

E-filing

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7 UNITED STATES DISTRICT COURT
8 NORTHERN DISTRICT OF CALIFORNIA
9 OAKLAND DIVISION

FILED
JUL 19 2010
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND
ADR

10 NATALIA A. SIDIAKINA and
11 SHERRYL BAECKEL,
12
13 Plaintiffs,

Case No. C10-03157
COMPLAINT – CLASS ACTION
DEMAND FOR JURY TRIAL

14 vs.

15 JAMES G. BERTOLI, JUDGE, in his official
and personal capacity;
16 ROBERT S. BOYD, JUDGE, in his official
and personal capacity;
17 SUPERIOR COURT OF SONOMA COUNTY;
TARA REILLY, JUDGE, in her official and
personal capacity;
18 SUPERIOR COURT OF SAN BERNARDINO
COUNTY;
IGNAZIO J. RUVOLO, PRESIDING JUSTICE
in his official and personal capacity;
TIMOTHY A. REARDON, JUSTICE, in his
official and personal capacity;
CALIFORNIA COURT OF APPEAL, FIRST
APPELLATE DISTRICT, DIVISION FOUR;
RONALD M. GEORGE, CHIEF JUSTICE,
in his official and personal capacity;
JUDICIAL COUNCIL OF CALIFORNIA,
STATE OF CALIFORNIA, and
JUDICIAL BRANCH OF CALIFORNIA
GOVERNMENT

Defendants.

CO 44 SEC. N
NOTICE OF ASSIGNMENT
TO MAINTAINANCE JUDGE SENT

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I. JURISDICTION

7 This court has jurisdiction over the matters contained in this complaint pursuant to
8 the provisions of the Americans with Disabilities Act (ADA) Title II, 42 U.S.C. 12131 et.
9 seq., 29 U.S.C. 794a, 28 C.F.R. 35.101 et. seq., and Torture Victims Protection Act, 28
10 U.S.C. 1350 et. seq..

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II. VENUE

17 Venue is appropriate in this court because Plaintiff Natalia A. Sidiakina and 8 of 12
18 Defendants reside in this district, and a substantial amount of the acts and omissions
19 giving rise to this lawsuit occurred in this district.

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III. INTRADISTRICT ASSIGNMENT

26 This lawsuit should be assigned to the Oakland Division of this Court because 3 of
27 12 Defendants work in the same building in which San Francisco Division is located and
28 likely go to lunches and socialize together with Judges of San Francisco Division. These
close social and friendship ties will make it difficult for the Judges of San Francisco
Division to make orders against Defendants.

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IV. PARTIES

7 (a) The Plaintiff Natalia A. Sidiakina:

8 1. The plaintiff Sidiakina is a resident since 1994, a permanent resident since May
9 of 2001, application for citizenship in progress, a resident of Sonoma County, California
10 and resides at 746 Adobe Drive, Santa Rosa, California. She is a qualified individual with
11 cognitive disabilities as is defined by 42 U.S.C. 12131 et. seq., and has been in need of
12 the services of the judicial division of the State of California for the purpose of dissolution
13 of marriage litigation. Ms. Sidiakina's cognitive disabilities such as Post-Traumatic Stress
14 Disorder, Panic Disorder, Major Depressive Disorder, Dissociative Disorder, and migraine
15 pain disorder were diagnosed by three independent experts in the fields of Post-
16 Traumatic Stress Disorder, Anxiety Disorders, and Dissociative Disorders: Dr. Andrew
17 Leeds, PhD, MFT, Karin Huffer, MS, MFT, and Jo Lauer, MFT. Three family medicine
18 practitioners Dr. Jann Hanscome, MD, Dr. Bonnie Kneibler, MD and Judy Walenta, CFNP

1 have been treating Ms. Sidiakina and have been prescribing medications for her cognitive
2 disabilities since 2005.

3 2. From 1994 to May of 2006, Ms. Sidiakina was employed as a business
4 development consultant in the pharmaceutical and biotech industry. Since May of 2006,
5 Ms. Sidiakina has been unemployed due to the sale of her last employer, a
6 pharmaceutical subsidiary of Merck KGaA, to another pharmaceutical company, and her
7 only income was unemployment insurance, all extensions of benefits of which were
8 exhausted in March of 2010. Since 2007, Ms. Sidiakina has been indigent and has been
9 borrowing money from friends to pay for the necessities of life. It is hereby requested
10 that Ms. Sidiakina be allowed to serve as a class representative for all indigent qualified
11 individuals with a cognitive disability needing the services of the judicial division of the
12 State of California.

13 (b) The Plaintiff Sherryl Baeckel:

14 1. The plaintiff Baeckel is a citizen and resident of Riverside County, California and
15 resides at 10520 Village Road, Moreno Valley, California. She is a qualified individual with
16 cognitive disabilities as is defined by 42 U.S.C. 12131 et. seq., and has been in need of
17 the services of the judicial division of the State of California for the purpose of dissolution
18 of marriage, child custody and support litigation. Ms. Baeckel's cognitive and physical
19 disabilities such as severe migraine headaches, scleroderma with significant cognitive
20 fatigue, a neck injury with persistent arthritis pain, emphysema, constant pain due to
21 fibromyalgia, and Complex Post-Traumatic Stress Disorder were diagnosed by Dr.
22 Andrew Rhodes, MD, Dr. Carl Wolnisty, MD, Dr. Zamiri, MD. and Dr. Karin Huffer, PhD,
23 MFT.

24 2. Ms. Baeckel was attacked on duty as Deputy Sheriff and, as a result of attack,
25 sustained severe neck injury and severe psychological trauma, which resulted in her
26 medical retirement. The only income she receives is disability-related medical retirement
27 of \$2,200.00 per month; one half of which is under the control of Trustees in a Special
28 Needs Trust for medical and related to disability expenses. It is hereby requested that Ms.

1 Baeckel be allowed to serve as a class representative for all indigent qualified individuals
2 with a cognitive disability needing the services of the judicial divisions of the State of
3 California.

4 (c) The Defendants:

5 1. The State of California is a political subdivision of the United States of America
6 and as such it and its political subdivisions are subject to the laws of the United States of
7 America. They are specifically charged under the terms of the United States Constitution
8 and the California Constitution with providing the service of courts and judicial
9 proceedings. All counties of the State of California are political subdivisions of the State of
10 California and are required under the Constitution of the State of California to provide
11 courthouses that provide services to all persons including residents of this State and
12 indigent qualified individuals with cognitive disabilities as defined by 42 U.S.C. 12131.

13 2. Superior Court of Sonoma County and Superior Court of San Bernardino County
14 are the trial courts in Sonoma County and San Bernardino County, respectively. The
15 Court of Appeal of California, First Appellate District, Division Four is a political
16 subdivision of the State of California charged with the appeals of the decisions of the
17 Superior Courts of several Counties, including Sonoma County. Judicial Council of
18 California is a political subdivision of the State of California charged with establishing The
19 Rules of Court for all courts in this State.

