

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION**

**RICARDO HARRIS, *et al.*,**

Plaintiffs, v.

**GEORGIA DEPARTMENT OF  
CORRECTIONS, *et al.*,**

Defendants.

Civil Action No. 5:18-cv-365-TES

**CLASS ACTION**

**PLAINTIFFS' MOTION FOR CLASS  
CERTIFICATION**

**PLAINTIFFS' MOTION FOR CLASS CERTIFICATION**

Plaintiffs Ricardo Harris, Tommy Green, Leroy Henderson, Tony Moore, Jr., Christopher Shields, Andrew Smith, Darrell Smith, Jr., and Jorae Smith, by and through their attorneys, bring this Motion for Class Certification pursuant to Federal Rule of Civil Procedure 23. Defendants Georgia Department of Corrections (“GDC”) and GDC officers deny Plaintiffs and other deaf and hard of hearing incarcerated people the modifications and auxiliary aids and services they require to communicate effectively and to participate in GDC programs, services, and activities, in violation of the Americans with Disabilities Act (“ADA”), Section 504 of the Rehabilitation Act (“Section 504”), and the Eighth and Fourteenth Amendments of the Constitution of the United States. While in GDC custody, some Plaintiffs are also subject to decision-making authority of Defendant Georgia Board of Pardons and Paroles (“GBOP”), which has the authority to grant parole and reprieve to certain incarcerated people. GBOP maintains policies that fail to make reasonable modifications or provide auxiliary aids and services to ensure effective communication with Plaintiffs and other deaf and hard of hearing people subject to its control, in violation of the ADA and Section 504.

Pursuant to Rule 23(b)(2), Plaintiffs move to certify a class of all present and future deaf and hard of hearing individuals in GDC custody and/or subject to GBOP authority, who require

hearing-related accommodations and services – including but not limited to interpreters, hearing devices, other auxiliary aids or services, or reasonable modifications – to communicate effectively and/or to access or participate in programs, services, or activities available to individuals in GDC custody and subject to GBOP authority.

Respectfully submitted this 4<sup>th</sup> day of October 2019,

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**CERTIFICATE OF SERVICE**

I hereby certify that on October 4, 2019, I caused the foregoing Plaintiffs' Motion for Class Certification with accompanying Memorandum of Points and Authorities in Support of Motion to be electronically filed with the Clerk of Court using the CM/ECF system.

Respectfully submitted this 4<sup>th</sup> day of October, 2019,

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**CLASS ACTION**

**PLAINTIFFS' MEMORANDUM OF POINTS AND AUTHORITIES  
IN SUPPORT OF MOTION FOR CLASS CERTIFICATION**

## **I. INTRODUCTION**

Plaintiffs Ricardo Harris, Tommy Green, Leroy Henderson, Tony Moore, Jr., Christopher Shields, Andrew Smith, Darrell Smith, Jr., and Jorae Smith are deaf and hard of hearing<sup>1</sup> incarcerated individuals in the custody of the Georgia Department of Corrections (GDC). Defendant GDC and its officers deny Plaintiffs and other similarly situated deaf and hard of hearing people the modifications and auxiliary aids and services they need to communicate effectively and to participate equally in GDC programs, services, and activities. Some Plaintiffs and similarly situated individuals are subject to the decision-making authority of the Georgia Board of Pardons and Paroles (GBOP), which has the authority to grant parole and reprieve to certain incarcerated people. Defendant GBOP also fails to ensure reasonable modifications or auxiliary aids and services needed for effective communication with Plaintiffs and other similarly situated individuals. Plaintiffs allege that Defendants' actions and inactions violate the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act (Section 504), and that Defendant GDC is also in violation of the U.S. Constitution.

Plaintiffs move under Rule 23(b)(2) to certify a class for declaratory and injunctive relief of all present and future deaf and hard of hearing individuals in GDC custody and/or subject to GBOP authority, who require hearing-related accommodations and services – including but not limited to interpreters, hearing devices, auxiliary aids and services, and reasonable modifications – to communicate effectively and/or to access or participate equally in programs, services, or activities available to individuals in GDC custody or subject to GBOP authority. Plaintiffs meet all prerequisites for class certification, and the Court should grant the motion. *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 398 (2010) (“By its terms [Rule 23] creates a categorical rule entitling a plaintiff whose suit meets the specified criteria to pursue his claim as a class action.”).

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<sup>1</sup> Plaintiffs use the term “deaf and hard of hearing” to mean individuals with hearing levels or hearing loss that qualify as disabilities under the ADA and Section 504. Plaintiffs use the term “Deaf” to refer to individuals who identify with the culturally Deaf community. The phrase “deaf and hard of hearing” includes Deaf individuals.

Courts in this Circuit routinely certify classes under Rule 23(b)(2) in systemic prison cases, including disability-related prison claims. *See, e.g., Braggs v. Dunn*, 317 F.R.D. 634, 667, 669 (M.D. Ala. 2016) (noting that Rule 23(b)(2) “has been liberally applied in the area of civil rights, including suits challenging conditions and practices at various detention facilities”; certifying Rule 23(b)(2) class of people with mental health disabilities currently and in the future in Alabama Department of Corrections facilities; and noting that “[t]his is exactly the kind of case for which Rule 23(b)(2) was intended”); *Hoffer v. Jones*, 323 F.R.D. 694, 697-701 (N.D. Fla. 2017) (certifying a Rule 23(b)(2) class of people in Florida Department of Corrections’ custody with Hepatitis C alleging constitutional violations and disability discrimination); *Anderson v. Garner*, 22 F. Supp. 2d 1379, 1384 (N.D. Ga. 1997) (certifying class of people incarcerated by GDC subject to excessively forceful shakedowns, noting that “numerous courts presented with facts similar to the instant case have certified class actions pursuant to Rule 23(b)(2) and issued injunctive orders that governed the conduct of prison officials,” and collecting cases). Federal courts regularly certify classes of incarcerated people with disabilities, including deaf and hard of hearing people. *See* Appendix A.

## **II. RULE 23(a)(1): NUMEROSITY**

Rule 23(a)(1) requires that “the class is so numerous that joinder of all members is impracticable.” Fed. R. Civ. P. 23(a)(1). Classes of “more than forty” class members satisfy the numerosity requirement. *Thomas Cty. Branch of N.A.A.C.P. v. City of Thomasville Sch. Dist.*, 187 F.R.D. 690, 696 (M.D. Ga. 1999) (quoting *Cox v. Am. Cast Iron Pipe Co.*, 784 F.2d 1546, 1553 (11th Cir. 1986)); *Cordoba v. DirecTV, LLC*, 320 F.R.D. 582, 600 (N.D. Ga. 2017), *appeal docketed*, No. 18-12077 (11th Cir. May 21, 2018); *Gregory v. Preferred Fin. Sol.*, No. 5:11-CV-422-MTT, 2013 WL 6632322, at \* 5 (M.D. Ga. Dec. 17, 2013).

Defendant GDC’s own reporting confirms that there are at least 156 incarcerated persons who have significant hearing loss, easily satisfying the threshold size for numerosity and impracticability. (Center Decl., Ex. A.) Plaintiffs’ proposed class includes these 156 individuals, as well as additional deaf and hard of hearing incarcerated people not captured by

Defendant GDC’s list, and deaf and hard of hearing people who will be in GDC custody in the future (including currently incarcerated individuals who become class members through hearing loss, and deaf and hard of hearing people who will be incarcerated). *See Braggs*, 317 F.R.D. at 653 (“[T]he fluid nature of a plaintiff class—as in the prison-litigation context—counsels in favor of certification of all present and future members.”). Many are or will be subject to GBOP control, through parole and/or reprieve eligibility.<sup>2</sup>

### III. RULE 23(a)(2): COMMONALITY

Rule 23(a)(2) requires that “there are questions of law or fact common to the class.” Fed. R. Civ. P. 23(a)(2). “[F]or purposes of Rule 23(a)(2) even a single common question will do.” *Carriuolo v. Gen. Motors Co.*, 823 F.3d 977, 984 (11th Cir. 2016) (quoting *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 350, 359 (2011)); *see also Williams v. Mohawk Indus., Inc.*, 568 F.3d 1350, 1350 (11th Cir. 2009) (“Commonality requires that there be at least one issue whose resolution will affect all or a significant number of the putative class members.”) (internal quotations omitted); *Thompson v. Jackson*, No. 1:16-cv-04217, 2018 WL 5993867, at 7–8 (N.D. Ga. Nov. 15, 2018) (same). Plaintiffs need not show that common questions “predominate” over individual, as “even a single common question will do.” *Braggs*, 317 F.R.D. at 655 (quoting *Wal-Mart*, 564 U.S. at 359); *see also Kenny A. ex rel. Winn v. Purdue*, 218 F.R.D. 277, 299 (N.D. Ga. 2003). Claims need not be identical and variations among the class are permissible. *See, e.g., Prado-Steiman ex rel. Prado v. Bush*, 221 F.3d 1266, 1279 (11th Cir. 2000). The analysis turns on whether disputed legal or factual questions are capable of class-wide proof or

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<sup>2</sup> “[T]here is serious reason to doubt that the judicially created ascertainability requirement applies to Rule 23(b)(2) classes[.]” *Braggs*, 317 F.R.D. at 671. “[T]he circuits that have squarely addressed the issue have generally concluded that the ascertainability requirement does not apply to Rule 23(b)(2) injunctive-relief classes.” *Id.*; *see also id.* at 671-72 (discussing “detailed and persuasive” analysis of *Shelton v. Bledsoe*, 775 F.3d 554 (3d Cir. 2015), finding ascertainability to be inapplicable to Rule 23(b)(2) classes). Should this Court or the Eleventh Circuit nevertheless rule that ascertainability does apply, the proposed class here is adequately defined. A class is ascertainable where the class definition contains “objective criteria that allow for class members to be identified in an administratively feasible way.” *See, e.g., Karhu v. Vital Pharm., Inc.*, 621 F. App’x 945, 946 (11th Cir. 2015); *Jones v. Advanced Bureau of Collections LLP*, 317 F.R.D. 284, 289 (M.D. Ga. 2016). Class membership here can be ascertained by objective criteria—class members are deaf and hard of hearing incarcerated individuals in the custody of Defendant GDC.

resolution. *See, e.g., Murray v. Auslander*, 244 F. 3d 807, 811 (11th Cir. 2001); *see also Carriuolo*, 823 F.3d at 984.

Federal courts routinely find that commonality exists for classes of people who allege system-wide failures in large state institutional agencies, like the proposed class does here. *Belton v. Georgia*, No. 1:10-CV-0583-RWS, 2011 WL 925565, at \*4 (N.D. Ga. August 2, 2012) (commonality satisfied for state’s failure to provide hearing services throughout state’s mental health facilities); *Dunn v. Dunn*, 318 F.R.D. 652, 662-63 (M.D. Ala. 2016) (commonality satisfied for prison’s failure to implement ADA policies for class of blind, deaf, and wheelchair-using prisoners); *Hoffer*, 323 F.R.D. at 697-98 (commonality satisfied for class after finding common questions of law related to prison’s deliberate indifference to standard of care for prisoners with Hepatitis C); *Ortega-Melendres v. Arpaio*, 836 F. Supp. 2d 959, 989 (D. Ariz. 2011) (“In a civil rights suit, ‘commonality is satisfied where the lawsuit challenges a systemwide practice or policy that affects all of the putative class members.’”), *aff’d sub nom. Melendres v. Arpaio*, 695 F.3d 990 (9th Cir. 2012); *see also* Appendices A (certified classes of incarcerated or detained people with disabilities) and B (additional certified classes of disabled people in institutional or systemic contexts).

Numerous common questions of law and fact make this case appropriate for class-wide resolution. Plaintiffs allege systemic discrimination, in policy and practice and across GDC facilities and GBOP protocols, against proposed class members throughout Georgia. Resolution of these common questions will produce common answers that will affect all members of the proposed class at once. *See Carriuolo*, 823 F.3d at 984. These questions of law and fact satisfy the commonality requirement.

**A. Whether Defendants’ policies fail to provide equal access to programs, services, and activities for deaf and hard of hearing class members**

Defendant GDC’s and GBOP’s policies, procedures, and practices systemically fail to ensure modifications and effective communication for deaf and hard of hearing incarcerated people. Although GDC has taken some steps in the last eighteen months to improve

telecommunication access and provide some interpreting, GDC's and GBOP's policies remain insufficient and systemic failures remain.

### **1. ADA Policy**

In April 2018, GDC issued its first-ever statewide policy concerning ADA compliance, the "Americans with Disabilities Act (ADA), Title II Provisions," Policy Number 103.63 (ADA Policy). This policy is ineffective and insufficient. It fails in numerous ways to ensure effective communication and equal access for putative class members.

#### **a. The Policy is Inaccessible to Class Members**

The ADA Policy sets out a multi-step system (Accommodation Request Process) similar to the GDC grievance process, through which incarcerated people can request accommodations, including interpreters. The process is laid out in complex written English at the college reading level.<sup>3</sup> Under the policy, "[o]ffenders, who have a documented disability and are requesting an accommodation or modification shall submit a request in writing on Attachment 1 to the Facility ADA Coordinator. Offenders shall specify the type of accommodation requested and why it is necessary." (ADA Policy at 16.) GDC staff have 25 days to respond to a request. (*Id.* at 17.) If the request is denied, the incarcerated person may appeal the denial by sending a specific form within seven days of receipt of the response using U.S. mail. (*Id.* at 19.) State GDC officials then have 20 days to respond to the appeal. (*Id.*) The process of requesting accommodations is inaccessible to many class members who, because of their disabilities, cannot read or write English.<sup>4</sup> Plaintiffs do not understand the Accommodation Request Process. (Shields Decl. ¶¶

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<sup>3</sup> Once in 2018, an interpreter came to CSP and translated the text of the Accommodation Request Policy for class members present; there was no one from the prison present to answer questions. At other facilities, the ADA Accommodation Request Process has not been explained or implemented at all. (Henderson Supp. Decl. ¶ 8). Reading level of the Accommodation Request Process is based on the Flesch-Kincaid Grade Level.

<sup>4</sup> See Michele LaVigne & McCay Vernon, *An Interpreter Isn't Enough: Deafness, Language, and Due Process*, 2003 Wis. L. Rev. 843, 854 (2003) (30% of college-aged Deaf adults read and write English at grade level below 2.8, or functionally equivalent to illiteracy); Gabriel I. Lomas et al., *Deaf and Hard of Hearing Students*, in HANDBOOK OF SPECIAL EDUCATION 346 (Kauffman et al., eds. 2017); Sen Qi & Ross E. Mitchell, *Large-Scale Academic Achievement Testing of Deaf and Hard-of-Hearing Students: Past, Present, and Future*, 17 J. Deaf Studies & Deaf Educ. 1 (2012) (average English literacy for Deaf high school graduates is third to fourth grade level).

36; Henderson Supp. Decl. ¶ 8; D. Smith Supp. Decl. ¶ 9.)

Although in theory an ASL interpreter may be available to assist a deaf person in filling out the accommodation request form itself, *see* ADA Policy at 19, there is no mechanism laid out for how a deaf person would request this assistance. And the policy does not guarantee that such assistance will be provided, even if a deaf person is able to request it. Moreover, the appeal system for accommodation requests requires that incarcerated people submit their written appeals by U.S. mail, using their own postage. This requirement renders the Accommodation Request Process unavailable for incarcerated people who do not have stamps, imposes an unlawful surcharge, 28 C.F.R. § 35.130(f), and effectively cuts off access to appeals – and federal courts – to any person who does not have money in their account.<sup>5</sup>

**b. The Policy Fails to Ensure Prompt Qualified Interpreters**

Qualified interpreters are critical for ensuring effective communication with deaf and hard of hearing people who use sign language. Policies to ensure effective communication with deaf people must ensure prompt access to qualified interpreters – interpreters who communicate effectively, both receptively and expressively.<sup>6</sup> But while the policy states that interpreters “will be provided as a reasonable accommodation to offenders who qualify under ADA,” it fails to ensure effective, prompt access to qualified interpreters. Requesting an ASL interpreter using the accommodation request process may take up to 52 days. There is no provision for requesting or securing accommodations that are needed on an emergency or unplanned basis, such as for unplanned or emergency medical or mental health care, or for a time-sensitive event such as a disciplinary hearing. Nor are there standards for ensuring ASL interpreter quality or performance. And there is no process to procure Deaf interpreters to work in tandem with hearing interpreters, although this is necessary to ensure effective communication with some

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<sup>5</sup> Plaintiff Shields attempted to submit an ADA-related grievance appeal to his counselor but was told (in writing, without an ASL interpreter) that the counselor would not accept the appeal and that he must use the Accommodation Request Process and send the appeal through the U.S. mail. (Shields Decl. ¶ 36.)

<sup>6</sup> *See* Irene W. Leigh & Jean F. Andrews, *Deaf People and Society: Psychological Sociological and Educational Perspectives* 201 (2016); LaVigne & Vernon, *supra*, n. 4, 869-70, 878-79.

Deaf people.<sup>7</sup> (*See* D. Smith Decl. ¶ 3.)

The ADA Policy also fails to ensure that the many important written documents available to people in GDC custody – including rules, procedures, and handbooks – are accessible to people who, because of their hearing disabilities, cannot read and write English. Many deaf class members who communicate with sign language either cannot understand written English at all, or can understand only very limited English. (*See, e.g.*, Green Decl. ¶ 2; Moore Decl. ¶ 2; D. Smith Decl. ¶ 2; J. Smith Decl. ¶ 2.) These class members require interpreters and other auxiliary aids and services to translate information between written English and sign language.<sup>8</sup> But the policy has no provision for procuring interpreters or auxiliary aids and services to translate between written English and sign language.

Important communication events such as health care appointments and disciplinary hearings are not adequately covered by the policy. While the policy states that GDC will provide “[a]ppropriate and effective communication” for “[h]ealth [c]are” and “[m]ental [h]ealth [s]ervices,” ADA Policy at 14-15, the process of interpreter requests may take up to 52 days. The policy is therefore insufficient to ensure that class members have effective communication at medical and mental health appointments, including unplanned or emergency medical care. Plaintiffs have repeatedly experienced health care appointments without communication access. *See* Section III(B), *infra*. Similarly, the policy lists “[d]iscipline ... proceedings” as one of the “services, programs, and activities” that incarcerated people with disabilities “shall have equal access to,” but the long delay permitted under the policy is inconsistent with such access. The “Offender Discipline” policy requires that disciplinary hearings be held “as soon as practicable” but no later than seven days after the alleged violation. (Offender Discipline, Policy No. 209.01,

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<sup>7</sup> For some Deaf individuals, qualified interpretation requires a team of interpreters, including both an ASL interpreter (who is hearing and who can interpret from English to ASL), and a Deaf Interpreter (DI). A DI is a Deaf person who works with the ASL interpreter to facilitate effective communication. *See* LaVigne & Vernon, *supra*, n. 4; Leigh & Andrews, *supra*, n. 6; Nancy Frishberg, *Interpreting: An Introduction* 153 (1990).

<sup>8</sup> *See* McCay Vernon, The Horror of Being Deaf and in Prison, 155 *Am. Annals of the Deaf* 311, 315 (2010); Leigh & Andrews, *supra*, n. 6 at 205-09.

p. 13.) Timely communication access is essential because discipline can lead to harsh punishments, including extended periods in solitary confinement, and may prevent an incarcerated person from receiving parole or transfer to a lower-security facility.<sup>9</sup> Moreover, documents central to disciplinary proceedings, including witness statements and waivers of rights, are inaccessible to deaf class members who cannot read and write English. The policy includes no procedure for ensuring interpreters to assist in explaining or preparing written materials to deaf incarcerated people who cannot use English.

## 2. Telephone Policy

Technology has changed telecommunications for deaf and hard of hearing people dramatically in recent decades, replacing TTYs with videophones, captioned telephones, and amplification devices. As a result, TTYs are outdated and virtually obsolete. The preferred means of telecommunications for most deaf and hard of hearing people in the United States is a videophone (for ASL users) or a captioned and/or amplified phone (for hard of hearing or late-deafened users who are fluent in English). For people who sign, videophones have innumerable advantages over TTY. A person using a TTY must communicate in English, which is a barrier for many Deaf class members who use ASL and are not literate in English. Videophones do not require the deaf user to communicate in English. Videophones also allow for fluid conversation, with give and take, inflection, and tone. Even for people fluent in English, a TTY conversation cannot approach the pace and tone of a conversation via videophone or captioned telephone.<sup>10</sup> For many Plaintiffs and class members, videophones (Green Decl. ¶¶ 12-15; D. Smith Decl. ¶¶ 19-21; Shields Decl. ¶ 24; J. Smith Decl. ¶ 8; Moore Decl. ¶¶ 22-24) and captioned and amplified telephones (Henderson Decl. ¶¶ 11-12; Bishop Decl. ¶ 15; Brown Decl. ¶¶ 13-14 ), are

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<sup>9</sup> According to Defendant GBOP, “[r]eports from the Department of Corrections of misconduct by the offender will usually result in parole postponement or cancellation of the TPM [Tentative Parole Month].” State Board of Pardons and Paroles, “Inmate TPM Lookup,” at <https://pap.georgia.gov/inmate-tpm-lookup>.

<sup>10</sup> TTY communication is slow and unwieldy even when the technology is functioning and both parties are fluent in English. TTY communication cannot be punctuated, and communication is in all capital letters, similar to telegraphs. TTY is not even as communicative as text messaging, as TTY messages do not have the tone markers of capitalization, punctuation, or emojis that text conversations have.

the only methods available for effective and equal access to telecommunication.

Nevertheless, GDC's policy focuses solely on TTY (also known as TDD) as the primary telecommunications system for deaf and hard of hearing incarcerated people. (ADA Policy at 13, "Offender Access to Telephones," Policy 227.01 (Telephone Policy) at 1.) The policy does not ensure access to videophones, or captioned phones, nor does it provide for prompt repair, maintenance, or replacement of these devices (or even TTYs) where they are in use. Although GDC has recently installed videophones in some dorms at CSP (A. Smith Decl. ¶ 17),<sup>11</sup> this is insufficient to provide effective telecommunication access to Plaintiffs and the entire class. There are no videophones at ASMP, although ASL-using class members visit that prison often. (D. Smith Supp. Decl. ¶ 7.) There are no videophones at Smith State Prison, although Plaintiff Moore is incarcerated there. (*See* Defendant GDC's Responses to Plaintiffs' First Set of Interrogatories, Interrogatory #10 (listing seven GDC facilities with VRS capabilities, not including Smith State Prison; *see also* Def. Production p. 20128, listing VRS locations at the same seven GDC facilities, excluding Smith State Prison)). There are no captioned telephones at any GDC facility. (Henderson Supp. Decl. ¶ 7; Gadson Decl. ¶ 7; A. Smith Decl. ¶ 19; Bishop Decl. ¶ 16; Brown Decl. ¶ 15.)

### **3. Restraint Policy**

Defendant GDC's Standard Operating Procedure 209.04, "Use of Force and Restraint for Offender Control" (Restraint Policy), governs handcuffing of incarcerated people. The policy authorizes "routine[]" use of restraints "during the movement of potentially violent or unruly offenders or during movement outside the Facility/Center." (Restraint Policy at 3.) While the policy states that deaf people "will be handcuffed in waist chains to allow for hand use for sign language communication," *id.* at 6, no Plaintiff has yet benefitted from this modification. Moreover, ASL is a full-body language, and the size of a gesture and other body language are

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<sup>11</sup> Some declarations filed in support of this motion were signed before videophones were installed at CSP. All declarations were accurate and signed under penalty of perjury at the time they were executed.

necessary to convey meaning accurately.<sup>12</sup> A person who is handcuffed in waist chains cannot communicate fully using sign language. The policy does not permit as a modification an assessment of whether “routine” handcuffing is necessary for a deaf incarcerated person, where – even if waist chains are used – the person will nevertheless be substantially limited in communication for the duration of the handcuffing.

#### 4. Segregation Policies

Defendant GDC has numerous complex procedures for confining incarcerated people in solitary, whether for “administrative” (non-punitive) reasons or as a disciplinary measure.<sup>13</sup> But the policies and procedures about whether and for how long a person will remain in isolation are inaccessible. Without modifications, written documents and spoken hearings are inaccessible to most deaf people.<sup>14</sup> Nor do Defendants’ policies and procedures assess whether lack of communication contributed to the purported violation such that discipline is unwarranted.

Once in solitary, whether for “administrative” or punitive reasons, the sensory deprivation of isolation is magnified and especially harsh for people who do not hear or speak to communicate. (J. Smith Decl. ¶¶ 7-9.) Given the extremity of the harms of isolation for people with sensory disabilities, unnecessary or extended solitary confinement of class members violates the Eighth Amendment bar against cruel and unusual punishment. Moreover, federal disability law requires GDC to make reasonable modifications for deaf and hard of hearing incarcerated people in solitary to ensure effective communication, to mitigate the disability-based impacts of isolation, and to afford an equal opportunity to be released from solitary.<sup>15</sup> See 28 C.F.R. 35.130(b)(7)(i). These include visual inputs (such as books, magazines, or television),

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<sup>12</sup> Leigh & Andrews, *supra*, n. 6; LaVigne & Vernon, *supra*, n. 4 at 875-76.

