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17 UNITED STATES DISTRICT COURT

18 FOR THE CENTRAL DISTRICT OF CALIFORNIA

19 UNITED STATES OF AMERICA,

20 Plaintiff,

21 v.

22 LOS ANGELES COUNTY,  
CALIFORNIA,

23 Defendant.  
24  
25  
26  
27  
28

No. 2:23-cv-05165-FLA(MRWx)

**NOTICE OF MOTION AND MOTION  
FOR PARTIAL SUMMARY  
JUDGMENT; MEMORANDUM OF  
POINTS AND AUTHORITIES;  
[PROPOSED] JUDGMENT**

[Evidentiary Appendix and Request for  
Judicial Notice concurrently filed herewith]

Hearing Date: June 7, 2024  
Hearing Time: 1:30 p.m.  
Courtroom: First Street Courthouse  
Courtroom 6B

Honorable Fernando L. Aenlle-Rocha  
United States District Judge

**NOTICE OF MOTION AND MOTION FOR PARTIAL SUMMARY JUDGMENT**

PLEASE TAKE NOTICE that on June 7, 2024 at 1:30 p.m., or as soon thereafter as it may be heard, Plaintiff United States will, and hereby does, move this Court for entry of partial summary judgment pursuant to Federal Rule of Civil Procedure 56. This motion is made before the Honorable Fernando L. Aenlle-Rocha, United States District Judge, Courtroom 6B, First Street Federal Courthouse, 350 West 1st Street, Los Angeles, California 90012.

Plaintiff brings the motion because there are no genuine triable issues of material fact as to Defendant's liability under the Americans with Disabilities Act for its failure to: (i) provide an in-person voting program accessible to persons with mobility and vision disabilities; and (ii) select vote centers that comply with ADA Standards and provide voters with disabilities an equal opportunity to vote in person and in the most integrated setting. Nearly all vote centers Defendant selects and operates have physical barriers for voters who use wheelchairs, canes, or walkers, or have vision disabilities. Therefore, Plaintiff is entitled to partial summary judgment as a matter of law.

This motion is made upon this Notice, the attached Memorandum of Points and Authorities, [Proposed] Partial Judgment, Evidentiary Appendix, Request for Judicial Notice, and all pleadings, records, and other documents filed in this action, and upon such oral argument as may be presented at the hearing of this motion.

This motion is made following the April 2, 2024, conference of counsel pursuant to Local Rule 7-3. In addition, on April 9, 2024, counsel for the parties conferred and agreed that the United States will move for summary judgment and that the County will oppose the motion as to the issue in accordance with the Court's requirement's regarding motions under Rule 56.

1 Dated: April 17, 2024

Respectfully submitted,

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**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION**

The right to vote is the cornerstone of our democracy. Generations of Americans have fought and struggled to protect and expand this sacred right. This is for good reason: The ability to vote is essential to allow citizens to exercise freedom of choice, signal policy preferences, and participate in civic life. As such, access to the ballot box is a necessary element, the *sine qua non*, of our democratic system of government.

Voters with disabilities are entitled to an equal opportunity to vote in person, privately and independently, alongside their neighbors and friends. Yet, in Los Angeles County, voters with disabilities are routinely obstructed from voting in person due to physical barriers at County vote centers. These barriers can make it difficult, if not impossible, for voters with mobility or vision disabilities to navigate to vote center entrances and into voting areas.

Plaintiff United States seeks to stop Los Angeles County from violating Title II of the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12131-12134, by selecting and operating vote centers that are inaccessible to voters with disabilities. The stakes are significant—Los Angeles County is the nation’s largest local election jurisdiction and more than one million of the County’s eligible voters have a mobility or vision disability. The County has conceded, however, that probably close to 98 percent of the March 2024 Election vote centers had elements that fail to meet the 1991 or 2010 ADA Standards for Accessible Design (ADA Standards) and have barriers to access.<sup>1</sup> See 28 C.F.R. §§ 35.150(b)(1), 35.151. The County’s own surveys of fifty

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<sup>1</sup> The ADA Standards “set minimum requirements—both scoping and technical—for newly designed and constructed or altered State and local government facilities, public accommodations, and commercial facilities to be readily accessible to and usable by individuals with disabilities.” 2010 ADA Standards, Introduction (U.S. Dep’t of Justice, Sept. 15, 2010), <https://www.ada.gov/law-and-regs/design-standards/2010-stds/>. See also 1991 ADA Standards, Purpose (U.S. Dep’t of Justice, 1991), <https://www.ada.gov/law-and-regs/design-standards/1991-design-standards/>. The ADA Standards are part of Title II’s implementing regulation and relevant for determining whether a public entity is meeting Title II obligations in selecting sites for and providing access to its programs. See 28 C.F.R. §§ 35.104, 35,130(b)(4), 35.149-35.151.



1 March 2024 Election vote centers show that *almost all these vote centers* (forty-eight of  
2 fifty) did not comply with ADA Standards. These barriers make it more difficult for a  
3 voter with a disability to exit their vehicle and safely transfer to their wheelchair upon  
4 arriving at a vote center, and more likely to trip, fall, or otherwise injure themselves  
5 when walking to the vote center once inside.<sup>2</sup> Indeed, the County conceded that even if a  
6 vote center has no accessible parking, no accessible route to the entrance, no accessible  
7 entrance, and no accessible route to the voting area, it refuses to reject it as a potential  
8 vote center during its site selection process. Additionally, the County conceded that it  
9 fails to use many temporary remedial measures that could make vote centers accessible  
10 during voting.

