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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

CALIFORNIANS FOR DISABILITY RIGHTS,
INC. (“CDR”), CALIFORNIA COUNCIL OF
THE BLIND (“CCB”), BEN ROCKWELL and
DMITRI BELSER, on behalf of themselves, and
on behalf of all others similarly situated,

Plaintiffs,

v.

CALIFORNIA DEPARTMENT OF
TRANSPORTATION (“Caltrans”) and WILL
KEMPTON, in his official capacity.

Defendants.

Case No.: C06-5125 SBA

**~~[PROPOSED]~~ ORDER RE:
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Judge: Hon. Sandra Brown Armstrong

Date Action Filed: August 23, 2006

1 WHEREAS, trial of the above-captioned case began before this Court on September 16,
2 2009;

3 WHEREAS, the Parties have advised the Court that they have settled the Litigation, the
4 terms of which have been memorialized in a Settlement Agreement;

5 WHEREAS, this Court has reviewed and considered the Settlement Agreement entered into
6 among the Parties in this Litigation, together with all exhibits thereto, the record in this case, and
7 the arguments of counsel;

8 NOW THEREFORE, for good cause appearing, it is hereby ordered as follows:

9 1. All capitalized terms and definitions used herein have the same meanings as set forth
10 in the Settlement Agreement.

11 2. The proposed settlement set forth in the Settlement Agreement is hereby
12 preliminarily approved as being within the range of reasonableness such that notice thereof should
13 be given to Plaintiff Settlement Class Members.

14 3. The contents of the class notice, which are attached to the Settlement Agreement as
15 **Exhibit 8**, are hereby approved as to form.

16 4. The proposed Plaintiff Settlement Class is hereby conditionally certified subject to
17 Final Approval of the Settlement Agreement.

18 5. The Parties are hereby authorized to issue the class notice as follows:

19 Within 30 days after Preliminary Approval, the Parties shall distribute notice of the proposed
20 Settlement Agreement advising the Plaintiff Settlement Class of the terms of the proposed Settlement
21 Agreement and their right to object to the proposed Settlement Agreement. This notice shall be
22 published as follows:

23 (a) Defendants shall pay for publication in newspapers of a notice of class
24 settlement. This notice will include: A brief statement of the claims released by the class; the date of
25 the hearing on the final approval of the class settlement; the deadline for submitting objections to the
26 settlement; the web page, address, and phone and fax numbers that may be used to obtain a copy of the
27 NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION LAWSUIT (attached as **Exhibit 8** to
28 the Parties' Settlement Agreement) in the format and language requested. Publication in these

1 newspapers will be every other day for a period of thirty (30) days, no larger than one eighth page, in
2 the legal notice section of the following papers of general circulation: The Los Angeles Times, The San
3 Diego Union Tribune, The San Francisco Chronicle, The Sacramento Bee, The Riverside Press, and
4 The Oakland Tribune. The notice published in the newspapers will contain a statement in Spanish of
5 the web page, e-mail address, and phone numbers that may be used to obtain a copy of the NOTICE OF
6 PROPOSED SETTLEMENT OF CLASS ACTION LAWSUIT in English, Spanish and alternative
7 accessible formats.

8 (b) Plaintiffs' Attorneys and Defendants' attorneys shall provide the NOTICE OF
9 PROPOSED SETTLEMENT OF CLASS ACTION LAWSUIT in the manner, format and language
10 requested by any class member, advocacy group, government, or their counsel. Copies of the NOTICE
11 OF PROPOSED SETTLEMENT OF CLASS ACTION LAWSUIT shall be provided without charge
12 for copying or mailing.

13 (c) Defendants shall establish a web site where a copy of the NOTICE OF
14 PROPOSED SETTLEMENT OF CLASS ACTION LAWSUIT will be available in English and
15 Spanish, and in a format that can be recognized and read by software commonly used by the individuals
16 with visual impairments to read web pages. Defendants shall post on the Caltrans website a link to the
17 web site where a copy of the NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION
18 LAWSUIT will be available.

19 (d) A copy of the NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION
20 LAWSUIT shall be mailed to the U.S. Attorney General, the U.S. Department of Justice, Civil Rights
21 Division, and the Attorney General for the State of California with a request to each office that they
22 consider publishing a description of the settlement in their newsletters and web pages.

