

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
Miami Division**

JOEL MARTOS, JOSHUA SANTUCHE,
DISABILITY RIGHTS FLORIDA, INC.,

Plaintiffs,

CASE NO:

v.

MIAMI-DADE COUNTY DEPARTMENT OF
CORRECTIONS AND REHABILITATION,

Defendant.

COMPLAINT
FOR DECLARATORY AND INJUNCTIVE RELIEF

COME NOW, the Plaintiffs, JOEL MARTOS, JOSHUA SANTUCHE and DISABILITY RIGHTS FLORIDA, by and through their undersigned counsel, and sue the Defendant, MIAMI-DADE COUNTY DEPARTMENT OF CORRECTIONS AND REHABILITATION for its cause of action, state the following:

JURISDICTION AND VENUE

1. This Court has original jurisdiction over the action pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1343 for the Plaintiffs' claims arising under Title II of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. § 12131 *et seq.* and Section 504 of the Rehabilitation Act, 29 USC § 794.

2. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b)(1) and (b)(2) because (a) the Defendant is in this judicial district, and (b) a substantial part of the events

or omissions giving rise to Plaintiffs' claims occurred and are occurring within this judicial district.

PARTIES

3. JOEL MARTOS is a resident of Miami-Dade County, Florida who is Deaf¹ and is therefore a qualified individual with a disability under the Americans with Disabilities Act and is otherwise *sui juris*.

4. JOSHUA SANTUCHE is a resident of Miami-Dade County, Florida who is Deaf and is therefore a qualified individual with a disability under the Americans with Disabilities Act and is otherwise *sui juris*.

5. Plaintiff DISABILITY RIGHTS FLORIDA, INC. (DRF) is a not-for-profit corporation serving as Florida's federally funded Protection and Advocacy agency for individuals with disabilities. DRF is authorized to "pursue legal, administrative, and other appropriate remedies or approaches to ensure the protection of, and advocacy for, the rights of individuals within the State who are or who may be eligible for treatment, services, or habilitation...." 42 U.S.C. § 15043(a)(2)(A)(i)f.

6. Defendant, MIAMI-DADE COUNTY is a Florida municipality organized and existing under the laws of the State of Florida. The MIAMI-DADE COUNTY CORRECTIONS AND REHABILITATIONS DEPARTMENT is comprised of five correctional facilities which hold on average 5,642 inmates, who are awaiting trial or are serving sentences of 364 days or

¹ The word "Deaf" is written with a capital D to indicate that the person is a member of the Deaf community and involved in Deaf culture, which is defined as the set of social beliefs, behaviors, art, literary traditions, history, values, and shared institutions of communities that are influenced by deafness and which use sign languages as the main means of communication. Padden, Carol A.; Humphries, Tom, Inside Deaf Culture. Cambridge, MA: Harvard University Press. (2005)

less, a Boot Camp Program for youthful offenders, a Work Release Center, and a medical unit at Jackson Memorial Hospital.

FACTUAL ALLEGATIONS

PLAINTIFF DISABILITY RIGHTS FLORIDA (DRF)

7. Congress has created a nationwide Protection and Advocacy (P&A) System to protect the legal and human rights of people with disabilities. See 29 U.S.C. § 794e. Each state has a designated P&A organization; Plaintiff Disability Rights Florida (DRF) serves as the P&A for the state of Florida. DRF has authority to pursue legal, administrative, and other appropriate remedies or approaches to ensure the protection of, and advocacy for, the rights of people with disabilities. 29 U.S.C. § 794e(f)(3); 42 U.S.C. § 15043(a)(2)(A)(i)f.

8. DRF has standing on behalf of its constituents and clients who are substantially affected by Defendant's noncompliance with constitutional and statutory protections because such noncompliance falls within DRF's general scope of interest and activity; the relief requested—declaratory and injunctive—is the type of relief appropriate for DRF to receive on behalf of its individual constituents; and neither the claims asserted nor the relief requested require the participation of individual members or constituents in the lawsuit.

