

1 Americans with Disabilities Act, the Rehabilitation Act, and the
2 Eighth Amendment. Plaintiff also brought claims for damages
3 under California's Disabled Persons Act ("CDPA") and the Unruh
4 Civil Rights Act against the prison official defendants.
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.
8 (See Defs.' Mot. (Docket No. 20).)

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 **WILLIAM B. SHUBB**
26 **UNITED STATES DISTRICT JUDGE**