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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

WYLENE LENA HINKLE, DENNIS	)	Case No.:
GASSAWAY, MYRA METZ, on behalf		
of themselves and all others similarly		
situated, and THE CALIFORNIA		
COUNCIL OF THE BLIND (a California	)	COMPLAINT
nonprofit corporation),		
Plaintiffs,	)	
v.		
JENNIFER KENT, in her capacity as	)	CLASS ACTION
Director of California Department of		
Health Care Services; CALIFORNIA		
DEPARTMENT OF HEALTH CARE		
SERVICES; CONTRA COSTA		
COUNTY; COUNTY OF ALAMEDA;		
COUNTY OF SAN DIEGO;		
Defendants.		

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INTRODUCTION

1
2 1. Plaintiffs Wylene Lena Hinkle, Dennis Gassaway, and Myra Metz
3 bring this action on behalf of themselves and all others similarly situated, along
4 with Plaintiff California Council of the Blind, an organization, against Defendants
5 Jennifer Kent (in her capacity as Director of California Department of Health Care
6 Services), Contra Costa County, the County of Alameda, and the County of San
7 Diego (collectively, “Defendants”) for Defendants’ failure to provide effective
8 communication to blind¹ individuals. This failure denies Plaintiffs and putative
9 class members critically-needed and time-sensitive information about their health
10 benefits, discriminates against them on the basis of their disabilities, and violates
11 their due process rights under the United States Constitution.

12 2. Defendants administer the Medi-Cal program, which is a medical
13 assistance program in California for low-income “aged, blind or disabled
14 individuals.” 42 U.S.C. § 1396-1. Ms. Hinkle, Mr. Gassaway, Ms. Metz, and other
15 blind individuals throughout the state rely on the Medi-Cal program for access to
16 health care.

17 3. Defendants rely on printed materials to provide Medi-Cal applicants
18 and recipients with critical information pertaining to the Medi-Cal program. These
19 printed materials include general information pertaining to individuals’ rights and
20 responsibilities with respect to the Medi-Cal program. Defendants also rely on
21 written notices of action regarding eligibility for and changes and reductions to an
22 individual’s benefits and services. These notices require prompt action with strict
23 deadlines, which are explained in the written notice. Any delay in receiving, or
24 failure to receive, such information can have serious consequences for a Medi-Cal
25

26 ¹ For semantic convenience throughout this complaint, the term “blind” is used
27 in its broadest sense to include all persons who, under state or federal civil
28 rights laws, have a vision-related disability that requires alternative methods
 to access hard-copy standard print information.

1 applicant or recipient, who may be unable to contest the loss of Medi-Cal
2 eligibility, the denial or reduction of critically needed health benefits, or the
3 imposition of a “share of cost,” the amount that an individual must spend out of
4 pocket on medical care before Medi-Cal will pay for any covered service. Delays in
5 receiving such information can also result in recipients being denied the right to
6 continue receiving treatments or services needed to stay healthy while any appeal
7 of a denial or reduction of benefits is pending.

8 4. Ms. Hinkle, Mr. Gassaway, Ms. Metz, and others similarly situated are
9 blind and cannot read the notices that Defendants send them. When Defendants
10 have sent them printed correspondence in the mail, they have no way to know the
11 content on their own, or even that the correspondence concerns their Medi-Cal
12 benefits. As a result, each of them has repeatedly requested that all correspondence
13 from Medi-Cal be in an “alternative format” that would make such information
14 accessible to them.

15 5. Under federal and state law, people have the right to be free from
16 discrimination on the basis of disability. Title II of the Americans with Disabilities
17 Act of 1990 (“ADA”) (42 U.S.C. § 12131, *et seq.*); Section 504 of the
18 Rehabilitation Act of 1973 (29 U.S.C. § 794); Section 1557 of the Affordable Care
19 Act (“ACA”) (42 U.S.C. § 18116); California Disabled Persons Act (“DPA”), Cal.
20 Civ. Code § 54, *et seq.*

21 6. For people who are blind, that includes the right to receive
22 communication that is as effective as Defendants’ communication with others. 28
23 C.F.R. §§ 35.160, 39.160. Entities such as DHCS must “give primary consideration
24 to the requests of individuals with disabilities” in determining what types of
25 auxiliary aids and services will provide effective communication. 28 C.F.R. §
26 35.160(b)(2).

27 7. Furthermore, under the Due Process Clause of the U.S. Constitution,
28 people are entitled to adequate notice of and opportunity for a pre-termination or

1 pre-reduction hearing regarding any termination or reduction in benefits. *Goldberg*
2 *v. Kelly*, 397 U.S. 254 (1970).

3 8. Despite Plaintiffs' requests, Ms. Hinkle, Mr. Gassaway, and Ms. Metz
4 continue to receive standard print Medi-Cal notices that they cannot read.
5 Defendants have never communicated with Mr. Gassaway and Ms. Metz via the
6 alternative format that they have requested. DHCS has only sent Brailled materials
7 to Ms. Hinkle after significant delay, and only in response to specific requests from
8 Ms. Hinkle's lawyers each time Ms. Hinkle received a standard print document.

9 9. The California Council for the Blind has likewise repeatedly
10 advocated on behalf of its constituents to request that Defendants adequately
11 identify and track people who need alternative, accessible formats and to respond
12 appropriately to requests for alternative, accessible formats. Nonetheless,
13 Defendants' policies and practices fail to do so, in violation of the laws requiring
14 effective communication and due process regarding these important health care
15 benefits.

16 **JURISDICTION**

17 10. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§
18 1331, 1343 and has supplemental jurisdiction over Plaintiffs' state law claims
19 under 28 U.S.C. §1367. The Court has jurisdiction to issue declaratory and
20 injunctive relief under 28 U.S.C. §§ 2201, 2202.

21 **VENUE AND INTRADISTRICT ASSIGNMENT**

22 11. Venue is proper in the Northern District of California because
23 Plaintiffs Myra Metz and Dennis Gassaway reside within this District; Plaintiff
24 CCB has many members who reside within this District; Defendants Jennifer Kent
25 (in her capacity as Director of California Department of Health Care Services), the
26 Department of Health Care Services, Contra Costa County, and the County of
27 Alameda operate and perform official duties in this District, and a substantial part
28 of the events, acts, and omissions giving rise to the claims occurred in the Northern

District of California.

12. Because Plaintiff Myra Metz resides in Contra Costa County and a substantial part of the events, acts, and omissions giving rise to the claims occurred in Contra Costa County, and because Plaintiff Dennis Gassaway resides in the County of Alameda and a substantial part of the events, acts, and omissions giving rise to the claims occurred in the County of Alameda, this case should be assigned to the San Francisco Division or the Oakland Division of this Court pursuant to Local Rule 3-2(d).

