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10 County of Sacramento

11 **IN THE UNITED STATES DISTRICT COURT**
12 **IN AND FOR THE EASTERN DISTRICT OF CALIFORNIA**

13 CONNIE ARNOLD,

14 Plaintiff,

15 vs.

16 COUNTY OF SACRAMENTO, et al.

17 Defendant.
18 _____

CASE NO. 2:12-cv-01998-LKK-EFB

DEFENDANT COUNTY OF
SACRAMENTO'S ANSWER TO
PLAINTIFF CONNIE ARNOLD'S FIRST
AMENDED COMPLAINT and DEMAND
FOR JURY TRIAL

19 Defendant COUNTY OF SACRAMENTO (hereinafter "defendant") in answering the
20 allegations of the First Amended Complaint (hereinafter "complaint") hereby admit, deny and
21 allege as follows:

22 **I. INTRODUCTION**

23 1. In response to paragraph 1 of the complaint, defendant COUNTY OF
24 SACRAMENTO admits the Americans with Disabilities Act ("ADA") was enacted in 1990.
25 Answering the remaining allegations contained in the paragraph 1, defendant COUNTY OF
26 SACRAMENTO contends the remaining allegations do not constitute averments of fact to which
27 an answer may be required, but insofar as an answer may be deemed required, this answering
28 defendant generally and specifically denies each and every remaining allegations contained in

1 and every allegation contained in said paragraph.

2 7. In response to paragraph 7 of the complaint, defendant COUNTY OF
3 SACRAMENTO admits that it is a public entity. In response to the balance of the allegations in
4 this paragraph, defendant contends that said paragraph contain conclusions of law and not
5 averments of fact to which an answer may be required, but insofar as an answer may be deemed
6 required, this answering defendant generally and specifically denies each and every remaining
7 allegation contained in said paragraph.

8 8. In response to paragraph 8 of the complaint, defendant COUNTY OF
9 SACRAMENTO has no information or belief to enable it to answer said allegations and for that
10 reason and basing its denial on that ground, denies both generally and specifically each and
11 every, all and singular, the allegations contained therein.

12 9. In response to paragraph 9 of the complaint, defendant COUNTY OF
13 SACRAMENTO, admits that it has ownership of the Sylvan Oaks Library located at 6700
14 Auburn Boulevard, Citrus Heights, California 95621. In response to the balance of the
15 allegations in this paragraph, defendant has no information or belief to enable it to answer said
16 allegations and for that reason and basing its denial on that ground, denies both generally and
17 specifically, each and every, all and singular, the allegations contained therein.

18 10. In response to paragraph 10 of the complaint, defendant COUNTY OF
19 SACRAMENTO has no information or belief to enable it to answer said allegations, and for that
20 reason and basing its denial on that ground, denies both generally and specifically, each and
21 every, all and singular, the allegations contained therein.

22 11. In response to paragraph 11 of the complaint, defendant COUNTY OF
23 SACRAMENTO has no information or belief to enable it to answer said allegations, and for that
24 reason and basing its denial on that ground, denies both generally and specifically, each and
25 every, all and singular, the allegations contained therein.

26 12. In response to paragraph 12 of the complaint, defendant COUNTY OF
27 SACRAMENTO has no information or belief to enable it to answer said allegations, and for that
28 reason and basing its denial on that ground, denies both generally and specifically, each and

1 every, all and singular, the allegations contained therein.

2 **IV. GOVERNMENT CLAIM**

3 13. In response to paragraph 13, of the complaint, defendant COUNTY
4 OF SACRAMENTO has no information or belief to enable it to answer said allegations, and for
5 that reason and basing its denial on that ground, denies both generally and specifically, each and
6 every, all and singular, the allegations contained therein.

7 14. In response to paragraph 14, of the complaint, defendant COUNTY
8 OF SACRAMENTO has no information or belief to enable it to answer said allegations, and for
9 that reason and basing its denial on that ground, denies both generally and specifically, each and
10 every, all and singular, the allegations contained therein.

