The following is a tentative order, which has been issued solely to prepare counsel for oral argument. The tentative order does not constitute an opinion of the Court and should not be published or cited for any purpose.

In this action for claims arising under the California Fair Employment and Housing Act ("FEHA") and the Americans with Disabilities Act ("ADA"), Defendants move to dismiss for failure to state a claim pursuant to Federal Rule of Civil Procedure 12(b)(6), and lack of subject matter jurisdiction pursuant to Federal Rule of Civil Procedure 12(b)(1). The matter came for hearing on April 24, 2014.

I. BACKGROUND

A. The Parties and Claims

Plaintiff Phyllis W. Cheng, Director of the California Department of Fair Employment and Housing, is the head of the state agency charged with enforcing California's Fair Employment & Housing Act ("FEHA"), California Government Code section 12900 *et seq*. Plaintiff brings this action on behalf of Cristina Verduzco, Angelina Gonzalez-Diaz, and all other similarly situated individuals ("Complainants") against Defendants WinCo Foods, LLC, and WinCo Holdings, Inc. ("WinCo"), alleging violations of the FEHA and the federal Americans with Disabilities Act ("ADA"). Complaint for Injunctive and Declaratory Relief and Damages ("Compl."), ECF No. 1.

B. Factual and Procedural Background

Complainants are former employees of WinCo Foods who allege they were required to take unpaid leave after becoming pregnant because WinCo determined that they could no longer safely perform the full range of their job duties. Compl. ¶¶ 43-65. Plaintiff alleges that Defendants failed to accommodate Complainants, or discuss possible alternative working arrangements with them. Id. ¶¶ 46, 60. Plaintiff alleges that this practice of requiring a leave-of-absence without any alternative accommodation is part of a company-wide policy, and that DFEH investigations revealed that numerous other employees have suffered from similar discriminatory practices. Id. ¶¶ 13, 33.

Complainants filed timely complaints with the DFEH alleging that WinCo committed

unlawful employment practices against them in violation of the FEHA. Id. ¶ 6, 9. They subsequently amended their complaints to allege claims on behalf of themselves and all others similarly aggrieved. Id.

DFEH investigated complaints pursuant to California Government Code Section 12963. Id. ¶ 13. On January 24, 2014, DFEH received a Notice of Right to Sue from the Equal Employment Opportunity Commission ("EEOC"). Id. ¶ 14. On January 31, 2014, Plaintiff filed this action alleging violations California law pursuant to the FEHA, and federal law pursuant to the ADA. Plaintiff asserts that this court has subject matter jurisdiction over the ADA claims pursuant to 28 U.S.C. 1331, and has the authority to exercise supplemental jurisdiction over related state law claims pursuant to 28 U.S.C. 1367. Id. ¶¶ 2-3.

Under Rules 12(b)(1) and 12(b)(6), Defendants move to dismiss Plaintiff's ADA claims on the grounds that the DFEH's enabling statute, the California Fair Employment and Housing Act ("FEHA"), does not confer authority to DFEH to sue under Title I of the ADA. Defendants' Motion to Dismiss ("MTD"), ECF No. 10 at 7. Defendants further move to dismiss on the grounds that even if the Court were to find that the FEHA grants the Department the authority to bring an ADA claim, the Department lacks standing to do so. Id. at 10-11. Defendants contend that once the ADA claims are dismissed the Court should dismiss the remaining state-law claims for lack of jurisdiction. Id. at 15.

C. Legal Standard

A motion to dismiss under Federal Rule of Civil Procedure 12(b)(1) tests the subject matter jurisdiction of the Court. When subject matter jurisdiction is challenged, "the party seeking to invoke the court's jurisdiction bears the burden of establishing that jurisdiction exists." Scott v. Breeland, 792 F.2d 925, 927 (9th Cir. 1986); see also Kokkonen v. Guardian Life Ins. Co. of Am., 511 U.S. 375, 377 (1994). "Article III's case-or-controversy requirement . . . provides a fundamental limitation on a federal court's authority to exercise jurisdiction . . . [and] 'the core component of standing is an essential and unchanging part of the case-or-controversy requirement of Article III.'" Nuclear Info. & Res. Serv. v. Nuclear Regulatory Comm'n, 457 F.3d 941, 949 (9th Cir. 2006) (quoting Lujan v. Defenders of Wildlife, 504 U.S. 555, 560 (1992)).