23 (e) Plaintiffs' Attorneys shall post NOTICE OF PROPOSED SETTLEMENT OF
24 CLASS ACTION LAWSUIT on the website of Disability Rights Advocates and shall make good faith
25 efforts to distribute it through disability-related listservs and other internet postings.

26 (f) Counsel for the Parties shall send by first class mail the NOTICE OF
27 PROPOSED SETTLEMENT OF CLASS ACTION LAWSUIT to the last known address for each
28 member of the proposed Plaintiff Settlement Class whose declaration Counsel submitted in this action.

1 6. The Court finds that the forms of notice to Plaintiff Settlement Class Members
2 regarding the pendency of the Litigation and of this settlement, including the methods of
3 dissemination to the proposed Plaintiff Settlement Class Members in accordance with the terms of
4 this order, constitute the best notice practicable under the circumstances.

5 7. Any Plaintiff Settlement Class Member may enter an appearance in the Litigation
6 and/or may seek to intervene in the Litigation, individually or through the counsel of their choice at
7 his or her expense. Plaintiff Settlement Class Members who do not enter an appearance will be
8 represented by Class Counsel.

9 8. Objections by any Plaintiff Settlement Class Member to: (a) the proposed settlement
10 contained in the Settlement Agreement and described in the class notice; (b) the payment of fees
11 and reimbursement of expenses to Plaintiffs' Counsel up to the negotiated maximum amounts set
12 forth in the Settlement Agreement; and/or (c) entry of the Judgment shall be heard, and any papers
13 submitted in support of said objection shall be considered by the Court at the Fairness Hearing only
14 if, on or before March 30, 2010, such objector files with the Clerk of the United States District
15 Court for the Northern District of California: (1) a notice of his, her or its objection and a statement
16 of the basis for such objection; (2) if applicable, a statement of his, her or its intention to appear at
17 the Fairness Hearing. Copies of the foregoing must also be mailed or delivered to counsel for the
18 Parties identified in the class notice. In order to be considered for hearing, all objections must be
19 submitted to the Court and actually received by the counsel identified in the class notice on or
20 before March 30, 2010. A Plaintiff Settlement Class Member need not appear at the Settlement
21 Hearing in order for his, her or its objection to be considered.

22 9. No later than fourteen days before the Fairness Hearing, the Parties shall file all
23 papers in support of the Application for Final Approval of the Settlement and/or any papers in
24 response to any valid and timely objection with the Court, and shall serve copies of such papers
25 upon each other and upon any objector who has complied with the provisions of Paragraph 8 of this
26 Order.

27 10. A hearing (the "Fairness Hearing") shall be held by the Court on April 27, 2010 at
28 1:00 p.m., in United States District Court for the Northern District of California, 1301 Clay street,


1 Oakland, California 94612-5212, to consider and determine whether the proposed settlement of the
2 Litigation on the terms set forth in the Settlement Agreement should be approved as fair, just,
3 reasonable, adequate and in the best interests of the Plaintiff Settlement Class; whether Plaintiffs'
4 Counsels' attorneys' fees and reimbursement of expenses should be approved; and whether the
5 Order approving the settlement and dismissing the Litigation on the merits and with prejudice
6 against the Plaintiffs and all Settlement Plaintiff Class Members, subject to the Court retaining
7 jurisdiction to administer and enforce the Settlement Agreement, should be entered.

8 11. The Fairness Hearing may, from time to time and without further notice to the
9 Plaintiff Settlement Class Members (except those who have filed timely and valid objections or
10 entered an appearance), be continued or adjourned by order of the Court.

11 12. Reasonable costs incurred in identifying and notifying Plaintiff Settlement Class
12 Members shall be paid by Defendants. In the event that the Settlement Agreement is not approved
13 by the Court, or otherwise fails to become effective, neither the Plaintiffs nor any of Plaintiffs'
14 Counsel shall have any obligation to repay the amounts actually and properly disbursed to
15 accomplish such notice and administration.

16
17 **IT IS SO ORDERED.**

18
19 DATED: 1/25/10


HONORABLE SAUNDRA BROWN ARMSTRONG
UNITED STATES DISTRICT JUDGE