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NORTHERN DISTRICT OF CALIFORNIA

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

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

15 **vs.**

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

27 **Defendants.**  
28

Case No. C 10-03157 JSW

Judge Jeffrey S. White

AMENDED COMPLAINT –  
CLASS ACTION

DEMAND FOR JURY TRIAL

**I. JURISDICTION**

This court has jurisdiction over the matters contained in this complaint pursuant to the provisions of the Americans with Disabilities Act (ADA) of 1990, Title II, 42 U.S.C. 12131 et. seq., Americans with Disabilities Act Amendments Act (ADAAA) of 9/25/2008, 42 U.S.C. A. 12101 et. seq., 29 U.S.C. 794a, 28 C.F.R. 35.101 et. seq., and Torture Victims Protection Act, 28 U.S.C. 1350 et. seq..

**II. VENUE**

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

**III. INTRADISTRICT ASSIGNMENT**

This lawsuit should be assigned to the Oakland Division of this Court because 4 of 12 Defendants work in building across the street from the building in which San Francisco Division is located and 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.

**IV. PARTIES**

(a) The Plaintiff Natalia A. Sidiakina:

1. The plaintiff Sidiakina is a resident since 1994, a permanent resident since May of 2001, application for citizenship in progress, a resident of Sonoma County, California and resides at 746 Adobe Drive, Santa Rosa, California. She is a qualified individual with cognitive disabilities as is defined by 42 U.S.C. 12101 et. seq., and has been in need of the services of the judicial division of the State of California for the purpose of dissolution of marriage litigation. Ms. Sidiakina's cognitive disabilities such as Post-Traumatic Stress Disorder, Panic Disorder, Major Depressive Disorder, Dissociative Disorder, and migraine pain disorder were diagnosed by three independent experts in the fields of Post-Traumatic Stress Disorder, Anxiety Disorders, and Dissociative Disorders: Dr. Andrew Leeds, PhD, MFT, Karin Huffer, MS, MFT, and Jo Lauer, MFT. Three family medicine

1 practitioners Dr. Jann Hanscome, MD, Dr. Bonnie Kneibler, MD and Judy Walenta, CFNP  
2 have been treating Ms. Sidiakina and have been prescribing medications for her cognitive  
3 disabilities since 2005.

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

14 (b) The Plaintiff Sherryl Baeckel:

15 1. The plaintiff Baeckel is a citizen and resident of Riverside County, California and  
16 resides at 10520 Village Road, Moreno Valley, California. She is a qualified individual with  
17 cognitive disabilities as is defined by 42 U.S.C. 12101 et. seq., and has been in need of  
18 the services of the judicial division of the State of California for the purpose of dissolution  
19 of marriage, child custody and support litigation. Ms. Baeckel's cognitive and physical  
20 disabilities such as severe migraine headaches, scleroderma with significant cognitive  
21 fatigue, a neck injury with persistent arthritis pain, emphysema, constant pain due to  
22 fibromyalgia, and Complex Post-Traumatic Stress Disorder were diagnosed by Dr.  
23 Andrew Rhodes, MD, Dr. Carl Wolnisty, MD, Dr. Zamiri, MD. and Karin Huffer, MS, 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, Timothy A. Reardon, Justice, and Patricia  
24 K. Sepulveda, Justice are the Justices of The Court of Appeal of California, First  
25 Appellate District, Division Four.

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

28

**V. PLAINTIFF SIDIAKINA'S PROCEDURAL HISTORY**

1  
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. 12101 et seq. and 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

1 (i) The hearing on September 14, 2007 caused the trauma to Sidiakina's brain that  
2 resulted in the dissociation of neurotransmission between her brain areas and her inability  
3 to recall memories related to her divorce, inability to concentrate during legal processes,  
4 inability to understand, process, and analyze information related to her divorce.