20 3. James G. Bertoli, Judge and Robert S. Boyd, Judge are the judges of the
21 Superior Court of Sonoma County. Tara Reilly, Judge is the judge of the Superior Court
22 of San Bernardino County.

23 4. Ignazio J. Ruvolo, Presiding Justice and Timothy A. Reardon, Justice are the
24 Justices of The Court of Appeal of California, First Appellate District, Division Four.

25 5. Ronald M. George, Chief Justice of the California Supreme Court is a Chairman
26 of the Judicial Council of California.

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V. PLAINTIFF SIDIAKINA'S PROCEDURAL HISTORY

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2 (a) That as noted above, the plaintiff, Natalia A. Sidiakina, hereinafter referred to
3 as Sidiakina, is indigent and cognitively disabled and as such is a qualified individual with
4 a cognitive disability as defined by 42 U.S.C. 12131(2).

5 (b) On or about July 3, 2005, Sidiakina and her former husband Siamak Navid
6 entered into a written and recorded separation agreement. Per separation agreement, in
7 July of 2005, Sidiakina filed for dissolution of marriage. Since the very beginning of the
8 divorce litigation, Navid was represented by 2 experienced legal counsels and family law
9 specialists.

10 (c) On or about August 26, 2005, Sidiakina filed an Order to Show Cause for
11 spousal support and attorney's fees. In that order to show cause, Sidiakina submitted an
12 affidavit, in which she informed the family court and the Judge that she had diagnosed
13 psychological disabilities, such as panic disorder, depression, and anxiety disorder and
14 submitted to the trial court the copies of the notes from Walgreen's pharmacy, which
15 contained explanations of conditions for which I have been taking prescription
16 medications.

17 (d) In 2007, Sidiakina filed several affidavits that informed James G. Bertoli, Judge
18 of Superior Court of Sonoma County, that Sidiakina had been unemployed since May of
19 2006 and that since January of 2007, after she used all her savings to pay for attorney's
20 fees in her divorce litigation, she had been indigent and, thus, had to represent herself
21 while having severe cognitive disabilities. Sidiakina requested an appointed legal counsel
22 to represent her or, alternatively, to order her ex-husband to pay for Sidiakina's attorney's
23 fees from community property, which had been under her husband's control since the
24 beginning of the divorce litigation.

25 (e) At the hearing on September 14, 2007, Sidiakina personally informed Judge
26 James G. Bertoli that she suffered from psychological disabilities that rendered her
27 incapable to represent herself and asked Judge Bertoli to stop the hearing and to appoint
28 a counsel to represent her. Judge Bertoli ignored Sidiakina's requests and continued to

1 exploit her fears and disabilities in questioning her why she concluded that Judge Bertoli
2 was personally prejudiced against her. Sidiakina pleaded to stop the inquisition because
3 she was terrified, was having a panic attack, and was feeling horrible physical pain and
4 emotional suffering. Judge Bertoli DID NOT stop. Sidiakina felt that she was dying and
5 lost consciousness.

6 (f) On September 14, 2007, at the request of Navid's attorney James Benoit,
7 Judge Bertoli denied Sidiakina's request for legal representation or attorney's fees as
8 "moot" without considering the merits of the attorney's fees request, Sidiakina's cognitive
9 disabilities and needs, and Navid's abilities to pay.

10 (g) At the hearing on September 14, 2007, Judge Bertoli intentionally inflicted such
11 pain and sufferings upon Sidiakina as punishment for her efforts to disqualify him that
12 caused Sidiakina to experience a panic attack, depersonalization, and derealization,
13 culminating in the loss of consciousness at the hearing. Sidiakina's brain was severely
14 traumatized, which resulted in the disabling conditions of Post-Traumatic Stress Disorder
15 and related Dissociative Disorder, Depersonalization Disorder, Phobia, and Avoidance
16 Disorder. Detailed discussions of these conditions are presented in experts' reports:
17 Report of Karin Huffer, MS, MFT, p. 3-7; Report of Andrew M. Leeds, PhD, MFT, p. 7-10;
18 Report of Jo Lauer, MFT, p. 4-8; Report of Judy Walenta, CFNP, p. 4-5.

19 (h) Since September of 2007, every time Sidiakina thinks of a possibility of being
20 evicted from her home or a possibility to having to go again to Sonoma Superior Court or
21 even thinking of Sonoma Superior Court, she starts having panic attacks with severe
22 migraine pains, stomach cramps, chest pains similar to those in a heart attack,
23 suffocation, dissociation, depersonalization, and, subsequently, major depression
24 episodes. According to Request for Reasonable ADA Accommodation, Assessment and
25 Report in Support of Request, prepared by Judy Walenta, CRNP, Sidiakina is currently
26 taking 6 anti-anxiety and anti-depression medications just to keep her out of bed and
27 somewhat functioning.

28 (i) The hearing on September 14, 2007 caused the trauma to Sidiakina's brain that

1 resulted in the dissociation of neurotransmission between her brain areas and her inability
2 to recall memories related to her divorce, inability to concentrate during legal processes,
3 inability to understand, process, and analyze information related to her divorce.

4 (j) In May of 2009, Sidiakina was diagnosed with Post Traumatic Stress Disorder,
5 Major Depression, Panic Disorder, and Dissociative Disorder by Karin Huffer, M.S., MFT,
6 who is an expert in Post Traumatic Stress Disorder and an advocate for psychologically
7 disabled litigants under the Americans with Disabilities Act (ADA) Title II. Expert Huffer's
8 assessment and report, that confirms that Sidiakina is a person with psychological
9 disabilities as defined by the ADA Title II, specifically states at p. 10 and p. 11:

10 **"During court processes, Ms. Sidiakina is likely to become symptomatic and**
11 **she will have problems concentrating, thinking, processing information, and**
12 **responding and presenting her case in court."**

13 **"Only if the Court ensures accommodations including legal representation**
14 **for Ms. Sidiakina, she will have "equal access" to the Court."** (bold added)

15 (k) In July of 2009, Sidiakina was independently diagnosed with Post Traumatic
16 Stress Disorder, Major Depression Disorder, Panic Disorder, Avoidance Disorder,
17 Dissociative Disorder, and Depersonalization Disorder by Andrew M. Leeds, Ph.D., MFT,
18 who is an expert in Post Traumatic Stress Disorder and related Depressive Disorders,
19 Dissociative Disorders, and Anxiety Disorders. His assessment and report that confirms
20 that Sidiakina is a person with psychological disabilities as defined in the ADA Title II
21 states at p. 10:

22 **"It is my professional opinion that due to the psychological disabilities**
23 **described above Ms. Sidiakina has been and will continue to be unable to**
24 **represent herself and to comply with the California Rules of Court."**

25 (l) On December 4, 2008 and on February 18, 2010, Sidiakina filed requests for a
26 Change of Venue and for disqualification of Judge James G. Bertoli as accommodations
27 for Sidiakina's cognitive disabilities and developed phobia of Sonoma Superior Court and
28 of Judge James G. Bertoli. In her affidavit, Sidiakina stated:

1 "Since September of 2007, every time I had a hearing in the Sonoma Court, I had
2 a panic attack right at the Courthouse or a few hours later at night. During a panic
3 attack, I experience unbearable stomach cramps, heart and chest pain,
4 suffocation, and loss of my ability to think clearly and speak. My brain disabilities
5 make it physically impossible for me to have another hearing at the Sonoma Court.
6 Even a thought of having another hearing at the Sonoma Court and, thus, a
7 possibility of having another panic attack right there causes my brain and
8 autonomous nervous system to malfunction so much as to cause my stomach and
9 chest to ache and my heart to beat so fast that I have trouble breathing and
10 thinking. In summary, I am severely disabled in legal processes and need
11 accommodations requested by my doctors- Dr. Andrew M. Leeds, PhD, MFT (see
12 Attachment 3, p. 10-12), Karin Huffer, MS, MFT (see Attachment 2, p. 9-11), Jo
13 Lauer, MFT (see Attachment 4, p. 9-11) and Judy Walenta, CRNP (see
14 Attachment 5, p. 6-8)."

15 (m) Both times Judge Bertoli denied Sidiakina's requests and insisted on
16 continuing to discriminate against Sidiakina, abuse and torture her, intentionally causing
17 further sever pain and sufferings, damage to Sidiakina's brain, her humiliation and
18 embarrassment.

19 (n) Due to Dissociative Amnesia, Sidiakina is unable to properly recall memories
20 related to my divorce when she is under stress in the legal settings. Due to severe
21 Dissociative Disorder, Sidiakina is unable to concentrate and properly understand,
22 process, and analyze information related to her divorce when she has to write legal
23 papers or speak during hearings. Due to severe Avoidance Disorder, Phobia, and Panic
24 Attacks, Sidiakina is unable to open an envelope from the court for many days and
25 unable to comply with the due dates, procedural rules, and the Rules of Court.

26 (o) During her appeals, on several occasions, Sidiakina requested
27 accommodations as a cognitively disabled litigant, including the appointment of legal
28 counsel on appeal, and submitted experts' reports and her affidavit in support of her

1 request. Ignazio J. Ruvolo, Presiding Justice and Timothy A. Reardon, Justice of the
2 Court of Appeal of California, First Appellate District, Division Four, summarily denied
3 Sidiakina's requests. Subsequently, on August 19, 2009, they denied Sidiakina's appeals
4 on the ground that Sidiakina failed to comply with the Rules of Court because she "failed
5 to provide a reasoned argument and discussion of legal authority with appropriate citation
6 to the appellate record". It is a self-evident truth that a cognitively disabled person
7 CANNOT provide "a reasoned argument and discussion of legal authority with
8 appropriate citation to the appellate record".

9 (p) In her Request for Reasonable ADA Accommodations; Assessment and Report
10 in Support of Request, the expert in Post-Traumatic Stress Disorder and related disorders
11 Karin Huffer, M.S., M.F.T. stated:

12 "Ms. Sidiakina suffers from Depression, Panic Disorder, and Anxiety diagnosed
13 by Bonnie Kneibler, M.D, and Jann M. Hanscome, M.D, at Windsor Primary Care
14 Medical Group in Windsor, California, and has been under treatment since 2005.
15 Opinions of Dr. Kneibler and Dr. Hanscome consistently indicate that Ms. Sidiakina
16 suffered first from traumatic reaction to a type of domestic abuse related more to
17 coercion than physical violence although there were incidents of battery in 2003
18 resulting in her husband's arrest.

19 Both doctors report that Ms. Sidiakina's litigation has exacerbated her conditions.
20 It appears that the jeopardy, helplessness, and terror, which Ms. Sidiakina
21 experienced during litigation, have precipitated a Post Traumatic Stress Disorder,
22 which Ms. Sidiakina was already predisposed to from her earlier trauma.

23 Ms. Sidiakina has been in need of ADA Accommodations since August of 2005.
24 The fact that she was not protected by the ADA created an inaccurate perception
25 of her to the Court. Judges react to what is before them and often punitively and
26 unfairly act with inadvertent bias toward litigants with invisible disabilities. English is
27 Ms. Sidiakina's third language. Although she is fluent in English, the language in a
28

1 court of law requires a literacy that most people do not possess let alone those
2 dealing with English as a third language. Ms. Sidiakina reports that:
3 *“At one time during my answer to Judge Bertoli’s interrogations, my voice broke,*
4 *and I felt suffocating. Another time during the dialog between my husband’s*
5 *attorney James Benoit and Judge Bertoli, I could not breathe at all, and my heart*
6 *hurt so bad that I felt I was dying. Then my brain went blank. I don’t know how long*
7 *it lasted, maybe few minutes. I lost the track of time and the dialog. Because of*
8 *fear and distress, I was unable to remember words in English and properly say*
9 *what I wanted to say. I felt like a rat that is getting repeated electric shocks in the*
10 *cage that it cannot escape.”*

11 **This clearly demonstrates that Ms. Sidiakina did not have access to the**
12 **proceedings or due process of law.** It also appears that Ms. Sidiakiana’s
13 expectations of the fairness in the court process, her thorough research as to rules
14 and laws, and outspoken nature complicated by her inability to obtain
15 accommodations for her functional impairments, and created a situation that was
16 detrimental to her in the court. **The Americans with Disabilities Act should**
17 **have protected Ms. Sidiakina when she was first diagnosed in 2005. With**
18 **accommodations, she may have had equal access and avoided the severe**
19 **trauma she suffers today.”** (bold and italics in the original text)

20 (q) Three mental health experts and a family physician concurred that the following
21 accommodations are medically necessary and reasonable given Sidiakina’s cognitive
22 disabilities:

23 “A. It is my professional opinion that it is absolutely medically required that Ms.
24 Sidiakina’s request for reasonable and necessary accommodations to change
25 venue and transfer Ms. Sidiakina’s case from Sonoma County Court to either San
26 Mateo County Court or San Francisco County Court and to continue the hearing
27 from February 26, 2010 to July of 2010 be granted.