<sup>13</sup> See SOP 209.06 Administrative Segregation; SOP 209.01 Offender Discipline; SOP 209.03 Disciplinary Isolation; SOP 209.07 Segregation – Tier I, Disciplinary, Protective Custody and Transient Housing; SOP 209.08, Administrative Segregation – Tier II, *available at* <http://www.dcor.state.ga.us/content/209-policy-controldisciplinesegregation>.

<sup>14</sup> See LaVigne & Vernon, *supra*, n. 4; Leigh & Andrews, *supra*, n. 6.

<sup>15</sup> Where there is no direct and particularized risk of harm that meets the “direct threat” threshold under the ADA and Section 504, nondiscrimination and reasonable modification will often be waiver of isolation altogether.

control over cell lighting, and regular access to auxiliary aids and services to communicate with GDC staff or to make phone calls. But none of GDC's isolation policies provides for *any* modifications to isolation for deaf and hard of hearing people. Plaintiffs and putative class members have faced extended, traumatizing isolation in segregation without effective communication to understand or challenge their isolation. (J. Smith Decl. ¶ 10; Moore Decl. ¶¶ 10, 26; D. Smith Decl. ¶¶ 9-10.)

## 5. Grievance Policy

The administrative exhaustion procedure is complex with multiple steps (*see* Statewide Grievance Procedure, Policy No. 227.02 (Grievance Procedure)), and GDC demands strict compliance with each step. (Green Decl. ¶¶ 25-27; Shields Decl. ¶ 36.) The Grievance Procedure is not accessible to deaf incarcerated people who are not fluent in English, as it is entirely in written English. The only reference to modifications to the grievance procedure is the statement that “[i]nstitutional staff will assist Offenders who need special help filling out the grievance forms (*i.e.*, due to language barriers, illiteracy, or physical or mental disability) upon request.” (Grievance Procedure at 3.) But this is insufficient to make the exhaustion process accessible to deaf individuals, given that there is no practice of explaining the grievance policy itself, or the means of requesting assistance with the grievance process, to people who, because of their disabilities, cannot read or write English.

### B. Whether Defendants follow their own policies

To the extent that, on paper, the 2018 ADA Policy promises equal access and effective communication, GDC routinely fails to implement or follow its policies in practice. Deaf people incarcerated in GDC facilities continue to be denied interpreters for critical encounters, including work programs, safety and emergency procedures, disciplinary proceedings, meetings with counselors and other prison staff, and the Accommodation Request procedure itself. (Shields Supp. Decl. ¶ 4; Green Decl. ¶ 11; D. Smith Decl. ¶¶ 5-7, 9-13, 15-18; D. Smith Supp. Decl. ¶¶ 4-10; Henderson Decl. ¶¶ 4-10; Henderson Supp. Decl. ¶ 5; Shields Decl. ¶¶ 5-6, 12-19, 23, 28-30; Lamb Decl. ¶¶ 8, 10; J. Smith Decl. ¶¶ 5, 9-10, 19-23, 26; Moore Decl. ¶¶ 4-5, 17; A. Smith

Decl. ¶¶ 12-13; Harris Decl. ¶¶ 9-10, 12; Gadson Decl. ¶¶ 3, 5-9.) Class members at prisons other than CSP continue to experience virtually complete isolation. (Henderson Supp. Decl. ¶¶ 5, 7; D. Smith Supp. Decl. ¶¶ 5-8; Gadson Decl. ¶¶ 5-9.) System-wide, GDC continues to deny interpreters and other auxiliary aids and services to deaf incarcerated people for medical and mental health care, including at recurring, planned appointments such as counseling sessions. (J. Smith Decl. ¶¶ 20-23; Shields Supp. Decl. ¶ 4; Gadson Decl. ¶ 6; A. Smith Decl. ¶¶ 12-13; Harris Decl. ¶ 12; D. Smith Supp. Decl. ¶¶ 5-6.) Scheduled medical appointments are often cancelled because there are no interpreters available. (Shields Supp. Decl. ¶ 4; D. Smith Supp. Decl. ¶ 6; Harris Decl. ¶ 12; A. Smith Decl. ¶ 13.) Plaintiffs and class members who require auxiliary aids and services other than ASL interpreters – such as real-time captioning and amplification devices – are outright denied these accommodations, despite the ADA Policy. (Henderson Decl. ¶ 10; Bishop Decl. ¶¶ 8-11; Henderson Supp. Decl. ¶ 5; Lamb Decl. ¶ 6.)

Further, while the ADA Policy promises “appropriate and effective communication” in health care and mental health, in practice GDC facilities routinely fail to provide effective communication. Prison staff at CSP rely almost exclusively on Video Remote Interpreting (VRI) for medical and mental health appointments with deaf people who communicate with sign language. But VRI at CSP does not provide effective communication for most medical and mental health appointments, due to the technical requirements for VRI and its inherent limitations.<sup>16</sup> The VRI devices at CSP frequently malfunction, forcing Plaintiffs and class members to try to communicate through a pixelated, freezing, or non-functional device about

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<sup>16</sup> See Julie Simon et al., *Steps Towards Identifying Effective Practices in Video Remote Interpreting*, THE NATIONAL CONSORTIUM OF INTERPRETER EDUCATION CENTERS, 19 (2010), [http://www.interpretereducation.org/wp-content/uploads/2011/06/VRIStepsReportApril2010\\_FINAL1.pdf](http://www.interpretereducation.org/wp-content/uploads/2011/06/VRIStepsReportApril2010_FINAL1.pdf) (VRI is inadequate in mental health care settings, and should only be used in medical settings when all healthcare personnel are trained to use the technology); NAD-Deaf Seniors of America (DSA) VRI Task Force, *Minimum Standards for Video Remote Interpreting Services in Medical Settings* (July 1, 2016), NATIONAL ASSOCIATION OF THE DEAF, [https://www.nad.org/about-us/position-statements/minimum-standards-for-video-remote-interpreting-services-in-medical-settings/#\\_ftnref7](https://www.nad.org/about-us/position-statements/minimum-standards-for-video-remote-interpreting-services-in-medical-settings/#_ftnref7) (explaining that VRI should not be used when the deaf user is: in pain; discussing highly sensitive medical information; or under the influence of medicine or drugs).

important, personal matters including medical and mental health care.<sup>17</sup> (Shields Decl. ¶ 19; Shields Supp. Decl. ¶ 4; Harris Decl. ¶ 9.) Even when VRI functions, it does not ensure effective communication in medical appointments at CSP. The VRI screen is located in an office separate from the medical examination room, so plaintiffs who use ASL cannot communicate *during* medical appointments. Plaintiffs and class members who use VRI in medical appointments are only able to communicate *before* the examination. During and after the examination, the VRI is not available, so Plaintiffs and class members are forced to communicate in written notes, which is not effective for most of them. (*See, e.g.*, Shields Supp. Decl. ¶ 4.) And class members at prisons other than CSP have no access to VRI. (*See, e.g.*, Gadson Decl. ¶¶ 3, 5).

Similarly, while the Telephone Policy promises functioning TTY machines, in fact the TTYs at GDC facilities are frequently out of order for months or years or otherwise unavailable. (J. Smith Decl. ¶¶ 8, 18; Shields Decl. ¶ 24; Lamb Decl. ¶ 12; Moore Decl. ¶ 21.) Although GDC's ADA Policy states that TTYs shall be provided "on the housing units," at many facilities the TTY is located in a counselor's office or another location that is largely inaccessible. (A. Smith Decl. ¶ 18.) While the Grievance Procedure states that "[i]nstitutional staff will assist Offenders who need special help filling out the grievance forms," Grievance Procedure p. 3, the policy includes no procedure for appropriate assistance to occur. Moreover, counselors routinely undermine the grievance process, threatening retaliation and creating barriers to completing grievances. (Green Decl. ¶¶ 25-26; D. Smith Decl. ¶¶ 32-34; Shields Decl. ¶¶ 32-34; J. Smith Decl. ¶¶ 15-17, 25; Moore Decl. ¶¶ 11-14; Harris Decl. ¶¶ 13-21; A. Smith Decl. ¶ 23.)

**C. Whether defendants have accessible emergency planning and notifications**

Defendant GDC's emergency planning systems are inaccessible to class members. At CSP, there are flashing alarm lights in certain parts of the prison, but these flashing lights are not visible from most dorms. (D. Smith Decl. ¶ 23; Shields Decl. ¶¶ 21-22; Moore Decl. ¶ 27; Green

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<sup>17</sup> Department of Justice Regulations confirm that VRI can only provide effective communication if VRI provides "[r]eal-time, full-motion video and audio over a dedicated high-speed, wide-bandwidth video connection or wireless connection that delivers high-quality video images that do not produce lags, choppy, blurry, or grainy images, or irregular pauses in communication." 28 C.F.R. § 35.160(d)(1).

Decl. ¶ 17.) Plaintiffs and putative class members have never received information about evacuation plans or how staff will communicate with deaf and hard of hearing incarcerated people during emergencies. (Harris Decl. ¶ 9; Green Decl. ¶ 18.) Similarly, GDC announcements such as count, chow, or the beginning of each block of time, are inaccessible to class members. (Green Decl. ¶ 17; D. Smith Decl. ¶ 14; D. Smith Supp. Decl. ¶ 8; Lamb Decl. ¶¶ 5, 10; J. Smith Decl. ¶ 24; Shields Decl. ¶¶ 21-22; Henderson Supp. Decl. ¶ 5.) At CSP, officers are supposed to hold up signs informing deaf and hard of hearing incarcerated people of these routine daily activities, but, in practice, officers only intermittently use these signs. (D. Smith Decl. ¶ 14; Shields Decl. ¶ 22; J. Smith Decl. ¶ 24.) No signs are used at all at other GDC facilities. (D. Smith Supp. Decl. ¶ 8; Henderson Supp. Decl. ¶ 5; Gadson Decl. ¶ 8, Lamb Decl. ¶ 5.) Further, even when signs are used, they are not effective, as deaf and hard of hearing people only receive the information if they happen to be looking at the officer holding the sign.

**D. Whether Defendants provide constitutionally adequate hearing-related care**

While GDC's "Scope of Treatment Services," Policy No. 507.04.07 (Treatment Policy), states that incarcerated people "will receive the full range of treatment services necessary to meet contemporary standards in the community," in practice Plaintiffs and similarly situated individuals do not have prompt and adequate access to hearing aids, batteries, and other hearing-related care and devices. GDC has denied class members hearing aids. (J. Smith Decl. ¶ 28; Harris Decl. ¶ 11.) GDC has confiscated hearing aids as contraband, and has denied access to hearing aids at critical encounters including medical emergencies. (Brown Decl. ¶¶ 10-11.) GDC has delayed repairs or replacement of hearing aids for months or years at a time. (Shields Decl. ¶¶ 8-11; Henderson Decl. ¶ 5; Henderson Supp. Decl. ¶ 4; Bishop Decl. ¶¶ 4, 7.)

**E. Whether Defendants ensure effective communication and reasonable modifications for parole**

Defendant GBOP maintains a protocol of communicating with incarcerated people about their parole eligibility and determinations solely in writing, failing to ensure effective communication with Plaintiffs and class members who, because of their disabilities, cannot read

and write English. GBOP makes no reasonable modifications to this all-written process, thereby failing to ensure effective communication with Plaintiffs and similarly situated individuals who are eligible for parole or reprieve. Class members are denied parole or have their parole dates changed without any effective communication or understanding of the process. (Green Decl. ¶¶ 7-8; Henderson Supp. Decl. ¶¶ 9-11.) Class members cannot understand or respond to letters from GBOP. (Green Decl. ¶ 8.) Neither GBOP nor GDC provides interpreters or other auxiliary aids and services to ensure effective communication to and from class members and GBOP.

In addition to relying on an inaccessible, all-written process, GBOP fails to make reasonable modifications to its rules, requirements, and determinations in light of class members' disabilities and the discrimination they have faced. Defendant GBOP requires some incarcerated people to take specific classes or participate in specific programs, like work release, as a prerequisite for parole. But GDC frequently denies deaf and hard of hearing people access to these very programs because of their disabilities. (Henderson Supp. Decl. ¶ 11.) Class members are thus denied parole for failing to participate in programs from which they have been excluded by GDC. Similarly, Defendant GBOP considers parole candidates' disciplinary histories in making parole eligibility determinations, but fails to assess whether communication failures by GDC contributed to such histories. (A. Smith Decl. ¶¶ 10-11; Lamb Decl. ¶ 9; J. Smith Decl. ¶ 26; D. Smith Decl. ¶¶ 9-10.) As a result, class members are denied parole for disciplinary infractions that they did not commit and/or did not have an opportunity to contest.

#### **IV. RULE 23(a)(3): TYPICALITY**

The "claims or defenses of the representative parties" must be "typical of the claims or defenses of the class." Fed. R. Civ. P. 23(a)(3). Typicality is satisfied when the representative class members' claims "arise from the same event or pattern or practice and are based on the same legal theory" as the claims of unnamed class members. *Williams*, 568 F.3d at 1357. The typicality threshold is low, and if the representatives' claims and legal theories have "the same essential characteristics" as those of the proposed class, typicality is satisfied. *Collins v. Int'l Dairy Queen, Inc.*, 168 F.R.D. 668, 674 (M.D. Ga. 1996) ("As is the case with commonality, the

requirements of typicality are not high.”); *In re Scien.-Atlanta, Inc. Sec. Lit.*, 571 F. Supp. 2d 1315, 1326 (N.D. Ga. 2007); *Kornberg v. Carnival Cruise Lines, Inc.*, 741 F.2d 1332, 1337 (11th Cir. 1984) (explaining that typicality does not require identical claims). A class representative’s claim may be typical even though “the evidence relevant to his or her claim varies from other class members, some class members would be subject to different defenses, and the members may have suffered varying levels of injury.” *Wal-Mart*, 564 U.S. at 487-88 (internal citation omitted); *see also Thomas Cnty.*, 187 F.R.D. at 689 (“A factual variation will not render a class representative’s claim atypical unless the factual position of the representative markedly differs from that of other members of the class.”).

Typicality is satisfied here, because the named and unnamed class members’ claims arise from the same pattern of conduct: Defendants’ policies and practices that discriminate against all class representatives and unnamed class members. These include policies and practices that fail to provide equal access to, *inter alia*, effective communication, telecommunications, hearing-related care, grievance procedures, parole and reprieve consideration, and emergency notifications. The same course of conduct that is the basis of class representatives’ claims is the basis of the class-wide claims. Defendants’ policies and practices discriminate against class representatives and class members in the same manner, and class members and class representatives alike are pursuing the same legal theory based on the same conduct. *See, e.g., Belton*, 2011 WL 925565 at \*3 (typicality satisfied where named plaintiffs and putative class members are deaf and require the same services that the state fails to provide); *Kornberg*, 741 F.2d at 1337 (typicality satisfied where cause of action arises from same events); *Thomas Cnty.*, 187 F.R.D. at 698 (typicality satisfied where class representatives suffered “fairly comparable” discriminatory practices).

Further, Plaintiffs represent the spectrum of deaf and hard of hearing class members. *See Dunn*, 2016 WL 4718216, at \*10. Plaintiffs include individuals who identify as deaf, Deaf, and

hard of hearing.<sup>18</sup> Plaintiffs employ a wide range of communication methods, including ASL, Signed Exact English, speech-reading, residual hearing, and writing.<sup>19</sup> Plaintiffs include individuals with a range of parole and repleve eligibility.<sup>20</sup> And Plaintiffs have a wide range of programming needs: Plaintiffs D. Smith, Green, and Harris are serving very long sentences, requiring access to specific classes, programs, and psychological support, while Plaintiffs Shields and Henderson may be released in the next 24 months and require modifications to access parole and communication and classes to prepare for successful release.

#### **V. RULE 23(a)(4): ADEQUACY**

Named representatives must “fairly and adequately protect the interests of the Class.” Fed. R. Civ. P. 23(a)(4). Adequacy of representation means that “the representative Plaintiffs will fairly and vigorously prosecute the interests of the class through qualified counsel.” *Access Now, Inc. v. Ambulatory Surgery Ctr. Grp., Ltd.*, 197 F.R.D. 522, 528 (S.D. Fla. 2000); *Piazza v. Ebsco Indus., Inc.*, 273 F.3d 1341, 1346 (11th Cir. 2001). The requirement has two elements: first, that there are no substantial conflicts between the named plaintiffs and the proposed class; and second, that the named plaintiffs will adequately prosecute the action and are represented by qualified and experienced counsel. *Busby v. JRHBW Realty, Inc.*, 513 F.3d 1314, 1323 (11th Cir. 2008); *Valley Drug Co. v. Geneva Pharms. Inc.*, 350 F.3d 1181, 1189 (11th Cir. 2003).

A substantial conflict exists “where some party members claim to have been harmed by the same conduct that benefitted other members of the class.” *Valley Drug*, 350 F.3d at 1189. Here, the named Plaintiffs have no such conflict with other members of the class. The named

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<sup>18</sup> Plaintiffs Harris, Green, D. Smith, and Moore identify as Deaf. (Harris Decl. ¶ 2; Green Decl. ¶ 2; D. Smith Decl. ¶ 2; Moore Decl. ¶ 2.) Plaintiff J. Smith identifies as deaf. (J. Smith Decl. ¶ 2.) Plaintiffs Henderson and A. Smith identify as hard of hearing. (Henderson Decl. ¶ 2; A. Smith Decl. ¶ 2.)

<sup>19</sup> Plaintiffs D. Smith and Green rely almost exclusively on ASL to communicate (D. Smith Decl. ¶ 2; Green Decl. ¶ 2); Plaintiffs Harris, J. Smith, Shields, and A. Smith rely on a combination of ASL, speech-reading, and English (Harris Decl. ¶ 2; J. Smith Decl. ¶ 2; Shields Decl. ¶ 2; A. Smith Decl. ¶ 2); Plaintiff Moore uses Signed Exact English and ASL (Moore Decl. ¶ 2); and Plaintiff Henderson communicates only with spoken English (Henderson Decl. ¶ 2).

<sup>20</sup> Several Plaintiffs know that they are eligible for parole (Shields Decl. ¶ 3 Henderson Supp. Decl. ¶¶ 9-11; Harris Decl. ¶ 3), while others do not know if or when they will be parole eligible (Green Decl. ¶¶ 7-8; D. Smith Decl. ¶ 8).

Plaintiffs are harmed by GDC's and GBOP's conduct in the same way that class members are harmed. Plaintiffs seek injunctive and declaratory relief only to remedy injuries shared with the members of the class. As they seek no monetary damages, "the interests of the representative Plaintiffs do not actually or potentially conflict with those of the class." *See Access Now, Inc.*, 197 F.R.D. at 528. If granted, the injunctive relief sought will provide substantially equal benefits and relief to all class members. *Id.* Plaintiffs meet the first criterion of adequacy.

As to the second requirement, named Plaintiffs and their counsel will continue to prosecute the interests of the class with competency and dedication. *See Georgia State Conference of Branches of NAACP v. State of Ga.*, 99 F.R.D. 16 at 34 (S.D. Ga. 1983) (adequate representation satisfied with several civil rights organizations and five experienced civil rights attorneys representing the class pro bono); *Jones*, 317 F.R.D. at 293 ("The Court concludes that it is apparent from counsels' ability to manage similar suits in the past that they have the expertise and adequate resources to manage this lawsuit as well."). Plaintiffs' counsel work at organizations devoted to civil rights advocacy and experienced in complex class action litigation. For nearly 100 years the ACLU has litigated countless cases vindicating the constitutional rights of marginalized groups. Weil, Gotshal & Manges, LLP is a foremost international law firm that has been protecting clients for over 80 years. The National Association of the Deaf is the premier civil rights organization for deaf and hard of hearing persons and has been representing them for over 100 years. The ACLU of Georgia litigates civil rights issues exclusively in Georgia, including complex class actions, and its attorneys have considerable expertise in local practice and procedure.

#### **VI. RULE 23(b)(2): FINAL INJUNCTIVE RELIEF APPROPRIATE**

Certification of a class under Rule 23(b)(2) is proper where defendants "ha[ve] acted or refused to act on grounds that apply generally to the class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting to the class as a whole." Fed. R. Civ. P. 23(b)(2); *Amchem Prod., Inc. v. Georgia Windsor*, 521 U.S. 591, 614 (1997). Rule 23(b)(2) "has been liberally applied" in civil rights cases where the primary relief sought is "injunctive or

declaratory in nature.” *Access Now*, 197 F.R.D. at 529. “[C]ivil rights cases against parties charged with unlawful, class-based discrimination are prime examples” of proper Rule 23(b)(2) classification. *Amchem Prod.*, 521 U.S. at 614; *see also* Appendices A, B.

Here, Defendants’ policies and practices are applicable to the entire class. Defendant GDC’s policies and practices regarding effective communication, reasonable modifications, telecommunication services, hearing aids, ASL interpreters, visual alerts, and other auxiliary aids are generally applicable to the class. Similarly, Defendant GBOP’s policies and practices of conducting all parole determinations in writing, failing to ensure effective communication, and failing to make reasonable modifications for deaf and hard of hearing people are generally applicable to those class members eligible for parole or reprieve. Defendants’ policies, practices, and procedures are unlawful as to the entire class, and the injunctive and declaratory relief Plaintiffs seek will benefit the entire class.

## **VII. RULE 23(g)(1): DESIGNATING CLASS COUNSEL**

Rule 23 requires a court that certifies a class to appoint class counsel. Fed. R. Civ. P. 23(g)(1). In appointing class counsel, the Court must consider “(i) the work counsel has done in identifying or investigating potential claims in the action; (ii) counsel’s experience in handling class actions, other complex litigation, and the types of claims asserted in the action; (iii) counsel’s knowledge of the applicable law; and (iv) the resources that counsel will commit to representing the class.” Fed. R. Civ. P. 23(g)(1)(A)(i)-(iv). Based on these factors, the Court should designate Plaintiffs’ counsel as class counsel. A team of dedicated and experienced attorneys is representing the Plaintiffs and putative class. Plaintiffs’ counsel has considerable experience in complex litigation, extensive knowledge of the applicable law of disability rights and prison-related cases. Susan Mizner established the ACLU Disability Rights Program in 2012 and has been working to protect and defend the rights of persons with disabilities for more than 25 years. (Mizner Decl. ¶¶ 5-6.) Claudia Center has been class counsel in complex class actions to enforce the rights of people with disabilities for more than 20 years and has been recognized by the American Bar Association for her significant accomplishments. (Center Decl.

¶¶ 6-7.) Sean Young has litigated complex class actions for years and is experienced in Georgia law and practice. (Young Decl. ¶ 4.) Ralph Miller of Weil, Gotshal & Manges, LLP, has significant experience in pro bono disability rights matters, as well as over four decades of practice litigating complex commercial cases, including class actions. (Miller Decl. ¶¶ 5-8.) Brittany Shrader is an attorney at the National Association of the Deaf with extensive trial experience and years of experience litigating exclusively on matters relating to deaf and hard of hearing people. (Shrader Decl. ¶¶ 5-6.) These experienced lead attorneys are supervising additional attorneys in this case. (Center Decl. ¶¶ 8-12; Young Decl. ¶¶ 7-12; Miller Decl. ¶ 10.)

Further, Plaintiffs' counsel has already shown considerable commitment to identifying and investigating the claims of Plaintiffs and the class. With no videophones at all in GDC facilities until December 2018, Plaintiffs' counsel made more than a dozen in-person visits to Georgia prisons between December 2017 and July 2019. Ms. Mizner, Ms. Center, Mr. Young, Mr. Miller, and Ms. Shrader, with the assistance of additional attorneys at the ACLU, Weil Gotshal & Manges, and the National Association of the Deaf, have and will continue to devote all resources necessary to prosecute this case vigorously and thoroughly.

### CONCLUSION

For all of the above-stated reasons, Plaintiffs respectfully request that this Court grant their Motion for Class Certification and certify the proposed class of all deaf and hard of hearing individuals in GDC custody and/or subject to GBOP authority (whether now or in the future), who require hearing-related accommodations, including but not limited to interpreters, hearing devices, other auxiliary aids or services, or reasonable modifications to communicate effectively and/or to access or participate in programs, services, or activities available to individuals in GDC custody and subject to GBOP authority.