PARTIES

Plaintiffs

13. Plaintiff Wylene Lena Hinkle is blind and a recipient of Medi-Cal benefits. She is thus a “qualified person with a disability” and a person with “a disability” within the meaning of all applicable statutes and regulations, including 42 U.S.C. § 12131(2), 28 C.F.R. § 35.104, 29 U.S.C. § 705(20)(B), and California Government Code § 12926. She resides in San Diego, California.

14. Plaintiff Dennis Gassaway is blind and a recipient of Medi-Cal benefits. He is thus a “qualified person with a disability” and a person with “a disability” within the meaning of all applicable statutes and regulations, including 42 U.S.C. § 12131(2), 28 C.F.R. § 35.104, 29 U.S.C. § 705(20)(B), and California Government Code § 12926. He resides in Union City, California.

15. Plaintiff Myra Metz is blind and a recipient of Medi-Cal benefits. She is thus a “qualified person with a disability” and a person with “a disability” within the meaning of all applicable statutes and regulations, including 42 U.S.C. § 12131(2), 28 C.F.R. § 35.104, 29 U.S.C. § 705(20)(B), and California Government Code § 12926. She resides in Antioch, California.

16. The California Council of the Blind is a non-profit corporation duly organized under the laws of California with chapters and affiliates throughout the state of California. It is the California affiliate of the American Council of the

1 Blind, and its membership consists of blind individuals residing in California. The
2 California Council of the Blind's mission is to gain full independence and equality
3 of opportunity for all blind Californians and it is committed to promoting the rights,
4 needs, interests, and concerns of all Californians who are blind, and to providing
5 information and referrals, technical assistance, and advocacy. The California
6 Council of the Blind has hundreds of members throughout the state of California.

7 **Defendants**

8 17. Defendant Department of Health Care Services ("DHCS") is the single
9 state agency responsible for administering California's Medicaid program, which is
10 called "Medi-Cal."

11 18. Defendant Jennifer Kent is the current DHCS Director. She is sued
12 only in her official capacity. Director Kent is responsible for directing, organizing,
13 and administering DHCS's programs. Her responsibilities in this role include the
14 responsibility to ensure DHCS's compliance with federal and state laws.

15 19. DHCS delegates some of the administration of the Medi-Cal program
16 to local welfare offices in each county in California. These include, but are not
17 limited to, local welfare offices operated by Defendant Contra Costa County,
18 Defendant County of Alameda, and Defendant County of San Diego.

19 20. At all relevant times, the DHCS is and has been a public entity within
20 the meaning of Title II of the ADA. 42 U.S.C. § 12131.

21 21. At all relevant times, DHCS has received and continues to receive
22 federal financial assistance within the meaning of the Rehabilitation Act, 29 U.S.C.
23 § 794.

24 22. At all relevant times, DHCS has received and continues to receive
25 state financial assistance within the meaning of California Government Code §
26 11135.

27 23. At all relevant times, Contra Costa County is and has been a public
28 entity within the meaning of Title II of the ADA. 42 U.S.C. § 12131.

1 24. At all relevant times, Contra Costa County has received and continues
2 to receive federal financial assistance within the meaning of the Rehabilitation Act,
3 29 U.S.C. § 794.

4 25. At all relevant times, Contra Costa County has received and continues
5 to receive state financial assistance within the meaning of California Government
6 Code § 11135.

7 26. Along with DHCS, Contra Costa County is responsible for
8 administering the Medi-Cal program and communicating with Medi-Cal
9 beneficiaries and applicants within its boundaries.

10 27. At all relevant times, the County of Alameda is and has been a public
11 entity within the meaning of Title II of the ADA. 42 U.S.C. § 12131.

12 28. At all relevant times, the County of Alameda has received and
13 continues to receive federal financial assistance within the meaning of the
14 Rehabilitation Act, 29 U.S.C. § 794.

15 29. At all relevant times, the County of Alameda has received and
16 continues to receive state financial assistance within the meaning of California
17 Government Code § 11135.

18 30. Along with DHCS, the County of Alameda is responsible for
19 administering the Medi-Cal program and communicating with beneficiaries and
20 applicants within its boundaries.

21 31. At all relevant times, the County of San Diego is and has been a public
22 entity within the meaning of Title II of the ADA. 42 U.S.C. § 12131.

23 32. At all relevant times, the County of San Diego has received and
24 continues to receive federal financial assistance within the meaning of the
25 Rehabilitation Act, 29 U.S.C. § 794.

26 33. Along with DHCS, the County of San Diego is responsible for
27 administering the Medi-Cal program and communicating with beneficiaries and
28 applicants within its boundaries.

34. At all relevant times, the County of San Diego has received and continues to receive state financial assistance within the meaning of California Government Code § 11135.

CLASS ACTION ALLEGATIONS

35. Plaintiffs bring this action as a statewide class action pursuant to Fed. R. Civ. P. 23(a) and (b)(2) on behalf of:

Residents of the State of California who, due to a vision-related disability, need written materials in alternative formats for effective communication regarding Medi-Cal as applicants or beneficiaries (“the Class”).

36. The Class is so numerous that joinder of all persons is impracticable. On information and belief, at least 12,000 enrolled Medi-Cal recipients are blind.²

37. The actual number is likely to be far greater, since people may be deemed eligible for Medi-Cal on the basis of blindness and because people in the low-income population targeted by the Medi-Cal program are more likely than the general population to have a disability, including blindness.

38. Class members have limited financial resources, as Medi-Cal eligibility is limited to low-income adults, children, pregnant women, elderly adults, and people with disabilities. They are unlikely to institute individual actions.

39. The claims of Plaintiffs and Class members raise common questions

² Over 13 million people have been certified as eligible for Medi-Cal services in the State of California. Medi-Cal at a Glance, California Department of Health Care Services (May 2018), https://www.dhcs.ca.gov/dataandstats/statistics/Documents/Medi-Cal_at_a_Glance_May2018_ADA.pdf (last visited October 3, 2018). The overall national rate of blindness is .9% according to the National Eye Institute, an institute of the U.S. National Institute of Health. 2010 U.S. Age-Specific Prevalence Rates for Blindness by Age and Race/Ethnicity, available at <https://nei.nih.gov/eyedata/blind/tables> (last visited October 11, 2018). Applying the .9% figure to 13 million people enrolled in Medi-Cal shows that a minimum of around 12,000 enrolled Medi-Cal recipients are blind.

1 of law and fact.

