

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
Northern Division**

CHRISTOPHER JARBOE, P.O. Box 549, Jessup, MD 20794,
CARROLL CONNELLY, P.O. Box 549, Jessup, MD 20794,
VANDER DAVIS, P.O. Box 549, Jessup, MD 20794, GARY
DENMARK, P.O. Box 549, Jessup, MD 20794, GARFIELD
REDD, P.O. Box 549, Jessup, MD 20794, on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

MARYLAND DEPARTMENT OF PUBLIC SAFETY AND
CORRECTIONAL SERVICES (DPSCS), 300 East Joppa Road,
Suite 1000, Towson, MD 21286; MARYLAND DIVISION OF
CORRECTIONS, 6776 Reisterstown Rd., Suite 310, Baltimore,
MD 21215; MARYLAND DEPARTMENT OF LABOR,
LICENSING AND REGULATION, DIVISION OF
WORKFORCE DEVELOPMENT AND ADULT LEARNING
(CORRECTIONAL EDUCATION), 1100 North Eutaw St.,
Room 616, Baltimore, MD 21201; MARYLAND
CORRECTIONAL ENTERPRISES, 7275 Waterloo Road,
Jessup, MD 20794; MARYLAND CORRECTIONAL
INSTITUTION, JESSUP (MCIJ), P.O. Box 549, Jessup, MD
20794; WESTERN CORRECTIONAL INSTITUTION (WCI),
13800 McMullen Highway, S.W., Cumberland, MD 21502;
GARY D. MAYNARD, Secretary, Maryland Department of
Public Safety and Correctional Services, 300 East Joppa Road,
Suite 1000, Towson, MD 21286; J. MICHAEL STOUFFER,
Maryland Commissioner of Corrections, 300 East Joppa Road,
Suite 1000, Towson, MD 21286; PAULETTE FRANCOIS,
Assistant Secretary, Department of Labor, Licensing and
Regulation, Division of Workforce Development and Adult
Learning, 1100 North Eutaw St., Room 616, Baltimore, MD
21201; STEPHEN M. SHILOH, Chief Executive Officer,
Maryland Correctional Enterprises, 7275 Waterloo Road, Jessup,
MD 20794; DAYENA CORCORAN, Warden, Maryland
Correctional Institution, Jessup, P.O. Box 549, Jessup, MD
20794; and J. PHILIP MORGAN, Warden, Western Correctional
Institution, 13800 McMullen Highway, S.W., Cumberland, MD
21502,

Defendants.

Case No. _____

**CLASS ACTION
COMPLAINT**

**PLAINTIFF'S COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF AND DAMAGES**

I. PRELIMINARY STATEMENT

1. This is a class action lawsuit based on the willful and deliberate refusal of the Defendants to comply with federal laws protecting the rights of the Plaintiffs, who are deaf or hard of hearing individuals in the custody of Defendant Maryland Department of Public Safety and Correctional Services (DPSCS).
2. The state agencies, entities and officials named as Defendants in this case have failed to comply with federal laws, including the Americans with Disabilities Act, 42 U.S.C. § 12131 *et seq.*, the Rehabilitation Act, 29 U.S.C. § 794 *et seq.*, and the Constitution of the United States.
3. Through their policies and practices, Defendants discriminate against deaf and hard of hearing individuals in DPSCS's custody. They have done this by denying deaf and hard of hearing individuals in their custody adequate and equally effective means to communicate by telephone with individuals outside of prison. Defendants have also failed to provide adequate access to other auxiliary aids and services necessary to accommodate deaf and hard of hearing individuals in a variety of settings including in connection with educational and rehabilitative programs. Defendants also refuse to provide deaf and hard of hearing individuals in DPSCS custody with adequate notification of important daily events and safety announcements and also refuse to provide adequate interpretative services at disciplinary hearings. Additionally, Defendants have discriminated against inmates who are deaf or hard of hearing in work assignments.

4. As a result of the Defendants' discriminatory policies and practices, deaf and hard of hearing individuals in DPSCS's custody and under DPSCS's supervision:
- have been prevented from effectively communicating by telephone with family, friends, and attorneys outside of prison;
 - have missed prison-wide safety announcements, prison counts and announcements for meals and other important daily activities;
 - have been excluded from participation in educational and counseling programs offered by DPSCS and Correctional Education, including those required under the terms of their sentencing;
 - have been discriminated against in work assignments;
 - have been denied the ability to meaningfully participate and defend themselves in disciplinary hearings;
 - and have been prevented from learning a trade, and receiving educational and industrial credits that could reduce their overall incarceration time.
5. Plaintiffs seek declaratory and injunctive relief and damages on their own behalf and on behalf of the class of all deaf and hard of hearing individuals in DPSCS's custody for the harms they have suffered and continue to suffer as a result of the Defendants' discrimination.

II. JURISDICTION

6. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 (Federal Question).

III. VENUE

7. Venue is proper in this District, under 28 U.S.C. § 1391(b), all the defendants reside in Maryland in this District and a substantial part of the events giving rise to claims herein occurred within this District.

IV. PARTIES

A. Plaintiffs

8. Named Plaintiffs Jarboe, Connelly, Davis, Denmark and Redd are men with a hearing disability currently incarcerated at MCI-J, and under DPSCS's custody and control.
9. Mr. Christopher Jarboe (Inmate # 233959) is profoundly deaf, and has been deaf since birth. He was educated at the Maryland School for the Deaf, Frederick, where he learned, and was instructed in, American Sign Language ("ASL"). He relies on ASL to communicate and requires a sign language interpreter to allow him to communicate effectively with persons who do not know ASL. He cannot use a standard telephone.
10. Mr. Carroll Connelly (Inmate # 367534) is profoundly deaf, and has been deaf since birth. He was educated at the Maryland School for the Deaf, Frederick, where he learned, and was instructed in, ASL. He relies on ASL to communicate and requires a sign language interpreter to allow him to communicate effectively with persons who do not know ASL. He cannot use a standard telephone.
11. Mr. Vander Davis (Inmate # 323484) is profoundly deaf due to an auto-immune disease with an onset in 1999, which prompted a progressive hearing loss and left him with severe tinnitus that further impedes his ability to communicate effectively. Mr. Davis does not use ASL, and requires Computer Assisted Real Time Transcripts (CART) to enable him to

understand and participate in programs and classes. Mr. Davis cannot use a standard telephone.

12. Mr. Gary Denmark (Inmate # 320355) is profoundly deaf, and has been deaf since birth. He was educated at the Maryland School for the Deaf, Frederick, where he learned, and was instructed in, ASL. He relies on ASL to communicate and requires a sign language interpreter to allow him to communicate effectively with persons who do not know ASL. He cannot use a standard telephone. Like many deaf people, Mr. Denmark is not fluent in reading and writing English, and considers ASL his native language.

