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8 (Appearances continued on next page.)

9 **UNITED STATES DISTRICT COURT**
10 **EASTERN DISTRICT OF CALIFORNIA**
11

12 CONNIE ARNOLD) Case No.: 2:12-CV-01998-LKK-EFB
13)
14 Plaintiff,) **Civil Rights**
15 vs.)
16) **CONSENT DECREE AND ORDER**
17 COUNTY OF SACRAMENTO;) **FOR SETTLEMENT OF**
18 SACRAMENTO PUBLIC LIBRARY) **PLAINTIFF'S INJUNCTIVE RELIEF**
19 AUTHORITY; SUNRISE) **CLAIMS ONLY AS TO DEFENDANT**
RECREATION & PARK DISTRICT;) **SUNRISE RECREATION & PARK**
and DOES 1 through 50, inclusive,) **DISTRICT**
20)
21 Defendants.)
22)
23)
24)
25)

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10 *Attorneys for Defendant SUNRISE RECREATION & PARK DISTRICT*

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1 **CONSENT DECREE AND ORDER**

2 1. Plaintiff CONNIE ARNOLD (“Plaintiff”) filed a First Amended
3 Complaint (“Complaint”) in this action on August 27, 2012 to enforce provisions of
4 the Americans with Disabilities Act of 1990 (“ADA”), 42 U.S.C. § 12101 *et seq.*;
5 Section 504 of the Rehabilitation Act of 1973 (“Section 504”), 29 U.S.C. § 794; Cal.
6 Civ. Code § 54 *et seq.*; and Cal. Gov’t Code §§ 4450 *et seq.* and 11135 *et seq.*,
7 against Defendants COUNTY OF SACRAMENTO (“COUNTY”); SACRAMENTO
8 PUBLIC LIBRARY AUTHORITY (“SPLA”); and SUNRISE RECREATION &
9 PARK DISTRICT (“SRPD”) (collectively, “Defendants”). This Consent Decree and
10 Order relates to resolution of Plaintiff’s claims for injunctive relief only against
11 Defendant SRPD only.

12 2. Plaintiff has alleged that Defendant SRPD violated Title II of the ADA,
13 Section 504, and California civil rights laws and statutes by failing to provide full and
14 equal access to its programs, services, and activities offered at Crosswoods Park
15 (“Park”), which is located at 6742 Auburn Boulevard, Citrus Heights, California
16 95621. Defendant SRPD and Plaintiff (collectively, “Parties” hereafter) now seek to
17 settle all of Plaintiff’s claims for injunctive relief as to the barriers at the Park and
18 agree that the terms of this Consent Decree and Order will satisfy all of Plaintiff’s
19 claims for injunctive relief only against Defendant SRPD as set forth in her
20 Complaint in this matter.

21 3. Defendant SRPD answered the allegations of the Complaint with a
22 number of denials and affirmative defenses, and have not waived and do not waive
23 the same by entering into this Consent Decree. As such, nothing stated within this
24 Consent Decree nor the fact of this consent decree shall be construed as an admission
25 of any of the claims or of Plaintiff’s allegations in her Complaint. Defendant SRPD
26 maintains its denial of the allegations in the Complaint filed by Plaintiff and does not
27 admit liability or responsibility as the Parties hereby enter into this Consent Decree
28 for the purpose of entering into an early settlement of all of Plaintiff’s claims for

1 injunctive relief as to SRPD as set forth in her Complaint without the need for
2 protracted litigation.

3 **JURISDICTION**

4 4. The Parties to this Consent Decree agree that the Court has jurisdiction
5 of this matter pursuant to 28 U.S.C. § 1331 for alleged violations of the Americans
6 with Disabilities Act of 1990, 42 U.S.C. § 12101 *et seq.* and Section 504 of the
7 Rehabilitation Act of 1973, 29 U.S.C. § 794, and pursuant to supplemental
8 jurisdiction under § 1367(a) for alleged violations of California civil rights laws and
9 regulations that have been pled in the Complaint.

10 5. The Parties to this Consent Decree agree to entry of this Order to resolve
11 all of Plaintiff's claims for injunctive relief as to SRPD raised in the Complaint filed
12 with the Court in this matter. Accordingly, the Parties stipulate to the entry of this
13 Order without trial or adjudication of any issues and as full resolution of Plaintiff's
14 claims for injunctive relief only as to SRPD with respect to the condition of the
15 subject property prior to completion of its modification pursuant to this Consent
16 Decree.

