be excluded from participation in or be denied the benefits of the
26 services, programs, or activities of a public entity or be subjected to discrimination by any
27 such entity.” 42 U.S.C. § 12132.

28 129. The ADA defines “a qualified individual with a disability” as a person who

1 suffers from a “physical or mental impairment that substantially limits one or more major
2 life activities,” including, but not limited to, “caring for oneself, performing manual tasks,
3 seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing,
4 learning, reading, concentrating, thinking, communicating, and working.” 42 U.S.C.
5 § 12102(1)(A), (2)(A). Plaintiffs are qualified individuals with disabilities as defined in
6 the ADA, as they have impairments that substantially limit one or more major life
7 activities.

8 130. A “public entity” includes state and local governments, their agencies, and
9 their instrumentalities. 42 U.S.C. § 12131(1). Defendants qualify as public entities within
10 the meaning of 42 U.S.C. § 12131(1) and 28 C.F.R. § 35.104 and provide “program(s),
11 service(s), or activit(ies)” including facilities, educational and rehabilitative programs,
12 services and activities to individuals housed in the Jail.

13 131. The programs, services, and activities that Defendants YUBA COUNTY and
14 SHERIFF’S OFFICE provide to prisoners include, but are not limited to, sleeping, eating,
15 showering, toileting, communicating with those outside the Jail by mail and telephone,
16 exercising, entertainment, safety and security, the Jail’s administrative, disciplinary, and
17 classification proceedings, medical, mental health, and dental services, the library,
18 educational, vocational, substance abuse, and discharge services. Defendants YUBA
19 COUNTY’s and SHERIFF’S OFFICE’s programs, services, and activities are covered by
20 the ADA.

21 132. Congress directed the United States Department of Justice (“DOJ”) to write
22 regulations implementing Title II’s prohibition against discrimination. 42 U.S.C. § 12134.
23 Pursuant to this mandate, the DOJ has issued regulations defining the forms of
24 discrimination prohibited by Title II of the ADA. 28 C.F.R. §§ 35.101 *et seq.* These
25 regulations include regulations specific to adult detention and correctional facilities.

26 133. Defendants have violated the rights of Plaintiffs and members of the
27 Prisoners with Disabilities Subclass secured by Title II of the ADA and its implementing
28 regulations.

1 134. The discrimination prohibited by the regulations discussed below stems from
2 (1) segregating prisoners with disabilities by placing them in administrative segregation,
3 medical, and holding cells, where prisoners spend 23 hours or more per day in their cells,
4 or placing them at serious risk of unnecessary segregation and solitary confinement;
5 (2) excluding such prisoners from participation in, and denying such prisoners the benefits
6 of, the services, programs, and/or activities of the Jail; (3) failing to provide prisoners with
7 disabilities access to programs, services and activities due to physical barriers; and
8 (4) failing to make reasonable modifications to the Jail’s policies, practices, and
9 procedures in order to avoid discriminating against prisoners with disabilities, including
10 inadequately identifying and tracking prisoners with disabilities, insufficiently training
11 staff to address disability-related needs of such prisoners, including effective
12 communication in due process and medical settings, offering a deficient grievance system,
13 failing to provide accessible cells, toilets, showers, and yard, and failing to provide
14 assistive devices to disabled prisoners.

15 135. A public entity must “administer services, programs, and activities in the
16 most integrated setting appropriate to” an individual’s needs and is therefore prohibited
17 from unnecessarily segregating or isolating the individual. 28 U.S.C. § 35.130(d);
18 *Olmstead v. L.C. ex rel. Zimring*, 527 U.S. 581, 597 (1999). A cognizable claim under the
19 ADA exists where an individual is placed at risk of unnecessary segregation because of his
20 or her disability. Furthermore, a public entity may not “deny a qualified individual with a
21 disability the opportunity to participate in services, programs, or activities that are not
22 separate or different, despite the existence of permissibly separate or different programs or
23 activities.” 28 C.F.R. § 35.130(b)(2).

