

Case No. 25-06844

**UNITED STATES COURT OF APPEALS**  
*for the*  
**NINTH CIRCUIT**

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Ivana Kirola, *et al.*,  
*Plaintiffs and Appellees,*

vs.

The City and County of San Francisco, *et al.*,  
*Defendants and Appellants.*

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On Appeal from the United States District Court,  
Northern District of California  
Case No.: C 07-03685-AMO  
Hon. Araceli Martinez-Olguin

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**Brief of *Amici Curiae* Disability Rights Education and Defense Fund, Impact  
Fund, and Fourteen Other Disability and Civil Rights Organizations  
in Support of Appellees and Affirmance**

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Amy Farr Robertson  
CO Bar No. 25890  
Fox & Robertson, PC  
1550 Wewatta St.  
Suite 200  
Denver, CO 80202  
303-416-8673  
[arob@foxrob.com](mailto:arob@foxrob.com)

Lori Rifkin  
CA Bar No. 244081  
Meredith Dixon  
CA Bar No. 346864  
Impact Fund  
2080 Addison St.  
Suite 5  
Berkeley, CA 94114  
510-845-3473  
[mdixon@impactfund.org](mailto:mdixon@impactfund.org)

Maria Michelle Uzeta  
CA Bar No. 164402  
Disability Rights Education  
& Defense Fund  
3075 Adeline St.  
Suite 210  
Berkeley, CA 94703  
510-644-2555  
[muzeta@dredf.org](mailto:muzeta@dredf.org)

*Counsel of Record*

## FULL LIST OF AMICI

1. Disability Rights Education and Defense Fund
2. Impact Fund
3. American Association of People with Disabilities
4. Autistic People of Color Fund
5. Autistic Self Advocacy Network
6. Autistic Women & Nonbinary Network
7. Coelho Center for Disability Law, Policy & Innovation
8. CommunicationFirst
9. Deaf Equality
10. Disability Law United
11. Disability Rights Advocates
12. Disability Rights Bar Association
13. Disability Rights California
14. National Council on Independent Living
15. National Disability Rights Network
16. Paralyzed Veterans of America

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**GLOSSARY OF COMMON ABBREVIATIONS**

ADA: Americans with Disabilities Act

ADAAG: Americans with Disabilities Act Accessibility Guidelines

DOJ: Department of Justice

HEW: Department of Health, Education, and Welfare

HHS: Department of Health and Human Services.

**CONSENT OF THE PARTIES TO THE FILING PURSUANT TO FEDERAL  
RULE OF APPELLATE PROCEDURE 29(b)(2)**

This motion is filed with the consent of Guy B. Wallace, counsel for Plaintiffs-Appellees, and Steven Mills, counsel for Defendants-Appellants.

**STATEMENT PURSUANT TO  
FEDERAL RULE OF APPELLATE PROCEDURE 29(a)(4)(E)**

The undersigned certifies that no party’s counsel authored this brief in whole or in part, and that no party, party’s counsel, or any other person other than *Amici*, their members, or their counsel, contributed money that was intended to fund preparing or submitting this brief.

**IDENTITY AND INTERESTS OF *AMICI CURIAE***

*Amici curiae* are sixteen disability and civil rights organizations with collective expertise in the legal standards governing access to the built environment, systemic enforcement of the Americans with Disabilities Act (“ADA”), and the rights of people with disabilities to participate in public life. *Amici* submit this brief because the issues presented—including the continuing force of the Department of Justice’s ADA regulations and architectural standards after *Loper Bright*,<sup>1</sup> the availability of private rights of action to enforce those standards, and the proper scope of standing and class certification in ADA access cases—will determine whether the ADA’s promise of a physically accessible

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<sup>1</sup> *Loper Bright Enters. v. Raimondo*, 603 U.S. 369 (2024).

public realm can be vindicated through private lawsuits, the primary mechanism through which Congress designed the ADA to be enforced.

The individual *Amici* are described in the attached Addendum.

### **INTRODUCTION**

The legal arguments of Defendants-Appellants (collectively, “the City”) disregard established law regarding enforcement of Title II of the ADA, the statute prohibiting disability discrimination by state and local public entities.<sup>2</sup> If credited, the City’s arguments would directly undermine the purpose of Title II in ensuring accessibility and useability of public programs and facilities nationwide.

First, contrary to the City’s argument, the Department of Justice (“DOJ”) regulations implementing Title II are entitled to deference based on factors explicitly recognized in *Loper Bright*: express delegation; contemporaneous issuance, thoroughness, and expertise; and the power of earlier precedent undisturbed by *Loper Bright*. Second, there is a widely recognized private right of action to enforce Title II’s requirements—reflected in the DOJ regulations—relating to accessible facilities. Finally, the City relies on myriad misstatements of the law regarding standing, class certification, and systemic injunctive relief in arguing that systemic relief is not appropriate in this case.

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<sup>2</sup> 42 U.S.C. § 12131 – 12165.

Ninth Circuit precedent on these issues accords with the purpose of the ADA and is critical to its enforcement. *Amici* write to highlight why accepting the City’s arguments would undermine the ADA’s enforcement scheme and why they must be rejected, based on *Amici’s* experience and expertise with the history of the ADA, Section 504 of the Rehabilitation Act of 1973 (“Section 504”),<sup>3</sup> and the regulations enforcing those statutes since 1978 and 1991, respectively, as well as the ways in which private litigants may appropriately seek remedies for violation of these laws.

### **ARGUMENT**

#### **I. The Statutory Language of the ADA Demonstrates That Its Architectural Regulations and Standards Are Entitled to Deference.**

The analysis set forth in the Supreme Court’s 2024 decision in *Loper Bright* demonstrates that the DOJ’s regulation governing new construction and alterations, 28 C.F.R. § 35.151 (“Section 35.151”), and its architectural standards—for example, the 1991 Americans with Disabilities Act Accessibility Guidelines (“ADAAG”), 28 C.F.R. pt. 36, app. D (2026)—are entitled to deference. In *Loper Bright*, the Supreme Court overturned the automatic deference previously afforded administrative regulations under the *Chevron* doctrine.<sup>4</sup> In so doing, however, the Court made clear that administrative regulations remain entitled to deference, or at

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<sup>3</sup> 29 U.S.C. § 794. Section 504 prohibits disability discrimination by recipients of federal financial assistance.

<sup>4</sup> *Chevron, U.S.A., Inc. v. Nat. Res. Def. Council, Inc.*, 467 U.S. 837 (1984).

least respect, on three independent grounds: express delegation by Congress; reliability based on contemporaneous issuance, longstanding consistency, thoroughness, and expertise; and pre-*Loper Bright* precedent. This case falls squarely within that framework: Congress expressly delegated authority to the DOJ which acted with longstanding expertise and consistency, and controlling precedent remains intact. Thus, the City’s argument that courts may no longer defer to the Title II regulations and standards and must, instead, evaluate whether each individual feature provides “meaningful access” for disabled people, is incorrect. Appellants’ Opening Br. (“AOB”) at 55-56 (citing *Loper Bright*, 603 U.S. at 395).