9. DRF's constituents have suffered injury—and continue to suffer injury—that would allow them to have standing to sue in their own right. The interests DRF seeks to protect are germane to DRF's purpose.

10. DRF has a multi-member board of directors that includes persons with disabilities.

11. DRF has an advisory council composed of people with disabilities who have significant input into the goals and objectives of the organization.

12. DRF provides the opportunity for the public, including its stakeholders, to comment on its goals and objectives.

13. DRF has a grievance procedure that complies with federal requirements and ensures that individuals receive necessary services.

14. One of DRF's primary responsibilities is to investigate the failure of public entities to comply with the Americans with Disabilities Act (ADA), Rehabilitation Act (RA), and other laws protecting DRF's members, clients, and constituents.

15. Persons with disabilities—among DRF's constituents—are on DRF's board of directors. DRF represents people with sensory disabilities, including those who are Deaf and visually impaired, and provides the means by which they express their collective views and protect their collective interests.

16. Many persons with disabilities who are incarcerated in the Miami-Dade jails include persons who are Deaf or hard of hearing. Persons who are Deaf, including those described below, have complained to DRF about the Miami-Dade's failure to comply with the ADA, RA, and other laws protecting DRF's constituents. DRF has used, and continues to use, its resources to investigate these violations.

17. Across the country, over three percent of the population has a hearing disability, which is defined as experiencing deafness or having difficulty hearing a normal conversation, even when wearing a hearing aid. Approximately 500,000 persons across the country are completely Deaf and communicate in American Sign Language.

18. Miami-Dade County incarcerates at least forty (40) Deaf inmates per year, and upon information and belief, has over two hundred inmates per year that have a hearing impairment that qualifies as a person with a disability.

19. Under the Americans with Disabilities Act and Rehabilitation Act, Miami-Dade County is required to furnish appropriate auxiliary aids and services where necessary to afford qualified individuals with disabilities, including persons who are incarcerated, an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity of the programs offered or required by MIAMI-DADE COUNTY DEPARTMENT OF CORRECTIONS AND REHABILITATION.

20. The Americans with Disabilities Act, 42 U.S.C. § 12131 *et seq.*, provides that “no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.” 42 U.S.C. § 12132.

21. The U.S. Department of Justice regulations implementing Title II of the Americans with Disabilities Act require Miami-Dade County to “take appropriate steps to ensure that communications with applicants, participants, members of the public, and companions with disabilities are as effective as communications with others.” 28 C.F.R. § 35.160(a)(1).

22. Miami-Dade County is a “public entity” within the meaning of 42 U.S.C. § 12131(1).

23. The Rehabilitation Act, 29 U.S.C. § 794 *et seq.*, provides that no qualified individual with a disability “shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance” 29 U.S.C. § 794(a). The Department of Justice implementing regulations require Miami-Dade County to “provide appropriate auxiliary aids to qualified handicapped persons with impaired sensory, manual, or speaking skills where a refusal to make such provision would discriminatorily impair or exclude the participation of such

persons in a program or activity receiving Federal financial assistance.” 28 C.F.R. § 42.503(f). Appropriate auxiliary aids include, but are not limited to, qualified interpreters and telephonic devices. *Id.*

24. Miami-Dade County receives federal financial assistance within the meaning of the Rehabilitation Act, 29 U.S.C. § 794(a). The operations of the Correctional Treatment Facility are programs or activities within the meaning of the Rehabilitation Act, 29 U.S.C. §794(b)(1)(A)-(B).

PLAINTIFF JOEL MARTOS

25. JOEL MARTOS is a profoundly Deaf individual. He communicates primarily using American Sign Language (“ASL”), which he considers his native language. He relies on sign language or other auxiliary aids to communicate with people who do not use sign language. Written English is a second language for MARTOS, and his proficiency level is much lower than that of a hearing person, as it is for many individuals who are born Deaf. His proficiency in reading and writing is not at the same level as it would be if he were a hearing person and writing is not an effective form of communication for MARTOS.