11 Because the facts related to vote center inaccessibility are undisputed, Plaintiff  
12 United States now moves for partial summary judgment on liability. As in a similar case  
13 involving accessibility of New York City's polling places, *United Spinal Ass'n v. Bd. of*  
14 *Elections in the City of New York*, 882 F. Supp. 2d 615 (S.D.N.Y. 2012), *aff'd sub nom.*  
15 *Disabled in Action v. Bd. of Elections in City of New York*, 752 F.3d 189 (2d Cir. 2014),  
16 a liability ruling will allow the parties, and the Court, to shift focus to developing an  
17 effective remedy. In *United Spinal*, following a liability ruling for plaintiffs, the judge  
18 required the parties to propose a remedy for polling place inaccessibility for an  
19 upcoming Presidential Election and future elections. *Id.* at 627-28. Similarly here, a  
20 ruling on liability would be based on undisputed facts and expedite development and  
21 implementation of a remedy for the 2024 Presidential Election and future elections. To  
22 be clear, the United States does not expect the County will be able to eliminate all  
23

---

24 <sup>2</sup> The barriers at these inaccessible vote centers include lack of van accessible  
25 parking with enough space to allow voters who use a wheelchair to safely exit their  
26 vehicle using a lift; lack of a level surface that may prevent voters with disabilities from  
27 safely transferring from their vehicles to their wheelchairs; wide gaps on walkways to  
28 entrances that make it more likely voters with disabilities will fall or trip; abrupt level  
changes on walkways or at entrance doors that can impede wheelchair access or cause  
injury; excessive running and cross slopes that make it more likely voters with  
disabilities will fall; and hallways with protruding objects that a voter who is blind could  
hit with their head or body.

1 barriers at its vote centers by this fall, but it must start reforming its site selection process  
2 to address accessibility concerns.

3 For these reasons, Plaintiff United States requests a liability ruling declaring Los  
4 Angeles County's program for selecting and operating vote centers renders its in-person  
5 voting program inaccessible to voters with disabilities and violates the ADA.

## 6 **II. STATEMENT OF UNCONTROVERTED FACTS**

### 7 **A. The County Has Sole Control Over Selecting Vote Centers, Including** 8 **Those That Can Accommodate Voters with Disabilities.**

9 The County is the "largest local voting jurisdiction in the nation with more than  
10 5.7 million registered voters." Statement of Uncontroverted Fact (SUF) No. 1. "The  
11 Registrar-Recorder/County Clerk is responsible for administering local, state, and federal  
12 elections in the County's jurisdiction and ensuring all voters have the knowledge, access,  
13 and opportunity to participate in [the] democratic process." SUF No. 2.

14 The County designates facilities as vote centers for in-person voting. SUF No. 3.  
15 The County explained its obligation to ensure facilities are accessible to voters is the  
16 same regardless of whether it owns the facility.<sup>3</sup> SUF No. 4. "[T]he ADA Standards  
17 provide the minimum requirements that are necessary for a site to be deemed accessible  
18 and useable as a vote center." SUF No. 5.

19 Voters may cast their ballot at any vote center on Election Day. SUF No. 6. At  
20 least 90% of vote centers must be open for three days before Election Day, and others for  
21 ten days before Election Day. SUF No. 7. In the 2020 Presidential Election, more than  
22 913,000 people voted at the County's vote centers. SUF No. 8. In the 2022 General  
23 Election, more than 487,000 people voted at the County's vote centers. SUF No. 9. The  
24 County does not publish which vote centers are accessible to voters with disabilities.  
25 SUF No. 10.

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26  
27 <sup>3</sup> The County has an obligation under Title II to ensure facilities constructed by,  
28 on behalf of, or for the use of a public entity after January 26, 1992, are "designed and  
constructed in such manner that the facility or part of the facility is readily accessible to  
and usable by individuals with disabilities." 28 C.F.R. § 35.151.

1 The County offers voting in person and curbside voting at vote centers. SUF No.  
2 11. It also offers Vote by Mail, including ballot drop boxes, and Mobile and Flex Vote  
3 Centers for voters unable to travel or use mail. SUF No. 12.

4 Under the Help America Vote Act, the County received millions in federal funds,  
5 including approximately \$1.8 million recently for equipment, training, and  
6 improvements for vote center accessibility. *See* 52 U.S.C. § 20901(b)(1); SUF No. 13.  
7 The County sometimes employs temporary remedial measures, such as doorstops,  
8 signage, and cones to improve vote center accessibility. SUF No. 14. The County does  
9 not employ other temporary remedial measures, such as portable doorbells to improve  
10 access to entrance doors or curbside voting; portable ramps to address steps, level  
11 changes, curbs without curb cuts, gaps, or steep slopes; metal plates to cover gaps, or  
12 cracks; wedge ramps to address level changes or high door thresholds; or temporary gap  
13 filler for gaps, including between sidewalk slabs. SUF No. 15.

