

JEFF A. HARRISON (SBN 151227)  
 MARY J. LIM (SBN 272170)  
**METZ & HARRISON, LLP**  
 139 Richmond Street  
 El Segundo, CA 90245  
 Tel: (310) 414-9400  
 Fax: (310) 414-9200  
 JHarrison@metzharrison.com  
 MLim@metzharrison.com

Attorneys for Plaintiff,  
 CONNIE ARNOLD

**UNITED STATES DISTRICT COURT**  
**EASTERN DISTRICT OF CALIFORNIA**

CONNIE ARNOLD

Plaintiff,

vs.

COUNTY OF SACRAMENTO;  
 SACRAMENTO PUBLIC LIBRARY  
 AUTHORITY; SUNRISE  
 RECREATION & PARK DISTRICT;  
 and DOES 1 through 50, inclusive,

Defendants.

) Case No.: 12-CV-01998-LKK-EFB

)  
 ) **Civil Rights**

) **FIRST AMENDED COMPLAINT FOR**

) **INJUNCTIVE RELIEF FOR**

) **DISABILITY DISCRIMINATION IN**

) **VIOLATION OF TITLE II OF THE**

) **AMERICANS WITH DISABILITIES**

) **ACT; SECTION 504 OF THE**

) **REHABILITATION ACT OF 1973; AND**

) **CALIFORNIA'S CIVIL RIGHTS**

) **STATUTES (Cal. Gov't. Code §§ 4450 *et***

) ***seq.* and 11135 *et seq.*; and Cal. Civ. Code**

) **§ 54 *et seq.*)**

)

) **DEMAND FOR JURY TRIAL**

)

)

Plaintiff CONNIE ARNOLD ("Plaintiff" or "Ms. Arnold") complains of  
 Defendants COUNTY OF SACRAMENTO; SACRAMENTO PUBLIC LIBRARY  
 AUTHORITY; SUNRISE RECREATION & PARK DISTRICT; and DOES 1

through 50, inclusive, (collectively, “Defendants”) and allege as follows:

## **I. INTRODUCTION**

1. The Americans with Disabilities Act (“ADA”) was enacted over twenty years ago, establishing the most important civil rights law for persons with disabilities in our country’s history. One of the principal goals of the ADA is the integration of people with disabilities into the country’s economic and social life. 42 U.S.C. § 12101(a).

2. The County of Sacramento, Sacramento Public Library Authority, and the Sunrise Recreation and Park District are subject to federal and state accessibility standards that have been in place for over the past two decades to ensure disabled persons’ ability to safely access and use their programs, services, and activities, including the Sylvan Oaks Public Library and neighboring Crosswoods Park, located at the corner of Auburn Boulevard and Van Maren Lane in the City of Citrus Heights. Despite this long-standing mandate, Defendants have failed to provide disabled persons with full and equal access to its programs, services, and activities in violation of Title II of the ADA, and have failed to modify their policies and procedures as necessary to ensure that persons with disabilities are provided full and equal access to the goods and services offered to the general public. Specifically, Defendants have constructed and/or have failed to remove architectural barriers and modify discriminatory policies that prevent persons who use wheelchairs from being able to use and enjoy their facilities to the same extent as able-bodied persons. In so doing, Defendants have also violated Section 504 of the Rehabilitation Act of 1973 (“Section 504”), and California’s civil rights laws, including Cal. Gov’t Code §§ 4450 *et seq.* and 11135 *et seq.*; Health & Safety Code § 19955 *et seq.*; the California Disabled Persons Act, Cal. Civ. Code § 54 *et seq.*; and the California Building Standards (Cal. Code of Reg., Tit. 24-2) implemented to eliminate discrimination in the built environment.

1           3.     As a result of Defendants' discriminatory acts and omissions, Plaintiff  
2 has suffered, and will continue to suffer, damages, and has been, and will continue to  
3 be, prevented and deterred from accessing and using Defendants' programs, services,  
4 and activities to the same extent as, and in a manner equal to, her able-bodied peers.  
5 Through this lawsuit, Plaintiff seeks an injunction requiring Defendants to provide  
6 "full and equal" access to their public facilities for disabled persons as required by  
7 law and reasonable attorneys' fees, costs and litigation expenses for enforcing  
8 Plaintiff's civil rights.