11 15. In response to paragraph 15 of the complaint, defendant COUNTY
12 OF SACRAMENTO admits that plaintiff has waived all damages in this matter by not
13 complying with the California Tort Claims Act. In response to the balance of the allegations
14 contained in said paragraph, defendant has no information or belief to enable it to answer said
15 allegations, and for that reason and basing its denial on that ground, denies both generally and
16 specifically, each and every, all and singular, remaining allegations contained therein.

17 **V. FACTS UPON WHICH ALL CLAIMS ARE BASED**

18 16. In response to paragraph 16, defendant COUNTY OF SACRAMENTO admits
19 that Sylvan Oaks Public Library is located adjacent to Crosswoods Park. In response to the
20 balance of the allegations contained in said paragraph, defendant has no information or belief to
21 enable it to answer said allegations, and for that reason and basing its denial on that ground,
22 denies both generally and specifically, each and every, all and singular, remaining allegations
23 contained therein.

24 17. In response to paragraph 17, defendant COUNTY OF SACRAMENTO has no
25 information or belief to enable it to answer said allegations, and for that reason and basing its
26 denial on that ground, denies both generally and specifically, each and every, all and singular,
27 allegations contained therein.

28 18. In response to paragraph 16, defendant COUNTY OF SACRAMENTO has no

1 information or belief to enable it to answer said allegations, and for that reason and basing its
2 denial on that ground, denies both generally and specifically, each and every, all and singular,
3 allegations contained therein.

4 19. In response to paragraph 19 of the complaint, defendant COUNTY OF
5 SACRAMENTO generally and specifically denies each and every allegation contained therein
6 and on that basis, denies paragraph 19 in its entirety.

7 20. In response to paragraph 20 of the complaint, defendant COUNTY OF
8 SACRAMENTO generally and specifically denies each and every allegation contained therein
9 and on that basis, denies paragraph 20 in its entirety.

10 21. In response to paragraphs 21 of the complaint, defendant COUNTY OF
11 SACRAMENTO has no information or belief to enable it to answer said allegations, and for that
12 reason and basing its denial on that ground, denies both generally and specifically, each and
13 every, all and singular, allegations contained therein.

14 22. In response to paragraph 22 of the complaint, defendant COUNTY OF
15 SACRAMENTO has no information or belief to enable it to answer said allegations, and for that
16 reason and basing its denial on that ground, denies both generally and specifically, each and
17 every, all and singular, allegations contained therein.

18 23. In response to paragraph 23 of the complaint, defendant COUNTY OF
19 SACRAMENTO generally and specifically denies each and every allegation contained therein
20 and on that basis, denies paragraph 23 in its entirety.

21 24. In response to paragraph 24 of the complaint, defendant COUNTY OF
22 SACRAMENTO has no information or belief to enable it to answer said allegations, and for that
23 reason and basing its denial on that ground, denies both generally and specifically, each and
24 every, all and singular, allegations contained therein.

25 25. In response to paragraph 25 of the complaint, defendant COUNTY OF
26 SACRAMENTO generally and specifically denies each and every allegation contained therein
27 and on that basis, denies paragraph 25 in its entirety.

28 26. In response to paragraph 26 of the complaint, defendant COUNTY OF

1 SACRAMENTO generally and specifically denies each and every allegation contained therein
2 and on that basis, denies paragraph 26 in its entirety.

3 27. In response to paragraph 27 of the complaint, defendant COUNTY OF
4 SACRAMENTO has no information or belief to enable it to answer said allegations, and for that
5 reason and basing its denial on that ground, denies both generally and specifically, each and
6 every, all and singular, allegations contained therein.

7 28. In response to paragraph 28 of the complaint, defendant COUNTY OF
8 SACRAMENTO generally and specifically denies each and every allegation contained therein
9 and on that basis, denies paragraph 28 in its entirety.

10 29. In response to paragraph 29 of the complaint, defendant COUNTY OF
11 SACRAMENTO generally and specifically denies each and every allegation contained therein
12 and on that basis, denies paragraph 29 in its entirety.

13 30. In response to paragraph 30 of the complaint, defendant COUNTY OF
14 SACRAMENTO generally and specifically denies each and every allegation contained therein
15 and on that basis, denies paragraph 30 in its entirety.