2 40. The factual questions common to the entire Class include, but are not
3 limited to:

4 a. Whether Defendants have a system-wide process for determining
5 whether Plaintiffs and other similarly situated individuals need information in
6 alternative formats that are accessible to them;

7 b. Whether Defendants have adequate policies and procedures in place
8 for consistently over time providing Plaintiffs and other similarly situated
9 individuals with information in their requested alternative format;

10 c. Whether Defendants have failed to take the necessary steps to allocate
11 responsibility between and among themselves and other responsible entities to
12 coordinate the provision of information to Plaintiffs and other similarly situated
13 individuals in their requested alternative format; and

14 d. Whether Defendants have taken adequate steps to inform Plaintiffs
15 and other similarly situated individuals of their right to receive information in
16 alternative formats and the process for obtaining information in alternative formats.

17 41. The legal questions common to Plaintiffs and all Class members
18 include, but are not limited to:

19 a. Whether the failure of Defendants to ensure effective communication
20 violates the Americans with Disabilities Act;

21 b. Whether the failure of Defendants to ensure effective communication
22 violates Section 504 of the Rehabilitation Act of 1973;

23 c. Whether the failure of Defendants to ensure effective communication
24 violates Section 1557 of the Affordable Care Act;

25 d. Whether the failure of Defendants to ensure effective communication
26 violates California Government Code Section 11135;

27 e. Whether the failure of Defendants to ensure effective communication
28 violates the California Disabled Persons Act; and

1 f. Whether the failure of Defendants to ensure effective communication
2 violates constitutional Due Process guarantees.

3 42. The individual Plaintiffs' claims are typical of the Class members'
4 claims. Each of the individual Plaintiffs and Class members is blind, resides in
5 California, and needs alternative formats in order to receive effective
6 communication regarding Medi-Cal. None of the Plaintiffs or Class members are
7 receiving effective communication from Defendants.

8 43. The individual Plaintiffs are adequate representatives of the Class
9 because they suffer from the same deprivations as the other Class members and
10 have been denied the same rights that they seek to enforce on behalf of the other
11 Class members.

12 44. Plaintiffs will fairly and adequately represent the interests of the
13 absent Class members.

14 45. Plaintiffs' interest in obtaining injunctive relief for the violations of
15 their rights and privileges are consistent with and not antagonistic to those of any
16 person within the Class.

17 46. Plaintiffs' counsel are qualified, experienced, and able to conduct the
18 proposed litigation.

19 47. Prosecution of separate actions by individual Class members would
20 create a risk of inconsistent or varying adjudication with respect to individual Class
21 members, which would establish incompatible standards of conduct for the party
22 opposing the Class or could be dispositive of the interests of the other members or
23 substantially impair or impede the ability to protect their interests.

24 48. A class action is superior to other available methods for the fair and
25 efficient adjudication of the controversy in that:

26 (a) A multiplicity of suits with consequent burden on the courts and
27 Defendants should be avoided; and

28 //

(b) It would be virtually impossible for all Class members to intervene as parties-plaintiffs in this action.

49. Defendants have acted or refused to act, and continue to act or refuse to act, on grounds applicable to the Class, thereby making appropriate final injunctive and declaratory relief with respect to the Class as a whole.

FACTS

50. The Medicaid Act, Title XIX of the Social Security Act, 42 U.S.C. §§ 1396-1396w-5, establishes a medical assistance program cooperatively funded by federal and state governments. The purpose of the Medicaid program is to enable states to furnish, as far as practicable, “medical assistance on behalf of . . . aged, blind or disabled individuals, whose income and resources are insufficient to meet the costs of necessary medical services,” and “to help such families and individuals to attain or retain capability for independence or self-care” 42 U.S.C. § 1396-1.

51. California has elected to participate in and receive federal funding through the Medicaid program. Its Medicaid program, Medi-Cal, is codified at California Welfare & Institutions Code §§ 14000 *et seq.* with implementing regulations found in 22 California Code of Regulations §§ 51000 *et seq.*

52. States participating in the Medicaid program must designate a single state agency to administer or supervise the administration of the Medicaid program and ensure the program complies with all relevant laws and regulations. *See* 42 U.S.C. § 1396a(a)(5); *see also* 42 C.F.R. § 431.10 (2013).

53. Defendant DHCS is the single state agency that administers Medi-Cal. *See* Cal. Welf. & Inst. Code § 14100.1 (providing that participating states must “provide for the establishment or designation of a single State agency to administer or to supervise the administration of the plan”); *see also* Cal. Welf. & Inst. Code § 14154(d) (the “department is responsible for the Medi-Cal program in accordance with state and federal law”).

1 54. DHCS delegates some of the administration of the Medi-Cal program
2 to local county welfare agencies.

3 55. For example, people who are interested in receiving Medi-Cal services
4 may contact their local county welfare agency to receive any application.

5 56. DHCS sends county welfare agencies All County Welfare Directors
6 Letters (ACWDLs) and Medi-Cal Eligibility Division Information (MEDILs)
7 establishing Medi-Cal policies and procedures used in determining Medi-Cal
8 eligibility.

9 57. DHCS, as the state agency responsible for the Medi-Cal program,
10 exercises oversight over local county welfare agencies with respect to the Medi-Cal
11 program.

12 58. DHCS communicates directly with recipients of Medi-Cal benefits
13 and services. It also develops state-wide materials for Medi-Cal recipients and
14 potential applicants that are distributed by county welfare agencies. These materials
15 include, among others, notices to recipients regarding their hearing rights and
16 application materials distributed by county welfare agencies to persons interested in
17 applying for Medi-Cal.

18 59. Local county welfare agencies develop additional printed materials
19 that are distributed to Medi-Cal applicants and/or recipients pertaining to the Medi-
20 Cal program.

21 60. In addition, DHCS and county welfare agencies have regulatory
22 responsibility and authority to cooperate with the Board of the Covered California
23 Health Benefit Exchange in developing and maintaining a single streamlined
24 application that individuals can use to apply for both Medi-Cal as well as private
25 insurance through the Exchange. The Exchange informs consumers about the
26 Medi-Cal program, receives and sorts the single streamlined application, and works
27 with DHCS to ensure consistent eligibility and enrollment processes and seamless
28 transitions between coverage. Cal. Gov't. Code §§ 100502, 100503, 100503.2; Cal.

1 Code of Reg., Title 10, Ch. 12, § 6400 *et.seq.*

2 61. DHCS and local counties also disseminate information about the
3 Medi-Cal program over the internet via their webpages.

4 62. Some of the information that Defendants disseminate in printed form
5 includes information pertaining to eligibility for benefits, information pertaining to
6 changes in or reductions to benefits and services as well as information pertaining
7 to the applicants' or recipients' responsibilities with respect to the Medi-Cal
8 program, including actions they need to take to maintain eligibility for benefits or
9 services.

10 63. Defendants have no effective procedure, practice, or custom of
11 providing application forms, instructions, notices, informational materials, fair-
12 hearing related materials, or other printed materials to blind individuals in formats
13 that are accessible to them, even if the individual is known to Defendants to be
14 blind, and even if the individual qualifies for benefits based on blindness.