14 **B. The Pervasiveness of Vote Center Accessibility Barriers is Undisputed.**

15 It is undisputed that the County selects and operates vote centers that violate the  
16 ADA Standards. The County is solely responsible for selecting and operating vote  
17 centers. SUF No. 16. The County admitted that probably close to 98 percent of the  
18 March 2024 Election vote centers had elements that violate the ADA Standards and  
19 unmitigated accessibility barriers. SUF No. 17. Physical accessibility for voters with  
20 disabilities is one of fourteen factors<sup>4</sup> considered when choosing a vote center, SUF No.  
21 18, and the County still considers facilities with known, unmitigated accessibility  
22

---

23 <sup>4</sup> The fourteen factors are: (1) proximity to public transportation; (2) proximity to  
24 communities with historically low vote by mail usage; (3) proximity to population  
25 centers; (4) proximity to language minority communities; (5) proximity to voters with  
26 disabilities; (6) proximity to communities with low rates of household vehicle  
27 ownership; (7) proximity to low-income communities; (8) proximity to communities of  
28 eligible voters who are not registered to vote and may need access to same day voter  
registration; (9) proximity to geographically isolated populations; (10) accessibility to  
accessible and free parking; (11) distance and time needed to travel by car or public  
transportation to a location; (12) alternate methods of voting for voters with disabilities  
for whom vote by mail ballots are not accessible; (13) traffic patterns; and (14) need for  
mobile vote centers to supplement vote centers. County's Interrog. Resp. 7:9-21.

1 barriers. SUF No. 19.

2 According to the County, under its site selection process it surveys available  
3 facilities that may be designated as a vote center every five years. SUF No. 20. Of the  
4 644 County vote centers used in the March 2024 Election, the County's accessibility  
5 surveys for fifty vote centers show forty-eight violated the ADA Standards. SUF No. 21.  
6 These surveys are based on state accessibility standards and the ADA Standards,<sup>5</sup> and  
7 were performed by County employees before the election. SUF No. 22. The declaration  
8 of Glenn Dea, a licensed architect and Certified Accessibility Specialist,<sup>6</sup> states the  
9 surveys identified many physical barriers that rendered the vote centers inaccessible and  
10 potentially unsafe to voters with mobility or vision disabilities. SUF No. 23.

11 The County's surveys show many problems, including:

- 12 • 20 vote centers had inaccessible parking. SUF No. 24.
- 13 • 45 vote centers had inaccessible exterior routes. SUF No. 25.
- 14 • 7 vote centers had inaccessible entrances. SUF No. 26.
- 15 • 20 vote centers had inaccessible interior routes. SUF No. 27.
- 16 • 23 vote centers had inaccessible voting areas. SUF No. 28.

17 One vote center, Ahmanson Senior Center had inaccessible parking, inaccessible  
18 exterior routes, inaccessible entrances, inaccessible exterior routes, and an inaccessible

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19 <sup>5</sup> The County's surveys are based on California Code of Regulations and Secretary  
20 of State guidance. CAL. CODE REGS. tit. 24 (2024); California Secretary of State, *Polling  
21 Place Accessibility Guidelines*, [https://www.sos.ca.gov/elections/publications-and-  
resources/polling-place-accessibility-guidelines](https://www.sos.ca.gov/elections/publications-and-resources/polling-place-accessibility-guidelines) (last visited April 4, 2024). The  
22 California Code of Regulations has more stringent requirements than the 2010 ADA  
23 Standards. Consequently, the County's survey questions vary slightly from the  
24 Department of Justice (DOJ) checklist questions. However, noncompliance with the  
25 ADA Standards as reflected in the DOJ checklist is also noncompliance with California  
26 requirements. Dea Decl. ¶ 14. For this motion, the United States did not assess elements  
27 for which noncompliance with the California requirements would not constitute a  
28 violation of the 2010 ADA Standards.

<sup>6</sup> The California State Architect certifies a Certified Access Specialist (CASP) as  
being "knowledgeable of state and federal accessibility laws and regulations and  
possess[ing] the expertise to promote access to facilities for persons with disabilities."  
CAL. CODE REGS. tit. 21, § 111 (2024). A CASp is qualified to review and investigate  
facilities "for compliance with state and federal accessibility laws, standards, codes, and  
regulations," and to conduct research, prepare reports, conduct inspections, and issue  
disability access inspection certificates. *Id.* § 113.

1 voting area. SUF No. 83.

2 County surveyors also identified 24 vote centers with a curb ramp running slope  
3 that exceeded the ADA Standards' maximum slope of 1:12 or 8.33%, including a  
4 38.65% slope on the curb ramp leading from parking to the entrance at Mid Valley  
5 Senior Center. SUF No. 29. Slopes exceeding 8.33% increase the risk of falling,  
6 tripping, and other injury. SUF No. 30. Despite this noncompliance, documented by  
7 County surveys, these locations were used in the March 2024 Election. SUF No. 31.

8 **C. Vote Center Accessibility Barriers Deny Voters with Disabilities an**  
9 **Equal Opportunity to Vote.**

10 More than 7.6 million voting-age adults reside in Los Angeles County. SUF No.  
11 32. Of these voting-age residents, 13.6%, or more than one million individuals, have a  
12 disability. SUF No. 33. More than 560,000 voting-age adults in the County have  
13 mobility disabilities, of which more than 60% are sixty-five or older. SUF No. 34.  
14 Approximately 224,000 voting-age adults in the County have vision disabilities, of  
15 which 40% are sixty-five or older. SUF No. 35.