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

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

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

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

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

26 (l) On December 4, 2008 and on February 18, 2010, Sidiakina filed requests for a  
27 Change of Venue and for disqualification of Judge James G. Bertoli as accommodations  
28 for Sidiakina's cognitive disabilities because, as a result of abuse and torture inflicted

1 upon her by Judge James G. Bertoli, Sidiakina developed and was diagnosed with  
2 phobia of Sonoma Superior Court and of Judge James G. Bertoli. In her affidavit,  
3 Sidiakina stated:

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

18 (m) Dr. Andrew M. Leeds, PhD, MFT, Karin Huffer, MS, MFT, Jo Lauer, MFT and  
19 Judy Walenta, CRNP concurred in their reports titled "Request for Reasonable ADA  
20 Accommodations; Assessment and Report in Support of Request" (hereinafter referred to  
21 as "ADA Report") in section "ADA Accommodation Specifically Needed by Client" that:

22 **"1) Ms. Sidiakina needs to avoid places and people that may remind her of**  
23 **the traumatic events and are likely to trigger anxiety attack and dissociation,**  
24 **specifically Sonoma Superior Court, ...and Sonoma Court Judge J. Bertoli.**  
25 **Ms. Sidiakina needs her case to be transferred to Superior Court in another**  
26 **county." (ADA Report of Dr. Andrew Leeds, PhD, MFT, p. 11; ADA Report of**  
27 **Karin Huffer, MS, MFT, p. 9; ADA Report of Jo Lauer, MFT, p. 9; ADA Report of**  
28 **Judy Walenta, CRNP, p. 6).**

1 (n) In spite of direct requests from mental health professionals and experts,  
2 presented as supportive attachments to Request for Accommodations by Persons with  
3 Disabilities filed by Sidiakina in the Sonoma Superior Court, both times Judge Bertoli  
4 denied Sidiakina's requests and insisted on continuing to discriminate against Sidiakina,  
5 abuse and torture her, intentionally causing further sever pain and sufferings, damage to  
6 Sidiakina's brain, her humiliation and embarrassment.

7 (o) Sidiakina filed two statutory Petitions for Writ of Mandate to appeal the refusal  
8 of abusive Judge Bertoli to honor Sidiakina's requests for his disqualification. Both  
9 Petitions for Writ were summarily denied without being adjudicated on their merits by the  
10 California Court of Appeal, First Appellate District, Division Four. Furthermore, the issues  
11 of disqualification of Juge Bertoli were ignored after they were brought up in Sidiakina's  
12 appeal. California Supreme Court denied Sidiakina's Petitions for Review.

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

20 (q) During her appeals, on several occasions, Sidiakina requested  
21 accommodations as a cognitively disabled litigant, including the appointment of legal  
22 counsel on appeal, and submitted experts' reports and her affidavit in support of her  
23 request. Ignazio J. Ruvolo, Presiding Justice and Timothy A. Reardon, Justice of the  
24 Court of Appeal of California, First Appellate District, Division Four, summarily denied  
25 Sidiakina's requests. Subsequently, on August 19, 2009, Justice Reardon, Presiding  
26 Justice Ruvolo, and Justice Sepulveda denied Sidiakina's appeals on the ground that  
27 Sidiakina failed to comply with the Rules of Court because she "failed to provide a  
28 reasoned argument and discussion of legal authority with appropriate citation to the

1 appellate record”.

2 (r) It is a self-evident truth that a cognitively disabled person CANNOT provide “a  
3 reasoned argument and discussion of legal authority with appropriate citation to the  
4 appellate record”. It takes three years of law school, passing the California Bar exam, and  
5 several years of experience with appeals for a person WITHOUT cognitive disabilities to  
6 be able to write a reasoned legal argument and discussion of legal authority with  
7 appropriate citation to the appellate record. Moreover, it is well established among  
8 lawyers and judges that even an experienced lawyer is at huge disadvantage when  
9 representing himself. “A lawyer who represents himself has a fool for a client” is not just a  
10 joke, but an official opinion of the Supreme Court of the United States in *Kay v. Ehrler*,  
11 499 U.S. 432 (1991) at p. 437-438:

12 **“Even a skilled lawyer who represents himself is at a disadvantage in**  
13 **contested litigation. Ethical considerations may make it inappropriate for him to**  
14 **appear as a witness. He is deprived of the judgment of an independent third**  
15 **party in framing the theory of the case, evaluating alternative methods of**  
16 **presenting the evidence, cross-examining hostile witnesses, formulating**  
17 **legal arguments, and in making sure that reason, rather than emotion,**  
18 **dictates the proper tactical response to unforeseen developments in the**  
19 **courtroom. The adage that “a lawyer who represents himself has a fool for a**  
20 **client” is the product of years of experience by seasoned litigators.”** (bold  
21 added)

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

25 “Ms. Sidiakina suffers from Depression, Panic Disorder, and Anxiety diagnosed  
26 by Bonnie Kneibler, M.D, and Jann M. Hanscome, M.D, at Windsor Primary Care  
27 Medical Group in Windsor, California, and has been under treatment since 2005.  
28 Opinions of Dr. Kneibler and Dr. Hanscome consistently indicate that Ms. Sidiakina

1 suffered first from traumatic reaction to a type of domestic abuse related more to  
2 coercion than physical violence although there were incidents of battery in 2003  
3 resulting in her husband's arrest.

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

8 Ms. Sidiakina has been in need of ADA Accommodations since August of 2005.

9 The fact that she was not protected by the ADA created an inaccurate perception  
10 of her to the Court. Judges react to what is before them and often punitively and  
11 unfairly act with inadvertent bias toward litigants with invisible disabilities. English is  
12 Ms. Sidiakina's third language. Although she is fluent in English, the language in a  
13 court of law requires a literacy that most people do not possess let alone those  
14 dealing with English as a third language. Ms. Sidiakina reports that:

15 *"At one time during my answer to Judge Bertoli's interrogations, my voice broke,*  
16 *and I felt suffocating. Another time during the dialog between my husband's*  
17 *attorney James Benoit and Judge Bertoli, I could not breathe at all, and my heart*  
18 *hurt so bad that I felt I was dying. Then my brain went blank. I don't know how long*  
19 *it lasted, maybe few minutes. I lost the track of time and the dialog. Because of*  
20 *fear and distress, I was unable to remember words in English and properly say*  
21 *what I wanted to say. I felt like a rat that is getting repeated electric shocks in the*  
22 *cage that it cannot escape."*

23 **This clearly demonstrates that Ms. Sidiakina did not have access to the**  
24 **proceedings or due process of law.** It also appears that Ms. Sidiakiana's  
25 expectations of the fairness in the court process, her thorough research as to rules  
26 and laws, and outspoken nature complicated by her inability to obtain  
27 accommodations for her functional impairments, and created a situation that was  
28 detrimental to her in the court. **The Americans with Disabilities Act should**

1       **have protected Ms. Sidiakina when she was first diagnosed in 2005. With**  
2       **accommodations, she may have had equal access and avoided the severe**  
3       **trauma she suffers today.”** (bold and italics in the original text)

4       (t) Three mental health experts and a family physician concurred that the following  
5 accommodations are medically necessary and reasonable given Sidiakina's cognitive  
6 disabilities:

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

12       B.     **It is my professional opinion that due to the psychological disabilities**  
13       **described above Ms. Sidiakina has been and will continue to be unable to**  
14       **represent herself and to comply with the California Rules of Court.**  
15       **I fully agree with all eight of the major specific accommodations identified by**  
16       **Karin Huffer, MS, MFT in her ADA report and re-stated by Andrew Leeds,**  
17       **Ph.D. in his ADA report.**

18       These accommodations are well thought out and are reasonable ways to  
19 accommodate the disabilities and impairments from which Ms. Sidiakina suffers.  
20       **Most critical is that Ms. Sidiakina did require and continues to require the**  
21       **assistance of an attorney to assure her due process. Without such**  
22       **accommodations, her mental and emotional disabilities clearly make it**  
23       **impossible for her to participate in the legal process and receive equal**  
24       **access to the courts.**

25       The accommodations listed in Karin Huffer's report and re-stated in Andrew Leeds,  
26 Ph.D. report, would substantially accommodate Ms. Sidiakina's disabilities. For the  
27 record, I quote from Karin Huffer's and Andrew Leeds' reports below:  
28

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

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

9           .....