26. MARTOS is a qualified individual with a disability within the meaning of the Americans with Disabilities Act, 42 U.S.C. §12131(2) and the Rehabilitation Act, 29 U.S.C. § 705(20).

27. During MARTOS’ over three years of incarceration at Correctional Facilities operated by Defendant MIAMI-DADE COUNTY DEPARTMENT OF CORRECTIONS AND REHABILITATION, officials failed to provide MARTOS with even the most basic communication accommodations.

28. MIAMI-DADE intentionally failed to furnish MARTOS with auxiliary aids and services that were necessary to afford him an equal opportunity to participate in, and enjoy the benefits of, the services, programs or activities of the correctional facilities or the probation. As a direct result of Miami-Dade's intentional failure to fulfill its obligations under the Americans with Disabilities Act and the Rehabilitation Act, MARTOS had no understanding of programs available, mental health treatment which he was ordered to receive, conditions of probation, contact with lawyers, families or friends, and was unable to obtain any real benefit from the programs and services that he eligible to receive. Because MARTOS failed to receive effective communication or the benefits and services required of his probation, he has violated his parole in the past, alleged to be currently violating his parole, and will violate his parole in the future.

29. On July 8, 2012, MARTOS was booked at the pretrial detention center and was charged with burglary, domestic violence, aggravated stalking, protective injunction violation, domestic violence, and arson.

30. Upon entering, the Miami-Dade Correctional Facility officials were aware of MARTOS' disability on intake. MARTOS alerted corrections officers of his disability through hand gestures and written notes. MARTOS informed the corrections officers that he needed an ASL interpreter to communicate. However, the corrections officers ignored MARTOS.

31. When MARTOS was brought into the jail, he was immediately classified as a "deaf-mute inmate" and was medically screened by a nurse without the use of a sign language interpreter or any method of communication, and placed in the correctional facility for the day.

32. On July 9, 2012, MARTOS was released pretrial on house arrest and was provided a GPS home confinement monitor. He was not provided an interpreter to explain the use or rules with regards to the monitor and its use, and provided a document entitled, GPS

Client Rules and Regulations, which he was told to sign and he signed. Due to his limited understanding of English, he did not have a full understanding of the Client Rules and Regulations.

33. On July 19, 2012, MARTOS was having problems with his monitor bracelet when showering. The bracelet was too tight and caused a rash. He called the Department of Corrections to adjust it and they came out to loosen it. But MARTOS' bracelet registered an alert 30 minutes later. MARTOS was immediately arrested.

34. MARTOS was booked in jail again, and again classified as "deaf-mute" and relocated to the Metro-West facility. He was medically screened without any interpreters or means of communication, and placed in the general population of the jail.

35. Upon information and belief, he was segregated from any other inmate who was Deaf and understood American Sign Language.

36. At the Metro-West facility, MARTOS was given the opportunity to use the TTY phone which was located in an office, and was told that he only had five minutes to use the machine. Unfortunately, MARTOS has a basic English level and the TTY is ineffective for his understanding of complex and important language.

37. All other inmates were allowed the opportunity to communicate with their family, friends, lawyers and bail bondsmen at any time for an unlimited duration through use of the telephones. Because MARTOS was only allowed to have limited use of the TTY and has a basic understanding of English in the use of the TTY, his communication was essentially non-existent.

38. All other inmates were allowed the opportunity to attend classes at the Metro West facility, however, MARTOS was never offered the opportunity to attend classes or have any other benefit of the services and programs offered to other inmates.

39. All other inmates were provided a method to know the rules and regulations of the facility, and as none of these materials were ever provided to MARTOS in an auxiliary format that he understood, MARTOS was unaware of the procedures in the facilities, and could not complain or advise the officers of problems or issues that he was having or unlawful activities that he had seen. As a result, MARTOS decided to keep to himself and not have any interaction with others.

40. Further, even when the television had the capacity to have closed captioning, MARTOS could not and did not want to advise the correctional officers that he would like closed captioning, for fear of reprisal from others who were watching the television.