16 **VI. NOTICE**

17 31. In response to paragraph 31 of the complaint, defendant COUNTY OF
18 SACRAMENTO has no information or belief to enable it to answer said allegations, and for that
19 reason and basing its denial on that ground, denies both generally and specifically, each and
20 every, all and singular, allegations contained therein.

21 **VII. CLAIMS FOR RELIEF**

22 **FIRST CAUSE OF ACTION:**
23 **VIOLATION OF THE**
24 **AMERICANS WITH DISABILITIES ACT - TITLE II**
25 **42 U.S.C. § 12101 *et seq.* and § 12131 *et seq.***

26 32. In response to paragraph 32 of the complaint, defendant COUNTY OF
27 SACRAMENTO, incorporates by reference its responses to paragraphs 1 through 31 above, as
28 though fully restated herein.

33. In response to paragraph 33 of the complaint, defendant COUNTY OF

1 SACRAMENTO contends said paragraph contains conclusion of law and not averments of fact
2 to which an answer may be required, but insofar as an answer may be deemed required,
3 defendant COUNTY OF SACRAMENTO generally and specifically denies each and every
4 allegation contained in said paragraph.

5 34. In response to paragraph 33 of the complaint, defendant COUNTY OF
6 SACRAMENTO contends said paragraph contains conclusion of law and not averments of fact
7 to which an answer may be required, but insofar as an answer may be deemed required,
8 defendant COUNTY OF SACRAMENTO generally and specifically denies each and every
9 allegation contained in said paragraph.

10 35. In response to paragraph 35 of the complaint, defendant COUNTY OF
11 SACRAMENTO admits that it owns the Sylvan Oaks Public Library. In response to the balance
12 of the allegations contained within this paragraph, defendant contends said paragraph contains
13 conclusion of law and not averments of fact to which an answer may be required, but insofar as
14 an answer may be deemed required, defendant COUNTY OF SACRAMENTO generally and
15 specifically denies each and every allegation contained in said paragraph.

16 36. In response to paragraph 36 of the complaint, defendant COUNTY OF
17 SACRAMENTO generally and specifically denies each and every allegation contained therein
18 and on that basis, denies paragraph 36 in its entirety.

19 37. In response to paragraph 37 of the complaint, defendant COUNTY OF
20 SACRAMENTO generally and specifically denies each and every allegation contained therein
21 and on that basis, denies paragraph 37 in its entirety.

22 **SECOND CAUSE OF ACTION:**
23 **VIOLATION OF SECTION 504 OF THE REHABILITATION ACT**
24 **29 U.S.C. § 794**

25 38. In response to paragraph 38 of the complaint, defendant COUNTY OF
26 SACRAMENTO incorporates by reference its responses to paragraphs 1 through 37 above, as
27 though fully restated herein.

28 39. In response to paragraph 33 of the complaint, defendant COUNTY OF
SACRAMENTO contends said paragraphs contain conclusion of law and not averments of fact

1 to which an answer may be required, but insofar as an answer may be deemed required,
2 defendant COUNTY OF SACRAMENTO generally and specifically denies each and every
3 allegation contained in said paragraph.

4 40. In response to paragraph 40, of the complaint, defendant COUNTY OF
5 SACRAMENTO admits that it is a governmental entity. In response to the balance of the
6 allegations defendant has no information or belief to enable it to answer said allegations, and for
7 that reason and basing its denial on that ground, denies both generally and specifically, each and
8 every, all and singular, allegations contained therein.

9 41. In response to paragraph 41 of the complaint, defendant COUNTY OF
10 SACRAMENTO generally and specifically denies each and every allegation contained therein
11 and on that basis, denies paragraph 41 in its entirety.

12 42. In response to paragraph 42 of the complaint, defendant COUNTY OF
13 SACRAMENTO generally and specifically denies each and every allegation contained therein
14 and on that basis, denies paragraph 42 in its entirety.

15 43. In response to paragraph 43 of the complaint, defendant COUNTY OF
16 SACRAMENTO admits that plaintiff is waiving damages. In response to the balance of the
17 allegations, defendant generally and specifically denies each and every remaining allegation
18 contained therein.

