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ALAMEDA COUNTY

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ALAMEDA

RG12656266

LEGAL SERVICES FOR PRISONERS
WITH CHILDREN, a non-profit organization,
BARBARA MICHEL, LAURA MAGNANI,

Plaintiffs,

v.

GREGORY J. AHERN, in his official capacity
as Sheriff of Alameda County; ALAMEDA
COUNTY, a public entity; ALAMEDA
COUNTY SHERIFF'S DEPARTMENT, a
public entity under the control of Alameda
County,

Defendants.

**COMPLAINT FOR INJUNCTIVE AND
DECLARATORY RELIEF PURSUANT
TO CODE CIV. PROC. § 526A, CIV.
CODE § 54, et seq.; and GOV'T. CODE §
11135, et seq.**

(COMPLEX CIVIL RIGHTS ACTION)

INTRODUCTION

1. The County of Alameda ("County") systemically denies men and women with disabilities housed at Santa Rita Jail ("Jail") access to physically accessible cells, accessible toilets and showers and accessible visiting areas. The County also often involuntarily segregates persons with disabilities from the general population, resulting in the denial of access to rehabilitative programs, religious services and outdoor exercise. This systemic and long-term discrimination has resulted in the unequal treatment of and severe harm to individuals with disabilities housed at the Jail. Such discrimination violates California Civil Code § 54, *et seq.*, California Government Code 4450, the California Building Standards Code at Title 24 of the California Code of Regulations ("Title 24") and California Government Code § 11153, *et seq.*

2. Defendants routinely place men and women with physical disabilities who require wheelchairs in cells and holding areas without accessible toilet facilities. Without access to an accessible toilet individuals with disabilities may have no choice but to soil themselves. In at least one instance, an individual who uses a wheelchair was forced to attend a court hearing soaked in urine due to his inability to access a toilet in the holding area.

3. Defendants also place men and women with mobility impairments in housing units that do not have accessible shower facilities, resulting in people with mobility problems often being denied the chance for daily showers.

4. The Jail, which is the third largest jail in California, regularly separates inmates with disabilities from the general population and houses inmates with certain disabilities in the Outpatient Housing Unit ("Infirmary"), even if they do not require 24-hour care. Men and women with disabilities in the Infirmary are essentially held in solitary confinement. They are unable to participate in court-ordered programs that would reduce their sentence, unable to socialize with each other and can go months without stepping foot outside.

5. The Jail fails to maintain accessible visiting areas in multiple housing units for inmates who use wheelchairs to have contact visits in the same manner as their non-disabled peers. Inmates with mobility disabilities who use wheelchairs or scooters must rely on breaks in

1 the Deputies' schedules so that the Deputies can escort them out of their units to alternate
2 visiting areas for contact visits – resulting in significant delays or a missed opportunity for a
3 contact visit altogether.

4 6. Jail personnel also deny individuals who require mobility aids access to these
5 assistive devices, such as wheelchairs or canes, or take them away if the person demonstrates
6 the ability to walk just a few steps. Without these assistive devices it is difficult and painful for
7 men and women with mobility problems to move around.

8 7. This civil rights action is brought by Legal Services for Prisoners with Children
9 on behalf of themselves and their members and by taxpayers Barbara Michel and Laura
10 Magnani, to compel Defendants to stop using taxpayer funds to further the illegal and
11 discriminatory conditions that exist at Santa Rita Jail. Plaintiffs seek a declaration that
12 Defendants have spent taxpayer funds on illegal policies, practices, and procedures and an
13 injunction requiring Defendants to comply with state law and refrain from spending taxpayer
14 funds to further the illegal actions set forth below.

15 JURISDICTION

16 8. This Court has jurisdiction to grant injunctive relief on behalf of Plaintiff pursuant
17 to Code of Civil Procedure sections 525 and 526a.

18 9. This Court has jurisdiction to grant declaratory relief on behalf of Plaintiffs
19 pursuant to Code of Civil Procedure section 1060.

20 VENUE

21 10. Venue is proper in the Alameda County Superior Court because the Defendants
22 operate and perform their official duties therein and thus reside therein for purposes of venue,
23 and because a substantial part of the events giving rise to the claims herein occur in Alameda
24 County, as all of the events take place at Santa Rita Jail located in Alameda County.