16 Jaime Young, Assistant Division Manager of the Elections Operations and  
17 Logistics Bureau of the Registrar-Recorder/County Clerk's Office, SUF No. 36, testified  
18 to the dangers voters with disabilities face at facilities that violate the ADA Standards.  
19 For example, Ms. Young testified that objects that protrude into the path of travel and do  
20 not meet the ADA Standards may cause a person with a vision disability to hit their head  
21 or body. SUF No. 37. In addition, she testified that the ADA Standards governing slopes  
22 and cross slopes along accessible routes are important so people using mobility devices  
23 can travel safely without falling, tipping backwards, or tripping. SUF No. 38. She  
24 acknowledged a route that violates more than one of these requirements can compound  
25 the risk of injury. SUF No. 39.

26 Ms. Young testified to the importance of ensuring ramps have handrails for people  
27 using wheelchairs to safely use the ramp. SUF No. 40. The ADA Standards'  
28 requirements for edge protection on ramps prevent people using wheelchairs from falling

1 or tipping over the ramp edge. SUF No. 41. Similarly, door threshold requirements help  
2 people with mobility disabilities safely cross thresholds without tripping or falling. SUF  
3 No. 42.

4 Dina Garcia, a registered voter since 1992 who has a physical disability and uses a  
5 wheelchair, explained how such obstacles impacted her during a recent election. SUF  
6 Nos. 43-44. In August 2019, Ms. Garcia visited a polling place in Chatsworth with her  
7 father. SUF No. 45. Ms. Garcia wanted to vote curbside, but the County did not provide  
8 a method for her to tell staff inside the facility that she wanted to vote outside, so she  
9 could not vote independently. SUF Nos. 46-47. Instead, her father took her identification  
10 inside to check in and retrieve a ballot. He returned with a ballot and completed it for her  
11 because she was not provided a clipboard or hard writing surface to complete it  
12 independently. He returned her ballot inside. SUF Nos. 48-49. At no time did election  
13 staff assist Ms. Garcia with voting. SUF No. 50. Ms. Garcia stated:

14 I was very frustrated and disappointed about the voting process  
15 during that election because I felt the poll workers treated me  
16 differently and disrespectfully like a second-class citizen due to  
17 my disability. I felt that my freedom to vote privately and  
independently had been taken away from me in that election. I  
simply wanted to vote like everyone else.

18 SUF Nos. 51-52.

19 Carrie Madden has muscular dystrophy, uses a motorized wheelchair, and requires  
20 assistance from a personal care attendant (PCA). SUF Nos. 53-54. During the March  
21 2024 Election, Ms. Madden went with her PCA to vote at Elk's Lodge #2190 in Canoga  
22 Park. SUF No. 55. Once there, she and her PCA followed signage to the designated  
23 accessible entrance at the back of the building. SUF No. 56. Ms. Madden asked her PCA  
24 to open the closed door. He tried but it appeared to be locked. They knocked and rang  
25 the doorbell several times, but no one came. SUF No. 57-58. Ms. Madden thought they  
26 were at the wrong door and went further along the back of the building. When she saw  
27 there was no other entrance, they went back and rang the doorbell again with no answer.  
28 SUF No. 59. Ms. Madden asked her PCA to return to the main entrance to find an



election worker to help. When he came back, he reported not seeing anyone to help. Ms. Madden asked him to go back to the main entrance and inside the building. SUF No. 60-61. He returned with someone who tried to open the door, failed, and left. When the election worker came back, he tried again. SUF No. 62-63. A woman pushed the door from inside. SUF No. 63. After it opened, she suggested leaving it open. SUF No. 64. Ms. Madden and her PCA followed her inside through some dark rooms and into the voting area, where Ms. Madden voted. SUF No. 65. Ms. Madden and her PCA left the voting area and with no signage, had to guess how to exit the building. They went through dark rooms with no signage and had to guess which way to go. At one point, they went the wrong way. SUF No. 66. When they left, the door was closed again and no election workers were in sight. SUF No. 67.

Ms. Madden “felt saddened by the experience because the County could have done a better job.” SUF No. 68. She did “not understand why no one checked the door by the accessibility entrance” because “[w]heelchair users would have to use that door and would not be able to go up the steps to the main entrance to find help.” SUF No. 69. If Ms. Madden had not been accompanied by her PCA, she would not have been able to vote. SUF No. 70.

### **III. ARGUMENT**

#### **A. The ADA Applies to the County’s In-Person Voting Program.**

Title II of the ADA prohibits discrimination by public entities, including the County. It provides that “no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.”<sup>7</sup> 42 U.S.C. § 12132; 28 C.F.R. § 35.130(a); *see also id.* § 35.130(b)(1). The

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<sup>7</sup> A “qualified individual with a disability” is an “individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.” 42 U.S.C. § 12131(2). A “public entity” is defined as “any State or local government” or  
(footnote cont’d on next page)