**A. Congress Expressly Delegated Authority to the DOJ to Issue the Regulations and Standards at Issue Here and Has Ratified Materially Identical Regulations and Standards.**

*Loper Bright* instructs that “when a particular statute delegates authority to an agency consistent with constitutional limits, courts must respect the delegation, while ensuring that the agency acts within it.” 603 U.S. at 413. Title II not only expressly delegates authority to the DOJ to issue implementing regulations and standards, the statutory language ratifies existing regulations and standards similar or identical to those at issue here.

Title II of the ADA instructs the DOJ to “promulgate regulations . . . that implement” that provision, 42 U.S.C. § 12134(a), and further instructs—with exceptions not applicable here—that these regulations be consistent with the 1978

coordination regulations issued by the (then) Department of Health, Education, and Welfare (“HEW”) to implement Section 504, *id.* § 12134(b). The 1978 HEW regulations contained language materially identical to Section 35.151(a). *Compare* 28 C.F.R. § 35.151(a)(1) (2024) (new construction “shall be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by individuals with disabilities”) *with* 45 C.F.R. § 85.58(a)<sup>5</sup> (1978) (new facilities “shall be designed and constructed to be readily accessible to and usable by handicapped<sup>6</sup> persons”). Title II’s express reference to the 1978 HEW regulations incorporated and ratified the operative language of Section 35.151(a) into federal law.

Title II further instructs that regulations issued pursuant to Section 12134(a) “shall include standards applicable to facilities . . . covered by this part,” and that such standards “shall be consistent with the minimum guidelines and requirements issued by the Architectural and Transportation Barriers Compliance Board

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<sup>5</sup> Section 12134(b) refers to “part 41 of title 28, Code of Federal Regulations (as promulgated by the Department of Health, Education, and Welfare on January 13, 1978).” When promulgated in 1978, these coordination regulations were found at part 85 of title 45. 43 Fed. Reg. 2132 (Jan. 13, 1978). In 1981, responsibility for coordination regulations was transferred to the DOJ. 46 Fed. Reg. 40686 (Aug. 11, 1981). These regulations were then recodified at 28 C.F.R. pt. 41.

<sup>6</sup> When originally enacted, Section 504 referred to the individuals it protected as “handicapped;” implementing regulations followed suit. Congress replaced that term with “disability” and “individuals with disabilities” both in Section 504, 29 U.S.C. § 794(a), and throughout the ADA, 42 U.S.C. § 12101 - 12213. This brief uses “disabled” or “people with disabilities” consistent with current usage.

[("Access Board")] in accordance with section 12204(a)" of the ADA. 42 U.S.C. § 12134(c). Section 12204(a), in turn, instructs the Access Board to issue "minimum guidelines that shall supplement the existing Minimum Guidelines and Requirements for Accessible Design for purposes of" Titles II and III. *Id.* § 12204(a). As this Court has explained, "[t]he legal framework is that: (1) the Access Board sets a baseline of nonbinding requirements; and (2) DOJ must then adopt binding regulations that are 'consistent with—but not necessarily identical to—the [Access] Board's guidelines.'" *Kirola v. City & Cnty. of San Francisco*, 860 F.3d 1164, 1177 (9th Cir. 2017) ("*Kirola I*") (internal citations omitted). The ADAAG were adopted by the DOJ on July 26, 1991. 28 C.F.R. § 35.151(c), 56 Fed. Reg. 35694, 35720 (July 26, 1991).

Crucially, in a provision entitled "Construction," Congress instructed that no part of the ADA "shall be construed to apply a lesser standard than the standards applied under [Section 504] *or the regulations issued by Federal agencies pursuant to such title.*" 42 U.S.C. § 12201(a) (emphasis added). This statutory language essentially incorporates by reference decades of Section 504 regulations containing language materially identical to Section 35.151, and measuring compliance with the new construction/alterations standard against the Minimum Guidelines and Requirements for Accessible Design or Uniform Federal Accessibility Standards, the precursors to the ADAAG.

Where Congress references or incorporates regulatory language, it effectively adopts that interpretation. *See United States v. Bd. of Comm'rs of Sheffield, Ala.*, 435 U.S. 110, 134 (1978) (“When a Congress that re-enacts a statute voices its approval of an administrative or other interpretation thereof, Congress is treated as having adopted that interpretation, and this Court is bound thereby.”); *Hooks v. Clark Cty. Sch. Dist.*, 228 F.3d 1036, 1040 (9th Cir. 2000) (same; quoting *Board of Commissioners*). The Third Circuit has expressly applied this principle to the Title II regulations, holding that “because Congress mandated that the ADA regulations be patterned after the Section 504 coordination regulations, the former regulations have the force of law.” *Helen L. v. DiDario*, 46 F.3d 325, 332 (3d Cir. 1995); *see also Marcus v. Kansas Dep't of Revenue*, 170 F.3d 1305, 1306 n.1 (10th Cir. 1999) (same, quoting *Helen L.*).

Indeed, even when regulatory language is not directly incorporated, “[w]hen administrative and judicial interpretations have settled the meaning of an existing statutory provision, repetition of the same language in a new statute indicates, as a general matter, the intent to incorporate its administrative and judicial interpretations as well.” *Bragdon v. Abbott*, 524 U.S. 624, 645 (1998). The *Bragdon* Court was referring to the ADA’s use of a definition of disability that tracked the definition in Rehabilitation Act regulations. *Id.* Similarly, the language of Section 12132—which closely tracks that of Section 504—incorporates

administrative interpretations of that latter statute, including those requiring accessible new construction and alterations.

Congress thus both expressly delegated authority to the DOJ to promulgate regulations and standards and incorporated by reference specific earlier regulations and standards containing language materially identical to Section 35.151. This gives the Title II regulations, including Section 35.151, the force of law; at the very least, they are entitled to judicial deference under *Loper Bright*.

**B. The DOJ’s Title II Regulations and Standards Are Entitled to Respect Based on Their Contemporaneous Issuance, Longstanding Consistency, Thoroughness, and Expertise.**

The *Loper Bright* Court held that a regulatory interpretation warrants respect when it was “issued roughly contemporaneously with enactment of the statute and remained consistent over time.” 603 U.S. at 386. Agency interpretations that were “based upon . . . specialized experience,” reflected “thoroughness [of] consideration,” valid reasoning, and “consistency with earlier and later pronouncements” are proper sources of guidance. *Id.* at 388 (internal quotations omitted). The Court has reinforced this point in two post-*Loper Bright* cases: *Kennedy v. Braidwood Management, Inc.*, 606 U.S. 748, 782-83 (2025) (“considered and consistent Executive Branch practice” is a valid source of statutory interpretation); and *Bondi v. VanDerStok*, 604 U.S. 458, 480-81 (2025) (“[W]hile ‘courts must exercise independent judgment in determining the meaning

of statutory provisions,’ the contemporary and consistent views of a coordinate branch of government can provide evidence of the law’s meaning.’”). Before *Loper Bright*, in *Bragdon*, the Court similarly relied on “consistent course of agency interpretation before and after enactment of the ADA” in interpreting the statute’s definition of disability. 524 U.S. at 642.

