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

ROSARIO MACIEL AVITIA;)	CASE NO.: 2:16-CV-04818
GREATER LOS ANGELES AGENCY)	
ON DEAFNESS, INC.,	)	COMPLAINT FOR
	)	DECLARATORY RELIEF,
	)	INJUNCTIVE RELIEF, AND
Plaintiff,	)	DAMAGES FOR VIOLATIONS OF:
v.)	
	)	1. Title II of the Americans with
UNITED STATES IMMIGRATION	)	Disabilities Act (42 U.S.C. § 12131,
AND CUSTOMS ENFORCEMENT;	)	<i>et seq.</i>);
CITY OF SANTA ANA; and DOES 1-10	)	2. Section 504 of the Rehabilitation
inclusive,	)	Act of 1973 (29 U.S.C. § 794, <i>et</i>
	)	<i>seq.</i>);
Defendants.	)	3. California’s Disabled Persons Act
	)	(Cal. Civ. Code § 54.1, <i>et seq.</i>); and
	)	4. California Government Code §
	)	11135

JURY TRIAL DEMANDED

INTRODUCTION

1. Plaintiffs Rosario Maciel Avitia (hereinafter, “Avitia”), who is deaf and communicates via American Sign Language, and the Greater Los Angeles Agency on Deafness, Inc. (hereinafter, “GLAD”) bring this action against the United States Immigration and Customs Enforcement (“ICE”), the City of Santa Ana (“Santa Ana”), and DOES 1 through 10 (collectively “Defendants”) for failing and refusing to take reasonable steps to ensure that deaf and hard-of-hearing detainees at the Santa Ana City Jail (“City Jail”) are not excluded, denied services, segregated, or otherwise treated differently than other detainees in Defendants’ custody at the City Jail on the basis of their disability.

2. Defendants’ acts and omissions violate Plaintiffs’ rights under Title II of the Americans with Disabilities Act (42 U.S.C. § 12131, *et seq.*), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), and related California civil rights laws. Plaintiffs therefore bring this action to correct Defendants’ unlawful conduct and seek declaratory relief, injunctive relief, damages, and attorneys’ fees and litigation costs.

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343 for claims arising under the Americans with Disabilities Act (the “ADA”) and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794) (“Section 504”). Pursuant to 28 U.S.C. § 1367, this Court has supplemental jurisdiction over claims arising under California law, including California Government Code § 11135, and the Disabled Persons Act (Cal. Civ. Code § 54.1, *et seq.*), which expressly incorporates the ADA. Cal. Civ. Code § 54.1(d). This Court has jurisdiction over Plaintiffs’ claims for declaratory relief and injunctive relief pursuant to 28 U.S.C. § 2201 and 2202 and Rule 65 of the Federal Rules of Civil Procedure.

4. Venue is proper in this in the Central District of California pursuant to 28 U.S.C. § 1391(b) because the events, acts, and omissions giving rise to Plaintiffs’

claims occurred within this District and because Defendants reside in the Central District of California within the meaning of 28 U.S.C. § 1394.

PARTIES

5. Plaintiff ROSARIO MACIEL AVITIA (“Avitia”) is, and at all times relevant herein was, a resident of the State of California and is an adult qualified to bring suit. Plaintiff is deaf and is therefore substantially limited in the major life activity of hearing. Plaintiff is, and at all times relevant herein was, a qualified individual with a “disability” as defined under the ADA and its implementing regulations (42 U.S.C. § 12102; 28 C.F.R. § 36.104), Section 504 and its implementing regulations (29 U.S.C. § 705(20)(A)-(B); 28 C.F.R. 41.32(b)), and California law (Cal. Gov. Code § 12926).

6. Plaintiff GREATER LOS ANGELES AGENCY ON DEAFNESS, INC. (“GLAD”) is a nationally recognized advocacy and service agency located in Los Angeles, California that addresses the needs of the deaf and hard of hearing population. GLAD’s mission is to ensure equal access of the deaf and hard of hearing community to the same opportunities afforded their hearing counterparts. The organization’s general purposes and powers are directed toward the promotion of the social, recreational, cultural, educational, and vocational well-being of its deaf and hard of hearing constituents.