13. Mr. Garfield Redd (Inmate #349085) is profoundly deaf due to a progressive hearing loss. He cannot use a standard telephone. Mr. Redd was incarcerated at MCI-J from October, 2009 to September 22, 2011. On September 22, 2011, without explanation, Mr. Redd was moved from MCI-J to WCI. In late October, 2011, Mr. Redd was transferred back to MCI-J.

14. Plaintiffs bring this Complaint on their own behalves and on behalf of a class of persons similarly situated, pursuant to the provisions of Fed. R. Civ. P. 23. This suit is properly maintainable as a class action under Fed. R. Civ. P. 23(b)(2) and 23(b)(3). Plaintiffs represent all deaf or hard of hearing inmates who currently are or will in the future be within the custody or supervision of DPSCS (“Deaf and Hard of Hearing DPSCS Inmates” or “Deaf and Hard of Hearing Inmates.”)

B. Defendants

1. State Agency Defendants

15. Maryland Department of Public Safety and Correctional Services (“DPSCS”) is the Maryland state agency responsible for the operation of 24 prisons and pre-release centers,

whose mission is to protect the public by incarcerating sentenced criminals. DPSCS has nearly 12,000 employees.

16. Maryland Division of Corrections is the division of DPSCS responsible for operation of the State prison system, and the oversight of the State's twenty-four prisons and pre-release centers.
17. Maryland Department of Labor, Licensing and Regulation, Division of Workforce Development and Adult Learning (Correctional Education) is the Maryland agency responsible for providing educational programs to individuals under DPSCS's custody.
18. Maryland Correctional Enterprises ("MCE") is the division of DPSCS responsible for training and employing inmates in a conglomerate of business units located in the major State prisons. Mandatory education requirements along with the development of technical and social skills have proven to improve the employability of inmates who participate in MCE programs upon release.
19. Maryland Correctional Institute-MCI-J ("MCI-J") is a medium security correctional institute located in Jessup, Maryland. The facility opened in 1981. Upon information and belief, most, but not all, deaf and hard of hearing DPSCS inmates are housed at MCI-J.
20. Western Correctional Institution ("WCI") is a maximum security correctional institute located in Cumberland, Maryland. The facility opened in 1996. Upon information and belief, some deaf and hard of hearing DPSCS inmates are housed at WCI, including those who rely on mobility devices or wheelchairs for mobility.

2. Defendants Sued in Their Individual and/or Official Capacities

21. Gary D. Maynard, Secretary, Maryland Department of Public Safety and Correctional Services is the Director of DPSCS and is responsible for the day-to-day operations of DPSCS. On information and belief, he is aware of DPSCS's policies and practices regarding deaf and hard of hearing individuals. He is sued in his official capacity.
22. J. Michael Stouffer is the Commissioner of Maryland Corrections. He is responsible for overseeing DPSCS prisons and correctional units, including MCI-J and WCI. He is also responsible for responding to appeals of complaints and grievances brought by individuals in DPSCS custody. He is aware of DPSCS policies and practices regarding deaf and hard of hearing individuals and he is aware of specific written complaints by deaf and hard of hearing individuals at MCI-J and WCI regarding the violation of their rights. He is sued in his official capacity.
23. Paulette Francois, Assistant Secretary, Department of Labor, Licensing and Regulation, Division of Workforce Development and Adult Learning is responsible for DPSCS correctional educational programs. On information and belief, she is aware of DPSCS educational policies and practices regarding deaf and hard of hearing individuals. She is sued in her official capacity.
24. Stephen M. Shiloh is the Chief Executive Officer of Maryland Correctional Enterprises. As Chief Executive Officer, Mr. Shiloh is responsible for all MCE programs. On information and belief, he is aware of MCE policies and practices regarding employment of deaf and hard of hearing individuals. He is sued in his official capacity.
25. Dayena Corcoran is the Warden of MCI-J. As Warden, Ms. Corcoran is the legal custodian of all individuals incarcerated at MCI-J, and is responsible for their safe, secure, and

humane treatment. On information and belief, she is aware of DPSCS's policies and practices regarding deaf and hard of hearing individuals and she is aware of specific written complaints by deaf and hard of hearing individuals at MCI-J regarding the violation of their rights. She is sued in her individual and official capacities.

26. J. Philip Morgan is the Warden of WCI. As Warden, Mr. Morgan is the legal custodian of all individuals incarcerated at WCI, and is responsible for their safe, secure, and humane treatment. On information and belief, he is aware of DPSCS's policies and practices regarding deaf and hard of hearing individuals and he is aware of specific written complaints by deaf and hard of hearing individuals at WCI regarding the violation of their rights. He is sued in his individual and official capacities.

27. Defendants Maynard, Stouffer, Francois, Shiloh, Corcoran, and Morgan are state actors, acting under color of Maryland statutes and regulation in all activities relevant to this action.

V. STATEMENT OF FACTS

28. For years, DPSCS has failed to provide the deaf and hard of hearing inmates housed at its facilities the accommodations that are required by the Title II of the Americans with Disabilities Act ("ADA") and Section 504 of the Rehabilitation Act of 1973 ("Section 504"). In September 2006, Mr. Christopher Jarboe (233959) and other deaf and hard of hearing inmates at MCI-J retained the services of Foley & Lardner LLP ("Foley") and the Washington Lawyers' Committee for Civil Rights and Urban Affairs ("WLC") to assist them in obtaining such accommodations. Attorneys at Foley and the WLC first began to raise these matters with MCI-J in October 2006, through correspondence with then-Assistant Warden John S. Wolfe, and subsequently through regular communications and in-person meetings with Ms. Carolyn A. Atkins, who was then Warden of MCI-J, and Ms.

Laura Mullally, Assistant Attorney General for the State of Maryland. While some progress was made on certain issues, the discrimination on other matters continues to the present day.

29. Defendants are aware of their obligations under federal laws. Nevertheless, Defendants have not remedied their past pattern and practice of discrimination and continue to discriminate against deaf and hard of hearing individuals, resulting in disability-based discrimination in at least five different areas: (i) ineffective access to telecommunications; (ii) ineffective access to auxiliary aids and services; (iii) ineffective access to prison alerts and announcements; (iv) ineffective communication during disciplinary proceedings; and (v) inadequate access to prison vocational opportunities.

A. Inadequate Access to Telecommunications

30. DPSCS provides hearing individuals in its custody access to telecommunications services in order for them to communicate with family, friends, and other individuals outside of prison.