To establish Article III standing in a direct suit plaintiffs must satisfy three elements: (1) "injury in fact – an invasion of a legally protected interest which is (a) concrete and particularized and (b) actual or imminent, not conjectural or hypothetical"; (2) causation – "there must be a causal connection between the injury and the conduct complained of – the injury has to be fairly traceable to the challenged action of the defendant, and not the result of the independent action of some third party not before the court; and (3) redressability – "it must be likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision." Lujan, 504 U.S. at 560–61 (internal quotation marks and citations omitted).

To assert standing in a *parens patriae* suit, a state may not merely "represent the interest of particular citizens," but "must assert an injury to what has been characterized as a "quasi-sovereign interest." Alfred L. Snapp & Son, Inc. v. Puerto Rico, ex rel., Barez ("Snapp"), 458 U.S. 592, 601 (1982). Acknowledging that quasi-sovereign interests defy "formal definition," the Supreme Court has divided them into two general categories. Id. At 607. "First, a State has a quasi-sovereign interest in the health and well-being – both physical and economic – of its residents in general. Second, a state has a quasi-sovereign interest in not being discriminatorily denied its rightful interest within the federal system." Id.

II. ANALYSIS

A. DFEH's Statutory Authority

"[A]dministrative agencies have only those powers that the Constitution or statutes have conferred on them." Am. Fed'n of Labor v. Unemployment Ins. Appeals Bd., 13 Cal. 4th 1017, 1037 (1996); see Dyna-Med, Inc. v. Fair Employment & Housing Com., 43 Cal. 3d 1379, 1385 (1987). Accordingly, to determine the scope of an agency's authority, courts consult the enabling statute. See Dyna-Med, 43 Cal. 3d at 1385. If a court finds that an administrative action has "alter[ed] or amend[ed] the statute or enlarge[ed] or impair[ed] its scope it must be declared void." Association for Retarded Citizens v. Department of Developmental Services, 38 Cal. 3d 384, 391 (1985) (internal quotation marks and citations omitted).

The DFEH is a California administrative agency responsible for enforcing certain California civil rights laws. It derives its authority over employment claims from FEHA. Cal.

Gov. Code § 12900 *et seq*. Under this statute, the Department is granted authority to "prosecute complaints alleging practices *made unlawful pursuant to Chapter 6* (commencing with Section 12940)" and to "bring civil actions *pursuant to Section 12965 or 12981* and to prosecute those civil actions." Cal. Gov. Code § 12930(f), (h) (emphases added).[3]

The foregoing statutes state the full range of prosecutorial powers expressly granted the DFEH in the portion of FEHA dealing with employment discrimination. See Cal. Gov. Code 12930 (f), (h). Courts presume that provisions not listed in a statute are excluded from that statute absent evidence of contrary legislative intent. See Longview Fibre Co. v. Rasmussen, 980 F. 2d 1307, 1312-13 (9th Cir. 1992) (applying the principle of *expressio unius* to construe a specific statutory provision as excluding unenumerated alternatives or additions). Because the legislature expressly empowered the DFEH to pursue employment discrimination lawsuits under certain specific California staututes, and did not authorize DFEH to pursue suits under the federal ADA, it appears from the statute that the DFEH does not have this power.

The only cited case suggesting that DFEH might be authorized to prosecute ADA claims is Dep't of Fair Employment & Hous. v. Law Sch. Admission Council, Inc., 941 F. Supp. 2d 1159, 1167-71 (N.D. Cal. 2013) ("LSAC"). But in LSAC, the ADA requirements DFEH sought to enforce were incorporated within FEHA. See id. at 1161 ("[b]y virtue of its incorporation into the Unruh Act, a violation of the ADA also constitutes a violation of the Unruh Act"); see also id. at 1167 ("[t]he Unruh Civil Rights Act[]" [is] incorporated into FEHA via Cal. Gov't.Code § 12948"). DFEH's statutory authority to enforce the ADA was not at issue in LSAC, but to the extent the court implicitly recognized that authority, it was the authority to enforce "the provisions of FEHA, the Unruh Act, and, *by extension*, the ADA." Id. at 1166 (emphasis added). LSAC provides no support for the idea that the DFEH has statutory authority to enforce ADA requirements not incorporated within FEHA.

Plaintiff contends that DFEH does have such authority, arguing that two other provisions of the California Government Code grant DFEH the authority to prosecute ADA claims. The

[3] All statutory citations hereinafter refer to the California Government Code unless otherwise stated.

Court addresses each of these arguments in turn.

