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Attorneys for Plaintiffs, LUKE DAVIS, JULIAN VARGAS, and the Proposed Class

**UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

LUKE DAVIS and JULIAN VARGAS,  
individually and on behalf of all others  
similarly situated,

Plaintiffs,

v.

LABORATORY CORPORATION OF  
AMERICA HOLDINGS; and DOES 1-  
10, inclusive,

Defendants.

CASE NO.:

**CLASS ACTION COMPLAINT**

1. Violation of Title III of the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101 *et seq.*)
2. Violation of California’s Unruh Civil Rights Act (Cal. Civil Code § 51 *et seq.*)
3. Violation of California’s Disabled Persons Act (Cal. Civil Code § 54, *et seq.*)

TRIAL DATE: None set

Plaintiffs Luke Davis and Julian Vargas (hereinafter “Plaintiffs”), individually and on behalf of all others similarly situated, by their attorneys, allege the following upon information and belief, except for those allegations pertaining to Plaintiffs, which are based on their personal knowledge:

**NATURE OF THE ACTION**

1. Plaintiffs Luke Davis and Julian Vargas are visually impaired individuals who rely upon auxiliary aids and services such as screen reading software, accessible electronic and information technologies, and other effective methods of making visually delivered materials available to persons who are blind

1 or have low vision. Defendant Laboratory Corporation of America Holdings, and  
2 Does 1 through 10, (collectively “Defendant”) discriminated against Plaintiffs by  
3 refusing and failing to provide auxiliary aids and services to Plaintiffs, and by  
4 requiring Plaintiffs to rely upon other means of communication that are inadequate  
5 to provide equal opportunity to participate in and benefit from Defendant’s health  
6 care services free from discrimination. Plaintiffs bring this action individually and  
7 on behalf of all others similarly situated to compel Defendant to cease unlawful  
8 discriminatory practices and implement policies and procedures that will ensure  
9 Plaintiffs effective communication, full and equal enjoyment, and a meaningful  
10 opportunity to participate in and benefit from Defendant’s services. Plaintiffs seek  
11 declaratory, injunctive, and equitable relief and attorneys’ fees and costs to redress  
12 Defendant’s unlawful discrimination on the basis of disability in violation of Title  
13 III of the Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.* (the “ADA”),  
14 and its implementing regulations. Additionally, Plaintiff Vargas brings this action  
15 individually and on behalf of all other similarly situated California residents and  
16 seeks declaratory, injunctive, and equitable relief and attorneys’ fees and costs to  
17 redress Defendant’s unlawful discrimination on the basis of disability in violation of  
18 California’s Unruh Civil Rights Act, California Civil Code § 51 *et seq.* (“Unruh  
19 Act”), and for statutory damages, in accordance with California Civil Code § 52(a).

20       2. Plaintiffs have visited Defendant’s facilities and were denied full and  
21 equal access as a result of Defendant’s inaccessible touchscreen kiosks for self-  
22 service check-in Defendant requires all patients use to sign in and/or register for  
23 their appointments.

24       3. Defendant’s touchscreen kiosks for self-service check-in do not contain  
25 the necessary technology that would enable a person with a visual impairment to a)  
26 enter any personal information necessary to process a transaction in a manner that  
27 ensures the same degree of personal privacy afforded to those without visual  
28 impairments; or b) use the device independently and without the assistance of others

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1 in the same manner afforded to those without visual impairments. Plaintiffs were  
2 informed by staff of Defendant that the kiosks are not accessible to the blind.

3 4. By failing to make its touchscreen kiosks accessible to visually  
4 impaired persons, Defendant, a public accommodation subject to Title III of the  
5 ADA and the Unruh Act, deprives blind and visually-impaired individuals of the full  
6 benefits of Defendant’s health care services—all benefits it affords nondisabled  
7 individuals—thereby increasing the sense of isolation and stigma among these  
8 Americans that Title III of the ADA and the Unruh Act were meant to redress.

9 5. Defendant has demonstrated through its interactions with Plaintiffs that  
10 it has adopted a policy and/or pattern and practice of refusing to provide accessible  
11 touchscreen kiosks for its visually impaired patients, and that this decision, on  
12 information and belief, is based purely on financial considerations. Defendant  
13 launched the touchscreen kiosks as part of Defendant’s Launchpad initiative. The  
14 initiative “is focused on eliminating manual processes, digitizing the business, using  
15 technology to improve quality, operations and service, and enhancing the consumer  
16 experience, which are designed to unlock new avenues for growth and contribute to  
17 improvement in long-term margins. This initiative is expected to generate pre-tax  
18 net savings of approximately \$200 million over the three-year period ending in  
19 2021, with pre-tax, one-time charges expected to be approximately \$40 million.”<sup>1</sup>

20 6. Defendant has further demonstrated through its interactions with  
21 Plaintiffs that Defendant’s employees are not properly trained regarding the civil  
22 rights, communication needs, or how to interact with visually impaired individuals.

