

Gruba, J.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

MEGAN RAFFERTY, DEBORAH
HAYNES, LEASON JACOB, and DIANA
GRAY, on behalf of themselves and all others
similarly situated,

Plaintiffs,

v.

ROBERT DOAR, in his capacity as its
Commissioner of the New York City Human
Resources Administration;

KRISTIN PROUD, in her capacity as Acting
Commissioner of the New York State Office
of Temporary and Disability Assistance;

NIRAV SHAH, M.D., in his capacity as its
Commissioner of the New York State
Department of Health;

the NEW YORK CITY HUMAN
RESOURCES ADMINISTRATION;

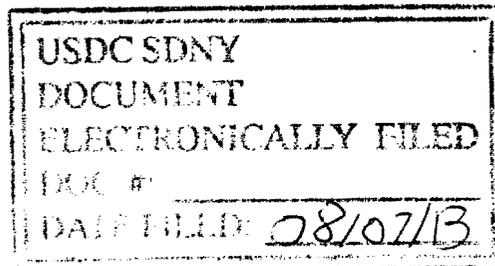
the NEW YORK STATE OFFICE OF
TEMPORARY AND DISABILITY
ASSISTANCE; and

the NEW YORK STATE DEPARTMENT
OF HEALTH,

Defendants.

No. 13 Civ. 1410 (TPG)

**STIPULATION AND ORDER
OF CLASS CERTIFICATION**



WHEREAS, on March 5, 2013, plaintiffs Megan Rafferty, Deborah Haynes, Leason Jacob, and Diana Gray filed a Complaint on behalf of themselves and of a class of similarly situated blind and seriously visually impaired Supplemental Nutrition Assistance Program (“SNAP”) and Medical Assistance (“Medicaid”) applicants and recipients;

WHEREAS, Plaintiffs' Complaint alleged that Defendants have violated and continue to violate the Americans with Disabilities Act of 1990 ("ADA"), 42 U.S.C. § 12101 *et seq.*; Section 504 of the Rehabilitation Act of 1973 ("Section 504"), 29 U.S.C. §§ 701-797(b); the Due Process Clause of the Fourteenth Amendment to the United States Constitution, U.S. CONST. amend. XIV, § 1; the New York State Human Rights Law, N.Y EXEC. LAW §§ 291 *et seq.*; the New York City Human Rights Law, N.Y.C. ADMIN. CODE § 8-107; and state regulations, 18 N.Y.C.R.R. § 303.1, by not providing written materials to blind and seriously visually impaired SNAP and Medicaid applicants and recipients in accessible alternative formats that are effective for them; and

WHEREAS, the parties agree that the proposed class satisfies the prerequisites for class certification under Rule 23(a) and Rule 23(b)(2) of the Federal Rules of Civil Procedure and that the claims alleged by the class would be most appropriately litigated or settled as a class action; and

WHEREAS, the parties further agree that, in order to resolve this litigation expeditiously and without needless motion practice, it is in the parties' joint interest that the Court certify a class pursuant to Rule 23(a) and (b)(2);

NOW, THEREFORE, the parties agree this action should be certified as a class action pursuant to Rule 23(a) and (b)(2), on the following terms:

1. A class is certified consisting of:

All New York City residents who: (1) have visual impairments that substantially limit the major life activity of seeing or otherwise have a visual disability as "disability" is defined under the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973; (2) are current or future applicants for or recipients of Supplemental Nutrition Assistance Program ("SNAP") and/or Medical Assistance ("Medicaid") benefits; and (3) need written materials in alternative formats for effective communication regarding SNAP and Medicaid.

2. The proposed class meets the requirements to proceed as a class action under Rule 23(a) because: (1) the number of plaintiffs is so numerous that joinder of all class members is impracticable; (2) there are questions of law or fact common to the class; (3) the claims of the named plaintiffs are typical of those of the class; and (4) the named plaintiffs and their counsel will fairly and adequately protect the interests of the class.