The DOJ promulgated the Title II regulations in 1991, one year after the ADA was passed. And, as explained above, these regulations, including the operative language of Section 35.151, have been a consistent part of multiple agencies’ Section 504 regulations for almost 50 years.<sup>7</sup> The 1991 ADAAG were originally drafted by the Access Board before adoption by the DOJ and were based on decades of research by the Board and participating agencies, as well as on industry standards developed by the American National Standards Institute.<sup>8</sup>

This robust history of consistent interpretation and expert development is entitled to respect in the interpretation of Title II of the ADA. The City, on the other hand, would have this Court ignore the history and expertise reflected in the ADAAG and “independently consider whether meaningful access is . . . provided .

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<sup>7</sup> See Appendix: Regulations Enforcing Section 504 of the Rehabilitation Act of 1973, in Amy Robertson, *Key Disability Rights Regulations Will Remain Authoritative in the Wake of Loper Bright: A Toolkit for Litigation*, 6 UCLA Disability L. J. 43, 79 (2025), <https://escholarship.org/uc/item/7140n8f3>.

<sup>8</sup> See, e.g., U.S. Access Board, UFAS (1984) “Introduction,” <https://www.access-board.gov/aba/ufas.html>.

. . . for each feature.” AOB at 56. This Court already noted—in its decision on a previous appeal in the instant case—the problem with ignoring technical standards in favor of general language:

Giving content to general standards is foundational to the judicial function. *See Marbury v. Madison*, 5 U.S. 137, 177, 1 Cranch 137, 2 L.Ed. 60 (1803). But when the content involves many precise dimensions such as inches of knee clearance underneath a sink, *see* ADAAG § 4.24.3, courts do not have the institutional competence to put together a coherent body of regulation. By contrast, a federal administrative agency can hire personnel with the specific skills needed to devise and implement the regulatory scheme.

*Kirola I*, 860 F.3d at 1180-81. Although this Court decided *Kirola I* before *Loper Bright*, the language quoted above closely tracks the logic of *Loper Bright*. *See id.* 603 U.S. at 369 (citing *Marbury* while noting the respect due the experts in the executive branch).

### **C. Pre-*Loper Bright* Cases Retain Force.**

The *Loper Bright* Court held that the decision “[did] not call into question prior cases that relied on the *Chevron* framework.” 603 U.S. at 412. A number of pre-*Loper Bright* Supreme Court and circuit court decisions deferred to both the original HEW and later DOJ accessibility regulations, both with and without reliance on *Chevron*. In the earliest of these, decided before *Chevron*, the Court noted that in passing the 1978 amendments to the Rehabilitation Act, “Congress incorporated the substance of [HEW’s Section 504] regulations into the statute.” *Consol. Rail Corp. v. Darrone*, 465 U.S. 624, 634 n.15 (1984); *see also Sch. Bd. of*

*Nassau Cnty., Fla. v. Arline*, 480 U.S. 273, 279 (1987) (citing *Darrone* and recognizing that the Department of Health and Human Services<sup>9</sup> Section 504 regulations “were drafted with the oversight and approval of Congress”). *Bragdon* also held that the DOJ’s Title III regulations were entitled to deference based on a delegation materially similar to Title II’s delegation.<sup>10</sup> 524 U.S. at 646.

This Court has specifically held that the DOJ’s Title II regulations are entitled to deference. In *Cohen v. City of Culver City*, this Court deferred to Sections 35.150 and 35.151 based on Title II’s delegation in 42 U.S.C. § 12134 without reference to *Chevron*. 754 F.3d 690, 695-96 (9th Cir. 2014). In *Armstrong v. Schwarzenegger*, this Court held that Section 35.130(b)(1) of the Title II regulations

was promulgated by the Attorney General pursuant to Congress’s direction that he promulgate regulations implementing Title II that are consistent with the regulations governing Section 504 of the Rehabilitation Act. *See* 42 U.S.C. § 12134. In accordance with the deference principles outlined in *Chevron* . . . “Department of Justice regulations interpreting Title II should be given controlling weight unless they are ‘arbitrary, capricious, or manifestly contrary to the statute.’”

622 F.3d 1058, 1065 (9th Cir. 2010) (quoting *McGary v. City of Portland*, 386 F.3d 1259, 1269 n.6 (9th Cir. 2004)); *see also* *K.M. ex rel. Bright v. Tustin Unified Sch.*

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<sup>9</sup> HEW was renamed the Department of Health and Human Services in 1979. Pub. L. No. 96-88 § 509, 93 Stat. 668, 695 (1979).

<sup>10</sup> *Compare* 42 U.S.C. § 12134(a), (c) *with id.* § 12186(b), (c).

*Dist.*, 725 F.3d 1088, 1096 (9th Cir. 2013) (same, quoting *Armstrong*). While *Armstrong* and *McGary* relied on *Chevron*, *Loper Bright* dictates that this line of Circuit precedent affording the DOJ’s Title II regulations “controlling weight” is still applicable precedent. *Loper Bright*, 603 U.S. at 412.

In addition, as the City acknowledges, in *Chapman v. Pier 1 Imports (U.S.) Inc.*, this Court held that the ADAAG establish the technical standards that define the barriers constituting discrimination under the ADA. 631 F.3d 939, 947 (9th Cir. 2011); *see also Kirola I*, 860 F.3d at 1176-77 (holding that the ADAAG are binding standards). The City argues that *Chapman* and *Kirola I* are “irreconcilable with *Loper Bright*” and should be overruled (*Chapman*) and reconsidered (*Kirola I*). AOB at 56-57. But *Loper Bright* itself held that the mere fact that a case relied on *Chevron* was “not enough to justify overruling a statutory precedent.” *Id.* 603 U.S. at 412. This is particularly true with respect to Circuit precedent that independently analyzed the applicable regulations without reference to *Chevron*.

## **II. There Is a Private Right of Action to Enforce Title II’s Regulations and Standards Requiring Accessible New Construction and Alterations.**

The City argues that there is no private right of action to enforce the ADAAG or related accessibility regulations.<sup>11</sup> That argument fails under *Alexander*

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<sup>11</sup> The City also argues that disparate impact claims are not cognizable under Title II and that Circuit precedent to the contrary should be overruled. AOB at 82. Plaintiffs-Appellees did not sue under a disparate impact theory, so this case would be a uniquely poor vehicle to address that theory or overturn Circuit precedent.