1. Section 11180

Plaintiff contends that DFEH has an implied power to bring ADA claims pursuant to California Government Code Section 11180, which is incorporated into the FEHA through Section 12902.[4] Plaintiff's Opposition to Defendant's Motion to Dismiss ("Opp."), ECF No. 26 at 6. Section 11180 provides in pertinent part that "[t]he head of each department may . . . prosecute actions concerning . . . [a]ll matters relating to the business activities and subjects under the jurisdiction of the department." Cal. Gov. Code § 11180(a). Plaintiff argues that enforcement of "[e]mployment discrimination under the ADA is a 'business activity or subject' of DFEH" because "DFEH processes and investigates complaints of employment discrimination under the ADA" through its worksharing agreement with the EEOC. Opp. at 1. Thus, Plaintiff asserts, the Department is authorized to prosecute ADA claims in federal court pursuant to Section 11180(a). Opp. at 6.

In further support of this contention, Plaintiff observes that DFEH's mission – the protection of citizens from employment discrimination – is aligned with the goals embodied by the ADA. Id. at 6-9. She notes that the DFEH is charged with "the protection of the welfare, health, and peace of the people" of California; that since 1959 it "has been actively investigating, prosecuting and conciliating complaints of discrimination;" that "California's public policy against discrimination on the basis of disability is "substantial and fundamental;" and, finally, that "the DFEH is a public prosecutor testing a public right." Opp. at 6-7 (internal citations and quotation marks omitted). It concludes that "[d]iscrimination against employees in violation of the ADA is therefore a matter related to the 'business activities and subjects' under DFEH's jurisdiction." Opp. at 8.

Defendants fail to directly engage Plaintiff's point. Instead, they argue that Section 11180

[4] Section 11180 was incorporated into FEHA when FEHA was first enacted in 1980. Stats. 1980, c. 992, § 4. Section 11180 is a "catch-all" provision in the Government Code, which authorizes the heads of government agencies to investigate and prosecute actions that fall within the purview of their departments. It has been a part of the California Government code since 1945. Stats. 1945, c. 111, p. 439, § 3.

only "authorizes the head of each State department to investigate and prosecute actions concerning 'business activities and subjects *under the jurisdiction* of the department," and that the ADA, a federal law, is not under DFEH's jurisdiction. Defendants' Reply ("Reply") at 4. But this selective quotation changes the meaning of Section 11180 by omitting crucial words. Section 11180 reads "[t]he head of each department may . . . prosecute actions concerning . . . *[a]ll matters relating to* the business activities and subjects under the jurisdiction of the department." Cal. Gov. Code § 11180(a). The phrase, "[a]ll matters relating to…" suggests that Section 11180 extends the prosecutorial power of DFEH beyond the "business activities and subjects under the jurisdiction of the department" to reach other related matters.

Section 11180(a), however, gives no further guidance as to exactly what matters the DFEH's prosecutorial power extends to, or in what way they must be related to powers under the Department's jurisdiction. Plaintiff provides no examples of DFEH ever before invoking Section 11180 to extend its authority to sue beyond the express authorization contained in its enabling statute.

In fact, Plaintiff cites only one case discussing Section 11180's reach. Opp. at 6 (citing People ex. Rel. Department of Conservation v. El Dorado County ("El Dorado"), 36 Cal. 4th 971, 987 (2005)). But this case sheds little light on the present controversy. In El Dorado, the Legislature expressly "assigned . . . [the Department of Conservation] various responsibilities under" the Surface Mining and Reclamation Act of 1975 ("SMARA"), including the duty to review reclamation plans and financial assurances regarding mining plans. Id. at 981, 989-92; see Cal. Pub. Res. Code § 2774(c). The California Supreme Court held that the Department of Conservation had standing to pursue an administrative writ of mandate (under *state* law) to ensure that local officials issuing mining permits complied with SMARA as well as with the California Environmental Quality Act. To the extent Section 11180 was at issue in El Dorado,[5] it merely

[5] It is not altogether clear that Section 11180 was even directly at issue in El Dorado, since the California Supreme Court said it was "eschew[ing] exclusive reliance on Government Code section 11180 in concluding the Director had standing to bring the actions at issue here." 36 Cal.4th at 987. See also id. at 988 ("correctly understood, the Director's standing to prosecute this petition for a writ of mandate derives from his 'beneficial interest' (Code Civ. Proc., § 1086) –

provided the agency with the authority to bring suit to ensure compliance with the specific statute the agency administered.

