


denies the Plaintiffs from accessing the courts.

Nondisbaleed prisoners at Sullivan are permitted to use a typewriter in the law library and also purchase a personally own typewriter for use any time.

The Plaintiffs are denied this same access and privilege to unconstrained use of a typewriter, by reason of their disability. There are Plaintiffs who are not able to manually author documents, or there are Plaintiffs who can only write for limited periods, or there are Plaintiffs who can only write with a computer with zoom text and jaws software, and there are Plaintiffs who can only use a computer with a talking keyboard.

Defendants DOCS, Fischer, Perlaman, Walsh, Malin, Chenel, Cohen, Buther, and Raymond as well as others, have denied

the Plaintiffs requests for laptop computers for the reason that DOCS rules do not permit inmates to possess laptops. This denies and/or hinders Plaintiffs' right to access the courts, communicate,  and denies equal protection.

The Plaintiffs are being denied adequate access to accommodating devices and aids because they have no access or limited access to the Sensorial Disabled Program's equipment. This deprivation mostly applies after 3:45 PM when the Sensorial Disabled Program ("SDP") (aka "Resource Room") is closed for the day. Thursday and Friday the SDP Resource Room is closed at 11:45 AM. The Resource Room is also closed on Saturday and Sunday. When the SDP is closed or not accessible, the Plaintiffs cannot do legal or educational studies, idle reading, write letters to lawyers, family or

friends, or read their personal and legal mail.

The Sensorial Didsabled Unit is located in Sullivan's D-North housing unit. All of the Plaintiffs are housed in D-North. There is Closed Circuit device in the Sensorial Disabled Unit ("SDU"), however, it is broken and inadequate for most of the Plaintiffs, especially Plaintiffs Ford, Lopez and Curran.

Not considering that the CC device in the SDU is broken, the closed circuit device is not portable and stands in the middle of the housing unit, and it is in front of the officers' station. It is difficult to use the SDU closed circuit device to read mail or digest legal information or perform other reading tasks because there are other prisoners recreating in the immediate area, talking on the phone two feet away, talking loud or

speaking to the Plaintiffs while they are using the closed circuit device.

The failure of the Defendants to provide the Plaintiffs with adequate accommodations forces the Plaintiffs to search out and allow other prisoners to read their personal, administrative and legal mail to them. This violates the Plaintiffs' privacy and threatens their safety and well being.

The Plaintiffs who choose not to let other prisoners read their mail have to wait one to five days to read and/or respond to their mail.

None of the Defendants or other correction officials assist Plaintiffs with reading mail and other documents although, upon information and belief, Sullivan staff are required to help the

Plaintiffs with reading mail and papers received and with filling out forms.

The Defendants are infringing on the plaintiffs' privacy as the positioning of the closed circuit device in the SDU allows correction officers to read what is displayed as well as other prisoners.

Due to the inadequate accommodating devices and aids or, the limited and conditional access thereto, the Plaintiffs cannot read, write, or do legal or educational studies or have great difficulty performing these basic tasks.

The Plaintiffs who have no choice but to read and write in their cells because the SDP Resource Room is closed, or because of segregation status, or because of court or administrative deadlines have to strain due to the lack of personalized equipment,

which causes eye pain, irritation, headaches, dizziness and vomiting.

The Defendants have denied the Plaintiffs accommodations prescribed or recommended by specialist. When eye specialist prescribed a course of treatment or a device, the Defendants do not provide the treatment or accommodation.

When reasonable accommodations are requested, it is Defendants Raymond, Buther, Walsh, Malin, Chenel, Gatewood, Cohen, and Sidorowicz, and other unqualified medical or nonmedical personnel who ultimately decide whether to grant or deny the requests. All final decisions that have to do with the Plaintiffs' requests for reasonable accommodations are made by Defendant Malin, who as it has been learned, bases her decisions on what Defendant Cohen states is needed or not needed.

When Defendants DOCS, Buther, Raymond, Sidorowicz, Malin, Cohen and Chenel do provide accommodating aids and devices, the Plaintiffs are not trained nor instructed in the use thereof.

The Plaintiffs who require large print to read and write and who can only use a computer, but do not know how to use a computer, have not been taught how to use the computers provided and thus have problems writings to their families, lawyers, the courts, filing complaints and so on.