25 PARTIES

26 Plaintiffs

27 11. Plaintiff Legal Services for Prisoners with Children ("LSPC") is a non-profit
28 organization founded in 1978. LSPC advocates for the civil rights and empowerment of

1 incarcerated parents, children, family members, and people at risk for incarceration through
2 responding to requests for information, training, technical assistance, litigation and community
3 activism.

4 12. LSPC has done significant work to raise awareness regarding the concerns of
5 elderly prisoners and their unique needs in part due to the physical limitations and disabilities
6 that occur more frequently among older prisoners.

7 13. In 2003 LSPC launched "All of Us or None" a grassroots organizing initiative of
8 former prisoners that fights for the rights of formerly- and currently- incarcerated people and
9 their families. The goal of All of Us or None is to strengthen the voices of people most affected
10 by mass incarceration, including inmates and former inmates with disabilities and the growth of
11 the prison-industrial complex. All of Us or None is a membership organization composed of a
12 network of chapters and associated organizations nationwide, including a chapter in the Bay
13 Area. There are currently approximately 500 members of All of Us or None nationwide, 100 of
14 whom reside in the Bay Area, including Alameda County. The membership of All of Us or
15 None includes individuals with disabilities who have been previously housed at Santa Rita Jail.

16 14. LSPC currently expends substantial time and resources on advocacy work
17 concerning policies and procedures that affect individuals, including individuals with
18 disabilities, incarcerated in California's prisons and local county jails including Santa Rita Jail.

19 15. LSPC has been injured as a direct result of the Defendants' actions and omissions
20 as alleged herein. LSPC's interests are adversely affected because it must expend resources, as
21 it is doing in this lawsuit, advocating for its constituents who are harmed by the Defendants'
22 discriminatory policies and practices.

23 16. In addition, one or more members of LSPC's All of Us or None project have been
24 injured as a direct result of Defendants' discriminatory policies and practices.

25 17. LSPC can bring this action on behalf of its members because the interests at stake
26 are germane to LSPC's purpose and because LSPC seeks only declaratory and injunctive relief,
27 individual members are not required to participate to bring this lawsuit forth.
28

1 18. Plaintiff Barbara Michel is a citizen of California and a resident of Berkeley in
2 Alameda County, California. Ms. Michel has paid property taxes to Alameda County within
3 one year of the commencement of this action. As a taxpayer, Ms. Michel has no administrative
4 remedies to exhaust. Ms. Michel brings this action as a taxpayer pursuant to Code of Civil
5 Procedure section 526a to enjoin expenditure of funds which are used to promulgate,
6 administer, and enforce the Jails illegal practices, policies and procedures. Ms. Michel has a
7 beneficial interest in these proceedings because she is seeking the enforcement of public duties
8 on Defendants under State law.

9 19. Plaintiff Laura Magnani is a citizen of California and a resident of Berkeley in
10 Alameda County, California. Ms. Magnani has paid property taxes to Alameda County within
11 one year of the commencement of this action. As a taxpayer, Ms. Magnani has no
12 administrative remedies to exhaust. Ms. Magnani brings this action as a taxpayer pursuant to
13 Code of Civil Procedure section 526a to enjoin expenditure of funds which are used to
14 promulgate, administer, and enforce the Jails illegal practices, policies and procedures. Ms.
15 Magnani has a beneficial interest in these proceedings because she is seeking the enforcement
16 of public duties on Defendants under State law.

17 20. Defendant Sheriff/Coroner Gregory J. Ahern is named in his official capacity as
18 Sheriff/Coroner of the Sheriff's Office of Alameda County. As Sheriff, Ahern is responsible for
19 the operation of Santa Rita Jail including decisions which directly affect the civil rights of
20 inmates with disabilities and the expenditure of tax-payer funds. Sheriff Ahern is thus
21 responsible for, and a participant in, the actions and/or omissions of the Alameda County
22 Sheriff's Office as they pertain to Santa Rita Jail.

23 21. Defendant Alameda County is a public entity with responsibility for operation of
24 the Alameda County Sheriff's Office, including protection of the rights of residents at Santa
25 Rita Jail with physical disabilities.