This same analysis does not apply to the present case. Here, DFEH claims authorization to sue under a power outside of its express statutory grant, and outside of California law. Unlike El Dorado, the agency here is not charged with administering or ensuring compliance with the law under which it is suing. It strains credibility to maintain that the DFEH must have authority to bring ADA claims to fulfill its statutory responsibilites under FEHA. See *infra*, at III-B-1.

Moreover, Plaintiff's broad interpretation of Section 11180 seems implausible given the statutory history, and in light of the more limited grant of authority granted to the agency under Cal. Gov. Code § 12930(f) & (h). Section 11180 was enacted in 1945. Stats. 1945, c. 111, p. 439, § 3. It was incorporated into FEHA in 1980, at the same time that the Legislature gave DFEH specific authority to bring suit under specific FEHA provisions. Stats.1980, c. 992, § 4.[6] If Section 11180 gave DFEH authority to sue under any federal or state statute that related to its activities, there would be no need to add a provision giving DFEH a specific, more limited authority to prosecute and sue under certain specific FEHA provisions. Plaintiff's reading of Section 11190 would render Cal. Gov. Code § 12930(f) and (h) redundant and unnecessary.

Finally, the language of Chapter 2 of the California Government Code cuts against Plaintiff's interpretation of Section 11180 as conferring upon state agencies the power to enforce federal laws that the agencies' organic acts do not give them the authority to enforce. Section 11180 is within Chapter 2 of Division 3, Part 1, the entirety of which is incorporated into DFEH's

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under SMARA and, generally, as a state officer charged with serving the public interest – in the adequacy of approved reclamation plans and financial assurances"). Whether the Department of Conservation's standing in that case stemmed from Section 11180 or some other authority to ensure that its statutorily assigned responsibilities were carried out under state law, El Dorado only goes so far as holding that a state agency may bring suit under state law when necessary to ensure compliance with the state statute it is charged with administering.

[6] It is not clear whether Plaintiff maintains that Section 11180 *always* granted DFEH this authority, or whether she maintains that it gives DFEH authority by virtue of its incorporation within FEHA. If she contends the former, it would seem redundant to give to DFEH a specific authority in Section 12930(f) & (h) that it (or its predecessor agency, the Division of Fair Employment Practices) had already possessed since 1945.

enabling statute through Section 12902. Chapter 2 deals expressly with the administration of California laws by administrative agencies. It does not purport to expand substantive rights, or create new legal categories for prosecution and investigation. The first section of Chapter 2 reads "[i]t is the policy of this State to vest in the Governor the civil administration of *the laws of the State*" and "to divide the executive and administrative work into departments as provided by law." Cal. Gov. Code § 11150 (italics added). Nothing in the Chapter's provisions suggests that the Governor or his or her agencies have additional power to pursue claims arising under federal law.

Plaintiff cites no case law that supports her interpretation of Section 11180, and the Court finds none. Accordingly, Plaintiff has no authority to bring an ADA claim under Section 11180.

2. Section 12930(h)

Plaintiff next contends that DFEH is authorized to bring federal claims under Section 12930(h), because that section states that DFEH may bring "civil actions before state or federal trial courts." Opp. at 8; Cal. Gov. Code 12930(h). However, this provision does not grant DFEH the authority to bring federal claims, but rather the power to file civil claims in federal court. Section 12930 deals with venue and there is no intimation that it expands the agency's power to bring federal *claims*.

Moreover, Section 12930(h) grants DFEH power to sue under Section 12965 and 12981, neither of which incorporate the ADA. Rather, Section 12965 permits DFEH to "bring a civil action in the name of the department . . . to eliminate an unlawful practice *under this part*," which governs "the procedure for the prevention and elimination of practices made unlawful pursuant to Article 1 (commencing with Section 12940) of Chapter 6" of the California Government Code. Cal. Gov. Code § 12965; Cal. Gov. Code 12960. Section 12981 likewise governs claims brought pursuant to California law. Cal. Gov. Code 12981. Thus, by the plain terms of Section 12930(h) it does not apply to the ADA.

B. Extra-Statutory Authority

Plaintiff asserts three additional grounds under which she contends give the DFEH authority to bring ADA claims. The Court addresses each in turn.