28 **B. It is my professional opinion that due to the psychological disabilities**

1 **described above Ms. Sidiakina has been and will continue to be unable to**
2 **represent herself and to comply with the California Rules of Court.**

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4 **I fully agree with all eight of the major specific accommodations identified by**
5 **Karin Huffer, MS, MFT in her ADA report and re-stated by Andrew Leeds,**
6 **Ph.D. in his ADA report.**

7 These accommodations are well thought out and are reasonable ways to
8 accommodate the disabilities and impairments from which Ms. Sidiakina suffers.
9 **Most critical is that Ms. Sidiakina did require and continues to require the**
10 **assistance of an attorney to assure her due process. Without such**
11 **accommodations, her mental and emotional disabilities clearly make it**
12 **impossible for her to participate in the legal process and receive equal**
13 **access to the courts.**

14 The accommodations listed in Karin Huffer’s report and re-stated in Andrew Leeds,
15 Ph.D. report, would substantially accommodate Ms. Sidiakina’s disabilities. For the
16 record, I quote from Karin Huffer’s and Andrew Leeds’ reports below:

17 *“Specifically, Ms. Sidiakina requires the following accommodations to ensure she*
18 *obtains equal access and fair treatment free from discrimination as mandated by*
19 *the ADA:*

20 *1) Ms. Sidiakina needs to avoid places and people that may remind her of the*
21 *traumatic events and are likely to trigger anxiety attack and dissociation,*
22 *specifically Sonoma Superior Court, her husband Mr. Navid, her husband’s*
23 *attorney Mr. Benoit, and Sonoma Court Judge J. Bertoli. Ms. Sidiakina needs her*
24 *case be transferred to Superior Court in another county.*

25

26 ***Only if the Court ensures accommodations including legal representation for***
27 ***Ms. Sidiakina, will she have “equal access” to the Court.”*** (bold and italics in
28 the original text) (“Request for Reasonable ADA Accommodations; Assessment

1 and Report in Support of Request” by Jo Lauer, MFT, p. 9, 11; “Request for
2 Reasonable ADA Accommodations; Assessment and Report in Support of
3 Request” by Judy Walenta, CFNP, p. 6, 8)

4 (r) Because Sidiakina was forced to represent herself despite her requests for
5 accommodations as indigent and qualified litigant with cognitive disabilities, she suffered
6 the loss of her home as her only shelter, the loss of all of her material assets, a ruined
7 credit, enormous pain and sufferings and brain trauma that resulted in severe cognitive
8 disabilities that prevent her from working in her profession and earning a living for the rest
9 of her life, huge medical and disability related expenses for the rest of her life, and
10 attorneys fees and costs incurred during the protracted litigation and appeals in the
11 amount of over \$50,000. If Sidiakina was represented by an appointed legal counsel, the
12 above would not have happened.

13 **VI. PLAINTIFF BAECKEL'S PROCEDURAL HISTORY**

14 (a) That as noted above, the plaintiff, Sherryl Baeckel, hereinafter referred to as
15 Baeckel, is indigent and cognitively disabled and as such is a qualified individual with a
16 cognitive disability as defined by 42 U.S.C. 12131(2).

17 (b) Baeckel's former husband Scott Baeckel filed for dissolution of marriage in April
18 of 2000. Since the very beginning of the divorce and custody litigation, Scott Baeckel was
19 represented by an experienced legal counsel and a family law specialist.

20 (c) On January 27, 2009, Baeckel, per several recommendations of child custody
21 evaluators, was granted joint legal custody and primary physical custody of her daughter,
22 Sarah Baeckel, with sole legal custody regarding the child's ice skating activities so she
23 could continue to compete at a National level. Baeckel has had primary physical custody
24 of her daughter for 14 years.

25 (d) On January 27, 2009, when Baeckel was self-represented because she did not
26 have money to retain a legal counsel, a confusing order was made by Judge Tara Reilly
27 pertaining to former husband Scott Baeckel's summer visitation time periods. Scott was to
28 have eight weeks visitation in the summer in two-week increments. Due to Baeckel's

1 cognitive disabilities, she did not understand and, therefore, did not bring to Judge's
2 attention the fact that the visitation order was confusing because it contained several
3 parts that were mutually exclusive, in which the particular dates assigned by the Judge for
4 father's visitation DID NOT add up to 8 weeks. After Baeckel received the transcript, she
5 noted that the Judge specifically stated, " So for this year dad will have from June 12th,
6 2009, through Sunday June 28th in its entirety. She [daughter] will then go back to mom
7 for two weeks and then back to dad." Baeckel complied with this order and kept her
8 daughter beginning June 29th, 2009. If Baeckel was represented by a legal counsel, then
9 the legal counsel would have brought to the Judge's attention the mutually exclusive parts
10 of the court order and Baeckel would not have been accused of "violating" the court order
11 when, de facto, she followed the court order precisely.

12 (e) On or about June 23, 2009, Scott Baeckel through his legal counsel, a certified
13 family law specialist, filed a declaration accusing Baeckel of intentionally violating the
14 court visitation order and requesting the change of custody to Scott. The hearings on the
15 change of custody took place on or about August 31, 2009 and December 2, 2009. For
16 August 31, 2009, Baeckel was able to borrow money from friends and family to hire an
17 attorney on a temporary basis for a couple of hours for the hearing only, and on
18 December 2, 2009, Baeckel had to represent herself because she did not find money to
19 hire an attorney.

20 (f) During the August 31, 2009 hearing, the trial Judge Tara Reilly did not give an
21 opportunity to Baeckel's temporary attorney to explain that Baeckel DID NOT intentionally
22 violate the court visitation order and that the order itself was not giving the father the full 8
23 weeks of visitation. Judge Tara Reilly issued an order giving the sole physical custody of
24 Baeckel's daughter to Scott Baeckel.

25 (g) During the December 2, 2009 hearing, Baeckel had to represent herself when
26 she had the extreme migraine headache and an anxiety attack. Judge Tara Reiley issued
27 an order giving the sole legal custody of Baeckel's daughter to Scott Baeckel.

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1 (h) The decisions on August 31, 2009 and December 2, 2009 to give physical and
2 legal custody of Baeckel's daughter to Scott Baeckel were against the recommendations
3 of the court evaluators. If Baeckel had legal counsel, she would not have lost the physical
4 and legal custody of her daughter.

5 (i) Due to her cognitive disabilities, confusion and pain from severe migraines
6 exacerbated by the stress of litigation, Baeckel was unable to comply with requests for
7 documents and filing deadlines. Baeckel informed the court about the confusion she was
8 experiencing from her cognitive disabilities. Baeckel was forced to sit in the courtroom for
9 hours waiting for her case to be called, causing her severe migraine headaches and neck
10 pain and resulting in Baeckel's inability to think and speak clearly during the hearings.
11 Due to the migraines and neck pain, Baeckel was unable to type at the computer and
12 timely prepare court documents.

13 (j) On or about January 19, 2010, Baeckel filed a motion and requested the
14 assistance of counsel due to her indigent status and inability to represent herself due to
15 cognitive disabilities. On or about January 29, 2010, Judge Tara Reilly denied Baeckel's
16 request.

17 (k) Since January of 2010, Scott Baeckel through his legal counsel, a certified
18 family law specialist, has filed over ten Order to Show Causes, Motions or pleadings that
19 need Baeckel's response to which Baeckel has been unable to properly respond.

20 (l) Due to her cognitive and physical disabilities, Baeckel was unable to prepare for
21 and attend the hearing scheduled for May 4, 2010. Baeckel wrote down May 6th as the
22 hearing date in error and confusion, and telephoned the court immediately to inform them
23 of her error. The bailiff gave her no direction, but instead, Judge Tara Reilly declared
24 Baeckel a vexatious litigant.