26 22. Defendant Alameda County Sheriff's Office is a full service law enforcement
27 agency with an adjusted net budget of approximately one hundred eighty seven (187) million
28 dollars per year. The Sheriff's Office is a public entity within the meaning of California Civil

1 Code § 54 and has received state financial assistance within the meaning of California
2 Government Code § 11135.

3 23. Defendants use tax revenues collected from plaintiffs Barbara Michel, Laura
4 Magnani and others by the State of California to administer, operate and maintain Jail facilities,
5 programs and services. Defendants discriminate against persons with disabilities in their
6 administration, operation and maintenance of Jail facilities, programs and services, in violation
7 of California Civil Code § 54 and California Government Code § 11135.

8 FACTUAL ALLEGATIONS

9 Background and History

10 24. Santa Rita Jail originally opened in 1947 and is owned and operated by Alameda
11 County. After undergoing a \$172 million renovation, the Jail reopened in 1989. Santa Rita Jail
12 is sited on 113 acres and contains eighteen independent units that house over 4,000 inmates,
13 making it the third largest jail in California and the fifth largest jail in the country.

14 25. Santa Rita Jail provides custodial and security services for incarcerated and
15 detained individuals for the Alameda County Sheriff's Office. In doing so, the Jail is
16 responsible for the health, safety, care and welfare of those individuals housed in the facility,
17 including individuals with disabilities.

18 26. Defendants have constructed, altered or repaired the Jail since the enactment of
19 California Civil Code § 54, *et seq.*, California Government Code § 4450, *et seq.*, Title 24 of the
20 California Code of Regulations and California Government Code § 11135. These laws aim to
21 eliminate discrimination against people with disabilities in public services and programs, in
22 particular programs and services that are funded using financial assistance from the State. In
23 addition, California Government Code § 4450, *et seq.* and Title 24 provide specific accessibility
24 requirements for buildings, structures and/or related facilities which are constructed through the
25 use of state, county and/or municipal funds. Despite these obligations the County has never
26 assessed the physical and programmatic accessibility of the Jail nor have they created a
27 transition plan to improve accessibility of the Jail. Indeed, the County has specifically excluded
28 the Jail from its Americans with Disabilities Act Transition Plan.

Physical Accessibility of the Jail

27. Defendants routinely house men and women who use wheelchairs in cells that lack features such as grab bars that allow disabled inmates to independently and safely transfer themselves from a wheelchair to the toilet. Inmates with disabilities are also routinely housed in cells with narrow doorways which prevent them from getting in and out of their cells easily and without assistance.

28. For example, a wheelchair user who is held in a cell without accessible features such as grab bars and with a narrow door has to struggle to fit his wheelchair through the door. He is often yelled at by Jail staff while attempting to exit his cell for being too slow.

29. Another man who uses a wheelchair was held for approximately six months in a cell which lacked grab bars to allow him to transfer to the toilet, among other accessible features which would have made the cell usable to him. On multiple occasions he was forced to ask his cell mate for assistance in order to use the toilet. On several occasions he fell while attempting to use the toilet, putting himself at risk for significant injury. On other occasions he soiled himself because he was unable to safely transfer himself to the toilet in his cell. These experiences, while not exhaustive, put individuals with disabilities at risk for injury as well as degrade and rob them of their dignity and ability to function independently.

30. Wheelchair users housed in cells which are unusable by them have repeatedly had their requests to be moved to accessible cells denied because the accessible cell, if there was one, in their unit was already occupied.

31. For example, another wheelchair user is currently housed in a cell without grab bars, wider doors or other accessible features despite repeated requests to be moved to an accessible cell over the past three years. He is aware of only one accessible cell in his unit, despite the fact that his unit houses approximately three hundred (300) inmates. The one accessible cell is not enough to house all of the inmates with disabilities in the unit.

32. Although the Jail does have designated "accessible" cells, the accessible features in these cells do not comply with applicable law and present additional barriers to individuals with mobility impairments.

1 33. Moreover, inmates have reported inaccessible showers in several of the general
2 housing units. Individuals with mobility impairments housed in these units must wait for a
3 sheriff to take them to an accessible shower in order for them to shower safely and
4 independently. This often results in them being unable to shower for a day or more despite the
5 fact that inmates without disabilities have access to showers on a daily basis.