10           ***Only if the Court ensures accommodations including legal representation for***  
 11           ***Ms. Sidiakina, will she have “equal access” to the Court.*** (bold and italics in  
 12           the original text) (“Request for Reasonable ADA Accommodations; Assessment  
 13           and Report in Support of Request” by Jo Lauer, MFT, p. 9, 11; “Request for  
 14           Reasonable ADA Accommodations; Assessment and Report in Support of  
 15           Request” by Judy Walenta, CFNP, p. 6, 8)

16           (u) On 3/12/10, Sidiakina appealed the denial of reasonable accommodations in  
 17           the Court of Appeal of the State of California, First Appellate District, Division Four. On  
 18           5/12/10, Presiding Justice Ruvolo, Justice Reardon, and Justice Sepulveda issued an  
 19           opinion stating:

20           **“Petitioner’s request for accommodations (appointment of counsel and**  
 21           **change of venue / judicial officer) would create and undue financial burden**  
 22           **and administrative burden on the court, and fundamentally alter the nature of**  
 23           **court services. (Cal. Rules of Court, rule 1.100(f)(2) and (3)).”** (bold added).

24           This opinion is contrary to several decisions of the U.S. courts:

25           **“The opportunity to be heard must be tailored to the capacities and**  
 26           **circumstances of those who are to be heard”** and when **“a party exhibits a**  
 27           **limited ability to understand a proceeding affecting her rights, the court must**  
 28           **undertake even more strenuous efforts to explain the process.”** (*Nielson v.*

1 *Colgate-Palmolive*, 199 F.3d 642 (2d Cir. 1999)). (bold added).

2 In *Tennessee v. Lane*, 541 U.S. 509 (2004), the Supreme Court of the United States held  
3 that the ADA applies to states courts and that, moreover:

4 “Cases such as *Boddie*, *Griffin v. Illinois*, 351 U.S. 12, and *Gideon v. Wainwright*,  
5 372 U.S. 335, make clear that **ordinary considerations of cost and**  
6 **convenience alone cannot justify a State’s failure to provide individuals with**  
7 **a meaningful right of access to the courts.** Judged against this backdrop, Title  
8 II’s affirmative obligation to accommodate is a reasonable prophylactic measure,  
9 reasonably targeted to a legitimate end.” (bold added).

10 (v) Because Sidiakina was forced to represent herself despite her requests for  
11 accommodations as indigent and qualified litigant with cognitive disabilities in a litigation,  
12 in which the opposing party was represented by two experienced attorneys and in which  
13 Sidiakina’s fundamental rights to basic human needs were at stake, she suffered the loss  
14 of her home as her only shelter, the loss of all of her material assets, the loss of all her  
15 community property in the amount of over \$200,000, a ruined credit, enormous pain and  
16 sufferings and brain trauma that resulted in severe cognitive disabilities that prevent her  
17 from working in her profession and earning a living for the rest of her life, huge medical  
18 and disability related expenses for the rest of her life, and attorneys fees and costs  
19 incurred during the protracted litigation and appeals in the amount of over \$50,000.  
20 Additionally, Judge Bertoli ordered Sidiakina to pay attorney’s fees of her ex-husband in  
21 the amount of over \$74,000. Moreover, because Sidiakina was denied legal counsel as  
22 accommodation and was forced to represent herself, at the request of her ex-husband’s  
23 attorney, Judge Bertoli declared Sidiakina a “vexatious litigant”, which completely denies  
24 Sidiakina ANY access to state courts and allows her ex-husband, who was arrested for  
25 Domestic Violence against Sidiakina, to further violate court orders, defraud her, and  
26 abuse her without recourse. If Sidiakina was represented by an appointed legal counsel,  
27 the above would not have happened.

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

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(a) That as noted above, the plaintiff, Sherryl Baeckel, hereinafter referred to as Baeckel, is indigent and cognitively disabled and as such is a qualified individual with a cognitive disability as defined by 42 U.S.C. 12101 et seq. and 42 U.S.C. 12131(2).