41. On August 2, 2012, MARTOS signed a waiver of presence at pretrial sounding and conferences without an understanding of the purpose or meaning of such documents. While other incarcerated persons were provided information regarding the proceedings that were filed against them, information regarding sounding and other items which occur in the correctional facility, MARTOS was provided with nothing that he could understand, and was told nothing about what to expect.

42. As a result of his probation being revoked, MARTOS remained in the correctional facility without any auxiliary aids or services. Almost one year later, and without any reason or warning, on April 12, 2013, MARTOS was sent to the psychiatric ward on the 9th floor of the pre-trial detention center for a psychiatric examination by Dr. Zambrano. Again, he was not provided an interpreter during the entirety of his visit to the psychiatric ward and was subsequently released to Metro-West.

43. On August 21, 2013, MARTOS was convicted and sentenced to three years in state prison followed by probation for three years with special conditions to undergo a mental

health evaluation. In addition, MARTOS was required to submit to a drug and alcohol evaluation with treatment if necessary and an order to stay away from the victim and her residence. Consequently, MARTOS received 402 days credit for time served.

44. Solely because he was Deaf, MARTOS never received a mental health evaluation, or drug and alcohol evaluation. Despite being advised that he had an alcohol addiction, he did not receive drug and alcohol treatment.

45. On February 9, 2015, MARTOS was released from custody.

46. On February 16, 2015, MARTOS was instructed on the conditions of probation by officer Fredericka Roberts without an interpreter or any other auxiliary aids or services, and as such MARTOS did not have an understanding of the conditions of his probation nor the requirements of his probation.

47. On May 13, 2015, less than one month later, MARTOS had his urine tested and it tested positive for cocaine.

48. On June 10, 2015, MARTOS was brought before Judge De La O, where he Ordered MARTOS to be held without bond. At the hearing, MARTOS described his experiences in jail and his failure to get any auxiliary aids and services, and as such Judge De La O ordered as follows:

- Martos should be handcuffed with his hands in front of his body, when it can be accomplished without impacting the officers safety;
- Martos should have access to a qualified ASL interpreter as required pursuant to the Rehabilitation Act of 1973 and the ADA including- if required by law- during significant conversations with department staff to ensure effective communication and to communicate his medical conditions and needs;

- Martos should have ongoing access to a writing instrument and paper in order for him to, at a minimum, indicate his needs and/or any emergencies in writing although likely a poor substitution for a qualified ASL interpreter and may not satisfy the requirements of federal law;
- Martos should have access to a TTY phone so that he can communicate with his lawyers and family; and
- Martos should be placed into a facility such as Metro West that has video access to his attorney's office.

49. Judge De La O's Order was ignored by the Defendant.

50. When MARTOS was subsequently booked into the Turner Guilford Knight Correctional Center (TGK), he was again classified as "ADA" due to a hearing disability. He was medically screened without an interpreter and referred to both a psychiatrist and the doctor for evaluation.

51. Later that day, and without a sign language interpreter, he was dispositioned to mental health level zero (no mental health designation) by a licensed clinical social worker. Then MARTOS was medically evaluated, again, without an interpreter, and dispositioned to third generation housing at the Metro West Detention Center.

52. On or about February, 2016, while on probation, MARTOS was tested for and found positive for cocaine in his urine during a probation screening.

53. On February 8, 2016, officers in an unmarked car drove to MARTOS home, and arrested him without any interpreter, without any knowledge of who the persons were, arrested MARTOS without any communication whatsoever.

54. Following the arrest, MARTOS was then transported to the Turner Guilford Knight Correction Center (“TGK”) in Miami-Dade County where he was booked. MARTOS arrived at approximately 7:00 a.m. on February 8, 2016.

55. Upon entering, the Miami-Dade Correctional Facility officials were aware of MARTOS’s disability on intake. MARTOS alerted corrections officers of his disability through hand gestures. MARTOS informed the corrections officers that he needed an ASL interpreter to communicate. However, the corrections officers ignored MARTOS.

56. MARTOS waited in the processing area until 2:30 the following morning without anyone advising MARTOS on what he had to do or what was going to occur.. At no point was an interpreter provided to MARTOS to explain what was happening.