*v. Sandoval*, which makes clear that the relevant question is whether Section 12132 prohibits the challenged conduct. 532 U.S. 275, 285 (2001). If Section 12132 prohibits inaccessible new construction, then Section 35.151 and the ADAAG are enforceable through the statute’s private right of action. In light of Section 12201(a)’s rule of construction, Section 12134’s delegation, and Congress’s findings recognizing architectural barriers as discrimination, Section 12132 prohibits inaccessible new construction and alterations. Because Section 12132 prohibits that conduct, Section 35.151 and the ADAAG are enforceable as “authoritative interpretations” of § 12132 under *Sandoval*.

There can be no question that there is a private right of action to enforce both Title II and Section 504. *Barnes v. Gorman*, 536 U.S. 181, 185, 187 (2002) (addressing both Title II and Section 504); *Cummings v. Premier Rehab Keller, P.L.L.C.*, 596 U.S. 212, 218 (2022) (addressing Section 504). The City relies on *Sandoval* to argue that there is no private right of action to enforce the Title II regulations and standards. In that decision, the Supreme Court held that there was no private right of action to enforce the disparate impact regulation implementing Title VI of the Civil Rights Act of 1964 (“Title VI”)<sup>12</sup> because an earlier Supreme Court decision had limited the statutory language of Title VI to intentional

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<sup>12</sup> 42 U.S.C. § 2000d-3.

discrimination. *Sandoval*, 532 U.S. at 281, 285 (citing *Guardians Assn. v. Civil Serv. Comm’n of New York City*, 463 U.S. 582 (1983)). The City’s reliance on *Sandoval* is misplaced.

The *Sandoval* Court articulated a key principle that underscores the validity of a private right of action to enforce Title II facilities access regulations: where a private right of action exists to enforce a statute, it includes an “authoritative interpretation of the statute.” *Id.* at 284. That is, in such cases, “it is . . . meaningless to talk about a separate cause of action to enforce the regulations apart from the statute. A Congress that intends the statute to be enforced through a private cause of action intends the authoritative interpretation of the statute to be so enforced as well.” *Id.*

Under the logic of *Sandoval*, then, the question whether there is a private right of action under Section 12132 to enforce the DOJ’s implementing regulations—including those prohibiting inaccessible new and altered facilities—is ultimately the question whether these regulations are authoritative interpretations of Section 12132. For the reasons discussed in detail in Section I—the express delegation and incorporation in Sections 12134(a)-(c) and the rule of construction in Section 12201(a)—they are, and thus Section 35.151 and the ADAAG are enforceable through Section 12132’s private right of action.

**A. Section 12132 Prohibits Inaccessible New Construction and Alterations.**

The statutory text of Section 12132 must be interpreted to prohibit both intentional and unintentional discrimination, including failure to design and construct accessible new and altered facilities. As Chief Justice Roberts has instructed, in interpreting statutes, “we must read the words ‘in their context and with a view to their place in the overall statutory scheme.’ *Our duty, after all, is ‘to construe statutes, not isolated provisions.’*” *King v. Burwell*, 576 U.S. 473, 486 (2015) (emphasis added; internal citations omitted). The overall statutory scheme of the ADA includes a “Construction” provision—Section 12201(a)—through which Congress explicitly instructs us to interpret the entire statute to ensure “at least as much protection as provided by the regulations implementing” Section 504. *Bragdon*, 524 U.S. at 631-32. This alone is sufficient to establish that the language of Section 12132 must be interpreted to include the many Section 504 regulations materially similar to Section 35.151 and the ADAAG.

Section 12132’s context also includes Sections 12134(a)-(c) and 12204(a) instructing the DOJ to issue regulations and standards that are consistent with specific earlier regulations and standards, thereby adopting and ratifying the latter.

Finally, the ADA’s findings underscore the incorporation and ratification of access regulations and standards in Sections 12134 and 12201. In passing the ADA, Congress found that “individuals with disabilities continually encounter

various forms of discrimination, *including outright intentional exclusion, [and] the discriminatory effects of architectural . . . barriers . . .*” 42 U.S.C. § 12101(a)(5) (emphasis added).

The Supreme Court and this Circuit have made clear that Section 504 and Title II prohibit unintentional discrimination. *See Alexander v. Choate*, 469 U.S. 287, 296-97 (1985) (“[M]uch of the conduct that Congress sought to alter in passing [Section 504] would be difficult if not impossible to reach were the Act construed to proscribe only conduct fueled by a discriminatory intent. For example, elimination of architectural barriers was one of the central aims of the Act . . . yet such barriers were clearly not erected with the aim or intent of excluding the handicapped.” (Internal citations omitted)); *Cohen*, 754 F.3d at 694 (holding that Congress enacted the ADA on the premise that discrimination against people with disabilities is “most often the product, not of invidious animus, but rather of thoughtlessness and indifference—of benign neglect.” (citing *Choate*)).

Once Section 12132 is properly interpreted “in [its] context and with a view to [its] place in the overall statutory scheme,” *see King*, 576 U.S. at 486, it is clear that it requires, as relevant here, new construction and alterations to comply with Section 35.151 and applicable design standards. *See, e.g., Frame v. City of Arlington*, 657 F.3d 215, 223 (5th Cir. 2011) (holding that Title II unambiguously reaches newly built and altered public sidewalks.”). This “authoritative

interpretation” of Title II may be enforced through that statute’s private right of action.

**B. The Private Right of Action to Enforce Section 12132 Encompasses Its Architectural Regulations and Standards.**

Because Section 12132 requires accessible new construction and alterations, it follows that the private right of action to enforce Section 12132 encompasses this requirement as well, meaning that there is a private right of action to enforce Section 35.151 and the ADAAG as authoritative interpretations of that statute. *See Sandoval*, 532 U.S. at 284-85. As the Tenth Circuit explained, the DOJ’s Title II regulations relating to physical access are authoritative interpretations of Section 12132 because they “simply provide the details necessary to implement the statutory right created by § 12132 of the ADA. They do not prohibit otherwise permissible conduct.” *Chaffin v. Kansas State Fair Bd.*, 348 F.3d 850, 848 (10th Cir. 2003), *overruled on other grounds by Exby-Stolley v. Bd. of Cnty. Comm’rs*, 979 F.3d 784 (10th Cir. 2020).

