

1 ALBERTO R. GONZALES
 Attorney General
 2 WAN J. KIM
 Deputy Assistant Attorney General
 3 SHANETTA Y. CUTLAR (CA Bar No. 169849)
 Chief, Special Litigation Section
 4 BENJAMIN O. TAYLOE, JR. (DC Bar No. 422910)
 LEE R. SELTMAN (CA Bar No. 168857)
 5 MARY R. BOHAN (DC Bar No. 420628)
 WILLIAM G. MADDOX (DC Bar No. 000020540)
 6 JACQUELINE CUNCANNAN (DC Bar No. 462985)
 MATTHEW J. DONNELLY (IL Bar No. 6281308)
 7 ANITA C. SNYDER (NY Bar No. 3910494)
 Trial Attorneys
 8 United States Department of Justice
 Civil Rights Division
 9 Special Litigation Section
 950 Pennsylvania Avenue, N.W.
 10 Washington D.C. 20035
 (202) 514-6255

11
 12 Attorneys for the United States of America

13
 14 **UNITED STATES DISTRICT COURT**
 15 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
 16 **WESTERN DIVISION**

17 UNITED STATES OF AMERICA,)	CASE NO.
)	
18 Plaintiff)	
19 v.)	COMPLAINT FOR:
)	
20 STATE OF CALIFORNIA; THE)	1. VIOLATIONS OF THE
HONORABLE ARNOLD)	FOURTEENTH AMENDMENT
SCHWARZENEGGER, Governor of)	TO THE UNITED STATES
21 the State of California, in)	CONSTITUTION;
his official capacity only;)	2. VIOLATIONS OF THE
22 STEPHEN W. MAYBERG, Director)	AMERICANS WITH
of the California Department)	DISABILITIES ACT;
23 of Mental Health, in his)	
official capacity only; SHARON)	
24 SMITH NEVINS, Executive)	
Director of Metropolitan State)	
25 Hospital, in her official)	
capacity only; and DAVE)	
26 GRAZIANI, Executive Director)	
of Napa State Hospital, in his)	
27 official capacity only,)	
Defendants.)	
28 _____)	

1 **COMPLAINT**

2 PLAINTIFF, THE UNITED STATES OF AMERICA ("Plaintiff"), by
3 its undersigned attorneys, hereby alleges upon information and
4 belief:

5 1. The Attorney General files this Complaint on behalf of the
6 United States of America pursuant to the Civil Rights of
7 Institutionalized Persons Act, 42 U.S.C. § 1997, to enjoin
8 the named Defendants from egregiously and flagrantly
9 depriving individuals housed in Metropolitan State Hospital
10 ("Metropolitan") and Napa State Hospital ("Napa") of rights,
11 privileges, or immunities secured and protected by the
12 Constitution and laws of the United States.

13 **Jurisdiction and Venue**

14 2. This Court has jurisdiction over this action under 28 U.S.C.
15 §§ 1331 and 1345.

16 3. The United States is authorized to initiate this action
17 pursuant to 42 U.S.C. § 1997a.

18 4. The Attorney General has certified that all pre-filing
19 requirements specified in 42 U.S.C. § 1997b have been met.
20 The Certificate of the Attorney General is appended to this
21 Complaint and is incorporated herein.

22 5. Venue in the Central District of California is proper
23 pursuant to 28 U.S.C. § 1391.

1 **Intradistrict Assignment**

2 6. The events giving rise to the United States' claims occurred
3 in Napa and Los Angeles Counties.

4 **Defendants**

5 7. Defendant State of California owns and operates Metropolitan
6 and Napa (collectively, the "Facilities") and as such has
7 responsibility for the services and supports provided to
8 patients at the Facilities.

9 8. Each of the Facilities is a State mental hospital.

10 9. Defendant Arnold Schwarzenegger is the Governor of the State
11 of California, and in that capacity, he has responsibility
12 for the operation of the Facilities.

13 10. Defendant Stephen W. Mayberg is the Director of the
14 California Department of Mental Health, which has
15 responsibility for overseeing the operations of the
16 Facilities.

17 11. Defendant Sharon Smith Nevins is the Executive Director of
18 Metropolitan.

19 12. Defendant Dave Graziani is the Executive Director of Napa.

20 13. The individual Defendants named in paragraphs 9 through 12
21 are officers of the State of California and are sued in
22 their official capacity only.

23 **Factual Allegations**

24 14. Defendants are legally responsible, in whole or in part, for
25 the operation of the Facilities and for the health and
26 safety of the persons residing in the Facilities.

1 15. The Facilities are institutions within the meaning of
2 42 U.S.C. § 1997(1). The Facilities provide care to
3 psychiatric patients committed civilly or in connection with
4 criminal proceedings.

5 16. Defendants are obligated to operate these Facilities in a
6 manner that does not infringe upon the federal rights, as
7 protected by the Fourteenth Amendment to the Constitution of
8 the United States and by other federal law, of individuals
9 confined to the Facilities.

10 17. Defendants are obligated to provide treatment, supports, and
11 services to individuals confined to the Facilities
12 consistent with the Americans with Disabilities Act and
13 implementing regulations. 42 U.S.C. § 12101 et seq.,
14 28 C.F.R. Part 35.

15 18. At all relevant times, Defendants have acted or failed to
16 act, as alleged herein, under color of state law.