## 9   **II.     JURISDICTION AND VENUE**

10           4.     This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331  
11 to hear and determine Plaintiff's ADA and Section 504 claims. This Court has  
12 supplemental jurisdiction pursuant to 28 U.S.C. § 1367 to hear and determine  
13 Plaintiff's state law claims because they are related to Plaintiff's federal claims and  
14 arise out of a common nucleus of operative facts.

15           5.     Venue is proper in this court pursuant to 28 U.S.C. § 1391(b) and is  
16 founded on the fact that the real property which is the subject of this action is located  
17 in the Eastern District and that Plaintiff's causes of action arose in the Eastern  
18 District.

## 19   **III.     PARTIES**

20           6.     Plaintiff CONNIE ARNOLD is, and at all times relevant herein was, a  
21 qualified individual with a "disability" as defined by the ADA, 42 U.S.C. § 12131(2);  
22 Section 504, 29 U.S.C. § 794 *et seq.*; Department of Justice regulation 28 C.F.R. §  
23 35.104; and California Government Code § 12926. Ms. Arnold is a full time  
24 wheelchair user who is unable to independently stand or walk due to the progressive  
25 effects of rheumatoid arthritis. As the result of her physical disabilities, Ms. Arnold  
26 requires the use of a wheelchair for mobility and is unable to use public facilities that  
27 are not designed, constructed or altered in compliance with applicable accessibility  
28

standards for persons with mobility impairments.

7. On information and belief, Defendant COUNTY OF SACRAMENTO (“County”) encompasses cities in California, such as Citrus Heights, Sacramento, and Elk Grove. The County is a “public entity” subject to the obligations and requirements under Title II of the ADA, Section 504, and California state law, requiring full and equal access to public facilities pursuant to Government Code §§ 11135 and 4450 *et seq.*

8. On information and believe, Defendant SACRAMENTO PUBLIC LIBRARY AUTHORITY (“Authority”) consists of the County of Sacramento and cities within the County, such as Citrus Heights, Sacramento, and Elk Grove. According to its website, the purpose of the Authority is “to provide public library services that provide open access to diverse resources and ideas that inspire learning, promote reading and enhance community life.” The Authority is a “public entity” subject to the obligations and requirements under Title II of the ADA, Section 504, and California state law, requiring full and equal access to public facilities pursuant to Government Code §§ 11135 and 4450 *et seq.*

9. On information and belief, Defendants COUNTY OF SACRAMENTO, SACRAMENTO PUBLIC LIBRARY AUTHORITY, and DOES 1 through 25, inclusive, have control and/or legal responsibility for the design, construction, maintenance, ownership, and/or operation of the Sylvan Oaks Library (“Library”), located at 6700 Auburn Boulevard, Citrus Heights, California 95621. Plaintiff will seek leave to amend when the true names, capacities, connections, and responsibilities of Defendants DOES 1 through 25, inclusive are ascertained.

10. On information and belief, Defendant SUNRISE RECREATION & PARK DISTRICT (“SRPD”) is a “public entity” subject to the obligations and requirements under Title II of the ADA, Section 504, and California state law, requiring full and equal access to public facilities pursuant to Government Code §§

1 11135 and 4450 *et seq.*

2 11. On information and belief, Defendant SRPD and DOES 26 through 50,  
3 inclusive, have control and/or legal responsibility for the design, construction,  
4 maintenance, ownership, and/or operation of Crosswoods Park ("Park"), which is  
5 located at 6742 Auburn Boulevard, Citrus Heights, California 95621 and shares a  
6 common parking lot with the Library. Plaintiff will seek leave to amend when the  
7 true names, capacities, connections, and responsibilities of Defendants DOES 26  
8 through 50, inclusive are ascertained.