6 34. For example, one wheelchair user was denied use of a shower chair. Without the
7 shower chair he had to shower standing up which was difficult and which put him at significant
8 risk of falling and injuring himself. Another wheelchair user has slipped and fallen attempting
9 to use the shower due to the lack of grab bars to hold on to for support. Showering in a shower
10 without features such as grab bars and a shower chair puts men and women with disabilities in
11 danger due to the likelihood of slipping and falling. It also deters inmates with disabilities from
12 showering on a regular basis because they do not feel that they can do so safely and
13 independently.

14 35. In addition, the holding cells where inmates are held prior to medical
15 appointments and court appearances are not accessible to men and women with disabilities, who
16 are often left in these holding areas for hours prior to or after these appointments. For example,
17 one wheelchair user was forced to urinate on himself due to the lack of grab bars to allow him
18 to safely transfer from his wheelchair to the toilet. Following this incident he was unable to
19 shower or change prior to his court appearance and was humiliated when he was forced to
20 appear in court in soiled clothing.

21 36. Another wheelchair user was detained for several hours in an inaccessible holding
22 cell while awaiting transport to various medical appointments and court appearances. This
23 individual repeatedly requested to use an accessible toilet while detained in such cells and each
24 time he asked his request was denied.

25 37. In order to get to the general visiting area for contact visits at the Jail inmates
26 must climb a flight of stairs. There is no practical way for men and women with disabilities to
27 get to this area independently and safely. Inmates with disabilities experience a variety of
28 problems, including delays in visits and extensive waiting periods without access to bathroom

1 facilities that can use, as a result of their inability to access the general contact visit area. For
2 example, one wheelchair using inmate reported that his contact visits have been delayed for
3 hours while he has waited for a sheriff to escort him to the non-contact visiting area or the
4 Infirmary. On one occasion, he had to meet an attorney in a non-contact visiting area because
5 sheriffs were unavailable to accompany him to the Infirmary. He was unable to exchange
6 documents with the attorney because they were in the non-contact visiting area.

7 38. Another wheelchair user was held in an area without an accessible toilet while
8 waiting for a deputy to escort him back to his housing unit following a visit. He had to wait for
9 several hours for the deputy and experienced discomfort due to being unable to use the toilet
10 while waiting.

11 39. Inmates and visitors entering and exiting the jail often do so through the main
12 lobby. However, there is no practical way for people with disabilities to travel independently
13 and safely between the parking lot of the Jail and the lobby of the Jail.

14 40. Visitors to the Jail who use wheelchairs have experienced barriers when trying to
15 visit persons housed in the jail. For example, a lawyer who uses a wheelchair and has clients at
16 the Jail has repeatedly been directed to use the designated accessible room for non-contact
17 visits. However this room is not actually usable by him due to the fact there is a bolted down
18 stool in the room which blocks him from accessing the phone in order to communicate with his
19 client through the glass. In order to reach the phone he must lean over as far as he can to reach
20 it. Once he has managed to grab the phone he is forced to stay in that strained position, leaning
21 over the bolted-in stool, for the duration of his conversation with his client. This is not only
22 uncomfortable but makes it extremely difficult for him to take notes and to communicate
23 meaningfully and clearly with his client.

24 41. Visitors with disabilities to the Jail, as well as individuals housed there, also have
25 experienced difficulty navigating the ramp leading from the general parking lot to the main
26 lobby. The ramp is steep and lacks areas for individuals to pause and rest while attempting to
27 push themselves up it. In addition, once the visitor or inmate reaches the main entrance the
28

1 doors to the lobby are heavy and difficulty to open while navigating the wheelchair, particularly
2 for individuals who have no or low upper body strength due to their disability.

3 **Involuntary Segregation of Individuals with Disabilities**

4 42. Men and women with certain disabilities are separated from the general
5 population at Santa Rita Jail and sent to the Infirmary, even if their disabilities do not require
6 24-hour care.