1 ADA regulation, 28 C.F.R. Part 35, implements this nondiscrimination mandate. *See* 42  
2 U.S.C. § 12134.

3 Voting, like all programs, services, or activities of state and local governments, is  
4 covered by the ADA, *id.* §§ 12131-12134. *See id.* § 12101(a)(3) (“The Congress finds  
5 that . . . discrimination against individuals with disabilities persists in such critical areas  
6 as . . . voting[.]”); *see also Tennessee v. Lane*, 541 U.S. 509, 525 (2004) (finding “a  
7 pattern of unequal treatment in the administration of a wide range of public services,  
8 programs, and activities, including . . . voting”); *Am. Ass’n of People with Disabilities v.*  
9 *Shelley*, 324 F. Supp. 2d 1120, 1125 (C.D. Cal. 2004) (“The ADA applies to all  
10 programs, services, and activities of state and local governments, including elections.”).  
11 Other courts have held a public entity’s failure to make polling places accessible to  
12 people with disabilities violates the ADA. *See United Spinal*, 882 F. Supp. 2d at 624,  
13 627-28 (granting summary judgment on plaintiffs’ claim of “pervasive and recurring  
14 barriers to accessibility on election dates at poll sites designated by [defendant]” and  
15 failure to provide accommodations); *People of New York ex rel. Spitzer v. Cnty. of*  
16 *Delaware*, 82 F. Supp. 2d 12, 17-18 (N.D.N.Y. 2000) (stating access to polling places  
17 qualifies as a program under the ADA and “[f]ailure to make polling places accessible  
18 violates these provisions” (citation omitted)); *Meadows v. Hudson Cnty. Bd. of*  
19 *Elections*, Civ. No. 04-3979 (WHW), 2006 WL 2482956, at \*5 (D.N.J. Aug. 24, 2006)  
20 (“Nor is there any dispute . . . access to polling places constitutes a service, program, or  
21 activity.”).

22 Under the ADA, the United States must show that the County’s services,  
23 programs, or activities exclude, deny benefits to, or otherwise discriminate against  
24 qualified individuals with disabilities, because of disability. *See Weinreich v. L.A. Cnty.*  
25 *Metro. Transp. Auth.*, 114 F.3d 976, 978 (9th Cir. 1997) (stating the *prima facie*

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27  
28 “department, agency, special purpose district, or other instrumentality of a State or States  
or local government.” *Id.* § 12131(1)(A)-(B).



1 elements of ADA claims).<sup>8</sup> In the voting context, a “qualified individual with a  
2 disability” is a registered voter with a disability. *See, e.g., Meadows*, 2006 WL 2482956,  
3 at \*5. The responsible public entity is the unit of local government in charge of  
4 supervising the election, including designation and maintenance of polling sites. *See,*  
5 *e.g., People of New York ex rel. Spitzer v. Cnty. of Schoharie*, 82 F. Supp. 2d 19, 22  
6 (N.D.N.Y. 2000).

7 The County’s registered voters with disabilities are qualified persons with  
8 disabilities. *See Am. Ass’n of People with Disabilities*, 324 F. Supp. 2d at 1124 (holding  
9 “registered voters in the State of California who have either visual or manual  
10 impairments which substantially limit one or more major life activities” are “‘qualified  
11 individuals with disabilities’ within the meaning of the [ADA]”); *Meadows*, 2006 WL  
12 2482956, at \*5. The County admits it is the responsible unit of local government in  
13 charge of supervising elections, including the designation and maintenance of vote  
14 centers. SUF No. 71.

15 Appellate courts have made clear that opportunities given voters with disabilities  
16 to vote by a particular method—such as in-person voting—must be equal to those for  
17 voters without disabilities. For example, in *National Federation of the Blind v. Lamone*,  
18 plaintiffs challenged Maryland’s use of paper ballots for absentee voting, arguing that  
19 voters with vision disabilities were denied equal opportunity when voting absentee. 752  
20 F.3d 494, 504 (4th Cir. 2016). The Fourth Circuit rejected defendants’ arguments that the  
21 court must consider Maryland’s voting program as a whole, including other ways in  
22 which voters with disabilities could vote, and instead evaluated plaintiffs’ claims in the  
23 context of the absentee voting program. *Id. Accord Disabled in Action*, 752 F.3d at 199  
24 (“[T]o assume the benefit is . . . merely the opportunity to vote at some time and in some  
25 way [ ] would render meaningless the mandate that public entities may not afford  
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27 <sup>8</sup> The United States Attorney General is charged with enforcing Title II and has  
28 enforcement powers to do so. *United States v. Florida*, 938 F.3d 1221, 1250 (11th Cir.  
2019), *cert. denied*, 143 S. Ct. 89 (2022).

1 persons with disabilities services that are not equal to that afforded others.”) (internal  
2 citations, alteration, and quotations omitted)).

3 **B. The County Violates the ADA by Failing to Provide an Accessible**  
4 **Program for Voting In Person.**

5 The County’s systemwide failure to prevent and remedy barriers to access vote  
6 centers harms and potentially disenfranchises more than one million voters with  
7 disabilities. Through the site-selection process and use of temporary remedial measures,  
8 the County can provide an equal opportunity for voters with disabilities to vote in  
9 person. *See* 28 C.F.R. §§ 35.130(b)(4), 35.150(b)(1); SUF No. 72.

10 The ADA applies to the County’s voting programs and requires it to ensure that its  
11 voting program, specifically in-person voting, is accessible to persons with disabilities.  
12 *See supra* Part III.A. For the in-person voting program, the County must select vote  
13 centers where persons with disabilities can vote privately and independently, alongside  
14 fellow voters. 28 C.F.R. §§ 35.130(b)(4), 35.149-35.150. *See, e.g., Cal. Council of the*  
15 *Blind v. Cnty. of Alameda*, 985 F. Supp. 2d 1229, 1238 (N.D. Cal. 2013) (“[U]nder the  
16 terms of the ADA . . . the covered entity must provide meaningful access to private and  
17 independent voting.”). The County must also ensure that it chooses vote centers where  
18 voters with disabilities have access to in-person voting. The County fails to live up to  
19 either standard.

