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8	UNITED STATES DISTRICT COURT			
9	EASTERN DISTRICT OF CALIFORNIA			
10	CONNIE ARNOLD	Case No. 2:12-CV-0)1998-LKK-EFB	
11	Plaintiff, v.	ANSWER TO CO FOR JURY TRIAI	MPLAINT; DEMAND	
12	COUNTY OF SACRAMENTO;	TORGUNI IMIAI		
13	SACRAMENTO PUBLIC LIBRARY AUTHORITY; SUNRISE RECREATION &	Complaint Filed: First Amended:	July 31, 2012 August 27, 2012	
14	PARK DISTRICT; and DOES 1 through 50, inclusive,	1 Hot I michaea.	1145450 27, 2012	
15	Defendants.			
16				
17	Defendant SACRAMENTO PUBLIC LIBRARY AUTHORITY ("LIBRARY") answers the			
18	amended complaint on file in this action as follows:			
19	Defendant LIBRARY reserves the right to raise additional affirmative defenses and/or submit			
20	such at trial, which are subsequently discovered through the discovery process. Defendant			
21	LIBRARY denies any allegations of the Complain	nt not specifically admi	tted herein.	
22	I.			
23	<u>INTRODUCTION</u>			
24	1. Answering paragraph 1, Defendant LIBRARY admits the Americans With		s the Americans With	
25	Disabilities Act ("ADA") was enacted in 1990. Answering the remaining allegations contained in			
26	paragraph 1, Defendant LIBRARY contends the remaining allegations do not constitute averments			
27	of fact to which an answer may be required, but insofar as an answer may be deemed required, this			
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1	answering Defendant generally and specifically denies each and every remaining allegation contained		
2	in said paragraph.		
3	2. Answering paragraph 2, Defendant LIBRARY admits Title II of the ADA applies to		
4	public facilities. Defendant lacks information and knowledge sufficient to answer the allegation that		
5	Title II of the ADA applies, without qualification or definition, to "Sylvan Oaks Public Library" or		
6	"Crosswoods Park", and basing its denial on this ground, denies. Defendant LIBRARY generally		
7	and specifically denies each and every remaining allegation contained in paragraph 2.		
8	3. Answering paragraph 3, Defendant LIBRARY generally and specifically denies each		
9	and every allegation contained in paragraph 3, and on that basis, denies paragraph 3 in its entirety.		
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11	II.		
12	JURISDICTION AND VENUE		
13	4. Answering paragraphs 4 and 5, Defendant LIBRARY contends that said paragraphs		
14	contain conclusions of law and not averments of fact to which an answer may be required, bu		
15	insofar as an answer may be deemed required, Defendant LIBRARY generally and specifically		
16	denies each and every allegation contained in said paragraphs.		
17	III.		
18	<u>PARTIES</u>		
19	5. Answering paragraphs 6 and 7, Defendant LIBRARY lacks information and		
20	knowledge sufficient to answer the allegations in paragraphs 6 and 7, and basing its denial on this		
21	ground, denies each and every allegation thereof.		
22	6. Answering paragraph 8, Defendant LIBRARY admits that the County of Sacramento		
23	and the cities of Citrus Heights, Elk Grove and Sacramento are member entities of the LIBRARY.		
24	Defendant LIBRARY further admits the LIBRARY website states "[t]he purpose of the Sacramento		
25	Public Library Authority is to provide public library services that provide open access to diverse		
26	resources and ideas that inspire learning, promote reading and enhance community life to all citizens		
27	in our member jurisdictions." Defendant LIBRARY generally and specifically denies each and every		
28	remaining allegation contained in paragraph 8.		
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7. Answering paragraph 9, Defendant LIBRARY admits it is a Joint Powers Authority				
with the power to exercise jointly the common powers of its member entities, and that its member				
entities have the power to study, plan for, develop, finance, acquire, construct, maintain, repair				
manage, operate and control public library facilities. Defendant LIBRARY generally and				
specifically denies each and every remaining allegation contained in paragraph 9				

- 8. Answering paragraph 10, Defendant LIBRARY lacks information and knowledge sufficient to answer the allegations in paragraph 10, and basing its denial on this ground, denies each and every allegation thereof.
- 9. Answering paragraph 11, Defendant LIBRARY admits it is a Joint Powers Authority with the power to exercise jointly the common powers of its member entities, and that its member entities have the power to study, plan for, develop, finance, acquire, construct, maintain, repair, manage, operate and control public library facilities. Defendant LIBRARY generally and specifically denies each and every remaining allegation contained in paragraph 11.
- 10. Answering paragraph 12, Defendant LIBRARY generally and specifically denies each and every allegation contained in paragraph 12, and on that basis, denies paragraph 12 in its entirety.