The Plaintiffs have been and are assigned jobs by Defendants which encompass duties they are not able to perform nor are the Plaintiffs trained to perform. No safety measures are taught before allowing the Plaintiffs to use machinery and other equipment.

The Defendants have denied the Plaintiffs access to mandatory and voluntary rehabilitative, vocational, educational and therapeutic programs based solely on their disability or the generalizations and stereotypes which accompany the blind. When the Plaintiffs are enrolled in said programs they do not receive the benefits of those programs. The Plaintiffs are just passed through the programs to avoid the daily headaches of having to accommodate them or dealing with the Plaintiffs administrative grievances.

The Defendants have and are denying the Plaintiffs equal opportunity to recreational programs and activities. The Plaintiffs in the Sensorial Disabled Program are afforded sheltered recreation once a week in the gym. Nondisabled prisoners are afforded recreational activities twenty-one times a week.



The Plaintiffs are theoretically afforded access to recreational activities and the yard twenty-one times a week with the nondisabled, however, the Plaintiffs access to the recreational activities is not meaningful nor do they enjoy the benefits thereof equal to the nondisabled.

The activities in Sullivan's two yards and the yards themselves do not accommodate the Blind or visually impaired, and present a unsafe environment. Neither of the two yards have color contrasts. There is no closed circuit television in the yard. The Plaintiffs have access to the yards and activities offered but cannot meaningfully participate or benefit, or are denied participation because of the stereotypes of their disability.

The Plaintiffs have and are being denied prescribed aids and devices when it is convenient for the Defendants and other

prison officials. For example, a Plaintiff requires a mobility assistant, but if no assistant is present the blind Plaintiff is directed to walk without his assistant.

The devices and aids issued to the Plaintiffs by Defendants DOCS, Malin, Cohen, Chenel, Buther, Raymond, Sidorowicz, Koenigsman, Wright and Fischer are not provided with the necessary accessories, or there is long delays in providing the accessories. For example, contact lenses are provided but no solution is issued therewith.

The Plaintiffs are not properly accommodated or denied use of accommodating devices prior to and during disciplinary proceedings and other adversial proceedings. The Defendants have and continue to deny Plaintiffs of their right to notice, to prepare a defense, respond to charges, and to appeal since it's policy at

Sullivan when placing the Plaintiffs in segregative confinement to deny him access to the Resource Room and accommodating devices and aids.

Defendants DOCS, Perlman, Fischer, Chenel, Walsh, Malin, Cohen, Lilliey, Buther, and Raymond, have and continue to deny the Plaintiffs accommodations during the Inmate Grievance Program process.

Defendants DOCS, Fischer, Walsh, Lilley, Chenel, Malin, and Cohen have and continue to deny the Plaintiffs accommodations during Time Allowance Committee proceedings.

The Plaintiffs are denied use of their mobility guide when participating in the Inmate Visiting Program.

Defendant Division of Parole, DOCS, Fischer, Buther, Raymond, Cohen, Malin, Lilley and Chenel have and continue to deny the Plaintiffs accommodations during parole proceedings.

The Plaintiffs have been and are being denied notice and access to Sullivan's programs, services and activities because of their disability. The papers and forms commonly distributed by the Defendants and Sullivan administrators to the prison population do not accommodate the Plaintiffs. This includes, but not limited to, the Reasonable Accommodation Request form, grievance forms, disciplinary proceedings forms, appeal forms, medical forms, state shop forms, law library request forms, Family Reunion Program application, laundry, medical and other contracts. The Defendants and their agents, officers, staff, employees, subordinates do not assist the

Plaintiffs with understanding and completing the forms.

The Defendants, namely Cohen, Chenel, Lilley, Malin, and Sidorowicz tell the Plaintiffs that if they do not sign the medical and SDP contracts that the Plaintiffs are refusing medical treatment and accommodations and will not receive either.

The Plaintiffs who are prescribed medication and who possess the medication in their cells are not accommodated and Defendant Sidorowicz places their safety at risk being that the labels on the medication bags and bottles is not enlarged nor is the dosage intake always explained.