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

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

(d) On January 27, 2009, when Baeckel was self-represented because she did not have money to retain a legal counsel, a confusing order was made by Judge Tara Reilly pertaining to former husband Scott Baeckel's summer visitation time periods. Scott was to have eight weeks visitation in the summer in two-week increments. Due to Baeckel's cognitive disabilities, she did not understand and, therefore, did not bring to Judge's attention the fact that the visitation order was confusing because it contained several parts that were mutually exclusive, in which the particular dates assigned by the Judge for father's visitation DID NOT add up to 8 weeks. After Baeckel received the transcript, she noted that the Judge specifically stated, " So for this year dad will have from June 12<sup>th</sup>, 2009, through Sunday June 28<sup>th</sup> in its entirety. She [daughter] will then go back to mom for two weeks and then back to dad." Baeckel complied with this order and kept her daughter beginning June 29<sup>th</sup>, 2009. If Baeckel was represented by a legal counsel, then the legal counsel would have brought to the Judge's attention the mutually exclusive parts of the court order and Baeckel would not have been accused of "violating" the court order when, de facto, she followed the court order precisely.

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

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

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

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

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

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

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

8 (l) Due to her cognitive and physical disabilities, Baeckel was unable to prepare for  
9 and attend the hearing scheduled for May 4, 2010. Baeckel wrote down May 6<sup>th</sup> as the  
10 hearing date in error and confusion, and telephoned the court immediately to inform them  
11 of her error. The bailiff gave her no direction, but instead, Judge Tara Reilly declared  
12 Baeckel a vexatious litigant, based on Baeckel's status as a self-represented litigant.

13 (m) Presently, Baeckel is so traumatized by the course of custody litigation that  
14 she experiences panic attacks with severe pains every time she gets an envelope from  
15 the trial court or the opposing counsel, causing her to instinctively avoid any contact with  
16 the court or court personnel. Furthermore, Baeckel's former husband continues to violate  
17 the court visitation order and continues to deprive Baeckel, a mother, from seeing her  
18 daughter, and because of her "vexatious litigant" status, Baeckel is not allowed to file any  
19 court action to stop this abuse of her and her daughter from her former husband. If  
20 Baeckel was represented by an appointed legal counsel, then all her severe sufferings  
21 from the distress of litigation and the significant deterioration of her cognitive abilities  
22 would not have occurred, she would have not lost the custody of her daughter, and would  
23 have not be declared a "vexatious litigant" based on her self-represented status.

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

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

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

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

18           **“100. LEGISLATIVE FINDINGS**

19           The Legislature finds and declares:

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

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

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

27 <http://www.bovertvlaw.org/bovertv-law-library/research-aides/civil-aideon/state-model->  
28 [statute.pdf](http://www.bovertvlaw.org/bovertv-law-library/research-aides/civil-aideon/state-model-statute.pdf)

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

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

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

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

25 The Committee's policies, procedures and forms related to filing a petition for  
26 testing accommodations are available online at [www.calbar.ca.gov/admissions](http://www.calbar.ca.gov/admissions) or  
27 upon request.” (bold added)  
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1 The full text of special proceedings and special accommodations for cognitively disabled  
2 law students can be found at:

3 [http://calbar.xan.com/applications/CalBar/info/bar\\_exam.html](http://calbar.xan.com/applications/CalBar/info/bar_exam.html)

4 (e) On October 12, 2009, California Governor Arnold Schwarzenegger signed AB  
5 590, Assembly member Mike Feuer's landmark measure that would make California the  
6 first state in the nation to establish a model program providing a right to counsel for low-  
7 income people in critical civil cases.

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

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

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

22 Currently, attorneys are appointed for indigent parties only in criminal cases. **Legal**  
23 **officials agree, however, that some issues decided in civil cases can be just**  
24 **as significant as in criminal cases, such as cases involving the elderly and**  
25 **individuals with disabilities, the well-being and safety of parents and**  
26 **children, and the basic need for adequate shelter.** AB 590 would support the  
27 project without drawing on California's general fund: A previously-approved \$10  
28

1 increase on certain court fees when a party wins a case would be redirected to the  
2 program starting in 2011.