Respectfully submitted this 4th day of October, 2019,

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**APPENDIX A**  
**CERTIFIED CLASSES OF INCARCERATED OR DETAINED PEOPLE WITH DISABILITIES**  
***HARRIS V. GDOC, CASE NO. 5:18-CV-365-TES***

<b>Case</b>	<b>Disability Class(es) Certified</b>
<p><i>A.T. by &amp; through Tillman v. Harder</i>, 298 F. Supp. 3d 391, 404-05, 411 (N.D.N.Y. 2018).</p> <p>Minors held in correctional facility brought constitutional, ADA, Rehabilitation Act, and IDEA claims challenging denial of education access and special education services.</p>	<p>“All 16– and 17–year–olds with disabilities, as defined by the Individuals with Disabilities Education Act, who are now or will be incarcerated at the Broome County Correctional Facility, who are in need of special education and related services[.]”</p> <p>“All 16– and 17–year–olds with psychiatric and/or intellectual disabilities, as defined by the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973, who are now or will be incarcerated at the Broome County Correctional Facility, who are at risk of being placed in disciplinary segregation because of their disability.”</p>
<p><i>Braggs v. Dunn</i>, 317 F.R.D. 634, 673–74 (M.D. Ala. 2016).</p> <p>Prisoners with mental illness brought constitutional claims challenging constitutionally inadequate mental health treatment and involuntary medication without due process.</p>	<p>“[A]ll persons with a serious mental-health disorder or illness who are now, or will in the future be, subject to defendants' mental-health care policies and practices in [Alabama Department of Corrections] facilities, excluding the work release centers and Tutwiler Prison for Women.”</p> <p>“[A]ll persons with a serious mental-health disorder or illness who are now, or will in the future be, subject to defendants' formal involuntary-medication policies and practices.”</p>
<p><i>Buffkin v. Hooks</i>, No. 1:18CV502, 2019 WL 1282785, at *12 (M.D.N.C. Mar. 20, 2019).</p> <p>Prisoners with hepatitis C brought ADA and constitutional claims challenging denial of treatment.</p>	<p>“[A]ll current and future prisoners in [North Carolina Department of Public Safety] custody who have or will have chronic hepatitis C virus and have not been treated with direct-acting antiviral drugs.”</p>
<p><i>Bumgarner v. NCDoc</i>, 276 F.R.D. 452, 454, 458 (E.D.N.C. 2011).</p>	<p>“[A]ll present and future disabled inmates of the [North Carolina Department of Corrections] who have been, and may in the future be, discriminated against, excluded</p>

<b>Case</b>	<b>Disability Class(es) Certified</b>
<p>Disabled prisoners brought ADA and Rehabilitation Act claims, challenging exclusion from sentence reduction credit programs.</p>	<p>from participation in, and denied the benefits of the DOC's sentence reduction credit programs by reason of their disabilities."</p>
<p><i>Cole v. Livingston</i>, No. 4:14-CV-1698, 2016 WL 3258345, at *1, *10 (S.D. Tex. June 14, 2016) <i>aff'd sub nom. Yates v. Collier</i>, 868 F.3d 354 (5th Cir. 2017).</p> <p>Prisoners brought ADA, Rehabilitation Act, and constitutional claims challenging prolonged exposure to extreme heat in summer months.</p>	<p>"All people who are incarcerated at the Pack Unit, or in the future will be, that are subjected to [Texas Department of Criminal Justice's] policy and practice of failing to regulate high indoor heat index temperatures in the housing areas, and either: (1) have a physiological condition that places them at increased risk of heat-related illness, injury, or death (including, but not limited to, suffering from obesity, diabetes, hypertension, cardiovascular disease, psychiatric conditions, cirrhosis of the liver, chronic obstructive pulmonary disease, cystic fibrosis, asthma, sweat gland dysfunction, and thyroid dysfunction); or, (2) are prescribed an anticonvulsant, anticholinergic, antipsychotic, antihistamine, antidepressant, beta blocker, or diuretic; or (3) are over age 65."</p> <p>"All people incarcerated at the Pack Unit, or who will be in the future, that are subjected to TDCJ's policy and practice of failing to regulate high indoor heat index temperatures in the housing areas and suffer from a disability that substantially limits one or more of their major life activities and who are at increased risk of heat-related illness, injury, or death due to their disability or any medical treatment necessary to treat their disability."</p>
<p><i>Disability Law Ctr. v. Utah</i>, No. 2:15-CV-00645-RJS, 2016 WL 5396681, at *2, *8 (D. Utah Sept. 27, 2016).</p> <p>Pretrial detainees declared incompetent to stand trial brought constitutional claim challenging extended periods incarcerated in jail while awaiting competency restoration.</p>	<p>"All individuals who are now, or will be in the future, (a) charged with a crime in Utah, (b) are determined by the court in which they are charged to be mentally incompetent to stand trial, and (c) are ordered to the custody of the executive director of [Utah Department of Human Services] or a designee for the purpose of treatment intended to restore the defendant to competency but remain housed in a Utah county jail."</p>
<p><i>Dockery v. Fischer</i>, 253 F.Supp.3d 832, 856-57 (S.D. Miss. 2015).</p> <p>Plaintiffs in prison for mentally ill people brought constitutional claims challenging isolation, segregation, and inadequate mental health care.</p>	<p>"All persons who are currently, or will be, confined at the East Mississippi Correctional Facility."</p> <p>"The Isolation Subclass: All persons who are currently, or will be, subjected to Defendants' policies and practices of confining prisoners in conditions amounting to solitary confinement at the East Mississippi Correctional Facility."</p> <p>"The Mental Health Subclass: All persons who are currently, or will be, subjected to Defendants' mental health care policies and practices at the East Mississippi Correctional Facility."</p>

Case	Disability Class(es) Certified
	“The Units 5 and 6 Subclass: All persons who are currently, or will be, housed in Units 5 and 6 [segregation units] at the East Mississippi Correctional Facility.”
<p><i>Dodson v. CoreCivic</i>, No. 3:17-CV-00048, 2018 WL 4776081, at *5 (M.D. Tenn. Oct. 3, 2018).</p> <p>Incarcerated people with diabetes brought ADA, Rehabilitation Act, and constitutional claims challenging deprivation of diabetes care in prison.</p>	“All inmates with Type I and insulin-dependent Type II diabetes who are or may become housed at Trousdale Turner Correctional Facility and who require access to blood sugar checks and insulin administration in coordination with regular mealtimes.”
<p><i>Dunn v. Dunn</i>, 318 F.R.D. 652, 683-84 (M.D. Al. 2016).</p> <p>Disabled prisoners brought ADA and Rehabilitation Act claims challenging discrimination and failure to accommodate incarcerated people with disabilities.</p>	“[A]ny current or future inmate in the physical custody of the Alabama Department of Correction who has a disability as defined in 42 U.S.C. § 12012 and 29 U.S.C. § 705(9)(B), excluding those inmates whose disabilities relate solely to or arise solely from mental disease, illness, or defect.”
<p><i>Graham v. Parker</i>, No. 16-CV-01954, 2017 WL 1737871, at *2, *7 (M.D. Tenn. May 4, 2017).</p> <p>Incarcerated people with Hepatitis C brought Eighth and Fourteenth Amendment claims challenging deliberate indifference to medical needs.</p>	“All persons currently incarcerated in any facility under the supervision or control of the Tennessee Department of Corrections or persons incarcerated in a public or privately owned facility for whom the Tennessee Department of Corrections has ultimate responsibility for their medical care and who have at least 12 weeks or more remaining to serve on their sentences and are either currently diagnosed with Hepatitis C infection or are determined to have Hepatitis C after an appropriate screening test has been administered by the Department of Corrections.”
<p><i>Gray v. Cty. of Riverside</i>, No. EDCV 13-00444-VAP, 2014 WL 5304915, at *40 (C.D. Cal. Sept. 2, 2014).</p> <p>Incarcerated people brought constitutional claims challenging inadequate medical and mental health care.</p>	<p>“[A]ll prisoners who are now, or will be in the future, subjected to the medical and mental health policies and practices of Riverside County.”</p> <p>“Medical Subclass—All prisoners who are now, or will in the future be, subjected to the medical care policies and practices of the Riverside Jails”</p> <p>“Mental Health Subclass—All prisoners who are now, or will in the future be, subjected to the mental health care policies and practices of the Riverside Jails.”</p>
<p><i>Henderson v. Thomas</i>, 289 F.R.D. 506, 512 (M.D. Ala. 2012).</p> <p>HIV-positive incarcerated people brought ADA and Rehabilitation Act claims challenging disability discrimination in prison.</p>	“[A]ll present and future prisoners diagnosed with HIV in the custody of the Alabama Department of Corrections.”

Case	Disability Class(es) Certified
<p><i>Hernandez v. Cty. of Monterey</i>, 305 F.R.D. 132, 164 (N.D. Cal. 2015).</p> <p>Disabled prisoners brought claims under California statute, the ADA, the Rehabilitation Act, and the U.S. Constitution challenging disability discrimination in county jail.</p>	<p>“[A]ll adult men and women who are now, or will be in the future, incarcerated in Monterey County Jail.”</p> <p>“[A]ll qualified individuals with a disability, as that term is defined in 42 U.S.C. § 12102, 29 U.S.C. § 705(9)(B), and California Government Code § 12926(j) and (m), and who are now, or will be in the future, incarcerated in Monterey County Jail.”</p>
<p><i>Hoffer v. Jones</i>, 323 F.R.D. 694, 700 (N.D. Fla. 2017).</p> <p>Incarcerated people with Hepatitis C brought ADA, Rehabilitation Act, and constitutional claims challenging discrimination by Florida Department of Corrections.</p>	<p>“[A]ll current and future prisoners in the custody of the Florida Department of Corrections who have been diagnosed, or will be diagnosed, with chronic hepatitis C virus (HCV).”</p>
<p><i>Holmes v. Godinez</i>, 311 F.R.D. 177, 216-17, 223 (N.D. Ill. 2015).</p> <p>Deaf and hard of hearing prisoners brought ADA, Rehabilitation Act, RLUIPA, and constitutional claims challenging denial of hearing accommodations by state Department of Corrections.</p>	<p>“(i) [A]ll individuals incarcerated by [Illinois Department of Corrections] currently and in the future; (ii) who IDOC classified as deaf or hard of hearing or who notified IDOC in writing during the Class Period, either personally or through a family member, that he or she was deaf or hard of hearing; and (iii) who require accommodations, including interpreters or other auxiliary aids or services, to communicate effectively and/or to access programs or services available to individuals incarcerated by IDOC during the Class Period.”</p>
<p><i>Hughes v. Judd</i>, No. 8:12-cv-568-T-23MAP, 2013 WL 1810806, at *1 (M.D. Fla. Apr. 30, 2013).</p> <p>Juveniles detained in Polk County jail brought constitutional claims challenging abuse and neglect.</p>	<p>“[E]ach person (1) who is now or in the future incarcerated in the Polk County Jail, (2) who is under eighteen or under the jurisdiction of the juvenile court, and (3) who suffers from a ‘mental disorder.’ For the purpose of this Sub-Class Two, a person who suffers from a “mental disorder” is defined as a person (1) who is diagnosed by a mental health care professional, qualified in Florida both to diagnose mental disorders and to prescribe psychotropic medication, and who is suffering from a “moderate” or “severe” “mental disorder,” as defined in the American Psychiatric Association's DSM-IV and (2) whose current diagnosis, including any prescription for psychotropic medication, appears in the person's “intake” records presented to the Polk County Jail at the time the person is presented to, and accepted by, the Polk County Jail for detention.”</p>
<p><i>Jewett v. Cal. Forensic Med. Grp., Inc.</i>, No. 2:13-cv-0882 MCE AC P, 2017 WL 980446, at *10 (E.D. Cal. Mar. 13, 2017), <i>report and recommendation adopted sub nom.</i></p>	<p>“All current and future detainees and prisoners at Shasta County Jail with mobility disabilities who, because of their disabilities, need appropriate accommodations, modifications, services, and and/or physical access in accordance with federal and state disability laws.”</p>

Case	Disability Class(es) Certified
<p><i>Jewett v. Cal. Forensic Med. Grp. Inc.</i>, 2017 WL 1356054 at *1 (E.D. Cal. Apr. 5, 2017).</p> <p>Prisoners with mobility disabilities brought ADA and Rehabilitation Act claims challenging lack of accommodations at Shasta County Jail.</p>	
<p><i>Lippert v. Baldwin</i>, No. 10 C 4603, 2017 WL 1545672, at *10 (N.D. Ill. Apr. 28, 2017).</p> <p>Prisoners with medical and dental needs brought constitutional claims challenging denial of medical care.</p>	<p>“[A]ll prisoners in the custody of the Illinois Department of Corrections with serious medical or dental needs.”</p>
<p><i>Lewis v. Cain</i>, 324 F.R.D. 159, 176 (M.D. La. 2018).</p> <p>Prisoners brought constitutional, ADA, and Rehabilitation Act claims against Louisiana State Penitentiary challenging denial of medical care and disability discrimination.</p>	<p>“[A]ll qualified individuals with a disability, as defined by the ADA/RA, who are now, or will be in the future, incarcerated at [Louisiana State Penitentiary].”</p>
<p><i>McBride v. Michigan Dep’t of Corr.</i>, No. 15-11222, 2017 WL 3097806, at *1, *8 (E.D. Mich. June 30, 2017), <i>report and recommendation adopted</i>, 2017 WL 3085785 (E.D. Mich. July 20, 2017).</p> <p>Deaf and hard of hearing prisoners brought ADA, Rehabilitation Act, constitutional, and RLUIPA claims challenging denial of effective communication in Michigan prisons.</p>	<p>“[A]ll deaf and hard of hearing individuals in the custody of MDOC [Michigan Department of Corrections] (whether now or in the future), who require hearing-related accommodations, including but not limited to interpreters, hearing devices, or other auxiliary aids or services, to communicate effectively and/or to access or participate in programs, services, or activities available to individuals in the custody of MDOC.”</p>
<p><i>Parsons v. Ryan</i>, 289 F.R.D. 513, 525 (D. Ariz. 2013), <i>aff’d</i>, 754 F.3d 657 (9th Cir. 2014), <i>reh’g en banc denied</i>, 784 F.3d 571 (9th Cir. 2015).</p> <p>Prisoners brought constitutional claims against Arizona Department of Corrections challenging inadequate medical, mental health, and dental care.</p>	<p>“All prisoners who are now, or will in the future be, subjected to the medical, mental health, and dental care policies and practices of the [Arizona Department of Corrections].”</p>

Case	Disability Class(es) Certified
<p><i>Postawko v. Missouri Department of Corrections</i>, No. 2:16-cv-04219-NKL, 2017 WL 3185155, at *3, *16 (W.D. Mo. July 26, 2017) <i>aff'd</i>, 910 F.3d 1030 (8th Cir. 2018).</p> <p>Prisoners with Hepatitis C brought ADA and constitutional claims challenging inadequate medical care.</p>	<p>“All those individuals in the custody of [Missouri Department of Corrections], now or in the future, who have been, or will be, diagnosed with chronic [Hepatitis C viral infections], as that term is defined medically, but who are not provided treatment with direct acting antiviral drugs.”</p>
<p><i>Rasho v. Walker</i>, No. 07-1298-MMM, 2016 WL 11514940 at *4 (C.D. Ill. Feb. 8, 2016).</p> <p>Prisoners with mental illness brought constitutional claims challenging inadequate treatment.</p>	<p>“Persons now or in the future in the custody of the Illinois Department of Corrections (‘IDOC’) who are identified or should have been identified by the IDOC’s mental health professionals as in need of mental health treatment as defined in the current edition of the Diagnostic and Statistical Manual of Mental Disorder of the American Psychiatric Association. A diagnosis of alcoholism or drug addiction, developmental disorder, or any form of sexual disorder shall not, by itself, render an individual mentally ill for the purpose of this class definition”</p>
<p><i>Scott v. Clarke</i>, 61 F.Supp.3d 569, 572-73, 591-92 (W.D. Va. 2014).</p> <p>Female prisoners in Fluvanna Correctional Center for Women brought a constitutional claim challenging inadequate medical care.</p>	<p>“[A]ll [] women who currently reside or will in the future reside at [Fluvanna Correctional Center for Women] and who have sought, are currently seeking, or will seek adequate, appropriate medical care for serious medical needs, as contemplated by the Eighth Amendment of the Constitution of the United States.”</p>
<p><i>V.W. by &amp; through Williams v. Conway</i>, 236 F.Supp.3d 554, 573, 590 (N.D.N.Y. 2017).</p> <p>Juveniles incarcerated at county justice center brought constitutional and IDEA claims challenging solitary confinement and denial of education.</p>	<p>“[A]ll 16- and 17-year-olds with disabilities, as defined by the [IDEA], who are now or will be incarcerated at the Onondaga County Justice Center, who are in need of special education and related services.”</p>
<p><i>Wilburn v. Nelson</i>, 329 F.R.D 190, 199 (N.D. Ind. 2018).</p> <p>Parents of children with disabilities in juvenile justice center brought claims ADA, Rehabilitation Act, IDEA, and constitutional claims challenging use of solitary confinement on minors, denial of special education services, and disability discrimination.</p>	<p>“All detainees under the age of 18 years old who have been held or will be held in any form of solitary confinement at the St. Joseph County Juvenile Justice Center since September 7, 2016.”</p> <p>“‘IDEA Subclass’: ‘All members of the Juvenile Class with a disability, as defined by the Individuals with Disabilities in Education Act (‘IDEA’), who have been or will be denied the special education and related support services to which they are entitled under the IDEA.’”</p>

Case	Disability Class(es) Certified
	<p>“Disability Subclass’: ‘All members of the Juvenile Class with psychiatric and/or intellectual disabilities, as defined by the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973, who have been or will be denied the programs, services, and benefits (including the individualized assessment) mandated by the Americans with Disabilities Act and/or Section 504 of the Rehabilitation Act of 1973.’”</p>
<p><i>Williams v. Conway</i>, 312 F.R.D. 248, 254 (N.D.N.Y. 2015). Deaf prisoners brought ADA, Rehabilitation Act and constitutional claims challenging failure to provide sign language interpreters and ADA information in county prison.</p>	<p>“[A]ll present and future deaf and hearing-impaired prisoners of the Onondaga County Justice Center who have been, are, or will be discriminated against, solely on the basis of their disability, in receiving the rights and privileges accorded to all other prisoners.”</p>

**APPENDIX B**

**CERTIFIED CLASSES OF PEOPLE WITH DISABILITIES IN NON-INSTITUTIONAL SETTINGS**

***HARRIS V. GDOC, CASE NO. 5:18-CV-365-TES***

<b>Case</b>	<b>Disability Class(es) Certified</b>
<p><i>Ass’n of Or. Ctrs. for Indep. Living v. Or. Dept. of Transp.</i>, No. 3:16-cv-00322-HZ, Unopposed Motion for Settlement Class Certification at 15 (Or. Feb. 22, 2016); Order Granting Unopposed Motion for Settlement Class Certification at 1 (Or. Nov. 17, 2016).</p> <p>Persons with mobility disabilities brought ADA and Rehabilitation Act claims against the state transit authority, challenging the lack of curb ramps and pedestrian signals that endangered disabled individuals.</p>	<p>“[P]eople with physical disabilities, namely those with mobility or visual impairments, who have been adversely affected by inaccessible curb ramps or inaccessible pedestrian signals on pedestrian rights-of-way under the jurisdiction of the Oregon Department of Transportation.”</p>
<p><i>Brooklyn Ctr. for Indep. of the Disabled v. Bloomberg</i>, 290 F.R.D. 409, 420–21 (S.D.N.Y. 2012).</p> <p>Individuals with a variety of disabilities brought claims under the ADA, the Rehabilitation Act and New York City Human rights law asserting that the city’s emergency and disaster planning discriminated against individuals with disabilities.</p>	<p>“All people with disabilities, as defined by the Americans with Disabilities Act, who are within the City of New York and the jurisdiction served by the City of New York’s emergency preparedness programs and services.”</p>
<p><i>Bronx Indep. Living Servs. v. Metro. Transp. Auth.</i>, No. 1:16-cv-05023-ER, Order Granting Class Certification at 2, (S.D.N.Y. Apr. 25, 2018).</p> <p>Three disabled individuals and a group of disability rights organizations brought class action claims against the New York City Transit Authority alleging that the subway elevator system and its repairs discriminate by creating</p>	<p>“All persons with mobility disabilities who cannot currently use the Middletown Road subway station because of accessibility barriers at that station and who would use the station if it were made accessible.”</p>

Case	Disability Class(es) Certified
<p>unsanitary and dysfunctional conditions and a lack of accommodations.</p>	
<p><i>Dunakin v. Quigley</i>, 99 F. Supp. 3d 1297, 1324, 1333 (W.D. Wash. 2015).</p> <p>Nursing facility residents with developmental disabilities brought ADA claims alleging that Medicaid-certified nursing facilities in Washington State unnecessarily isolate individuals with disabilities.</p>	<p>“[A]ll individuals who: (a) are or will be residents of Medicaid-certified, privately-operated nursing facilities in the State of Washington; and (b) who [sic] are Medicaid recipients with an intellectual disability or related condition(s) such that they are eligible to be screened and assessed pursuant to 42 U.S.C. § 1396r(e)(7) and 42 C.F.R. § 483.122 et seq.”</p>
<p><i>Gray v. Golden Gate Nat’l Recreational Area</i>, 279 F.R.D. 501, 502–03 (N.D. Cal. 2011).</p> <p>Individuals with visual and mobility disabilities bring claims under the Rehabilitation Act, alleging that the Golden Gate National Recreational Park System pervasively and illegally discriminates against individuals with disabilities by failing to ensure adequate accommodations to the system’s parks and programs.</p>	<p>“All persons with mobility and/or vision disabilities who are being denied programmatic access under the Rehabilitation Act of 1973 due to barriers at park sites owned and/or maintained by Golden Gate National Recreation Area. For the purpose of class certification, persons with mobility disabilities are those who use wheelchairs, scooters, crutches, walkers, canes, or similar devices to assist their navigation. For the purpose of class certification, persons with vision disabilities are those who due to a vision impairment use canes or service animals for navigation.”</p>
<p><i>Hizer v. Pulaski Cty.</i>, No. 3:16-CV-885-JD-MGG, 2017 WL 3977004, at *4, *9 (N.D. Ind. Sept. 11, 2017).</p> <p>People with mobility disabilities who use the Pulaski County Courthouse brought ADA and Rehabilitation Act claims against the county alleging that the courthouse was inaccessible.</p>	<p>“[A]ll persons with mobility impairments or other physical disabilities who access or attempt to access, or who will access or will attempt to access, the Pulaski County Courthouse.”</p>

Case	Disability Class(es) Certified
<p><i>Glover v. Laguna Beach</i>, No. SACV 15-01332 AG (DFMx), 2017 U.S. Dist. LEXIS 167501 (C.D. Cal. June 23, 2017).</p> <p>Individuals with disabilities brought constitutional, ADA, and Rehabilitation Act claims, alleging that the City of Laguna Beach discriminated against individuals with disabilities by failing to ensure adequate access to city-operated shelter-like facilities for homeless individuals with disabilities.</p>	<p>“All homeless persons who reside or will reside in the geographic area of Laguna Beach who have a mental and/or physical disability as defined under section 504 of the Rehabilitation Act and Americans with Disabilities Act and who have been, or are likely to be, cited for violations of California Penal Code section 647(e), Laguna Beach Municipal Code section 8.30.030 and/or Laguna Beach Municipal Code section 18.05.020.”</p>
<p><i>Kenneth R., ex rel. Tri-Cty. CAP, Inc./GS v. Hassan</i>, 293 F.R.D. 254, 271–72 (D.N.H. 2013).</p> <p>People with psychiatric disabilities brought ADA and Rehabilitation Act claims challenging their illegal institutionalization which involved denial of adequate services.</p>	<p>“All persons with serious mental illness who are unnecessarily institutionalized in New Hampshire Hospital or Glencliff or who are at serious risk of unnecessary institutionalization in these facilities. At risk of institutionalization means persons who, within a two year period: (1) had multiple hospitalizations; (2) used crisis or emergency room services for psychiatric reasons; (3) had criminal justice involvement as a result of their mental illness; or (4) were unable to access needed community services.”</p>
<p><i>Lane v. Kitzhaber</i>, 283 F.R.D. 587, 589-90 (D. Or. 2012).</p> <p>Individuals with intellectual and developmental disabilities brought ADA and Rehabilitation Act claims against the state alleging that the state operated an employment services program that unnecessarily separated disabled participants from nondisabled participants.</p>	<p>“‘[A]ll individuals in Oregon with intellectual or developmental disabilities who are in, or who have been referred to, sheltered workshops’ and ‘who are qualified for supported employment services.’”</p>
<p><i>Maziarz v. Hous. Auth. of Vernon</i>, 281 F.R.D. 71, 80, 85 (D. Conn. 2012).</p> <p>Disabled seniors brought ADA and Fair Housing Act claims against the Town of Vernon’s housing authority, alleging that the town denies seniors and disabled residents adequate access to housing services.</p>	<p>“All current and former residents of the Housing Authority of the Town of Vernon's senior-disabled housing who were required to certify their ability to live independently and comply with the requirement of the Personal Care Sponsor Agreement as a condition of their tenancy from December 23, 2008 until the present.”</p>