1. Common-law Authority

Plaintiff contends that in the event the court finds it has no statutorily granted power to enforce the ADA, it can nevertheless bring an ADA claim because "California law grants administrative agencies 'additional powers as are necessary for the due and efficient administration of powers expressly granted by statute, or as may fairly be implied from the statute granting the power.'" Opp. at 11 (quoting Dickey v. Raisin Proration Zone No. 1, 24 Cal.2d 796, 811 (1944)). Plaintiff argues that "[e]nforcing the ADA in federal court . . . is necessary for the efficient administration of the powers granted DFEH because it upholds California's public policy against discrimination on the basis of disability."

This argument is not only circular, but fails to explain why recourse to the ADA is necessary in light of DFEH's authority to enforce the FEHA, which operates independently of the ADA and provides broader protection for Complainants. See Cal. Gov. Code § 12926.1(a) ("The law of this state in the area of disabilities provides protections independent from those provided in the federal [ADA]" and "[a]lthough the federal act provides a floor of protection, this state's law has always . . . afforded additional protections."). This additional avenue of enforcement is not necessary, and, as discussed *supra*, it cannot be "fairly implied from the statute granting [the DFEH] power." Dickey, 24 Cal.2d at 810.

2. California Code of Regulations title 2, Section 10000

Plaintiff next contends that 2 C.C.R. § 10000 provides DFEH with authority to enforce the ADA.

Section 10000 reads, in its entirety:

> These regulations interpret, implement, and supplement the procedures of the Department of Fair Employment and Housing (department) set forth in Article 1 of Chapter 7 (Gov. Code, § 12960 et seq.) (applicable to employment discrimination, Unruh Civil Rights Act (Civ. Code, § 51 et seq.), Ralph Civil Rights Act (Civ. Code, § 51.7), and Disabled Persons Act (Civ. Code, § 54 et seq.) complaints filed with the department) and Article 2 of Chapter 7 (Gov. Code, § 12980 et seq.) (applicable to housing discrimination complaints filed with the department) of the Fair Employment and Housing Act (FEHA) (Gov. Code, § 12900 et seq.). These regulations and provisions of the FEHA shall govern the department's practice and procedure with respect to the filing,

> investigation and conciliation of complaints alleging practices made unlawful by any law the department enforces.

Cal. Code Regs. tit. 2, § 10000

Nowhere in this regulation is federal law mentioned, and its absence is conspicuous. However, Plaintiff argues that by including the phrase "*any law* the department enforces . . . the DFEH recognized that" the laws referred to by name in Section 10000 "were not the only laws DFEH had the power to enforce." Opp. at 12.

This is not the most compelling reading of the regulatory language. It seems equally likely that the drafter used the words "any law the department enforces" without referring to the previously enumerated statutes – perhaps simply to avoid redundantly listing all the relevant statutes by name, or to ensure that the category would consider any later-added provisions. Even putting this aside, Plaintiff's argument is fairly attenuated, because nothing in the language of Cal. Regs. Section 10000 suggests that the DFEH has authority to bring ADA claims. To the extent she contends that the additional legislative power hinted at by CCR Section 10000 is contained in Section 11180, the Court has already considered and disposed of that argument *supra*. Plaintiff points to no other statutory authority upon which the Court can conclude that DFEH has jurisdiction over ADA claims. DFEH's regulations do not expand its power to include the enforcement of ADA claims.

As discussed above, administrative agencies derive their power from their enabling statutes. See American Federation of Labor, 13 Cal. 4th at 1022-23. An agency cannot expand the scope of its powers independent of a legislative grant of authority. See Assoc. for Retarded Citizens, 38 Cal. 3d at 391; see also Kerr's Catering Service v. Department of Industrial Relations, 57 Cal. 2d 319, 329-330 (1962) ("[A]n administrative agency may not, under the guise of its rule-making power . . . enlarge its authority or act beyond the powers given it by the statute which is the source of its powers."). Accordingly, the DFEH, an administrative agency, cannot expand its authority through its own internal regulations.[7]

[7] The Court would ordinarily grant some deference to the agency's interpretation of the statute it administers, but the Court does not understand the agency to have formally adopted any regulations that specifically address the scope of the agency's authority to bring civil actions under

3. DFEH/EEOC Worksharing Agreement

The DFEH and the EEOC have a worksharing agreement, "which is designed to provide individuals with an efficient procedure for obtaining redress for their grievances under appropriate State and Federal laws." Worksharing Agreement Between California Department of Fair Employment and Housing and Equal Employment Opportunity Commission for Fiscal Year 2013 ("Worksharing Agreement"), Declaration of Julia L. Montgomery, Ex. 3, ECF No. 26-1. The agreement states that "the EEOC and the FEPA[8] each designate the other as its agent for the purpose of receiving and drafting charges, including those that are not jurisdictional with the agency that initially receives the charges." Id. II. A. It then states that the DFEH "shall take all charges alleging a violation . . . of the ADA where both the FEPA and the EEOC have mutual jurisdiction." Id. II. B. Finally, the agreement provides that work will be divided "[i]n recognition of the statutory authority granted to the FEPA by Title I of the Americans with Disabilities Act." Id. III.