24 136. Additionally, public entities responsible for the operation or management of
25 adult detention and correctional facilities “shall ensure that inmates or detainees with
26 disabilities are housed in the most integrated setting appropriate to the needs of the
27 individuals. Unless it is appropriate to make an exception, a public entity – (i) Shall not
28 place inmates or detainees with disabilities in inappropriate security classifications because

1 no accessible cells or beds are available; (ii) Shall not place inmates or detainees with
2 disabilities in designated medical areas unless they are actually receiving medical care or
3 treatment; (iii) Shall not place inmates or detainees with disabilities in facilities that do not
4 offer the same programs as the facilities where they would otherwise be housed; and (iv)
5 Shall not deprive inmates or detainees with disabilities of visitation with family members
6 by placing them in distant facilities where they would not otherwise be housed.” 28 C.F.R.
7 § 35.152(b)(2).

8 137. Under the ADA, Defendants YUBA COUNTY and SHERIFF’S OFFICE
9 must “ make reasonable modifications in policies, practices, or procedures to avoid
10 discrimination” pursuant to 28 C.F.R. § 35.130(b)(7), and cannot afford prisoners with
11 disabilities “an opportunity to participate in or benefit from” an “aid, benefit, or service
12 that is not equal to that afforded others” or provide “an aid, benefit, or service that is not as
13 effective in affording equal opportunity to obtain the same result, to gain the same benefit,
14 or to reach the same level of achievement” as that provided to non-disabled inmates. 28
15 C.F.R. § 35.130 (b)(1)(ii)-(iii).

16 138. Individuals with mobility disabilities housed in medical and administrative
17 segregation cells are not integrated into the general population because they are housed in
18 separate units. These separate units are only “appropriate” for their needs because the rest
19 of the Jail is inaccessible to them or because their disability-related needs are not
20 accommodated in the rest of the Jail, though in many cases they could be.

21 139. Moreover, in segregating these individuals, the Jail fails to provide an
22 opportunity to participate in programs, services, and activities offered to their nondisabled
23 peers.

24 140. A public entity may not (1) “impose or apply eligibility criteria that screen
25 out or tend to screen out an individual with a disability or any class of individuals with
26 disabilities from fully and equally enjoying any service, program, or activity, unless such
27 criteria can be shown to be necessary[.]” 28 C.F.R. § 35.130(b)(8); or (2) “utilize criteria or
28 methods of administration ... that have the effect of subjecting qualified individuals with

1 disabilities to discrimination on the basis of disability ... or the purpose or effect of
2 defeating or substantially impairing accomplishment of the objectives of the public entity's
3 program with respect to individuals with disabilities[.]” 28 C.F.R. § 35.130(b)(3)(i)(ii).

4 141. Plaintiffs and members of the Prisoners with Disabilities Subclass are
5 subjected to discrimination on the basis of their disability because Defendants utilize
6 criteria and methods of administration that (1) segregate individuals with disabilities in
7 separate units because of their disabilities, and (2) deny individuals with disabilities access
8 to programs, services or activities offered by the Jail. In many cases, the combination of
9 the two results in what is effectively solitary confinement due to the fact that these
10 prisoners have disabilities. These criteria and practices also have the purpose and effect of
11 defeating or substantially impairing accomplishment of the objectives of Defendants'
12 educational and rehabilitative programs, services, and activities with respect to Plaintiffs
13 and members of the Prisoners with Disabilities Subclass, as Plaintiffs and members of the
14 Prisoners with Disabilities Subclass cannot participate in or benefit from these programs,
15 services and activities.

16 142. Defendants YUBA COUNTY and SHERIFF'S OFFICE fail to accommodate
17 Plaintiffs and the Prisoners with Disabilities Subclass they represent as described above,
18 including by:

- 19 (a) failing to “ensure that qualified inmates or detainees with disabilities
20 shall not, because a facility is inaccessible to or unusable by
21 individuals with disabilities, be excluded from participation in, or be
22 denied the benefits of, the services, programs, or activities of a public
23 entity, or be subjected to discrimination by any public entity,” 28
24 C.F.R. § 35.152(b)(1);
- 25 (b) failing to “ensure that inmates or detainees with disabilities are
26 housed in the most integrated setting appropriate to the needs of the
27 individuals,” 28 C.F.R. § 35.152(b)(2);
- 28 (c) failing to “implement reasonable policies, including physical