Case	Disability Class(es) Certified
<p><i>N.B. v. Hamos</i>, 26 F. Supp. 3d 756, 776 (N.D. Ill. 2014).                      Children with psychiatric &amp; behavioral disabilities brought ADA and Rehabilitation Act claims against the state, challenging the denial of community-based or residential outpatient care.</p>	<p>“All Medicaid-eligible children under the age of 21 in the State of Illinois: (1) who have been diagnosed with a mental health or behavioral disorder; and (2) for whom a licensed practitioner of the healing arts has recommended intensive home- and community-based services to correct or ameliorate their disorders.”</p>
<p><i>Oster v. Lightbourne</i>, No. C 09-4668 CW, 2012 WL 685808, at *1–2, *6 (N.D. Cal. Mar. 2, 2012), <i>order corrected</i>, No. C 09-4668 CW, 2012 WL 1595102 (N.D. Cal. May 4, 2012).                      Individuals dependent on in-home support services brought claims under the ADA, Medicaid Act, Social Security Act, and Rehabilitation Act challenging budget cuts to programs that enable blind, elderly, and disabled poor to avoid institutionalization.</p>	<p>“All recipients of IHSS in the State of California whose IHSS services will be limited, cut, or terminated under the provisions of ABX4 4, and all applicants to IHSS in the State of California who would have been eligible for IHSS services but who are either not eligible, or are eligible for fewer services, as a result of ABX4 4.”</p> <p>“All recipients of IHSS in the State of California who have received or will receive notices of action that include a reduction of IHSS hours based on SB 73 or Defendants' implementation of SB 73, including future applicants for IHSS services whose notice of action will reflect reduced IHSS hours as a result of SB 73 or Defendants' implementation of SB 73.”</p> <p>“All present and future IHSS recipients and applicants who have been or would have been authorized to receive domestic and/or related IHSS, and whose IHSS will be reduced to eliminate some or all of their domestic and/or related services under the provisions of ABX4 4.”</p> <p>“All present or future IHSS recipients who are under the age of 21, who qualify for full-scope Medi-Cal with federal financial participation, and who therefore are entitled to the protections of the Early Periodic Screening Diagnosis and Treatment provisions of the federal Medicaid Act, 42 U.S.C. § 1396a(a), who have been or would have been authorized to receive IHSS, and whose IHSS services will be reduced or terminated under the provisions of ABX4 4.”</p> <p>“All present or future IHSS recipients who are under the age of 21, who qualify for full-scope Medi-Cal with federal financial participation, and who therefore are entitled to the protections of the Early Periodic Screening Diagnosis and Treatment provisions of the federal Medicaid Act, 41 U.S.C. § 1396a(a), who have received or will receive notices of action that include a reduction of IHSS hours based on SB 73 or Defendants' implementation of SB 73, including future applicants for IHSS services whose notice of action will reflect reduced IHSS hours as a result of SB 73 or Defendants' implementation of SB 73.”</p>

Case	Disability Class(es) Certified
<p><i>O.B. v. Norwood</i>, No. 15 C 10463, 2016 WL 2866132, at *1, *5 (N.D. Ill. May 17, 2016).</p> <p>Medicaid-eligible children with disabling chronic health conditions brought ADA and Rehabilitation Act claims challenging the denial of in-home nursing services.</p>	<p>“All Medicaid-eligible children under the age of 21 in the State of Illinois who have been approved for in-home shift nursing services by the Defendant, but who are not receiving in-home shift nursing services at the level approved by the Defendant, including children who are enrolled in a Medicaid waiver program, such as the Medically Fragile Technology Dependent (MFTD) Waiver program, and children enrolled in the nonwaiver Medicaid program, commonly known as the Nursing and Personal Care Services (NPCS) program.”</p>
<p><i>Pashby v. Cansler</i>, 279 F.R.D. 347, 356 (E.D.N.C. 2011), <i>aff'd and remanded sub nom. Pashby v. Delia</i>, 709 F.3d 307 (4th Cir. 2013).</p> <p>Medicaid receipts brought ADA, Rehabilitation, and Medicaid claims challenging a new rule that altered the provision of covered personal care services.</p>	<p>“[A]ll current or future North Carolina Medicaid recipients age 21 or older who have, or will have, coverage of PCS denied, delayed, interrupted, terminated, or reduced by Defendant directly or through his agents or assigns as a result of the new eligibility requirements for in-home PCS and unlawful policies contained in IHCA Policy 3E.”</p>
<p><i>Pitts v. Greenstein</i>, No. CIV.A.10-635-JJB-SR, 2011 WL 2193398, at *3 (M.D. La. June 6, 2011).</p> <p>Disabled people brought ADA and Rehabilitation Act claims against the state, challenging its reduction of home and community-based services.</p>	<p>“Louisiana residents with disabilities who have been receiving Medicaid-funded services through the LT-PCS program; who desire to reside in the community instead of a nursing facility; who require more than 32 hours of Medicaid-funded personal care services per week in order to avoid entering a nursing facility, and who do not have available (including through family supports, shared living arrangements, or enrollment in the ADHC waiver) other means of receiving personal care services.”</p>
<p><i>P.V. ex rel. Valentin v. Sch. Dist. of Phila.</i>, 289 F.R.D. 227, 236 (E.D. Pa. 2013).</p> <p>Autistic children and their families brought ADA, Rehabilitation Act, and Individuals with Disabilities Education Act claims challenging the system of transferring autistic students from one school more frequently than other students.</p>	<p>“All children with autism in the School District of Philadelphia in grades kindergarten through eight (“K–8”) who have been transferred, are in the process of being transferred, or are at risk of being transferred, as a result of the School District's upper-leveling process, the parents and guardians of those children, and future members of the class”</p>
<p>Stipulation and Order of Class Certification at 2, <i>Rafferty v. Doar</i>, No. 1:13-cv-01410-TPG, (S.D.N.Y. Aug. 07, 2013).</p> <p>Blind and vision-impaired Supplemental Nutrition Assistance Program recipients brought ADA and</p>	<p>“All New York City residents who: (1) have visual impairments that substantially limit the major life activity of seeing or otherwise have a visual disability as "disability" is defined under the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973; (2) are current or future applicants for or recipients of Supplemental Nutrition Assistance Program ("SNAP") and/or Medical Assistance</p>

Case	Disability Class(es) Certified
<p>Rehabilitation Act claims against the city arguing it illegally denied access to benefits.</p>	<p>("Medicaid") benefits; and (3) need written materials in alternative formats for effective communication regarding SNAP and Medicaid."</p>
<p><i>Reiskin v. Reg'l Transp. Dist.</i>, No. 14-cv-03111-CMA-KLM, 2017 WL 5990103 at *10, Representative Plaintiffs' Unopposed Motion for Certification of a Class for Settlement Purposes Only and Preliminary Approval of Class Settlement Agreement, (Colo. Nov. 18, 2014);</p> <p>Order Granting Plaintiffs' Unopposed Motion for Certification of a Class for Settlement Purposes Only and Preliminary Approval of Settlement Agreement, 2017 WL 5990103, at *2 (Colo. Apr. 3, 2017).</p> <p>Disabled persons who use wheelchairs brought ADA and Rehabilitation Act claims against the state's transportation service, alleging the service denied them equal access to light rail trains.</p>	<p>"[A]ll Persons in Colorado who are qualified individuals with disabilities who use Wheelchairs, as that term is defined below, and who have used, currently use, or may in the future use [the Regional Transportation District's] Light Rail Service...."</p> <p>"'Wheelchair' shall have the meaning assigned to it in 49 C.F.R. § 37.3 and shall include all devices used by individuals with mobility impairments specifically to assist with ambulation, by way of example but not limitation, manual and motorized wheelchairs, scooters, and walkers, so long as such devices fit within the definition of wheelchair provided in 49 C.F.R. § 37.3."</p>
<p><i>Steward ex rel. Minor v. Janek</i>, 315 F.R.D. 472, 493 (W.D. Tex. 2016).</p> <p>Persons with intellectual and developmental disabilities confined or at risk of being confined to nursing facilities brought ADA, Medicaid, and Rehabilitation Act claims, alleging a discriminatory deficiency in community-based mental health services.</p>	<p>"All Medicaid-eligible persons over twenty-one years of age with intellectual or developmental disabilities or a related condition in Texas who currently or will in the future reside in nursing facilities, or who are being, will be, or should be screened for admission to nursing facilities pursuant to 42 U.S.C. § 1396r(e)(7) and 42 C.F.R. § 483.112 et seq.</p> <p>a. For purposes of this class, "intellectual disabilities" has the same definition as that set forth at 42 C.F.R. § 483.102(b)(3).</p> <p>b. For purposes of this class, "related condition" has the same definition as that set forth at 42 C.F.R. § 1010."</p>
<p><i>Strouchler v. Shah</i>, 286 F.R.D. 244, 247–48 (S.D.N.Y. 2012).</p>	<p>"All New York City Medicaid recipients of continuous personal care services who, at any time since January 1, 2011, have been threatened with unlawful reduction or</p>

Case	Disability Class(es) Certified
<p>Disabled recipients of Medicaid brought constitutional, ADA, and Rehabilitation Act claims against the city health administrators challenging the reduction of their in-home services.</p>	<p>discontinuance of these services or whose care has been unlawfully reduced or discontinued because the City Defendant has determined that they do not meet the medical criteria for these services.”</p>
<p><i>Toney-Dick v. Doar</i>, No. 12 Civ. 9162(KBF), 2013 WL 5295221, at *3, *13 (S.D.N.Y. Sept. 16, 2013).</p> <p>Disabled residents of New York City brought ADA, Rehabilitation Act, and Food Stamp Act claims against city administrators challenging its implementation of its Disaster Supplemental Nutrition Assistance Program.</p>	<p>“All individuals who (a) have or had a physical or mental impairment that substantially limits one or more major life activities within the meaning of the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § [§ ] 12101, et seq., or have a record of such an impairment; (b) are or were eligible to apply for benefits from a New York City [HRA D–SNAP], including the D–SNAP benefits offered in response to “Superstorm Sandy;” (c) reside or resided in the covered zip codes for an HRA D–SNAP Program; and (d) need or needed reasonable accommodations to enable them to apply for D–SNAP benefits.”</p> <p>“One subclass shall consist of disabled individuals who were eligible to apply for benefits from the Sandy D–SNAP Program. The other subclass shall consist of individuals who may be eligible to apply for benefits from a future D–SNAP program and who will need reasonable accommodations because of a disability (or disabilities).”</p>
<p><i>Van Orden v. Meyers</i>, No. 4:09CV00971 AGF, 2011 WL 4600688, at *11 (E.D. Mo. Sept. 30, 2011).</p> <p>Civilly committed residents of the Missouri Department of Mental Health’s Sexual Offender Rehabilitation and Treatment Services (“SORTS”) facility brought constitutional claims challenging the lack of treatment provided by “SORTS” and the statutory scheme that reimburses the residents pursuant to the program.</p>	<p>“The ‘Treatment Class’ shall include persons who are, or will be, during the pendency of this action, residents of SORTS of the State of Missouri as a result of civil commitment. The ‘Charging Class’ shall include all persons who are, or will be, during the pendency of this action residents, and former residents, of SORTS of the State of Missouri as a result of civil commitment, and who have been, or will be, billed or charged for care, treatment, room or board by SORTS or by the SMMHC.”</p>

## **Andrew Smith Declaration in Support of Class Certification**

I, Andrew Smith, declare:

1. This paper describes things that have happened to me personally.

Everything in this paper has happened to me. I promise that everything written here is true and correct. In some places, I say that I “believe” or “think” something is true. That means that I believe that fact is true, but I cannot promise that it is true. I know that I might be a witness in this case, and that I might be asked to explain these facts in person. If this happens, I will say the same things that are written in this paper.

2. I am Hard of Hearing. I have been Hard of Hearing my whole life. My first languages are ASL and spoken English. I can read and write some things in English. I can speak for myself in English when the topic is fairly simple. But for complex and important things, I need to communicate in ASL.

3. I also have other disabilities. I have a prosthetic leg. I lost my leg in a car accident when I was in high school.

4. I am in prison at Central State Prison, or CSP, in Macon, Georgia. My Georgia prison number is 1148408. I have been in prison many times. Many times I was released on probation or parole. But then I ended up back in prison. I didn't have good communication when I was released.

5. Before I was in Central State, I was in other prisons. I have been in Georgia State Diagnostic and Classification Prison, in Jackson, Baldwin State Prison, Men's State Prison, Augusta State Medical Prison, Coastal State Prison, Coffee State Prison, and Bostick State Prison.

*Communication in Prison*

6. It is very difficult for me to communicate in prison. I have taken many classes in prison without interpreters or captions. I can understand a little information by lip reading, if it is simple, and if the person is facing me and nothing is blocking their lips or causing visual noise. I tried to take a GED class in Augusta State Medical Prison. But the prison would not provide interpreters. I tried to follow by lip reading even though lip reading is really hard and only gives a little information. But the teacher moved all over the room, so I could not understand what was happening at all. I did not finish the class. I wanted to take a class called Moral Reconciliation Therapy, or MRT. But it's complicated and detailed, so I need an interpreter. I haven't taken MRT yet because the prison has not offered the class with interpreters.

7. Now I am taking a GED class again at CSP. The prison is finally providing interpreters for the class. I can understand so much more with interpreters. I am frustrated that I had to sit in prison for two and a half years before I could finally take the GED class with the interpretation I need.

8. Because I can speak, and because I know some English, prison staff often ask me to "interpret" for other Deaf people. This is very frustrating. It is very hard. I cannot hear or understand enough to interpret. I do not want to be an interpreter. Sometimes I have to try to interpret for very complicated, very important meetings. I do my best to help other Deaf people. I interpret as well as I can. But it is unfair to make me do this. It is too hard. It is not what I want to do. Sometimes the communication is very private and personal, and it makes me uncomfortable to be in the middle of it. I have had to interpret for DR hearings before. I have had to interpret at doctor's appointments and counseling appointments.

9. CSP has more interpreters now than they did a year ago. They have interpreters for classes most of the time. They have interpreters for meetings sometimes. But there are still times where I cannot communicate well. For example, I cannot communicate with counselors and guards when they walk around the dorms. Hearing people can just go up to them and talk but I can't because they don't have interpreters with them. There have also been times over the past six months when the interpreter has not shown up for my GED class, so I could not attend. Sometimes, at medical appointments, there are no interpreters, and they have to reschedule my appointments. Sometimes, at medical appointments, CSP uses VRI, but the VRI does not always work because the screen freezes or the picture isn't clear.

#### *Disciplinary Hearings*

10. I have been punished unfairly. Once, I had a DR hearing for something I did not do. I was found guilty. The officers told me that I could appeal, but there were no interpreters, so I did not understand what that meant or how to do it. Officers could not communicate clearly and I could not communicate clearly either. I got a big fine, even though I was innocent. I was confused.

11. I was also punished once for trying to get a hearing aid battery. There is a note in my profile that I need a hearing aid. When the battery died, I went to medical to get a replacement. But the officer would not let me go to medical. I tried to explain where I was going and why, but the officer would not listen. I got a DR for this.

#### *Medical Care in Prison*

12. I have had many, many medical appointments without interpreters.

13. CSP has interpreters sometimes now for medical appointments, but when I go to other facilities, like ASMP or the Hangar Prosthetic Clinic, they do not have

interpreters. I need medical care and devices because I have a prosthetic leg. I have to go to a clinic to get the prosthetic fixed or adjusted. I have been to many appointments about my leg without an interpreter. For months, my prosthetic did not fit correctly. It caused a lot of pain on my stump. It caused it to bleed. I was afraid it would be going to get infected. But the prisons waited a long time before they let me go to the clinic to get the prosthetic adjusted. I was in a lot of pain for a long time because I could not get medical care. And then when I finally got to the clinic, there was no interpreter, so I could not communicate clearly about what I needed and what the problem was.

14. It is painful for me to walk up and down stairs. At Augusta, there were elevators. But the officers there only sometimes let me use the elevators. Sometimes they told me I had to use the stairs, because I can walk. In February 2018, I transferred to Central State with most of the other Deaf people from Augusta. In Central State, there is an elevator but they reserve it only for staff. I have to walk up and down stairs a lot here. It is painful.

15. I wrote a grievance about this, saying that I needed access to the elevator because the prison staff made me walk up and down stairs. But after I wrote the grievance, some sort of investigator came to talk to me about my grievance. They told me I could use the elevator if I went back to Augusta. They told me if I wanted to stay at CSP, I had to drop my grievance. But in Augusta, there were almost never interpreters. In CSP, there are some interpreters. I did not want to go back to Augusta because interpreters and classes are so important to me. I had to decide between having access to elevators and having access to interpreters. But I need both.

16. I have hearing aids but I need better hearing aids. Right now my left ear is not clear enough. My right ear is profoundly deaf and would not benefit much from a hearing aid. Still, quality hearing aids would help me, especially in my left ear.

*Telephones, Videophone, TTY*

17. A few months ago, CSP installed videophones. It is much easier to communicate with my family and friends and lawyers with videophones. But at ASMP, there were no videophones when I last visited within the past six months.

18. I tried to use the TTYs many times in the prison before videophones were installed. It was very frustrating to use them. Often, the TTY machines are broken altogether. Even when they are not broken, there are problems. In Augusta, the TTY machine was in a counselor's office. The counselor only let me use the TTY when she was in a good mood. When I could use the TTY, a hearing person has to enter the prompts at the beginning of the call. I am only allowed to use the TTY for a few minutes at a time – at Augusta we could only have 5 minutes for a call with the TTY. TTY takes much longer to use than a standard telephone. But we got less time to use the TTY than hearing people had to use the regular telephones. In CSP, I tried to use the TTY, but the words on the screen were all garbled. I could not communicate.

19. I have never seen a captioned phone in any prison. I might be able to communicate with a captioned phone if the conversation was simple. I would like to try it.

*Grievances and Retaliation*

20. The lawyers for this case first visited me in December 2017. Before that, I filed some grievances on my own. But I did not understand how the appeal process

worked. My grievances were denied. I did not know that I could write appeals, or even bring my case to an outside judge.

21. When the lawyers for this case started visiting, there were always interpreters at the meetings. I could finally understand the grievance process entirely. Before that, I had just pieced together how the grievance process worked. I wrote two grievances with some help from the lawyers. The first explained that I needed interpreters to take a GED class. The second explained that I needed access to the elevator and other accommodations because of my prosthetic leg.

22. I did not get answers to my grievances on time. I tried to write appeals because the prison did not answer my grievances within 40 days. But the counselor would not accept my grievance appeal. The counselor said I needed to wait until I got a response before I wrote a grievance appeal. But the rules about grievances say otherwise. After my counselor refused to accept my grievance appeal one day, she did accept the same appeal the next day. I don't know why.

23. Then in April 2018, I had a meeting to "investigate" my appeal about needing physical access. At that meeting, I signed a paper that I think said that I agreed to "drop" my grievance. But I never got a copy of this paper. And I did not want to drop that grievance. I was afraid I would be retaliated against and transferred away from CSP (where there are sometimes interpreters) as punishment if I did not drop the grievance. I do not think this was fair.

24. This paper only talks about some of the problems and discrimination I have had in prison. The prisons have done many more things that are unfair, just because I am Deaf.

I promise that everything in this paper is true and correct. I know that this is a serious paper. I know that I am signing the paper "under penalty of perjury." This means that if I lie, I could get a new criminal charge against me for lying. I promise that I am telling the truth.

This paper was interpreted into ASL for me by Anna W. McNeill *ASL Interpreter*  
*RFD certified CI, CT, SC, L + NIC*  
I signed this paper on February 21, 2019 at \_\_\_\_\_, Georgia.

Andrew Smith

Andrew Smith

Plaintiff

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION**

**DECLARATION OF KYLE RICHARD BISHOP III  
IN SUPPORT OF PLAINTIFFS' MOTION FOR CLASS CERTIFICATION**

1. I have personal knowledge of all the facts set forth in this declaration. I promise that everything written here is true and correct. In some places, I say that I believe something is true. That means that I believe that fact is true, but I cannot promise that it is true. I know that I might be called as a witness in this case to explain the facts contained in this declaration. If I am called as a witness, I will testify to the facts and matters set forth herein.

2. I am hard of hearing. I use hearing aids to improve my hearing. When I do not wear my hearing aids, I cannot hear very much at all. I need hearing aids to have a conversation. Without my hearing aids, I can only hear people talk to me if they speak very loudly and slowly, and even then I struggle to hear what they are saying. I also need hearing aids to hear alarms and announcements. Without my hearing aids, I am unable to hear alarms or announcements made on a loudspeaker.

3. I am in prison at Washington State Prison in Davisboro, Georgia. My prison number is 1073991. I have been in prison since 2001. When I was first incarcerated, I was in Baldwin State Prison in Hardwick, Georgia, for about 8 months. After that, I was in Smith State Prison in Glennville, Georgia, for about 1 year. After that, I was in Telfair State Prison in

Helena, Georgia, for about 7 years. After that, I was in Macon State Prison in Oglethorpe, Georgia, for about 2 years. After that, I was in Wilcox State Prison in Abbeville, Georgia, for about 6 years. After that, I was moved to Washington State Prison, where I have been since March 2017.

*Access to Hearing Aids*

4. In total, I have been in prison in Georgia for almost 18 years. I have been hard of hearing the entire time. During my time in prison, I have had only intermittent access to hearing aids. I first received a hearing aid when I was in Baldwin State Prison in 2001, but they stopped working when I was at Telfair State Prison in around 2007. I complained many times, but I did not receive new hearing aids. I used a hearing aid that functioned only some of the time for approximately 10 years, from around 2007 to May 2017.

5. In December 2016, when I was at Wilcox State Prison, I was attacked by a group of inmates. I was wearing my hearing aid during the attack, but it did not work properly. I could not hear the inmates when they approached me, and I could not hear the guards who were nearby during the attack. I suffered very serious head injuries during this attack. As a result, I required emergency medical assistance and had to be hospitalized. During this time, I still did not have a working hearing aid, so I had a very difficult time communicating with my medical team. I was hard of hearing before the attack, but the head injuries I suffered during the attack had exacerbated my hearing loss. One of my doctors referred me to an audiologist, who said I needed new hearing aids.

6. When I got out of the hospital after my attack, I was moved from Wilcox State Prison to Washington State Prison in around March 2017. I finally received new hearing aids in around May 2017. At this time, I was still recovering from the injuries I suffered during my

attack, so I was seeing doctors regularly. In August 2017, I was taken to a hospital in Augusta, Georgia, for a vertigo test. When I was being transported to the hospital, it was very hot, and I was sweating a lot. I asked the prison guards who were transporting me to turn on the air conditioning, but they refused. During this trip, my new hearing aids short-circuited and were destroyed from the sweat.

7. When I got back to Washington State Prison, after my hospital visit in Augusta, I asked for new hearing aids, but nothing happened. I went without working hearing aids (again) for almost 1 year. I finally received new hearing aids in around August 2018.

*Communication in Prison*

8. From around 2007 to May 2017, and from around August 2017 to July 2018, I did not have working hearing aids. During this time, I had a very difficult time communicating with the prison staff—including my counselors, the prison guards, and my teachers—because I could not hear. For example, I could not hear when announcements were made for “chow call,” so I missed many meals. I could not hear when announcements were made for “mail call,” so I missed many opportunities to send and receive mail. I could not hear when announcements were made for “phone time,” so I missed many opportunities to make calls.

9. During the more than 10 years in prison that I did not have hearing aids, I had a very difficult time communicating with other inmates because I could not hear. These were very lonely and frustrating times for me because I was unable to communicate effectively with others.

10. During the more than 10 years in prison that I did not have hearing aids, I had a very difficult time communicating with my family and friends when they came to visit me because I could not hear. For example, last year, my mother and stepfather came to visit me for Christmas. I had not seen my mother in person in over 12 years. I did not have access to hearing

aids during our visit, and the visitation room was very loud, as many inmates had families visiting for the holidays. I had a very difficult time communicating with my mother and stepfather during this visit. This experience was very frustrating for me, particularly because I do not know when I will have the chance to see my mother again.

11. Being unable to hear in prison has not only hindered my ability to communicate with prison staff, other inmates, and my loved ones outside of prison, but it has made me feel unsafe. Not being able to hear what prison guards and inmates are saying has made me feel more vulnerable to harassment and punishment. For example, during the more than 10 years in prison that I did not have hearing aids, I was often unable to hear the prison guards' commands, and I was yelled at many times for not responding. I also could not hear the inmates who attacked me in December 2016 or the prison guards who were nearby during the attack. I believe that the attack on me was made worse by my inability to hear what was going on around me because I did not have hearing aids.

*Effective Communication at Medical/Mental Health/Dental Appointments*

12. After I was attacked at Wilcox State Prison in December 2016, I had a number of health issues. I was hospitalized for a time and saw many doctors during my recovery. During this time, I did not have access to hearing aids, so I had trouble communicating with my doctors and nurses because I could not hear them. My doctors and nurses had to speak very loudly and slowly to me so that I could understand them. I tried to read their lips, but it did not work. Not being able to hear my medical team was frustrating for me. I was unable to hear important information about my health and recovery because I did not have hearing aids.

