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11 ATTORNEYS FOR PLAINTIFF UNITED STATES

12 **UNITED STATES DISTRICT COURT**  
 13 **NORTHERN DISTRICT OF CALIFORNIA**  
 14 **EUREKA DIVISION**

15	THE UNITED STATES OF AMERICA,	)	COMPLAINT PURSUANT TO THE AMERICANS
16	Plaintiff,	)	WITH DISABILITIES ACT, 42 U.S.C. §§ 12131 –
17	v.	)	12134
18	HUMBOLDT COUNTY,	)	C 16-5139
19	Defendant.	)	

1 **COMPLAINT**

2 THE UNITED STATES OF AMERICA alleges:

3 **INTRODUCTION**

4 1. Humboldt County (County) discriminates against individuals with disabilities in violation  
5 of Title II of the Americans with Disabilities Act (ADA), 42 U.S.C. §§ 12131–12134, and its  
6 implementing regulation, 28 C.F.R. Part 35.

7 2. Title II of the ADA specifies that “no qualified individual with a disability shall, by reason  
8 of such disability, be excluded from participation in or be denied the benefits of the services, programs,  
9 or activities of a public entity, or be subjected to discrimination by any such entity.” 42 U.S.C. §  
10 12132; 28 C.F.R. § 35.130(a).

11 3. In addition to the general prohibitions against discrimination, the ADA regulation requires  
12 that “no qualified individual with a disability shall, because a public entity’s facilities are inaccessible  
13 to or unusable by individuals with disabilities, be excluded from participation in, or be denied the  
14 benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by  
15 any public entity.” 28 C.F.R. § 35.149. The regulation further provides that “a public entity shall take  
16 appropriate steps to ensure that communication with applicants, participants, members of the public,  
17 and companions with disabilities are as effective as communications with others.” 28 C.F.R. § 35.160.

18 4. Humboldt County has approximately 134,000 residents of which approximately 25,000 are  
19 individuals with disabilities. Over 50 facilities owned by the County or housing County programs,  
20 services and activities contain architectural barriers rendering the programs, services and activities  
21 provided at these facilities inaccessible to and unusable by individuals with disabilities in violation of  
22 the ADA.

23 **THE PARTIES**

24 5. Plaintiff is the United States of America.

25 6. Defendant Humboldt County is a “public entity” within the meaning of the ADA, 42 U.S.C.  
26 § 12131(1)(A), and is therefore subject to the ADA.

1 **JURISDICTION AND VENUE**

2 7. The Court has jurisdiction of this action under 28 U.S.C. §§ 1331, 1345 and 42 U.S.C.  
3 § 12133. The Court may grant declaratory and other relief pursuant to 28 U.S.C. §§ 2201 and 2202,  
4 and 42 U.S.C. § 12133.

5 8. Venue is proper in this District pursuant to 28 U.S.C. § 1391 because the County is located  
6 in this District and all of the claims and events giving rise to this action occurred in this District.

7 **INTRADISTRICT ASSIGNMENT**

8 9. This action arises in Humboldt County and should be assigned to the Eureka Division.

9 **STATEMENT OF FACTS**

10 10. The United States Department of Justice (Department) first reviewed the County's  
11 compliance with Title II of the ADA in 2005. The Department reviewed County facilities, and County  
12 policies, programs, services, and activities to determine the County's compliance with the ADA.

13 11. For purposes of determining whether County facilities are readily accessible to and usable  
14 by individuals with disabilities, County facilities are divided into the following two categories relevant  
15 under the ADA: 1) new construction and alterations; and 2) existing facilities and county programs  
16 located in facilities not owned by the County.

17 12. Newly constructed and altered facilities, in which construction or alterations commenced  
18 after January 26, 1992, must be readily accessible to and usable by individuals with disabilities. 28  
19 C.F.R. § 35.151. The Department reviewed the following newly constructed or altered County  
20 facilities: Humboldt County Correctional Facility, Regional Juvenile Facility, County Main Library,  
21 County Fairgrounds, Clam Beach Park, County Animal Shelter, Fields Landing, County Courthouse,  
22 Healthy Moms Program Office, Juvenile Hall, and Department of Health and Human Services. 28  
23 C.F.R. § 35.151.

24 13. The Department identified over 200 violations of the applicable ADA Standards in County  
25 facilities that are newly constructed or altered. The Department provided the County with a 50 page  
26 list of violations and the required remedial actions the County needed to take to bring each facility  
27 into compliance with the ADA.

28 14. The County's ADA violations in newly constructed and altered facilities, include:

- 1 • Inaccessible Parking;
- 2 • Inaccessible exterior and interior routes, including routes with excessive slopes;
- 3 • Narrow doors and doors with excessive pressure required to open them;
- 4 • Inaccessible toilet rooms and locker rooms, including the following inaccessible elements
- 5 within toilet and locker rooms: mirrors, toilet stalls, lavatories, doors, dispensers, grab bars, clear floor
- 6 space, and showers;
- 7 • No accessible cells in juvenile detention facilities; and
- 8 • Assembly areas without accessible wheelchair seating and/or assistive listening devices.