17 WHEREFORE, the Parties to this Consent Decree hereby agree and stipulate to
18 the Court's entry of this Consent Decree and Order, which provides as follows:

19 **SETTLEMENT OF PLAINTIFF'S CLAIMS FOR INJUNCTIVE RELIEF AS**
20 **TO DEFENDANT SRPD ONLY:**

21 6. The Parties have reached an agreement regarding Plaintiff's claims for
22 injunctive relief as to SRPD. Attached as **Attachment A** are all of the terms of the
23 settlement for injunctive relief as agreed to between the Parties. Said Attachment is
24 hereby incorporated by reference as if fully set forth as the full and complete
25 agreement between the Parties for settlement of all of Plaintiff's claims for injunctive
26 relief as to SRPD as requested in Plaintiff's Complaint. All recommendations
27 indicated on **Attachment A** are to be completed in accordance with the following
28 provisions:

- 1 a. Within six (6) months of Defendant SRPD's signing of the Consent
2 Decree, SRPD agrees to make the modifications to Item Nos. 1.014 –
3 1.021; 1.023; 2.001 – 2.023; and 4.003 – 4.010.
- 4 b. Within nine (9) months of Defendant SRPD's signing of the Consent
5 Decree, SRPD agrees to make the modifications to Item Nos. 1.001 –
6 1.010 and 3.001.
- 7 c. Within twenty-four (24) months of Defendant SRPD's signing of the
8 Consent Decree, SRPD agrees to make the modifications to Item Nos.
9 1.011 – 1.013; 1.022; and 1.028 – 1.032.

10 7. Upon completion of the items in **Attachment A**, Defendant SRPD shall
11 advise Plaintiff in writing that all items have been completed. Plaintiff shall then
12 have the right to complete an inspection of the subject property by Plaintiff's
13 representative and at Plaintiff's own expense within forty-five (45) days of being
14 provided notice of completion by Defendant SRPD. In the event that Plaintiff
15 believes that Defendant SRPD has not complied with the terms of this Consent
16 Decree and Order, Plaintiff's counsel will inform Defendant SRPD's counsel of the
17 alleged breach, and allow for thirty (30) days to negotiate a resolution. A motion to
18 compel enforcement may be filed in the event that the Parties are unable to resolve
19 the alleged breach of the terms of the Consent Decree and Order. Plaintiff will be
20 entitled to reasonable attorneys' fees if Plaintiff is forced to file a motion to enforce
21 the terms of the Consent Decree.

22 8. Plaintiff and Defendant SRPD have not reached an agreement to settle
23 Plaintiff's claims for monetary relief, including attorneys' fees, and litigation
24 expenses and costs, which the Parties agree will be resolved by way of negotiated
25 settlement, motion, or trial.

26 **ENTIRE CONSENT ORDER:**

27 9. This Consent Decree and Order constitutes the entire agreement between
28 the signing parties on the matter of Plaintiff's claims for injunctive relief against

1 SRPD, and no other statement, promise, or agreement, either written or oral, made by
2 any of the parties or agents of any of the parties, that is not contained in this written
3 Consent Decree, shall be enforceable regarding Plaintiff's claims for injunctive relief
4 against SRPD.

5 **CONSENT ORDER BINDING ON PARTIES AND SUCCESSORS IN**
6 **INTEREST:**

7 10. This Consent Decree and Order shall be binding on Plaintiff CONNIE
8 ARNOLD and Defendant SUNRISE RECREATION & PARK DISTRICT and any
9 successors in interest. The Parties have a duty to so notify all such successors in
10 interest of the existence and terms of this Consent Decree and Order during the period
11 of the Court's jurisdiction of this Consent Decree and Order.

12 **MUTUAL RELEASE AND WAIVER BETWEEN PLAINTIFF AND**
13 **DEFENDANT SRPD OF CIVIL CODE § 1542 AS TO PLAINTIFF'S CLAIMS**
14 **FOR INJUNCTIVE RELIEF ONLY:**

15 11. Except for all obligations required in this Consent Decree and any fees
16 and costs incurred by filing a motion to enforce this Consent Decree, Plaintiff, on
17 behalf of herself, her respective agents, attorneys, representatives, predecessors,
18 successors, heirs, partners and assigns, releases and forever discharges Defendant
19 SRPD and all its franchisors, franchisees, partners, managers, employees, joint
20 ventures, successors, heirs, assigns, directors, shareholders, subsidiaries,
21 stockholders, parent companies, officers, board members, employees, agents,
22 attorneys, insurers insurance carriers, predecessors, and representatives of each other
23 Party, from all claims and causes of action of whatever kind or nature, presently
24 known or unknown, arising out of or in any way connected with Plaintiff's claims for
25 injunctive relief against Defendant SRPD in the lawsuit and the incidents alleged
26 therein with respect to injunctive relief only for the physical condition of the subject
27 property prior to completion of its modification pursuant to this Consent Decree
28 including its accessibility, whether or not addressed in the lawsuit.