31. As the Federal Bureau of Prisons has recognized, “[t]elephone privileges are a supplemental means of maintaining community and family ties that will contribute to an inmate’s personal development.” 28 C.F.R. § 540.100. Telephone and other forms of telecommunication are very important to individuals in DPSCS’s custody because they foster the family and community ties that are fundamental to motivate incarcerated individuals to improve themselves and to prepare them to make a positive transition back to civilian life once their sentence is complete.

32. Most deaf and hard of hearing DPSCS inmates cannot use traditional telephones to communicate with individuals outside of prison.

1. Telecommunications Devices for the Deaf

33. Some DPSCS facilities provide deaf individuals in their custody with limited access to telecommunications devices for the deaf (“TDDs”). TDDs are electronic devices for text communication via a telephone line to enable people with hearing and speech disabilities to communicate by telephone. Based on fifty-year-old technology, the TDD is basically a telephone equipped with a keyboard and a display screen. For two parties to have a direct TDD conversation, each party must have a TDD.
34. Relay services are federally-mandated services that allow TDD users to communicate with hearing individuals who do not have TDDs. Relay services operate as follows: the party using the TDD places a call to a relay center, and a relay operator answers the call using another TDD. The caller provides the operator with the phone number of the party with whom they wish to communicate, and the operator places the call. When a hearing person answers the phone, the relay operator explains the relay service and states the name of the caller. The responses of the hearing person are typed by the relay operator into a TDD, and transmitted over the telephone lines to the TDD user. The call proceeds with the relay operator voicing what the TDD user types to the hearing person receiving the call, and typing what the hearing person speaks. The process can also work the other way — a hearing person who has no TDD can call deaf individuals from a traditional telephone by using the relay service.
35. The relay service is free of cost to the users, and the caller pays only for the cost of the call to the party with whom the caller wishes to converse. To connect to a relay services center, an individual can either dial “711” from anywhere within the United States or dial the toll-free “800” number of the relay service in the caller’s locality. Accordingly, TDD relay

services in Maryland may be accessed in two ways — by calling 711 or by calling Maryland's toll-free relay service number.

36. For the most part, deaf individuals in the United States who use ASL have abandoned TDD technology, and now utilize video phones. Yet, for those deaf individuals still using a TDD, it is impossible to communicate with a video phone user.

37. Some deaf and hard of hearing inmates who do not know ASL still require provision of TDDs in order to achieve access to telecommunication services.

38. For example, neither Mr. Davis nor Mr. Redd use sign language. As they cannot use a traditional telephone, they require a TDD in order to communicate by telephone.

a. TDD Service at MCI-J

39. MCI-J provides TDD units in some cellblocks.

40. The TDDs at MCI-J are frequently damaged and in need of repair.

41. A TDD conversation takes significantly longer than a traditional voice telephone call, because it takes much longer to type and read rather than to speak and listen. At times, however, defendants refuse to provide additional time for TDD calls.

42. Inmates at MCI-J cannot place direct calls by TDD to friends and family members; they can only use the relay service. Thus, they cannot communicate with friends or family members who possess TDD units. This is particularly important in an instance where they are seeking to communicate with other deaf or hard of hearing individuals.

43. MCI-J uses a private service company, T-Netix to provide relay services. Inmates at MCI-J are required to make Collect calls when using the TDDs, and are charged an eight dollar connection fee, as well as an additional thirty cents per minute of call time. They cannot use pre-paid phone cards with the T-Netix system. On information and belief, hearing inmates

are charged only fifteen cents per minute for phone calls, and are permitted to use a debit card for payment. The plaintiffs must use T-Netix to make calls to family and friends.

44. On January 23, 2012, named plaintiff, Mr. Jaboe, filed a Request for Administrative Remedy with Warden Dayena Corcoran to address the unequal treatment afforded to deaf inmates whose only mode of communication is through the TDD units. On January 31, 2012, Ms. Corcoran dismissed the request and referred Mr. Jaboe to file his complaint elsewhere, using the T-Netix/Securus Inmate Telephone Complaint Form, claiming that grievances pertaining to the T-Netix system were outside of the Correctional Division jurisdiction. Yet, MCI-J officers monitor and administer the phone conversations made over TDD, and Ms. Corcoran is responsible for ensuring that inmates are provided with facilities that meet the requirements of the law, including communication facilities.
45. At MCI-J, inmates with family emergencies are permitted to place and receive free compassion telephone calls. Formerly, deaf inmates could place or receive such calls through a TDD in the captain's office. That TDD is no longer available for these calls. As a result, deaf inmates cannot communicate with their families during critical family emergencies.
46. For example, in late October, 2011, Mr. Connelly's father had a stroke. Mr. Connelly's family was unable to contact him directly, and he was unable to contact his family. In mid-November, 2011, Mr. Jarboe's father had a heart attack. His family was unable to contact him directly by telephone. Mr. Jarboe learned of his father's serious illness several days after the heart attack through a letter from his family.

b. TDD Service at WCI

47. WCI has a portable TDD unit, which upon information and belief is usually kept in the Social Work Office.
48. Deaf and hard of hearing individuals incarcerated at WCI are repeatedly denied access to the TDD. They are told that they must write a request and make an appointment to use it, and then can only use it during limited hours. There is no provision to enable deaf and hard of hearing inmates to place confidential legal calls. There is also no provision to enable deaf and hard of hearing inmates in segregation to place telephone calls. Hearing inmates have no such restrictions on their use of telephones.
49. There are deaf and hard of hearing individuals who have been incarcerated at WCI for years and who, despite repeated requests, have never been able to use the TDD, and thus have never been able to place a call from the institution.

2. Video Phones

50. Videophones and free or low-cost internet-based video links (collectively, “videophones”) are replacing TDDs among deaf people because they allow deaf individuals to communicate with one another directly in ASL, without having to communicate through written English, a language that is difficult for some of them to communicate in. When using a videophone, callers can see each other, usually over an internet connection. As a result, many deaf households no longer own a TDD and have no way to accept a TDD call, as they rely exclusively on videophones for telecommunication.
51. Deaf individuals using videophones can also call a Video Relay Service (“VRS”) to place calls to people who do not understand ASL or do not have a videophone. The mechanics of VRS are very similar to those of traditional TDD relay service — the caller is routed to an

interpreter, the caller gives the interpreter the number of the party he is trying to reach, and the interpreter then interprets the conversation into spoken English.