23 7. Defendant’s discrimination sends a message that it is acceptable for  
24 medical providers to adopt policies, procedures and practices that deprive blind and  
25 visually impaired individuals of the opportunity to be full partners in their receipt of  
26

27  
28 <sup>1</sup> See, <https://ir.labcorp.com/news-releases/news-release-details/labcorp-announces-2018-fourth-quarter-and-full-year-results-and> (last accessed January 22, 2020).

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1 health care services.

2 8. The ADA and the Unruh Act expressly contemplate injunctive relief  
3 aimed at modification of a policy or practice that Plaintiffs seek in this action. In  
4 relevant part, the ADA states:

5 Where appropriate, injunctive relief shall also include requiring  
6 the provision of an auxiliary aid or service, modification of a  
7 policy, or provision of alternative methods...

8 42 U.S.C. § 12188(a)(2); Cal. Civ. Code, § 52(c)(1).

9 9. Consistent with 42 U.S.C. § 12188(a)(2) and the Unruh Act, Plaintiffs  
10 seek a permanent injunction requiring that:

- 11 a. Defendant take all steps necessary to bring its touchscreen kiosks into  
12 full compliance with the requirements set forth in the ADA, and its  
13 implementing regulations, so that its touchscreen kiosks are fully  
14 accessible to, and independently usable by, individuals with visual  
15 disabilities, through the implementation of necessary technology that  
16 would enable persons with a visual impairment to enter any personal  
17 information necessary to process a transaction in a manner that ensures  
18 the same degree of personal privacy afforded to those without visual  
19 impairments and use the device independently and without the  
20 assistance of others in the same manner afforded to those without visual  
21 impairments;
- 22 b. Defendant modify its existing policies, practices and procedures so that  
23 the touchscreen kiosk accessibility barriers at Defendant’s facilities do  
24 not reoccur; and
- 25 c. Plaintiffs’ representatives shall monitor Defendant’s facilities to ensure  
26 that the injunctive relief ordered pursuant to Paragraph 9.a. and 9.b. has  
27 been implemented and will remain in place.
- 28 10. Plaintiffs’ claims for permanent injunctive relief are asserted as a



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1 C.F.R. §§ 36.101 *et seq.*, and the Unruh Act, Cal. Civ. Code, § 51 *et seq.*

2 15. Defendant Laboratory Corporation of America Holdings is, and at all  
3 times relevant hereto was, a Delaware Corporation, with its headquarters in  
4 Burlington, North Carolina. Defendant owns and operates laboratories, patient  
5 service centers, offices and other facilities throughout the United States. Defendant  
6 is “a leading global life sciences company that is deeply integrated in guiding  
7 patient care through its comprehensive clinical laboratory and end-to-end drug  
8 development services.” See, “About Us” at [www.labcorp.com/about-us](http://www.labcorp.com/about-us) (last  
9 accessed January 22, 2020).

10 16. The LabCorp location which Plaintiff Julian Vargas visited is located at  
11 is 15211 Vanowen Street, Unit 319, Van Nuys, California 91405.

12 17. The LabCorp location which Plaintiff Luke Davis visited is located at  
13 9331 Old Bustleton Avenue, Philadelphia, Pennsylvania 19115.

14 18. Defendant’s facilities are places of public accommodation as defined in  
15 42 U.S.C. §12181(7)(G) and Defendant is, on information and belief, a recipient of  
16 federal financial assistance. Thus, it is subject to the requirements of the ADA, the  
17 Rehabilitation Act, the Affordable Care Act, and the Unruh Act.

18 19. The true names and capacities, whether individual, corporate, associate,  
19 or otherwise of the Defendants named herein as Does 1 through 10, are unknown to  
20 Plaintiffs at this time. Plaintiffs will amend this Complaint to allege their true names  
21 and capacities when known. Plaintiffs are informed and believe and thereon allege  
22 that each of the fictitiously-named Defendants is responsible in some manner for the  
23 occurrences alleged in this Complaint.

24 20. Plaintiffs allege that Defendant, including Doe Defendants, and each of  
25 them at all times mentioned in this Complaint were the alter egos, agents and/or  
26 employees and/or employers of their Co-Defendants and in doing the things alleged  
27 in this Complaint were acting within the course of such agency and/or employment  
28 and with the permission and consent of their Co-Defendants.