57. At that time, MARTOS was transferred back to Metro West Detention Center, where he was not provided any effective communication for any of the programs and services provided to inmates at the institution.

58. MARTOS hired a lawyer to represent him in violation of probation hearing. Unlike other inmates who can communicate with their lawyers over the telephone, a TTY is ineffective to communicate with counsel as MARTOS does not possess the necessary specialized vocabulary to be able to read and write English to understand the nature or extent of a legal proceeding.

59. As a result of the failure to communicate, MARTOS, only had the ability to communicate with his lawyer at the courthouse, using the courthouse attorney who is not legally certified as an interpreter. As a result, there was not private attorney-client communication between MARTOS and his lawyer, and he had no understanding of his plea, or why he plead guilty to the violation of probation.

60. Again, at Metro West, MARTOS was taken to a clinic where he was administered an injection. As a result of the injection he developed an inflamed area of his arm. To this day, he has no idea of why he was injected, or the results of tests, if any.

61. While MARTOS was incarcerated at the correctional facility from 2012 to 2016, MARTOS had approximately three medical examinations in which no interpreter was present. During MARTOS' post-2015 incarceration, MARTOS has had approximately three medical examinations in which no interpreter was present.

62. Miami-Dade failed to provide qualified interpreters to MARTOS in critical situations such as orientations, medical and mental health appointments, probation appointments or reviews, disciplinary hearings, classification reviews, religious services, educational programs, and court hearings held by video despite having actual knowledge of the inmate's disability.

PLAINTIFF JOSHUA SANTUCHE

63. JOSHUA SANTUCHE is a profoundly Deaf individual. He communicates primarily using American Sign Language ("ASL"), which he considers his native language. He relies on sign language or other auxiliary aids to communicate with people who do not use sign language. Written English is a second language for SANTUCHE, as it is for many individuals who are born Deaf. His proficiency in reading and writing is not at the same level as it would be if he were a hearing person. In fact, his reading and writing level was measured to be at that of a third grader.

64. SANTUCHE is a qualified individual with a disability within the meaning of the Americans with Disabilities Act, 42 U.S.C. §12131(2).

65. On October 13, 2015, SANTUCHE was arrested by the Homestead Police Department for burglary related charges. He was not provided an interpreter during the arrest or during the recitation of his Miranda rights. At the time of the arrest, the officers knew that Mr. SANTUCHE was profoundly Deaf. SANTUCHE mouthed this to the officers and a friend of SANTUCHE's was at the scene as well and informed the officers that he was Deaf and only communicated using ASL. SANTUCHE was handcuffed behind his back rendering him entirely unable to communicate. SANTUCHE was held at the Homestead Police Station for several hours. At no point was an interpreter provided.

66. Following the arrest, SANTUCHE was then transported to the Turner Guilford Knight Correction Center ("TGK") in Miami-Dade County where he was booked. SANTUCHE arrived at approximately 1:00 a.m. on October 14, 2015.

67. Upon entering, the Miami-Dade Correctional Facility officials were aware of SANTUCHE's disability on intake. SANTUCHE alerted corrections officers of his disability through hand gestures. SANTUCHE informed the corrections officers that he needed an ASL interpreter to communicate. However, the corrections officers ignored SANTUCHE.

68. SANTUCHE waited in the processing area until the bond hearing that afternoon. At no point was an interpreter provided to SANTUCHE to explain what was happening.

69. A service that the correctional facility provides inmates is access to a bank of telephones so that they can communicate with their lawyers, bail bondsmen, family, friends, and other individuals in the outside world. Between the hours of 7:00 am and 11:00 pm, access to the telephone is on a first come first serve basis.

70. During the waiting period at TGK, SANTUCHE requested to make a phone call to his mother to inform her of his status. The officers brought SANTUCHE an antiquated TTY

machine and told him to use it. When SANTUCHE expressed that he did not know how to use it, the officers laughed at him. At no point was SANTUCHE provided with a video phone or any other means of communication to contact an attorney, a bail bondsman or his family.