7 43. For example, inmates with sleep apnea are routinely sent to the Infirmary despite
8 the fact they do not require 24-hour care. These men and women require the use of a
9 Continuous Positive Airway Pressure ("CPAP") machine to breathe, and the Infirmary is the
10 only place in the Jail with electrical outlets in which the machine may be plugged.

11 44. Individuals in the Infirmary are essentially held in solitary confinement. They are
12 unable to go outside to exercise, attend rehabilitative classes, programs or religious services, or
13 socialize with each other. The sole reason given to them for their lack of access to all programs
14 and activities offered within the Jail is an alleged shortage of staff available to escort them to
15 outdoor areas and areas where classes and religious services are held. Thus, these inmates can
16 and have gone months without being outside solely due to the fact they have a particular
17 disability.

18 45. Many inmates can take classes or programs that will reduce their sentences.
19 Inmates in the Infirmary are not able to attend these classes even when they are told by the court
20 that they should do so. They are therefore unable to benefit from these programs and reduce
21 their sentences in same way as their non-disabled peers.

22 46. Infirmary conditions are incredibly unsanitary. Inmates with disabilities held in
23 the Infirmary have reported dried blood, dirt, dust, mold, and food particles on the walls of their
24 cells. Even when Jail personnel provide cleaning supplies, in response to the inmates' repeated
25 requests, these supplies have not been sufficient to properly remove the filth from the cells.

26 47. These unsanitary cell conditions pose a hazard to the health of many inmates. For
27 example, men and women who suffer from sleep apnea and who use a CPAP machine to
28 breathe often find that the machine's filter becomes clogged with dirt and dust particles, as the

1 machine functions by drawing in the air around it. Because the machine blows the surrounding
2 air into the nose and mouth of the inmate, it also forces the inmate to breathe in the excess dirt
3 and dust particles and poses a health hazard.

4 48. Infirmary showers are extremely unsanitary. Inmates have reported trash, hair,
5 mold, used bandages, urine, and human feces in the Infirmary showers. The showers are rarely
6 cleaned, even after an inmate with a communicable disease has used them. This poses
7 significant health hazards to inmates with disabilities, especially to those who have weak or
8 otherwise compromised immune systems.

9 49. Other inmates with disabilities held in the general population are classified in
10 such a way that they are denied access to court ordered classes and programs. They are therefore
11 unable to benefit from these programs and reduce their sentences in the same way as their non-
12 disabled peers.

13 **Access to Disability-Related Medical Equipment and Assistive Devices**

14 50. The Jail frequently denies men and women with disabilities access to medical
15 devices and equipment necessary for them to participate in jail programs and services. For
16 example, Jail staff has denied inmates with disabilities access to canes despite the fact that these
17 inmates require canes in order to move around the Jail independently and safely. In addition,
18 Jail medical staff has also delayed and, in some cases denied, access to inhalers for inmates with
19 severe asthma and respiratory conditions.

20 51. Inmates who use assistive devices, such as wheelchairs and walkers, are often are
21 forced to go without them at the Jail. For example, Jail personnel refused to give a wheelchair
22 to an inmate with a severe mobility impairment that made it difficult to walk and who requested
23 one. Instead, they gave the inmate crutches despite the fact that the inmate was unable to travel
24 long distances using crutches and had previously only used crutches to travel short distances.
25 Without a wheelchair it was both painful and difficult for the inmate to get around the jail and to
26 go up and down the stairs in order to get to visiting areas.

27 52. A different inmate with multiple respiratory disabilities including asthma,
28 emphysema and bronchitis was forced, on multiple occasions to wait up to a week and a half to

1 receive an inhaler. During these waiting periods he suffered multiple asthma attacks and was
2 unable to sleep or be active due to difficulty breathing without an inhaler.

3 53. Another example is an inmate with significant nerve damage and limited muscle
4 control in his right foot who has had multiple requests for orthopedic shoes denied despite the
5 fact that he is unable to wear the Jail-issued slippers, due to his lack of muscle control. Without
6 these shoes he must transfer in and out of his wheelchair in his socks in order to use the
7 bathroom and the shower. This causes him to come in direct contact with dirty water and other
8 fluids which pose a health hazard to him.