**FACTUAL BACKGROUND**

**Plaintiffs Have Been Denied Full and Equal Access to Defendants’ Facilities**

21. Plaintiff Davis has visited LabCorp patient service centers on multiple occasions. Mr. Davis has faced the following access barriers when trying to make appointments and/or check-in at LabCorp:

- a. October 11, 2016: Mr. Davis attempted to make an appointment via the LabCorp website using the Safari web browser on iOS. Many parts of the LabCorp website were completely inaccessible and required sighted assistance.
- b. December 23, 2017: Mr. Davis had the same experience trying to make an appointment that he had in October 2016. When he arrived at the appointment, the kiosk was completely inaccessible. Fortunately, Mr. Davis was accompanied by a family member who used the kiosk at the location to sign him in. The kiosk check-in process required several pieces of private personal information. Because the kiosk was inaccessible, Mr. Davis had to speak this private medical information out loud to his family member in a small public waiting room, within earshot of other customers.
- c. March 28, 2018: Mr. Davis had a walk-in visit where he again faced the same issue with the inaccessible kiosk. Again, he fortunately had a family member with him to check him in using the kiosk.
- d. October 5, 2018: Mr. Davis requested a family member make an appointment for him using Safari on iOS, because of Mr. Davis’ difficulty accessing the website. When he arrived for his appointment, the LabCorp staff at the location stated they could not help him check in – Mr. Davis had to use the kiosk. Mr. Davis did not have a family member with him. Another patient’s aid worker – who Mr. Davis did not know – but who simply happened to be in the waiting room,

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1 checked Mr. Davis in using the kiosk. As a result, Mr. Davis had to  
2 orally state private information, including his home address and/or  
3 phone number, out loud in a public waiting room to a stranger who had  
4 kindly offered to help him check in.

- 5 e. Approximately October 4, 2019: Mr. Davis used the LabCorp iOS app  
6 to make an appointment. He found the process of choosing a location to  
7 be only partially functional (the option to use location services to  
8 choose a location close to him either would not work accessibly, or  
9 would not work at all), and the entire process was cumbersome and  
10 inaccessible. For instance, Mr. Davis found that navigation through the  
11 screens was made more difficult by inconsistencies between drag  
12 navigation and swipe navigation, with different elements, and element  
13 positions, being reported by each method, and neither giving a full  
14 understanding of some screens. Mr. Davis further found that the  
15 “Toggle navigation” menu button at the app’s top left, which was  
16 intended to expose various functions, could not be reliably activated  
17 with Voiceover. Mr. Davis further found various screen elements that  
18 were labeled strangely, or that had no effect, or not the effect expected.  
19 Examples include the “background” link, the “layer 1” link, and other  
20 elements. There are selectable tabs on the screen, with no apparent way  
21 to know which is selected. After Mr. Davis made an appointment, he  
22 had to answer questions such as “Will you be fasting?”, which include  
23 “yes” and “no” buttons. These buttons had no accessible indication of  
24 which button is selected by default or selected when the user activates  
25 one. Under “Financial details”, there is no accessible indication of  
26 which coverage option is selected. The options are listed as headings,  
27 which are not generally selectable options in an HTML or app context.  
28 After trying for several hours to make an appointment using the app,

1 Mr. Davis gave up. The following day he tried again and was  
2 successfully able to make an appointment with sighted help. Because of  
3 the known inaccessibility of the kiosk, Mr. Davis used the mobile  
4 check-in option.

5 f. October 29, 2019: Mr. Davis attempted to use the website in Windows  
6 to make an appointment. He was only able to get through part of the  
7 process before an accessibility problem prevented completion. He  
8 attempted to file a website feedback form explaining the problem,  
9 which the website invited him to do. However, there were required  
10 options on the feedback form which were inaccessible to his screen  
11 reader, which therefore prevented him from submitting the feedback  
12 form. Mr. Davis ended up using the iOS app again. It was a frustrating  
13 experience, as before. Because of the known inaccessibility of the  
14 kiosk, Mr. Davis used the mobile check-in option.

15 g. November 22, 2019: Mr. Davis made an appointment using the iOS  
16 app, which was smoother now that he had learned how to work around  
17 some of the difficult accessibility areas and knew to just keep trying  
18 until it worked. He signed in by mobile check-in due to the  
19 inaccessibility of the kiosk.

20 22. Plaintiff Vargas visited a LabCorp facility on Friday, January 10, 2020.  
21 When he arrived, he attempted to sign in using the kiosk so that he would not lose  
22 his spot in line. He was unable to check-in at the kiosk. He then asked for, and  
23 waited for, a staff member to check in. The staff member finally arrived and  
24 expressly told him that the kiosk was not accessible to blind individuals. Mr. Vargas  
25 visited the LabCorp patient service center located at 15211 Vanowen Street, Unit  
26 319, Van Nuys, CA 91405.

27 23. As a result of Defendant's failure to ensure effective communications  
28 with Plaintiffs, and denial of auxiliary aid and services, they received services that

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1 were objectively substandard, inaccessible, and inferior to those provided to sighted  
2 patients, and were subjected to discriminatory treatment because of their disability.