71. SANTUCHE was not provided any materials, video training or other orientation information received by other inmates regarding bond hearings or soundings, and was not aware of the process or procedures of the correctional facilities.

72. On October 14, 2015, SANTUCHE was brought in for his bond hearing. When he arrived at the hearing, no interpreter was present. SANTUCHE's attorney suggested that the hearing be continued for another day until an interpreter could be secured. Fortunately, SANTUCHE's mother was able to locate her son and was present at the hearing. Not wanting to him remain unnecessarily incarcerated, SANTUCHE's mother asked if she could interpret for him. SANTUCHE's mother explained to the court that she was not a qualified interpreter and only knew what she refers to as "survival ASL," which is basic sign language used to discuss only the most basic needs, but that she did not wish for him to remain incarcerated and would try her best to interpret for SANTUCHE and the Court. The judge allowed it and SANTUCHE was released on bond. Had SANTUCHE's mother not been present and willing to sign, he would have remained incarcerated.

73. Further on October 14, 2015, the presiding judge noted that, SANTUCHE, needs a sign interpreter because SANTUCHE is hearing impaired.

74. On December 15, 2015, another judge issued a bench warrant for SANTUCHE for a traffic infraction from 2014.

75. On February 3, 2016, SANTUCHE was arrested and SANTUCHE was booked following his arrest. SANTUCHE was forced to wait in the processing area until his bond

hearing the following morning. Again, while other inmates were processed, because SANTUCHE was Deaf, he was ignored. At no point was an interpreter provided to SANTUCHE to explain what was happening and at no point was SANTUCHE provided with a video phone or any other means of communication to contact an attorney, a bail bondsman or his family.

76. On February 4, 2016, SANTUCHE was scheduled for a 9:00 a.m. bond hearing. However, SANTUCHE's mother arrived and learned that her son was not at the hearing. When she inquired about the whereabouts of her son and his need for an ASL interpreter, she was informed by court personnel that "it takes 24 to 48 hours for an interpreter" and that they are "not prepared for these things." However, upon the mother's insistence, an interpreter was secured several hours later and SANTUCHE was released. Had his mother not, been present, SANTUCHE would have remained incarcerated.

77. On April 4, 2016, SANTUCHE was scheduled for a 9:00 a.m. hearing related to the October 2015 burglary charge. SANTUCHE and his mother arrived at the hearing and learned that no ASL interpreter was available. This hearing was scheduled on February 4, 2016, giving the Defendant two months to secure an ASL interpreter, yet one was not provided. SANTUCHE waited until 11:30 a.m. when the presiding judge granted a continuance and stated she would "make sure there was an interpreter at the next court date." Had his mother not been present, SANTUCHE would not have understood what took place.

COUNT I
TITLE II OF THE AMERICANS WITH DISABILITIES ACT, 42 USC § 12131 et seq

78. Plaintiffs re-allege and incorporate by reference the allegations of facts in paragraph 1 through 66.

79. Defendant violated Title II of the Americans with Disabilities Act by excluding qualified Deaf and Hard of Hearing inmates from participation in or be denied the benefits of services, programs, or activities of the MIAMI-DADE COUNTY DEPARTMENT OF CORRECTIONS AND REHABILITATION, and well as discriminatory treatment of Deaf and Hard of Hearing inmates in services, programs, or activities of the MIAMI-DADE COUNTY DEPARTMENT OF CORRECTIONS AND REHABILITATION.

80. MIAMI-DADE fails to furnish qualified interpreters to Deaf and hard of hearing prisoners in order to have an equal opportunity to participate in orientations, medical and mental health appointments, probation appointments or reviews, disciplinary hearings, classification reviews, despite having actual knowledge of an inmate's disability

81. MIAMI-DADE fails to furnish Deaf and hard of hearing prisoners with effective auxiliary aids for telecommunications access. Communication with counsel or others with critical information is essential for due process and can mean release to a person in a correctional facility. Further, hearing prisoners have access to a voice telephone at all times, when Deaf prisoners do not have that same access. The failure to have effective auxiliary aides through the provision of Video Relay Services leads to increased and unnecessary incarceration.