25 (m) Presently, Baeckel is so traumatized by the course of custody litigation that
26 she experiences panic attacks with severe pains every time she gets an envelope from
27 the trial court or the opposing counsel, causing her to instinctively avoid any contact with
28 the court or court personnel. If Baeckel was represented by an appointed legal counsel,

1 then all her severe sufferings from the distress of litigation and the significant
2 deterioration of her cognitive abilities would not have occurred.

3 **VII. THE STATE OF CALIFORNIA AND OTHER DEFENDANTS' RECENT**
4 **HISTORY CONCERNING THE AMERICANS WITH DISABILITY ACT**
5 **AND APPOINTMENT OF LEGAL COUNSEL FOR INDIGENT**
6 **LITIGANTS IN CIVIL ACTIONS**

7 (a) In October of 2006, the Conference of Delegates of California Bar Association
8 passed a resolution in which it recommended California Legislation to add a new
9 provision to the state constitution as Article 1, Section 32:

10 **“All people shall have a right to the assistance of counsel in cases before**
11 **forums in which lawyers are permitted. Those who cannot afford such**
12 **representation shall be provided counsel when needed to protect their rights**
13 **to basic human needs, including sustenance, shelter, safety, health, child**
14 **custody, and other categories the Legislature may identify in subsequent**
15 **legislation.” (bold added)**

16 (b) In 2006, a task force of the California Commission on Access to Justice
17 developed a model statute “State Equal Justice Act” that would implement a
18 comprehensive right of access to equal justice, including, when appropriate, a right to
19 appointed counsel:

20 **“100. LEGISLATIVE FINDINGS**

21 **The Legislature finds and declares:**

22 **101. Access to justice is a fundamental right in a democratic society. It is**
23 **essential to the enforcement of all other rights and responsibilities in any**
24 **society governed by the rule of law. It also is essential to the public’s**
25 **confidence in the legal system and its ability to reach just decisions.**

26 **Recognizing its responsibilities in a democratic society, the State government**
27 **assumes the duty to guarantee this right to all its citizens.” (bold added).**

28 The full text of “State Equal Justice Act” is published at:

1 [http://www.povertylaw.org/poverty-law-library/research-guides/civil-gideon/state-model-
3 statute.pdf](http://www.povertylaw.org/poverty-law-library/research-guides/civil-gideon/state-model-
2 statute.pdf)

4 (c) On September 27, 2008, Chief Justice Ronald M. George made the following
5 statement in the State of the Judiciary address at the State Bar Convention:

6 **“The judicial system also has sought- thus far unsuccessfully- to fund three
7 pilot projects to provide legal representation in civil cases in which
8 fundamental rights are at issue, and we shall continue to pursue an
9 appropriation for this purpose. Just as the U.S. Supreme Court’s landmark
10 decision in *Gideon v. Wainwright* recognized the importance of counsel in
11 criminal cases where individual liberty is at stake, counsel may be just as
12 essential in those civil proceedings that affect the most fundamental aspects
13 of individual lives.”** (bold added)

14 (d) Several years ago, the California Bar Association has established a special
15 procedure and special accommodations for cognitively disabled applicants for testing:

16 **“Testing accommodations are available to individuals with mental or physical
17 disabilities as defined in Chapter 7 of the Admissions Rules. Depending on the
18 nature of the disability, accommodations may include such things as
19 assistants (i.e., readers or personal healthcare assistants), wheelchair access,
20 permission to dictate to a typist or tape recorder, customized timing,
21 separate testing room, customized examination materials (i.e., Braille, large
22 print, etc.), extended testing days and permission to bring and use specific
23 items or medical aids. When completing the required forms, the applicant
24 and his/her physician/specialist should request what they think is necessary
25 to allow the applicant to compete on an equal basis with all other applicants
26 and must provide adequate documentation and rationale to support the diagnosis
27 and their request for accommodations.
28**

1 The Committee's policies, procedures and forms related to filing a petition for
2 testing accommodations are available online at www.calbar.ca.gov/admissions or
3 upon request." (bold added)

4 The full text of special proceedings and special accommodations for cognitively disabled
5 law students can be found at:

6 http://calbar.xap.com/applications/CalBar/info/bar_exam.html

7 (e) On October 12, 2009, California Governor Arnold Schwarzenegger signed AB
8 590, Assembly member Mike Feuer's landmark measure that would make California the
9 first state in the nation to establish a model program providing a right to counsel for low-
10 income people in critical civil cases.

11 **"This law helps ensure essential legal rights are not sacrificed simply**
12 **because someone cannot afford to hire a private lawyer,"** said Feuer. "The
13 current economic crisis and state budget cuts make this measure more critical than
14 ever. Just as health services can decrease the need for expensive ER treatment,
15 **timely access to legal services can keep a family in their home or a child with**
16 **her mother or father, which ultimately saves taxpayers money. This new**
17 **statute will also make the justice system more efficient and**
18 **economical."** (bold added)

19 **"Chief Justice Ronald M. George said** the signing of the legislation was welcome
20 news for both the court system and unrepresented litigants in critical civil cases.

21 "The growing number of unrepresented parties in lawsuits imposes significant
22 costs on the courts and erodes the public's confidence in our system of justice," he
23 said. **"This legislation provides an important step in improving access to**
24 **justice for those most in need."** (bold added)

25 Currently, attorneys are appointed for indigent parties only in criminal cases. **Legal**
26 **officials agree, however, that some issues decided in civil cases can be just**
27 **as significant as in criminal cases, such as cases involving the elderly and**
28 **individuals with disabilities, the well-being and safety of parents and**

1 **children, and the basic need for adequate shelter.** AB 590 would support the
2 project without drawing on California's general fund: A previously-approved \$10
3 increase on certain court fees when a party wins a case would be redirected to the
4 program starting in 2011.

5 AB 590 reflects a growing national movement known as "civil Gideon" after the
6 name of the Supreme Court case establishing the right to counsel in criminal
7 cases. **The concept is endorsed by judges, legal leaders and scholars,**
8 **including the American Bar Association, the California Commission on**
9 **Access to Justice, and the Conference of California Bar Associations.**
10 **Members of California's business community, including the California**
11 **Chamber of Commerce, support the measure,** which also provides resources to
12 courts to test more efficient ways to handle the enormous number of currently
13 unrepresented parties in the legal system.

14 **AB 590 will go into effect as a pilot project from July 1, 2011 until July 1,**
15 **2017."** (bold added)

16 The full text of the press release regarding AB 590 can be found at:

17 <http://democrats.assembly.ca.gov/members/a42/newsroom/20091012AD42PR01.htm>

18 (f) In February of 2009, a special study called "The Impact of Legal Aid Services on
19 Economic Activity in Texas" was published. This study affirmatively showed that \$1.00
20 spent on legal aid generates \$7.42 overall gain to the economy:

21 <http://www.texasatj.org/FINAL%20Econ%20Impact%20Study%2002-12-09.pdf>

22 VIII. CAUSES OF ACTION

23 (a) That James G. Bertoli, Judge of Superior Court of Sonoma County has
24 discriminated against the plaintiff, Natalia A. Sidiakina, has excluded her from
25 participation in, and/or denied her the access to and the benefits of, the services of the
26 court system and due process in violation of 42 U.S.C. 12132, has intentionally subjected
27 her to the unconscionable, immoral and inhumane treatment, abused and tortured her
28 during the court processes causing her to experience pain and sufferings so severe that

1 Sidiakina lost consciousness during the hearing on September 14, 2007 and that
2 Sidiakina's brain was permanently traumatized resulting in permanent cognitive
3 disabilities such as severe Post-Traumatic Stress Disorder, Dissociative Disorder and
4 Avoidance Disorder.