3 24. Despite this difficulty, frustration, and unequal treatment, Plaintiffs will  
4 seek Defendant’s health care services in the future, whether by choice or necessity,  
5 due to the proximity of Defendant’s facilities to their homes, and their insurance  
6 coverage, and anticipate being required to do so in order to have additional testing  
7 completed, but are deterred from doing so due to the discrimination they have faced  
8 and expect to face in the future. Furthermore, Plaintiffs intend to return to  
9 Defendant’s facilities to ascertain whether those facilities remain in violation of  
10 accessibility standards.

11 **Defendant Repeatedly Denies Individuals With Disabilities Full and**  
12 **Equal Access to Defendants’ Facilities.**

13 25. As the owner and manager of its patient service centers, website, and  
14 mobile applications, Defendant employs centralized policies, practices, and  
15 procedures with regard to its company-wide policy of electronic check-in at its  
16 patient service centers.

17 26. Though Defendant may have centralized policies regarding the  
18 maintenance and operation of its touchscreen kiosks, websites, and mobile  
19 applications, Defendant has never had a plan or policy that is reasonably calculated  
20 to make its touchscreen kiosks and check-in options fully accessible to, and  
21 independently usable by, individuals with vision related disabilities.

22 27. As a result of Defendant’s non-compliance with the ADA and Unruh  
23 Act, Plaintiffs have been denied the benefit of full and equal enjoyment of  
24 Defendant’s goods, services, facilities, privileges, advantages, or accommodations,  
25 have been denied participation in and have been treated unequally by the Defendant,  
26 and Defendant has failed to provide effective and accessible auxiliary aids or  
27 services that protect Plaintiffs’ privacy and independence.

28 28. If Defendant’s touchscreen kiosks and web-based check-in options

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1 were accessible, i.e. if Defendant removed and remediated the access barriers  
2 described above, Plaintiffs could independently and privately utilize Defendant’s  
3 products and services.

4 29. Unfortunately, Defendant denies approximately 8.1 million<sup>2</sup> Americans  
5 who have difficulty seeing access to its goods, products, and services because the  
6 touchscreen kiosks and web-based check-in options are not readily accessible and  
7 usable by persons with visual impairments.

8 **JURISDICTION AND VENUE**

9 30. This Court has federal question jurisdiction pursuant to 28 U.S.C. §  
10 1331 and 42 U.S.C. § 12188. This Court has supplemental jurisdiction over state  
11 law claims pursuant to 28 U.S.C. § 1367.

12 31. Plaintiff’s claims asserted herein arose in this judicial district, and  
13 Defendant does substantial business in this judicial district. Specifically, Defendant  
14 is registered to do business in California and has hundreds of locations throughout  
15 the state, including in this judicial district.

16 32. Venue in this judicial district is proper under 28 U.S.C. § 1391(b)(2).  
17 Defendant is subject to personal jurisdiction in this District because Defendant does  
18 substantial business in this District, and a substantial part of the events or omissions  
19 giving rise to these claims occurred in this District. Defendant engaged in the  
20 extensive promotion, marketing, distribution, and sales of the services at issue in  
21 this District.

22 **CLASS ALLEGATIONS**

23 33. Plaintiffs bring this matter on behalf of themselves and those similarly  
24 situated.

25 \_\_\_\_\_  
26 <sup>2</sup> Press Release, United States Census Bureau, *Nearly 1 in 5 People Have a Disability in the*  
27 *U.S., Census Bureau Reports Report Released to Coincide with 22<sup>nd</sup> Anniversary of the ADA* (Jul.  
28 25, 2012), *available at* <https://www.census.gov/newsroom/releases/archives/miscellaneous/cb12-134.html> (last accessed April 25, 2019) (“About 8.1 million people had difficulty seeing, including 2.0 million who were blind or unable to see.”).

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1           34. The Class is defined as all persons with visual disabilities, who were  
2 denied full and equal enjoyment of the goods, services, facilities, privileges,  
3 advantages, or accommodations of any of Defendant’s patient service centers in the  
4 United States on the basis of disability due to Defendant’s failure to comply with the  
5 ADA’s auxiliary aids and services requirements during the Class Period (the  
6 “Nationwide Injunctive Class”). Plaintiffs reserve the right to amend or modify the  
7 Class definition in connection with a motion for Class certification and/or the result  
8 of discovery.

9           35. Plaintiff Vargas also seeks certification of the following California sub-  
10 class: “all legally blind individuals who visited a LabCorp patient service center in  
11 California and were denied full and equal enjoyment of the goods, services,  
12 facilities, privileges, advantages, or accommodations due to LabCorp’s use of  
13 touchscreen check-in kiosks.” Plaintiff Vargas reserves the right to amend or modify  
14 the sub-Class definition in connection with a motion for Class certification and/or  
15 the result of discovery.