Decisions of this Court and sister circuits support this conclusion. In *Payan v. Los Angeles Community College District*, this Court held that Title II provided a private right of action to challenge disparate impact discrimination. 11 F.4th 729, 736-37 (9th Cir. 2021). In reaching that conclusion, this Court explained that “*Sandoval* . . . does not upset the historical understanding that Section 504 and the ADA were specifically intended to address both intentional discrimination and

discrimination caused by ‘thoughtless indifference’ or ‘benign neglect,’ such as physical barriers to access public facilities.” *Id.*<sup>13</sup>

At least four sister circuits have explicitly held that Section 12132’s private right of action includes to challenges to inaccessible facilities. *Frame*, 657 F.3d at 223 (holding that a private right of action exists to require reasonable modifications to sidewalks); *Am. Ass’n of People with Disabilities v. Harris*, 647 F.3d 1093, 1101 (11th Cir. 2011) (recognizing that Title II’s private right of action includes enforcement of regulations relating to facility access); *Ability Ctr. of Greater Toledo v. City of Sandusky*, 385 F.3d 901, 907 (6th Cir. 2004) (“We find that 28 C.F.R. § 35.151 effectuates a mandate of Title II and is therefore enforceable through the private cause of action available under the statute.”)<sup>14</sup>

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<sup>13</sup> This Court has also implicitly recognized a private right of action by enforcing Title II regulations in the context of the accessibility of the built environment—most notably, in *Kirola I*, 860 F.3d at 1176. See also *Fortyune v. City of Lomita*, 766 F.3d 1098, 1103 (9th Cir. 2014) (enforcing (among others) Section 35.151 to require accessible on-street parking); *Cohen*, 754 F.3d at 699 (applying 35.151 to address barriers in curb ramps); *Barden v. City of Sacramento*, 292 F.3d 1073, 1076 (9th Cir. 2002) (holding that sidewalks were covered by Title II and enforcing Section 35.151 (among others)).

<sup>14</sup> The City relies the Sixth Circuit case of *Babcock v. Michigan*, 812 F.3d 531, 536 (6th Cir. 2016) for the proposition that a claim of inaccessibility, standing alone, is not cognizable. AOB at 43. However, *Babcock* rejected the plaintiff’s accessibility claim on the basis that the allegedly inaccessible facilities did not deny her access to city services, programs, or activities. *Id.* 812 F.3d at 535-36. This distinction between facilities and services is inconsistent with this Court’s holding in *Barden* that “[r]ather than determining whether each function of a city can be characterized as a service, program, or activity for purposes of Title II, . . . we have construed

*Chaffin*, 348 F.3d at 859 (holding that a private right of action existed to enforce the ADAAG, stating “[i]t is . . . clear that the type of discrimination prohibited in the ADAAG falls squarely within the type prohibited by the ADA itself.”); *see also Woods v. Centro of Oneida, Inc.*, 103 F.4th 933, 945 (2d Cir. 2024) (holding that there was a private right of action to enforce 49 C.F.R. § 37.5(i)(3), a regulation implementing the transportation-specific provisions of Title II).

The City urges this Court to overrule *Payan* and adopt the reasoning of the dissent in that case. AOB at 82 (citing *Payan*, 11 F.4th at 741-44 (Lee J., dissenting)). However, the *Payan* dissent fails to explore the crucial statutory context discussed above, including 42 U.S.C. § 12201(a), requiring the ADA to be interpreted to provide at least as much protection as Section 504 regulations, *see Bragdon*, 524 U.S. at 625; Sections 12134(b) and (c), directing the Department of Justice to issue regulations and standards consistent with specific Section 504 regulations and standards; and the statute’s findings that disability discrimination includes a number of forms of unintentional discrimination, 42 U.S.C. § 12101(a)(5).

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‘the ADA’s broad language [as] bring[ing] within its scope “anything a public entity does.”’” 292 F.3d at 1076 (internal citations omitted).

**C. The *Payan* Dissent Improperly Imports Title VI’s Substantive Limitations Through Title II’s Remedial Provision.**

The *Payan* dissent also improperly imports into Title II’s *substantive* provision, Section 12132, substantive limitations from Title VI based on the fact that Title II’s *remedial* provision, Section 12133, ultimately adopts Title VI’s remedies. *See Payan*, 11 F.4th at 743 (Lee J., dissenting). The dissent does not provide support for this erroneous conflation. The Supreme Court rejected that argument in *Darrone*, holding that incorporating Title VI’s remedies does not import its substantive limitations into Section 504. 465 U.S. 624, 632 (1984). The plaintiff-respondent in *Darrone* sued Consolidated Rail Corporation (“Conrail”) under Section 504 for disability discrimination in employment. Conrail received federal funding—bringing it within the ambit of Section 504—but argued that the claim was barred by analogy to the provision of Title VI that limits employment claims to those involving programs in which “a primary objective of the Federal financial assistance is to provide employment.” 42 U.S.C. § 2000d-3. Conrail argued that the fact that Section 504’s remedies provision incorporated Title VI’s remedies meant that Section 504 shared Title VI’s “primary objective” limitation. The Supreme Court rejected this argument, holding that “[i]t is clear that § 504 itself contains no such limitation. Section 504 neither refers explicitly to [the

primary objective limitation] nor contains analogous limiting language.” *Darrone*, 465 U.S. at 632.<sup>15</sup>

Similarly, the Eleventh Circuit has explained the potential absurdity of importing substantive limitations through Title II’s remedies provision. *Shotz v. City of Plantation, Fla.*, 344 F.3d 1161, 1169 (11th Cir. 2003). Given that Title II incorporates Section 504’s and ultimately Title VI’s remedies, carried to its logical limit, such reasoning would restrict Title II to federal funding recipients—substantive limitations on both Section 504 and Title VI—making it essentially redundant with Section 504. The Eleventh Circuit reached that conclusion by tracing the statute’s cross-references: the ADA’s anti-retaliation provision at issue in that case incorporates Title II’s remedies where the alleged retaliation relates to Title II, 42 U.S.C. § 12203(c); and thus ultimately incorporates Title VI’s remedies. *Shotz*, 344 F.3d at 1169 (“For a violation of § 12203 in the context of public services, then, we ultimately look to Title VI.”). Title VI, like Section 504, only applies to recipients of federal funding. The Eleventh Circuit explained that, in the context of Title II, “allowing the remedial provisions to govern the scope of

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<sup>15</sup> See also *Choate*, 469 U.S. at 294-97 (“there are reasons to pause before too quickly extending” Title VI’s intent requirement to Section 504, including that “much of the conduct that Congress sought to alter in passing the Rehabilitation Act would be difficult if not impossible to reach” if Section 504 were so limited); *Payan*, 11 F.4th at 736 (distinguishing Title VI’s court-created limitation on disparate impact discrimination from the statutory text of Title II and Section 504).

liability would deviate considerably from the intent and purpose of the statute.” *Id.* at 1174. Specifically, if all of the substantive limits of Title VI were imported into Section 12132 via Section 12133, it would have the absurd result of limiting Section 12132 to public entities that receive federal funding, a result clearly at odds with Title II’s text and legislative history. *Id.* Based on this reasoning, the court rejected limiting the “scope of liability [of Title II] . . . to that of Title VI.” *Id.*

### **III. Quantitative Standards Such as Those in the ADAAG Are Essential for Both Disabled People and for Entities Designing and Constructing Physical Facilities.**

The ADAAG were the result of decades of technical research by multiple agencies and the American National Standards Institute. *See supra* note 7. Their precise, quantitative requirements promote predictability. “The ADAAG’s requirements are as precise as they are thorough, and the difference between compliance and noncompliance with the standard of full and equal enjoyment established by the ADA is often a matter of inches.” *Chapman*, 631 F.3d at 945-46. Widespread ADAAG compliance permits disabled people to go about their lives confident that at least new and altered facilities will be accessible to them. This “national standard for minimum levels of accessibility in all new facilities,” *id.* at 945, also permits architects, designers, contractors, and owners of these facilities to know precisely how to build them to be both accessible to the widest number of people and legally compliant. As this Court has recognized, “an architect putting

thousands of measurements into his or her blueprint needs a holistic collection of design rules, not the incremental product of courts deciding cases and controversies one at a time.” *Kirola I*, 860 F.3d at 1180-81.