1 12. Except for all obligations required in this Consent Decree, and any fees
2 and costs incurred by filing a motion to enforce this Consent Decree, Defendant
3 SRPD and its franchisors, franchisees, partners, managers, employees, joint ventures,
4 successors, heirs, assigns, directors, shareholders, subsidiaries, stockholders, parent
5 companies, officers, board members, employees, agents, attorneys, insurers insurance
6 carriers, predecessors, and representatives, releases and forever discharges Plaintiff
7 and her respective agents, attorneys, representatives, predecessors, successors, heirs,
8 partners and assigns, from all claims and causes of action of whatever kind or nature,
9 presently known or unknown, arising out of or in any way connected with Plaintiff's
10 claims for injunctive relief against Defendant SRPD in the lawsuit, the incidents
11 alleged therein, with respect to injunctive relief only for the physical condition of the
12 property prior to completion of its modification pursuant to this Consent Decree
13 including its accessibility, whether or not addressed in the lawsuit.

14 13. The Parties understand and agree that there is a risk and possibility that,
15 subsequent to the execution of this Consent Decree, any or all of them will incur,
16 suffer, or experience some further loss or damage with respect to the lawsuit which
17 are unknown or unanticipated at the time this Consent Decree is signed. Except for
18 all obligations required in this Consent Decree between Plaintiff and Defendant
19 SRPD and all obligations between or amongst the Defendants, the Parties intend that
20 this Consent Decree apply to all conditions that existed at the subject facilities.
21 Therefore, except for all such obligations required in this Consent Decree between
22 Plaintiff and Defendant SRPD and all obligations between or amongst the
23 Defendants, this Consent Decree shall apply to and cover any and all claims,
24 demands, actions and causes of action by the Parties to this Consent Decree with
25 respect to the injunctive relief issues in the lawsuit against Defendant SRPD and the
26 current condition of the Park and any or all improvements thereon, whether the same
27 are known, unknown or hereafter discovered or ascertained, and the provisions of §
28 1542 of the California Civil Code are hereby expressly waived. Section 1542

1 provides as follows:

2 **A GENERAL RELEASE DOES NOT EXTEND TO**
3 **CLAIMS WHICH THE CREDITOR DOES NOT KNOW**
4 **OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT**
5 **THE TIME OF EXECUTING THE RELEASE, WHICH IF**
6 **KNOWN BY HIM OR HER MUST HAVE MATERIALLY**
7 **AFFECTED HIS OR HER SETTLEMENT WITH THE**
8 **DEBTOR.**

9 **TERM OF THE CONSENT DECREE AND ORDER:**

10 14. This Consent Decree shall be in full force and effect as described herein
11 and in **Attachment A**. The Court shall retain jurisdiction for the purpose of
12 enforcing provisions of this Consent Decree until the terms of this Consent Decree
13 and Order are satisfactorily completed.

14 **SEVERABILITY:**

15 15. If any term of this Consent Decree and Order is determined by any court
16 to be unenforceable, the other terms of this Consent Decree and Order shall
17 nonetheless remain in full force and effect.

18 **SIGNATORIES BIND PARTIES:**

19 16. Signatories on the behalf of the Parties represent that they are authorized
20 to bind the Parties to this Consent Decree. This Consent Decree may be signed in
21 counterparts and a facsimile signature shall have the same force and effect as an
22 original signature.

23 APPROVED AS TO FORM AND CONTENT:

24
25 Dated: June 28, 2013 By: /s/- Connie Arnold*
26 Plaintiff CONNIE ARNOLD

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Defendant SUNRISE RECREATION &
PARK DISTRICT

Dated: June 18, 2013 By: /s/- Dave Mitchell**

Its: Dave Mitchell, District Administrator

APPROVED AS TO FORM ONLY:

Dated: July 01, 2013

METZ & HARRISON, LLP

By: /s/- Mary J. Lim

JEFF A. HARRISON

MARY J. LIM

Attorneys for Plaintiff, CONNIE ARNOLD

Dated: June 24, 2013

LOW, BALL & LYNCH

By: /s/-Mark F. Hazelwood (as authorized on 6.24.13)

MARK F. HAZELWOOD

DIRK D. LARSEN

Attorneys for Defendant SUNRISE
RECREATION & PARK DISTRICT

* Original signature retained by Metz & Harrison, LLP

** Original signature retained by Low, Ball & Lynch