15 64. Defendants do not contact blind individuals by telephone, email, or
16 other means when they mail written materials to them to inform them that a
17 government agency has mailed them information about their Medi-Cal benefits.

18 65. The only notice that blind applicants and recipients possess about the
19 existence and content of mailed Medi-Cal written materials is embodied in
20 documents that they cannot read.

21 66. Defendants do not provide blind Medi-Cal recipients with their case
22 numbers, the phone number for DHCS or the local county welfare office, and other
23 basic information needed to contact the Medi-Cal program in formats that are
24 accessible to them.

25 67. Defendants do not adequately inform blind Medi-Cal applicants or
26 recipients that they have a right to receive information regarding the Medi-Cal
27 program in alternative formats.

28 68. At no step in the Medi-Cal application process are individuals asked

whether the applicant needs information in alternative formats or the type of format needed.

69. Defendants have no effective system for identifying the effective communication needs of anyone who would benefit from alternative formats.

70. Defendants have no effective system for tracking the effective communication needs of anyone who has made a request for alternative formats.

71. Defendants have no effective system for communicating regarding individuals' effective communication needs, either among divisions of DHCS, between DHCS and local county welfare offices, between DHCS and the California Department of Social Services (which administers the fair hearing system and hears Medi-Cal adverse benefits determinations), between DHCS and the Covered California Health Benefit Exchange, or between private or government plans providing health care services paid for by Medi-Cal and DHCS and local county welfare offices.

72. Defendants have no effective system for providing alternative formats in a timely manner.

73. Defendants have no effective system for automatically distributing materials in alternative formats to people who have made a prior request for such communications.

Wylene Lena Hinkle

74. Wylene Lena Hinkle is blind and hard of hearing.

75. Ms. Hinkle cannot read standard print materials. She can read Brailled materials.

76. Ms. Hinkle receives Medi-Cal benefits.

77. Ms. Hinkle's local county welfare office is the San Diego County Department of Health and Human Services Agency.

78. Ms. Hinkle has requested to receive materials pertaining to her Medi-Cal benefits in Braille for years.

1 79. Neither the California Department of Health Care Services nor the San
2 Diego County Department of Health and Human Services Agency have provided
3 her automatic or timely written materials in Braille.

4 80. In June 2016, Disability Rights California (“DRC”) sent the
5 Department of Health Care Services the first of many written requests on behalf of
6 Ms. Hinkle to receive materials pertaining to her Medi-Cal benefits in Braille.

7 81. DHCS has promised a number of times to comply with Ms. Hinkle’s
8 request.

9 82. In practice, however, DHCS has sent Ms. Hinkle Brailled documents
10 only after significant delay.

11 83. DHCS has also only sent Ms. Hinkle Brailled documents in response
12 to specific requests from DRC after Ms. Hinkle receives a standard print document.

13 84. For instance, Ms. Hinkle received a document in print on December 8,
14 2016 certifying that she had minimum essential coverage.

15 85. She did not receive a Brailled version of the document until August
16 15, 2017.

17 86. Fifteen days later, DHCS sent her a notice regarding her fair hearing
18 rights – in standard print format.

19 87. DRC’s most recent request on behalf of Ms. Hinkle for a Brailled
20 version of notices that DHCS sent to her in print was in May 2018.

21 88. DHCS made counter-proposals to send Ms. Hinkle notices via screen
22 reader or audio files or to read them to her over the telephone. These counter-
23 proposals ignored the fact that Ms. Hinkle is hard of hearing, and that DHCS had
24 been repeatedly informed of this.

25 89. In correspondence with DRC, a DHCS official stated on October 6,
26 2017 that “there is no way to ensure that every mailing automatically is converted
27 to Braille before it is sent.” The official confirmed again on February 15, 2018 that
28 the Department has “not been able to automatically convert general mass mailings

1 to Braille yet.”

2 **Dennis Gassaway**

3 90. Dennis Gassaway is blind.

4 91. Mr. Gassaway cannot read standard print materials. He can understand
5 materials that are read to him.

6 92. Mr. Gassaway receives Medi-Cal benefits.

7 93. Mr. Gassaway’s local county welfare office is the Alameda County
8 Social Services Agency.

9 94. Mr. Gassaway has requested that Defendants read materials pertaining
10 to his Medi-Cal benefits to him instead of sending them in standard print by mail.

11 95. Neither the California Department of Health Care Services nor the
12 Alameda County Social Services Agency have called him to read materials to him.

13 96. In July 2013, a supervisor in the Alameda County Social Services
14 Agency agreed to contact Mr. Gassaway by phone each time that written notices
15 were sent regarding Medi-Cal, and to read those notices to him.

16 97. The Alameda County Social Services Agency made that commitment
17 in response to repeated requests made by an advocate at Disability Rights
18 California on behalf of Mr. Gassaway.

19 98. In September 2016, a supervisor in the Alameda County Social
20 Services Agency agreed to contact Mr. Gassaway by phone each time that written
21 notices were sent regarding Medi-Cal, and to read those notices to him.

22 99. The Alameda County Social Services Agency again made that
23 commitment in response to a request made by an advocate at DRC on behalf of Mr.
24 Gassaway.

25 100. Despite both of those commitments, no one from either the Alameda
26 County Social Services Office or from DHCS has called Mr. Gassaway to read him
27 a notice regarding Medi-Cal.

28 **Myra Metz**

101. Myra Metz is blind and has significant hearing loss.

102. Ms. Metz cannot read standard print materials. She can read Brailled materials.

103. Ms. Metz receives Medi-Cal benefits.

104. Ms. Metz's local county welfare office is the Contra Costa County Employment and Human Services Department.

105. Ms. Metz has requested to receive materials pertaining to her Medi-Cal benefits in Braille for years.

106. Neither the California Department of Health Care Services nor the Contra Costa Employment and Human Services Department have provided her automatic or timely written materials in Braille.

California Council of the Blind

107. Plaintiff CCB is a nonprofit corporation and a membership association of blind Californians. It is the California state affiliate of the American Council of the Blind. CCB's mission is to increase the independence, security, equality of opportunity, and quality of life for all Californians who are blind or visually-impaired. CCB seeks to ensure that culture, laws, programs, and attitudes are inclusive of persons who are blind or visually-impaired. Access to fundamental healthcare benefits such as Medi-Cal is critical to CCB and its members. Securing access to Medi-Cal services advances CCB's goal to promote integration of the blind into society on a basis of equality by enabling blind individuals to have basic access to healthcare benefits in the same way that many sighted individuals do. CCB sues on behalf of itself and its members.