*Telecommunications*

13. I want to communicate with my family and friends outside the prison. My family and friends visit me as often as they can, but because they live in Virginia, it is not easy for them. I have trouble communicating with my family and friends between visits.

14. I have tried to use a standard telephone, but I am unable to do so while wearing my hearing aids. I have to take my hearing aids out to make calls on a standard telephone, but I cannot hear very much, if anything, when I do this. When I do not have my hearing aids on while using the phone, the person I am calling has to speak very loudly and slowly for me to be able to hear them at all, and I often have to ask them to repeat themselves several times. This can be very frustrating for me and for the person I am calling.

15. I could communicate with a captioned telephone if I had access to one. With a captioned telephone, I would be able to read what the other person is saying on a screen in real time, and I would be able to voice my response in English. This would help me to communicate more effectively with my family and friends outside the prison.

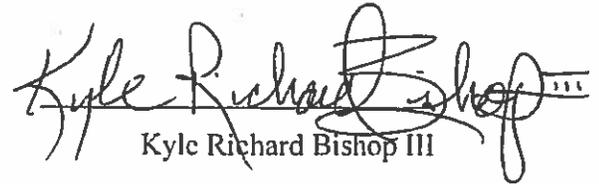
16. The prisons do not have captioned telephones. I have never used a captioned phone in the nearly 18 years I have been in prison.

*Educational, Vocational, and Religious Programs*

17. I have taken many educational and vocational classes during my time in prison. During the more than 10 years in prison that I did not have hearing aids, I struggled to hear what my teachers were saying. I also struggled to hear what was going on around me. For example, during the diesel mechanics vocational class that I took in 2009 at Telfair State Prison, I did not have access to working hearing aids. The class was very loud and involved operating machinery.

Because I did not have hearing aids, I often could not hear the teacher's instructions. I believe that my inability to hear instructions during the diesel mechanics vocational class created a safety hazard to me and to the other inmates in the class.

I declare under penalty of perjury under the laws of the United States and the State of Georgia that the foregoing is true and correct, and that this declaration was executed in Davisboro, Georgia on August 24, 2018.

  
Kyle Richard Bishop III

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION

**DECLARATION OF VIRGIL BROWN  
IN SUPPORT OF PLAINTIFFS' MOTION FOR CLASS CERTIFICATION**

1. I have personal knowledge of all the facts set forth in this declaration. I promise that everything written here is true and correct. In some places, I say that I believe something is true. That means that I believe that fact is true, but I cannot promise that it is true. I know that I might be called as a witness in this case to explain the facts contained in this declaration. If I am called as a witness, I will testify to the facts and matters set forth herein.

2. I am hard of hearing. I use hearing aids to improve my hearing. When I do not wear my hearing aids, I cannot hear very much at all. I need hearing aids to have a conversation. Without my hearing aids, I can only hear people talk to me if they speak very loudly and slowly, and even then I struggle to hear what they are saying. I also need hearing aids to hear alarms and announcements. Without my hearing aids, I am unable to hear alarms or announcements made on a loudspeaker.

3. I am in prison at Augusta State Medical Prison ("ASMP") in Augusta, Georgia. My prison number is 848779. I have been in prison since 2014. When I was first incarcerated, I was I was in Georgia State Prison ("GSP") in Reidsville, Georgia, for about 1 year. I had to leave

GSP to be hospitalized for serious health issues with my kidneys and heart. When my health improved, I was moved to ASMP. I have been in ASMP for almost 3 years.

*Access to Hearing Aids*

4. In total, I have been in prison in Georgia for almost 4 years. During this time, I have had only intermittent access to hearing aids. For the first 3 months that I was incarcerated at GSP, I was not given any hearing aids. After about 3 months at GSP, I was given hearing aids, which I used until I was hospitalized for a few months.

5. When I was hospitalized, the prison did not let me bring my hearing aids with me. I had trouble communicating without my hearing aids when I was in the hospital. I asked the guards watching me at the hospital if I could get my hearing aids, but I never got them.

6. When I eventually returned to prison after my stay in the hospital, I was moved to ASMP. For the first 6 or 7 months that I was at ASMP, I still did not have my hearing aids.

7. The hearing aids that ASMP provided me are okay, but I believe they could be much better. Although my hearing aids improve my hearing, I still cannot hear a lot of things that I should be able to hear.

*Communication in Prison*

8. During the 3 months at GSP that I did not have hearing aids, and during the 6 or 7 months at ASMP that I did not have hearing aids, I had a very difficult time communicating with the prison staff—including my counselor, the prison guards, and my teachers—because I could not hear. For example, I could not hear when my name was called for visitations, so I was very late to see my family when they came to visit. I could not hear when announcements were

made for meals, so I missed many meals. I could not hear when announcements were made for "pill call," so I did not take my medication when I should have on several occasions.

9. During the 3 months at GSP that I did not have hearing aids, and during the 6 or 7 months at ASMP that I did not have hearing aids, I had a very difficult time communicating with other inmates and with my family and friends when they came to visit me because I could not hear. These were very lonely and frustrating times for me because I was unable to communicate effectively with others.

*Effective Communication at Medical/Mental Health/Dental Appointments*

10. After my first year in prison at GSP, I had a number of health issues. I was hospitalized at least twice for a total of 2 or 3 months. When I was taken to the hospital, the prison did not let me bring my hearing aids with me. I asked the guards who were watching me at the hospital if I could get my hearing aids, but I never got them.

11. When I was hospitalized, I had trouble communicating with my doctors and nurses because I did not have my hearing aids. My doctors and nurses had to speak very loudly and slowly to me so that I could understand them. I am sure that I missed some of the things they said because I was not wearing my hearing aids. Not being able to hear my medical team was frustrating to me. I was dealing with potentially life-threatening health issues, and I wanted to understand what was going on. I felt like I was in the dark without my hearing aids.

*Telecommunications*

12. I want to communicate with my family and friends outside the prison. I want to talk to my siblings, my children, my grandchildren, and my friends. My family and friends visit me, but I have trouble communicating with them between visits.

13. I have tried to use a standard telephone, but I am unable to do so while wearing my hearing aids. I have to take my hearing aids out to make calls on a standard telephone, but I cannot hear very much, if anything, when I do this. When I do not have my hearing aids on while using the phone, the person I am calling has to speak very loudly and slowly for me to be able to hear them at all, and I often have to ask them to repeat themselves several times. This can be very frustrating for me and for the person I am calling.

14. I could communicate with a captioned telephone if I had access to one. With a captioned telephone, I would be able to read what the other person is saying on a screen in realtime, and I would be able to voice my response in English. This would help me to communicate more effectively with my family and friends outside of prison.

15. The prisons do not have captioned telephones. I have never used a captioned phone in the nearly 4 years I have been in prison.

I declare under penalty of perjury under the laws of the United States and the State of Georgia that the foregoing is true and correct, and that this declaration was executed in Augusta, Georgia on August 22, 2018.

  
Virgil Brown

**Darrell Smith, Jr. Declaration in Support of Plaintiffs' Motion for Class Certification**

1. This paper describes things that have happened to me personally. Everything in this paper has happened to me. I promise that everything written here is true and correct. In some places, I say that I "believe" or "think" something is true. That means that I believe that fact is true, but I cannot promise that it is true. I know that I might be a witness in this case, and that I might be asked to explain these facts in person. If this happens, I will say the same things that are written in this paper.

2. I am Deaf. I have been Deaf my whole life. My language is ASL. ASL is totally different from English. I do not use or understand English. I cannot understand lip-reading. I cannot read or write notes in English. English is not my language.

3. I like to have a team of interpreters when I talk to hearing people. I communicate and understand best when there is at least one hearing interpreter and one Deaf interpreter. The two interpreters work together. This team of interpreters helps me understand and communicate most clearly.

4. I am in prison in Central State Prison or CSP in Macon, Georgia. My Georgia prison number is 1000356256. I have been in prison since 2010. I moved to CSP around 2011. Before that, I was in Hancock State Prison and Georgia Diagnostic and Classification Prison, in Jackson. I have also been to Augusta State Medical Prison many times for doctor's appointments.

*Communication in Prison*

*Classification*

5. I have been in prison for 8 years. I signed a guilty plea. In 2010, I went to Georgia Diagnostic and Classification Prison in Jackson, Georgia. There was no interpreter there. It was very difficult to figure out what was going on. The guards did not believe me that I was Deaf. I could not communicate.

6. I believe the prison asks people questions at Jackson. I believe the people at Jackson decide what prison a person will go to. I believe the people at Jackson decide what a person will do in prison. But I could not communicate when I was in Jackson. I could not say what I wanted to learn. I could not say what I wanted to do. They just sent me to Hancock Prison. Hancock is a high security prison. I do not know why they picked that prison for me.

*Orientation*

7. Every time I arrive at a new prison, there is a meeting for new people. I think the prison staff explains the rules of the prison at this meeting. I think that hearing people can learn about the prison and ask questions at this meeting. But I have not had interpreters at any orientation. So I never learned the rules. I could not ask questions about the prison.

*Parole information*

8. I do not understand how long I will stay in prison. I signed a guilty plea. In 2010, I had a meeting at the Jackson prison. There was no interpreter. I think this meeting was about my sentence. A woman at the prison wrote down "no probation" and "30 years." They gave me a piece of paper that said "30 years parole." At the meeting, people kept pointing at things on a computer and trying to speak with me. I could not understand. I do not understand what I need to do to get parole. I do not understand when I might get parole. I have never had any other meeting about parole. I have never gotten a letter about parole.

*Punishment in Prison*

9. I have been punished in prison. When I was in Jackson, I was handcuffed behind my back and put in solitary. There were no interpreters. I could not even gesture or try to write notes. I could not explain anything. I spent 15 days in solitary in Jackson.

10. I got a Disciplinary Report, or DR, in Hancock. There was no interpreter at the DR hearing. I was handcuffed behind my back. At the end of the hearing, they gave me a paper to sign. I signed. I did not know what the paper said. I did not know that I was signing a paper that meant that I would go to solitary. I transferred to CSP soon after and spent 3 months in solitary at CSP. I think this was a punishment for the DR. I think this was much too long a punishment. I never had any way to communicate about what happened, or explain anything, or ask questions.

11. It was terrible to be in the hole. It was very traumatizing. In the hole at night, when they turned the lights off, I couldn't see anything at all. It's always dim in the hole. I think it made my eyes get worse because I spent so much time in the dark.

*Communication at work*

12. I had a job at CSP. I used to work in the kitchen. I used to serve food on the line. But the hearing people were talking and I could not understand. Supervisors explained things to hearing inmates but I could not understand. I was very frustrated and upset by this. My lawyers helped me write a grievance about work. I explained that I need interpreters to understand what is happening at work. Not for every day but for when something new was being explained or when there was a big issue. After I wrote the grievance, my counselor had a meeting with me. She brought an interpreter. She suggested that I stop food on the line and start scrubbing pots

↑  
serving

and pans instead. She said that this job would be better because I would not have to communicate if I am washing dishes. But I preferred serving food. I just needed an interpreter when there is something new or important being said at work. I stopped working because the lack of communication was causing me so much stress.

### *Classes*

13. I want to take classes. For years, I asked about taking a GED class. I want to get a diploma. But my counselors said no. They said there were no interpreters. They said I cannot take classes because there are no interpreters. After my lawyers started coming in 2017, my counselor let me go to GED classes. There is sometimes an interpreter at these classes. But there is not an interpreter every day. Sometimes the interpreter is good. Sometimes there is an interpreter who is not qualified.

### *Announcements*

14. The guards announce when it is time for chow, pill call, and blocks. In 2017, the guards started using signs sometimes to tell the Deaf people about these times. But they almost never use these signs. I haven't seen these signs for a long time. Sometimes I oversleep because I don't hear when the guards wake people up. I have missed meals because I did not hear that it was time to wake up or that it was time to eat.

### *Medical Appointments*

15. I cannot see well out of my left eye. It is getting worse. I went to Augusta to have my eyes tested in 2017. There was no interpreter at the appointment. I could not explain what my vision is like. I could not understand what the problem was. I got glasses after that

visit to Augusta. The glasses do not really help. I am worried about my eyesight. I rely on my vision to do almost everything.

16. In January 2018, I went to Augusta again. But there was no interpreter. I waited there for four days before an interpreter came. Finally an interpreter did come. The doctor said I have high pressure in my eye. The doctor wrote down four words: "Cataract, Glaucoma, Retinitis Pigmentosa."

17. In March 2018, I went to Augusta again. I went for an eye test. There were no interpreters. They did a test on my eyes to check the pressure. They wrote down that the pressure in one eye was high. They gave me eye drops for the eye. I could not ask questions about this because there was no interpreter.

18. I also have a lot of ankle pain. I broke my ankle many years ago. Now it is hurting again. I cannot stand for very long. It hurts when I walk. It hurts when I stand. I went to the doctor at CSP about my ankle. There was no interpreter. That doctor gave me a compression sock. I went to Augusta about my ankle. The doctor at Augusta said I would have surgery for my ankle. The doctor said maybe my ankle hurts because my bones are getting old. I am 40 years old.

*No videophones*

19. I want to communicate with my family and friends outside the prison. I have questions about parole. But I cannot communicate with my family unless they come to visit. I have no way to contact my family members except when they visit. My family can only visit occasionally. They live far away.

20. I want to communicate with my lawyers for this case. I want to learn what is happening with the case and share information to help the case. My lawyers visit me but I cannot communicate with them between visits.

21. I cannot use a standard telephone because I am Deaf. I cannot use JPay, the prison e-mail system, because I do not read and write English. I cannot use a TTY, because I do not read and write English. I could communicate by videophone if the prison had a videophone. With a videophone, I can communicate with my language, ASL. With a videophone, I can communicate with other people who use ASL. With a videophone, I can communicate with people who are hearing and use English.

22. I have never used a videophone in the 8 years I have been in prison. I have asked my counselors for videophones many times. My counselor says I have to wait. I do not know how long I have to wait. I really want a videophone.

### *Emergency Planning*

23. I believe the prison has fire alarms. I believe the alarms have flashing lights in some parts of the prison. But I believe there are no visual alarms in the cells. If there was a fire at night, I would not know, and I would not see the alarm. I am afraid I could get left behind or hurt because there are no visual alarms.

### *Grievances*

24. Before August 2017, I did not understand the grievance process. I believe the prison explains how grievances work at orientation. But none of the prisons have had interpreters at my orientations, so I never learned how to file grievances, or what they were for. I cannot read

the prison handbook. No one who works at the prison has ever explained the grievance process to me in ASL.

25. In 2016, another Deaf person in prison helped me fill out some grievances. This other person could write a little in English. I signed the grievances but I cannot write grievances myself.

26. My lawyers for this case started visiting me in August 2017. All of my lawyers are fluent in ASL or bring ASL interpreters to every meeting. My lawyers explained to me about grievances. I decided to write grievances saying that I need interpreters for work, and for classes.

27. I have other problems in prison, too, that I wanted to write about. For example, I need interpreters at doctor's appointments. I need mental health care with interpreters. I need videophones. I need a promise from the prison to give me an interpreter before they ever put me in solitary again. But my lawyers told me that I can only write two grievances at a time.

28. I cannot file grievances without interpreters and someone to fill out the papers for me in English. The grievance process is all in English. I cannot read the grievance form. I cannot write about my problems in English. I cannot read what the prison writes back to me about my grievances. The prison does not help me with the grievance process.

29. My lawyers helped me with the grievance process. I explained what was happening in ASL, and my lawyers translated the problems into English on grievance forms. When I got the papers back from the prisons, my lawyers translated the papers into ASL so I could understand what the prison was saying.

30. On December 14, 2017, I gave my grievances to my counselor. My lawyers explained that the prison had 40 days to write an answer. The prison did not answer in 40 days.

31. On January 24, 2018, 41 days after I submitted my grievances, my lawyers helped me write another paper, called an "appeal." They explained that the appeal is a paper that goes to an office in Atlanta. In the appeal, I explained that the prison had not responded to my grievances on time.

32. On January 24, 2018, I got a paper from Counselors Chambers and Thorpe about my grievances. I could not read the paper without an ASL interpreter. But the counselors gestured to me to sign the paper. I did not know what it said. I signed the paper.

33. Later, my lawyers and interpreters explained that the paper from Counselor Chambers said that CSP needed 10 extra days to answer my grievances. My lawyers explained that the prison was breaking the rules. My lawyers explained that the prison missed its chance to take 10 extra days.

34. On February 6, 2018, I got another paper from my counselor. I could not read the paper without an ASL interpreter. There was no interpreter to translate the papers for me. Later, my lawyers explained that the papers were responses to my grievances. My lawyers explained that these papers were two weeks late.

35. On April 30, 2018, I got papers from the central office in Atlanta about my grievance appeals. I could not read the paper without an ASL interpreter. There was no interpreter to translate the papers for me. Later, my lawyers and their interpreters translated the papers for me. The papers said that the prison does not have do anything about my problems. One paper said that the prison is trying to get more interpreters for classes. The other paper said that I had one meeting with an interpreter about work. The papers said that was good enough. I do not think this is good enough.

36. This paper only talks about some of the problems and discrimination I have had in prison. The prisons have done many more things that are unfair, just because I am Deaf.

I promise that everything in this paper is true and correct. I know that this is a serious paper. I know that I am signing the paper "under penalty of perjury." This means that if I lie, I could get a new criminal charge against me for lying. I promise that I am telling the truth.

This paper was interpreted into ASL for me by Adonne Clegg & Vyron Kinson

I signed this paper on 10/24/2018 at MACON, Georgia.



Darrell Smith, Jr.

Plaintiff

**Darrell Smith's Supplementary Declaration in Support of Plaintiffs'  
Motion for Class Certification**

1. This paper describes things that have happened to me personally. Everything in this paper happened to me. I promise that everything written here is true and correct. In some places, I say that I believe something is true. That means that I believe that fact is true, but I cannot promise that it is true. I know that I might be a witness in this case, and that I might be asked to explain these facts in person. If this happens, I will say the same things that are written in this paper.

2. I signed a paper like this, called a "declaration" on October 24, 2018. Everything in that paper was true when I signed it. This paper adds more information. This paper talks about what has changed since October 2018.

*Communication at Central State Prison*

3. Central State Prison has videophones now. I can use the VP to call my family. This is very important to me.

4. Central State Prison sometimes has interpreters now. But there are not enough interpreters. For example, the Warden visits the dorms, but does not always bring an interpreter. CSP also never uses Deaf interpreters. I can communicate better when a hearing person and a Deaf person work together to interpret for me. But CSP does not provide Deaf interpreters.

*Communication at Augusta State Medical Prison*

5. I go to Augusta State Medical Prison or "ASMP" a lot. I have medical problems. I sometimes go to ASMP for up to a week at a time. But I cannot communicate with anyone at ASMP. There are usually no interpreters at ASMP. I cannot understand what is happening with

my health. I cannot ask questions. I have serious health problems. I might be going blind. But I cannot learn about my health or ask questions because ASMP rarely has interpreters.

6. Sometimes I go all the way to ASMP and then I have to come back to CSP without even seeing a doctor, because they do not have an interpreter. The trip to ASMP is very difficult. It takes many hours. I am handcuffed at the waist in the front and shackled at the feet for the whole ride. I cannot communicate or use ASL when cuffed this way.

7. ASMP does not have videophones. When I am at ASMP, I cannot call my family or friends or lawyers.

8. It is impossible for me to know what is happening at ASMP. The guards say things, but I do not get the information. The guards do not give information to Deaf people. They do not hold up signs that say "chow" or "pill call." They do not give me alarms that vibrate. I miss meals and important information because the guards do not communicate with me.

#### *ADA Policy*

9. I think there is a new policy about the ADA. But I do not understand the new policy. I do not know how to ask for things I need. I do not know how to ask for more interpreters. I think there is a new way to file grievances about the ADA but I do not understand it.

#### *Emergency Plans*

10. I have never received information about what to do if there is an emergency. I do not know if there is a plan for what to do in an emergency. I do not know if the prison has a way to communicate with Deaf people in an emergency. No one has ever explained any plan to me.

I promise that everything in this paper is true and correct. I know that this is a serious paper. I know that I am signing this paper "under penalty of perjury." This means that if I lie, I could get a new criminal charge against me for lying. I promise that I am telling the truth.

This paper was translated for me by Anna W Mc Huffee ASL Interpreter  
RID (Certified): CI, CT, SCIC & NLC

I signed this paper on February 25, 2019 at \_\_\_\_\_, Georgia.

Darrell Smith, Jr  
Darrell Smith, Jr

Plaintiff

## **Glen Gadson's Declaration in Support of Plaintiffs' Motion for Class Certification**

I, Glen Gadson, declare:

1. This paper describes things that have happened to me personally. Everything in this paper happened to me. I promise that everything written here is true and correct. In some places, I say that I believe something is true. That means that I believe that fact is true, but I cannot promise that it is true. I know that I might be a witness in this case, and that I might be asked to explain these facts in person. If this happens, I will say the same things that are written in this paper.

2. I am hard of hearing. I communicate with American Sign Language ("ASL") and English. I can speak for myself in English but I need interpreters to understand when people are speaking to me.

3. I am in prison at Macon State Prison, near Oglethorpe, Georgia. My prison number is 1146292. I have been in prison since 2012. I was transferred to Macon State Prison on January 8, 2019. Before I was in Macon State Prison, I was at Coastal Transitional Center ("TC"). I had a job at Coastal TC. I got transferred from Coastal TC because there was a miscommunication. The TC officers said I was fired, but they mixed me up with someone else. There were no interpreters and I could not explain the mix-up. Macon State Prison is much higher security than Coastal TC. It is dangerous here. It is very frustrating that I was transferred from Coastal TC.

4. In 2013 or 2014, I was at Central State Prison. An officer saw me using ASL and thought I was making gang signs. They put in my file that I'm in a gang, but I'm not. I was just communicating. I think it's still in my file that I am in a gang, but I was using ASL. I think I am at this high security prison now because they still think I am in a gang.

5. I have been at Macon State Prison for almost 2 months. I had one interpreter for one meeting here. But the rest of the time, I have to try to lipread to communicate. I miss a lot of information when there is no interpreter. Lipreading is not a good way for me to communicate. It is frustrating to have important meetings without interpreters.

6. When I go to the doctor at Macon State Prison, there are no interpreters. I cannot communicate well at the doctor.

7. I cannot use a standard phone because I am hard of hearing. There is no videophone at Macon State Prison. There is no captioned phone.

8. The guards call out when it is time for meals, but I don't hear them. Sometimes my cellmate gets my attention to tell me when it's time to eat or wake up, but not always. Sometimes I do not wake up on time and I miss meals because I don't hear announcements. I do not have a vibrating alarm or anything I can see or feel to tell me when it is time to do things.

9. No one has talked to me about having a job at Macon State Prison. I want a job. I think guards think I can't work because I'm hard of hearing. I do not think that is fair.

I promise that everything in this paper is true and correct. I know that this is a serious paper. I know that I am signing this paper "under penalty of perjury." This means that if I lie, I could get a new criminal charge against me for lying. I promise that I am telling the truth.

I signed this paper on March 6, 2019 at \_\_\_\_\_, Georgia.



\_\_\_\_\_  
Glen Gadson

LEROY HENDERSON Declaration in Support of Plaintiffs' Motion for Class ~~Declaration~~

Certification  
~~Declaration~~



I, Leroy Henderson, declare that:

1. This paper describes things that have happened to me personally. Everything in this paper happened to me. I promise that everything written here is true and correct. In some places, I say that I believe something is true. That means that I believe that the fact is true, but I cannot promise that it is true. I know that I might be a witness in this case, and that I might be asked to explain these facts in person. If this happens, I will say the same things that are written in this paper.

2. I am hard of hearing. I shot a rifle in 1972 without earplugs. I lost a lot of hearing then. Then I worked with loud saws at a logging company for many years. I lost more hearing at that job. I communicate by speaking and residual hearing. I need a hearing aid to understand what other people say clearly. I can read and write in English. But it is difficult for me to read and understand complicated words in English. Some of the papers that I get from the prison are hard for me to understand.

3. I am in prison Georgia. My prison number is 122084. I have moved among many prisons. I have been in Augusta State Medical Prison, Coastal State Prison, Georgia Diagnostic and Classification Prison, Hays State Prison, Central State Prison, Phillips State Prison, Men's State Prison, and Wilcox State Prison. Now I am based on Johnson State Prison.

*Communication in Prison*

4. I have been in prison for 16 years. It is very difficult for me to understand what people are saying in prison. Prisons are very loud. The sound bounces off the walls, and people are always talking and yelling. I miss a lot of information. I have many misunderstandings. I

have missed appointments, meals, and church because I don't hear when the officers call out for these things.

5. When I have hearing aids, it helps a little. With good hearing aids, I can hear voices and sounds more clearly. I cannot hear well when I do not have hearing aids. Sometimes I can use hearing aids in prison. But sometimes if the hearing aids break, the prison does not fix them for months. The hearing aids the prison provides break a lot more. Sometimes if the hearing aid batteries run out, the prison refuses to replace them. I did not have a hearing aid for most of 2017. In 2018, I got a new hearing aid from the prison. It broke after 2 weeks. It has had too much static ~~broken~~ now for more than 2 months.