16           36. The California sub-class seeks class wide damages pursuant to  
17 California Civil Code § 52(a) in the amount of \$4,000 per violation and, pursuant to  
18 California Civil Code § 54.3 in the amount of \$1,000 per violation, based on  
19 Defendant’s wrongful policy and practice of failing to provide full and equal access  
20 to visually impaired Californians as alleged herein. This action does not seek class  
21 recovery for actual damages, personal injuries or emotional distress that may have  
22 been caused by Defendant’s conduct alleged herein.

23           37. This action should be certified as a class action under Federal Rule of  
24 Civil Procedure 23(a) and (b)(2) for the Nationwide Injunctive Class. It satisfies the  
25 class action prerequisites of numerosity, commonality, typicality, and adequacy  
26 because:

- 27           A. Numerosity: Class Members are so numerous that joinder of all  
28           members is impracticable. Plaintiffs believe that there are tens of

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1 thousands of visually impaired individuals who are Class Members  
2 who have been harmed and suffered discrimination due to Defendant’s  
3 failure to comply with the ADA’s auxiliary aids and services  
4 requirements.

5 B. Commonality: There is a well-defined community of interest and  
6 common questions of fact and law affecting members of the class in  
7 that they all have been and/or are denied their civil rights to full and  
8 equal access to, and use and enjoyment of Defendant’s facilities and/or  
9 services due to Defendant’s failure to make its facilities fully accessible  
10 and independently usable as described above.

11 C. Typicality: Plaintiffs’ claims are typical of the claims of the members  
12 of the proposed Nationwide Injunctive Class. The claims of Plaintiffs  
13 and members of the class are based on the same legal theories and arise  
14 from the same unlawful conduct.

15 D. Adequacy: The Plaintiffs are all adequate Class representatives. None  
16 of their interests conflict with the interests of the Class Members they  
17 seek to represent; Plaintiffs will fairly, adequately, and vigorously  
18 represent and protect the interests of the members of the class, all of  
19 whom are similarly situated individuals with visual impairments, and  
20 they have a strong interest in vindicating their own and others civil  
21 rights; and, they have retained counsel competent and experienced in  
22 complex class action litigation, generally, and who possess specific  
23 expertise in the context of class litigation under the ADA and Unruh  
24 Act.

25 38. Class certification of the Nationwide Injunctive Class is appropriate  
26 under Fed. R. Civ. P. 23(b)(2) because Defendant has acted on or refused to act on  
27 grounds generally applicable to the Class, making appropriate declaratory,  
28 injunctive, and equitable relief with respect to Plaintiffs and the Class as a whole.

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1           39. This action should be further certified as a class action under Federal  
2 Rule of Civil Procedure 23(a) and (b)(3) for the California Unruh Damages Sub-  
3 Class. Plaintiff Vargas asserts the subclass, limited to class members who are, or  
4 during the relevant time were, residents of California, satisfies the class action  
5 prerequisites of numerosity, commonality, typicality, and adequacy for the same  
6 reasons set forth in preceding paragraph. In addition:

7           A. Predominance: Pursuant to Rule 23(b)(3), the common issues of law  
8 and fact identified above predominate over any other questions  
9 affecting only individual members of the California Unruh Damages  
10 Sub-Class. The Class issues fully predominate over any individual  
11 issue because no inquiry into individual conduct is necessary; all that is  
12 required is a narrow focus on Defendant’s encounters with visually  
13 impaired California residents in its facilities.

14           B. Superiority: A class action is superior to the other available methods for  
15 the fair and efficient adjudication of this controversy because:

- 16           i. The joinder of thousands of individual Class Members is  
17 impracticable, cumbersome, unduly burdensome, and a waste of  
18 judicial and/or litigation resources;
- 19           ii. The individual claims of the Class Members are relatively  
20 modest compared with the expense of litigating the claims,  
21 thereby making it impracticable, unduly burdensome, and  
22 expensive—if not totally impossible—to justify individual  
23 actions;
- 24           iii. When Defendant’s liability has been adjudicated, all Class  
25 Members’ claims can be determined by the Court and  
26 administered efficiently in a manner far less burdensome and  
27 expensive than if it were attempted through filing, discovery, and  
28 trial of all individual cases;

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- 1           iv.    This class action will promote orderly, efficient, expeditious,
- 2                    and appropriate adjudication and administration of Class claims;
- 3           v.    Plaintiffs know of no difficulties to be encountered in the
- 4                    management of this action that would preclude its maintenance
- 5                    as a class action;
- 6           vi.   A class action will assure uniformity of decisions among Class
- 7                    Members;
- 8           v.    The Class is readily identifiable from Defendant’s own records
- 9                    and prosecution of this action as a class action will eliminate the
- 10                  possibility of repetitious litigation; and,
- 11           vi.   Class Members’ interests in individually controlling the
- 12                    prosecution of separate actions is outweighed by their interest in
- 13                    efficient resolution by single class action.