9 12. Plaintiff is informed and believes that each of the Defendants is the  
10 agent, ostensible agent, alter ego, master, servant, trustor, trustee, employer,  
11 employee, representative, franchiser, franchisee, lessor, lessee, joint venturer, parent,  
12 subsidiary, affiliate, related entity, partner, and/or associate, or such similar capacity,  
13 of each of the other Defendants, and was at all times acting and performing, or failing  
14 to act or perform, within the course and scope of such similar aforementioned  
15 capacities, and with the authorization, consent, permission or ratification of each of  
16 the other Defendants, and is personally responsible in some manner for the acts and  
17 omissions of the other Defendants in proximately causing the violations and damages  
18 complained of herein, and have participated, directed, and have ostensibly and/or  
19 directly approved or ratified each of the acts or omissions of each of the other  
20 Defendants, as herein described.

21 **IV. GOVERNMENT CLAIM**

22 *(Plaintiff is waiving claims for damages under California state law.)*

23 13. Plaintiff CONNIE ARNOLD is a person with a mobility disability and  
24 requires the use of a wheelchair for mobility. Ms. Arnold completed graduate school  
25 and has been using her graduate's degree and unique perspective to work as a  
26 disabled activist for years to persuade and encourage private and public entities to  
27 comply with their obligations under the ADA without requiring a lawsuit. However,  
28

1 after years of asking business owners and public entities to remove physical barriers  
2 and modify discriminatory policies without requiring a lawsuit (and in turn, having  
3 them ignore her), she discovered that Congress was correct in passing the ADA to  
4 provide clear, strong, and consistent standards to be enforced in federal courts.

5 14. Ms. Arnold seeks to live her life fully and model independence as part of  
6 mainstream society without being deterred by unlawful access barriers in public  
7 facilities, and therefore, she seeks to enforce her rights to readily accessible facilities  
8 at the Library and Park for the benefit of herself and others similarly disabled.

9 15. Because of her advocacy and desire to catalyze greater disabled access  
10 among public entities by focusing on comprehensive injunctive relief, Plaintiff is  
11 waiving all damages in this matter. Consequently, Plaintiff chose not to file a claim  
12 for damages against Defendants pursuant to the California Tort Claims Act, Cal.  
13 Gov't. Code § 910 *et seq.*

#### 14 **V. FACTS UPON WHICH ALL CLAIMS ARE BASED**

15 16. The Sylvan Oaks Public Library is nestled in a grove of lush, mature oak  
16 trees immediately adjacent to the Crosswoods Park, home to a variety of wildlife,  
17 including a flock of wild turkeys. The Library's website welcomes the public to visit  
18 this "scenic location," which "provides the perfect background for a busy community  
19 library," where "[p]atrons of all ages enjoy the collections and the many scheduled  
20 activities" at the Library. The Crosswoods Park includes fifteen (15) acres of  
21 recreational space, including shaded picnic areas, tennis courts, a children's play area,  
22 and a community center.

23 17. In an effort to be more social—to meet new friends and try new things—  
24 Ms. Arnold joined an online service called, "MeetUp," which is designed to  
25 encourage the formation of local community groups of persons with common  
26 interests to pursue common goals. Ms. Arnold learned that a "MeetUp" group she  
27 was interested in was meeting in the Library's Community Room, which the public is  
28

1 allowed to reserve for free to hold any public meeting. Every few months, the  
2 Library will post a list of various free events that are held at the Library, such as book  
3 clubs, seminars, and movie nights.

4 18. On or about September 13, 2011, Ms. Arnold visited the Library to  
5 attend the “MeetUp” group meeting. Plaintiff drives a modified van with a lift and  
6 has state-issued disabled persons license plates that allow her to park her van in  
7 designated accessible spaces. The Library and adjoining Park share common  
8 facilities, including, *but not limited to*, common parking areas and paths of travel.  
9 When Ms. Arnold arrived for the meeting in the Library, she parked in a designated  
10 accessible space. On information and belief, designated accessible parking spaces in  
11 the parking lot do not provide the required access and do not comply with minimum  
12 accessibility standards for accessible parking spaces.