Plaintiff argues that this Worksharing Agreement confirms DFEH's jurisdiction over Title I ADA complaints. Opp. at 9. However, as already noted, the only route through which an administrative agency can be granted enforcement powers is statutory authorization from the legislative body that created the agency. A worksharing agreement between a federal and state agency is not a legislative act, and accordingly fails to meet this threshold requirement.

Additionally, whatever the agreement might suggest about DFEH's potential authority under federal law, the worksharing agreement does not state that the DFEH has authority under state law to bring civil actions under the ADA or any other federal law. Absent precedent of such a practice or express authorization, the Court does not interpret this non-binding agreement as suggesting the DFEH has such authority.

C. *Parens Patriae* Standing

Plaintiff seeks to assert *parens patriae* standing to bring her ADA claims. Compl. ¶ 4.

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federal law. 2 C.C.R. § 10000 cannot be fairly be read as having done so.

[8] The Worksharing agreement refers to the DFEH throughout as FEPA, or "Fair Employment Practices Agency."

To establish *parens patriae* standing, the state "must articulate an interest apart from the interests of particular private parties." Alfred L. Snapp & Son, Inc. v. Puerto Rico, ex rel., Barez, 458 U.S. 592, 607 (1982). That is, a state must have some additional interest "in the well-being of its populace" that goes beyond the interest of the aggrieved party. Id. at 601-602. Where a state "pursue[s] the interests of a private party . . . for the sake of" the private party alone, *parens patriae* standing is inappropriate. Id. at 602.

The Snapp court described the State's requisite separate stake in the suit as "a 'quasi-sovereign' interest" such that there exists "an actual controversy between the State and the defendant." Id. at 607. Emphasizing that "the articulation of such interests is a matter for case-by-case development," and cannot be fully captured by "an exhaustive formal definition," the Supreme Court nevertheless divided quasi-sovereign interests into two general categories. Id. at 607. These include a state's "interest in the health and well-being – both physical and economic – of its residents in general," and a state's interest "in not being discriminatorily denied its rightful status within the federal system." Id. at 607.

But in all of the cited *parens patriae* cases, it was undisputed (or at least not at issue) that the *state itself*, or some entity explicitly charged by the state's laws to enforce the invoked interest, was party to the case. See id. (noting that there must be "an actual controversy between *the State* and the defendant," and that "*[t]he State* must express a quasi-sovereign interest"); see also Washington v. Chimei Innolux Corp., 659 F. 3d 842, 847 (9th Cir. 2011) ("The doctrine of *parens patriae* allows *a sovereign* to bring suit on behalf of its citizens") (emphasis added). An administrative agency only represents the State's interests insofar as it has been granted the power to do so. See American Federation of Labor, 13 Cal. 4th at 1017 (1996).

As discussed above, the State of California has not given the DFEH authority to bring the present action. Accordingly, DFEH is not "the State" for the purpose of asserting standing in this action, and cannot bring an ADA claim in the name of the State. The Court need not, and does not, decide whether the State of California itself, or a state agency explicitly authorized to bring ADA claims, would have *parens patriae* standing to invoke this Court's jurisdiction.

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IV. CONCLUSION

The Court will dismiss all ADA claims for lack of standing. When "a case properly belongs in state court, as when the federal-law claims have dropped out of the lawsuit in its early stages and only state-law claims remain, the federal court should decline the exercise of jurisdiction by dismissing the case without prejudice." Carnegie-Mellon University v. Cohill, 484 U.S. 343, 350 (1988) (citation omitted). Accordingly, without reaching their merits, the Court dismisses remaining state law claims without prejudice.

Plaintiff has leave to file an amended complaint to add new factual allegations (not new legal argument) to demonstratate that the DFEH has standing and statutory authority to prosecute actions under the ADA. Plaintiff is ordered to file any such amended complaint not more than 21 days from the date of this order, and to specifically identify in a separate notice the specific factual allegations she has made to overcome the deficiencies identified in this order. Any failure to comply with this order will result in dismissal with prejudice.