- 1 modifications to additional cells in accordance with the 2010
2 [accessibility] Standards, so as to ensure that each inmate with a
3 disability is housed in a cell with the accessible elements necessary to
4 afford the inmate access to safe, appropriate housing,” 28 C.F.R.
5 § 35.152(b)(3);
- 6 (d) failing or refusing to provide Plaintiffs and the Prisoners with
7 Disabilities Subclass they represent with reasonable accommodations
8 and other services related to their disabilities, *see generally* 28 C.F.R.
9 § 35.130(a);
- 10 (e) failing or refusing to provide equally effective communication, *see*
11 *generally* 28 C.F.R. § 35.160(a);
- 12 (f) denying Plaintiffs and the Prisoners with Disabilities Subclass they
13 represent “the opportunity to participate in or benefit from [an] aid,
14 benefit, or service” provided by Defendants, 28 C.F.R.
15 § 35.130(b)(1)(i);
- 16 (g) failing to make “reasonable modifications in policies, practices, or
17 procedures when the modifications are necessary to avoid
18 discrimination on the basis of disability,” 28 C.F.R. § 35.130(b)(7);
- 19 (h) failing to make available information to the Prisoners with Disabilities
20 Subclass about their rights under the ADA while detained in the Jail,
21 *see* 28 C.F.R. § 35.106;
- 22 (i) failing to “adopt and publish grievance procedures providing for
23 prompt and equitable resolution of complaints alleging any action that
24 would be prohibited by ... [the ADA],” 28 C.F.R. § 35.107(b);
- 25 (j) failing to “maintain in operable working condition those features of
26 facilities and equipment that are required to be readily accessible to
27 and usable by persons with disabilities by the [ADA],” 28 C.F.R.
28 § 35.133(a); and

1 (k) failing to “furnish appropriate auxiliary aids and services where
2 necessary to afford individuals with disabilities ... an equal
3 opportunity to participate in, and enjoy the benefits of, a service,
4 program, or activity of a public entity,” 28 C.F.R. § 35.160(b)(1).

5 143. As a result of Defendants YUBA COUNTY and SHERIFF’S OFFICE’s
6 policy and practice of discriminating against and failing to provide reasonable
7 accommodations to prisoners with disabilities, Plaintiffs and the Prisoners with Disabilities
8 Subclass they represent do not have equal access to Jail activities, programs, and services
9 for which they are otherwise qualified.

10 144. The regulations implementing Title II of the ADA also require public entities
11 to prepare and implement a Self-Evaluation and Transition Plan to evaluate and improve
12 the accessibility of their facilities. A Self-Evaluation must “evaluate current services,
13 policies and practices, and the effects thereof, that do not or may not meet the requirement
14 of this part and, to the extent modification of any such services, policies, and practices is
15 required, the public entity shall proceed to make the necessary modifications.” 28 C.F.R.
16 § 35.105(a). Further, “a public entity shall provide an opportunity to interested persons ...
17 to participate in the self-evaluation process by submitting comments.” 28 C.F.R.
18 § 35.105(b). A Transition Plan must “(i) identify physical obstacles in the public entity’s
19 facilities that limit accessibility of its programs or activities to individuals with disabilities;
20 (ii) describe in detail the methods that will be used to make the facilities accessible;
21 (iii) specify the schedule for taking the steps necessary to achieve compliance with this
22 section and, if the time period of the transition plan is longer than one year, identify steps
23 that will be taken during each year of the transition period; and (iv) indicate the official
24 responsible for implementation of the plan.” 28 C.F.R. § 35.150(d)(3).

25 145. Upon information and belief, Defendants have failed to conduct a
26 comprehensive Self-Evaluation or to create a comprehensive Transition Plan with a
27 complete and up-to-date schedule for providing physical and program access in the Jail.