13 19. Parking: Barriers relating to parking include, *but are not limited to*,  
14 spaces that:

- 15 • are missing signage;
- 16 • are too short;
- 17 • have excessive slopes and cross slopes;
- 18 • are not properly located, marked, or configured for disabled use; and
- 19 • do not have accessible paths of travel from the parking spaces to the entrances  
20 to the Library and Park.

21 20. Plaintiff found that it was difficult to park her van in the parking lot and  
22 use her wheelchair to reach the Park areas and Library’s entrances due to a lack of  
23 safe pedestrian paths of travel. These barriers place Plaintiff and similarly disabled  
24 persons at risk of physical injury, require her to navigate her wheelchair in parking  
25 areas around and behind vehicles.

26 21. Because Ms. Arnold was early for the “MeetUp” meeting, she decided to  
27 visit the Park to enjoy its beautiful grounds. Ms. Arnold thought about returning with  
28

1 friends on a later date, but as Ms. Arnold made her way to the Park, she encountered  
2 several areas along the walkway that had excessive slopes and cross slopes;  
3 excessively high changes in elevation; and uneven, deteriorated surfaces. She also  
4 observed that there was a lack of accessible seating in the picnic table and covered  
5 seating areas. Further, Ms. Arnold noticed that the children's play area blocked  
6 access for wheelchair users due to its surface and the raised curb that surrounded it.  
7 She also observed that the entry gates that lead into the tennis courts were too narrow  
8 for her wheelchair to go through. Ms. Arnold would like to return to the Park to meet  
9 with friends and family, but she has been deterred from returning to the Park  
10 whenever she is in the area because she is aware that barriers still exist there.

11 22. Disheartened by her experience at the Park, Ms. Arnold made her way  
12 back to the Library, where she again experienced barriers along the path of travel  
13 leading from the parking to the Library (e.g. - excessive slopes and cross slopes;  
14 excessively high changes in elevation; and uneven, deteriorated surfaces).

15 23. Before the "MeetUp" meeting, Ms. Arnold needed to use the women's  
16 public restroom in the Library. Plaintiff encountered a lot of difficulty while  
17 attempting to use the Library's restroom, including, *but not limited to*:

- 18 • an entry door that required excessive force (making it difficult to open the  
19 door); and
- 20 • insufficient strike side clearance on the pull side of the door (making it nearly  
21 impossible for Ms. Arnold to independently exit because the insufficient  
22 clearance made it difficult to reach the door handle, open the door, and back  
23 her wheelchair up far enough to clear the door. This makes it dangerous for  
24 wheelchair users because they could be trapped in the restroom if no one else is  
25 around to help them exit.).

26 24. Furthermore, although Ms. Arnold needed to use the toilet, she was  
27 unable to reach or use the toilet because her wheelchair could not fit through the tight  
28



1 stall space. On information and belief, this semi-ambulatory stall has a stall door that  
2 opens inward into a narrow space, followed by a narrow right turn passage to enter  
3 the stall. Even if Ms. Arnold could pull her wheelchair into the stall to approach the  
4 toilet, there would be no way to close the stall door behind her due to the stall's  
5 configuration. Ms. Arnold could see the toilet, but could not reach it. She observed  
6 that there was insufficient transfer space at the side of the toilet, which would make it  
7 difficult for her to transfer from her wheelchair onto the toilet and back again; and  
8 she also noticed that the toilet paper and seat cover dispensers were improperly  
9 mounted and located, which would make it difficult and/or impossible for her to  
10 reach either one. Ms. Arnold was highly distraught, stressed, and upset; and she  
11 experienced physical strain from being unable to use the Library's restroom.

12 25. On information and belief, the Library has the following barriers in the  
13 public women's restroom that should also be removed as part of this action:

- 14 • incorrect and insufficient ISA signage; and
- 15 • lavatories and dispensers that are incorrectly mounted and located.

16 26. Additionally, on information and belief, the Library has similar barriers  
17 in the public men's restroom that should be removed as part of this action rather than  
18 requiring multiple lawsuits to bring both public restrooms into compliance with  
19 federal and state accessibility standards.