3. As required by Rule 23(a)(1), the class is “so numerous that joinder of all members is impracticable.” The parties have already identified more than 800 blind or seriously visually impaired New York City residents who receive SNAP and/or Medicaid benefits.

4. As required by Rule 23(a)(2), there are questions of law or fact common to the class, including but not limited to whether Defendants have policies and procedures for producing and providing written materials concerning SNAP and Medicaid in accessible alternative formats to proposed class members; and whether Defendants’ alleged conduct violates the ADA, Section 504, the Due Process Clause of the United States Constitution, New York State and City Human Rights Laws, and state regulations.

5. As required by Rule 23(a)(3), Plaintiffs’ claims are typical of those of the proposed class. The proposed class members’ claims arise from the same course of conduct and are based upon common legal arguments regarding Defendants’ alleged liability. All members of the proposed class would benefit from Plaintiffs’ action.

6. As required by Rule 23(a)(4), Plaintiffs will fairly and adequately protect the interests of the proposed class. None of the Plaintiffs has interests that are antagonistic to the interests of the proposed class because all proposed class members claim to have been harmed by the same alleged wrongs and all will benefit from the relief requested in this action.

7. As required by Rule 23(g)(1), the National Center for Law and Economic Justice, Inc. and Drinker Biddle & Reath, LLP shall be appointed to serve as class counsel.

8. As required by Rule 23(g)(4), class counsel will fairly and adequately represent the interests of the proposed class. Class counsel have done extensive work in identifying and investigating the claims in this action, have experience in handling class actions and other complex litigation, have considerable knowledge of the applicable law, and have the necessary resources to commit to prosecuting this action.

9. As required by Rule 23(b)(2), “the part[ies] opposing the class ha[ve] acted or refused to act on grounds that apply generally to the class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole.” The Complaint’s allegations that Defendants violated federal and state laws in, *inter alia*, failing to provide Plaintiffs with written materials about SNAP and Medicaid in accessible alternative formats, are applicable to all proposed class members.

10. Nothing contained herein shall be deemed to constitute an admission by Defendants that any of their alleged acts or omissions violated Plaintiffs’ or any proposed class member’s rights under any federal or state law. Nothing contained herein shall be considered a binding agreement in any action other than the above-captioned action.

11. Nothing contained herein shall be deemed to constitute a waiver by the parties of any right they may have to seek the modification, alteration, or de-certification of the class pursuant to Rule 23(c)(1)(C) and 23(d)(2), as facts subsequently obtained may warrant.

Dated: New York, New York
July 19, 2013

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Of Counsel for Plaintiffs

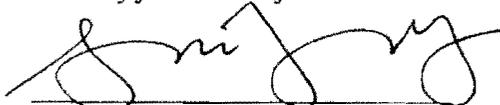
SO ORDERED,

this ____ day of _____ 2013.

HON. THOMAS P. GRIESA
UNITED STATES DISTRICT JUDGE *gn*

Dated: New York, New York
July 19, 2013

ERIC T. SCHNEIDERMAN
Attorney General of the State of New York
Attorney for State Defendants



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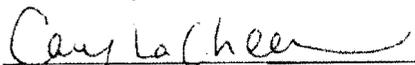
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Corporation Counsel
Attorney for City Defendants



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Dated: New York, New York
July 19, 2013



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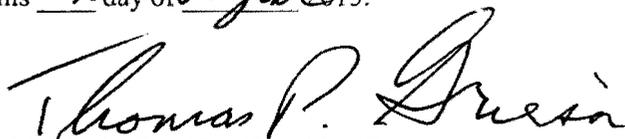
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Of Counsel for Plaintiffs

SO ORDERED,

this 7th day of August 2013.



HON. THOMAS P. GRIESA
UNITED STATES DISTRICT JUDGE

Dated: New York, New York
July 19, 2013

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Attorney General of the State of New York
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