108. As a result of Defendants' actions, CCB and at least one of its members have been directly and substantially injured. For example, Defendants have never provided effective communication to CCB member Warren Cushman who has been a Medi-Cal recipient for more than thirty years. Mr. Cushman needs notices in a format that is accessible by screen-reading software or Braille.

109. Defendants' actions have also frustrated CCB's mission and forced it to dedicate additional resources to address harms these actions have caused CCB's constituents. For instance, for more than a decade, blind Californians have contacted CCB because they did not receive Medi-Cal materials in accessible formats. Typically, CCB's office administrator has referred those calls to the nearest CCB chapter president or another officer within the organization to educate that individual about their rights to effective communication and try to assist them in obtaining accessible materials. CCB also met with Toby Douglas, past director of DHCS, and sent a letter to the United States Department of Justice regarding the barriers that blind Californians face in trying to get effective communication from Medi-Cal.

110. Additionally, CCB member and past president Jeff Thom participated on a task force that DHCS convened in 2012 or 2013 regarding effective communication of Medi-Cal materials. CCB provided a memorandum to DHCS describing best practices in effective communication and contributed to some of the task force's overall recommendations. However, the task force facilitator left DHCS before the task force completed its mission and CCB is not aware of any tangible improvements that occurred as a result.

111. On April 13, 2014, CCB passed a resolution requesting that programs such as Medi-Cal provide accessible written communications to program applicants and recipients with visual impairments be in a format that can be read by such individuals. Though DHCS wrote CCB on December 12, seeking its assistance and expertise regarding providing effective communication to blind individuals, DHCS failed to respond after CCB affirmatively offered its services to DHCS.

112. Until remedied, the Defendants' unlawful, discriminatory actions will continue to injure the California Council of the Blind by:

- a. Interfering with efforts and programs intended to bring about equality of access to health care and other crucial services;

(Against Defendants Kent, County of Alameda, County of San Diego, and Contra Costa County)

42 U.S.C. § 12131 *et seq.*

113. Plaintiffs reallege and incorporate by reference the allegations above as if fully set forth here.

114. Title II of the ADA provides in relevant part: “[N]o qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of services, programs, or activities of a public entity, or be subjected to discrimination by such entity.” 42 U.S.C. § 12132; *see also* 28 C.F.R. §§ 35.130(a), (b)(1).

115. The California Department of Health Care Services has been and is a “public entity” within the meaning of Title II of the ADA, and Jennifer Kent is the principal executive of that public entity. 42 U.S.C. § 12131.

116. Defendant Contra Costa County has been and is a public entity within the meaning of Title II of the ADA. 42 U.S.C. § 12131(1).

117. Defendant County of Alameda has been and is a public entity within the meaning of Title II of the ADA. 42 U.S.C. § 12131(1).

118. Defendant County of San Diego has been and is a public entity within the meaning of Title II of the ADA. 42 U.S.C. § 12131(1).

1 119. The individual Plaintiffs and Class members have been and are
 2 qualified individuals with a disability within the meaning of Title II of the ADA
 3 and meet the essential eligibility requirements for the receipt of and/or application
 4 for the services, programs, or activities of Defendants. 42 U.S.C. § 12131.

5 120. Medi-Cal and all of its benefits, activities, and services are a program,
 6 service, or activity that Defendants offer within the meaning of Title II.

7 121. Public entities, including Defendants, are prohibited from excluding
 8 individuals with disabilities from participation in or denying the benefits of their
 9 services, programs, or activities on the basis of disability or otherwise subjecting
 10 them to discrimination. 28 C.F.R. § 35.130(a).

11 122. Public entities, including Defendants, are prohibited from affording a
 12 qualified individual with a disability an opportunity to participate in or benefit from
 13 the aid, benefit, or service that is not equal to that afforded others, either directly or
 14 through contractual, licensing, or other arrangements. 28 C.F.R. § 35.130(b)(ii).

15 123. Public entities, including Defendants, “may not . . . utilize criteria or
 16 methods of administration— (i) That have the effect of excluding individuals with
 17 disabilities from, denying them the benefits of, or otherwise subjecting them to
 18 discrimination; or (ii) That have the purpose or effect of defeating or substantially
 19 impairing the accomplishment of the objectives of the service, program, or activity
 20 with respect to individuals with disabilities; or (iii) That perpetuate the
 21 discrimination of another public entity if both public entities are subject to common
 22 administrative control or are agencies of the same State.” 28 C.F.R. § 35.130(b)(3).

23 124. Public entities, including Defendants, “shall make reasonable
 24 modifications in policies, practices or procedures when the modifications are
 25 necessary to avoid discrimination on the basis of disability” 28 C.F.R. §
 26 35.130(b)(7).

27 125. Public entities, including Defendants, must take “appropriate steps to
 28 ensure that communications with applicants, participants, members of the public,

1 and companions with disabilities are as effective as communications with others.”
2 28 C.F.R. § 35.160(a).

3 126. Public entities, including Defendants, must “furnish appropriate
4 auxiliary aids and services where necessary to afford individuals with disabilities,
5 including applicants, participants, companions, and members of the public, an
6 equal opportunity to participate in, and enjoy the benefits of, a service, program, or
7 activity of a public entity.” 28 C.F.R. § 35.160(b)(1).

8 127. Federal regulations implementing Title II of the Americans with
9 Disabilities Act provide that “[i]n determining what types of auxiliary aids and
10 services are necessary, a public entity shall give primary consideration to the
11 requests of individuals with disabilities.” 28 C.F.R. § 35.160(b)(2).

12 128. Federal regulations implementing Title II of the Americans with
13 Disabilities Act further provide that “[i]n order to be effective, auxiliary aids and
14 services must be provided in accessible formats, in a timely manner, and in such a
15 way as to protect the privacy and independence of the individual with a disability.”
16 28 C.F.R. § 35.160(b)(2).

17 129. Defendants’ actions and omissions discriminate against Plaintiffs on
18 the basis of disability in violation of the ADA. Defendants’ discriminatory conduct
19 includes, but is not limited to:

- 20 a. Maintaining discriminatory policies and practices;
- 21 b. Denying Plaintiffs and Class members the benefits of Defendants’
22 services, programs, and activities pertaining to Medi-Cal;
- 23 c. Failing to ensure Plaintiffs and Class members an opportunity to
24 participate in or benefit from Defendants’ aids, benefits, or services
25 that is equal to that afforded others, and/or failing to ensure Plaintiffs
26 and Class members an equal opportunity to obtain the same result or
27 to gain the same benefit as that provided to others;
- 28 d. Failing to provide reasonable modifications to ensure equal access to

Defendants' services, programs, and activities;

- e. Using criteria or methods of administration that have the effect of subjecting Plaintiffs and Class members to discrimination on the basis of disability;
- f. Failing to take appropriate steps to ensure effective communication to Plaintiffs and Class members;
- g. Failing to provide Plaintiffs and Class members appropriate auxiliary aids and services;
- h. Failing to ensure that Plaintiffs and Class members receive accessible formats in a timely manner; and
- i. Failing to provide Plaintiffs and Class members accessible formats in such a way as to protect their privacy and independence.