20 27. Plaintiff plans to return to the Library in the future as she is interested in  
21 many of the public events held there. Most recently, in May 2012, Ms. Arnold  
22 wanted to go to the Library to attend an event entitled, "Recycle, Re-use, Re-  
23 imagine" and an "E-Reader" workshop to continue to learn about new things. She  
24 also wanted to enjoy the Library's "Donuts, Coffee, and a Classic Movie" event so  
25 she could mingle with adults from a different part of town and possibly make new  
26 friends. However, Plaintiff was deterred from visiting the Library because she knew  
27 it did not have accessible features, such as the lack of accessible restrooms.  
28

28. On information and belief, there are other access barriers that exclude and deter Plaintiff from enjoying full and equal access to and use of the same facilities, services, privileges, advantages, and accommodations offered by Defendants to the general public, including, *but not limited to*: inaccessible pedestrian paths of travel – including sidewalks, walkways, curb ramps, and curbs – from the public right of way to Defendants’ facilities; exterior bench seating available in various areas that lack space for adjacent wheelchair seating; an exterior book return counter and depository that is too high for wheelchair users to use; a lack of accessible service counters; and a lack of accessible seating throughout the Library, including, *but not limited to*, the computer stations.

29. Until the barriers at the Library and Park are removed, and the discriminatory policies modified, however, Plaintiff will continue to suffer discrimination by being excluded and deterred from returning to the Library and Park, and/or will continue to be denied full and equal access to and use of the same goods, services, facilities, privileges, advantages, and accommodations offered by Defendants to the general public if they return prior to the requested barrier removal.

30. As the result of Defendants' acts and omissions, as herein described, Plaintiff was, and will continue to be, denied full and equal access to the goods, services, facilities, privileges, advantages, or accommodations of the Library and Park, and has suffered discrimination, humiliation, pain, emotional distress, and embarrassment, all to her damage. The ongoing nature of Defendants' discrimination constitutes an ongoing violation, and unless enjoined by this Court, will result in ongoing and irreparable injury to Plaintiff and other similarly disabled persons.

## VI. NOTICE

31. Although not a prerequisite to filing a lawsuit, shortly after her experience at the “MeetUp” gathering in the Library, Ms. Arnold sent a letter by email to representatives of Sacramento County, the Library Authority, and the City of

1 Sacramento<sup>1</sup> on September 22, 2011 seeking to resolve her claims regarding the  
2 inaccessibility of the Library and Park. The letter detailed Ms. Arnold's experiences  
3 trying to access the Sylvan Oaks Library and Crosswoods Park on September 13,  
4 2011 and articulated her position that Defendants' inaccessible facilities at the  
5 Library and Park discriminated against her as an individual with disabilities. Ms.  
6 Arnold's letter invited discussion with Defendants and/or the other representatives to  
7 explore the feasibility of reaching resolution without the need for a lawsuit. Ms.  
8 Arnold never received a response to her letter, and on information and belief, all of  
9 the barriers she encountered on September 13, 2011 still exist today.

## 10 **VII. CLAIMS FOR RELIEF**

### 11 **FIRST CAUSE OF ACTION:** 12 **VIOLATION OF THE** 13 **AMERICANS WITH DISABILITIES ACT – TITLE II** 14 **42 U.S.C. § 12101 *et seq.* and § 12131 *et seq.***

15 32. Plaintiff repleads and incorporates by reference, as if fully set forth again  
16 herein, the allegations contained in Paragraphs 1 through 31 of this Complaint.

17 33. In 1990 the United States Congress found that laws were needed to more  
18 fully protect some 43 million Americans with one or more physical or mental  
19 disabilities; that “historically, society has tended to isolate and segregate individuals  
20 with disabilities;” that “such forms of discrimination against individuals with  
21 disabilities continue to be a serious and pervasive social problem;” that “the Nation’s  
22 proper goals regarding individuals with disabilities are to assure equality of  
23 opportunity, full participation, independent living and economic self-sufficiency for  
24 such individuals;” and that “the continuing existence of unfair and unnecessary  
25 discrimination and prejudice denies people with disabilities the opportunity to  
26 compete on an equal basis and to pursue those opportunities for which our free

---

27  
28 <sup>1</sup> Ms. Arnold emailed a copy of her letter to Sandy Sheedy, Chair of Sacramento Public Library Authority;  
Rivkah K. Sass, Library Director; and Don Nottoli, Supervisor of Sacramento County.