20 1. The County’s site selection process violates the ADA.

21 The ADA’s implementing regulation prohibits a public entity from selecting sites  
22 and facilities in which to provide programs, services, or activities “[t]hat have the effect  
23 of excluding individuals with disabilities from, denying them the benefits of, or  
24 otherwise subjecting them to discrimination,” or “[t]hat have the purpose or effect of  
25 defeating or substantially impairing the accomplishment of the objectives of the service,  
26 program, or activity with respect to individuals with disabilities.” 28 C.F.R.  
27 § 35.130(b)(4). The County’s vote centers are not facilities used only for elections;  
28 instead they are typically used for other activities and selected as vote centers by the

1 County before Election Day. The County must comply with the ADA when selecting  
2 vote centers. *See id.* pt. 35, app. B § 35.130 (explaining the prohibition applies to the  
3 “process of . . . selecting existing facilities to be used by the public entity”).<sup>9</sup>

4 The County discriminates based on disability by selecting vote centers with  
5 accessibility barriers and failing to take steps to ensure it does not exclude or deny voters  
6 with disabilities from in-person voting at those facilities. *Nat’l Org. on Disability v.*  
7 *Tartaglione*, No. CIV. A. 01-1923, 2001 WL 1231717, at \*7 (E.D. Pa. Oct. 11, 2001)  
8 (holding plaintiffs’ allegation that defendants “regularly reassign polling places to new  
9 locations but do not require that those new sites be accessible to voters with mobility  
10 impairments . . . can have the effect of depriving mobility impaired voters of the benefit  
11 of voting in their neighborhood polling places in the same manner as non-disabled  
12 voters, in violation of 28 C.F.R. § 35.130(b)(4)”).

13 Although the County selects vote centers based on multiple factors, including  
14 accessibility, its selection process does not meet ADA requirements. The County  
15 admitted its site selection process does not exclude facilities with accessibility barriers  
16 from consideration as vote centers, SUF No. 73, even if using the facilities would subject  
17 individuals with disabilities to discrimination. To determine the accessibility of potential  
18 vote centers, the County conducted surveys that rely on California regulations and  
19 guidance, which are more stringent than the ADA Standards. The ADA Standards “set  
20 minimum requirements . . . for newly designed and constructed or altered State and local  
21 government facilities, public accommodations, and commercial facilities to be readily  
22 accessible to and usable by individuals with disabilities.” 2010 ADA Standards,  
23 Introduction; *see also* 1991 ADA Standards, Purpose.

24 The ADA Standards are part of the Title II regulation and relevant for determining  
25 whether a public entity selects sites and provides access to programs in compliance with  
26

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27 <sup>9</sup> The County designates private facilities as vote centers, including churches and  
28 businesses; some may be exempt from federal design and construction requirements  
under Title III of the ADA, *See* 28 C.F.R. § 36.102(e). This does not obviate the  
County’s obligation to select sites consistent with its ADA obligations.

1 Title II and its implementing regulation. 28 C.F.R. §§ 35.104, 35.130(b)(4), 35.149-  
2 35.151. The ADA Standards are used as a guide for determining the existence of  
3 barriers. See ADA Americans with Disabilities Act Title III Regulations, § 36.308  
4 Seating in assembly areas (U.S. Dep’t of Justice, Mar. 8, 2012)  
5 <https://www.ada.gov/law-and-reg/regulations/title-iii-regulations/>. The 2010 ADA  
6 Standards provide detailed guidance for newly constructed and altered assembly areas.  
7 and these Standards also serve as a new guide for barrier removal. *Id.* Complying with  
8 the ADA Standards is not only key to ensuring vote centers are readily accessible to and  
9 usable by people with disabilities, but also, as the County acknowledged, failure to meet  
10 these requirements poses dangers for voters with disabilities. SUF No. 74.

11 The County admitted that “probably close” to 98 percent of March 2024 Election  
12 vote centers had unmitigated accessibility barriers. SUF No. 75. County surveys from  
13 fifty March 2024 Election vote centers show that forty-eight do not comply with the  
14 ADA Standards and obstruct entry, are dangerous to voters with disabilities, or impede  
15 their travel throughout the vote center. SUF No. 76. The County surveys showed that  
16 many vote centers had multiple accessibility issues, including a lack of van-accessible  
17 parking; sidewalks and walkways with abrupt level changes, gaps, or excessive cross  
18 slopes; ramps and curb ramps with excessive running slopes; ramps without handrails;  
19 and entrances without level landings, were too narrow, or had high thresholds. SUF No.  
20 77.

21 Nor has the County successfully addressed the accessibility issues its surveyors  
22 identified. Although the County acknowledges that temporary remedies can remediate  
23 barriers, it does not use many of them. SUF No. 78. For example, temporary ramps can  
24 remediate abrupt level changes or steps, flat ramps or metal plates can cover wide gaps  
25 or grates, and temporary gap filler can fill large gaps between sidewalk pavers. But the  
26 County does not use these temporary measures, denying voters with disabilities the  
27 benefits of voting at accessible vote centers. SUF No. 15.