130. In committing the acts and/or omissions above, Defendants acted intentionally and with deliberate indifference to Plaintiffs' rights.

131. Defendants' violations of the ADA have harmed and will continue to harm Plaintiffs and Class members in the future.

132. Because Defendants' discriminatory conduct is ongoing, declaratory and injunctive relief are appropriate remedies.

133. Plaintiffs are entitled to declaratory and injunctive relief, as well as reasonable attorneys' fees and costs incurred in bringing this action.

134. Pursuant to the remedies, procedures, and rights set forth in 42 U.S.C. § 12188, Plaintiffs pray for relief as set forth below.

SECOND CLAIM FOR RELIEF

(Against All Defendants)

Section 504 of the Rehabilitation Act

29 U.S.C. § 794 *et seq.*

135. Plaintiffs reallege and incorporate by reference the allegations above as if fully set forth here.

1 136. Section 504 of the Rehabilitation Act of 1973 provides in relevant
2 part: “[N]o otherwise qualified individual with a disability . . . shall, solely by
3 reason of her or his disability, be excluded from the participation in, be denied the
4 benefits of, or be subjected to discrimination under any program or activity
5 receiving federal financial assistance” 29 U.S.C. § 794; *see* 34 C.F.R. §§
6 104.4(b), 104.21, 104.43(a).

7 137. Defendant Department of Health Care Services has been and is a
8 recipient of federal financial assistance sufficient to invoke the coverage of Section
9 504, and Jennifer Kent is the principal executive of that entity.

10 138. Defendant Contra Costa County has been and is a recipient of federal
11 financial assistance sufficient to invoke the coverage of Section 504.

12 139. Defendant County of Alameda has been and is a recipient of federal
13 financial assistance sufficient to invoke the coverage of Section 504.

14 140. Defendant County of San Diego has been and is a recipient of federal
15 financial assistance sufficient to invoke the coverage of Section 504.

16 141. Individual Plaintiffs and Class members have been and are qualified
17 individuals with a disability within the meaning of Section 504 and are otherwise
18 qualified to participate in, receive benefits from, and/or apply for Defendants’
19 programs or activities pertaining to Medi-Cal. 29 U.S.C. § 794(b).

20 142. Medi-Cal is a “program or activity receiving Federal financial
21 assistance” as referred to in 29 U.S.C. §794(a), because it is an operation of the
22 Department of Health Care Services, as well as counties throughout California
23 including but not limited to Contra Costa County, the County of Alameda, and the
24 County of San Diego, which receive Federal financial assistance for Medi-Cal and
25 other programs.

26 143. Medi-Cal is also a “program or activity receiving Federal financial
27 assistance” as referred to in 29 U.S.C. §794(a) because each Defendant is “a
28 department, agency, special purpose district, or other instrumentality of a State or

1 local government” and/or “the entity of such State or local government that
2 distributes such assistance” or a “department or agency (and each other State or
3 local government entity) to which the assistance is extended, in the case of
4 assistance to a State or local government” as referred to in 29 U.S.C. §794(b)(1).

5 144. Recipients of Federal financial assistance, including Defendants, are
6 prohibited from denying a qualified person with a disability any health, welfare, or
7 other social services or benefits on the basis of disability. 45 C.F.R. § 84.52(a)(1).

8 145. Recipients of Federal financial assistance, including Defendants, are
9 prohibited from affording a qualified individual with a disability an opportunity to
10 receive health, welfare, or other social services or benefits that is not equal to that
11 afforded people without disabilities. 45 C.F.R. § 84.52(a)(2).

12 146. Recipients of Federal financial assistance, including Defendants, are
13 prohibited from providing a qualified person with a disability health, welfare, or
14 other social services or benefits that are not as effective as the benefits or services
15 provided to others on the basis of disability. 45 C.F.R. § 84.52(a)(3).

16 147. Recipients of Federal financial assistance, including Defendants, are
17 prohibited from providing a qualified person with a disability any health, welfare,
18 or other social services or benefits in a manner that limits or has the effect of
19 limiting the participation of qualified individuals with disabilities. 45 C.F.R. §
20 84.52(a)(4).

21 148. Recipients of Federal financial assistance, including Defendants, must
22 “provide appropriate auxiliary aids to persons with impaired sensory, manual, or
23 speaking skills, where necessary to afford such persons an equal opportunity to
24 benefit from the service in question.” 45 C.F.R. § 84.52(d)(1).

25 149. Federal regulations provide that “auxiliary aids may include brailled
26 and taped material, interpreters, and other aids for persons with impaired hearing or
27 vision.” 45 C.F.R. § 84.52(d)(3).

28 150. Defendants’ actions and omissions discriminate against Plaintiffs and

1 Class members solely by reason of their disability in violation of Section 504.

2 Defendants' discriminatory conduct includes but is not limited to:

- 3 a. Maintaining discriminatory policies and practices;
- 4 b. Excluding Plaintiffs and Class members from participation in and
5 denying Plaintiffs the services and benefits of Medi-Cal programs,
6 services, and activities;
- 7 c. Failing to ensure that Plaintiffs have an opportunity to participate in or
8 benefit from services or benefits pertaining to Medi-Cal that is equal
9 to and/or as effective as that afforded others;
- 10 d. Providing services and benefits in a manner that limits or has the
11 effect of limiting the participation of Plaintiffs and Class members in
12 Medi-Cal services and benefits; and
- 13 e. Failing to provide Plaintiffs and Class members with appropriate
14 auxiliary aids where necessary to afford them an equal opportunity to
15 benefit from the service in question.

16 151. In committing the acts and/or omissions above, Defendants acted
17 intentionally and with deliberate indifference to Plaintiffs' rights.

18 152. Defendants' violations of Section 504 have harmed and will continue
19 to harm Plaintiffs and Class members in the future.

20 153. Because Defendants' discriminatory conduct is ongoing, declaratory
21 and injunctive relief are appropriate remedies.

22 154. Plaintiffs are entitled to declaratory and injunctive relief, as well as
23 reasonable attorneys' fees and costs in bringing this action.

24 155. Pursuant to the remedies, procedures, and rights set forth in 29 U.S.C.
25 § 794(a), Plaintiffs pray for relief as set forth below.