14           40.   Accordingly, this case should be maintained as a class action under  
 15 Rule 23(b)(3) because questions of law or fact common to Class Members  
 16 predominate over any questions affecting only individual members, and because a  
 17 class action is superior to other available methods for fairly and efficiently  
 18 adjudicating this controversy.

19                                   **FIRST CAUSE OF ACTION**  
 20                                   **VIOLATION OF THE ADA, TITLE III**  
 21                                   **[42 U.S.C. §§ 12101 *et seq.*]**  
 22                                   **(Against all Defendants)**

23           41.   Plaintiffs restate each and every allegation set forth in the foregoing  
 24 paragraphs of this Complaint with the same force and effect as if more fully set forth  
 25 herein.

26           42.   At all times relevant to this action, Title III of the Americans with  
 27 Disabilities Act (ADA), 42 U.S.C. §§ 12181, *et seq.* was in full force and effect and  
 28 applied to Defendant’s conduct.

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1           43. At all times relevant to this action, the United States Department of  
2 Justice regulations implementing Title III of the ADA, 28 C.F.R. Part 36, were in  
3 full force and effect and applied to the Defendant’s conduct.

4           44. At all times relevant to this action, Plaintiffs have been substantially  
5 limited in the major life activities of seeing. Accordingly, they are considered  
6 individuals with a disability as defined under the ADA, 42 U.S.C. § 12102(2).

7           45. Defendant owns, leases, and/or operates patient service centers that are  
8 places of public accommodation as defined under Title III of the ADA, 42 U.S.C. §  
9 12181(7)(F). Defendant further operates web-based check-in processes for its  
10 patient service centers, which websites and mobile applications are also considered  
11 places of public accommodation as defined under Title III of the ADA, 42 U.S.C.  
12 §12181(7).

13           46. Title III of the ADA prohibits discrimination on the basis of disability  
14 “in the full and equal enjoyment of the goods, services, facilities, privileges,  
15 advantages, or accommodations of any place of public accommodations.” 42 U.S.C.  
16 § 12182(a).

17           47. Pursuant to Title III of the ADA and its implementing regulations, a  
18 public accommodation cannot deny participation or offer unequal or separate  
19 benefits to individuals with disabilities. 42 U.S.C. § 12182(b)(1)(A); 28 C.F.R. §§  
20 36.202.

21           48. Pursuant to Title III of the ADA and its implementing regulations it  
22 “shall be discriminatory to exclude or otherwise deny equal goods, services,  
23 facilities, privileges, advantages, accommodations, or other opportunities to an  
24 individual or entity because of the known disability of an individual with whom the  
25 individual or entity is known to have a relationship or association.” 42 U.S.C. §  
26 12182(b)(1)(E)

27           49. Pursuant to Title III of the ADA and its implementing regulations, a  
28 public accommodation shall furnish appropriate auxiliary aids and services to ensure

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1 effective communication with individual with disabilities. 42 U.S.C. §  
2 12182(b)(2)(A)(iii); 28 C.F.R. § 36.303(b)(1).

3 50. Pursuant to Title III of the ADA and its implementing regulations, a  
4 public accommodation, in choosing the type of auxiliary aid or service to ensure  
5 effective communication, must consider the “method of communication used by the  
6 individual; the nature, length, and complexity of the communication involved; and  
7 the context in which the communication is taking place.” 28 C.F.R. §  
8 36.303(c)(1)(ii).

9 51. Pursuant to Title III of the ADA and its implementing regulations, in  
10 order to be effective, the type of auxiliary aid or service provided by the public  
11 accommodations “must be provided in accessible formats, in a timely manner, and  
12 in such a way as to protect the privacy and independence of the individual with a  
13 disability.” 28 C.F.R. § 36.303(c)(1)(ii). To this end, the Ninth Circuit has  
14 explained, “assistive technology is not frozen in time: as technology advances, [ ]  
15 accommodations should advance as well.” *Enyart v. Nat'l Conference of Bar*  
16 *Examiners, Inc.*, 630 F.3d 1153, 1163 (9th Cir. 2011).

17 52. Auxiliary aids and services include, but are not limited to, audio  
18 recordings, screen reader software, magnification software, optical readers,  
19 secondary auditory programs, large print materials, accessible electronic and  
20 information technology, other effective methods of making visually delivered  
21 materials available to individuals who are blind or have low vision, and other similar  
22 services and actions. 28 C.F.R. §§ 36.303(b)(2), (4).

23 53. Defendant discriminated against the individual Plaintiffs on the basis of  
24 their disability by denying access to full and equal enjoyment of the goods, services,  
25 facilities, privileges, advantages, and/or accommodations of its place of public  
26 accommodation, and equal opportunity to participate in and benefit from  
27 Defendant’s health care services, in violation of the ADA.  
28

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1           54. Defendant further discriminated against the individual Plaintiffs by  
2 failing to ensure effective communication through the specific provision of  
3 accessible and effective auxiliary aids and services.