52. Videophones and VRS permit deaf people to use ASL instead of having to carry out every telephone call in written English through a TDD. Due to the fact that TDDs rely on written communications, they are by nature an unsatisfactory and ineffective means of communication for many deaf individuals. Writing usually does not provide effective communication for a deaf individual. English is generally considered a second language for most deaf persons who became deaf before acquiring language — ASL is their native language. Additionally, many deaf people acquire English as their second language much later in life. Therefore, the English reading and writing skill level of many deaf individuals, including those incarcerated at DPSCS institutions, is generally much lower than that of hearing people.

53. Provision of videophones would also ensure that deaf inmates could place telephone calls to deaf family and friends, the vast majority of whom no longer have TDD devices.

54. Deaf individuals in Defendants' custody have repeatedly requested videophone access, but have been denied this access.

a. Video Phones at MCI-J

55. Mr. Connelly has requested access to a videophone so that he can communicate with his friends and family. Mr. Connelly's sister, father, niece and nephew are hearing and use ASL to communicate with deaf family members. They have videophones but not TDDs. Mr. Connelly's friends are deaf and have videophones but not TDDs. Mr. Connelly's request for access to a videophone was denied due to the availability of TDD services.

56. Therefore, Mr. Connelly has no means at all to call his deaf friends because it is not possible to connect a TDD to a videophone. He also cannot call his family directly, but only through TDD relay services. This creates an additional impediment for Mr. Connelly because the need to use relay services further extends the time it takes to complete a TDD call. By bringing in a third person intermediary through the relay service, it takes considerably more time for the typing, reading, and verbal transmission to loved ones.
57. Mr. Denmark has requested access to a videophone so that he can communicate with his mother and his friends. Mr. Denmark has limited English language skills, and can communicate only very basic messages by TDD. Mr. Denmark's mother is hearing but she uses ASL; his friends are deaf and have videophones but not TDDs. Mr. Denmark's request for access to a videophone was denied due to the availability of TDD services.
58. Therefore, Mr. Denmark has no means at all to call his deaf friends. He has not called any of his deaf friends since he was incarcerated at MCI-J. He also cannot communicate effectively by telephone with his mother, as he can only communicate the most cursory messages by means of TDD relay services.
59. Mr. Jarboe has requested access to a videophone so that he can communicate with his family. Mr. Jarboe's sister, niece, cousins and his niece's father are deaf and have videophones but not TDDs. Mr. Jarboe's parents are hearing, and use ASL to communicate with him. They have a videophone but not a TDD. Mr. Jarboe's fiancé is hearing and uses ASL to communicate with him. She has both a videophone and a TDD. Mr. Jarboe's request for access to a videophone was denied due to the availability of TDD services.
60. Therefore, Mr. Jarboe has no means at all to call his deaf family members, and cannot call his fiancé or his hearing family members directly, but only through TDD relay services.

61. In response to a grievance filed by Mr. Jarboe on the issue of provision of videophone equipment, Mr. R. Watson, Acting Assistant Commissioner of Corrections stated, on June 15, 2011:

. . . it is noted that the Division of Correction will eventually have to explore the new technology for the hearing impaired in the future.

Response Part B, Case No. MCIJ-0176-11 (June 15, 2011).

62. Mr. Connelly, Mr. Denmark and Mr. Jarboe have met with Ms. Corcoran in a group to discuss their grievances with MCI-J TDD services.

63. Because Mr. Connelly, Mr. Denmark and Mr. Jarboe have used ASL their entire lives, their ability to communicate with family and friends is extremely compromised by typing messages on a TDD, as written communications are not effective for them. Thus, a videophone is the most effective mode of communication.

64. Moreover, because their deaf friends and family members no longer have TDD equipment, and use only videophones, Mr. Connelly, Mr. Denmark and Mr. Jarboe have been completely cut off from telecommunication access with all their deaf friends and family members by the failure of Defendants to provide this equipment.

b. Videophones at WCI

65. There are deaf inmates at WCI who use ASL and who are denied effective telecommunication services due to the failure of WCI to provide videophone services to them.

3. Other Telecommunication Issues at MCI-J

66. While none of the named plaintiffs can use a traditional telephone because they are profoundly deaf, several inmates housed at MCI-J are hard of hearing but not profoundly

deaf. These hard of hearing inmates can use a traditional telephone provided the telephone has either an internal or external amplification speaker. While the pay phones available to the general population and hard of hearing inmates were manufactured and originally equipped with internal amplification speakers, the speakers have at various times been in a state of disrepair, thereby limiting the hard of hearing inmates' use of telephone services. Thus, MCI-J fails to maintain the traditional telephones in a condition operable for the hard of hearing inmates, thereby limiting phone access and use by such inmates.

4. Telecommunications at Other DPSCS Facilities

67. Upon information and belief, deaf and hard of hearing inmates at other DPSCS facilities have been denied equal and consistent access to telecommunication services at those facilities.

68. For example, deaf and hard of hearing inmates at the Jessup Pre-Release Unit and the Maryland Correctional Training Center have been denied equal and consistent access to TDD services at those facilities.

69. It is reported that guards and other authority figures have not only ignored inmates' requests to use the TDD services, but also blocked calls to specific inmates and disposed of inmates' complaints addressing this issue.

B. Inadequate Access to Auxiliary Aids and Services

70. Individuals in the custody of DPSCS are wholly dependent on DPSCS for medical, dental, educational, mental health, employment, and religious services, among other services. Individuals in the custody of DPSCS are also dependent on DPSCS and prison staff for all of their basic daily needs, including food, exercise, and safety.

1. Sign Language Interpreter Services

71. For deaf or hard of hearing individuals who rely on ASL as their primary form of communication, use of a qualified American Sign Language interpreter is necessary to ensure effective communication between a deaf or hard of hearing individual and an individual who does not use ASL to communicate.
72. A qualified sign language interpreter is necessary because ASL is a complete, complex language that employs signs made with the hands and other movements, including facial expressions and postures of the body. It is a language distinct from English—it is not simply English in hand signals—it has its own vocabulary, and its own rules for grammar and syntax.
73. As noted above, writing usually does not provide effective communication for a deaf individual. English is generally considered a second language for most deaf persons who became deaf before acquiring language—ASL is their native language. Also, several deaf people acquire English as their second language later in life – past the critical period of language acquisition. Therefore, the English reading and writing skill level of many deaf individuals, including those incarcerated at DPSCS, is generally much lower than that of hearing people.
74. Lip-reading usually does not provide effective communication for a deaf individual and is generally far less effective than written communication. It is extremely difficult to lip-read English because only a small fraction of the sounds used in the language are clearly visible on the mouth, and many sounds that are visible look identical on the lips. In addition to these difficulties in lip-reading, the ability to accurately lip-read is affected by the speaker's facial bone structure, facial musculature, facial hair, lighting, and other external factors.