7. GLAD’s specific and primary purpose is to act as a coordinating agency that addresses the broad social service needs of deaf and hard of hearing people through, among other things, direct service provision, advocacy, research, and dissemination of information regarding deafness to parents, professionals, and consumers. For over 47 years, GLAD has been improving the lives of the deaf and hard of hearing community, proudly serving ten counties throughout Southern California: Los Angeles, Kern, Orange, Ventura, Santa Barbara, Riverside, San Luis Obispo, San Bernardino, Inyo and Mono. GLAD is committed to the philosophy “of, by, for and with the deaf and hard of hearing.” GLAD’s deaf and hard of hearing

1 constituents include non-United States citizens, to whom GLAD provided programs
2 and services to in 2015 and continues to do so today.

3 8. GLAD's board is comprised of a voting representative from each regional
4 service provider as well as members at large. A majority of GLAD's board is
5 comprised of deaf and/or hard of hearing individuals. Further, deaf and hard of
6 hearing individuals hold positions at all levels of GLAD, including GLAD's Chief
7 Executive Officer position.

8 9. GLAD openly welcomes any members of the deaf and hard of hearing
9 community to raise issues, concerns, and/or grievances from the deaf and hard of
10 hearing community with GLAD. In response to these issues, concerns, and/or
11 grievances, GLAD will take action to ameliorate or resolve the same, if possible.

12 10. GLAD works in conjunction with the California Department of Social
13 Services' Office of Deaf Access ("DPSS"), through the Deaf Access Program, to
14 provide public social services for individuals who are deaf or hard of hearing
15 throughout the State. GLAD receives a significant portion of its total funding from
16 DPSS.

17 11. GLAD's constituents and the individuals that it serves are "qualified
18 individuals with a disability" within the meaning of all applicable statutes, including
19 the ADA and its implementing regulations (42 U.S.C. § 12102; 28 C.F.R. § 36.104),
20 Section 504 and its implementing regulations (29 U.S.C. § 705(20)(A)-(B); 28 C.F.R.
21 41.32(b)), and California law (Cal. Gov. Code § 12926)

22 12. GLAD is qualified to represent the interests of its deaf and hard of
23 hearing constituents in this lawsuit because:

- 24 a. Those constituents would otherwise have standing to sue in their own
- 25 right;
- 26 b. GLAD's interest to ensure non-discriminatory access to government
- 27 programs, services, and activities for its deaf and hard of hearing
- 28 constituents is germane to GLAD's purpose as an organization; and

1 c. Neither the claims asserted nor the relief requested through this lawsuit
2 require the participation of GLAD's individual constituents.

3 13. GLAD has also experienced direct harm as a result of Defendants'
4 discriminatory acts and omissions as alleged herein. Specifically, GLAD was forced
5 to suffer both a diversion of its resources and a frustration of its mission as a direct
6 result of Defendants' discriminatory acts and omissions.

7 14. The UNITED STATES IMMIGRATION AND CUSTOMS
8 ENFORCEMENT ("ICE") is, and at all times relevant herein was, a federal
9 governmental entity under the jurisdiction and control of the United States of
10 America. ICE is a federal law enforcement agency under the United States
11 Department of Homeland Security. ICE is an executive agency within the meaning of
12 Section 504 and also receives federal financial assistance within the meaning of
13 Section 504. At all times relevant to this action, ICE worked in conjunction with the
14 City of Santa Ana in their detention, custody, control, supervision, and medical care
15 and treatment of Avitia and other deaf or hard of hearing detainees at the City Jail.

16 15. Defendant CITY OF SANTA ANA ("Santa Ana") is, and at all times
17 relevant herein was, a local government and public entity within the meaning of Title
18 II of the ADA. Santa Ana receives financial assistance from the State of California
19 and federal financial assistance within the meaning of Section 504. At all times
20 relevant to this action, Santa Ana worked in conjunction with ICE in their detention,
21 custody, control, supervision, and medical care and treatment of Avitia and other deaf
22 or hard of hearing detainees at the City Jail.