IV.

GOVERNMENT CLAIM

Answering paragraphs 13, 14 and 15, Defendant LIBRARY contends that said 11. paragraphs do not constitute averments of fact to which an answer may be required, but insofar as an answer may be deemed required, this answering Defendant generally and specifically denies each and every allegation contained in said paragraphs. Additionally, Defendant LIBRARY lacks information and knowledge sufficient to answer the allegations in paragraphs 13, 14 and 15, and basing its denial on this additional ground, denies each and every allegation thereof.

V.

FACTS UPON WHICH ALL CLAIMS ARE BASED

12. Answering paragraphs 16, 17 and 18, Defendant LIBRARY contends that said paragraphs do not constitute averments of fact to which an answer may be required, but insofar as an answer may be deemed required, this answering Defendant generally and specifically denies each ///

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and every allegation contained in said paragraphs. Additionally, Defendant LIBRARY lacks information and knowledge sufficient to answer the allegations in paragraphs 16, 17 and 18, and basing its denial on this additional ground, denies each and every allegation thereof. Additionally, Defendant LIBRARY generally and specifically denies the allegation contained in paragraph 18 that "designated accessible parking spaces in the parking lot do not provide the required access and do not comply with minimum accessibility standards for accessible parking spaces."

- 13. Answering paragraph 19, Defendant LIBRARY generally and specifically denies each and every allegation contained in paragraph 19, and on that basis, denies paragraph 19 in its entirety.
- 14. Answering paragraph 20, Defendant LIBRARY lacks information and knowledge sufficient to answer the allegations in paragraph 20 that "Plaintiff found that it was difficult to park her van in the parking lot and use her wheelchair to reach the Park areas and Library's entrances", and basing its denial on this ground, generally and specifically denies said allegations. Additionally, Defendant LIBRARY generally and specifically denies the allegation that such difficulty was "due to a lack of safe pedestrian paths of travel." Defendant LIBRARY also generally and specifically denies the allegation contained in paragraph 20 that "[t]hese barriers place Plaintiff and similarly disabled persons at risk of physical injury, require [sic] her to navigate her wheelchair in parking areas around and behind vehicles." Defendant LIBRARY generally and specifically denies each and every remaining allegation contained in paragraph 20.
- 15. Answering paragraphs 21, 22, 23, 24, 25 and 26, Defendant LIBRARY generally and specifically denies each and every allegation contained in paragraphs 21, 22, 23, 24, 25 and 26, and on that basis, denies paragraphs 21, 22, 23, 24, 25 and 26 in their entirety.
- 16. Answering paragraph 27, Defendant LIBRARY lacks information and knowledge sufficient to answer the allegations in paragraph 27, and basing its denial on this ground, denies each and every allegation thereof.
- 17. Answering paragraphs 28, 29 and 30, Defendant LIBRARY generally and specifically denies each and every allegation contained in paragraphs 28, 29 and 30, and on that basis, denies paragraphs 28, 29 and 30 in their entirety.