Moreover, even if an ASL user were able to understand the sounds appearing on a speaker's lips, for the reasons discussed above he would not necessarily understand the English language or the vocabulary the speaker was using.

75. Thus, provision of qualified sign language interpreter services is the auxiliary service necessary to allow deaf individuals who use ASL in DPSCS's custody and under DPSCS's supervision to effectively communicate with DPSCS officials, DPSCS employees, and medical personnel.

76. Defendants, through their policies and practices, fail to provide adequate access to sign language interpreters for deaf individuals in DPSCS's custody and control and under DPSCS's supervision.

77. On information and belief, Defendants do not provide adequate access to sign language interpreters at DPSCS facilities throughout Maryland.

a. Interpreters for Access to Medical Services

78. Defendants are responsible for the medical care of all individuals incarcerated by DPSCS.

79. Deaf individuals who rely on ASL require sign language interpreters to communicate effectively with medical staff.

80. After receiving numerous written requests, Defendants are aware that deaf individuals need sign language interpreters for their medical appointments.

81. Nonetheless, deaf inmates at MCI-J are still periodically denied interpreter services at medical appointments.

82. Deaf inmates at facilities other than MCI-J, including those housed at WCI, are consistently denied interpreter services for medical appointments. One deaf inmate at WCI has never received an interpreter at medical appointments, despite serious physical disabilities.

b. Interpreters for Access to Prison Programs

83. Defendants provide educational, mental health and counseling programs for individuals in DPSCS's custody.
84. Interpreters are not provided consistently by Defendants for such programs, including for educational classes and for Anger Management and Narcotics Abuse and Alcohol Abuse ("NA/AA") counseling, even when such programs are required under the terms of the inmate's sentence.
85. Deaf inmates at WCI have also been denied interpreter services for classes such as Adult Basic Education, as well as at disciplinary proceedings and religious services.

2. Other Auxiliary Aids and Services

86. For deaf and hard of hearing inmates who do not use ASL, other auxiliary aids and services are necessary to ensure their effective participation in and understanding of Defendants' services and programs.
87. Computer Assisted Real Time (CART) is a system that provides access to spoken information for people with hearing loss. CART operators use a court reporting machine to input spoken text. The output of the court reporting machine is fed to a computer, which produces a text document that corresponds very closely to the words used by the speaker. Once in the computer, the text can be displayed on a computer monitor (for one or two users) or projected onto a screen (for more users.) CART is generally the system of choice for late-deafened people attending classes or meetings.
88. An Assistive Listening Device or System (ALDS) can be any one of several technologies that are used to improve the reception of speech for people with hearing loss in situations when it might be difficult or impossible to hear otherwise. ALDS can be used by people

without hearing aids, with hearing aids and with cochlear implants. Generally speaking, ALDS are especially beneficial for persons who have lost some of their hearing but are still able to understand speech if it is amplified and directed appropriately.

89. Thus, CART and/or ALDS is necessary to allow certain deaf or hard of hearing individuals in DPSCS's custody and under DPSCS's supervision to effectively understand and participate in DPSCS programs and services.

90. Defendants, through their policies and practices, fail to provide any access to CART or ALDS for deaf or hard of hearing individuals in DPSCS's custody and control and under DPSCS's supervision.

91. On information and belief, Defendants do not provide adequate access to CART or ALDS at DPSCS facilities throughout Maryland.

a. Auxiliary Aids and Services at MCI-J

92. Deaf and hard of hearing inmates at MCI-J have been denied effective access to programs, such as stress management, anger management and other classes, due to the lack of any system of providing them with effective communication, such as CART and/or ALD.

93. In September, 2010, Mr. Davis began an MCI-J Stress Management class. He was unable to fully participate in the class due to his hearing impairment.

94. Mr. Davis has used CART, supplemented by ALDS, successfully in the past. Following the onset of his hearing loss, Mr. Davis attended and received an Associate's degree from Baltimore County Community College, where he received an accommodation of CART, supplemented by ALDS, to enable him to understand and participate in classes.

95. Mr. Davis filed a request for administrative remedy regarding this denial of effective communication, which was investigated and found meritorious. The Warden's November 11, 2010 response stated:

Your request for administrative remedy has been investigated and was found meritorious. An investigation revealed that the facility is not equipped with an assistive listening device to assist communication for the Hearing Impaired to participate in programs. However, the facility is taking the necessary steps to inquire about a device that can be provided to you for assistance.

96. As of November, 2011, Mr. Davis has still not been provided with CART or ALDS. He must attend an Anger Management program and drug/narcotic abuse program in order to be eligible for parole, but is unable to effectively participate in or understand these programs without the provision of CART.

b. Auxiliary Aids and Services at WCI

97. Deaf and hard of hearing inmates at WCI have also been denied educational opportunities, such as classes to achieve a General Educational Development (GED) degree, due to the lack of any system of providing them with effective communication, such as CART and/or ALDS.

c. Auxiliary Aids and Services at other DPSCS Facilities

98. Upon information and belief, deaf and hard of hearing inmates at other DPSCS facilities have been denied auxiliary aids and services at those facilities.

C. Access to Visual Notification of Announcements

99. Deaf and hard of hearing inmates throughout DPSCS institutions have difficulty in accessing public address and other audio alerts and announcements available to other inmates.

1. Visual Notification at MCI-J

100. Because deaf and hard of hearing inmates had been unable to hear daily announcements made by MCI-J staff, such as announcements requiring inmates to report to their cells for head counts, Foley and WLC urged MCI-J to use vibrating pagers to communicate with the deaf inmates. MCI-J agreed to use pagers to essentially send text messages to the deaf inmates so that the deaf inmates receive the same messages and announcements as the hearing inmates.
101. Unfortunately, the pagers are often not used and when they are, they are used improperly.
102. While some DPSCS correctional officers attempt to use the pagers correctly, many do not even attempt to use the pagers and others simply do not know how to use them. MCI-J's failure to train and require that its officers consistently use the pagers and use them for proper purposes causes the deaf and hard of hearing inmates to miss visitors, meal calls, appointments, and other important announcements, a problem that the hearing inmates do not have.
103. For example, Mr. Davis frequently misses meals because officers do not alert him by pager, while other inmates receive information announcing the meal through audio announcements. He most often misses breakfast, sometimes as often as three or four times a week. Mr. Davis also frequently misses mail call announcements, and instead of alerting him by pager or other means, officers distribute Mr. Davis's mail to his cellmate. Additionally, one sergeant, Ms. Fisher, who works in units with deaf inmates and was assigned to Mr. Davis' unit, told him that she does not know how to enter data for the pagers.