28 146. Pursuant to 28 U.S.C. § 35.151(a)(1) “[e]ach facility or part of a facility

1 constructed by, on behalf of, or for the use of a public entity shall be designed and
2 constructed in such manner that the facility or part of the facility is readily accessible to
3 and usable by individuals with disabilities, if the construction was commenced after
4 January 26, 1992.” Pursuant to 28 U.S.C. § 3.151(c)(1) physical alterations that
5 commence after July 26, 1992 must comply with the DOJ’s Standards for Accessible
6 Design published on July 26, 1991 and republished as Appendix D to 28 C.F.R. Part 36
7 (“1991 Standards”) or with the Uniform Federal Accessibility Standards (“UFAS”).

8 147. Upon information and belief the New Jail was constructed after January 26,
9 1992 and is not readily accessible to and usable by individuals with disabilities. Upon
10 information and belief the New Jail is also not in compliance with the 1991 Standards or
11 UFAS.

12 148. Pursuant to 28 U.S.C. § 35.151(b)(1), “[e]ach facility or part of a facility
13 altered by, on behalf of, or for the use of a public entity in a manner that affects or could
14 affect the usability of the facility or part of the facility shall, to the maximum extent
15 feasible, be altered in such a manner that the altered portion of the facility is readily
16 accessible to and usable by individuals with disabilities, if the alteration was commenced
17 after January 26, 1992.”

18 149. Upon information and belief, the Jail has been altered in a manner that
19 affects its usability since January 26, 1992, and the altered portions of the facilities are not
20 readily accessible to and usable by individuals with disabilities in violation of 28 U.S.C.
21 § 35.151(b)(1).

22 150. Pursuant to 28 U.S.C. § 35.151(4) an “alteration that affects the usability of
23 or access to an area of a facility that contains a primary function shall be made accessible
24 so as to ensure that, to the maximum extent feasible, the path of travel to the altered area
25 and the restrooms, telephones, and drinking fountains serving the altered area are readily
26 accessible to and usable by individuals with disabilities, including individuals who use
27 wheelchairs” A “primary function” is a major activity for which the facility is
28 intended. 28 U.S.C. § 35.151(b)(4)(i).

1 151. The regulations implementing Title II of the ADA also require that
2 alterations that commence on or after September 15, 2010 to jails, prisons, and other
3 detention and correctional facilities may comply with the DOJ's 2010 Standards. 28
4 C.F.R. § 35.151(c)(2). Alterations that commence on or after March 15, 2012 must
5 comply with the DOJ's 2010 standards. 28 C.F.R. §§ 35.151(c)(3); 36 C.F.R. Pt. 1191,
6 Appx. B, D. The 2010 Standards are defined to include the requirements set forth in
7 appendices B and D to 36 C.F.R. part 1191 (2009) (known as the "2004 ADAAG") and
8 the requirements contained in 28 C.F.R. § 35.151. 28 C.F.R. § 35.104. Specifically,
9 pursuant to 28 U.S.C. § 35.151(k)(2), altered cells with mobility features shall be provided
10 in each classification level, although public entities may satisfy this obligation by
11 providing the required mobility features in cells other than those where alterations were
12 originally planned. Such cells must:

- 13 (a) be "located within the same prison site;"
- 14 (b) be "integrated with other cells to the maximum extent feasible;"
- 15 (c) provide "a substitute cell" at another prison site within the corrections
16 system "if it is technically infeasible to locate a substitute cell within
17 the same prison site."

18 28 U.S.C. § 35.151(k)(2)(i)-(iv).

19 152. Upon information and belief, the Jail has altered cells after the applicable
20 dates without installing the required mobility features in compliance with 28 U.S.C.
21 § 35.151(k).

22 153. With respect to medical and long-term care facilities in jails, prisons, and
23 other detention and correctional facilities, public entities are required to apply the 2010
24 Standards technical and scoping requirements for those facilities, irrespective of whether
25 those facilities are licensed, for alterations and construction occurring after the applicable
26 dates. 28 U.S.C. § 35.151(k)(3). Upon information and belief, Defendants fail to meet
27 these standards at the Jail.

28 WHEREFORE, Plaintiffs and the Prisoners with Disabilities Subclass they

1 represent request relief as outlined below.