1 society is justifiably famous.” 42 U.S.C. § 12101.

2 34. Congress stated as its purpose in passing the Americans with Disabilities  
3 Act, 42 U.S.C. § 12101(b):

4 “It is the purpose of this Act:

- 5 1) to provide a clear and comprehensive national mandate for the elimination  
6 of discrimination against individuals with disabilities;  
7 2) to provide clear, strong, consistent, enforceable standards addressing  
8 discrimination against individuals with disabilities;  
9 3) to ensure that the Federal government plays a central role in enforcing the  
10 standards established in this act on behalf of individuals with disabilities;  
11 and  
12 4) to invoke the sweep of congressional authority, including the power to  
13 enforce the fourteenth amendment and to regulate commerce, in order to  
14 address the major areas of discrimination faced day-to-day by people with  
15 disabilities.”

16 35. The Library and Park, owned and operated by Defendants, have been,  
17 and continue to be, programs and/or activities of a public entity, subject to the  
18 provisions of Title II of the ADA, 42 U.S.C. § 12131 *et seq.* Under Title II, “no  
19 qualified individual with a disability shall, by reason of such disability, be excluded  
20 from participation in or be denied the benefits of the services, programs or activities  
21 of a public entity, or be subjected to discrimination by such entity.” 42 U.S.C. §  
22 12132. Defendants were and are such public entities.

23 36. On information and belief, Defendants have failed in their  
24 responsibilities under Title II to provide their services, programs and activities in a  
25 full and equal manner to disabled persons as described hereinabove, including, but  
26 not limited to:

- 1 a) Failing to ensure that all programs, services and activities offered at the  
2 Library's and Park's public facilities are readily accessible to and usable  
3 by persons with disabilities;
- 4 b) Failing to modify policies and procedures to ensure the Library and Park  
5 were designed, constructed or maintained in a manner accessible to and  
6 usable by physically disabled persons; and
- 7 c) Failing to remove architectural or programmatic barriers that Defendants  
8 have been notified are in violation of Title 24-2, § 202 of the ADA; and  
9 the following sections of 28 C.F.R. § 35.130:
- 10 i. (b)(1) A public entity, in providing any aid, benefit, or service, may  
11 not, directly or through contractual, licensing, or other arrangements,  
12 on the basis of disability –
- 13 1. (ii) Afford a qualified individual with a disability the  
14 opportunity to participate in or benefit from the aid, benefit, or  
15 service that is not equal to that afforded others;
- 16 2. (iii) Provide a qualified individual with a disability with an  
17 aid, benefit, or service that is not as effective in affording equal  
18 opportunity to obtain the same result, to gain the same benefit,  
19 or to reach the same level of achievement as that provided to  
20 others;
- 21 3. (vii) Otherwise limit a qualified individual with a disability in  
22 the enjoyment of any right, privilege, advantage, or  
23 opportunity enjoyed by others receiving the aid, benefit, or  
24 service.
- 25 ii. (b)(3) A public entity may not, directly or through contractual or  
26 other arrangements, utilize criteria or methods of administration:
- 27  
28

1. (i) That have the effect of subjecting qualified individuals with disabilities to discrimination on the basis of disability;
2. (ii) That have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the public entity's program with respect to individuals with disabilities;
- iii. (b)(7) A public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.

37. In acting as herein alleged, Defendants have discriminated against Plaintiff in violation of their obligations pursuant to Title II. As a result of such discrimination in violation of 42 U.S.C. § 12132 of the ADA, Plaintiff is entitled to the remedies, procedures and rights provided for in Title II. Plaintiff also seeks injunctive relief to require Defendants to remove the architectural and programmatic barriers to access complained of, and to provide all remedies, and statutory attorneys' fees, litigation expenses and costs, including those remedies specified by 42 U.S.C. §§ 12133 and 12205 of the ADA and by California Code of Civil Procedure § 1021.5, according to proof.