6. I have taken many classes in prison. I want to get a high school diploma and be ready to get a job when I am released. But it is very difficult to follow the information in classes because I cannot hear it. The classes are in big rooms. Especially when my hearing aids are not working, I miss a lot of information in the classes. I believe I have to work much harder than everyone else to complete classes.

7. I am very religious. I would like to go to church several times a week. My relationship with my higher power is very important to me. Religion is the most important part of my life. But often I cannot understand what the preacher is saying because the room is too big and loud. The preacher does not always use a microphone. There is no assistive listening system at church. I do not always have hearing aids. I believe that I would be able to hear almost everything if the preacher was amplified with a microphone or assistive listening system and if I had hearing aids,. But as it is, I cannot understand a lot of what the preacher says. I miss out on the religious information and education that I want so much.

8. For a while, I stopped going to church altogether because not being able to hear made me feel so little and unimportant.

*Medical and Mental Health Care*

9. I take medication for mental illness. I sometimes hear voices that other people do not hear. Sometimes I hear the small computer tablets talking to me. The doctors here give me medication, but I have questions about it. It is hard to talk to the doctors because I cannot hear them well. I am afraid that the medication I take now will hurt me. I do not trust the doctors or nurses here. I think they are trying to manipulate me. A mental health advisor asked me to sign a form even though it was ~~wrong~~ <sup>improper.</sup> I do not know why they are doing this. I would ask more questions but I cannot hear the answers well. .

10. It would be easier to communicate with the doctors if they used machines to help me hear them. When my lawyers visit, for example, they bring a little machine called a "pocket talker." The lawyer talks into a small microphone and I wear headphones. The lawyer's voice is amplified for me <sup>very clearly.</sup> With this simple machine, I can understand everything my lawyers are saying, even in loud places. If my doctor used a pocket talker, I would be able to communicate with my doctor about my medication, symptoms, and mental health. I would be able to understand why the doctor chose these medications for me and ask questions. I might be able to trust the doctors if I could understand them.

*Telecommunications*

11. It is difficult for me to use a regular telephone because I am hard of hearing. I cannot always hear what the other person is saying, especially when it is loud in the prison. I

want to communicate with my family. I want to talk to my mother and my brothers and sisters. But it is hard to communicate when I cannot hear or understand everything they are saying.

12. My lawyers explained that there are phones with special amplification pieces that connect to hearing aids. My lawyers also explained that there are special phones called “captioned phones” for hard of hearing people. With a captioned phone, I could read the words that my family was saying on a special screen and also listen to the words with amplification. With these special phones, I believe it would be much easier for me to communicate clearly with my family.

I promise that everything in this paper is true and correct. I know that this is a serious paper. I know that I am signing this paper “under penalty of perjury.” This means that if I lie, I could get a new criminal charge against me for lying. I promise that I am telling the truth.

I signed this paper on 8-24-18 at Augusta, Georgia.

A handwritten signature in black ink, appearing to read "Leroy Henderson", written in a cursive style.

Leroy Henderson

## **Leroy Henderson Second Declaration in Support of Class Certification**

I, Leroy Henderson, declare:

1. This paper describes things that have happened to me personally.

Everything in this paper has happened to me. I promise that everything written here is true and correct. In some places, I say that I “believe” or “think” something is true. That means that I believe that fact is true, but I cannot promise that it is true. I know that I might be a witness in this case, and that I might be asked to explain these facts in person. If this happens, I will say the same things that are written in this paper.

2. I signed a paper like this, called a “declaration” on August 24, 2018.

Everything in that paper was true when I signed it. This paper adds more information. This paper talks about what has changed since August 2018.

3. In August 2018, I was in prison at Johnson State Prison. In November

2018, I was moved to Coffee Correctional Facility, in Nicholls, Georgia. I am now in prison at Coffee Correctional Facility.

### *Communication at Coffee Correctional Facility*

4. Hearing aids help me a little. With good hearing aids, I can hear voices and sounds more clearly. For a long time while I was in prison, my hearing aids had a lot of static. In November 2018 the prison doctor took my hearing aids. He said he would fix them. I never got them back. For more than 4 months now, I have not had hearing aids at all. It is very hard to hear what is happening without hearing aids. I miss information.

5. I miss information in prison because there are announcements that I do not hear. Sometimes I do not hear when the guards say that it is time for chow or count or

pill call. The guards do not use microphones or anything to help me hear their voices. There are no signs or lights to say when things are happening in prison. There is nothing I can see to know what is happening. There were no signs or lights in Johnson State Prison, either.

#### *Using the Telephone*

6. It is difficult for me to use a regular phone. I miss information when I use a regular phone. I cannot hear everything. It is hard for me to communicate with my family by phone.

7. My lawyers explained to me that there are special telephones for hard of hearing people. There is a phone where you can read the words the other person is saying and listen to the words at the same time. That is called a "captioned phone." There is a phone that connects to hearing aids to make the sound louder. That is called an "amplified phone." I would like to try both of these phones. I'm not sure which is better for me. But the prison here just has regular phones. You can press a button to make the sound a little louder but it does not change very much. I have never used a captioned phone in prison. I have never used an amplified phone that connects to my hearing aids in prison.

#### *Disability Laws*

8. My lawyers told me that there are special laws that protect people with disabilities. The laws say that the prison must help me understand and communicate because I am hard of hearing. The word for this kind of help is "accommodation." I do not know how to ask for accommodations at Coffee Correctional Facility. I did not know how to ask for accommodations at Johnson State Prison. No one from the prison has ever

talked to me about accommodations or about disability rights laws. No one from the prison has told me how to get help asking for accommodations. I do not think the prison is helping me get what I need to help me with my disabilities.

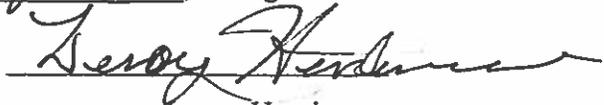
*Parole*

9. I have been in prison for a very long time. I want to get out on parole. I have taken many classes. It is hard for me to take classes because I cannot hear everything. But I take classes anyway because I want to learn, and because I want to get parole.

10. The parole board has denied me parole many times. In December 2017, I was up for parole but they wrote a letter saying no. In December 2018, I was up for parole again but they wrote another letter saying no. Someone from the parole board visited my sister's house in December 2018. My sister and I both thought I was getting parole last year. But I did not get out. Then I got a letter that I was denied parole. Now my TPM is December 2020. That is a long time away. I do not know why I have to wait that long.

11. The parole board says I have to do "work release" before I can get parole. But no one at the prison has told me what that means. I do not know how to get work release. I am afraid the prison is not sending me to work release because I am hard of hearing. I do not think that is fair.

I signed this paper on 3-7-19 at Coffee, Georgia.

  
Leroy Henderson

Plaintiff

Jorae Smith Declaration in Support of Plaintiffs' Motion for Class Certification

I, Jorae Smith, declare that:

1. This paper describes things that have happened to me personally. Everything in this paper happened to me. I promise that everything written here is true and correct. In some places, I say that I believe something is true. That means that I believe that fact is true, but I cannot promise that it is true. I know that I might be a witness in this case, and that I might be asked to explain these facts in person. If this happens, I will say the same things that are written in this paper.

2. I am deaf. I am not fluent in written English. My language is ASL.

3. I am in prison at Central State Prison. My prison number is 1001828089. I have been in prison since 2015. Before Central State, I was in other prisons: Georgia Classification Prison in Jackson, Coastal State Prison, Georgia State Prison, Valdosta State Prison, and Augusta State Medical Prison.

Classification/Orientation

4. When I first arrived in Jackson, they asked me questions and I had meetings without an interpreter. I tried my best to write back and forth, but English is not my language. Staff at Jackson wanted to talk about my health, my parole, and other issues. But I could not communicate effectively with them by written notes.

5. Every time I was transferred to a new prison, there was an orientation, but there was no interpreter. There was never an interpreter for these orientations, except when I came to Central State. The rules went over my head because the officers were speaking too fast. I could not follow along. When I got to Central State, there was a meeting with an ASL interpreter and a

group of Deaf inmates. The prison staff explained the rules and classes at Central State. This was one of the first times I ever had an interpreter in prison.

*Problems at Augusta State with Solitary, TTYs, No Videophones, Grievances.*

6. I know that all inmates feel isolated. But being deaf, I am isolated in certain ways that are very hard and make me very sad.

7. I was in solitary confinement in Augusta State Medical Prison for nine months starting in June 2017. I was alone in my cell for 23-and-a-half hours every day. The other inmates were hearing and they talked to each other for some company. They talked to the staff for some company. I could not do that. The hearing inmates talked to each other when they were escorted from one place to another place. I could not do that. I could not even wave or gesture to anyone when I was escorted because I was handcuffed behind my back. It was especially lonely at night. I could not see or hear anything. I think the other inmates in solitary talked to each other for some company.

8. When I was in solitary at Augusta, it was hard to make any phone calls with my family. The TTY was in a separate office that was far away. I had to skip a shower if I wanted to use the TTY. I was supposed to get to use the TTY for 15 minutes a day. But they did not actually let me use the TTY every day. This was not equal because hearing people could use the phone every single day. When I could use the TTY, 15 minutes was not enough because TTY takes a lot longer than a regular telephone. You have to type back and forth which is slow. But I still only got only 15 minutes. The worst part is that TTY is in English. English is not my language. ASL is my language. I need a videophone. I can use ASL with videophones.

9. I missed a lot of important information because I could not communicate with my family while I was in Augusta. Both of my grandfathers died while I was in the hole. My family

called Augusta asked the prison to tell me this news, but no one ever told me. I did not learn that my grandfathers had died until I got to Central State, months later.

10. I tried to ask the prison staff that I be transferred to a different prison where I would not be in solitary. I was in solitary for my own protection. It was not supposed to be punishment. But it felt like I was being punished. There was a form to request a transfer but it was in English. I needed an ASL interpreter to help me but there was no interpreter. I filled out the form as best as I could. I got some papers back about my transfer request but the papers were in English and I could not read or understand them. I waited nine months before I could transfer to another prison and get out of solitary.

11. In January 2018 the lawyers for this case came to visit me. The lawyers were either fluent in ASL or they brought ASL interpreters. The lawyers told me about grievances and how to file a grievance. I did not know about how to file a grievance before the lawyers told me.. The lawyers helped me write two grievances. It was hard because the visits at Augusta State were "no contact" and through plexiglass. We could not pass the papers back and forth so it took a while for the lawyers to help me write the grievances.

12. I filed a grievance on January 24, 2018, asking for the prison to get videophones so that I can communicate with my family like hearing inmates do. I also asked for 45 minutes every day to use the TTY because TTY takes so long. This was my first grievance.

13. I filed a second grievance on January 24, 2018. The second grievance is about what it was like when I was in the hole and deaf. The second grievance told about how I am deaf and so especially isolated and lonely in solitary. It talked about how I was even more isolated and lonely than the other inmates who can hear. I asked for help with the isolation and loneliness. I asked for a JPay tablet. I asked for a television.

14. There was no response to my two grievances. After more than 40 days, the lawyers helped me file a grievance appeal form for each grievance. I filed the appeals on March 4, 2018. The appeals were in English. I needed the lawyers to help make the appeals.

15. Then the warden answered my two grievances on March 6, 2018. I got the answers on March 13, 2018. The warden gave this answer to my grievance about phones: He said that the prison policy gives more time for TTY so I do not have a problem. But that is not true. I only got 15 minutes. The prison staff did not give me more time for TTY.

16. The warden gave this answer to my grievance about solitary: He said I will be transferred to another prison that would accommodate me better. So in February 2018 I was transferred to Central State.

17. But I had already written appeals when I got the answers to my grievances. I am so happy to be out of solitary. But I am still afraid I will go back to solitary. I am afraid that if I go back to solitary, I will be unfairly isolated again. I worry about other Deaf people in solitary.

*Problems at Central State with TTYs, No Videophones, Grievances, Medical Appointments,*

*Discipline, Communication.*

18. The problem with the phones is even worse at Central State. Here the TTY is almost always broken. Other Deaf people here say it has mostly been broken for years. There are no videophones. Other Deaf inmates told me that videophones are coming but I have not seen any yet. I was so happy to imagine having a videophone in prison. But I am frustrated that there is still no videophone. The prison staff asked me if I wanted to drop my grievance about phones but I said no.

19. A lot of times there are no interpreters for important meetings. This happens a lot with medical appointments. Sometimes I go to the medical appointment and I have no idea what

is going on because there is no interpreter. Sometimes the medical appointment is cancelled because there is no interpreter.

20. I have mental health problems. I need to talk to the doctors about my mental health problems. I take medication for mental health. I need to talk to the doctors about my medication. The first time I got medication for mental health there was no interpreter. I had to write notes back and forth with the doctor. I could not understand or ask questions. I don't know

21. When I got to Central State, I was supposed to have an appointment about my mental health but it kept getting cancelled because there was no interpreter. I am supposed to see a counselor for my mental health every other week. I had my first appointment months after I got to Central State. But there was no interpreter. So far at Central State I have only had one mental health appointment with an interpreter. Other times we write notes back and forth.

22. In May 2018 I had a mental health appointment, but the prison did not have an interpreter. My lawyers were here that day with their interpreter. I gave permission for the lawyers' interpreter to come to the appointment because I wanted someone to interpret so I could understand. Because there was an interpreter, I learned at that appointment that I have a specific mental health diagnosis. I did not even know what it meant. I never knew before that I had that diagnosis. It was so frustrating that I had not been able to talk about my mental health or diagnoses because the prison did not provide interpreters. I only learned about this diagnosis because my lawyers happened to be visiting that day. The prison did not have interpreters for that appointment.

23. I got sick recently while I was at work. It was so hot that I passed out. One of the guards radioed for medical help but no one came. I filed a grievance about no one coming to help me.

24. The guards are supposed to use signs to tell the deaf people about important times of the day, like chow time, pill call, and first, second, or third block. This is the only way I can get announcements -- I can't hear any bell or buzzer or what the guards say.. Sometimes the guards don't use the signs. Sometimes I don't see the signs. I have missed meals. One time I missed three meals in a row because no one let me know it was meal time.

25. I tried to file a grievance about the signs and missing meals on April 19, 2018, but Counselor Thorpe would not take it because it did not have a date and time. I tried to explain that the problem keeps happening, not just once, but she wouldn't take it.

26. I work in the ISO factory, which makes clothes. I was written up recently. The guard said I broke a work rule by making shorts for myself. I tried to say I didn't break the rule and that I got the shorts in Augusta. There was no interpreter. We wrote notes back and forth. It is hard to communicate about something important like getting disciplined without an interpreter. A lot of times when I write notes with a guard or with prison staff there is a miscommunication. I plan to file a grievance about the discipline but I couldn't because the prison said they did not have any more grievance forms.

27. I live in a dorm with other deaf people. I see the guards in the dorm roll their eyes at us and make faces. I think they imitate us and make fun of us because we are deaf.

Problems with Hearing Aids.

28. Before I was in prison, I used a hearing aid. But I have never had a hearing aid in prison. I have asked for a hearing aid many times at many prisons. I asked for a hearing aid at Jackson prison. I asked for a hearing aid at Coastal State Prison. I asked for a hearing aid at Central State Prison. I asked for a hearing aid again at Central State Prison, but I am still waiting. I have never received a hearing aid in the <sup>35</sup>~~two~~ <sup>three</sup> years I have been in prison.

I promise that everything in this paper is true and correct. I know that this is a serious paper. I know that I am signing this paper "under penalty of perjury." This means that if I lie, I could get a new criminal charge against me for lying. I promise that I am telling the truth.

This paper was interpreted into ASL for me by Anna McDuffie CI, CT, NIC, SC:L

I signed his paper on August 22, 2018 at Macon,

Georgia.

Jorae Smith

Jorae Smith

Plaintiff

Gregory Lamb Declaration in Support of Plaintiffs' Motion for Class Certification

I, Gregory Lamb, declare:

1. This paper describes things that have happened to me personally. Everything in this paper has happened to me. I promise that everything written here is true and correct. In some places, I say that I "believe" or "think" something is true. That means that I believe that fact is true, but I cannot promise that it is true. I know that I might be a witness in this case, and that I might be asked to explain these facts in person. If this happens, I will say the same things that are written in this paper.

2. I am hard of hearing. I began to lose my hearing around 1996. I also have a condition called laryngeal dystonia. This is a condition that makes it almost impossible for me to speak above a whisper. Some people find my speech very difficult to understand. The dystonia is spreading from my throat into my neck, face, shoulder, arm, and hand. This causes spasms and contractions and tremors in these parts of my body. It is difficult for me to hold a pen because of the dystonia in my hand.

3. I communicate by speaking and residual hearing. I communicate best in quiet, small rooms where I can see the person I am speaking to. It is almost impossible for me to hear or be heard in large rooms with a lot of noise.

4. I am in prison Georgia State Prison, or GSP, in Reidsville, Georgia. My Georgia prison number is 63239. I have been in prison since 1992. I have also been in prison at Central State Prison, Hays, Phillips State Prison, and other institutions.

*Communication in Prison*

5. I can hear sounds, but I cannot make out words. The sounds are distorted. I miss a lot of information in the prison. For example, many announcements are made over the loudspeaker in the prison, but I cannot understand them. I have missed chow and pill call many times because I do not hear the announcements and because there is no visual announcement system. I have never seen anyone at Georgia State Prison use signs or other visual notifications. I rely on other incarcerated people to tap me and let me know when events are happening.

6. I stopped taking certain medications because I could not take them regularly. Sometimes the prison ran out of the medications for weeks at a time. Sometimes I missed pill call so could not take the medications. I had bad withdrawal side effects on days when I could not get my medication. I gave up taking this medication because of the <sup>Withdrawal</sup> side effects. *(G)*

7. I can communicate best when I am in a quiet room with low ceilings, looking directly at the other person. Then I can hear and lip-read, and the other person can hear me even though my voice is very soft. My family and loved ones visit me sometimes. But I can hardly communicate at all when they visit. The visitation room is a huge room with high ceilings, and many, many people all talking at once. It is too loud for me to hear what my family is saying. It is too loud for them to hear what I am saying, since I cannot speak above a whisper. It is very frustrating when my family comes to visit but we cannot even communicate.

8. It is almost impossible to communicate in the dorm. There are many cells in the building, and the dorm is three stories high. The sound from all of these cells bounces and reverberates. It is always loud. Others can't hear my voice because it is soft. When officers hear me speak, they often back away and refuse to speak to me because they think I have a contagious disease. When they do try to speak with me, I do not always understand, especially if the officers are in a loud or crowded place. Communication is very difficult in the prison.

*Discipline*

9. I have gotten in trouble because I cannot hear what the officers say. For example, I got written up for not being ready for count. But I was not ready for count because I did not hear the announcement telling everyone to get ready for count. I felt like I was written up for being hard of hearing. I was punished with 3 months of restrictions on visits and store. This felt very unfair. Another time I spent 3 weeks in the hole because I did not hear the announcement for count. *GL*

10. The officers often yell at me and chew me out because I do not hear or understand what they are saying. I try to show them my "inmate profile" sheet, which says that I am hard of hearing, but they often don't care. They get angry at me for being hard of hearing. *They think I am deliberately ignoring them*  
I do not have an ID badge showing that I am hard of hearing. I have never seen these badges in GSP. *GL*

*Hearing Aids*

11. I started to lose my hearing in prison. I got a hearing aid from medical once, but it was a cheap hearing aid. I could hear a little more when it was turned up to the highest volume. But when it was turned up that high there was a constant buzzing in my ear. The batteries didn't last long. I had to go to sick call every time I needed the batteries replaced. The prison often took weeks or months to replace the batteries. Eventually I gave up using the hearing aid at all. I believe a higher quality hearing aid with consistent batteries might help me more.

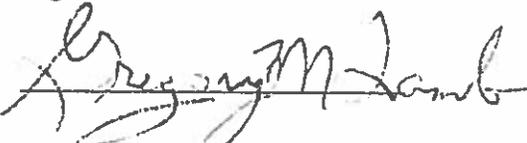
*Telephones*

12. It is very difficult for me to communicate with a regular telephone. It is difficult for me to hear what the other person is saying, because I am hard of hearing. It is difficult for the other person to hear what I am saying, because I cannot speak louder than a whisper. There

is volume control on the prison phones but it does not change the volume very much. I still cannot understand a lot of what the person I am talking to is saying. I have never seen a captioned telephone or a TTY in the prison.

I declare under penalty of perjury under the laws of the United States and the state of Georgia that the foregoing is true and correct.

I signed this paper on 8/28/18 at Reidville, Georgia.

  
Gregory Lamb

Tony Moore's Draft Declaration in Support of Plaintiffs' Motion for Class Certification

1. This paper describes things that have happened to me personally. Everything in this paper happened to me. I promise that everything written here is true and correct. In some places, I say that I believe something is true. That means that I believe that fact is true, but I cannot promise that it is true. I know that I might be a witness in this case, and that I might be asked to explain these facts in person. If this happens, I will say the same things that are written in this paper.

2. I am Deaf. I have been Deaf since I was eight years old. I use a sign language that is a mix between American Sign Language ("ASL") and Signed Exact English ("SEE") (hereinafter "sign language"). I understand others best when they use sign language and clear mouth movements. ASL is totally different from English. I only use and understand English a little bit. I can only understand and communicate simple things in written English. I am not a skilled speech-reader.

3. I am in prison at Central State Prison ("CSP"), in Macon Georgia. My prison number is 1141929. I have been in prison since 2009. I was transferred to CSP in 2011. Before I was in CSP, I was in prison in Men's State Prison and Coffee Correctional Facility.

*Communication in Prison*

4. I have been in prison for almost 10 years. There is so much I cannot understand or do because the prisons have not had interpreters. I have had no interpreters at my meetings with my counselors. This is especially bad for example because I think I am serving more time than I should and I have no ability to communicate to anyone about this because there are no interpreters. I have asked for interpreters at my meetings with my counselors, but the prison

keeps refusing to get them. Sometimes the counselors wrote asking if I could understand them. I would reply that I did not understand them and need an interpreter. An interpreter was never provided for these meetings.

5. Because there are no interpreters, I cannot fully communicate with my counselors or prison staff. I want talk to them when I have questions. I have questions about my sentence. I want to talk to them about emergencies. Because there are no ASL interpreters, the prison staff cannot tell me important information that they tell the hearing inmates. Since the lawyers started visiting, I have noticed interpreters from time to time at church.

6. Before I went to prison, I used a cochlear implant to help me hear better. At CSP, a captain told me that I am not allowed to use a cochlear implant. The prison makes me use a hearing aid instead. The hearing aid is not as good as the cochlear implant. My previous hearing aid did not help me hear at all. It actually bothered me because it sounded like static all the time. I needed it to be upgraded or repaired. During a shakedown of my cell, the guards broke my hearing aid. The prison has refused to provide a new hearing aid, and still will not let me use my cochlear implant. So now, I have nothing to help me hear.

### *Grievances*

7. Before the lawyers for this case came to CSP in 2017, I did not understand the grievance process. I did not know how to write a grievance or what the grievances were for. No one from the prison staff ever explained the grievance process to me in. I never had interpreters during orientation. There have never been interpreters to explain to me any of the prisons' Offender Handbooks. These handbooks are written in English, which means I cannot understand most of what is written.

8. Some things have changed since my lawyers for this case began visiting CSP in August 2017. Because the attorneys either understand sign language or had hearing and Deaf interpreters who understood sign language at every meeting, they were able to explain how the grievances work. For the first time, I learned that grievances are a way to tell the prison about problems. For the first time, I learned that I could complain about things that are not fair.

9. Because I was now able to understand how the grievance process worked and what it was for, I asked the attorneys for help in writing my first grievance. My lawyers helped me with the grievance process. I explained my problems in sign language, and my lawyers translated the problems into English onto grievance forms. When I got papers back from the prisons, my lawyers translated the papers into sign language so I could understand what the prison was saying.

10. One of the grievances I asked the lawyers to help me write had to do with my disciplinary hearing in 2017. I wanted to write the grievance to let the prison know that because there were no interpreters at the hearing I could not communicate at all that I was not the man who had done what the officers were accusing me of. There were no interpreters at the disciplinary hearing and I was handcuffed behind my back. I could not use my hands to gesture or write any notes. The officers laughed at me because I could not communicate and I was given a 90-day suspension from getting things at the store and lost my phone privileges for 90 days (even though I can't use the phones because they are not accessible) for something I did not do.

11. On December 16, 2017 I tried to give this grievance to my counselor, Counselor Chambers. The lawyers told me that is what I am supposed to do according to the rules. Ms. Chambers would not take my form and asked why I was writing one. On December 18, 2017,

another counselor took my grievance and signed it. There were no interpreters whenever I met with Ms. Chambers or the other counselor.