2 **SECOND CAUSE OF ACTION**
3 **(Rehabilitation Act, 29 U.S.C. § 794)**

4 154. Plaintiffs re-allege and incorporate by reference herein all allegations
5 previously made in paragraphs 1 through 153, above.

6 155. Section 504 provides, in pertinent part, that “No otherwise qualified
7 individual with a disability in the United States ... shall, solely by reason of his or her
8 disability, be excluded from the participation in, be denied the benefits of, or be subjected
9 to discrimination under any program or activity receiving federal financial assistance[.]”
10 29 U.S.C. § 794(a).

11 156. At all times relevant to this action, Defendants YUBA COUNTY and
12 SHERIFF’S OFFICE were recipients of federal financial assistance within the meaning of
13 the Rehabilitation Act. As recipients of federal funds, Defendants are required to
14 reasonably accommodate prisoners with disabilities in their facilities, program activities,
15 and services, and to provide a grievance procedure.

16 157. An “individual with a disability” is defined under the statute, in pertinent
17 part, as “an individual who has a physical or mental impairment that substantially limits
18 one or more major life activities of such individual.” 29 U.S.C. § 705(20)(B) (referencing
19 42 U.S.C. § 12102). “Qualified” means, with respect to services, a person who meets the
20 essential eligibility requirements for the receipt of such services. 28 C.F.R. § 41.32.

21 158. Plaintiffs and the Prisoners with Disabilities Subclass they represent are
22 qualified individuals with disabilities as defined in the Rehabilitation Act as they all have
23 impairments that substantially limit a major life activity, and they were and/or are all
24 residents of the Jail qualified – with or without reasonable accommodation – to participate
25 in the programs, services, and activities offered by Defendants in the Jail.

26 159. By their policy and practice of discriminating against and failing to
27 reasonably accommodate prisoners with disabilities, Defendants YUBA COUNTY and
28 SHERIFF’S OFFICE violate Section 504 of the Rehabilitation Act, 29 U.S.C. § 794 and

1 its implementing regulations.

2 160. The DOJ is charged under Executive Order 12250 with coordinating the
3 implementation of Section 504 of the Rehabilitation Act of 1973. 28 C.F.R. § 41.1.

4 161. In providing any aid, benefit, or service, a recipient of federal financial
5 assistance “may not ... [d]eny a qualified handicapped person the opportunity to
6 participate in or benefit from the aid, benefit or service,” “[a]fford a qualified handicapped
7 person an opportunity to participate in or benefit from the aid, benefit, or service that is not
8 equal to that afforded others,” “[p]rovide a qualified handicapped person with an aid,
9 benefit, or service that is not as effective in affording equal opportunity ... as that provided
10 to others,” “[o]therwise limit a qualified handicapped person in the enjoyment of any right,
11 privilege, advantage, or opportunity enjoyed by others” or “provide different or separate
12 aids, benefits, or services to individuals with disabilities or to any class of individuals with
13 disabilities than is provided to others unless such action is necessary to provide qualified
14 individuals with disabilities with aids, benefits, or services that are as effective as those
15 provided to other.” 45 C.F.R. § 84.4(b)(1).

16 162. A public entity may not “deny a qualified individual with a disability the
17 opportunity to participate in services, programs, or activities that are not separate or
18 different, despite the existence of permissibly separate or different programs or activities.”
19 45 C.F.R. § 84.4(b)(3).

20 163. A recipient of federal financial assistance may not “utilize criteria or
21 methods of administration (i) that have the effect of subjecting qualified handicapped
22 persons to discrimination on the basis of handicap and/or (ii) that have the purpose or
23 effect of defeating or substantially impairing accomplishment of the objectives of the
24 recipient’s program or activity with respect to handicapped persons” 45 C.F.R.
25 § 84.4(b)(4)(i), (ii).

26 164. As a result of Defendants YUBA COUNTY and SHERIFF’S OFFICE’S
27 discriminating against and failing to provide a grievance procedure and reasonable
28 accommodations, Plaintiffs and the Prisoners with Disabilities Subclass they represent do

1 not have equal access to Jail activities, programs, and services for which they are otherwise
2 qualified.