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

12 **AB 590 will go into effect as a pilot project from July 1, 2011 until July 1,**  
13 **2017."** (bold added)

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

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

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

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

## 20 VIII. CAUSES OF ACTION

21 (a) That James G. Bertoli, Judge of Superior Court of Sonoma County has  
22 discriminated against the plaintiff, Natalia A. Sidiakina, has excluded her from  
23 participation in, and/or denied her the access to and the benefits of, the services of the  
24 court system and due process in violation of 42 U.S.C. 12132 et seq., has intentionally  
25 subjected her to the unconscionable, immoral and inhumane treatment, abused and  
26 tortured her during the court processes causing her to experience pain and sufferings so  
27 severe that Sidiakina lost consciousness during the hearing on September 14, 2007 and  
28 that Sidiakina's brain was permanently traumatized resulting in permanent cognitive

1 disabilities such as severe Post-Traumatic Stress Disorder, Dissociative Disorder and  
2 Avoidance Disorder.

3 (b) That James G. Bertoli, Judge of Superior Court of Sonoma County, has  
4 intended to continue to discriminate against the plaintiff, Natalia A. Sidiakina, intentionally  
5 subject her to the unconscionable, immoral and inhumane treatment, abuse, torture,  
6 humiliate, and embarrass her, exclude her from participation in, and/or deny her the  
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 et seq.

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

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

24 (e) That Tara Reilly, Judge of Superior Court of San Bernardino County, has  
25 discriminated against the plaintiff, Sherryl Baeckel, intentionally subjected her to the  
26 unconscionable, immoral and inhumane treatment, humiliated, and embarrassed her,  
27 excluded her from participation in, and/or denied her the access to and the benefits of,  
28 the services of the court system and due process in violation of 42 U.S.C. 12132 et seq.

1 (f) That Ronald M. George, Chief Justice and Judicial Council of California have  
2 discriminated against the plaintiffs, Natalia A. Sidiakina and Sherryl Baeckel, by knowingly  
3 creating The Rules of Court, including, but not limited to, Rule 1.100, pamphlet called "For  
4 Persons with Disabilities Requesting Accommodations" of 2007, and Rule 8.204, that  
5 make it physically impossible for indigent plaintiffs with cognitive disabilities to  
6 meaningfully participate in, and/or have equal and meaningful access to and the benefits  
7 of, the services of the court system and due process in violation of 42 U.S.C. 12132 et  
8 seq.

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 false advertising and  
4 misrepresentation of the actions of the judicial process on the California Courts web site  
5 at <http://www.courtinfo.ca.gov/> as "Committed to providing fair and equal access to  
6 justice for all Californians" was with full knowledge of plaintiff's disability, physical inability  
7 of plaintiffs to have "fair and equal access to justice" without legal counsel as  
8 accommodation, and with their knowledge of the requirements to conform to the ADA.

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

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

19 (l) That as a result of the defendants' actions, the plaintiff Sidiakina has suffered  
20 damages in the form of extreme pain and suffering, resulting in her Post-Traumatic Stress  
21 Disorder and permanent cognitive disability, loss of earnings for the rest of her life, the  
22 need to take medications and have weakly therapy sessions for the rest of her life, and to  
23 incur significant medical expenses for the rest of her life, extreme embarrassment,  
24 humiliation, anxiety and panic attacks, dissociation and avoidance in her attempts to  
25 represent herself and to gain access to the services provided by the State of California  
26 and Superior Court of Sonoma County and not being able to be accommodated. In  
27 addition, plaintiff Sidiakina has suffered the loss of her home as her only shelter, loss of  
28 her community property valued over \$200,000, sanctions as "vexatious litigant" to pay for

1 her former husband's attorney's fees in the amount of over \$74,000, and incurred  
2 attorney fees and expenses including court costs in excess of \$50,000.