5 (b) That James G. Bertoli, Judge of Superior Court of Sonoma County, has
6 intended to continue to discriminate against the plaintiff, Natalia A. Sidiakina, intentionally
7 subject her to the unconscionable, immoral and inhumane treatment, abuse, torture,
8 humiliate, and embarrass her, exclude her from participation in, and/or deny her the
9 access to and the benefits of, the services of the court system and due process in
10 violation of 42 U.S.C. 12132.

11 (c) That Robert S. Boyd, Judge, Superior Court of Sonoma County, has
12 discriminated against the plaintiff, Natalia A. Sidiakina, has covered up the abuse and
13 torture of Sidiakina while serving as Presiding Judge of Superior Court of Sonoma County
14 and has intended to discriminate against the plaintiff, Natalia A. Sidiakina, intentionally
15 subject her to the unconscionable, immoral and inhumane treatment, abuse, humiliate,
16 and embarrass her, exclude her from participation in, and/or deny her the access to and
17 the benefits of, the services of the court system and due process in violation of 42 U.S.C.
18 12132.

19 (d) That Ignazio J. Ruvolo, Presiding Justice and Timothy A. Reardon, Justice of
20 the Court of Appeal of California, First Appellate District, Division Four, have
21 discriminated against the plaintiff, Natalia A. Sidiakina, intentionally subjected her to the
22 unconscionable, immoral and inhumane treatment, abused, humiliated, and
23 embarrassed her, excluded her from participation in, and/or denied her the access to and
24 the benefits of, the services of the court system and due process in violation of 42 U.S.C.
25 12132.

26 (e) That Tara Reilly, Judge of Superior Court of San Bernardino County, has
27 discriminated against the plaintiff, Sherryl Baeckel, intentionally subjected her to the
28 unconscionable, immoral and inhumane treatment, humiliated, and embarrassed her,

1 excluded her from participation in, and/or denied her the access to and the benefits of,
2 the services of the court system and due process in violation of 42 U.S.C. 12132.

3 (f) That Ronald M. George, Chief Justice and Judicial Council of California have
4 discriminated against the plaintiffs, Natalia A. Sidiakina and Sherryl Baeckel, by knowingly
5 creating The Rules of Court that make it physically impossible for indigent plaintiffs with
6 cognitive disabilities to meaningfully participate in, and/or have equal and meaningful
7 access to and the benefits of, the services of the court system and due process in
8 violation of 42 U.S.C. 12132.

9 (g) That the State of California, Superior Court of Sonoma County, Superior Court
10 of San Bernardino County, The Court of Appeal of California, First Appellate District,
11 Division Four, knowingly and intentionally continue to discriminate against the plaintiffs,
12 Natalia A. Sidiakina and Sherryl Baeckel, all other indigent litigants with cognitive
13 disabilities and all other individuals similarly situated who have a need or responsibility to
14 participate in court processes as litigants in civil matters in which their rights to the
15 fundamental human needs are at stake. Further, there are other Superior Courts in this
16 State that have failed to fully comply with the requirements of the ADA and knowingly and
17 intentionally continue to discriminate against indigent litigants with cognitive disabilities.

18 (h) That the actions of the State of California and other named defendants were
19 conscious, deliberate, and intentional in their active discrimination against the plaintiffs,
20 Natalia A. Sidiakina and Sherryl Baeckel, all other indigent litigants with cognitive
21 disabilities and all other similarly situated disabled individuals in this State. That James G.
22 Bertoli, Judge of Superior Court of Sonoma County consistently insisted on continuing to
23 deny necessary and reasonable accommodations for Natalia A. Sidiakina with full
24 knowledge of her cognitive disability and severe pain and sufferings, humiliation, and
25 embarrassment that Sidiakina is subjected to during court hearings without
26 accommodations and his knowledge of the requirement to conform to the ADA.

27 (i) That the actions of the State of California, Judicial Council of California, and
28 Judicial Branch of the Government of California were conscious, deliberate, and

1 intentional in their active discrimination against the plaintiffs, Natalia A. Sidiakina and
2 Sherryl Baeckel, all other indigent litigants with cognitive disabilities and all other similarly
3 situated disabled individuals in this State. That their persistent misrepresentation of the
4 actions of the judicial process on the California Courts web site at
5 <http://www.courtinfo.ca.gov/> as "Committed to providing fair and equal access to justice
6 for all Californians." was with full knowledge of plaintiff's disability and with their
7 knowledge of the requirements to conform to the ADA.

8 (j) That the actions of the State of California and the other defendants were
9 conscious, deliberate, and intentional in their active discrimination against all other
10 similarly situated cognitively disabled individuals of this State. That their persistent
11 presentation of the actions of the judicial process as "fair and equal access to justice",
12 knowing that cognitively disabled individuals were unable to gain meaningful access to
13 court processes, was with full knowledge of their disabilities and their knowing failure to
14 meet the requirements to conform to the ADA.

15 (k) That in alternative, the actions of the State of California and other defendants
16 were knowing and resulted from the defendants' negligence in complying with the law.

17 (l) That as a result of the defendants' actions, the plaintiff Sidiakina has suffered
18 damages in the form of extreme pain and suffering, resulting in her Post-Traumatic Stress
19 Disorder and permanent cognitive disability, loss of earnings for the rest of her life, the
20 need to take medications and have weakly therapy sessions for the rest of her life, and to
21 incur significant medical expenses for the rest of her life, extreme embarrassment,
22 humiliation, anxiety and panic attacks, dissociation and avoidance in her attempts to
23 represent herself and to gain access to the services provided by the State of California
24 and Superior Court of Sonoma County and not being able to be accommodated. In
25 addition, plaintiff Sidiakina has suffered the loss of her home as her only shelter and
26 incurred attorney fees and expenses including court costs in excess of \$50,000.

27 (m) That as a result of the defendants' actions, the plaintiff Baeckel has suffered
28 damages in the form of extreme pain and suffering, extreme embarrassment, and

1 humiliation in attempting to represent herself and to gain access to the services provided
2 by the State of California and Superior Court of San Bernardino County and not being
3 able to be accommodated. In addition, plaintiff Baeckel has suffered the loss of physical
4 and legal custody of her daughter and incurred attorney fees and expenses including
5 court costs in excess of \$15,000.