The City proposes abandoning this predictability in favor of a case-by-case subjective standard of “meaningful access.” AOB at 56 (“Courts must now independently consider whether meaningful access is . . . provided”). This would leave the question of accessibility in the first instance to the architects and designers of new facilities, who do not have access to the mass of anthropometric and experiential data that went into the drafting and evolution of the ADAAG. In *Amici*’s experience, many architects incorrectly assume that compliance with local building codes suffices to ensure access; it does not. It would then hand the question, in many cases, to courts that face the challenges already identified by this Court. *See Kirola I*, 860 F.3d at 1180-81.

The distinction between existing facilities, on the one hand, and new construction and alterations, on the other, “was intended to ensure broad access to public services, while, at the same time, providing public entities with the flexibility to choose how best to make access available.” *Parker v. Universidad de Puerto Rico*, 225 F.3d 1, 6 (1st Cir. 2000). These different obligations represent an important regulatory compromise that must be respected and enforced: public entities are not required to retrofit existing facilities if there are less costly ways in

which to provide access, 28 C.F.R. § 35.150(a), so long as facilities constructed or altered after January 26, 1992, are built to be accessible, *id.* § 35.151(a).

This regulatory compromise also incorporated the recognition that, as time went on and more facilities were constructed following that effective date, access would accordingly also become more widespread. Retreating from this compromise and evaluating all facilities against the qualitative standard of “meaningful access” will stop this process and permit the accessibility of the public built environment to stagnate or decrease, to the extreme prejudice of disabled people.

#### **IV. Systemic Relief Is Necessary to Effectuate the Purpose of the ADA.**

##### **A. Injunctive Relief Is the ADA’s Primary Remedy and Must Be Available on a Systemic Basis Where Violations Are Systemic.**

Unlike other federal civil rights statutes where damages and injunctive relief are comparably available, the ADA’s structure makes injunctive relief the cornerstone of enforcement. Compensatory damages under Title II require proof of deliberate indifference, a demanding standard that plaintiffs challenging architectural barriers frequently cannot meet even when violations are undisputed and longstanding. *Duvall v. Cty. of Kitsap*, 260 F.3d 1124, 1138-39 (9th Cir. 2001). This is particularly true in cases involving newly constructed or altered facilities, where the violation typically reflects the misapplication of technical standards rather than intentional discrimination. For most plaintiffs in Title II accessibility

cases, injunctive relief is therefore not merely the preferred remedy—it is the only one realistically available.

This reality makes systemic injunctive relief especially critical in cases like this one. The ADA is, at its core, a statute designed to restructure the built environment—to convert inaccessible public spaces into ones disabled people can use on equal terms. *See* 42 U.S.C. § 12101(a)(5) (finding that disability discrimination includes “architectural . . . barriers”). Barrier-by-barrier litigation cannot accomplish that remedial goal. A plaintiff who must individually litigate each non-compliant curb ramp, sidewalk, or facility entrance—with no assurance of systemic relief—gains almost nothing even in victory: one barrier removed while dozens remain, maintained by the same policies and practices that produced the original violations.

**B. Private Enforcement of the ADA Requires the Availability of Systemic Relief.**

As Congress recognized, “the rights guaranteed by the ADA are meaningless without effective enforcement provisions.” H.R. Rep. No. 101-485, at 40 (1990), *as reprinted in* 1990 U.S.C.C.A.N. 303, 322. The ADA’s enforcement scheme relies on the ability of private litigants to achieve those rights through systemic injunctive relief. *See Doran v. 7-Eleven, Inc.*, 524 F.3d 1034, 1039-40 (9th Cir. 2008) (observing that private enforcement is “the primary method of obtaining compliance with the [ADA]” (quoting *Trafficante v. Metro. Life Ins. Co.*, 409 U.S.

205, 209 (1972))). The scale of the ADA’s coverage makes government enforcement alone inadequate: the statute regulates “more than 600,000 businesses, 5 million places of public accommodation, and 80,000 units of state and local government,”<sup>16</sup> and federal enforcement agencies remain chronically under-resourced for that task.<sup>17</sup>

Systemic relief must therefore be available to private litigants who show that violations result from deficiencies in system-wide policies, procedures, or practices. Requiring ADA plaintiffs to litigate every individual violation before obtaining system-wide relief would render private enforcement economically infeasible, burden courts with high volumes of piecemeal suits risking inconsistent decisions, and gut ADA protections in practice. As this Court has recognized, “a rule limiting a plaintiff to challenging the barriers he or she had encountered or personally knew about would burden businesses and other places of public accommodation with more ADA litigation, encourage piecemeal compliance with

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<sup>16</sup> Jeb Barnes & Thomas F. Burke, *The Diffusion of Rights: From Law on the Books to Organizational Rights Practices*, 40 *Law & Soc’y Rev.* 493, 499-500 (2006).

<sup>17</sup> See Nat’l Council on Disability, *Has the Promise Been Kept? Federal Enforcement of Disability Rights Laws (Part 1)* 11-12 (2018) (finding that federal disability rights enforcement agencies continue to face budgetary, staffing, and structural barriers to effective enforcement eighteen years after Congress enacted the ADA); Samuel R. Bagenstos, *The Perversity of Limited Civil Rights Remedies: The Case of “Abusive” ADA Litigation*, 54 *UCLA L. Rev.* 1, 9-10 (2006) (noting that government enforcement resources are limited, and the DOJ disability rights enforcement unit is understaffed).

the ADA, and ultimately thwart the ADA's remedial goals." *Doran*, 524 F.3d at 1047 (citing *PGA Tour, Inc. v. Martin*, 532 U.S. 661, 674-75 (2001)).

**V. The Ninth Circuit Has Repeatedly Rejected Interpretations of the Standing Requirement That Would Require ADA Plaintiffs to Engage in Piecemeal Litigation.**

Consistent with the need for systemic relief, ADA plaintiffs must be able to challenge barriers they have not personally encountered when those barriers result from common policies, procedures, or practices. The Ninth Circuit has adopted the "class certification approach" to standing, under which "once the named plaintiff demonstrates her individual standing to bring a claim, the standing inquiry is concluded, and the court proceeds to consider whether the Fed. R. Civ. Pro. 23(a) prerequisites for class certification have been met." *Kirola I*, 860 F.3d at 1176 (quoting *Melendres v. Arpaio*, 784 F.3d 1254, 1262 (9th Cir. 2015)). Accordingly, "an ADA plaintiff who establishes standing as to encountered barriers may also sue for injunctive relief as to unencountered barriers related to his disability." *Chapman*, 631 F.3d at 944. Applying that principal here, this Court held that a rule prohibiting Ms. Kirola from challenging barriers she herself had not personally encountered "takes too narrow a view of injunctive relief under the ADA." *Kirola v. City & Cnty. of San Francisco*, No. 21-15621, 2023 WL 2851368, at \*1 (9th Cir. Apr. 10, 2023).