104. MCI-J does on occasion use the pagers for awakening deaf inmates in the morning. However, when the deaf inmates are awakened by pagers, they are awakened substantially earlier than the hearing inmates.
105. Moreover, the volume of the pagers cannot be adjusted, and they are very loud and disruptive for both deaf and hearing inmates. Some deaf inmates do not use the pagers, as they do not want to annoy hearing cell mates who are also awakened early by the pager.
106. The pager in use at MCI-J has an extremely small LED screen. Deaf and hard of hearing inmates cannot see the display on the pager easily, and the information that can be provided on the pager screen is by nature extremely limited.
107. In addition to pagers, approximately seven years ago MCI-J installed LED electronic bulletin boards to provide visual notification of announcements for deaf inmates in the deaf inmates' housing unit, as well as in other central areas of the prison. These worked well to announce visitors to deaf and hard of hearing inmates, as well as for other announcements.
108. For the last few years, MCI-J has stopped using the visual electronic bulletin board system. Currently, the system displays only a default message, and is not used to transmit messages to the deaf and hard of hearing inmates.
109. MCI-J does not dispute this deficiency and Defendants admitted in a Memorandum from counsel on April 23, 2009 that the prison does not use the LED system simply because "the Warden does not have an instructional manual." Upon information and belief, MCI-J attempts to rectify the inaccessibility of audio announcements by increasing the decibel level of those announcements. The resulting decibel level of the announcements in some areas of the institution is so high that it causes severe ear pain to those inmates with some

residual hearing who utilize hearing aids. Requests to decrease the decibel level of these announcements have been denied.

110. Mr. Redd has been late for meals, kitchen detail, medical appointments and visits because of Defendants' failure to provide him with visual or alternative notification of these events. He has requested and has been denied visual or alternative notification of announcements, including a request for a vibrating alarm clock.

2. Visual Notification at WCI

111. WCI provides several means of communicating information to those incarcerated at that institution.

112. One means is through an audio Public Address system, transmitted through speakers throughout the facility.

113. Deaf and hard of hearing inmates at WCI have no access to the Public Address system.

114. Another means by which WCI provides information to those incarcerated there is by television broadcast. One channel, Channel 6, is an internal information channel specifically broadcast to provide information relevant to WCI inmates.

115. Television programming can be made accessible to those with hearing impairments through captioning. Captioning can be either open (viewable by all viewers) or closed (viewable only by those who opt to activate the caption chip within every television).

116. Channel 6 provides no captions, either open or closed. As a result, deaf and hard of hearing inmates are not able to access the important content of Channel 6 broadcasts.

117. For example, in early 2011 there was a severe influenza epidemic at WCI. Information was broadcast on Channel 6 about influenza, including its symptoms, and how to avoid contagion. Deaf and hard of hearing inmates were denied access to this critical information.

118. At the request of a deaf inmate at WCI, Maryland School for the Deaf at Frederick offered to lend its captioning equipment to WCI, but the offer was refused.

3. Visual Notification at Other DPSCS Facilities

119. Upon information and belief, deaf and hard of hearing inmates at other DPSCS facilities have been denied visual notification of announcements at those facilities.

D. Failure to Provide Effective Communication at Disciplinary Proceedings

120. Deaf and hard of hearing inmates are subjected to disciplinary proceedings without effective communication.

121. Although they are punished, many of these inmates do not understand the charges against them or the parameters of their punishment. Moreover, the inmates are denied the ability to defend themselves when they cannot hear what is happening during the hearings.

122. When inmates violate rules and regulations of MCI-J and WCI they undergo disciplinary proceedings conducted by hearing officers. During these proceedings, the inmates have an opportunity to defend themselves, to hear the allegations against them, and to understand the parameters of their punishment.

123. In their inmate handbook, the DPSCS acknowledges the inmates' right to be present at these hearings, to defend themselves, and to present evidence. DPSCS Inmate Handbook specifically describes these hearing as a mechanism that "shall provide due process for the inmate and a decision as to any violation of a rule." Contrary to their own directives, DPSCS, MCI-J, WCI, and their agents are denying the deaf and hard of hearing inmates full due process by failing to provide appropriate auxiliary services, interpreters, or other means of interpretation.

124. The deaf and hard of hearing inmates are subjected to these proceedings without understanding what is happening during the hearings. Because they are denied interpreters and/or assistive listening devices or other auxiliary aids or services the inmates are unable to hear the judge, the allegations against them, or any of the results of the proceeding. They are disciplined without complete knowledge of the claims against them or the length of their punishment.

125. In one instance, Plaintiff Vander Davis was taken to a disciplinary hearing without any auxiliary aids or services or computer assisted real time transcripts to enable him to understand the proceedings. He immediately informed the hearing officer of his inability to hear. The hearing officer then preceded to physically move closer to Mr. Davis. Although Mr. Davis informed the hearing officer that he still could not hear, the hearing officer just stood up and moved closer. Intimidated by the hearing officer, Davis decided to discontinue his pleas for effective communication. Mr. Davis was found guilty but he did not understand his punishment nor any other details discussed at the hearing.

126. MCI-J's failure to provide interpreters or other auxiliary aids or services for effective communication at critical periods is further substantiated by the complaints of other inmates with hearing impairments. Plaintiff Christopher Jarboe filed two complaints challenging MCI-J's failure to provide interpreters on four separate occasions. The first complaint filed was ignored. Mr. Jarboe filed another complaint on December 2, 2011 seeking a response to this initial complaint and once again challenging MCI-J's failure to provide an interpreter. Thus, the MCI-J was and remains aware of the problems and actively chooses to deny relief to deaf and hard of hearing inmates.

E. Access to Employment Opportunities

127. Deaf and hard of hearing inmates are, solely because of their disabilities, routinely denied employment opportunities within DPSCS facilities.

128. For example, Mr. Redd was rejected three times for employment with the MCE print printing program at MCI-J solely due to his hearing impairment.

129. On information and belief, inmates at WCI have also been denied employment opportunities based solely on their hearing impairments.

130. Upon information and belief, deaf and hard of hearing inmates at other DPSCS facilities have been denied employment opportunities based solely on their hearing impairments at those facilities.

131. Defendants' failure to provide its deaf and hard of hearing inmates with access to telecommunication devices and services, effective communication within DPSCS institutions, access to announcements and alerts within the DPSCS institutions, and access to employment opportunities within DPSCS institutions has resulted in harm, and may result in future harm, to deaf and hard of hearing individuals in DPSCS custody. It also violates their rights under the U.S., the Americans with Disabilities Act and the Rehabilitation Act of 1973.