28 In *California ex rel. Lockyer v. County of Santa Cruz*, the district court disagreed

1 with the plaintiff's seeming contention that a "single violation of the [1991 ADA  
2 Standards] at a polling location constitutes a violation of the ADA." No. C-05-04708  
3 RMW, 2006 WL 3086706, at \*3 (N.D. Cal. Oct. 30, 2006). In contrast, the United States  
4 does not contend that the County violated the ADA solely because its vote centers do not  
5 comply with the ADA Standards. Instead, the United States contends that the  
6 inaccessibility of the County's vote centers, together with its policy of using vote centers  
7 with known accessibility violations and its failure to implement temporary remedial  
8 measures that could improve access or even make some vote centers accessible on  
9 Election Day, is more than sufficient to establish a violation of the ADA and its site  
10 selection regulation, 28 C.F.R. § 35.130(b)(4). *See also Cnty. of Schoharie*, 82 F.Supp.2d  
11 at 26 (granting preliminary injunction for plaintiffs and noting county was "empowered  
12 to select an alternate, suitable place" if a polling place was not in compliance with the  
13 1991 ADA Standards and presumably "both unsuitable and unsafe").

14 Some courts have held that a public entity can select sites that are inaccessible "so  
15 long as the inclusion of the inaccessible sites did not have the purpose or effect of  
16 denying individuals an opportunity to benefit from the *program*." *Anderson v. Pa. Dep't*  
17 *of Pub. Welfare*, 1 F. Supp. 2d 456, 465 (E.D. Pa. 1998). The County cannot make that  
18 argument here—its policy is to consider using sites where it has identified accessibility  
19 barriers. This policy may not only deny voters with disabilities the opportunity to vote  
20 but also frustrates the purpose of the County's voting program to provide "election  
21 services in a fair, accessible and transparent manner." SUF No. 79.

22 2. The County violates the ADA by failing to provide voters with  
23 disabilities access to its in-person voting program.

24 Under Title II of the ADA, "no qualified individual with a disability shall, because  
25 a public entity's facilities are inaccessible to or unusable by individuals with disabilities,  
26 be excluded from participation in, or be denied the benefits of the services, programs, or  
27  
28

1 activities of a public entity.” 28 C.F.R. § 35.149. For existing facilities,<sup>10</sup> a public entity  
2 must ensure that each “service, program, or activity, when viewed in its entirety, is  
3 readily accessible to and usable by individuals with disabilities.”<sup>11</sup> *Id.* § 35.150(a).

4 As DOJ explained when promulgating the Title II regulation, “the program access  
5 requirement of [the ADA] should enable individuals with disabilities to participate in  
6 and benefit from the services, programs, or activities of public entities in all but the most  
7 unusual cases.” *Nondiscrimination on the Basis of Disability in State and Local*  
8 *Government Services*, 56 Fed. Reg. 35,694, 35,708 (July 26, 1991) (to be codified at 28  
9 C.F.R. pt. 35). A public entity may comply through “redesign or acquisition of  
10 equipment, reassignment of services to accessible buildings, assignment of aides to  
11 beneficiaries, . . . alteration of existing facilities and construction of new facilities, . . . or  
12 any other methods that result in making its services, programs, or activities readily  
13 accessible to and usable by individuals with disabilities.” 28 C.F.R. § 35.150(b)(1). The  
14 public entity must prioritize a method of compliance with the program access  
15 requirements that offers programs to individuals with disabilities “in the most integrated  
16 setting appropriate.” *Id.*

17 The district court in *United Spinal* explained that an ADA violation does not  
18 necessarily follow when a polling site is “less than ideally accessible.” 882 F. Supp. 2d  
19 at 626. Rather, to demonstrate that individuals were deprived of an opportunity or benefit  
20 or discriminated against because of their disabilities, the relevant inquiry is whether  
21 defendants “failed to undertake some feasible measure to improve accessibility.” *Id.*  
22 (citations and emphasis omitted). The court, finding “pervasive and recurring barriers to  
23 accessibility” at poll sites, granted summary judgment for plaintiffs because the  
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25 <sup>10</sup> An “existing facility” is “a facility in existence on any given date, without  
26 regard to whether the facility may also be considered newly constructed or altered under  
[28 C.F.R. Part 35].” 28 C.F.R. § 35.104.

27 <sup>11</sup> A public entity’s obligation for facilities that are constructed or altered after  
28 January 26, 1992, is focused on the accessibility of each facility or part of the facility  
used, rather than the accessibility of each service, program, or activity. 28 C.F.R.  
§ 35.151.



1 designated poll sites (i) included unsafe or missing ramps, missing signage, and  
2 improper placement of equipment and furniture in voting areas; (ii) defendant admitted  
3 more than two poll sites had not met accessibility standards; and (iii) defendant did not  
4 undertake feasible measures to improve accessibility. *Id.* at 624, 627. *See also Cnty. of*  
5 *Schoharie*, 82 F. Supp. 2d at 25-26 (noting feasible measures the county could undertake  
6 to improve accessibility of polling places and comply with preliminary injunction).