This doctrine reflects a practical reality: a disabled plaintiff who has encountered one access barrier at a facility may never discover others precisely because that barrier deters her from returning. As this Court recognized in *Doran*, “where deterrence itself has been identified as the injury conferring standing to sue on an ADA plaintiff . . . it would be ironic if not perverse to charge that the natural consequence of this deterrence, the inability to personally discover additional facts about the defendant’s violations, would defeat that plaintiff’s standing to challenge other violations at the same location that subsequently come to light.” *Doran*, 524 F.3d at 1042. Any other rule would allow defendants to evade the court’s jurisdiction through the very barriers the ADA prohibits, “invite . . . piecemeal litigation,” and “encourage piecemeal compliance”—outcomes directly at odds with the ADA’s remedial goals. *Id.* at 1042, 1047.

#### **VI. Cases Challenging Policies That Result in Access Barriers Are Well-Suited for Class Certification Under Rule 23(b)(2).**

Federal Rule of Civil Procedure 23(b)(2) was added in 1966 “primarily to facilitate the bringing of class actions in the civil-rights area,” recognizing that “the class suit is a uniquely appropriate procedure in civil-rights cases, which generally involve an allegation of discrimination against a group as well as the violation of rights of particular individuals.” 7AA Wright & Miller’s Federal Practice & Procedure §§ 1775-76 (3d ed.). The Supreme Court has confirmed that “[c]ivil rights cases against parties charged with unlawful, class-based discrimination are

prime examples” of Rule 23(b)(2) classes, *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 361 (2011) (internal citations omitted), and courts have specifically recognized that “cases challenging an entity’s policies and practices regarding access for the disabled represent the mine run of disability rights class actions certified under Rule 23(b)(2).” *Californians for Disability Rts., Inc. v. California Dep’t of Transp.*, 249 F.R.D. 334, 345 (N.D. Cal. 2008).

Class actions are particularly well-suited to ADA access cases because a single lawsuit challenging a common policy or practice can remedy widespread violations that would be infeasible to litigate individually. Courts have certified Rule 23(b)(2) classes where a common architectural standard or centrally administered policy produced accessibility violations across multiple facilities. *See, e.g., Stiner v. Brookdale Senior Living, Inc.*, 665 F.Supp.3d 1150 (N.D. Cal. 2023) (certifying class challenging a written “Fleet Safety Policy” applied across all facilities); *Gray v. Golden Gate Nat. Recreational Area*, 279 F.R.D. 501 (N.D. Cal. 2011) (issued after *Wal-Mart*) (commonality established where accessibility decisions were centrally controlled); *Moeller v. Taco Bell Corp.*, 220 F.R.D. 604 (N.D. Cal. 2004) (certifying a Rule 23(b)(2) class where centrally designed blueprints produced common accessibility violations).

This Court has cautioned that, “[i]n determining what constitutes the same type of relief or the same kind of injury, ‘we must be careful not to employ too

narrow or technical an approach.” *Melendres*, 784 F.3d at 1263 (quoting *Armstrong v. Davis*, 275 F.3d 849, 867 (9th Cir. 2001)). Where policies and practices apply uniformly to a class, differences in the nature of individual disabilities do not defeat certification. *See Smith v. City of Oakland*, 339 F.R.D. 131 (N.D. Cal. 2021) (certifying Rule 23(b)(2) class of renters with different disabilities—and rejecting defendant’s argument that differences in disabilities required individualized proof—where challenged policies and practices applied uniformly). By “examin[ing] the questions realistically” and in context, courts can address widespread discrimination that is infeasible to litigate as a series of individual cases, and encouraging the widespread compliance Congress sought to achieve through the ADA.

### **CONCLUSION**

For the reasons set forth above and in Plaintiffs-Appellees’ Answering Brief, Amici respectfully request that this Court affirm the decision and order of the district court.

Respectfully submitted,

DISABILITY RIGHTS EDUCATION AND DEFENSE FUND

By: s/ Michelle Uzeta  
Michelle Uzeta  
*Attorney for Amici Curiae*

Dated: May 27, 2026

**CERTIFICATE OF SERVICE**

I hereby certify that on May 27, 2026, I electronically filed the foregoing Brief of *Amici Curiae* Disability Rights Education and Defense Fund, Impact Fund, and Fourteen Other Disability and Civil Rights Organizations in Support of Appellees with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system.

I certify that all the participants in the case are registered CM/ECF users, and that service will be accomplished by the appellate CM/ECF system.

Respectfully Submitted,

DISABILITY RIGHTS EDUCATION AND DEFENSE FUND

By: s/ Michelle Uzeta

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Michelle Uzeta

*Attorney for Amici Curiae*

Dated: May 27, 2026

**ADDENDUM:  
STATEMENTS OF INTEREST OF *AMICI CURIAE***

**Disability Rights Education and Defense Fund:** The Disability Rights Education and Defense Fund (“DREDF”) based in Berkeley, California, is a national law and policy center dedicated to protecting and advancing the civil rights of people with disabilities. Founded in 1979, DREDF pursues its mission through education, advocacy, and law reform efforts, and is nationally recognized for its expertise in the interpretation of federal disability civil rights laws.

**Impact Fund:** The Impact Fund is a nonprofit legal foundation that provides strategic leadership and support for impact litigation to achieve economic, environmental, racial, and social justice. The Impact Fund provides funding, offers innovative training and support, and serves as counsel for impact litigation across the country. The Impact Fund has served as party or amicus counsel in a number of major civil rights cases brought under federal, state, and local laws, including cases challenging employment discrimination; unequal treatment of people of color, people with disabilities, and LGBTQ people; and limitations on access to justice. Through its work, the Impact Fund seeks to use and support impact litigation to achieve social justice for all communities.

**American Association for People with Disabilities:** The American Association of People with Disabilities (“AAPD”) works to increase the political

and economic power of people with disabilities, and to advance their rights. A national cross-disability organization, AAPD advocates for full recognition of the rights of over 60 million Americans with disabilities.

**Autistic People of Color Fund** is a nonprofit organization led by and for autistic BIPOC individuals committed to disability justice, economic justice, and racial justice. Operating at the intersection of community organizing, mutual aid, and systemic advocacy, the organization brings a distinctive perspective rooted in the lived experience of autistic and disabled BIPOC communities. The organization's work and constituency give it a direct stake in the resolution of the issues presented in this case.