23 16. Under California Government Code § 815(a), Santa Ana is liable for any
24 and all wrongful acts in violation of state law hereinafter complained of and
25 committed by any of its employees acting within the course and scope of their
26 employment.

1 17. Plaintiffs are currently unaware of the true identities of DOES 1-10,
2 inclusive, and will seek leave to amend when their true names, capacities,
3 connections, and responsibilities are ascertained.

4 18. Plaintiffs are informed and believes that each of the Defendants is the
5 agent, ostensible agent, alter ego, master, servant, trustor, trustee, employer, employee,
6 representative, franchiser, franchisee, lessor, lessee, joint venturer, parent, subsidiary,
7 affiliate, related entity, partner, and/or associate, or such similar capacity, of each of
8 the other Defendants, and was at all times acting and performing, or failing to act or
9 perform, within the course and scope of such similar aforementioned capacities, and
10 with the authorization, consent, permission or ratification of each of the other
11 Defendants, and is personally responsible in some manner for the acts and omissions
12 of the other Defendants in proximately causing the violations and damages
13 complained of herein, and have participated, directed, and have ostensibly and/or
14 directly approved or ratified each of the acts or omissions of each of the other
15 Defendants, as herein described.

16 **GENERAL FACTUAL BACKGROUND**

17 19. Plaintiff Rosario Maciel Avitia (“Avitia”) has been deaf since birth and
18 uses American Sign Language (“ASL”) as her primary language. Avitia is not fluent
19 in either written or spoken English.

20 20. The Santa Ana City Jail (“City Jail”), located at 62 Civic Center Plaza,
21 Santa Ana, California 92703, is, and at all times relevant herein was, used as a
22 detention facility for non-United States citizen ICE detainees pursuant to an Inter-
23 Governmental Service Agreement between ICE and Santa Ana executed on July 3,
24 2006. Pursuant to that agreement, Santa Ana is, and at all times relevant herein was,
25 required to detain and care for ICE detainees at the City Jail, including but not limited
26 to the provision of on-site healthcare services for ICE detainees.

1 21. On May 29, 2015, Avitia was arrested by ICE officers and transferred to
2 the City Jail. Avitia remained at the City Jail until November 5, 2015—a period of
3 over five months.

4 22. Although Defendants noted that Avitia was deaf when she was initially
5 booked at the City Jail on May 29, 2015, at no point during her five-month detention
6 did Defendants provide Avitia with a qualified ASL interpreter or any other auxiliary
7 aid or service to ensure effective communication.

8 23. Without the aid of an ASL interpreter or any other auxiliary aid or
9 service to ensure effective communication, Avitia was not able to understand what
10 was said during the important booking process at the City Jail, which is used to
11 explain the jail's procedures, routines, and other information necessary to orient new
12 detainees such as Avitia.

13 24. Throughout her five-month detention at the City Jail, Avitia also suffered
14 from several medical conditions that necessitated medical treatment. For instance,
15 Avitia had several teeth extracted, received treatment for back and knee pain, and
16 received treatment for depression. Although Avitia repeatedly requested that
17 Defendants provide her with an ASL interpreter for these medical appointments,
18 Defendants never provided Avitia with an ASL interpreter or any other auxiliary aid
19 or service to ensure effective communication during her medical appointments. As a
20 result, Avitia could not effectively communicate with Defendants' health care
21 providers at the City Jail. For instance, Avitia's prescription for anti-depressants
22 needed to be changed approximately four times in less than five months because
23 Avitia was unable to effectively communicate with Defendants' medical staff.
24 Moreover, as a result of the lack of effective communication, Avitia's back and knee
25 pain was not treated properly, resulting in increased back and knee pain.

26 25. Defendants also failed to provide Avitia with a working TTY/TTD
27 device or videophone for the entire duration that Avitia was detained at the City Jail.
28 Although both Avitia and her son repeatedly notified Defendants that the TTY/TTD

1 device in the City Jail was not working, it was never fixed during Avitia's five-month
2 detention. Consequently, Avitia was not able to communicate with the outside world,
3 including her family and advocates, via a TTY/TTD device during her detention at the
4 City Jail. At the same time, other able-bodied detainees had regular access to
5 telephones.