The Sensorial Disabled Unit in D-North denies the Plaintiffs equal treatment and provides inadequate accommodations

regarding the television specifically designated for the Plaintiffs' use. The general population is provided with two television sets. The other sensorial disabled prisoners and the Plaintiffs all share one television set. The structural design of the Pit area and its seating arrangement where the SDU closed circuit television is located, with the small television, and large number of disabled prisoners denies all of the Plaintiffs to simultaneously watch or listen to television.

The Plaintiffs who have loss their vision while incarcerated and whose condition has become worse while incarcerated are being denied mobility training as well as independent living skills training. The Plaintiffs are thus not equipped to function productively, be self-sufficient, self-reliant, or live a meaningful life upon release from prison. This training includes, or should include, walking, cooking, cleaning,

grooming oneself, child rearing, employability, computer use, job search, home maintenance, using public transportation and so on.

The Defendants do not conduct training drills in case of a fire or other emergency. This places the Plaintiffs at a much higher risk of injury and even death.

The Defendants have not provided adequate accommodating devices in all areas of Sullivan and thus one of the consequences is that the Plaintiffs cannot use the New York State Freedom of Information Law, New York's Public Officers Law §§84 et seq., or the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. §§1320 et seq. to view records or challenge inaccurate entries in administrative or medical records.

The Defendants do not provide adequate notice of the protections afforded by the ADA.

The Defendants do not process the Plaintiffs Reasonable Accommodation Requests with prudence, thoughtfulness or vigilance.

Defendants Malin, Cohen, Walsh, Lilley and Chenel have changed existing rules and policy to deny an accommodation and as retaliation after Plaintiffs complained of being denied the accommodation previously granted in a existing policy or regulation.

Defendants DOCS, Perlaman, Walsh, Cohen, Malin, Lilley, Chenel, Fischer, Buther, Raymond permit convicted sex offenders to assist and care for the plaintiffs.



Defendant DOCS's Directives 4932, 2612 and 2614 discriminates against and denies equal protection to the Plaintiffs, denies due process at disciplinary proceedings, and causes disparate treatment amongst the deaf and hard of hearing and the Plaintiffs.

Defendants DOCS, Fischer, Walsh, Malin, Lilley, Buther, Raymond have denied the Plaintiffs possession of their legal papers and personal and legal mail because of a change in DOCS policy which now restrict the amount of paper an inmate may possess. The Plaintiffs in theory are given an exception to this restriction for the reason that the Plaintiffs require large font or enlarged paper, which creates a larger volume than average. The Defendants DOCS, Fischer, and Walsh, through their officers, have directed the Plaintiffs to limit their legal material to one bag and the

remainder to either mail out of the facility of discard.

Defendant Cohen limits the Plaintiffs access to paper to twenty sheets per day, which is unreasonable due to the need for large font. This unauthorized limitation was created by Defendant Cohen and is contrary Defendants DOCS and Walsh's policy governing the same, which consequently denies the Plaintiffs equal treatment, access to the courts and the right to communicate.

Defendants DOCS, Fischer, Perlman, Butherm Raymond Walsh, Malin, Cohen, Chenel, and Lilley have created a Sensorial Disabled Program and have place it in what is called the Resource Room at Sullivan. The Resource Room and SDP places the Plaintiffs health, safety and well being at risk, since the Resource Room is too small to contain the number of sensorial disabled

prisoners, thus the blind Plaintiffs are bumping into each other and other people and into furniture, Plaintiff Ford is mentally ill and walks around swinging his arms, and as stated supra, no fire or emergency drills are been conducted thus jeopardizing the Plaintiffs' lives, safety and well being.

When the defendants conduct or authorize searches of the Plaintiffs cells, the cell searches are abusive and fail to respect or acknowledge the Plaintiffs disability. This is because the staff are not trained to deal with the sensorial disabled.

Pursuant to Defendant DOCS Directive 4910, when cells are searched prison officials must return items to the place and manner found. This prescription is rarely complained with. The Plaintiffs' circumstances however require full compliance with the Directive as a reasonable accommodation due to their

limited vision, because the Plaintiffs have to keep items in a precise location to be able to locate them. Those Plaintiffs who have large volumes of legal papers maintain their documents and other papers in a particular order and location. When the Defendants officers and agents search the Plaintiffs' cells and living quarters the Plaintiffs property and papers are disorganized and piled on the bed and/or floor. It requires months for the Plaintiffs to reorganize their papers and documents cannot be found when needed. Those Plaintiffs who are totally blind or who can only read with a cc device or reading scanner have no means to reorganize their papers.