7       The Ninth Circuit has explained that more than anecdotal evidence and analysis of  
8 a small portion of the sites at issue are needed to establish a systematic failure to comply  
9 with the ADA. In *Kirola v. City & Cnty. of San Francisco*, 860 F.3d 1164 (9th Cir.  
10 2017), the Ninth Circuit affirmed the district court’s finding that plaintiffs failed to  
11 establish San Francisco’s park program and public right-of-way, when viewed in their  
12 entirety, were inaccessible to persons with disabilities. *See id.* at 1184. The court found  
13 plaintiffs’ allegations were based on “anecdotal” evidence and expert analysis of only a  
14 “small fraction” of the city’s total right-of-way and park offerings. *Id.* at 1183-84  
15 (noting, for example, plaintiffs’ experts inspected only 10 of roughly 7,200 intersections  
16 and only 13 parks, 7 mini parks, and 16 playgrounds of approximately 220 recreational  
17 parks and 400 structures within the park program). Unlike *Kirola*, the undisputed  
18 evidence here shows widespread violations of the ADA’s program access requirements.  
19 As in *United Spinal*, where the court found that plaintiffs “provided copious  
20 documentation of barriers at poll sites” using third-party poll-site accessibility surveys,  
21 the accessibility barriers at the County’s vote centers are not anecdotal, but rather are  
22 documented by its own surveys and are a result of its own policies. *See United Spinal*,  
23 882 F. Supp. 2d at 624.

24       Here, the County’s own evidence shows it did not employ sufficient methods to  
25 comply with the ADA. First, the Registrar-Recorder’s policy is not to eliminate any site  
26 from consideration as a potential vote center, even if it has no accessible parking, no  
27 accessible route to the entrance, no accessible entrance, and no accessible route to the  
28 voting area. SUF No. 80. Second, the County does not direct voters with disabilities to

1 nearby accessible vote centers, nor could it. As the County admitted and as its surveys  
2 show, “probably 98 percent” of vote centers used in the March 2024 Election have  
3 accessibility barriers. SUF No. 75. Further, the County identified elements that violated  
4 the ADA Standards and failed to employ certain temporary remedial measures that may  
5 provide access to vote centers. SUF No. 81.

6 The County must ensure its vote centers are accessible regardless of whether it  
7 owns the facility. *See, e.g., United Spinal*, 882 F. Supp. 2d at 624 (“It is no excuse that  
8 the [defendant] does not own the locations used as poll sites on election days . . .”). The  
9 County is obligated “once it occupies a facility . . . [to] provide access to all of the  
10 programs conducted in that space.” RJN Ex. O (ADA Title II Technical Assistance  
11 Manual, § II-6.4000). But when a facility or part of a facility is “constructed by, on  
12 behalf of, or for the use of a public entity,” the public entity has another ADA obligation  
13 to ensure that the facility is “readily accessible to and usable by individuals with  
14 disabilities, if the construction was commenced after January 26, 1992.” 28 C.F.R.  
15 §§ 35.151; see also *id.* §§ 35.149-35.150. Pico Rivera Library is a facility designed and  
16 constructed after January 26, 1992, by, on behalf of, or for the use of the County. It has  
17 elements that do not comply with the ADA Standards. SUF No. 82. Under the ADA’s  
18 program accessibility provisions, the County must comply with the ADA Standards so  
19 the Pico Rivera Library is “readily accessible to and usable by individuals with  
20 disabilities.” *See* 28 C.F.R. § 35.151(a)(1). And when it does not, as here, it is a violation  
21 of the ADA.

22 Los Angeles County’s vote centers are not accessible to people with disabilities  
23 and the County has failed to comply with the ADA to ensure that its in-person voting  
24 program is readily accessible to and usable by people with disabilities. Moreover, the  
25 County must prioritize a method of compliance with the program access requirements  
26 that offers programs to individuals with disabilities “in the most integrated setting  
27 appropriate.” 28 C.F.R. § 35.150(b)(1). The County’s designation and use of inaccessible  
28 vote centers denies individuals with disabilities the opportunity to vote in the most



1 integrated setting, with the same ease and convenience as non-disabled voters. *See*  
2 *Kerrigan v. Philadelphia Bd. of Election*, No. 07-687, 2008 WL 3562521, \*17-19 (E.D.  
3 Penn. Aug. 14, 2008) (holding failure to ensure voters with mobility disabilities can vote  
4 at their neighborhood polling places violates the program access and integration  
5 mandates and denying summary judgment for defendants based on evidence they  
6 violated the site selection regulation); *see also* 28 C.F.R. § 35.130(d).

7 The County cannot dispute that it fails to provide an accessible program for voters  
8 with mobility and vision disabilities to vote in person. As the County fully controls site  
9 selection and use of temporary remedial measures, it bears complete responsibility for  
10 the pervasive accessibility barriers at its vote centers.

#### 11 **IV. CONCLUSION**

12 The right to vote is fundamental to our democracy. Therefore, it is vital that the  
13 Court ensure that individuals with disabilities in Los Angeles County have an equal  
14 opportunity to vote in person, privately and independently. As the United States has  
15 shown, despite the ADA's clear mandate, the County's in-person voting program is  
16 inaccessible to individuals with disabilities.

17 For the foregoing reasons, the United States requests the Court grant its motion for  
18 partial summary judgment. A determination of liability will allow the parties to work  
19 together to improve vote center accessibility for the 2024 Presidential Election and later  
20 elections.

1 Dated: April 17, 2024

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**CERTIFICATE OF COMPLIANCE WITH L.R. 11-6.2**

The undersigned, counsel of record for Plaintiff United States of America, certifies that the memorandum of points and authorities contains 6,507 words, which complies with the word limit set by the Court's Initial Standing Order, ECF No. 10 at 5.

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