9 **Grievance Process and Retaliation**

10 54. Men and women with disabilities housed at the Jail are often misinformed or not
11 informed at all about the Jail's grievance process by Jail staff. Inmates report that they
12 frequently do not receive a copy of the "Inmate Rules and Information Handbook", which
13 contains a description of the grievance procedure, upon admission to the Jail.

14 55. For example, one inmate reported that he was never informed of the procedure in
15 which he could make a formal complaint about problems he was experiencing. Another inmate
16 reported that when he asked for materials to file a formal complaint about the solitary
17 confinement in the Infirmary, he was falsely told that the Jail did not have any such materials.
18 Other inmates have had jail staff refuse to give them grievance forms when they have requested
19 them.

20 56. Men and women with disabilities who are able to file grievances at the Jail face a
21 serious risk of being retaliated against by Jail staff for doing so. For example, one inmate filed
22 several grievances related to access to medication and health care, as well as a prolonged
23 experience in a holding cell. Sheriffs later searched and ransacked his cell and repeatedly made
24 comments both to him and to other inmates which led the inmate to believe that he was facing
25 retaliation for filing formal grievances. This type of retaliation deters inmates with disabilities
26 from exercising their right to file a grievance with the Jail regarding barriers they experience
27 due to their disability at the Jail.

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FIRST CAUSE OF ACTION

Violation of Code of Civil Procedure § 526a

(Taxpayer Plaintiffs Only)

57. Plaintiffs reallege and incorporate by reference herein all of the allegations contained in paragraphs 1 through 56, inclusive, as though they were fully set forth herein.

58. Defendants have and continue to illegally expend County funds by operating Santa Rita Jail and its facilities, programs, benefits, accommodations, advantages and services in a manner that discriminates against persons with disabilities in violation of California Civil Code §§ 54 et seq., Government Code §§ 11135 et seq., Government Code §§ 4450 et seq., and Title 24 of California's Building Standards Code as described in detail in paragraphs 62 through 78 below.

59. Defendants have and continue to illegally expend County funds by operating Santa Rita Jail and its facilities in a manner that discriminates against persons with disabilities in violation of Title II of the Americans with Disabilities Act ("Title II") and its implementing regulations at 28 C.F.R. § 35.152, which prohibit public entities that operate jails and prisons from denying persons with disabilities participation in or any of the benefits of their services, programs or activities.

60. Defendants have and continue to illegally expend County funds by failing to implement reasonable policies, including physical modifications to additional cells in accordance with the Title II's 2010 architectural standards, so as to ensure that each inmate with a disability is housed in a cell with the accessible elements necessary to afford the inmate access to safe, appropriate housing, in violation of 28 C.F.R. § 35.152.

61. Plaintiffs have no adequate remedy at law and, unless the relief requested herein is granted Defendants will continue to use taxpayer funds illegally and in violation of California Civil Code §§ 54, *et. seq.*, California Government Code § 4450, *et. seq.* and Title 24 of the California Building Standards Code.

Wherefore Plaintiffs pray for relief as set forth below.

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SECOND CAUSE OF ACTION

Violation of the California Disabled Persons Act

California Civil Code §§ 54, *et. seq*

(Plaintiff Legal Services for Prisoners with Children Only)

62. Plaintiffs reallege and incorporate by reference herein all of the allegations contained in paragraphs 1 through 61, inclusive, as though they were fully set forth herein.

63. Defendants use public funds illegally, in violation of Code of Civil Procedure section 526a, to discriminate against individuals with disabilities in violation of California Civil Code §§ 54 *et. seq.*

64. Defendants use public funds to operate a jail that houses pre-trial detainees, convicted inmates, and state parolees. The Jail is within the jurisdiction of the State of California, and therefore Defendant is obligated to comply with the provisions of California Civil Code §§ 54 and 54.1.

65. Section 54.1 provides, *inter alia*, that persons with disabilities are 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” and “other places to which the general public is invited” within the jurisdiction of the state of California. Cal. Civ. Code § 54.1(a)(1).

66. Santa Rita Jail is a public facility and place of public accommodation and therefore is subject to the provisions of, and must be operated in compliance with, § 54.1.