9 15. County programs, services, and activities are also provided in existing County facilities,  
10 *i.e.*, those constructed prior to January 26, 1992, and in non-County owned facilities. These facilities  
11 and programs include: County Courthouse, Department of Public Health, Public Works, Clark  
12 Complex, Public Defender’s Office, Social Services Buildings A, B, D, and G, Juvenile Probation  
13 Office, Environmental Health – Public Health, Conflict Counsel, Victim Witness Program, Public  
14 Guardian, Garberville Library, Veteran’s Hall/Municipal Court, County Health Offices, Garberville  
15 Sheriff’s Substation, A.W. Way County Park, County Fairgrounds, Luffenholtz Park, Public Health  
16 Office, Veterans Hall in Ferndale, Fortuna Public Library, Ferndale Public Library, Veterans  
17 Memorial Building, Freshwater Park, Public Health MCAH, Social Services Branch, Child Support  
18 Services, McKinleyville Sheriff’s Substation, McKinley Library, Redwood Regional Development,  
19 Social Services Building C, Mental Health (Child Youth and Family Services), Family Visitation  
20 Center, Probation Department, Rio Dell Library, Trinidad Library, Sheriff’s Citizens on Patrol (SCOP)  
21 Office, Willow Creek Library, Blue Lake Library, and Public Health (WIC) Office. 28 C.F.R.  
22 § 35.150.

23 16. The Department identified over 900 barriers to access in existing County facilities and non-  
24 County facilities that house County programs, services, or activities. The Department provided the  
25 County with a 300 page list of the barriers and the required remedial actions the County needed to take  
26 to bring its programs, services, and activities into compliance with the ADA.

27 17. The wide range of barriers in existing County facilities and non-County owned facilities  
28 that house County programs, services, and activities include:

- 1 • Inaccessible parking;
- 2 • No accessible routes into and within buildings, including routes with excessive slopes and
- 3 ramps without accessible handrails;
- 4 • Entrance doors that are inaccessible because of a change in level, doors that are too narrow,
- 5 excessive door pressure required to open them, and/or inaccessible door hardware;
- 6 • Inaccessible toilet rooms and locker rooms, including the following inaccessible elements
- 7 within toilet and locker rooms: insufficient turning space within a toilet room and/or toilet stall; toilet
- 8 seat cover dispensers, soap dispensers, and paper towel dispenser controls with noncompliant reach
- 9 ranges; lavatories that are inaccessible because they lack knee and toe space, accessible hardware,
- 10 and/or clear floor space, and/or hot water pipes and drains that are not covered; inaccessible toilets;
- 11 designated accessible toilets without grab bars or with inaccessible grab bars; inaccessible urinals; and
- 12 inaccessible showers;
- 13 • Inaccessible drinking fountains;
- 14 • Assembly areas without accessible wheelchair seating and/or assistive listening devices;
- 15 • Service counters that are too high; and
- 16 • Parks that do not have any accessible picnic tables.

17 18. The County also has intersections throughout the County that have curb cuts with excessive

18 slopes or that are not maintained accessibly.

19 19. On July 23, 2008, the County entered into a settlement agreement, committing to take

20 specific remedial actions to bring County facilities, programs, services, and activities into compliance

21 with the ADA within three years. The agreement detailed the specific actions to be taken by the

22 County to comply with the ADA and set agreed upon deadlines for completion.

23 20. In the eleven years since the ADA violations were specifically identified to the County,

24 including and following the three year term of the settlement agreement, Humboldt County has failed

25 to take the remedial actions required for it to comply with the ADA.

26 21. Individuals have been, and continue to be, harmed and aggrieved by Humboldt County's

27 ADA violations. The County has discriminated against individuals who have encountered inaccessible

28 elements at facilities such as the courthouse, parks, fairgrounds, libraries, law enforcement offices,

1 and health, welfare, and benefits offices. Individuals throughout the County have encountered  
2 inaccessible sidewalks and curb cuts.

3 **CAUSE OF ACTION**

4 **TITLE II OF THE AMERICANS WITH DISABILITIES ACT**

5 22. All conditions precedent to the filing of this Complaint have occurred or been performed.

6 23. Humboldt County, California is a public entity subject to Title II of the ADA. 42 U.S.C.  
7 § 12131(1).

8 24. Humboldt County excludes qualified individuals with a disability from participation in or  
9 denies them the benefits of County services, programs, or activities, or subjects them to discrimination,  
10 on the basis of disability, in violation of Title II of the ADA, 42 U.S.C. § 12132, and its implementing  
11 regulation, 28 C.F.R. Part 35, including by: failing to make its facilities, programs, services, and  
12 activities readily accessible to and usable by individuals with disabilities; and failing to take  
13 appropriate steps to ensure effective communication. 42 U.S.C. § 12132; 28 C.F.R. Part 35.

14 25. Humboldt County's actions constitute systemic discrimination in violation of Title II of the  
15 ADA, 42 U.S.C. §§ 12131-12134, and its implementing regulation, 28 C.F.R. Part 35.

16 26. Individuals have been aggrieved by Humboldt County's discrimination. 42 U.S.C.  
17 §§ 12131-12134; 28 C.F.R. Part 35.

18 **PRAYER FOR RELIEF**

19 WHEREFORE, the United States of America prays that the Court:

20 27. Grant judgment in favor of the United States on its Complaint and declare that Humboldt  
21 County has violated Title II of the ADA, 42 U.S.C. §§ 12131-12134, and its implementing regulation,  
22 28 C.F.R. Part 35.

23 28. Enjoin Humboldt County from failing to comply with the ADA.

24 29. Order Humboldt County to train employees on the requirements of the ADA and  
25 appropriate ways of serving people with disabilities, and to submit to monitoring by the United States,  
26 including by submitting written reports to the United States summarizing the actions taken by  
27 Humboldt County to comply with the ADA.

28 30. Award compensatory damages to aggrieved persons in an appropriate amount for injuries

1 suffered as the result of Humboldt County’s failure to comply with the requirements of Title II of the  
2 ADA.

3 31. Order such other appropriate relief as the interests of justice may require.

4 DATED: September 7, 2016

Respectfully submitted,

5  
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7  
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9 United States Attorney  
10 Northern District of California

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28 <sup>1</sup> I, Melanie L. Proctor, hereby attest that I obtained the concurrence in the filing of this document from each of the other Signatories.