6 26. Defendants further failed to provide Avitia with effective communication
7 necessary to ensure her equal access to the City Jail's programs, service, or activities,
8 including educational courses, religious services, and a weekly film screening.

9 27. Defendants provide educational courses to detainees at the City Jail
10 through the Santa Ana College School of Continuing Education. Avitia enrolled in a
11 number of educational courses while detained at the City Jail. Although Avitia
12 repeatedly requested an ASL interpreter for the educational courses she was enrolled
13 in, Defendants failed to provide an ASL interpreter or any other auxiliary aid or
14 service to ensure effective communication. Instead, Avitia was forced to rely on the
15 notes and gestures of other detainees in her educational courses.

16 28. Avitia was further unable to understand, follow, or participate in the
17 religious services offered by Defendants at the City Jail because she was never
18 provided an ASL interpreter or any other auxiliary aid or service to ensure effective
19 communication for these religious services despite her repeated requests for an ASL
20 interpreter.

21 29. A weekly film is shown to the detainees at the City Jail every Saturday
22 evening. The films, however, were never captioned throughout Avitia's five-month
23 detention. Although Avitia requested captions for the weekly films, Defendants
24 never turned on the captions for the weekly film, preventing her from following and/or
25 understanding the films' dialogue.

26 30. Finally, Defendants failed to effectively communicate to Avitia that she
27 was eligible for bond/bail in early June 2015. As a result of the lack of effective
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1 communication, Avitia spent five months at the City Jail that she could have spent at
2 home with her family and friends.

3 31. On November 5, 2015, Avitia was finally released from the City Jail,
4 ending her over five-month detention.

5 32. As a direct result of Defendants' acts and omissions alleged herein,
6 Avitia suffered, and continues to suffer, physical and emotional injuries proximately
7 caused by Defendants' unlawful conduct, including but not limited to humiliation,
8 hardship, anxiety, indignity, and severe mental and emotional anguish. Accordingly,
9 Avitia seeks compensatory and statutory damages pursuant to federal and state law.

10 33. Defendants' acts and omissions alleged herein have also directly harmed
11 GLAD. Specifically, GLAD was forced to suffer both a diversion of its resources and
12 a frustration of its mission as a direct result of Defendants' discriminatory acts and
13 omissions.

14 34. Defendants frustrated GLAD's mission to ensure equal access of the deaf
15 and hard of hearing community to the same opportunities afforded their hearing
16 counterparts by failing to provide deaf and hard of hearing detainees at the City Jail
17 equal access to the same opportunities afforded able-hearing detainees.

18 35. Defendants acts and omissions also undermine the effectiveness of the
19 programs and services GLAD provides to its deaf and hard of hearing constituents by
20 making it difficult for such constituents at the City Jail to access GLAD's programs
21 and services.

22 36. Defendants' discriminatory practices have also forced GLAD to divert
23 scarce resources such as employee time and money in order to identify, investigate,
24 and counteract Defendants' discriminatory practices. These scarce resources would
25 have otherwise been used for other GLAD programs and services.

26 37. For instance, at least one GLAD employee was forced to make multiple
27 80-mile trips from GLAD's offices in Los Angeles to the City Jail in order to meet
28 with Avitia during her five-month detention because the lack of a working a

1 TTY/TTD device at the City Jail prevented GLAD from communicating with Avitia
2 directly over the phone. A GLAD employee was also forced to meet with Avitia's son
3 on several occasions regarding the ongoing discrimination Avitia was facing at the
4 City Jail.

5 38. If GLAD had not diverted these scarce resources to identify, investigate,
6 and counteract Defendants' discriminatory practices, it would have nevertheless
7 suffered injury by, among other things, being unable to provide its services and
8 programs to deaf and hard of hearing constituents detained at the City Jail.
9 Defendants' discriminatory practices have thus caused GLAD to suffer concrete and
10 demonstrable injuries.