1	VI.		
2	<u>NOTICE</u>		
3	18. Answering paragraph 31, Defendant LIBRARY generally and specifically denies each		
4	and every allegation contained in Paragraph 31, and on that basis, denies Paragraph 31 in its entirety.		
5	VII.		
6	<u>CLAIMS FOR RELIEF</u>		
7	FIRST CAUSE OF ACTION (AMERICANS WITH DISABILITIES ACT)		
8	19. Answering paragraph 32, this answering Defendant incorporates by reference its		
9	responses to paragraphs 1 through 31 above, as though fully restated herein.		
10	20. Answering paragraphs 33 and 34, Defendant LIBRARY contends said paragraphs		
11	contain conclusions of law and not averments of fact to which an answer may be required, but		
12	insofar as an answer may be deemed required, Defendant LIBRARY generally and specifically		
13	denies each and every allegation contained in said paragraphs.		
14	21. Answering paragraphs 35, 36 and 37, Defendant LIBRARY generally and specifically		
15	denies each and every allegation contained in paragraphs 35, 36 and 37, and on that basis, denies		
16	paragraphs 35, 36 and 37 in their entirety.		
17	SECOND CAUSE OF ACTION (REHAB ACT)		
18	22. Answering paragraph 38, this answering Defendant incorporates by reference its		
19	responses to paragraphs 1 through 37 above, as though fully restated herein.		
20	23. Answering paragraph 39, Defendant LIBRARY contends that said paragraph does		
21	not constitute averments of fact to which an answer may be required, but insofar as an answer may		
22	be deemed required, this answering Defendant generally and specifically denies each and every		
23	allegation contained in said paragraph.		
24	24. Answering paragraphs 40, 41, 42, 43, and 44, Defendant LIBRARY generally and		
25	specifically denies each and every allegation contained in Paragraphs 40, 41, 42, 43, and 44, and on		
26	that basis, denies Paragraphs 40, 41, 42, 43, and 44 in their entirety.		
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THIRD CAUSE OF ACTION (STATE LAW CLAIM, CAL GOV CODE 11135 & 4450) 1 2 25. Answering paragraph 45, this answering Defendant incorporates by reference its 3 responses to paragraphs 1 through 44 above, as though fully restated herein. 26. Answering paragraphs 46, 47, 48 and 49, Defendant LIBRARY generally and 4 5 specifically denies each and every allegation contained in paragraphs 46, 47, 48 and 49, and on that basis, denies paragraphs 46, 47, 48 and 49 in their entirety. 6 7 FOURTH CAUSE OF ACTION (CALIFORNIA DISABLED PERSONS ACT) 8 27. Answering paragraph 50, this answering Defendant incorporates by reference its 9 responses to paragraphs 1 through 49 above, as though fully restated herein. 10 28. Answering paragraph 51, Defendant LIBRARY generally and specifically 11 denies each and every allegation contained in paragraph 51, and on that basis, denies 12 paragraph 51 in its entirety. 29. Answering paragraphs 52 and 53, Defendant LIBRARY contends that said 13 paragraphs contain conclusions of law and not averments of fact to which an answer may be 14 15 required, but insofar as an answer may be deemed required, Defendant LIBRARY generally and 16 specifically denies each and every allegation contained in said paragraphs. 17 30. Answering paragraphs 54 and 55, Defendant LIBRARY generally and specifically denies each and every allegation contained in paragraphs 54 and 55, and on that basis, denies 18 19 paragraphs 54 and 55 in their entirety. 20 VIII. 21 AFFIRMATIVE DEFENSES FIRST AFFIRMATIVE DEFENSE 22 This answering Defendant alleges Plaintiff fails to state a claim upon which relief can be 23 24 granted. 25 SECOND AFFIRMATIVE DEFENSE 26 This answering Defendant alleges that Plaintiff's Complaint does not present a case or

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controversy.

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THIRD AFFIRMATIVE DEFENSE

This answering Defendant alleges all actions taken were undertaken in good faith and with reasonable belief that said actions were valid, necessary and constitutionally proper, thus the answering Defendant is entitled to qualified immunity.

FOURTH AFFIRMATIVE DEFENSE

This answering Defendant alleges that this claim is barred by the privileges, immunities and limitations set forth in Government Code §800, et seq., Government Code §900, et seq. and C.C.P. §338, et seq.

FIFTH AFFIRMATIVE DEFENSE

This answering Defendant alleges that Defendant's acts were privileged under applicable statutes and case law.

SIXTH AFFIRMATIVE DEFENSE

This answering Defendant alleges that state law claims are subject to a 90-day stay of proceedings under California Civil Code §§ 55.51-55.54.