4           55. Defendant has violated Title III by, without limitation, failing to take  
5 the steps necessary to make their touchscreen kiosks readily accessible and usable  
6 by persons with visual impairments and failing to make any of the web-based check  
7 in options accessible to patients with visual disabilities, thereby denying individuals  
8 with visual disabilities the benefits of the touchscreen kiosks and electronic check-  
9 in, providing them with benefits that are not equal to those it provides others, and  
10 denying them effective communication.

11           56. Defendant has further violated Title III by, without limitation, utilizing  
12 administrative methods, practices, and policies that allow its touchscreen kiosks and  
13 web-based check in processes to be made available without consideration of  
14 consumers who can only participate in and benefit from Defendant's health care  
15 services with screen reader programs.

16           57. Making their touchscreen kiosks and web-based check in processes  
17 readily accessible and usable by persons with visual impairments does not change  
18 the content of Defendant's electronic check-in procedure or result in making the  
19 electronic check-in procedure different, but rather enables individuals with visual  
20 disabilities to access touchscreen kiosks and web-based check-in processes that  
21 Defendant already provides.

22           58. As set out above, absent injunctive relief there is a clear risk that  
23 Defendant's actions will recur with Plaintiffs and/or additional visually impaired  
24 persons.

25           59. Plaintiffs are therefore entitled to injunctive relief, as well as an award  
26 of attorneys' fees, costs, and disbursements pursuant to the ADA, 42 U.S.C. §  
27 12188(a)(1) and/or common law.  
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**SECOND CAUSE OF ACTION**  
**VIOLATION OF THE UNRUH CIVIL RIGHTS ACT**  
**[Cal. Civil Code § 51 *et seq.*]**  
**(Against all Defendants)**

60. Plaintiff Vargas restates each and every allegation set forth in the foregoing paragraphs of this Complaint with the same force and effect as if more fully set forth herein.

61. The Unruh Civil Rights Act, California Civil Code section 51 provides that:

All persons within the jurisdiction of this state are free and equal, and no matter what their sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever.

Cal. Civ. Code § 51(b).

62. Defendant is a business establishment within the meaning of the Unruh Act. Defendant is the owner and operator of business establishments.

63. Defendant violated the Unruh Act by their acts and omissions, as set forth herein. Specifically, LabCorp’s system for offering to the public touchscreen check-in kiosks at thousands of locations throughout California is a business establishment within the meaning of Civil Code § 51, *et seq.* LabCorp generates hundreds of millions of dollars in revenue from the appointments which patients check-in for through the use of e-Check-in touchscreen kiosks. The LabCorp’s kiosks are an accommodation, advantage, facility, privilege, and service provided by LabCorp, which are inaccessible to blind patrons. This inaccessibility denies blind patients full and equal access to the accommodations, advantages, facilities, privileges, and services that Defendant makes available to the non-disabled public, in violation of the Unruh Civil Rights Act, California Civil Code § 51, *et seq.* These

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1 violations are ongoing.

2 64. Defendant’s actions constitute intentional discrimination against the  
3 class on the basis of a disability in violation of California Civil Code §§51, et seq.  
4 Defendant is aware of the complete lack of access of the touchscreen check-in  
5 kiosks to blind persons yet has deliberately chosen to provide a benefit and service  
6 that is inaccessible to the blind.

7 65. Defendant is additionally violating California Civil Code § 51, in that  
8 the conduct alleged herein constitutes a violation of various provisions of the  
9 Americans with Disabilities Act, 42 U.S.C. §§ 12101, *et seq.*, as set forth above.  
10 California Civil Code § 51(f) provides that a violation of the right of any individual  
11 under the ADA shall also constitute a violation of the Unruh Civil Rights Act.

12 66. The actions of Defendant were and are in violation of the Unruh Civil  
13 Rights Act, California Civil Code §§ 51, *et seq.*, and therefore Plaintiff Vargas is  
14 entitled to injunctive relief remedying the discrimination. Unless the Court enjoins  
15 Defendant from continuing to engage in these unlawful practices, Plaintiffs and  
16 members of the class will continue to suffer irreparable harm.

17 67. Plaintiff Vargas and the California class are further entitled to statutory  
18 minimum damages pursuant to California Civil Code § 52 for every individual  
19 violation; i.e., each time a legally blind individual had to try to check-in using the  
20 inaccessible touchscreen kiosk.

21 **THIRD CAUSE OF ACTION**

22 **VIOLATION OF THE DISABLED PERSONS ACT**

23 **[Cal. Civil Code §§ 54-54.3.]**

24 **(Against all Defendants)**

25 68. Plaintiffs restate each and every allegation set forth in the foregoing  
26 paragraphs of this Complaint with the same force and effect as if more fully set forth  
27 herein.