67. Defendants deny persons with disabilities full and equal access to the accommodations, advantages, facilities, and privileges of the Jail. By denying disabled inmates full and equal access to the Jail’s accommodations, advantages, facilities, and privileges, Defendants have and continue to violate California Civil Code §§ 54 *et. seq.*

68. The Jail and its facilities constitute “buildings, structures and/or related facilities” within the meaning of California Government Code §§ 4450 and 4451. Defendants have constructed, repaired or altered the Jail and its facilities through the use of state, county and/or municipal funds since 1968, within the meaning of §§ 4450, *et. seq.*, including § 4456, thereby

1 requiring Defendants to comply with the accessibility requirements of Title 24 of the California
2 Building Standards Code.

3 69. Defendants have constructed, altered or repaired parts of the Jail in a manner that
4 violates the accessibility requirements of Title 24 of the California Building Standards Code and
5 California Government Code §§ 4450. A violation of California Government Code §§ 4450, et
6 seq. constitutes a violation of California Civil Code §§54 and 54.1.

7 70. The actions and omissions of Defendants as herein alleged constitute a denial of
8 access to and use of the described public facilities to individuals with disabilities within the
9 meaning of California Government Code § 4450, *et seq.*, in violation of California Civil Code
10 §§ 54 and 54.1

11 71. Defendants are also violating California Civil Code §§ 54 and 54.1 in that their
12 actions violate Title II of the Americans with Disabilities Act and the regulations implementing
13 Title II at 28 C.F.R. § 35.152. Any violation of the Americans with Disabilities Act is a
14 violation of California Civil Code §§ 54 and 54.1.

15 Wherefore, Plaintiff prays for a judicial declaration as set forth below.

16 **THIRD CAUSE OF ACTION**

17 **Violation of California Government Code § 11135, *et seq.***

18 **(Plaintiff Legal Services for Prisoners with Children Only)**

19 72. Plaintiffs reallege and incorporate, by reference herein, all of the allegations
20 contained in paragraphs 1 through 71, inclusive, as though fully set forth herein.

21 73. Defendants use public funds illegally, in violation of Code of Civil Procedure §
22 526a, to discriminate against individuals with disabilities in violation of California Government
23 Code § 11135.

24 74. California Government Code § 11135 and the regulations promulgated thereunder
25 prohibit discrimination against people with disabilities by any program or activity funded by the
26 State. Section 11135 provides, in pertinent part, that:

27 No person in the State of California shall, on the basis of . . .disability, be unlawfully
28 denied the benefits of, or be unlawfully subjected to discrimination under, any program or
activity that is funded directly by the state or receives any financial assistance from the State.

FOURTH CAUSE OF ACTION

Declaratory Relief

(Plaintiff Legal Services for Prisoners with Children Only)

79. Plaintiffs reallege and incorporate, by reference herein, all of the allegations contained in paragraphs 1 through 78, inclusive, as though fully set forth herein.

80. Defendant denies failing to comply with applicable laws prohibiting discrimination against persons with disabilities, specifically, California Civil Code § 54, *et seq.*, and California Government Code § 11135, *et seq.*

25 81. A judicial declaration is necessary and appropriate at this time in order that each
26 of the parties may know their respective rights and duties and act accordingly.

Wherefore, Plaintiffs pray for relief as set forth below.

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DISABILITY RIGHTS ADVOCATES
2001 CENTER STREET, FOURTH FLOOR
BERKELEY, CALIFORNIA 94704-1204
(510) 665-8644

REQUEST FOR RELIEF

Wherefore, Plaintiffs pray for relief as set forth below:

82. A judicial declaration that the denial of equal access to Santa Rita Jail programs and facilities to inmates with disabilities violates California Civil Code § 54, *et seq.*, and California Government Code § 11135, *et seq.*;

83. An order and judgment enjoining Defendant from continuing to use public funds illegally in violation of Code of Civil Procedure § 526a;

84. An order and judgment enjoining Defendant from violating California Government Code § 11135, *et seq.*, and requiring Defendant to address and remedy the discrimination described herein with respect to Santa Rita Jail;

85. Plaintiffs' reasonable attorneys' fees and costs;

86. For such other and further relief as the Court deems just and proper.

Dated: November 15, 2012

Respectfully Submitted,

DISABILITY RIGHTS ADVOCATES

By: 

Kara Janssen