Wherefore, Plaintiff prays for judgment as set forth below.

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

38. Plaintiff repleads and incorporates by reference, as if fully set forth again herein, the allegations contained in Paragraphs 1 through 37 of this Complaint.

39. Section 504 of the Rehabilitation Act provides that "no otherwise qualified individual with a disability in the United States . . . shall, solely by reason of

1 his or her disability, be excluded from the participation in, be denied the benefits of,  
2 or be subjected to discrimination under any program or activity receiving federal  
3 financial assistance.” 29 U.S.C. § 794(a); 34 C.F.R. § 104.4(a).

4 40. Defendants are governmental agencies existing under the laws of the  
5 State of California with responsibility for operating each of their programs, services  
6 and activities in any city-owned, operated, controlled, and/or managed public  
7 facilities in a manner that is readily accessible to and usable by Plaintiff and other  
8 persons with disabilities. Plaintiff is informed and believes and therefore alleges that  
9 Defendants are recipients of Federal financial assistance and that part of that financial  
10 assistance is used to fund the operation, construction, and/or maintenance of the  
11 programs, services, and activities offered to the general public, but which are denied  
12 to Plaintiff on the basis of disability.

13 41. Defendants’ actions and/or inactions in excluding and/or denying  
14 Plaintiff the benefit of and/or participation in the programs, services and activities  
15 offered to the general public, including failing to enforce regulations for disabled  
16 access at privately-owned and operated public accommodations licensed and  
17 permitted by Defendants, have violated Plaintiff’s rights under Section 504 and the  
18 Department of Justice regulations.

19 42. By their actions and/or inactions in denying to Plaintiff her rights to have  
20 equal access to and equal benefits of the programs, activities and services offered to  
21 able-bodied persons, and by otherwise discriminating against Plaintiff solely by  
22 reason of her physical disabilities, Defendants have violated Plaintiff’s civil rights.  
23 Plaintiff seeks: 1) an injunctive relief order requiring Defendants to correct the access  
24 deficiencies and modify policies and practices to ensure that all of Defendants’  
25 programs, services and activities are readily accessible to and usable by persons with  
26 disabilities so that Plaintiff will not continue to be discriminated against and/or  
27 deterred from accessing and safely using the many public accommodations offered at  
28 the Library and Park; and 2) recovery of reasonable attorneys’ fees, litigation

1 expenses and costs.

2 43. As described herein, although Plaintiff is entitled to the remedies,  
3 procedures, and rights provided for in Section 504, including damages for  
4 discrimination, Plaintiff is waiving damages in the interest of furthering her goals of  
5 effectuating comprehensive injunctive relief.

6 44. Plaintiff has no adequate remedy at law, and unless the relief requested  
7 herein is granted, Plaintiff will continue to suffer irreparable injury by the deprivation  
8 of her rights as described herein.

9 Wherefore, Plaintiff prays the court grant relief as requested herein below.

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

12 45. Plaintiff repleads and incorporates by reference, as if fully set forth again  
13 herein, the allegations contained in Paragraphs 1 through 44 of this Complaint.

14 46. Plaintiff is informed and believes and thereupon alleges that Defendants  
15 discriminate against persons with disabilities in the operation of the programs and/or  
16 activities complained of herein, in violation of California Government Code § 11135,  
17 and that the above-cited programs and activities receive funds from the State of  
18 California.

19 47. Plaintiff is informed and believes, and therefore alleges, that the  
20 specified public facilities (the Library and Park) and the related facilities are owned,  
21 maintained or controlled by Defendants. Plaintiff is further informed and believes,  
22 and therefore alleges, that Defendants have designed, constructed, altered or repaired  
23 the Library and Park and their related facilities since 1968 within the meaning of  
24 California Government Code § 4450 *et seq.*, thereby requiring safe and independent  
25 access to persons with disabilities to all public portions of the Library and Park, and  
26 are responsible for statutory attorneys' fees, litigation expenses and costs for bringing  
27 this action, including but not limited to public interest attorneys' fees pursuant to  
28 California Code of Civil Procedure § 1021.5.