VI. CLAIMS FOR RELIEF

COUNT I - Discrimination on the Basis of a Disability in Violation of the Americans with Disabilities Act (42 U.S.C. § 12131 et seq.)

(Against All Defendants by the Plaintiffs on behalf of themselves and a class of similarly situated individuals)

132. Plaintiffs reallege and incorporate by reference each and every allegation above as if fully set forth herein.

133. On July 12, 1990, Congress enacted the ADA “to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities.” 42 U.S.C. § 12101(b)(1). Title II of the ADA states that “no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.” 42 U.S.C. § 12132.

134. Plaintiffs are qualified individuals with a disability within the meaning of Title II of the ADA, 42 U.S.C. § 12131(2).

135. The claims under the ADA are brought against the Defendants as departments, agencies, or instrumentalities of the State of Maryland.

136. Defendants are each a “public entity” within the meaning of 42 U.S.C. § 12131(1)(B).

137. At all times relevant to this action, the ADA was in full force and effect in the United States and Plaintiffs had a right not to be subjected to discrimination on the basis of their disability by defendants. 42 U.S.C. § 12132.

138. The U.S. Department of Justice (“DOJ”) regulation implementing Title II of the ADA clearly requires the provision of effective communication as part of its nondiscrimination mandate. 28 C.F.R. 35.160.
139. The regulation states that “[a] public entity shall take appropriate steps to ensure that communications with applicants, participants, and members of the public . . . with disabilities are as effective as communications with others.” 28 C.F.R. § 35.160(a).
140. Defendants’ failure to provide effective communication for individuals with hearing disabilities denied and continues to deny, on the basis of their disability, Plaintiffs the same access to defendant’s services, benefits, activities, programs, or privileges as the access provided to hearing individuals.
141. Plaintiffs have been unable to communicate effectively by telephone with individuals outside of prison, unable to participate in educational, mental health, employment, disciplinary, and other DPSCS services, and unable to learn of daily life and safety alert and other notifications as effectively as hearing individuals in DPSCS’s custody.
142. In order to ensure effective communication, the ADA requires that “a public entity shall furnish appropriate auxiliary aids and services where necessary to afford qualified individuals with a disabilities . . . an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity conducted by a public entity.” 28 C.F.R. § 35.160(b)(1).
143. Auxiliary aids and services include, but are not limited to, “qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments,” 42 U.S.C. § 12103, such as computer-aided transcription services,

assistive listening systems, closed caption decoders, open and close captioning, TDDs, videophones, and videotext displays. 28 C.F.R. § 35.104.

144. Defendant subjected Plaintiffs to discrimination solely on the basis of their disability, in violation of their rights under the ADA. They have done this by failing to provide effective communication, and by not ensuring that adequate access to qualified sign language interpreter services and other auxiliary aids and services is made available to individuals with hearing impairments in DPSCS's custody or under DPSCS supervision.

145. 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 disabilities." 28 C.F.R. §160(b)(2).

146. Defendants have failed to give consideration to Plaintiffs' requests, denying them their requests for videophone services, for visual alert and notification systems, for interpreter services, and for other auxiliary aids and services.

147. On information and belief, the failure to provide effective communication and the failure to provide comparable access to services, benefits, activities, programs, or privileges are policies, regular practices, and/or customs of defendants. These failures are ongoing and continue to this date.

148. Defendants' failure to provide appropriate auxiliary aids and services has subjected Plaintiffs to discrimination on the basis of their disability in violation of their rights under the ADA, in ways that include, but are not limited to, the following:

- a. inadequate access to sign language interpreters and other appropriate auxiliary aids and services to enable them to participate in and benefit from Defendants' programs;

- b. inadequate access to prison audio alerts and notifications; and
- c. inadequate access to telecommunication devices.

149. The U.S. Department of Justice (“DOJ”) regulation implementing Title II of the ADA also requires that public entities, either directly or indirectly through other contractual or private arrangements, provide disabled individuals with the same opportunities to participate and benefit from services as is afforded to other individuals. 28 C.F.R. 35.160.

150. The regulation states, in relevant portion, that “[a] public entity, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of disability – (i) [d]eny a qualified individual with a disability the opportunity to participate in or benefit from the aid, benefit, or service; (ii) [a]fford a qualified individual with a disability an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others.” 28 C.F.R. 35.130 (b)(1)(i) –(ii).

151. Defendants are in violation of this regulation directly and indirectly through private entities, such as T-Netix, by providing unequal phone services and refusing to permit certain deaf and hard of hearing inmates to participate in vocational and employment opportunities because of their hearing disabilities.

152. As a proximate result of Defendants’ violations of Plaintiffs’ rights under the ADA, Plaintiffs have suffered and continue to suffer from discrimination, unequal treatment, exclusion (including exclusion from defendant’s services, benefits, activities, programs, and privileges), violations of their rights under the laws of the United States, financial loss, loss of dignity, frustration, humiliation, emotional pain and suffering, anxiety, trauma, embarrassment, and unnecessary loss of rights and privileges, including unnecessary disciplinary measures.

153. Defendant's failure to comply with the ADA has resulted, and will continue to result, in harm to Plaintiffs, as Plaintiffs will continue to be in the custody or under the supervision of DPSCS and will continue to attempt to use or avail themselves of the services, benefits, activities, programs, and privileges of the defendants. This harm will continue unless and until the defendants are ordered by this Court to make modifications to the policies, practices, and procedures of DPSCS pursuant to the ADA.

COUNT II - Discrimination on the Basis of a Disability in Violation of the Rehabilitation Act (29 U.S.C. § 794 et seq.)

(Against All Defendants by the Plaintiffs on behalf of themselves and a class of similarly situated individuals))

154. Plaintiffs reallege and incorporate by reference each and every allegation above as if fully set forth herein.

155. The purpose of the Rehabilitation Act is to ensure that no "qualified individual with a disability in the United States . . . shall, solely by reason of [] disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance" 29 U.S.C. § 794(a).

156. Plaintiffs are qualified individuals with a disability within the meaning of the Rehabilitation Act, 29 U.S.C. § 705(20).

157. Defendants receive Federal financial assistance within the meaning of 29 U.S.C. § 794(a).

158. The operations of DPSCS and Defendants are "program[s] or activit[ies]" within the meaning of 29 U.S.C. § 794(b)(1)(A)-(B) and/or (b)(2)(B).