## **JURY TRIAL**

The Plaintiff demand a jury trial on all causes of action and all issues in this matter.

## **PRAYER FOR RELIEF**

WHEREFORE, THE Plaintiffs demand judgment against the Defendants as follows:

A. Granting Plaintiffs preliminary and permanent injunction ordering Defendants to:

1. Provide all the needed modifications and accommodating devices and aids;
2. Provide independent skill training;
3. Hire an Instructor for the Blind;
4. Properly train and supervise all DOCS employees regarding the needs of the visual impaired and blind;

B. Awarding Plaintiffs declaratory relief and declaring that the Defendants violated the Plaintiffs' First, Eighth,

and Fourteenth Amendment rights under the United States Constitution, violated the Plaintiffs' rights afforded by Title II of the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, and New York's Human Rights Law statutes by failing to provide adequate medical treatment, failing to furnish an adequate medical remedy, failing to provide reasonable accommodating devices and aids and modifications, discriminating against the Plaintiffs because of their disability, were deliberately indifferent to Plaintiffs' health, safety and well being, and violated Plaintiffs' privacy, equal protection and substantive and procedure due process rights;

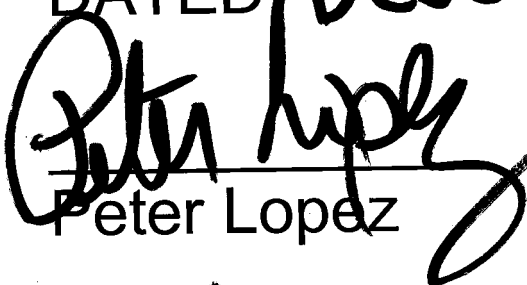
C. Awarding Plaintiffs prospective relief against the Defendants in their official capacities to prevent similar

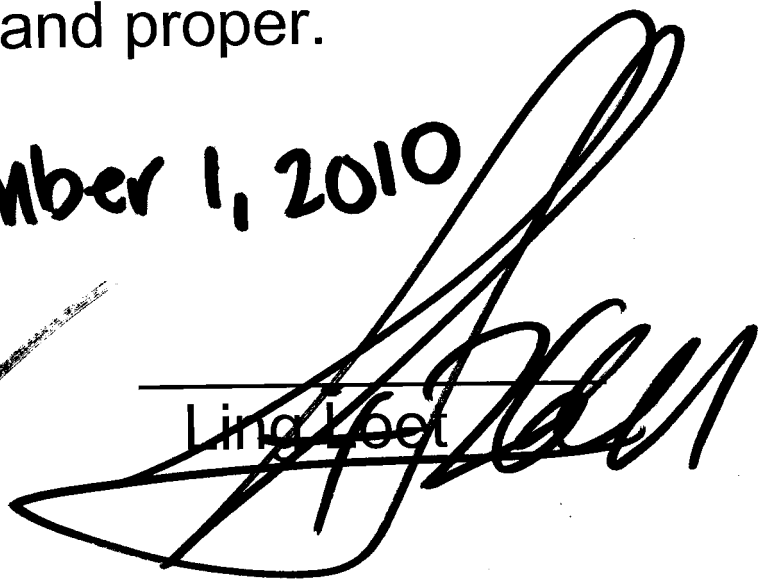
future constitutional and federal statutory violations;

D. Awarding the Plaintiffs their fees and costs for instigating this suit; and

E. Awarding the Plaintiffs such other and further relief as this Court may deem just and proper.

DATED: December 1, 2010

  
Peter Lopez

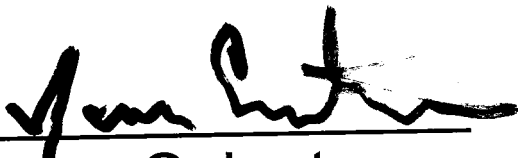
  
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Anthony Medina

/s/ Paul Ford  
Paul Ford

  
Kevin Curran

  
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James Colantuono

  
DARRIUS RIED

  
Warren Davis

  
Kevin Jones

  
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~~Rufino Soto~~

  
Michael Smith

  
Ben Rawls