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THIRD CLAIM FOR RELIEF**(Against All Defendants)****Section 1557 of the Affordable Care Act****42 U.S.C. § 18116**

156. Plaintiffs reallege and incorporates by reference the allegations above as if fully set forth here.

157. Section 1557 of the Affordable Care Act provides in relevant part that “an individual shall not, on the ground prohibited by . . . Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) [i.e., disability] be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any health program or activity, any part of which is receiving Federal financial assistance, including credits, subsidies, or contracts of insurance, or any program or activity that is administered by an Executive Agency or any entity established under this title (or amendments).” 42 U.S.C. § 18116(a).

158. Medi-Cal is a “health program or activity” as described in 42 U.S.C. § 18116(a) because it receives, and continues to receive, Federal financial assistance, including credits, subsidies, or contracts of insurance.

159. Defendant Department of Health Care Services administers the state-wide Medi-Cal program and Defendant Jennifer Kent is the principal executive of that entity. As a result, these Defendants are prohibited from discriminating on the basis of disability as described in 42 U.S.C. § 18116.

160. Defendants Department of Health Care Services and Jennifer Kent have delegated a portion of the administration of the Medi-Cal program to Defendant Contra Costa County. As a result, Contra Costa County is prohibited from discriminating on the basis of disability as described in 42 U.S.C. § 18116.

161. Defendants Department of Health Care Services and Jennifer Kent have delegated a portion of the administration of the Medi-Cal program to

1 Defendant County of San Diego. As a result, the County of San Diego is prohibited
2 from discriminating on the basis of disability as described in 42 U.S.C. § 18116.

3 162. Defendants Department of Health Care Services and Jennifer Kent
4 have delegated a portion of the administration of the Medi-Cal program to
5 Defendant County of Alameda. As a result, the County of Alameda is prohibited
6 from discriminating on the basis of disability as described in 42 U.S.C. § 18116.

7 163. Defendants' actions and omissions discriminate against Plaintiffs and
8 Class members solely by reason of their disability in violation of Section 1557 of
9 the Affordable Care Act. Defendants' discriminatory conduct includes but is not
10 limited to:

- 11 a. Maintaining discriminatory policies and practices;
- 12 b. Excluding Plaintiffs and Class members from participation in and
13 denying Plaintiffs and Class members the benefits of the Medi-Cal
14 program on the basis of disability; and
- 15 c. Subjecting Plaintiffs and Class members to discrimination under the
16 Medi-Cal program by failing to provide Plaintiffs and Class members
17 with effective communication.

18 164. In committing the acts and/or omissions above, Defendants acted
19 intentionally and with deliberate indifference to Plaintiffs' rights.

20 165. Defendants' violations of Section 1557 of the Affordable Care Act
21 have harmed and will continue to harm Plaintiffs and Class members in the future.

22 166. Because Defendants' discriminatory conduct is ongoing, declaratory
23 and injunctive relief are appropriate remedies.

24 167. Plaintiffs are entitled to actual and compensatory damages, declaratory
25 and injunctive relief, as well as reasonable attorneys' fees and costs in bringing this
26 action.

27 168. Pursuant to the remedies, procedures, and rights referred to in 42
28 U.S.C. § 18116(a), Plaintiffs pray for relief as set forth below.

FOURTH CLAIM FOR RELIEF

(Against All Defendants)

California Government Code § 11135

169. Plaintiffs reallege and incorporates by reference the allegations above as if fully set forth here.

170. Section 11135(a) of the California Government Code provides in relevant part: “No person in the State of California shall, on the basis of . . . disability, . . . be unlawfully denied the benefits of, or be unlawfully subjected to discrimination under, any program or activity that is conducted, operated, or administered by the state or by any state agency, is funded directly by the state, or receives any financial assistance from the state.”

171. The Medi-Cal program is “a program or activity that is conducted, operated, or administered by the state or by any state agency, is funded directly by the state, or receives any financial assistance from the state.”

172. Defendant Department of Health Care Services has been and is a state agency as described in Section 11135(a), and Defendant Jennifer Kent is the principal executive of that state agency.

173. Defendant Contra Costa County receives direct funding by the state and/or other financial assistance from the state with respect to its administration of the Medi-Cal program sufficient to invoke the coverage of Government Code § 11135 *et seq.* Contra Costa County has received such financial assistance at all times relevant to the claims asserted in this Complaint.

174. Defendant County of San Diego receives direct funding by the state and/or other financial assistance from the state with respect to its administration of the Medi-Cal program sufficient to invoke the coverage of Government Code § 11135 *et seq.* The County of San Diego has received such financial assistance at all times relevant to the claims asserted in this Complaint.

175. Defendant County of Alameda receives direct funding by the state

1 and/or other financial assistance from the state with respect to its administration of
2 the Medi-Cal program sufficient to invoke the coverage of Government Code §
3 11135 *et seq.* The County of Alameda has received such financial assistance at all
4 times relevant to the claims asserted in this Complaint.

5 176. California Government Code § 11135(b) incorporates the protections
6 and prohibitions contained in the Americans with Disabilities Act (“ADA”) and its
7 implementing regulations. Section 11135(b) states in relevant part:

8 With respect to discrimination on the basis of disability, programs and
9 activities subject to subdivision (a) shall meet the protections and
10 prohibitions contained in Section 202 of the federal Americans with
11 Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules
12 and regulations adopted in implementation thereof, except that if the
13 laws of this state prescribe stronger protections and prohibitions, the
14 programs and activities subject to subdivision (a) shall be subject to
15 the stronger protections and prohibitions.

16 177. For all the reasons described above, Defendants have violated and
17 continue to violate the Americans with Disabilities Act and therefore have violated
18 and continue to violate California Government Code § 11135(b).

19 178. Independent of any violation of the Americans with Disabilities Act,
20 Defendants have also violated the terms of California Government Code §
21 11135(a), which prohibits discrimination on the basis of disability.

22 179. Pursuant to California Government Code § 11139, Plaintiffs have a
23 private right of action to enforce California Government Code § 11135(b).

24 180. Defendants and their agents and employees have and continue to
25 violate California Government Code § 11135 by unlawfully denying Plaintiffs the
26 benefits of, and unlawfully subjecting Plaintiffs to discrimination under,
27 Defendants’ programs and activities for the reasons set forth above.

28 181. Defendants have refused and failed to ensure that Plaintiffs and Class
members have full and equal access to their programs, services, and activities as
required by California Government Code § 11135 *et seq.*

182. Defendants' violations of California Government Code § 11135 have harmed and will continue to harm Plaintiffs and Class members.

183. Because Defendants' discriminatory conduct is ongoing, declaratory and injunctive relief are appropriate remedies.

184. Plaintiffs are entitled to declaratory and injunctive relief as well as reasonable attorneys' fees and costs incurred in bringing this action.

Pursuant to the rights, procedures, and remedies set forth under in California Government Code § 11135 and § 11139, and the California Code of Civil Procedure, Plaintiffs pray for relief as set forth below.