19 44. In response to paragraph 44 of the complaint, defendant COUNTY OF
20 SACRAMENTO generally and specifically denies each and every allegation contained therein
21 and on that basis, denies paragraph 44 in its entirety.

22 **THIRD CAUSE OF ACTION:**
23 **Cal. Gov't Codes §§ 11135 and 4450 *et seq.***

24 45. In response to paragraph 45 in the complaint, defendant COUNTY OF
25 SACRAMENTO incorporates by reference its responses to paragraphs 1 through 44 above, as
26 though fully restated herein.

27 46. In response to paragraph 46 of the complaint, defendant COUNTY OF
28 SACRAMENTO generally and specifically denies each and every allegation contained therein

1 and on that basis, denies paragraph 46 in its entirety.

2 47. In response to paragraph 47, of the complaint, defendant COUNTY OF
3 SACRAMENTO admits that it owns the Sylvan Oaks Public Library. In response to the balance
4 of the allegations defendant has no information or belief to enable it to answer said allegations,
5 and for that reason and basing its denial on that ground, denies both generally and specifically,
6 each and every, all and singular, allegations contained therein.

7 48. In response to paragraph 48 of the complaint, defendant COUNTY OF
8 SACRAMENTO generally and specifically denies each and every allegation contained therein
9 and on that basis, denies paragraph 48 in its entirety.

10 49. In response to paragraph 49 of the complaint, defendant COUNTY OF
11 SACRAMENTO generally and specifically denies each and every allegation contained therein
12 and on that basis, denies paragraph 49 in its entirety.

13 **FOURTH CAUSE OF ACTION:**
14 **CALIFORNIA DISABLED PERSON ACT (“CDPA”)**
15 **Cal. Civ. Code § 54 *et seq.***

16 50. In response to paragraph 50 of the complaint, defendant incorporates by reference
17 its responses to paragraphs 1 through 49 above, as though fully restated herein.

18 51. In response to paragraph 51 of the complaint, defendant COUNTY OF
19 SACRAMENTO generally and specifically denies each and every allegation contained in
20 paragraph 51, and on that basis, denies paragraph 51 in its entirety.

21 52. In response to paragraph 52, of the complaint, defendant COUNTY OF
22 SACRAMENTO contends that said paragraph contains conclusions of law and not averments of
23 facts to which an answer may be required, but insofar as an answer may be deemed required,
24 defendant COUNTY OF SACRAMENTO generally and specifically denies each and every
25 allegation contained in said paragraph.

26 53. In response to paragraph 53, of the complaint, defendant COUNTY OF
27 SACRAMENTO contends that said paragraph contains conclusions of law and not averments of
28 facts to which an answer may be required, but insofar as an answer may be deemed required,
defendant COUNTY OF SACRAMENTO generally and specifically denies each and every

1 allegation contained in said paragraph.

2 54. In response to paragraph 54, of the complaint, defendant COUNTY OF
3 SACRAMENTO generally and specifically denies each and every allegation contained therein
4 and on that basis, denies paragraph 54 in its entirety.

5 55. In response to paragraph 55, of the complaint, defendant COUNTY OF
6 SACRAMENTO generally and specifically denies each and every allegation contained therein
7 and on that basis, denies paragraph 55 in its entirety.

8 **VIII. PRAYER FOR RELIEF**

9 In response to the prayer for relief, set forth at page 18 of the complaint, defendant
10 COUNTY OF SACRAMENTO contends that no response is required; too the extent to which a
11 response is deemed required, defendant denies that plaintiff is entitled to any form of relief
12 whatsoever.

13 **AFFIRMATIVE DEFENSES**

14 Defendant County of Sacramento alleges the following separate and distinct affirmative
15 defenses to plaintiff's complaint.

16 **FIRST AFFIRMATIVE DEFENSE**

17 As a first affirmative defense, defendant alleges that the complaint in its entirety, through
18 each separately stated Cause of Action, fails to state claims upon which relief can be granted.

19 **SECOND AFFIRMATIVE DEFENSE**

20 As a second affirmative defense, defendant alleges that Plaintiff's complaint does not
21 present a case or controversy.