1           48. As a proximate result of Defendants' acts and omissions, Defendants  
2 have violated California Government Code § 4450 *et seq.*, as well as Title 24-2  
3 regulations enacted to carry out the intent of § 4450 *et seq.*, and have discriminated  
4 against Plaintiff on the basis of her disability.

5           49. Plaintiff has no adequate remedies at law, and unless the relief requested  
6 herein is granted, Plaintiff will continue to suffer irreparable harm as a result of the  
7 Defendants' willful and knowing failure to fulfill their obligations to operate its  
8 programs, services and activities in a readily accessible manner, and by failing to  
9 remove barriers to disabled access at the Library and Park.

10           Wherefore, Plaintiff prays the Court grant relief as requested herein.

11                                   **FOURTH CAUSE OF ACTION:**  
12                                   **CALIFORNIA DISABLED PERSONS ACT ("CDPA")**  
13                                   **Cal. Civ. Code § 54 *et seq.***

14           50. Plaintiff realleges and incorporates by reference the allegations  
15 contained in Paragraphs 1 through 49 of this Complaint as if fully set forth herein.

16           51. The Library and Park are public places and as such must comply with  
17 the provisions of the CDPA, Cal. Civ. Code § 54 *et seq.*

18           52. The CDPA provides that "[i]ndividuals with disabilities or medical  
19 conditions have the same right as the general public to the full and free use of ...  
20 public buildings ... public facilities, and other public places." Cal. Civ. Code § 54(a).  
21 The CDPA further provides that "[i]ndividuals with disabilities shall be entitled to  
22 full and equal access, as other members of the general public, to accommodations,  
23 advantages, facilities, ... places of public accommodation, amusement, or resort, and  
24 other places to which the general public is invited...." Cal. Civ. Code § 54.1(a)(1).

25           53. A violation of the ADA is a per se violation of the CDPA. Cal. Civ.  
26 Code, § 54.1(d).

27           54. Defendants have violated the CDPA by failing to provide Plaintiff full  
28 and equal access to and use of the Library and Park and their related facilities.

55. Pursuant to the remedies, procedures, and rights set forth in Cal. Civ. Code § 54.3(a).

Wherefore, Plaintiff prays for judgment as set forth below.

## VIII. PRAAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests:

1. That this Court issue an injunction pursuant to the ADA and Plaintiff's related state law claims:

a) Ordering Defendants to alter their facilities to make such facilities readily accessible to and usable by individuals with disabilities; and

b) Prohibiting operation of Defendants' public accommodations and facilities until they provide full and equal access to physically disabled persons, and requiring that such access be immediately provided.

c) Requiring Defendants to modify their policies, practices and procedures to ensure the full and equal access of their goods and services by persons with disabilities offered by Defendants at the Library and Park to the general public.

2. That this Court award attorneys' fees, litigation expenses and costs of suit, pursuant to Title II of the ADA, 42 U.S.C. § 12205; Cal. Civ. Code § 55; Cal. Health & Saf. Code § 19953; and Cal. Code of Civ. Proc. § 1021.5; and

3. Such other and further relief as the Court may deem just and proper.

Dated: August 27, 2012

**METZ & HARRISON, LLP**

By:

Mary in

---

JEFF A. HARRISON

MARY J. LIM

Attorneys for Plaintiff, CONNIE ARNOLD

1 **DEMAND FOR JURY TRIAL**

2 Plaintiff hereby demands a jury for all claims for which a jury is  
3 permitted.

4  
5 Dated: August 27, 2012

**METZ & HARRISON, LLP**

6  
7 By: *Mary J. Lim*

8 JEFF A. HARRISON

9 MARY J. LIM

10 Attorneys for Plaintiff, CONNIE ARNOLD  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28