3 WHEREFORE, Plaintiffs and the Prisoners with Disabilities Subclass they
4 represent request relief as outlined below.

5 **THIRD CAUSE OF ACTION**
6 **(Cal. Gov't Code § 11135)**

7 165. Plaintiffs re-allege and incorporate by reference herein all allegations
8 previously made in paragraphs 1 through 164, above.

9 166. California Government Code section 11135 sets forth a nondiscrimination
10 policy for state programs. It provides, in pertinent part, that: “[n]o person in the State of
11 California shall, on the basis of ... disability, be unlawfully denied full and equal access to
12 the benefits of, or be unlawfully subjected to discrimination under, any program or activity
13 that is conducted, operated, or administered by the state or by any state agency, is funded
14 directly by the state, or receives any financial assistance from the state.” Cal. Gov't Code
15 § 11135(a).

16 167. Defendants receive financial assistance from the State of California as part of
17 Realignment Legislation, California Government Code §§ 30025, 30026, and 30029, and
18 through other statutes and funding mechanisms. Plaintiffs and the Prisoner with
19 Disabilities Subclass they represent are all persons in the State of California and persons
20 with disabilities within the meaning of California Government Code § 11135.

21 168. Defendants have violated the rights of Plaintiffs and members of the
22 Prisoners with Disabilities Subclass secured by Section 11135 *et seq.* and the regulations
23 promulgated thereunder, 22 Cal. Code Regs. §§ 98100, *et seq.*

24 169. It is a “discriminatory practice” for a recipient of state financial assistance,
25 “in carrying out any program or activity,” on the basis of disability, “(a) to deny a person
26 the opportunity to participate in, or benefit from an aid, benefit or service; (b) to afford a
27 person the opportunity to participate in or benefit from an aid, benefit or service that is not
28 equal to that afforded others; (c) to provide a person with an aid, benefit or service that is

1 not as effective in affording an equal opportunity to obtain the same result, to gain the
2 same benefit, or to reach the same level of achievement as that provided to others ... [or]
3 (g) to otherwise limit a person in the enjoyment of any right, privilege, advantage or
4 opportunity enjoyed by others receiving any aid, benefit or service resulting from the
5 program or activity.” 22 Cal. Code Regs. § 98101 (a), (b), (c), (g).

6 170. It is also a “discriminatory practice” for a recipient of state financial
7 assistance “to utilize criteria or methods of administration that: (1) have the purpose or
8 effect of subjecting a person to discrimination on the basis of disability; (2) have the
9 purpose or effect of defeating or substantially impairing the accomplishment of the
10 objectives of the recipient’s program with respect to a person with a disability.” 22 Cal.
11 Code Regs. § 98101(i).

12 171. Section 11135 of the California Government Code further requires that the
13 programs and activities that receive financial assistance from the state “shall meet the
14 protections and prohibitions contained in Section 202 of the federal Americans with
15 Disabilities Act ... except that if the laws of this state prescribe stronger protections and
16 prohibitions, the programs and activities subject to subdivision (a) shall be subject to the
17 stronger protections and prohibitions.” Cal. Gov’t Code § 11135(b). Upon information
18 and belief, Defendants receive financial assistance from the state. Because Defendants are
19 violating Title II of the ADA, they also are violating section 11135 of the California
20 Government Code.

21 172. Defendants have further violated California Government Code § 11135 by
22 failing to prepare and maintain a compliant Self-Evaluation and a compliant Transition
23 Plan pursuant to the requirements of Cal. Code Regs. Tit. 22 §§ 98251 and 98258.

24 173. Defendants have also discriminated on the basis of disability in violation of
25 Government Code § 11135 by constructing, altering, or repairing parts of the Jail in a
26 manner that violates the accessibility requirements of Title 24 of the California Building
27 Standards Code and California Government Code § 4450.

28 174. As described in this Complaint, Defendants deny Plaintiffs full access to the

1 benefits of the Jail's programs and activities which receive financial assistance from the
2 State of California and unlawfully subject Plaintiffs and the Prisoners with Disabilities
3 Subclass they represent to discrimination within the meaning of California Government
4 Code § 11135(a) on the basis of their disabilities.