12. The lawyers told me that the rules say that the prison has 40 days to respond to my grievance. The prison did not respond by 40 days. My lawyers said that if CSP did not answer in time, I could write an appeal to the Central Office in Atlanta, complaining that the prison did not answer me. So on January 31, 2018, 44 days after the other counselor took my grievance, the lawyers and their interpreters helped me write my appeal.

13. On February 6, 2018, 50 days after the other counselor took my grievance form, Ms. Chambers gave me a response and made me sign it, but would not give me a copy of it even though I asked for it in writing. There was no interpreter to explain what the form said and my English is limited. I did not get a copy. I never found out what the prison's grievance response said.

14. The lawyers told me that under the rules, the prison has 100 days to respond to my appeal. I never got a response to my appeal.

15. I cannot file grievances without interpreters and need someone to fill out the papers for me in English. The grievance process is all in English. I cannot read most of the grievance forms. I cannot write about these problems in English. I cannot read what the prison writes back to me about my grievances except some of the words.

16. I have other problems in prison that I also want to write grievances about. For example, I need interpreters for doctor's appointments, and I need interpreters in classes, meetings, and to learn about other important information being shared in the prison. But my lawyers said that I can only write two grievances at a time.

*Effective Communication at Medical/Mental Health/Dental Appointments*

17. I have been to the prison doctor for my feet because both of them have been itching. But have never been interpreters at my doctor's appointments. I have asked for an interpreter multiple times, but the prison still does not get one. Doctors try to write notes with me, but I cannot communicate that way because my English is so limited. I do not have any way to talk to a doctor, nurse, dentist, or therapist about my health. I have not been able to communicate about my health for almost 10 years and I have gotten tired of going to the medical office because no one will help me.

*Telecommunications*

18. I want to communicate with my family and friends outside the prison. I want to talk to my family and friends. I receive occasional visits in person, but they live too far away and the cost is too expensive for frequent visits. I need access to a phone I can actually use.

19. I want to communicate with my lawyer for this case. I want to learn what is happening with the case and share information to help the case. My lawyers visit me but I cannot communicate with them between visits.

20. I want to talk to a public defender about the errors in my sentence.

21. I cannot use a standard telephone, because I am Deaf. There is a TTY at CSP, but it has never once worked during the seven years I have been here. I have never sent or received a message on the TTY. A TTY is not very good for me to communicate. It takes me a long time to write back and forth and my English is limited. But the TTY does not work anyway.

22. I could communicate by videophone if I had access to one. Videophones have video relay service (VRS). With a videophone, I can communicate using sign language. With a

videophone, I can communicate with other people who use sign language. With a videophone, I can also communicate with people who are hearing and use English.

23. I first used videophones and VRS before arriving to prison. I was very surprised when I arrived at prison to find out that there were no videophones. I have never seen a videophone in the prisons I have stayed in. ~~I have seen pictures of them.~~ <sup>gTM</sup> If I could use a videophone, I could finally communicate with people I love outside of the prison. I have not been able to communicate with any of these people for almost 10 years.

24. I have asked for videophones many, many times. Every time, the counselors or other staff say they are trying to get a videophone. But they do not actually have one.

25. I believe someone came to set up videophones in CSP in June 2018. It looked like the videophones were installed. But then the prison staff took the videophones away. I do not know why. I still have never used a videophone.

### *Solitary*

26. I spent five months in solitary confinement with no access to communication, information, or other access to stimulation. I still feel very traumatized by this experience.

### *Emergency Planning*

27. There have been fire drills and other emergencies while I have been in prison. I never find out through technology in the prison like flashing lights. Instead, hearing prisoners have informed me of the emergencies.

28. This paper only talks about some of the problems and discrimination I have had in prison. The prison has done many more things that are unfair, just because I am Deaf.

I promise that everything in this paper is true and correct. I know that this is a serious paper. I know that I am signing this paper "under penalty of perjury." This means that if I lie, I could get a new criminal charge against me for lying. I promise that I am telling the truth.

This paper was translated for me by Debye Byrne.

I signed this paper on 30 August 2018 at Central State Prison Georgia.

Tony Moore  
Tony Moore  
Plaintiff

**Tony Moore's Supplementary Declaration in Support of Plaintiffs'  
Motion for Class Certification**

1. This paper describes things that have happened to me personally. Everything in this paper happened to me. I promise that everything written here is true and correct. In some places, I say that I believe something is true. That means that I believe that fact is true, but I cannot promise that it is true. I know that I might be a witness in this case, and that I might be asked to explain these facts in person. If this happens, I will say the same things that are written in this paper.

2. I signed a paper like this, called a "declaration" on August 30, 2018. Everything in that paper was true when I signed it. This paper adds more information. This paper talks about what has changed since August 2018.

*No Videophones in My Dorm*

3. There are videophones in some dorms at CSP now. But I live in K-dorm, and there is no videophone in K-dorm. This means I cannot communicate easily with videophone. I have to go to a different dorm to use a videophone. I need permission and have to ask to go to other dorms to use the videophone. Even when I get permission, I can only go to other dorms to use the videophone in the afternoons.

I promise that everything in this paper is true and correct. I know that this is a serious paper. I know that I am signing this paper "under penalty of perjury." This means that if I lie, I could get a new criminal charge against me for lying. I promise that I am telling the truth.

This paper was translated for me by *Anna Witek-Ruffin* ASL Interpreter  
*RLD translated: C.I.C.T, S.I.C. + W.I.C.*

I signed this paper on February 26, 2019 at \_\_\_\_\_, Georgia

Tony Moore  
Tony Moore  
Plaintiff

Christopher Shields Declaration in Support of Plaintiffs' Motion for Class Certification

I, Christopher Shields, declare that:

1. This paper describes things that have happened to me personally. Everything in this paper happened to me. I promise that everything written here is true and correct. In some places, I say that I believe something is true. That means that I believe that fact is true, but I cannot promise that it is true. I know that I might be a witness in this case, and that I might be asked to explain these facts in person. If this happens, I will say the same things that are written in this paper.

2. I am Deaf. I lost most of my hearing when I was 18 months old when I had a high fever. I am fluent in sign language. I use a hearing aid. I can speak for myself in English about some things, but my first language is sign language. I cannot hear very well even with my hearing aid. I prefer to communicate with sign language. My hearing is getting worse. My mom knows sign language so I communicate with her in sign language. I try to understand other people using lip reading but it is hard. Lip reading is not accurate. Sometimes lip reading makes things worse because people think I understand what they are saying when I really do not understand. Lip reading is like playing a game of fill-in-the-blank. There are always misunderstandings.

3. I am incarcerated at Central State Prison or CSP. My prison number is 1050654. I was sentenced to thirty years in prison in 2010. My tentative parole month or TPM is August 2021.

4. I had problems with communication even before prison. Before the trial in my criminal case, during the investigation, I was interrogated without a sign language interpreter. I went to an office to take a lie detector test without a sign language interpreter. I talked to the

police for a long time without an interpreter. Every word is so important, even the small words. And a lot of the words and phrases were complicated. I can completely misunderstand what is being said when I don't have a sign language interpreter. I don't think that the investigation or my conviction was just. I don't think I got a fair chance to defend myself.

Classification and Orientation.

5. When I first came to prison I went to classification at Georgia State Diagnostic and Classification Prison in Jackson. At classification, prison staff are supposed to figure out your housing and your security level and your medical and mental health needs. But there was no sign language interpreter. There was no way for me to effectively communicate with the staff. I believe hearing people get a case plan while they are in Jackson, but I did not get one. I didn't get any tests or evaluations in Jackson. For some reason my file says I have to complete a drug and alcohol counseling program. But I have never had problems with drugs or alcohol. I believe this confusion all started in Jackson, because I could not communicate effectively.

6. When I came to CSP, I had orientation. At orientation, prison staff are supposed to tell you all of the rules and procedures of prison. But there was no sign language interpreter. There was a video but there were no captions. There was no way for me to understand the information being provided or to ask questions.

7. I have been able to figure out the grievance process on my own. But it was difficult for me. No one ever explained the grievance system to me using effective communication. I learned how the grievance process works from other incarcerated people and trying to read the prison's handbook.

Hearing Aid Problems.

8. Since being in prison, I have had a lot of problems with communication. For example, I have had big problems with my hearing aid. I need to have a fully functioning hearing aid to hear emergency alarms or announcements or if a guard is yelling something at me. I can lip-read a little when I also have my hearing aid and it is working properly. I have had a lot of problems getting the right batteries for my hearing aid. Sometimes I get the right batteries but usually I get the wrong batteries. Without the right batteries, my hearing aid is less powerful and turns off on its own. Also the wrong batteries die much more quickly. I keep filing grievances but the problem with the batteries but it is still not resolved.

9. Another big problem was that on February 13, 2018, the moisture case for my hearing aid disappeared during a shakedown. The day of the shakedown, when I got back to my dorm and started cleaning up, I discovered that my hearing aid moisture case was missing. I believe that the TACT squad took the moisture case because they thought it was contraband. The moisture case was given to me by my audiologist at home. It was approved by GDOC when I entered prison. It is a hard case with a bean-bag like part inside that absorbs moisture. It is medically necessary because it helps the hearing aid dry out and prolongs its lifespan.

10. Later on the same day as the TACT shakedown, I filed a witness statement and wrote to Officer Gleen that I had lost my moisture case in the shakedown. I explained everything about the moisture case to Officer Gleen and to the counselors and I explained that it is medically necessary. I filed a grievance about the missing moisture case, but it was denied on March 22, 2018. Captain Davis claimed that the case was contraband, but this was wrong – the case was not contraband. I filed an appeal on the grievance on March 26, 2018. The appeal was denied on June 20, 2018, and I received the denial on July 2, 2018.

11. Soon after the hearing aid moisture case was taken, my hearing aid stopped working. My hearing aid was sent to Augusta to be fixed. I also submitted a health services request form, stating that I needed a replacement hearing aid. I did not have a working hearing aid for three weeks. I still do not have a moisture case. Many other times, I have gone for long periods without a hearing aid when it has broken. Sometimes it takes months before the prison will fix my hearing aids.

Problems with Medical Appointments.

12. I have also had big problems with communication during medical appointments. I have had many medical appointments without sign language interpreters. I have medical appointments for several medical conditions. I have arthritis, depression, and diabetes. Without an interpreter, I do not understand what the doctors are trying to tell me. During appointments, doctors have tried to write notes with me back and forth. This is not effective communication. I cannot fully understand my diagnosis and treatment plan. Sometimes the doctors and nurses refuse to even write notes. I have filed grievances for not getting an interpreter for my medical appointments.

13. I have a lot of questions about my medical conditions and the treatments that the doctors prescribe. I suspected I had diabetes a long time ago, but the prison refused to test my blood for many months. I was finally diagnosed with pre-diabetes and then diabetes. When the doctor first told me I was pre-diabetic, he told me using gestures and notes that I should eat less and exercise more. I cannot ask questions or understand the answers without an interpreter.

14. After I was diagnosed as fully diabetic, the doctor wrote down on a note the medication that he was prescribing for me. He did not write the dosage or how often I should take the medication. I was not sure why I was taking the medication. I had to ask my family

when they came to visit what the medication was for. No one from the prison ever explained this to me. I am lucky that my family could help me.

15. The doctor prescribed me Metformin for diabetes. I talked to my parents about diabetes and the medication I was prescribed. A family friend, who is a nurse, said she was surprised they put me on Metformin because my A1C was only 6.6. But there was no interpreter with the doctor, so I did not know why the doctor prescribed Metformin or what the other options were. Without an interpreter, I cannot participate in discussing or making decisions about treatment options. I still do not know what the doctor thinks my future will be like with diabetes. I am not sure how diabetes will affect my life going forward or how it will interact with my arthritis.

16. I have some side effects, but I am not sure which ones are normal and which ones are a sign of a problem. There is no way for me to effectively communicate with the doctor about side effects without an interpreter. I'm not sure my medication is right. I wrote to the American Diabetes Association to ask for factsheets about diabetes so I could learn more. But it would be better if I could communicate with the doctor.

17. Sometimes I have medical appointments or I am sent for a medical test, and I am not sure why I am there or what I am doing. For example, I was sent for some kind of shot on November 15, 2017. They said it was a shot for all new diabetics. I don't know what the shot did. It's scary to me how little information I am getting about my medical treatment.

18. I have seen a counselor for my depression, but there was no interpreter. The counselor refused to use an interpreter. I asked for an interpreter, but the counselor would not get one. The counselor forced me to read lips, even though this is not effective communication. He said that many people in prison are depressed and that I'm better off than other people in

prison who have more serious problems. I do not think I have a treatment plan for my depression. I understand that it is common for inmates to be depressed, but I still think I should be able to get help. And I think it is worse for me because I am Deaf. There is no captioned telephone or videophone. It is not easy for me to talk with my family members unless they visit.

19. The prison says they have VRI for medical and mental health appointments but the VRI rarely works. The VRI did work one time in January 2018, but it was not working by my next appointment a week later. Sometimes the video does not work at all. Other times the audio does not work so the interpreter can't understand the doctor. A lot of times the picture is fuzzy. Sometimes doctors or counselors refuse to even try to use the VRI. During one appointment in March 2018, the VRI was not working and there was no live interpreter. The nurse refused to even write notes on the notepad I brought. The prison almost always takes \$5.00 from my account as a charge for every sick call, even if there is no interpreter and even if the VRI is not working.

20. Our lawyers started visiting the prison last year. Starting this year, I sometimes have interpreters for medical appointments. In early 2018, I had an interpreter for a doctor's appointment. It made a huge difference. I was having a problem with a medication that I had been trying to fix for a year. I was finally able to fix it that day because I had an interpreter.

Problems with Alarms and Announcements.

21. If I am asleep or distracted, or if my hearing aid is not fully functioning, I cannot hear announcements or alarms. The prison does not give alarms or announcements in other ways that a Deaf person can understand. I have missed showers, meals, sick call, and other events because I did not hear the announcement. I have not received a vibrating or flashing wristwatch or other device to alert me. There are flashing lights with the fire alarms, but I cannot see them

from my cell. If there were an emergency, I could die or be injured because I would not get the alarm or announcement. On January 31, 2018, I filed a grievance, requesting that alarms and announcements be provided in a way that I can understand, such as through flashing lights or vibrations, something I can see or feel.

22. In about February 2018, officers started using small signs that say things like, "Chow," "First Block," "Count," etc. The officers use these signs in the dorms and in the church, but they only use them rarely. I do not see the signs if I am asleep or focused on something else. After the officers started using the signs sometimes, I was asked to sign a paper stating that my grievance was resolved. The counselor told me I would get a vibrating alarm and watch soon. I signed the paper, but I did not get a copy. I did not realize that signing this paper meant that the grievance was "dropped". The issue is not actually resolved. The signs are not consistently used. And I still do not have any vibrating or flashing wristwatch, alarm, or other device to alert me in the event of an emergency.

*Problems with My Job and a Disciplinary Hearing.*

23. I have a job in prison. I work in the sewing factory, ISO. A lot of times, I am just doing my job and the communication is okay. Even though the supervisors do not sign, I can get by because I know my job and if I need to communicate with someone it is usually about something simple, and I can write notes or lip read. But once in a while something happens at my job which is more serious, where I need an interpreter. For example, one time I had a problem at work where my unit manager disciplined me. I could not explain my side of what happened. And then, when I went to the disciplinary hearing. I did not have an interpreter. Because I know some English I brought in a statement in a notebook trying to explain my side of the story, but I was punished anyway.

Problems with TTYs and No Videophones.

24. I cannot speak with family and friends, or with lawyers, by phone like hearing people can. I cannot hear enough to use a standard telephone. My preferred type of phone is a videophone. I think that I could also use a captioned telephone for simple communication since I can speak for myself about some things. But I have not had access to a videophone or a captioned telephone since I have been in prison. The only type of phone I have had access to is a TTY. I have only used it a few times. When it works, it does not work well – it is hard to see the screen with the writing, and the letters get garbled and mixed up. Some of the buttons are missing. And a hearing person has to help me at the beginning of the call because there is a spoken prompt for entering certain numbers. I get cut off after 15 minutes, which is the time limit for calls made by hearing people. But it takes a lot longer to communicate by TTY so I should get more time. TTY calls are very expensive. A lot of times the TTY does not work at all. I told Counselor Chambers when the TTY stopped working completely. She asked me if I could write and told me I should just communicate with my family by letters.

25. I believe that Central State has videophones, but they are not installed. I believe that someone from Purple Communications, a videophone company, brought videophones, but they are not working. The videophones came months ago. I have not yet used a videophone. They are all sitting, unused, in the counselors' office.

26. A whole year before the lawyers started visiting me, I filed a grievance seeking access to a videophone for Deaf inmates. I included in my grievance the contact information for Purple Communication, Inc., which is one of the providers that support videophones with sign language interpreters. (This is called VRS or video relay service. The fees are paid by the federal government.) The prison did not provide me with a videophone.

27. I need access to a videophone to have communication with my friends and family just like hearing inmates. But I particularly need a videophone to speak to the lawyer who is working on my criminal case. I think my public defender has filed a motion for a new trial. But I have not been able to speak with him since August 2016. The only way right now that I can speak with my public defender is if he comes to visit me in person or if he writes me letters.

Problems with Prison Programs.

28. I have been enrolled in and completed several prison programs, but I have not had effective communications in these programs. Some of the classes I have taken are Motivation for Change (twice) and Family Violence. I have also taken computer classes. There was no interpreter for any class except the second Motivation for Change class. Without an interpreter, I am unable to understand what is happening, ask questions, or participate effectively and equally. Participating in these programs is very important to me. Participation is important so that I will have a good case for parole. Participation is also important so that I can learn important skills and be successful when I leave prison. I do not want to return to prison after I am released. I cannot really participate and get the same knowledge and benefits as other hearing inmates without a sign language interpreter.

29. Sometimes I have been enrolled in programs that do not make any sense. I think this has happened because there were no interpreters when I went through classification, and because I have a hard time communicating with the staff at CSP. For example, I was enrolled in a substance abuse class even though I have never had any problems with substance abuse. I went to the program, but I could not follow the communication because there were no interpreters.

30. Sometimes we are required to watch videos in prison that give important information. For example, one time I was required to watch a video about chemical safety at work. There were no English captions, so I could not understand the video.

*Grievances*

31. No one at the prison ever explained the grievance process to me in a way that I could understand. But I spent a lot of time on my own reading about how the grievance process worked. I mostly learned how to file grievances and appeals on my own.

32. I have written many grievances. On November 27, 2017, I wrote a grievance explaining that the prison was not giving me hearing aid batteries that worked. I knew that the prison had 40 days to respond to my grievance. After 41 days, I asked my counselor for a grievance appeal form. The prison had not answered my grievance on time. The rules say that I can write an appeal if the prison does not answer on time. But when I asked my counselor for an appeal form, she said no. My counselor said that I have to wait until the prison answers my grievance. I could not appeal because my counselor would not give me an appeal form.

33. On January 10, 2018, 44 days after I submitted my grievance, I got an answer from the prison. The answer was late. But I finally had an appeal form. I gave my counselor my appeal form on January 11, 2018. I asked for a copy of the appeal I wrote. I try to keep copies of all of my important papers. I think the rules say that the counselor must give me copies of appeals. But my counselor refused to give me a copy of the appeal.

34. On April 5, 2018, I got an answer to my appeal about my hearing aid batteries. The answer said that my appeal was "granted." It said that, "appropriate action will be taken." I thought that meant I would get the right hearing aid batteries. But I still have not gotten the right batteries. I wrote a second grievance about hearing aid batteries because I am really frustrated.

35. On February 1, 2018, I wrote a grievance saying that I need to get notifications and alarms in a way that I can see or feel because I am Deaf. I explained that I need a way to get notifications and information that other people can hear. Before I got a written answer from the prison, my counselor called me into a meeting. There was an interpreter. My counselor said she would tell the prison staff to hold up signs announcing meals, pill call, sick call, and count. She said she would try to get a vibrating watch for me. She told me to sign a paper saying that my grievance was "satisfied." I was surprised by the meeting. I was happy that the counselor promised to make changes. I signed the form. But I did not understand that when I signed the form, the prison did not have to answer my grievance anymore and my grievance was "dropped." I asked for a copy of this paper, but my counselor refused to give me a copy. I was confused when I did not hear anything from the prison about my grievance. And now it has been more than six months and I still do not have a vibrating watch. The guards still only sometimes hold up signs to tell us when it is time for chow or count or pill call. I still do not know what to do if there is an emergency. I think the Deaf people might be left behind in an emergency because we would not hear the alarms or the instructions.

36. Now the grievance process has changed. In August 2018, I tried to give Counselor Chambers a grievance appeal about an ADA issue, but she told me I need to mail ADA grievance appeals to Atlanta. I had to use my own envelope and my own stamp. But no one has explained the new process clearly. No one has given me any papers explaining the new rules. The grievance process seems to have gotten even more difficult.

I promise that everything in this paper is true and correct. I know that this is a serious paper. I know that I am signing this paper "under penalty of perjury." This means that if I lie, I could get a new criminal charge against me for lying. I promise that I am telling the truth.

This paper was interpreted into sign language for me by Anna McDuffie, CI, CT, NIC, SC:L

I signed his paper on August 22, 2018 at Macon, Georgia.

Christopher Shields

Christopher Shields

Plaintiff

**Christopher Shields' Supplementary Declaration in Support of Plaintiffs'  
Motion for Class Certification**

1. This paper describes things that have happened to me personally. Everything in this paper happened to me. I promise that everything written here is true and correct. In some places, I say that I believe something is true. That means that I believe that fact is true, but I cannot promise that it is true. I know that I might be a witness in this case, and that I might be asked to explain these facts in person. If this happens, I will say the same things that are written in this paper.

2. I signed a paper like this, called a "declaration" on August 22, 2018. Everything in that paper was true when I signed it. This paper adds more information. This paper talks about what has changed since August 2018.

*Communication at Central State Prison*

3. Some things have changed since August 2018. Central State Prison, or CSP, has interpreters sometimes now. I am in a group for people serving long sentences. There is usually an interpreter at that group. I am happy that I am part of that group. I am happy that I can usually communicate with an interpreter at that group. And there are videophones at CSP now, so I can call my family and friends and lawyers. It makes a big difference to have videophones in the prison.

4. But there are still problems at CSP. I have many medical issues. I need to be able to communicate with my doctors to take care of my health. But sometimes there is no interpreter for medical appointments. Sometimes I go to Medical and the appointment is cancelled because there are no interpreters. Sometimes at Medical they make me use the VRI machine. But VRI doesn't really work. It freezes a lot. It disconnects. Sometimes I can't understand the

interpreter or the interpreter can't understand me. And even when it works, it is hard to communicate at medical using VRI. The VRI is in one room and the examination happens in another room. So I can only communicate with the doctor or nurse before the appointment really starts. I can't ask questions or get information while they are doing the examination. I can't ask questions or get information after the examination.

*ADA Policy*

5. I think there is a new policy about the ADA. But it is hard to understand the new policy. I tried to read it. I understood some of it, but not all of it. Now there are two different ways to file grievances and appeals. The counselors do not accept grievances if you fill out the wrong form. It is more confusing than before.

I promise that everything in this paper is true and correct. I know that this is a serious paper. I know that I am signing this paper "under penalty of perjury." This means that if I lie, I could get a new criminal charge against me for lying. I promise that I am telling the truth.

This paper was translated for me by *Anna W. McEliff* ASL Interpreter  
RTO Certification: CI, CT, SC, IL + N/C

I signed this paper on February 26, 2019 at \_\_\_\_\_, Georgia.

*Christopher Shields*

Christopher Shields

Plaintiff

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION**

**RICARDO HARRIS, et al.,**

Plaintiffs,

v.

**GEORGIA DEPARTMENT OF  
CORRECTIONS, et al.,**

Defendants.

Civil Action No. 5:18-cv-365-TES

**CLASS ACTION**

**DECLARATION OF BRITTANY  
SHRADER IN SUPPORT OF  
MOTION FOR CLASS  
CERTIFICATION**

I, BRITTANY SHRADER, declare:

1. I make this Declaration of my personal knowledge and based on a review of the records maintained by my office in the ordinary course of business. I could and would competently testify to all such matters, if called upon to do so.

2. The National Association of the Deaf (“the NAD”), the American Civil Liberties Union Foundation Disability Rights Program (“the ACLU”), the American Civil Liberties Union Foundation of Georgia, Inc. (“the ACLU of Georgia”) and Weil, Gotshal & Manges LLP (“Weil”) jointly represent the Plaintiffs in this matter.

3. I submit this declaration in support of the Motion for Class Certification.

4. I am among counsel of record for the plaintiffs and the putative class in this matter. I am a member of the New York bar. I graduated from Hofstra University School of Law in May 2009. I received a B.A. from the University of Virginia in 2006. I am admitted to the Middle District of Georgia for this case *pro hac vice*.

5. I am a staff attorney at the NAD Law and Advocacy Center. I have been a staff attorney at the NAD since October 2018. I am fluent in American Sign Language.