82. MIAMI-DADE fails to provide effective mental health or medical screening services to Deaf inmates, while providing such service to inmates who are able to hear.

83. Accordingly, MIAMI-DADE fails to maintain policies and procedures to ensure compliance with Title II of the Americans with Disabilities Act, specifically policies that provide equal access and effective communication to individuals with disabilities; 28 C.F.R. § 36.303(a)

and exclude Plaintiffs from services of the public entity and denied Plaintiffs the benefit of these services due to their disabilities. 28 C.F.R. § 36.202(a) (2010).

84. MIAMI-DADE COUNTY had knowledge of their obligations under the Americans with Disabilities Act and was deliberately indifferent to the rights of DEAF PLAINTIFFS.

85. Such violations of Plaintiffs rights will not be remedied unless enjoined by this Court.

WHEREFORE, PLAINTIFFS JOEL MARTOS, JOSHUA SANTUCHE and DISABILITY RIGHTS FLORIDA respectfully pray that this Court enter judgment in their favor to declare that the Defendant's actions and inactions violated Title II of the Americans with Disabilities Act, to permanently enjoin the Defendant from any practice, policy and/or procedure which will deny Plaintiffs equal access to, and benefit from Defendant's services or which deny Plaintiffs effective communication with the Defendant, award further enforcement and other equitable relief to ensure that such training and policies are maintained in the future, and to award reasonable attorneys' fees and costs, and any and all other relief that may be necessary and appropriate.

COUNT II
SECTION 504 OF THE REHABILITATION ACT OF 1973, 29 USC § 794

86. Plaintiffs re-allege and incorporate herein the allegations set forth in Paragraphs 1 through 66 above.

87. MIAMI-DADE COUNTY failed to provide services to MARTOS and SANTUCHE as they would have provided similarly situated hearing inmates.

88. Defendant's policies, practices and procedures, particularly the actions and omissions described above, violated Plaintiffs' rights under Section 504 of the Rehabilitation Act by discriminating on the basis of a disability.

89. MIAMI-DADE fails to furnish qualified interpreters to Deaf and hard of hearing prisoners in order to have an equal opportunity to participate in orientations, medical and mental health appointments, probation appointments or reviews, disciplinary hearings, classification reviews, despite having actual knowledge of an inmate's disability

90. MIAMI-DADE fails to furnish Deaf and hard of hearing prisoners with effective auxiliary aids for telecommunications access. Communication with counsel or others with critical information is essential for due process and can mean release to a person in a correctional facility. Further, hearing prisoners have access to a voice telephone at all times, when Deaf prisoners do not have that same access. The failure to have effective auxiliary aides through the provision of Video Relay Services leads to increased and unnecessary incarceration.

91. MIAMI-DADE fails to provide effective mental health or medical screening services to Deaf inmates, while providing such service to inmates who are able to hear.

92. MIAMI-DADE COUNTY has discriminated against Plaintiffs by failing to provide auxiliary aids and services necessary to ensure effective communication with individuals who are deaf or hard of hearing, in violation of Section 504 of the Rehabilitation Act, 29 U.S.C. § 794.

93. Plaintiffs will continue to face discrimination at MIAMI-DADE if their actions are not enjoined.

WHEREFORE, PLAINTIFFS JOEL MARTOS, JOSHUA SANTUCHE and DISABILITY RIGHTS FLORIDA respectfully pray that this Court enter judgment in their favor to declare that

the Defendant's actions and inactions violated Section 504 of the Rehabilitation Act, to permanently enjoin the Defendant from any practice, policy and/or procedure which will deny Plaintiffs equal access to, and benefit from Defendant's services or which deny Plaintiffs effective communication with the Defendant, award further enforcement and other equitable relief to ensure that such training and policies are maintained in the future, and to award reasonable attorneys' fees and costs, and any and all other relief that may be necessary and appropriate.

Submitted: April 28, 2016

___/s/ David A. Boyer_____
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