22 **THIRD AFFIRMATIVE DEFENSE**

23 As a third affirmative defense, defendant alleges all its actions taken were undertaken in
24 good faith and with reasonable belief that said actions were valid, necessary and constitutionally
25 proper; thus, the answering defendant is entitled to qualified immunity.

26 **FOURTH AFFIRMATIVE DEFENSE**

27 As a fourth affirmative defense, defendant alleges that this claim is barred by the
28 privileges, immunities and limitations set forth in Government Code §800, et seq., Government

1 Code §900, et seq. and C.C.P. §338, et seq.

2 **FIFTH AFFIRMATIVE DEFENSE**

3 As a fifth affirmative defense, defendant alleges that defendant's acts were privileged
4 under applicable statutes and case law.

5 **SIXTH AFFIRMATIVE DEFENSE**

6 As a sixth affirmative defense, defendant alleges that state law claims are subject to a 90-
7 day stay or proceedings under California Civil Code §§ 55.51-55.54.

8 **SEVENTH AFFIRMATIVE DEFENSE**

9 As a seventh affirmative defense, defendant alleges that plaintiff knew, or in the exercise
10 of ordinary care, should have known of the risks, hazards, illnesses and injuries involved in the
11 undertaking in which plaintiff was engaged; but nevertheless, and with full knowledge of these
12 things did fully and voluntarily consent to assume the risks, hazards, illnesses and injuries
13 involved in the undertaking.

14 **EIGHTH AFFIRMATIVE DEFENSE**

15 As an eighth affirmative defense, defendant alleges plaintiff failed to exercises ordinary
16 care for her own safety and well-being and that failure to exercise ordinary care proximately
17 caused and/or contributed to the alleged illness and injury plead in the complaint; consequently,
18 defendant is entitled to the full protection of the law.

19 **NINTH AFFIRMATIVE DEFENSE**

20 As a ninth affirmative defense, defendant alleges plaintiff faces no threat of future
21 irreparable harm; therefore, injunctive relief is not available.

22 **TENTH AFFIRMATIVE DEFENSE**

23 As a tenth affirmative defense, defendant alleges that this claim is barred by the equitable
24 doctrine of estoppel, waiver, unclean hands and laches.

25 **ELEVENTH AFFIRMATIVE DEFENSE**

26 As an eleventh affirmative defense, defendant alleges that if plaintiff sustained the
27 damages alleged in the complaint, which defendant denies, plaintiff's damages were caused in
28 whole or in part by the conduct of third parties for whom defendant is not responsible, by forces

1 over which defendant has no control or through acts or omissions on the part of plaintiff and
2 therefore, an act or omission on the part of defendant was not the proximate cause and/or legal
3 cause of the plaintiff's alleged damages.

4 **TWELFTH AFFIRMATIVE DEFENSE**

5 As a twelfth affirmative defense, defendant alleges that the injuries and damages plaintiff
6 complains of, if any, resulted from the acts and or omissions of others and without any fault on
7 the part of this answering defendant.

8 **THIRTEENTH AFFIRMATIVE DEFENSE**

9 As a thirteenth affirmative defense, defendant alleges that the complaint is barred in that
10 the relief sought would place an undue financial and administrative burden on this answering
11 defendant.

12 **FOURTEENTH AFFIRMATIVE DEFENSE**

13 As a fourteenth affirmative defense, defendant alleges that the complaint is barred in that
14 the relief sought would require unreasonable modifications to programs and services.

15 **FIFTEENTH AFFIRMATIVE DEFENSE**

16 As a fifteenth affirmative defense, defendant alleges that plaintiff failed to exhaust his
17 administrative and other state remedies.

18 **SIXTEENTH AFFIRMATIVE DEFENSE**

19 As a sixteenth affirmative defense, defendant alleges that the complaint is barred because
20 defendant is not required to make structural changes in existing facilities where other methods
21 are or would be effective to achieve compliance with applicable law.

22 **SEVENTEENTH AFFIRMATIVE DEFENSE**

23 As a seventeenth affirmative defense, defendant alleges that the complaint is barred in
24 that the relief sought would inappropriately mandate the manner in which defendant allocates
25 public funds in relation to existing programs and services.