5 175. Through their counsel and through grievances submitted to the Jail, Plaintiffs
6 and the Prisoners with Disabilities Subclass they represent have repeatedly demanded that
7 Defendants stop their unlawful discriminatory conduct described above, but Defendants
8 refused and still refuse to refrain from that conduct.

9 WHEREFORE, Plaintiffs and the Prisoners with Disabilities Subclass they
10 represent request relief as outlined below.

11 **PRAYER FOR RELIEF**

12 Plaintiffs and the Prisoners with Disabilities Subclass they represent have no
13 adequate remedy at law to redress the wrongs suffered as set forth in this Complaint.
14 Plaintiffs have suffered and will continue to suffer irreparable injury as a result of the
15 unlawful acts, omissions, policies, and practices of the Defendants as alleged herein, unless
16 Plaintiffs are granted the relief they request. Plaintiffs and Defendants have an actual
17 controversy and opposing legal positions as to Defendants' violations of the laws of the
18 United States and the State of California. The need for relief is critical because the rights
19 at issue are paramount under the laws of the United States and the State of California.

20 WHEREFORE, Plaintiffs BARNES, THOMAS, ORTIZ-CORTEZ, the Prisoners
21 with Disabilities Subclass, and all others similarly situated, pray for judgment and the
22 following specific relief against Defendants YUBA COUNTY, YUBA COUNTY BOARD
23 OF SUPERVISORS, YUBA COUNTY SHERIFF'S OFFICE, STEVEN DURFOR and
24 BRANDON BARNES, and DOES 1 through 20 as follows:

- 25 1. An order certifying the Prisoners with Disabilities Subclass pursuant to
26 Federal Rule of Civil Procedure 23(a) and 23(b)(1) and (2);
27 2. A declaratory judgment that the conditions, acts, omissions, policies, and
28 practices described above are in violation of the rights of Plaintiffs and the Subclass they

1 represent under the ADA, the Rehabilitation Act, and California Government Code
2 § 11135;

3 3. An order requiring Defendants, their agents, officials, employees, and all
4 persons acting in concert with them under color of state law or otherwise to cease
5 discriminating against and failing to provide accommodations to prisoners with
6 disabilities;

7 4. An order enjoining Defendants, their agents, officials, employees, and all
8 persons acting in concert with them under color of state law or otherwise, from continuing
9 the unlawful acts, conditions, and practices described in this Complaint;

10 5. An order requiring Defendants and their agents, employees, officials, and all
11 persons acting in concert with them under color of state law or otherwise to develop and
12 implement, as soon as practical, a plan to eliminate the discrimination and statutory
13 violations that Plaintiffs and members of the Subclass they represent suffer due to the
14 unlawful acts, omissions, conditions and practices described in this Complaint.
15 Defendants' plan shall ensure that the members of the Prisoners with Disabilities Subclass
16 are not denied the benefits of, or participation in, programs, services, and activities at the
17 Jail; that prisoners with disabilities are timely identified and tracked; have their disabilities
18 accommodated; are provided with an effective grievance procedure; are provided with
19 accessible housing including showers and toilets; are provided with all needed assistive
20 devices and other accommodations; and receive effective communication in all medical,
21 mental health, and due process settings and encounters.

22 6. An award to Plaintiffs, pursuant to 42 U.S.C. § 12205, 29 U.S.C. § 794 and
23 California Code of Civil Procedure § 1021.5, of the costs of this suit and reasonable
24 attorneys' fees and litigation expenses including expert witness fees;

25 7. An order retaining jurisdiction of this case until Defendants have fully
26 complied with the orders of this Court, and there is a reasonable assurance that Defendants
27 will continue to comply in the future absent continuing jurisdiction; and

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2 8. An award to Plaintiffs of such other and further relief as the Court deems just
3 and proper.

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5 DATED: November __, 2016

Respectfully submitted,

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ROSEN BIEN GALVAN & GRUNFELD LLP

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By: _____

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Gay Crosthwait Grunfeld

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Attorneys for Plaintiffs

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