6 **IX. CLASS ACTION ALLEGATIONS AND REQUEST FOR**
7 **CERTIFICATION AS CLASS ACTION**

8 (a) Now come the plaintiffs, who in addition to bringing this action on behalf of
9 themselves, would request this Court to certify them as class representatives pursuant to
10 the provisions of Rule 23 of the Federal Rules of Civil Procedure, on behalf of all
11 individuals residing in the State of California who are indigent litigants and are qualified
12 individuals with a cognitive disability that prevents them from thinking clearly, staying
13 focused, maintaining attention, speaking and understanding fully, and making logical
14 decisions during the litigation and court processes. These individuals have been
15 subjected to discrimination like the plaintiffs and continue to experience this
16 discrimination, the denial of fair and equal access to justice, and the denial of due
17 process. Each of these individuals has the right to fully and meaningfully participate in
18 judicial proceedings in the courthouses of this State and specifically the named defendant
19 courts and would currently not have access to the judicial processes in the named
20 defendant courts without going through the humiliation and embarrassment that the
21 plaintiffs Natalia A. Sidiakina and Sherryl Baeckel have been forced to endure.

22 (b) Plaintiffs would show that the certification of this class is proper in that (1) the
23 class is so numerous that joinder of all members is impracticable, (2) there are questions
24 of fact and law that are common to the class, (3) the claims and defenses of the
25 representative party is typical of the claims and defenses of the class, and (4) the
26 representative party will fairly and adequately protect the interest of the class.

27 (c) Plaintiffs would further show that the defendants have acted, or refused to act,
28 on grounds generally applicable to the class, thereby making appropriate final injunctive

1 relief or corresponding declaratory relief with respect to the class as a whole. Further, that
2 the questions of fact and fact common to the members of the class predominate over any
3 questions affecting only individual members. As class action is superior to other available
4 methods for the fair and efficient adjudication of the controversy.

5 **X. REQUEST FOR RELIEF**

6 WHEREFORE, Plaintiffs would hereby request this Honorable Court to:

7 1. Render a ruling that by not providing a legal counsel as accommodation to
8 plaintiffs and other indigent litigants with cognitive disabilities in civil cases, in which such
9 litigants' fundamental rights to basic human needs are at stake, the Judicial Branch of the
10 California Government and its subdivisions violated the due process rights of plaintiffs
11 and other indigent litigants with cognitive disabilities.

12 2. Render a ruling that during the court processes in Superior Court of Sonoma
13 County and California Court of Appeal, First Appellate District, Division Four, during which
14 plaintiff Sidiakina was denied requested accommodations and had to represent herself,
15 her due process rights were violated and that all rulings made as a result of such court
16 processes are reversed.

17 3. Render a ruling that during the court processes in Superior Court of San
18 Bernardino County during which plaintiff Baeckel was denied requested accommodations
19 and had to represent herself, her due process rights were violated and that all rulings
20 made as a result of such court processes are reversed.

21 4. Render judgment against James G. Bertoli, Judge for damages for plaintiff
22 Sidiakina's pain and sufferings during the abuse, torture, humiliation, and embarrassment
23 during the course of court proceedings before him in the amount of \$1,000,000 pursuant
24 to the provisions of 42 U.S.C. 12133 and 29 U.S.C. 794a and section 52 of the California
25 Civil Code.

26 5. Render judgment against Robert S. Boyd, Judge for damages for covering up
27 plaintiff Sidiakina's abuse and torture in his capacity of Presiding Judge of the Superior
28 Court of Sonoma County, and for damages for plaintiff Sidiakina's pain and sufferings

1 during intentional abuse, humiliation, and embarrassment during the course of court
2 proceedings before him in the amount of \$500,000 pursuant to the provisions of 42
3 U.S.C. 12133 and 29 U.S.C. 794a and section 52 of the California Civil Code.

4 6. Render judgment against Ignazio J. Ruvolo, Presiding Justice and Timothy A.
5 Reardon, Justice for damages for plaintiff's Sidiakina's pain and sufferings during her
6 preparation as self-represented cognitively disabled litigant of three statutory Petitions for
7 Writ, which were summarily denied, two appeals, which were denied, and one Petition for
8 Writ of Mandate by Person With Disabilities, which was also denied, in the amount of
9 \$1,000,000 pursuant to the provisions of 42 U.S.C. 12133 and 29 U.S.C. 794a and
10 section 52 of the California Civil Code.

11 7. Render judgment against Ronald M. George, Chief Justice and the Judicial
12 Council of California for damages for creating the Rules of Court that make it physically
13 impossible for cognitively disabled litigants to have fair and equal access to justice in
14 California and for damages for the plaintiff Sidiakina's pain and sufferings during abuse,
15 humiliation, and embarrassment during the course of litigation and appellate proceedings
16 in the amount of \$1,000,000 pursuant to the provisions of 42 U.S.C. 12133 and 29 U.S.C.
17 794a and section 52 of the California Civil Code.

18 8. Render judgment against the State of California, Superior Court of Sonoma
19 County, Court of Appeal of California, First Appellate District, Division Four for damages
20 for plaintiff Sidiakina's pain and sufferings during abuse and torture, the resulting
21 permanent disability, lost earnings due to disability, past and ongoing medical and other
22 expenses associated with disability evaluations and treatment, humiliation, and
23 embarrassment during the course of proceedings in the Superior Court of Sonoma
24 County, Court of Appeal of California, First Appellate District, Division Four, and the
25 Supreme Court of California in the amount of \$20,000,000 as well as her attorney fees,
26 costs and expenses pursuant to the provisions of 42 U.S.C. 12133 and 29 U.S.C. 794a
27 and section 52 of the California Civil Code for defending her in the grievance procedure,
28 her vindication of her rights in the state court, and for bringing this action.

1 9. Render judgment against the State of California and Judicial Council of
2 California for damages to plaintiff Sidiakina for intentionally dishonest advertising and
3 intentional misrepresentation, on which plaintiff Sidiakina relied to her detriment, on the
4 California Courts web site at <http://www.courtinfo.ca.gov/> "Committed to providing fair
5 and equal access to justice for all Californians." in the amount of \$5,000,000 pursuant to
6 the provisions of 42 U.S.C. 12133 and 29 U.S.C. 794a and section 52 of the California
7 Civil Code.

8 10. Render Judgment against the State of California, the Superior Court of San
9 Bernardino County, and Tara Reilly, Judge for damages for the plaintiff Baeckel's pain
10 and sufferings during abuse, humiliation, and embarrassment associated with her
11 attempting to represent herself before Judge Tara Reilly in the amount of \$3,000,000 as
12 well as her attorney fees, costs and expenses pursuant to the provisions of 42 U.S.C.
13 12133 and 29 U.S.C. 794a and section 52 of the California Civil Code for bringing this
14 action.

15 11. That this Court certify this as a class action pursuant to Rule 23 of the Federal
16 Rules of Civil Procedure and that proper notice be given to all individuals in the class in
17 order that they may make the proper election.