26 **EIGHTEENTH AFFIRMATIVE DEFENSE**

27 As an eighteenth affirmative defense, defendant alleges that the complaint is barred
28 because plaintiff failed to request either reasonable accommodation or auxiliary aids as required

1 by law.

2 **NINETEENTH AFFIRMATIVE DEFENSE**

3 As a nineteenth affirmative defense, defendant alleges that plaintiff's complaint fails to
4 state facts sufficient to constitute a cause of action against this answering defendant.

5 **TWENTIETH AFFIRMATIVE DEFENSE**

6 As a twentieth affirmative defense, defendant alleges that plaintiff has failed to mitigate
7 her damages, and to the extent of this failure to mitigate, any damages awarded to plaintiff
8 should be reduced accordingly.

9 **TWENTY-FIRST AFFIRMATIVE DEFENSE**

10 As a twenty-first affirmative defense, defendant alleges that plaintiff's claim are barred
11 pursuant to the principles of res judicata and collateral estoppel.

12 **TWENTY-SECOND AFFIRMATIVE DEFENSE**

13 As a twenty-second affirmative defense, defendant alleges that any alleged discrimination
14 was not arbitrary or intentional.

15 **TWENTY-THIRD AFFIRMATIVE DEFENSE**

16 As a twenty-third affirmative defense, defendant asserts that its alleged refusal to allow
17 access was not discriminatory, but was caused by the structure of the facility and by the fact that
18 plaintiff's special needs prevented her admission to the facility without construction, alteration or
19 modification that is not otherwise required by law under Civil Code section 51(d) and 52(g).

20 **TWENTY-FOURTH AFFIRMATIVE DEFENSE**

21 As a twenty-fourth affirmative defense, defendant alleges that plaintiff was not
22 discriminated against based solely on her disability.

23 **TWENTY-FIFTH AFFIRMATIVE DEFENSE**

24 As a twenty-fifth affirmative defense, defendant alleges that when viewed in its entirety,
25 the subject buildings and facilities are readily accessible to and useable by individuals with
26 disabilities.

27 **TWENTY-SIXTH AFFIRMATIVE DEFENSE**

28 As a twenty-sixth affirmative defense, defendant alleges that defendant is not required to

1 take any action that would result in a fundamental alteration in the nature of its services,
2 programs or activities, or in undue financial and administrative burdens.

3 **TWENTY-SEVENTH AFFIRMATIVE DEFENSE**

4 As a twenty-seventh affirmative defense, defendant alleges that defendant did not receive
5 federal funding in association with programs, activities, services and benefits participated in by
6 plaintiff.

7 **TWENTY-EIGHTH AFFIRMATIVE DEFENSE**

8 As a twenty-eighth affirmative defense, defendant alleges that defendant has insufficient
9 knowledge or information upon which to form a belief as to whether it may have additional, as
10 yet unstated, affirmative defenses. Defendant reserved the right to answer with additional
11 affirmative defenses in the event discovery indicates it would appropriate.

12 WHEREOF, Defendant COUNTY OF SACRAMENTO prays for judgment as follows:

- 13 1. Plaintiff's action be dismissed;
- 14 2. Plaintiff's claim for injunctive relief be denied;
- 15 3. Plaintiff's take nothing by way of complaint;
- 16 4. Defendant be awarded its costs of suit, including attorney fees; and
- 17 5. For such other relief as the Court deems proper.

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19 Dated: October 24, 2012

Respectfully submitted,

RIVERA & ASSOCIATES

/s/ Jonathan B. Paul

By: _____
JONATHAN B. PAUL
Attorney for County of Sacramento

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DEMAND FOR JURY TRIAL

Defendants, Defendant COUNTY OF SACRAMENTO demand a jury trial as provided for in Rule 38, Federal Rules of Civil Procedure and Local Rule 201.

Dated: October 24, 2012

Respectfully submitted,

RIVERA & ASSOCIATES

/s/ Jonathan B. Paul

By: _____
JONATHAN B. PAUL
Attorney for County of Sacramento