17 19. Individuals are confined to, or reside at, the Facilities
18 because they have been determined by Defendants to have
19 significant mental illness requiring extensive intervention
20 and treatment.

21 20. The Facilities' supports and services substantially depart
22 from generally accepted professional standards of care,
23 thereby exposing the individuals confined or residing there
24 to significant risk, and in some cases, to actual harm.

25 21. The Facilities' supports and services substantially depart
26 from generally accepted professional standards of care in
27

1 the following specific respects, among others:

- 2 a. the provision of adequate treatment planning;
- 3 b. the provision of adequate assessments and
- 4 diagnoses;
- 5 c. the provision of adequate psychiatric services;
- 6 d. the provision of adequate psychological services;
- 7 e. the provision of adequate nursing services;
- 8 f. the provision of adequate rehabilitation therapy
- 9 services;
- 10 g. the provision of adequate nutritional services;
- 11 h. the provision of adequate pharmacy services;
- 12 i. the provision of adequate general medical
- 13 services;
- 14 j. the provision of adequate infection control
- 15 services;
- 16 k. the provision of adequate dental services; and
- 17 l. the provision of adequate protections from harm.

18 22. Defendants have failed and continue to fail to assess
19 individuals residing in the Facilities to ascertain whether
20 these individuals are, within the confines of any court-
21 ordered confinement, receiving adequate treatment, supports,
22 and services in the most integrated setting appropriate to
23 their individual needs; that those individuals whom
24 professionals determine should be placed in community
25 programs are placed in such programs, when appropriate; and
26 that these individuals are served in the most integrated
27 setting appropriate to their needs.

28

1 **Violations Alleged**

2 **COUNT ONE:**

3 **Violations of the Due Process Protections of the Fourteenth**
4 **Amendment to the United States Constitution**

5 23. The United States incorporates by reference the allegations
6 set forth in Paragraphs 1 through 22 as if fully set forth
7 herein.

8 24. The egregious and flagrant acts and omissions alleged in
9 paragraphs 20 and 21 constitute a pattern or practice that
10 violates the federal rights, as protected by the Fourteenth
11 Amendment to the Constitution of the United States and by
12 other federal law, of individuals confined to the
13 Facilities.

14 25. Unless restrained by this Court, Defendants will continue to
15 engage in the egregious and flagrant acts and omissions set
16 forth in paragraphs 20 and 21 that deprive the Facilities'
17 residents of rights, privileges, or immunities secured or
18 protected by the Constitution of the United States and
19 federal law, and will cause irreparable harm to these
20 residents.

21 **COUNT TWO:**

22 **Violations of the Americans with Disabilities Act**

23 26. The United States incorporates by reference the allegations
24 set forth in Paragraphs 1 through 22 as if fully set forth
25 herein.

26 27. The egregious and flagrant acts and omissions alleged in
27 paragraph 22 violate the Americans with Disabilities Act and
28

1 implementing regulations. 42 U.S.C. § 12101 et seq.,
2 28 C.F.R. Part 35.

3 28. Unless restrained by this Court, Defendants will continue to
4 engage in the egregious and flagrant acts and omissions set
5 forth in paragraph 22 that deprive the Facilities' residents
6 of rights, privileges, or immunities secured or protected by
7 federal law, and will cause irreparable harm to these
8 residents.

9 **PRAYER FOR RELIEF**

10 29. The Attorney General is authorized under 42 U.S.C. § 1997 to
11 seek equitable and declaratory relief.

12 WHEREFORE, the United States prays that this Court enter an
13 order:

- 14 a. Declaring that the acts, omissions, and practices of
15 Defendants set forth in paragraphs 20-22 above
16 constitute a pattern or practice of resistance to the
17 residents' of the Facilities full enjoyment of rights,
18 privileges or immunities secured or protected by the
19 Constitution or laws of the United States, and that
20 those acts, omissions and practices violate the
21 Constitution and laws of the United States; and
- 22 b. Permanently enjoining Defendants, their officers,
23 agents, employees, subordinates, successors in office,
24 and all those acting in concert or participation with
25 them, from continuing the acts, omissions, and
26 practices set forth in paragraphs 20-22 above, and that
27 this Court require Defendants to take such actions as
28

1 will ensure lawful conditions of institutionalization
2 are afforded to residents of the Facilities; and
3 c. Granting such other and further equitable relief as the
4 Court may deem just and proper.

5
6 Respectfully submitted,

7 /s/ Alberto R. Gonzales

8 THE HONORABLE ALBERTO R. GONZALES
9 Attorney General of the United States

10 /s/ Wan J. Kim

11 WAN J. KIM
12 Assistant Attorney General
13 Civil Rights Division

14 /s/ Shanetta Y. Cutlar

15 SHANETTA Y. CUTLAR
16 Chief
17 Special Litigation Section

18 /s/ Benjamin O. Tayloe, Jr.

19 BENJAMIN O. TAYLOE, JR.
20 Special Counsel
21 LEE R. SELTMAN
22 MARY R. BOHAN
23 JACQUELINE K. CUNCANNAN
24 WILLIAM G. MADDOX
25 MATTHEW J. DONNELLY
26 ANITA C. SNYDER
27 Trial Attorneys
28 United States Department of Justice
Civil Rights Division
Special Litigation Section
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20035
(202) 514-6255

26 Dated: May 2, 2006