SEVENTH AFFIRMATIVE DEFENSE

This answering Defendant alleges Plaintiff knew, or in the exercise of ordinary care, should have known of the risks, hazards, illnesses and injuries involved in the undertaking in which Plaintiff was engaged, but nevertheless and with full knowledge of these things did fully and voluntarily consent to assume the risks, hazards, illnesses and injuries involved in the undertaking.

EIGHTH AFFIRMATIVE DEFENSE

This answering Defendant alleges Plaintiff failed to exercise ordinary care for her own safety and well-being, and that failure to exercise ordinary care proximately caused and/or contributed to the alleged illness and injury plead in the Complaint; consequently, Defendant is entitled to the full protection of the law.

NINTH AFFIRMATIVE DEFENSE

This answering Defendant alleges Plaintiff faces no threat of future irreparable harm; therefore, injunctive relief is not available.

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TENTH AFFIRMATIVE DEFENSE

This answering Defendant alleges that this claim is barred by the equitable doctrines of estoppel, waiver, unclean hands, and laches.

ELEVENTH AFFIRMATIVE DEFENSE

This answering Defendant alleges that if Plaintiff sustained the damages alleged in the Complaint, which Defendant denies, Plaintiff's damages were caused in whole or in part by the conduct of third parties for whom Defendant is not responsible, by forces over which Defendant has no control or through acts or omissions on the part of Plaintiff, and therefore, an act or omission on the part of Defendant was not the proximate cause and/or legal cause of the Plaintiff's alleged damages.

TWELFTH AFFIRMATIVE DEFENSE

This answering Defendant alleges that the injuries and damages Plaintiff complains of, if any, resulted from the acts and or omissions of others, and without any fault on the part of this answering Defendant.

THIRTEENTH AFFIRMATIVE DEFENSE

This answering Defendant alleges that the Complaint is barred in that the relief sought would place an undue financial and administrative burden on this answering Defendant.

FOURTEENTH AFFIRMATIVE DEFENSE

This answering Defendant alleges that the Complaint is barred in that the relief sought would require unreasonable modifications to programs and services.

FIFTEENTH AFFIRMATIVE DEFENSE

This answering Defendant alleges that Plaintiff failed to exhaust his administrative and other state remedies.

SIXTEENTH AFFIRMATIVE DEFENSE

This answering Defendant alleges that the Complaint is barred because Defendant is not required to make structural changes in existing facilities where other methods are or would be effective to achieve compliance with applicable law.

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SEVENTEENTH AFFIRMATIVE DEFENSE 1 2 This answering Defendant alleges that the Complaint is barred in that the relief sought would inappropriately mandate the manner in which Defendant allocates public funds in relation to existing 3 4 programs and services. EIGHTEENTH AFFIRMATIVE DEFENSE 5 This answering Defendant alleges that the Complaint is barred because Plaintiff failed to 6 7 request either reasonable accommodation or auxiliary aids as required by law. 8 IX. 9 **PRAYER** 10 WHEREFORE, Defendant LIBRARY prays for judgment as follows: 11 1. Plaintiff's action be dismissed; 12 2. Plaintiff's claim for injunctive relief be denied; 13 2. Plaintiff take nothing by way of the Complaint; 3. Defendant be awarded its costs of suit, including attorney fees; and, 14 15 4. For such other relief as the Court deems proper. 16 17 Dated: September 26, 2012 Respectfully submitted, 18 PORTER SCOTT A PROFESSIONAL CORPORATION 19 By /s/ Lindsay A. Goulding 20 Lindsay A. Goulding Kevin M. Kreutz 21 Attorneys for Defendant SACRAMENTO 22 PUBLIC LIBRARY AUTHORITY 23 24 25 26 27 28

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ANSWER TO COMPLAINT; DEMAND FOR JURY TRIAL

DEMAND FOR JURY TRIAL Defendant LIBRARY hereby demands a trial by jury in the above-entitled action as provided by the Seventh Amendment to the United States Constitution and Rule 38 of the Federal Rules of Civil Procedure. Dated: September 26, 2012 Respectfully submitted, PORTER SCOTT A PROFESSIONAL CORPORATION By /s/ Lindsay A. Goulding Lindsay A. Goulding Kevin M. Kreutz Attorneys for Defendant SACRAMENTO PUBLIC LIBRARY AUTHORITY

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