1		
2		
3		
4		
5		
6		
7		
8	UNITED STATES DISTRICT COURT	
9	EASTERN DISTRICT OF CALIFORNIA	
10	00000	
11		
12	KNOLTS HUTCHINSON,	CIV. NO. 2:14-2398 WBS EFB
13	Plaintiff,	ORDER
14	v.	
15	CALIFORNIA DEPARTMENT OF CORRECTIONS AND	
16	REHABILITATION, WARDEN R. RACKLEY, WARDEN B. DUFFY,	
17 18	ASSOCIATE WARDEN M. KAPLAN, FACILITIES SARGEANT A. ROMERO,	
19		
20	Defendants.	
21	00000	
22	Plaintiff, a state prisoner, alleges the California	
23	Department of Corrections and Rehabilitation, Wardens Rackley and	
24	Duffy, Associate Warden Kaplan, and Facilities Sargeant Romero	
25	failed to provide him with a shower wheelchair and a trapeze bar suitable for assisting him to get into and out of bed. (<u>Id.</u> ¶¶ 17-24.) Plaintiff brought claims under Titles II and V of the	
26		
27		
28	, <u> </u>	
		1

Americans with Disabilities Act, the Rehabilitation Act, and the 1 Eighth Amendment. Plaintiff also brought claims for damages 2 3 under California's Disabled Persons Act ("CDPA") and the Unruh Civil Rights Act against the prison official defendants. 4 5 Defendants Rackley, Duffy, Kaplan, and Romero move to dismiss the 6 CDPA and Unruh claims against them pursuant to Federal Rule of 7 Civil Procedure 12(b)(6) on the basis of sovereign immunity. (See Defs.' Mot. (Docket No. 20).) 8

9 At the hearing on the motion, it became apparent that 10 the First Amended Complaint ("FAC") fails to set forth the form 11 of relief plaintiff intended to seek. Plaintiff's counsel 12 unequivocally clarified that, although plaintiff did not state it 13 in the FAC, what he seeks is preliminary and permanent injunctive 14 relief ordering officials to provide him with a suitable shower 15 wheelchair and trapeze bar. The court will accordingly permit 16 plaintiff to file a Second Amended Complaint to request the 17 relief that plaintiff actually wants granted.

18 IT IS THEREFORE ORDERED that defendant's motion to 19 dismiss be, and the same hereby is, GRANTED.

20 Plaintiff shall have twenty days from the date this 21 order is signed to file an amended complaint in a manner 22 consistent with this Order.

23 Dated: March 24, 2015

24

25

26

27

28

1 Shibt WILLIAM B. SHUBB

UNITED STATES DISTRICT JUDGE

2