159. At all times relevant to this action, the Rehabilitation Act was in full force and effect in the United States and Plaintiffs had a right not to be subjected to discrimination on the basis of their disability by defendants. 29 U.S.C. § 794(a).
160. The DOJ regulation implementing the Rehabilitation Act clarifies the requirements for Federal financial recipients, including correctional facilities, stating that “[a] recipient that employs fifteen or more persons shall provide appropriate auxiliary aids to qualified handicapped persons with impaired sensory, manual, or speaking skills where a refusal to make such provision would discriminatorily impair or exclude the persons in the program receiving federal financial assistance.” 28 C.F.R. § 42.503(f).
161. Appropriate auxiliary aids include, but are not limited to, “qualified interpreters . . . and telephonic devices.” 28 C.F.R. § 42.503(f).
162. Defendants discriminatorily impaired Plaintiffs’ ability to communicate effectively with medical personnel, prison staff, and individuals outside of prison and/or excluded Plaintiffs from educational, vocational, and prison-wide announcements. They have done this by failing to provide appropriate auxiliary aids in violation of the Rehabilitation Act.
163. Defendant’s failure to provide appropriate auxiliary aids and services for individuals with hearing disabilities denied and continues to deny, on the basis of their disabilities, Plaintiffs the same access to defendant’s services, benefits, activities, programs, or privileges as the access provided to hearing individuals.
164. On information and belief, the failure to provide appropriate auxiliary aids and services and the failure to provide comparable access to services, benefits, activities, programs or privileges are policies, regular practices and/or customs of Defendants. These failures are ongoing and continue to this date.

165. Defendants' failure to provide appropriate auxiliary aids and services has subjected Plaintiffs to discrimination on the basis of their disability in violation of their rights under the Rehabilitation Act, in ways that include, but are not limited to, the following:

- a. inadequate access to appropriate auxiliary aids and services to enable them to participate in and benefit from Defendants' programs;
- b. inadequate access to prison alerts and announcements; and
- c. inadequate access to telecommunication devices.

166. Defendants have also violated Section 504 and its implementing regulation by excluding inmates who are deaf or hard of hearing from Defendants' employment and vocational benefits and opportunities. 28 C.F.R. 42.503(a).

167. As a proximate result of Defendants' violations of Plaintiffs' rights under the Rehabilitation Act, Plaintiffs have suffered, and continue to suffer, from discrimination, unequal treatment, exclusion (including exclusion from defendant's services, benefits, activities, programs, and requirements), financial loss, loss of dignity, frustration, humiliation, emotional pain and suffering, anxiety, trauma, embarrassment, unnecessary loss of rights and privileges, including unnecessary disciplinary measures, and injury to their health.

168. Defendants' failure to comply with the Rehabilitation Act has resulted in harm to Plaintiffs, and Defendants are liable to Plaintiffs for harms suffered. Defendants' failure to comply with the Rehabilitation Act will continue to result in harm to Plaintiffs, as Plaintiffs will continue to be in the custody or under the supervision of DPSCS and will continue to attempt to use or avail themselves of the services, benefits, activities, programs, and privileges of Defendants. This harm will continue unless and until Defendants are ordered

by this Court to make modifications to their policies, practices and procedures pursuant to the Rehabilitation Act.

COUNT III - Violation of Free Speech Rights Under the First and Fourteenth Amendments of the United States Constitution

(Against All Defendants by the Plaintiffs on behalf of themselves and a class of similarly situated individuals)

169. Plaintiffs reallege and incorporate by reference each and every allegation above as if fully set forth herein.

170. Under the First and Fourteenth Amendments of the United States Constitution, States “shall make no law...abridging the freedom of speech.” U.S. Const. amend. I.

171. 42 USC 1983 creates a cause of action when a “person who under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws.”

172. Defendants Maynard, Stouffer, Francois, Shiloh, Corcoran, and Morgan, in their individual and official capacities, and acting under color of Maryland statutes and regulations, deprived and continue to deprive Plaintiffs of their freedom of speech, as secured by the First Amendment to the United States Constitution and made applicable to the States by the Fourteenth Amendment, by preventing Plaintiffs from communicating with people outside of the prison. Despite multiple complaints in writing to DPSCS, DPSCS through the official actions of Defendants Maynard, Stouffer, Francois, Shiloh, Corcoran, and Morgan, has denied and continues to deny Plaintiffs access to telecommunication

devices that would give them the ability and opportunity to communicate with people outside of prison.

173. Defendants Maynard, Stouffer, Francois, Shiloh, Corcoran, and Morgan's failure to comply with the First and Fourteenth Amendments of the United States Constitution has resulted in harm to Plaintiffs, and will continue to result in harm to Plaintiffs, as Plaintiffs will remain in the custody of DPSCS or under the supervision of DPSCS and continue to attempt to communicate with people outside prison unless and until damages are awarded that will deter future violations against Plaintiffs by these Defendants and until all Defendants are ordered by this Court to make modifications to their policies, practices, and procedures pursuant to the First and Fourteenth Amendments of the United States Constitution.

WHEREFORE, the Plaintiffs pray that the Court:

A. Certify this case as a Plaintiff class action pursuant to Rule 23 (b)(2) and (3) of the *Federal Rules of Civil Procedure*;

B. Pursuant to 42 U.S.C. § 794(a) and 42 U.S.C. § 12133, award the named plaintiffs and the class members the amount of any and all damages incurred because of the actions of the defendants;

C. Preliminarily and permanently enjoin the defendants from refusing to provide the proper interpretative services, TTD, videophones and other hearing devices that are required for deaf and hard of hearing inmates to fully participate in the programs offered by the federally funded prison system;

D. Preliminarily and permanently enjoin the defendants from refusing to provide the proper interpretative services, TTD, videophones and other hearing devices that are required for deaf and hard of hearing inmates to fully participate in and benefit from the programs offered by these public entities;

E. Preliminarily and permanently enjoin the defendants from depriving Plaintiffs and Plaintiff class members of the protections of the First and Fourteenth Amendments of the United States Constitution pursuant to 42 U.S.C. § 1983;

F. Award prejudgment interest;

G. Award reasonable attorneys' fees;

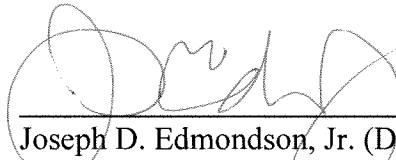
H. Award Plaintiffs such other and further relief as the Court deems just and proper.

JURY TRIAL DEMAND

Plaintiffs, by their counsel and pursuant to Federal Rule of Civil Procedure 38(b), hereby demand a trial by jury on all claims so triable in this action.

Respectfully submitted,

Dated: February 22, 2012



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