18 12. That his Court take such actions necessary and proper through declaratory
19 judgment and injunctive relief to compel the State of California and other defendants to
20 comply with the provisions of the Americans with Disability Act, and further award such
21 damages to the class representatives as are fair and proper. Further that this Court award
22 damages to each member of the class for said abuse, humiliation, and embarrassment
23 associated with the defendants' failure to comply with the ADA. Further that this Court
24 compel the State of California to do a survey of all courts of the State of California to
25 determine if they in fact fully comply with the provisions of the ADA, and if they fail to do
26 so join them as party defendants and compel them to comply with the ADA.

27 13. That this Court grant general relief to the plaintiffs and other persons that are
28 members of the class.

XI. BRIEF SUMMARY OF LEGAL BASIS FOR REQUESTED RELIEF

1
2 (a) The denial of a indigent cognitively disabled litigant's request for
3 accommodation, such as representation by appointed legal counsel, under the *ADA Title*
4 *II*, 42 U.S.C. 12131 et seq. effectively denies that indigent cognitively disabled litigant
5 his/her constitutional right to due process of law.

6 (b) The US Supreme Court held in *Tennessee v. Lane*, 541 U.S. 509 (2004) that
7 the *ADA Title II* applies to state courts.

8 (c) The States can be sued for violations of and discrimination under *ADA Title II*,
9 42 U.S.C. 12131 et seq.

10 "As it applies to the class of cases implicating the fundamental right of access to
11 the courts, Title II constitutes a valid exercise of Congress' authority under §5 of
12 the Fourteenth Amendment to enforce that Amendment's substantive guarantees."
13 (*Tennessee v. Lane*, 541 U.S. 509 (2004), at p. 510).

14 (d) Under the *ADA Title II*, the defendants such as trial judges and ADA
15 administrators can be sued in their official capacities, as an alternative method of suing
16 the entity for which they are representative. (*Hafer v. Melo*, 502 U.S. 21, 112 S. Ct. 358,
17 116 L. Ed.2d 301 (1991); *Gorman v. Bartch*, 152 F.3d 907, 916 (8th Cir. 1998).)

18 (e) State judges do not enjoy absolute immunity for acts that are administrative
19 rather than judicial in nature, such as providing accommodations for parties with
20 disabilities under the *ADA Title II*. The US Supreme Court has held that judges can be
21 held liable for damages in suits where actions which are administrative in nature are
22 challenged. (*Forrester v. White*, 484 U.S. 219, 224-225 (1988), *Cameron v. Seitz*, 38 F.3d
23 264, 271 (6th Cir. 1994), *Morrison v. Lipscomb*, 877 F.2d 463 (6th Cir. 1989).)

24 (f) The California Supreme Court in *Kenneth Munson v. Del Taco, Inc.*, (2009) 46
25 Cal.4th 661, stated:

26 "A plaintiff who establishes a violation of the ADA, therefore, need not prove an
27 intentional discrimination in order to obtain damages under section 52 [of the
28 California Civil Code]".

1 In other words, the entities, including the California courts, should be PROACTIVE in
2 eliminating the discrimination against people with disabilities.

3 (g) Under the *California Civil Code, Section 52*, the plaintiff who establishes the
4 violation of the *ADA Title II*, obtains injunctive relief, damages, and attorneys' fees.

5 (h) The right to representation by legal counsel sought by plaintiffs in this
6 Complaint was established in the State of Washington on July 7, 2007, when the
7 Washington Supreme Court adopted a New General Rule 33, which includes
8 "representation by counsel" as "accommodation" for parties with disabilities. As stated in
9 General Rule 33 (a)(1)(C):

10 "(C) as to otherwise unrepresented parties to the proceedings, representation by
11 counsel, as appropriate or necessary to making each service, program, or activity,
12 when viewed in its entirety, readily accessible to and usable by a qualified person
13 with a disability."

14
15 Dated: July 15, 2010

16 Respectfully Submitted,

17
18 By _____ /S/ _____

19 NATALIA A. SIDIAKINA, Plaintiff

20 By _____ /S/ _____

21 SHERRYL BAECKEL, Plaintiff
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1 In other words, the entities, including the California courts, should be PROACTIVE in
2 eliminating the discrimination against people with disabilities.

3 (g) Under the *California Civil Code, Section 52*, the plaintiff who establishes the
4 violation of the *ADA Title II*, obtains injunctive relief, damages, and attorneys' fees.


5 (h) The right to representation by legal counsel sought by plaintiffs in this
6 Complaint was established in the State of Washington on July 7, 2007, when the
7 Washington Supreme Court adopted a New General Rule 33, which includes
8 "representation by counsel" as "accommodation" for parties with disabilities. As stated in
9 General Rule 33 (a)(1)(C):

10 "(C) as to otherwise unrepresented parties to the proceedings, representation by
11 counsel, as appropriate or necessary to making each service, program, or activity,
12 when viewed in its entirety, readily accessible to and usable by a qualified person
13 with a disability."
14

15 Dated: July 15, 2010

16 Respectfully Submitted,

17
18 By  _____
19 NATALIA A. SIDIAKINA, Plaintiff

20 By  _____
21 SHERRYL BAECKEL, Plaintiff
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JS 44 (Rev. 12/07)

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

<p>I. (a) PLAINTIFFS</p> <p>(b) County of Residence of First Listed Plaintiff <u>SONOMA</u> (EXCEPT IN U.S. PLAINTIFF CASES)</p> <p>(c) Attorney's (Firm Name, Address, and Telephone Number)</p>	<p>DEFENDANTS</p> <p>County of Residence of First Listed Defendant <u>SONOMA</u> (IN U.S. PLAINTIFF CASES ONLY)</p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.</p> <p>Attorneys (If Known)</p>
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<p>II. BASIS OF JURISDICTION (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <p>(For Diversity Cases Only)</p> <table style="width: 100%;"> <tr> <td>Citizen of This State</td> <td><input type="checkbox"/> 1</td> <td><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td><input type="checkbox"/> 4</td> <td><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6														

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<p>PERSONAL INJURY</p> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <p>PERSONAL INJURY</p> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <p>PERSONAL PROPERTY</p> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <p>PROPERTY RIGHTS</p> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <p>SOCIAL SECURITY</p> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <p>FEDERAL TAX SUITS</p> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<p>REAL PROPERTY</p> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<p>CIVIL RIGHTS</p> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input checked="" type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<p>PRISONER PETITIONS</p> <input type="checkbox"/> 510 Motions to Vacate Sentence <p>Habeas Corpus:</p> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <p>IMMIGRATION</p> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding

2 Removed from State Court

3 Remanded from Appellate Court

4 Reinstated or Reopened

5 Transferred from another district (specify)

6 Multidistrict Litigation

7 Appeal to District Judge from Magistrate Judgment

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

VI. CAUSE OF ACTION

Brief description of cause: VIOLATION OF DISCRIMINATION UNDER ADA TITLE II

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMANDS

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions): NONE

JUDGE _____ DOCKET NUMBER _____

DATE: 7/19/2010 SIGNATURE OF ATTORNEY OF RECORD: [Signature]

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____