**Autistic Self Advocacy Network.** The Autistic Self-Advocacy Network (“ASAN”) is a national, private, nonprofit organization, run by and for autistic individuals. ASAN provides public education and promotes public policies that benefit autistic individuals and others with developmental or other disabilities. ASAN’s advocacy activities include combating stigma, discrimination, and violence against autistic people and others with disabilities; promoting access to health care and long-term supports in integrated community settings; and educating the public about the access needs of autistic people. ASAN takes a strong interest in cases that affect the rights of autistic individuals and others with disabilities to

participate fully in community life and enjoy the same rights as others without disabilities.

**Autistic Women & Nonbinary Network (“AWN”)** provides community support, and resources for Autistic women, girls, transfeminine and transmasculine nonbinary people, trans people of all genders, Two Spirit people, and all people of marginalized genders or of no gender. AWN is committed to recognizing and celebrating diversity and the many intersectional experiences in our community. AWN’s work includes solidarity aid, community events, publications, fiscal support, and advocacy to empower disabled and autistic people in their fight for disability, gender, and racial justice.

**Disability Law United:** Disability Law United (“DLU”) is a national nonprofit organization. DLU’s mission is to defend human and civil rights secured by law, including laws prohibiting discrimination on the basis of disability. Consistent with DLU’s mission, it is critical that people with disabilities have access to all programs, services, and benefits of public entities. DLU believes the arguments in this brief are essential to realize the full promise of the ADA.

**The Coelho Center for Disability Law, Policy and Innovation:** The Coelho Center for Disability Law, Policy and Innovation collaborates with the disability community to cultivate leadership and advocate innovative approaches to advance the lives of people with disabilities. We envision a world in which people

with disabilities belong and are valued, and their rights are upheld. The Coelho Center was founded in 2018 by former Congressman Anthony “Tony” Coelho, original sponsor of the Americans with Disabilities Act.

**Communication First:** Communication First is a national, disability-led nonprofit organization based in Washington, DC, dedicated to protecting the human, civil, and communication rights and advancing the interests of the estimated 5 million people in the United States, including California, who cannot rely on speech to be heard and understood due to disability. Communication First’s mission is to reduce barriers, expand equitable access and opportunity, and eliminate discrimination against our historically marginalized population in all aspects of community and society.

**Deaf Equality:** Deaf Equality is a non-profit legal services organization committed to achieving true equality for Deaf, DeafBlind, DeafDisabled, Hard of Hearing, and Late Deafened (collectively, “Deaf and Hard of Hearing”) individuals across the United States and worldwide. As an organization led by and for Deaf and Hard of Hearing individuals, Deaf Equality offers unique expertise and firsthand knowledge of the lived experience of these communities. Despite the apparent advances made under federal laws protecting the rights of people with disabilities, such as Section 504 and the ADA, members of our communities continue to face pervasive discrimination and barriers in many aspects of daily life.

Through a comprehensive approach that includes advocacy, litigation, policy development, consulting, and education, Deaf Equality strives to challenge and dismantle oppressive attitudes and systemic discrimination. Such efforts are intended to ensure that all Deaf and Hard of Hearing individuals have full, equitable access to every aspect of society

**Disability Rights Advocates:** Disability Rights Advocates (“DRA”) is a non-profit public interest center that specializes in high-impact civil rights litigation and other advocacy on behalf of persons with disabilities throughout the United States. DRA has long championed the rights of people with disabilities to use sidewalks as essential to independence and integration, including in *Barden v. City of Sacramento*, 292 F.3d 1073 (9th Cir. 2002) and *American Council of the Blind of New York v. City of New York*, 495 F. Supp. 3d 211 (S.D.N.Y. 2020).

**Disability Rights Bar Association:** The Disability Rights Bar Association (“DRBA”) was started by a group of disability rights counsel, law professors, legal nonprofits and advocacy groups who share a commitment to effective legal representation of individuals with disabilities. Members of DRBA commonly believe that the fundamental civil rights of people with disabilities are inadequately represented in our society and that litigation and other legal advocacy strategies play a highly effective and necessary role in enforcing and advancing the rights of people with disabilities. DRBA strongly supports this case because it believes the

regulations promulgated by the Department of Justice under the Americans with Disabilities Act should be given deference to realize Congress's intent that individuals with disabilities be permitted full access to the public rights of way through the removal of artificial barriers as clearly mandated by those DOJ regulations.

**Disability Rights California:** Disability Rights California is the state and federally designated protection and advocacy system for California, with a mission to advance the legal rights of people with disabilities pursuant to Welf. & Inst. Code § 4900 et seq. Disability Rights California was established in 1978 and is the largest disability rights advocacy group in the nation. It has represented people with disabilities in litigation and individual advocacy regarding their rights to equal access to the public right of way and other public places. In the past fiscal year alone, Disability Rights California assisted more than 23,000 disabled individuals throughout California.

**National Council on Independent Living.** The National Council on Independent Living ("NCIL") is the longest-running national cross-disability, grassroots organization run by and for people with disabilities. NCIL works to advance independent living and the rights of people with disabilities. NCIL's members include individuals with disabilities, Centers for Independent Living,

Statewide Independent Living Councils, and other disability rights advocacy organizations.

**National Disability Rights Network:** The National Disability Rights Network (“NDRN”) is the non-profit membership organization for the federally mandated Protection and Advocacy (P&A) and Client Assistance Program (CAP) agencies for individuals with disabilities. The P&A and CAP agencies were established by the United States Congress to protect the rights of people with disabilities and their families through legal support, advocacy, referral, and education. There are P&As and CAPs in all 50 states, the District of Columbia, Puerto Rico, and the U.S. Territories (American Samoa, Guam, Northern Mariana Islands, and the US Virgin Islands), and there is a P&A and CAP affiliated with the Native American Consortium which includes the Hopi, Navajo and San Juan Southern Paiute Nations in the Four Corners region of the Southwest. Collectively, the P&A and CAP agencies are the largest provider of legally based advocacy services to people with disabilities in the United States.

**Paralyzed Veterans of America.** Paralyzed Veterans of America (“PVA”) is a national, congressionally-chartered veterans service organization headquartered in Washington, DC. PVA’s mission is to employ its expertise, developed since its founding in 1946, on behalf of armed forces veterans who have experienced spinal cord injury or a disorder (SCI/D). PVA seeks to improve the

quality of life for veterans and all people with SCI/D through its medical services, benefits, legal, advocacy, sports and recreation, architecture, and other programs. PVA advocates for quality health care, for research and education addressing SCI/D, for benefits based on its members' military service and for civil rights, accessibility, and opportunities that maximize independence for its members and all veterans and non-veterans with disabilities. PVA has over 15,000 members, all of whom are military veterans living with significant disabilities. To ensure the ability of our members to participate in their communities, PVA strongly supports the opportunities created by and the protections available through the Americans with Disabilities Act.