3 (m) That as a result of the defendants' actions, the plaintiff Baeckel has suffered  
4 damages in the form of extreme pain and suffering, extreme embarrassment, and  
5 humiliation in attempting to represent herself and to gain access to the services provided  
6 by the State of California and Superior Court of San Bernardino County and not being  
7 able to be accommodated. In addition, plaintiff Baeckel has suffered the loss of physical  
8 and legal custody of her daughter, was sanctioned as "vexatious litigant", and incurred  
9 attorney fees and expenses including court costs in excess of \$30,000.

#### 10 **IX. CLASS ACTION ALLEGATIONS AND REQUEST FOR**

#### 11 **CERTIFICATION AS CLASS ACTION**

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

26 (b) Plaintiffs would show that the certification of this class is proper in that (1) the  
27 class is so numerous that joinder of all members is impracticable, (2) there are questions  
28 of fact and law that are common to the class, (3) the claims and defenses of the

1 representative party is typical of the claims and defenses of the class, and (4) the  
2 representative party will fairly and adequately protect the interest of the class.

3 (c) Plaintiffs would further show that the defendants have acted, or refused to act,  
4 on grounds generally applicable to the class, thereby making appropriate final injunctive  
5 relief or corresponding declaratory relief with respect to the class as a whole. Further, that  
6 the questions of fact and fact common to the members of the class predominate over any  
7 questions affecting only individual members. As class action is superior to other available  
8 methods for the fair and efficient adjudication of the controversy.

### 9 **X. REQUEST FOR RELIEF**

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

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

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

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

25 4. Render a ruling that by sanctioning plaintiffs Natalia A. Sidiakina and Sherryl  
26 Baeckel as "vexatious litigants", Judge James Bertoli and Judge Tara Reilly intentionally  
27 abused and discriminated against cognitively disabled plaintiffs.

28 5. Render a ruling that Change of Venue and Change / Disqualification of Judge

1 are reasonable accommodations under ADA in Sidiakina's and Baeckel's cases and  
2 when requested by mental health professionals on behalf of cognitively disabled litigants.

3 6. Render a ruling that the actions of Judge Bertoli during the hearing on  
4 September 14, 2007 constituted intentional abuse, torture, and discrimination of  
5 cognitively disabled plaintiff Natalia A. Sidiakina.

6 7. Render a ruling that the current practice of summary denial without adjudication  
7 on the merits by California Court of Appeal of Petitions for Writ of Mandate regarding  
8 failure of trial judge to honor disqualification and recuse himself is a violation of due  
9 process rights of litigants who requested disqualification of a trial judge.

10 8. Request a ruling from the California Supreme Court on whether the current  
11 practice of summary denial without adjudication on the merits by California Court of  
12 Appeal of Petitions for Writ of Mandate regarding failure of trial judge to honor  
13 disqualification and recuse himself is a violation of California Constitution, Article 6,  
14 Section 14.

15 9. Render a ruling that California Rules of Court, Rule 1.100 and pamphlet of  
16 Judicial Council of California titled "For Persons with Disabilities Requesting  
17 Accommodations" of 2007 are in violation of ADA Title II.

18 10. Render a ruling that California Rules of Court, Rule 8.204 results in denial of  
19 due process for those litigants who are not trained as lawyers and results in violation of  
20 Fourteenth Amendment of U.S. Constitution.

21 11. 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 12. 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 13. 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 14. 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 15. 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           **16. 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           **17. 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           **18. 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           **19. That this 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           **20. 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 (8<sup>th</sup> 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 (6<sup>th</sup> Cir. 1994), *Morrison v. Lipscomb*, 877 F.2d 463 (6<sup>th</sup> 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: September 15, 2010

16

Respectfully Submitted,

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By \_\_\_\_\_ /S/

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NATALIA A. SIDIAKINA, Plaintiff

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By \_\_\_\_\_ /S/

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SHERRYL BAECKEL, Plaintiff

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Respectfully Submitted,

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By 

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NATALIA A. SIDIAKINA, Plaintiff

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By 

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SHERRYL BAECKEL, Plaintiff

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