11 39. Until remedied, Defendants' unlawful discriminatory acts and omissions
12 will continue to injure GLAD by, among other things: (a) interfering with efforts and
13 programs intended to bring about equality of opportunity for its deaf and hard of
14 hearing constituents in government and social services; (b) requiring the commitment
15 of scarce resources to investigate and counteract Defendants' discriminatory conduct,
16 thus diverting those resources from GLAD's other activities and services; and (c)
17 frustrating the mission and purpose of GLAD.

18 40. GLAD seeks injunctive relief in the form of policy modifications in order
19 to ensure that deaf and hard of hearing persons detained by Defendants at the City Jail
20 are provided qualified ASL interpreters and other auxiliary aids and services when
21 necessary to ensure effective communication, and are provided full and equal access
22 to, and use of, Defendants' services, programs, and activities.

23 41. The violations of the ADA, Section 504, and related state statutes as set
24 forth herein, if not enjoined by this Court, will continue to afflict GLAD and cause
25 GLAD to suffer irreparable harm. GLAD has no plain, speedy, and adequate remedy
26 at law for such an injury. Accordingly, injunctive relief pursuant to 42 U.S.C. §
27 12133, 29 U.S.C. § 794(a) and other authority is appropriate.

42. An actual controversy has arisen and now exists between the parties concerning their respective rights, duties, and obligations under federal and state law. Accordingly, Plaintiffs are entitled to declaratory relief.

GOVERNMENT CLAIM FILED

43. Through her undersigned counsel, Avitia timely filed a claim for monetary damages pursuant to § 910, *et seq.* of the California Government Code with Santa Ana on November 18, 2015. On February 24, 2016, a notice was issued to Avitia informing her that her claim had been denied. This action was timely filed thereafter.

FIRST CAUSE OF ACTION

(Title II of the Americans with Disabilities Act (42 U.S.C. § 12131, *et seq.*))

(Plaintiffs Against Defendant Santa Ana)

44. Plaintiffs incorporate by reference all preceding paragraphs.

45. Congress enacted the ADA upon finding that “society has tended to isolate and segregate individuals with disabilities” and that such forms for discrimination continue to be “serious and pervasive social problem,” (42 U.S.C. § 12101(a)(2)), and that discrimination against persons with disabilities “persists in such critical areas as . . . access to public services. . . .” 42 U.S.C. § 12101(a)(3).

46. Congress enacted the ADA “to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities” and “to provide clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities.” 42 U.S.C. § 12101(b)(1), (2).

47. Title II of the ADA provides in pertinent part: “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.” 42 U.S.C. § 12132.

48. The U.S. Department of Justice’s regulations implementing Title II, 28 C.F.R. § 35.160, require public entities to:

- a. Take appropriate steps to ensure that communications with members of the public with disabilities are as effective as communications with others;
- b. Furnish appropriate auxiliary aids and services (including qualified sign language interpreters) where necessary to afford an individual with a disability an equal opportunity to enjoy the benefits of a service, program, or activity conducted by the public entity; and
- c. In determining what type of auxiliary aid and service is necessary, a public entity shall give primary consideration to the requests of the individual with a disability.

49. The regulations also require public entities to ensure that persons who are deaf or are hard of hearing can obtain information as to the existence and location of accessible, services, activities, and facilities. 28 C.F.R. § 35.163(b)

50. At all times relevant to this action, Defendant Santa Ana was a public entity within the meaning of Title II of the ADA and provided a program, service, or activity to the general public.

51. At all times relevant to this action, Plaintiffs were qualified individuals with a disability within the meaning of Title II of the ADA and met the essential eligibility requirements for the receipt of the services, programs, or activities of Defendant Santa Ana.

52. Through the acts and omissions of Defendant Santa Ana and its agents and employees described herein, Defendant Santa Ana has subjected Plaintiffs to discrimination on the basis of disability in violation of Title II of the ADA by failing to provide Plaintiffs with communication that is as effective as communication provided to the general public or non-disabled detainees during their detention at the Santa Ana City Jail.

53. Pursuant to the remedies, procedures, and rights set forth in 42 U.S.C. § 12133 and 42 U.S.C. § 12205, Plaintiffs pray for judgment as set forth in the Prayer for Relief.