28 69. California Civil Code §§ 54-54.3 guarantee full and equal access for

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1 people with disabilities to all accommodations, advantages, facilities, and privileges  
2 of “all places of public accommodation” and “other places to which the general  
3 public is invited.” LabCorp’s thousands of patient service center locations  
4 throughout California featuring the inaccessible e-Check-in touchscreen kiosks  
5 constitute “places of public accommodation” or “other places where the public is  
6 invited” within the meaning of California Civil Code §§ 54-54.3.

7 70. LabCorp’s patient services locations constitute accommodations,  
8 advantages, facilities, and privileges provided by Defendant to members of the  
9 public in California and are, therefore, subject to the access requirements of  
10 California Civil Code § 54.1 applicable to “all places of public accommodation” and  
11 “other places to which the general public is invited.”

12 71. Defendant is violating the right of visually disabled persons to full and  
13 equal access to public places by denying full and equal access to LabCorp’s e-  
14 Check-in touchscreen kiosks in violation of California Civil Code §§ 54-54.3.

15 72. Defendant is also violating California Civil Code §§ 54-54.3, in that its  
16 actions are a violation of the ADA. Any violation of the ADA is also a violation of  
17 California Civil Code § 54.1.

18 73. As a result of Defendant’s wrongful conduct, the individually-named  
19 Plaintiff Vargas and the California sub-class are entitled to statutory minimum  
20 damages under California Civil Code § 54.3 for each offense.

21 **PRAYER FOR RELIEF**

22 **WHEREFORE**, Plaintiffs, on behalf of themselves and the members of the  
23 Class, pray for:

- 24 a. A Declaratory Judgment that at the commencement of this action  
25 Defendant was in violation of the specific requirements of Title III of  
26 the ADA described above, and the relevant implementing regulations  
27 of the ADA, in that Defendant took no action that was reasonably  
28 calculated to ensure that its touchscreen kiosks were fully accessible to,

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- 1 and independently usable by, individuals with visual disabilities;
- 2 b. A permanent injunction pursuant to 42 U.S.C. § 12188(a)(2) and 28
- 3 CFR § 36.504(a) , and California Civil Code, § 51 *et seq.*, which directs
- 4 Defendant to take all steps necessary to bring its touchscreen kiosks
- 5 into full compliance with the requirements set forth in the ADA, and its
- 6 implementing regulations, so that its touchscreen kiosks are fully
- 7 accessible to, and independently usable by individuals with visual
- 8 disabilities, and which further directs that the Court shall retain
- 9 jurisdiction for a period to be determined to ensure that Defendant has
- 10 adopted and is following an institutional policy that will in fact cause it
- 11 to remain fully in compliance with the law—the specific injunctive
- 12 relief requested by Plaintiffs are described more fully in paragraph 9
- 13 above.
- 14 c. A permanent injunction enjoining Defendant from continuing its
- 15 discriminatory conduct;
- 16 d. An Order certifying the classes proposed by Plaintiffs, naming
- 17 Plaintiffs as class representatives, and appointing their counsel as class
- 18 counsel;
- 19 e. Payment of statutory damages, in accordance with California Civil
- 20 Code §§ 52(a) and 54.3 to the California sub-class;
- 21 f. Payment of costs of suit;
- 22 g. Payment of reasonable attorneys’ fees, pursuant to 42 U.S.C. § 12205,
- 23 28 CFR § 36.505, Cal. Civil Code §52, and Civ. Proc. Code § 1021.5,
- 24 including costs of monitoring Defendant’s compliance with the
- 25 judgment (*see Gniewkowski v. Lettuce Entertain You Enterprises, Inc.*,
- 26 Case No. 2:16-cv-01898-AJS (W.D. Pa. Jan. 11, 2018) (ECF 191)
- 27 (“Plaintiffs, as the prevailing party, may file a fee petition before the
- 28 Court surrenders jurisdiction. Pursuant to *Pennsylvania v. Delaware*

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*Valley Citizens’ Council for Clean Air*, 478 U.S. 546, 559 (1986),  
*supplemented*, 483 U.S. 711 (1987), the fee petition may include costs  
to monitor Defendant’s compliance with the permanent injunction.”);  
*see also Access Now, Inc. v. Lax World, LLC*, No. 1:17-cv-10976-DJC  
(D. Mass. Apr. 17, 2018) (ECF 11) (same);

- h. Award of prejudgment interest pursuant to California Civil Code §3291;
- i. An Order retaining jurisdiction over this case until Defendant has complied with the Court’s Orders; and,
- j. The provision of whatever other relief the Court deems just, equitable and appropriate.

Dated: January 28, 2020

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**DEMAND FOR JURY TRIAL**

Plaintiffs LUKE DAVIS and JULIAN VARGAS hereby demand a trial by jury of all claims so triable in the above-referenced matter.

Dated: January 28, 2020

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