FIFTH CLAIM FOR RELIEF

(Against All Defendants)

California Disabled Persons Act

California Civil Code § 54 *et seq.*

185. Plaintiffs reallege and incorporate by reference the allegations above as if fully set forth here.

186. The California Disabled Persons Act ("DPA") provides that "[i]ndividuals with disabilities or medical conditions have the same right as the general public to the full and free use of . . . public facilities[] and other public places." Cal. Civ. Code § 54(a); *see also* Cal. Civ. Code § 54.1 (providing that "[i]ndividuals with disabilities shall be entitled to full and equal access, as other members of the general public, to accommodations, advantages, facilities . . . [and] places to which the general public is invited")

187. The DPA also provides that a violation of the ADA is a violation of the DPA. Cal. Civ. Code §§ 54(c), 54.1(d).

188. Defendants are entities covered by the DPA.

189. Defendants have violated the DPA by, among other things, denying and/or interfering with Plaintiffs' rights to full and equal access to Defendants' accommodations, advantages, or facilities.

190. Defendants have also violated the DPA by denying or aiding the denial of Plaintiffs' rights to equal access under California state law and the ADA.

191. Plaintiffs are entitled to injunctive and declaratory relief and reasonable attorneys' fees and costs incurred in bringing this action.

192. Pursuant to the remedies, procedures, and rights set forth in California law, Plaintiffs pray for judgment as set forth below.

SIXTH CLAIM FOR RELIEF

(Against Defendants Kent, County of Alameda, County of San Diego, and Contra Costa County)

Due Process Clause of the Fourteenth Amendment of the United States Constitution

193. Plaintiffs reallege and incorporates by reference the allegations above as if fully set forth here.

194. The Due Process Clause of the Fourteenth Amendment to the United States Constitution prohibits Defendants from depriving Plaintiffs and other similarly situated individuals of a protected property interest without adequate notice and an opportunity to be heard.

195. Plaintiffs and similarly situated individuals have a protected property interest in receiving Medi-Cal benefits and services. Defendants routinely issue notices of action in formats that cannot be read by Plaintiffs and Class Members.

196. Defendants' failure to provide information in accessible formats to Plaintiffs and other similarly situated persons in alternative formats that are effective for them denies Plaintiffs and similarly situated individuals of adequate notice and an opportunity to be timely heard regarding the deprivation of their property, in violation of the Due Process Clause of the Fourteenth Amendment to the United States Constitution.

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PRAYER

WHEREFORE, Plaintiffs request:

197. That this Court assume jurisdiction.

198. That this Court certify that this lawsuit may be maintained as a class action under Federal Rule of Civil Procedure 23(a) and 23(b)(2).

199. That this Court declare all Defendants to be in violation of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794 *et seq.*) and its implementing regulations, Section 1557 of the Affordable Care Act, the California Unruh Civil Rights Act, and California Government Code § 11135 and any implementing regulations that may be promulgated during the pendency of this matter.

200. That this Court declare Defendants Kent, County of Alameda, County of San Diego, and Contra Costa County to be in violation of Title II of the ADA (42 U.S.C. § 12181 *et seq.*) and its implementing relations and of the Due Process Clause of the United States Constitution.

201. That this Court issue a preliminary and permanent injunction ordering Defendants to comply with the statutes set forth in this Complaint, including but not limited to ordering Defendants to:

- a. Provide, and ensure that their agents and assigns provide, information that is provided in standard print materials to Medi-Cal applicants and recipients to Plaintiffs and other similarly situated individuals in their requested alternative format;
- b. In consultation with Plaintiffs, develop a plan that includes any policy changes necessary for a durable remedy. The plan shall ensure the following:
 - i. Identification of people who will benefit from notices and other critical documents in alternative formats, including by asking applicants about any alternative format preference and by notifying beneficiaries that alternative formats are available

- 1 upon request;
- 2 ii. Tracking of people who have requested alternative formats,
- 3 including their requested method of communication;
- 4 iii. Communication among divisions of DHCS, between DHCS and
- 5 county offices administering the Medi-Cal program, between
- 6 DHCS and CDSS (which administers the fair hearing system
- 7 and hears Medi-Cal adverse benefits determinations), between
- 8 DHCS and the Covered California Health Benefit Exchange,
- 9 and between DHCS and private or government plans providing
- 10 health care services paid for by Medi-Cal, regarding the identity
- 11 of people who have requested alternative formats and the
- 12 requested method of communication;
- 13 iv. Training of relevant staff and other steps necessary to ensure
- 14 that people receive an adequate response whether they make a
- 15 request for accessible documents at the state, county, or
- 16 contractor level;
- 17 v. Automatic dispatch of notices in the requested alternative
- 18 format contemporaneously with the standard notices sent to
- 19 others;
- 20 vi. Availability of frequently-used notices and documents,
- 21 including application documents, in commonly-requested
- 22 alternative formats such as Braille;
- 23 vii. Electronic and online forms and information readable, fillable,
- 24 and savable by people using assistive technology;
- 25 viii. Appropriate treatment of grievances regarding effective
- 26 communication; and
- 27 ix. Relevant grievance, appeal, and state fair hearing deadlines
- 28 track from the time when an alternative format is provided, not

1 the date when the department, a county, or a managed care plan
2 produces a standard print notice.

3 c. Take any other steps necessary to provide effective communication to
4 Plaintiffs and similarly situated individuals.

5 202. That this Court award Plaintiffs reasonable attorneys' fees and costs
6 pursuant to federal and California law.

7 203. That this Court award Plaintiffs such other and further relief as the
8 Court deems to be just, proper, and equitable.

9
10 Dated: October 22, 2018

Respectfully submitted,

11
12 DISABILITY RIGHTS CALIFORNIA

13 /s/ Autumn M. Elliott

AUTUMN M. ELLIOTT

14 MELINDA BIRD

15 ELIZABETH ZIRKER

16 *Attorneys for Plaintiffs*

17
18 DISABILITY RIGHTS ADVOCATES

19 /s/ Stuart Seaborn

20 STUART SEABORN

21 REBECCA S. WILLIFORD

22 *Attorneys for Plaintiffs*

23
24 DISABILITY RIGHTS EDUCATION AND
25 DEFENSE FUND

26 /s/ Silvia Yee

27 SILVIA YEE

28 CARLY A. MYERS

Attorneys for Plaintiffs

ATTORNEY ATTESTATION

I hereby attest, pursuant to Local Rule 5-1(i)(3), that I obtained the concurrence in the filing of this document from the signatories indicated by the conformed (/s/) of Stuart Seaborn and Silvia Yee.

/s/ Autumn M. Elliott

AUTUMN M. ELLIOTT