SECOND CAUSE OF ACTION

(Violation of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794)) (Plaintiffs Against All Defendants)

54. Plaintiffs incorporate by reference all preceding paragraphs.

55. Section 504 provides in pertinent part: “[n]o otherwise qualified individual with a disability . . . shall, solely by reason of her or her disability, be excluded from the participation in, be denied the benefits, or be subjected to discrimination under any program or activity receiving federal financial assistance. . . .” 29 U.S.C. § 794(a).

56. Plaintiffs were at all times relevant herein qualified individuals with a disability within the meaning of Section 504 because they have a physical impairment that substantially limits one or more major life activities. See 29 U.S.C. § 705(20)(B).

57. At all times relevant to this action Defendants were recipients of federal funding within the meaning of Section 504.

58. Through their acts and omissions described herein, Defendants have violated Section 504 by excluding Plaintiffs from participation in, by denying them the benefits of, and subjecting them to discrimination in the benefits and services that Defendants provide to the general public.

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

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THIRD CAUSE OF ACTION

(California Disabled Persons Act (California Civil Code § 54.1, *et seq.*, for statutory damages, declaratory relief, and attorneys' fees and costs only))

(Plaintiffs Against Defendant Santa Ana)

60. Plaintiffs incorporate by reference all preceding paragraphs.

61. The California Disabled Persons Act ("CDPA") provides in pertinent part: "[i]ndividuals with disabilities shall be entitled to full and equal access, as other members of the general public, to accommodations, advantages, facilities, and privileges of all . . . places of public accommodation." Cal. Civ. Code § 54.1(a)(1).

62. A violation of the ADA is also a violation of the CDPA. Cal. Civ. Code, § 54.1(d).

63. At all times relevant to this action, Plaintiffs were qualified individuals with a disability within the meaning of California law (Cal. Gov. Code § 12926).

64. The Santa Ana City Jail is a place of public accommodation subject to the CDPA. As the owner and operator of the Santa Ana City Jail, Defendant Santa Ana must comply with the provisions of the CDPA.

65. Defendant Santa Ana has violated the CDPA by, *inter alia*, denying, or aiding or inciting the denial of, Plaintiffs' rights to full and equal use of the accommodations, advantages, facilities, privileges, or services at the Santa Ana City Jail.

66. Defendant Santa Ana has further violated the CDPA by denying, or aiding or inciting the denial of, Plaintiffs' rights to equal access arising from the provisions of the ADA.

67. Defendant Santa Ana's duties under the CDPA are mandatory and long-established. Defendant Santa Ana is deemed to have had knowledge of its duties at all times relevant herein. Defendant Santa Ana failed to carry out the duties imposed on it by the CDPA willfully, knowingly, and/or with deliberate indifference.

68. Pursuant to the remedies, procedures, and rights set forth in Cal. Civ. Code § 54.3(a), Plaintiffs pray for judgment as set forth in the Prayer for Relief.

FOURTH CAUSE OF ACTION

(Violation of Cal. Govt. Code § 11135)

(Plaintiffs Against Defendant Santa Ana)

69. Plaintiffs incorporate by reference all preceding paragraphs.

70. California Government Code Section 11135 (“Section 11135”) provides in pertinent part: “[n]o person in the State of California shall, on the basis of . . . disability, be unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to discrimination under, any program or activity that is conducted, operated, or administered by the state or by any state agency, is funded directly by the state, or receives any financial assistance from the state.” Cal. Gov’t Code § 11135.

71. Section 11135 further provides that, with respect to discrimination on the basis of disability, covered programs and activities shall meet the protections and prohibitions contained in Title II of the ADA and its implementing regulations, except that if the laws of California prescribe stronger protections and prohibitions, covered programs and activities shall be subject to the stronger protections and prohibitions. Cal. Gov’t Code § 11135(b).

72. At all times relevant to this action, Plaintiffs were qualified individuals with a disability within the meaning of California law (Cal. Gov. Code § 12926).

73. Defendant Santa Ana is a public entity that receives state financial assistance and is subject to Section 11135.

74. The acts and omissions of Defendant Santa Ana and its agents and employees alleged herein violated Section 11135 by subjecting Plaintiffs to unlawful discrimination on the basis of her disability and/or denying Plaintiffs full and equal access to the benefits of Defendant Santa Ana’s programs and activities.

75. Defendant Santa Ana's duties under Section 11135 are mandatory and long-established. Defendant Santa Ana is deemed to have had knowledge of its duties at all times relevant herein. Defendant Santa Ana failed to carry out the duties imposed on it by Section 11135 willfully, knowingly, and/or with deliberate indifference.

76. Defendant Santa Ana's acts and omissions as alleged herein also violate Section 11135 by violating Title II of the ADA.

77. Pursuant to the remedies, procedures and rights set forth in Cal. Gov't Code Section 11139, Plaintiffs request judgment in their favor against Defendant Santa Ana as set forth in the Prayer for Relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request judgment as follows:

1. Plaintiffs respectfully request declaration that Defendant Santa Ana's conduct as alleged herein has violated, and continues to violate, Title II of the Americans with Disabilities Act; Section 504 of the Rehabilitation Act of 1973; California Civil Code § 54; and California Government Code § 11135;

2. Plaintiffs respectfully request declaration that Defendant ICE's conduct as alleged herein has violated, and continues to violate, Section 504 of the Rehabilitation Act of 1973;

3. Plaintiff GLAD respectfully requests an injunction compelling ICE and Santa Ana to:

a. Develop and implement non-discriminatory policies and procedures to ensure:

i. that communications with individuals who are deaf and hard of hearing are as effective as communications with others during law enforcement interactions;

ii. that appropriate auxiliary aids and services (including qualified sign language interpreters) are provided where necessary to

1 afford an individual who is deaf or hard of hearing an equal
2 opportunity to enjoy the benefits of Santa Ana's services,
3 programs, and activities;

4 iii. that individuals who are deaf and hard of hearing are informed
5 of the availability of auxiliary aids and services during
6 interactions with ICE and Santa Ana, including while detained
7 by Defendants at the Santa Ana City Jail; and

8 iv. that individuals whose requests for effective communication are
9 not adequately addressed have the ability to grieve and obtain
10 an adequate resolution of their grievance.

11 b. Revise and/or update Santa Ana's and ICE's training and supervision
12 programs to educate officers and employees about their obligation to:

13 i. ensure that communications with individuals who are deaf and
14 hard of hearing are as effective as communications with others;

15 ii. provide individuals who are deaf and hard of hearing
16 appropriate auxiliary aids and services (including qualified sign
17 language interpreters) where necessary to afford them equal
18 opportunity to enjoy the benefits of Defendants' services,
19 programs, and activities; and

20 iii. inform individuals who are deaf and hard of hearing of the
21 availability of auxiliary aids and services during law
22 enforcement interactions.

23 iv. such training should also include training for Defendants'
24 personnel regarding the treatment of deaf, hard of hearing, and
25 deaf/blind detainees.

26 c. Install and maintain telecommunication devices, such as videophones
27 and TTY/TTD devices, for individuals who are deaf and hard of
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1 hearing at the Santa Ana City Jail, and train Santa Ana City Jail
2 personnel regarding use and maintenance of the same.

3 4. An award of compensatory damages to Plaintiff Avitia according to
4 proof;

5 5. An award of statutory damages and treble damages to Plaintiff Avitia;

6 6. An award of Plaintiffs' attorneys' fees, litigation expenses, and costs of
7 suit, as provided by law; and

8 7. An award for such other and further relief as the Court may deem just
9 and proper.

10 8. ***Note:** Plaintiffs are not invoking section 55 of the California Civil Code*
11 *and are not seeking injunctive relief under the California Disabled Persons Act.*

12 **DEMAND FOR JURY TRIAL**

13 Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff hereby demands a
14 trial by jury as to all issues.

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16 Dated: June 30, 2016

ALMAZAN | FINNEMAN

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19 Trevor J. Finneman
20 Attorneys for Plaintiff
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