6. Prior to joining the NAD, I was a senior associate at the Eisenberg & Baum Law Center for Deaf and Hard of Hearing (“E&B”) for two years where I litigated civil rights disability discrimination cases involving individuals who are deaf and hard of hearing. While at E&B, I handled cases involving the failure to provide effective communication to individuals who are deaf and hard of hearing in a variety of contexts. Representative cases include: *Ortiz, et al. v. Westchester Medical Center Health Care Corporation, et al.*, No. 7:15-cv-05432-NSR-PED (S.D.N.Y. settlement reached 2017) (hospital), *Curry v. the Metropolitan College of New York*, No. 1:16-cv-06294-JGK (S.D.N.Y. settlement reached 2017) (graduate school), *Ganzzermiller et al v University of Maryland Upper Chesapeake Medical Center, et al.*, No. 1:16-cv-03696-CCB (D.Md.) (hospital); *Schwarz et al. v. The Villages Charter School, Inc. et al.*, No 12-cv-00177 (M.D. Fla. jury verdict in favor of Plaintiffs February 2017) (adult education courses), *Ana Christine Shelton, in her capacity as both the natural tutrix of T.A. and S.A. and the administratrix of the succession of Nelson Arce v. The State of Louisiana, et. al*, No. 2:16-cv-14003 (E.D.La. jury verdict in favor of Plaintiff December 2018) (jail and probation). I was lead trial counsel for both *Schwarz et al. v. The Villages Charter School, Inc. et al.*, No 12-cv-00177 (M.D. Fla.) (obtained liability findings after federal jury trial on behalf of all thirty deaf clients and damages as to twenty one.) and *Ana Christine Shelton, in her capacity as both the natural tutrix of T.A. and S.A. and the administratrix of the succession of Nelson Arce v. The State of Louisiana, et. al*, No. 2:16-cv-14003 (E.D.La.) (obtained liability finding after federal jury trial against both defendants for failure to provide decedent with sign language interpreters for probation meetings and in jail).

7. Prior to working at E&B, I worked for the New York City Law Department Family Court Division for seven years where I prosecuted juvenile delinquency cases. As a

member of both the Major Case Unit and the Special Victims Unit, I tried over 100 cases and was the recipient of the Legal Rookie of the Year award in 2010.

8. I have been a trial attorney for my entire legal career, and I have focused on disability discrimination cases involving clients who are deaf and hard of hearing exclusively for the past three years.

9. I also serve as an adjunct professor at the University of Maryland Carey School of Law where I co-teach the Civil Rights of Persons with Disabilities Clinic.

10. The NAD, founded in 1880, is located in Silver Spring, Maryland. The mission of the NAD is to preserve, protect and promote the civil, human and linguistic rights of deaf and hard of hearing people in the United States of America. The NAD's Law and Advocacy Center was established in 1977.

11. The NAD is one of a small number of offices in the nation that focus on litigating disability discrimination and communication access issues for deaf and hard of hearing individuals such as this action. Litigating communication access cases requires specialized knowledge and skills. As the nation's premier civil rights organization of, by and for deaf and hard of hearing individuals in the United States of America, with a majority of its attorneys Deaf themselves, the NAD is specially equipped to handle these types of cases. As a result, NAD's assistance as co-counsel is frequently sought by other attorneys throughout the nation, and federal courts have long recognized the special expertise of NAD staff. *See, e.g., Argenyi v. Creighton University*, 703 F.3d 441 (8th Cir. 2013); *Daniel-Rivera v. Keiser University*, Case No. 0:16-cv-60044-WPD (S.D. Fl. filed 1/7/2016); *Sunderland et al. v. Bethesda Health System, Inc.*, Nos. 16-10980, 16-13327 (11th Cir. 2017); *Innes et al. v. Bd. of Regents of the Univ. Sys. of*

*Md., et al.*, 8:13-cv-02800-DKC (D. Md. 8/6/2015); Brief for the NAD as Amicus Curiae, *Ivy v. Morath*, 137 S.Ct. 414 (2016).

12. In addition to NAD's expertise in the area of civil rights litigation concerning the rights of deaf and hard of hearing individuals and their communication access needs, NAD has extensive experience in litigating communication access cases involving deaf prisoners. *See, e.g., Brandon Cobb, et. al., v. Georgia Dep't of Community Supervision, et. al.*, No. 1:19-cv-03285-WMR (N.D. Ga. filed July 19, 2019); *John TC Yeh v. United States Bureau of Prisons, et al.*, Case No. 3:18-cv-00943-JMM-MCC, (D. Pa. filed May 3, 2018); *Jarboe, et. al. v. Maryland Dep't of Public Safety and Correctional Services (DPSCS), et. al.*, No. 1:12-cv-00572 (D. Md. 2/20/2015); *Hannah Sabata, et al., v. Nebraska Dep't of Correctional Services, et al.*, No. 4:17-cv-03107-RFR-MDN (D.Ne, filed 8/15/2017).

13. The NAD has also been involved in the litigation of several class action suits, including *Holmes et al. v. Godinez*, Case No. 1:11-cv-02961, N.D. Ill. (May 04, 2011); *Calvin G, et al. v. The Board Of Education, et al*, Case No. 1:90-cv-03428, N.D. Ill. (June 22, 1990); *James Campbell, Complainant/Class Agent v. Sonny Perdue, Secretary, U.S. Department of Agriculture*, EEOC Case No. 570-2018-00277, Agency No. CRSD-2014-00665 (class conditionally certified); *National Association of the Deaf, et al. v. Harvard*, Case No. 3:15-cv-30023-MGM, (D. Mass. Feb. 12, 2015); *National Association of the Deaf, et al. v. MIT*, Case No. 3:15-cv-30024-MGM, (D. Mass. Feb. 12, 2015); *Jarboe, et. al. v. Maryland Department of Public Safety and Correctional Services (DPSCS), et. al.*, No. 1:2012-cv-00572 (D. Md. 2/20/2015); and *Brandon Cobb, et. al. v. Georgia Department of Community Supervision, et. al.*, No. 1:19-cv-03285-WMR (N.D. Ga. filed July 19, 2019) (class cert. motion to be filed); *Hannah*

*Sabata, et al. v. Nebraska Dep't of Correctional Services, et al.*, No. 4:17-cv-03107-RFR-MDN (D. Ne. filed 8/15/2017) (motion for class certification pending).

14. The NAD team also includes Anna Bitencourt Emilio. Ms. Bitencourt Emilio received a B.S. from the University of Maryland in 2008 and graduated from the Catholic University Columbus School of Law in May 2012. She is admitted to the Middle District of Georgia for this case *pro hac vice*.

15. Ms. Bitencourt Emilio is a deaf attorney familiar with the communication needs of deaf and hard of hearing individuals and fluent in American Sign Language. She has been a staff attorney at the NAD since July 2015. Prior to joining the NAD, Ms. Bitencourt Emilio was an associate attorney at Dansie & Dansie, LLP in Washington, DC, representing indigent clients and deaf or hard of hearing clients in a variety of legal matters.

16. Ms. Bitencourt Emilio serves as an Adjunct Professor of Law at the University of Maryland Francis King Carey Law School where she co-teaches the Civil Rights of Persons with Disabilities Clinic. She also serves as an Adjunct Professor at Gallaudet University where she teaches courses on the civil rights of persons with disabilities.

17. Plaintiffs' counsel have the necessary resources to zealously represent the interests of the class. Counsel have expended significant hours and resources investigating and identifying the claims in this matter. They have advanced the costs associated with the litigation to date and will continue to do so. They have expended many hours of time advancing this case and will continue to do so.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed in Silver Spring, MD on October 4, 2019.

  
Brittany Shrader

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION**

**RICARDO HARRIS, et al.,**  
Plaintiffs, v.  
**GEORGIA DEPARTMENT OF  
CORRECTIONS, et al.,**  
Defendants.

Civil Action No. 5:18-cv-365-TES

**CLASS ACTION**

**DECLARATION OF CLAUDIA  
CENTER IN SUPPORT OF MOTION  
FOR CLASS CERTIFICATION**

I, Claudia Center, declare:

1. I have personal knowledge of the matters set forth herein, except as to those matters which are alleged on information and belief; and as to those matters I believe them to be true. I could and would competently testify to all such matters, if called upon to do so.

2. The American Civil Liberties Union Foundation (“ACLU”) Disability Rights Program, American Civil Liberties Union of Georgia, Weil, Gotshal & Manges, LLP, and the National Association of the Deaf (“NAD”) jointly represent the plaintiffs and the putative class in this matter.

3. I am among the counsel of record for the plaintiffs and the putative class in this matter. I am a member of the California bar. I graduated from Berkeley Law in December 1991. I received a B.A. from Wesleyan University in 1987. I am admitted to the Middle District of Georgia for this case *pro hac vice*.

4. I am a Senior Staff Attorney at the American Civil Liberties Union Foundation (“ACLU”) Disability Rights Program. Founded in 1920, the ACLU is a nationwide, nonprofit nonpartisan organization of more than 1.5 million members dedicated to protecting the fundamental rights guaranteed by the Constitution and laws of the United States. Since its

founding, the ACLU has been deeply involved in protecting the rights of detainees and prisoners.

5. I have been a Senior Staff Attorney with the ACLU since April of 2014. Prior to joining the ACLU, I worked at the Legal Aid Society – Employment Law Center for 19 years, where I directed the disability rights program. Before that position, I worked at the National Abortion and Reproductive Rights Action League for two and a half years.

6. I have represented plaintiffs in disability rights, including complex class actions, for more than 20 years. Representative cases include: *U.S. Airways v. Barnett*, 535 U.S. 391 (2002); *Goldman v. Standard Insurance Company*, 341 F.3d 1023 (9th Cir. 2003); *Nunes v. Wal-Mart Stores*, 164 F.3d 1243 (9th Cir. 1999); *Eason v. New York State*, No. 16-CV-4292 (KBF) (S.D.N.Y., settlement reached 2019); *S.R. v. Kenton Cty.*, 2:15-cv-00143 (E.D. Ky., settlement reached 2018); *Dep't of Fair Employment & Hous. v. Law Sch. Admission Council Inc.*, No. 12-CV-01830-JCS (N.D. Cal., settlement reached 2014) (counsel for individual intervenors); *Ortiz v. Home Depot*, 5:09-cv-03485-LH (N.D. Cal., settlement reached 2012); *McMillan v. State of Hawaii*, Case No. CV 08 00578 JMS LEK (D. Haw., settlement reached 2011); *Cookson v. NUMMI*, C10-02931 (N.D. Cal., settlement reached 2011); *Siddiqi v. Regents of the Univ. of California*, No. C 99-0790 SI (N.D. Cal., settlement reached 2002). I have also served as *amicus* counsel in cases of importance to people with disabilities, including in cases about the intersection of disability and employment, education, high-stakes testing, professional licensing, incarceration, policing, the judiciary, decision-making, parenting, and voting.

7. In 2009, I received the Paul G. Hearne Award for Disability Rights from the American Bar Association Commission on Disability Rights. I have served as an adjunct professor of disability rights at the University of California Hastings College of the Law and at Berkeley Law School. I have written articles and given trainings about disability rights on many

occasions. I believe that I am qualified to represent the class proposed in this action.

8. I supervise two ACLU attorneys in this case, Zoe Brennan-Krohn and Talila (“TL”) Lewis.

9. Ms. Brennan-Krohn is a staff attorney at the ACLU Disability Rights Program. She has worked at the ACLU for two and a half years. She is admitted to the state bars of California and New York. She is admitted to the Middle District of Georgia for this case *pro hac vice*.

10. Ms. Brennan-Krohn earned her J.D. *cum laude* from Harvard Law School in 2015. She served as a judicial law clerk to the Honorable Judith W. Rogers of the U.S. Court of Appeals for the District of Columbia Circuit from 2016 to 2017. From 2012-2013, Ms. Brennan-Krohn served as a law clerk for President Theodor Meron at the International Criminal Tribunal for the Former Yugoslavia in The Hague, Netherlands.

11. TL Lewis received their J.D. from American University Washington College of Law in 2014, and their B.A. from American University in 2007. Lewis is admitted to the state bar of Maryland and is admitted to the Middle District of Georgia for this case *pro hac vice*. Lewis is fluent in sign language.

12. More than ten years ago, Lewis co-founded Helping Educate to Advance the Rights of Deaf communities (HEARD), a volunteer-dependent nonprofit organization that works to correct and prevent deaf wrongful convictions; end abuse of incarcerated people with disabilities; decrease recidivism for deaf and returning individuals; and increase representation of deaf people in professions that can combat mass incarceration. Lewis continues to serve as HEARD’s volunteer director. Lewis has served as the Givelber Public Interest Lecturer at Northeastern University School of Law and as a visiting professor at Rochester Institute of

Technology/ National Technical Institute for the Deaf. Lewis consults with social justice organizations on various topics including racial, economic, gender, and disability justice, and on cases involving deaf/disabled people. Lewis has been recognized as a 2015 White House Champion of Change and one of Pacific Standard Magazine's Top 30 Thinkers Under 30, and has received awards from the American Bar Association, the American Association for People with Disabilities, National Black Deaf Advocates, and others.

13. The ACLU Disability Rights Program, along with plaintiffs' counsel from ACLU of Georgia, NAD, and Weil, Gotshal and Manges, LLP, have the necessary resources to zealously represent the interests of the class. Counsel have expended significant hours and resources investigating and identifying the claims in this matter. They have advanced the costs associated with the litigation to date and will continue to do so. They have expended many hours of time advancing this case and will continue to do so.

14. Attached hereto as **Exhibit A** is a true and correct copy of the list of deaf and hard of hearing people incarcerated in facilities operated by Georgia Department of Corrections as of May 24, 2019, as produced by Defendants. Exhibit A is subject to protective order in this case. ECF 31.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed in San Francisco, California on October 4, 2019.

/s/ Claudia Center  
Claudia Center

WEIL, GOTSHAL & MANGES LLP  
2001 M Street NW, Suite 600  
Washington, DC 20036  
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Ralph I. Miller

Attorney for Plaintiffs

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF GEORGIA**

**RICARDO HARRIS, et al.,**

Plaintiffs,

v.

**GEORGIA DEPARTMENT OF  
CORRECTIONS, et al.,**

Defendants.

Civil Action No. 5:18-cv-365-TE

Declaration of Ralph Miller in  
Support of Plaintiffs' Motion for  
Class Certification

I, Ralph Miller, declare that the following is true and correct:

1. I have personal knowledge of the matters set forth herein, except as to those matters that are alleged on information and belief; and as to those matters, I believe them to be true. I could and would competently testify to all such matters, if called upon to do so.

2. I am a counsel of record for Plaintiffs in this matter, and am licensed to practice law in the District of Columbia, the State of New York, and the State of Texas. In the federal system, I am admitted generally in the United States Supreme Court, three U.S. Courts of Appeals, eight federal district courts, and two bankruptcy courts. I am admitted *pro hac vice* to this District Court for the Middle District of Georgia.

3. Weil, Gotshal & Manges LLP ("Weil"), the American Civil Liberties Union Foundation Disability Rights Program ("the ACLU"), the American Civil Liberties Union

Foundation of Georgia, Inc. (“the ACLU of Georgia”), and the National Association of the Deaf (“the NAD”) jointly represent the Plaintiffs in this matter.

4. I submit this declaration in support of the Motion for Class Certification.

**Professional Qualifications.**

5. I graduated from the University of Texas School of Law in 1972. From 1972 to 1973, I served as a law clerk to Justice Harry A. Blackmun of the Supreme Court of the United States. From 1974 to 1976, I was a Captain in the Army Judge Advocate General’s Corps. Between 1976 and August of 1991, I practiced in the litigation department of Thompson & Knight LLP in Dallas, first as an associate and later as partner. I was an active partner with Weil from September 1, 1991, when I founded the firm’s Dallas litigation section, until I retired on December 31, 2015. My current title is Retired Partner.

6. From 2004 through 2008, I served as co-head of Weil’s national Complex Commercial Litigation Group.

7. I have had relevant experience in pro bono disability rights matters. For example, during the last five years I served as counsel in the following pro bono disability rights cases: *Adams, et al. v. Commonwealth of Kentucky, et al.*, 3:14-cv-00001 (E.D. Ky.) (settled 2015); *Ivy v. Morath*, 15-486 (U.S. Supreme Court 2015) (amicus brief on writ of certiorari for a group of law professors); and *Perez, et al. v. Doctors Hosp. at Renaissance, Ltd*, 7:13-cv-00124 (S.D. Tex.), *appealed*, No. 14-41349 (5th Cir.) (settled 2016). The Weil team working on the *Adams* case received an Outstanding Achievement Award from the Washington Lawyers’ Committee for Civil Rights and Urban Affairs as a result of the favorable settlement in that case on behalf of deaf and hard of hearing inmates in Kentucky prisons, and the Weil team in the *Perez* case received a Kristi Couvillon Pro Bono Award from the Texas Civil Rights Project for the successful result in the appeal of that Americans with Disabilities Act case. I have also worked on other pro bono disability rights and civil rights matters during my legal career.

8. Over four decades of private practice, I have worked on a large number of complex commercial cases, including numerous class actions. A partial list of class action cases

at Weil in which I have been lead counsel for one of the parties includes: *Montsinger v. Micrografx, Inc.*, 91 Civ. 5673 (S.D.N.Y. 1991); *Thornton v. Micrografx, Inc.*, 3:91-cv-2608 (N.D. Tex. 1995); *Clarkson v. Greyhound Lines, Inc., et al.*, 96-11329-C (N.D. Tex. 1998); *Gross, et al. v. Nat'l Ass'n of Homebuilders, et al.*, 96-00472E (Dist. Ct., Dallas County, Tex. 1999); *Grossman, et al. v. FoxMeyer Health Corp.*, 96-10866-J (Dist. Ct., Dallas County, Tex. 1999); and *Woodall, et al. v. Am. Airlines, Inc.*, 3:06-CV-0072-M (N.D. Tex. 2008). In 2012, I argued the appeal in *Pipefitters Local No. 636 Defined Benefit Plan v. Zale Corp., et al.*, 11-10936 (5th Cir. 2012), which was a securities class action. I also worked on multiple class actions at Thompson & Knight LLC.

9. I believe that I am qualified to represent the class proposed in this action.

**Plaintiffs' Counsel Have Committed and Will Commit Significant and Coordinated Resources to Represent the Class.**

10. The Weil team includes Audrey Stano in California, Brian Liegel in Florida, Ariane Moss in the District of Columbia, and Zander Weiss in New York. These lawyers have committed to support the case, and I believe their work will further ensure the adequacy of representation.

11. Other co-counsel in this case for Plaintiffs bring experiences and skills that are complementary to those of Weil. The ACLU and its affiliate, the ACLU of Georgia, offer great depth of experience in civil rights, disability rights, federal litigation, and class actions. The NAD also brings extensive experience in disability rights, federal litigation, and class actions with an emphasis on the barriers facing deaf and hard of hearing individuals, including those who are prisoners, as well as understanding practical accommodations and policies that can be implemented in the prison environment.

12. In addition to services of the qualified, experienced counsel described above, Plaintiffs' counsel have committed funds to litigate this matter. Plaintiffs' counsel have advanced the costs associated with the litigation to date, and Weil has agreed to advance a specified amount of future costs. All co-counsel have undertaken to confer on further expenses, if needed.

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct, and that this declaration was executed in Arlington, Virginia on Sep. 20, 2019.

A handwritten signature in cursive script, reading "Ralph A. Miller", is written over a solid horizontal line.

Ralph Miller

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION**

**RICARDO HARRIS, et al.,**  
Plaintiffs,

v.

**GEORGIA DEPARTMENT OF  
CORRECTIONS, et al.,**  
Defendants.

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Civil Action No. 5:18-cv-365-TES

**CLASS ACTION**

**DECLARATION OF SEAN YOUNG  
IN SUPPORT OF MOTION FOR  
CLASS CERTIFICATION**

I, Sean Young, declare:

1. I am the Legal Director of the ACLU of Georgia, where I have worked since 2017. I was previously a Staff Attorney with the ACLU Voting Rights Project, in New York, from 2013 to 2017. I am admitted to practice in Georgia and have been admitted to the bars of the U.S. Supreme Court; the U.S. Courts of Appeals for the First, Fifth, Sixth, Seventh, and Eleventh Circuits; the three U.S. District Courts in Georgia, and the Georgia courts including the Supreme Court of Georgia. I graduated from Yale Law School in 2006 and served as a Law Clerk to the Honorable Ann Claire Williams, U.S. Court of Appeals for the Seventh Circuit, from 2012 to 2013, and as a Law Clerk to the Honorable Laura Taylor Swain, U.S. District Court of the Southern District of New York, from 2007 to 2009. I was also a litigation associate with Skadden, Arps, Slate, Meagher & Flom LLP from 2009 to 2012, and with Hughes, Hubbard & Reed LLP from 2006 to 2007.

2. In 2019, I was given the Attorney of the Year Award issued by the Daily Report, and I was also named a Best LGBT Lawyer Under the Age of 40 by the National LGBT Bar Association.

3. I have served as lead counsel in a certified class action for a civil rights lawsuit challenging Wisconsin's voter ID law. *See Frank v. Walker*, 196 F. Supp. 3d 893 (E.D. Wis. 2016).

4. In addition, I have 6 years of experience litigating successful civil rights lawsuits. As the Legal Director of the ACLU of Georgia, I have thus far filed three successful First Amendment challenges. In *Rubin v. Young*, 2019 WL 1418289, No. 1:19-cv-1158-SCJ (N.D. Ga. Mar. 14, 2019), I secured a temporary restraining order, later converted into a final judgment, prohibiting the Capitol Police from banning profanity in the State Capitol Building. In *Rasman v. Stancil*, 1:18-cv-1321-WSD (N.D. Ga. Mar. 29, 2018), Dkt. #3, I secured a temporary restraining order prohibiting the Capitol Police from banning hand-held signs in the State Capitol Building. And in *Solomon v. City of Savannah* (S.D. Ga. 2018), immediately following the lawsuit, the City of Savannah lifted its ban on signs displayed at the St. Patrick's Day Parade in which the Vice President of the United States was a participant. In addition, I have filed three successful voting rights lawsuits. In *Martin v. Kemp*, 341 F. Supp. 3d 1326 (N.D. Ga. 2018), I secured a temporary restraining order enjoining the enforcement of a state law which allowed elections officials to reject absentee ballots due to a signature mismatch without providing due process, an order which the Eleventh Circuit refused to stay, *see Georgia Muslim Voter Project v. Kemp*, 918 F.3d 1262 (11th Cir. 2019), and which resolved when the Georgia General Assembly passed a law resolving the issue. In *Hopkins v. Kemp*, No. 2017CV293325 (Ga. Sup. Ct.), I filed a mandamus action challenging the illegal removal of approximately 160,000 voters from the

active voter rolls based on the voters' recent intracounty change of residence, resulting in a settlement restoring those voters. In *ACLU of Georgia v. Fulton Cnty. Bd. of Registration and Elections*, No. 2017CV292939 (Ga. Sup. Ct.), I filed a mandamus action challenging Fulton County's failure to comply with state public notice requirements when voting to close down polling places, resulting in Fulton County's voluntary rescission of that decision.

5. While at the ACLU Voting Rights Project, I was the lead attorney in *Ohio NAACP v. Husted*, 768 F.3d 524 (6th Cir. 2014), which adopted the ACLU Voting Rights Project's proposed legal standard for vote denial claims under Section 2 of the Voting Rights Act, a legal standard that was then adopted by the Fourth Circuit and the full en banc court of the Fifth Circuit. That litigation resulted in a settlement mandating weekend and evening early voting hours in all Ohio counties, which was the first time any state adopted weekend/evening early voting hours statewide for all elections. In addition, I was the lead attorney in *Frank v. Walker*, 819 F.3d 384 (7th Cir. 2016), which was the first court decision holding that voters who cannot obtain ID with reasonable effort may be exempt from a state's voter ID requirements. I also drafted and filed two amicus briefs with the United States Supreme Court, in *Ariz. State Legislature v. Ariz. Indep. Redistricting Comm'n*, 135 S. Ct. 2652 (2015) and *Evenwel v. Abbott*, 136 S. Ct. 1120 (2016).

6. Through these cases and others, I have come to have extensive experience litigation civil rights actions.

7. I supervise one ACLU of Georgia attorney in this case, Kosha S. Tucker.

8. Ms. Tucker is a Staff Attorney with the ACLU of Georgia, where she has worked since 2018. She was previously an Assistant Public Defender in the Stone Mountain Judicial Circuit of DeKalb County, Georgia from 2012 to 2018, and the Robin Nash Postgraduate Fellow

in Law from 2011 to 2012 at Emory University School of Law. She is admitted to practice in Georgia and has been admitted to the bars of the U.S. District Courts for the Northern and Middle Districts of Georgia, and the Georgia courts including the Supreme Court of Georgia. Ms. Tucker graduated from New York University School of Law in 2011, where she was a Root-Tilden-Kern Scholar in recognition of her commitment to public service, academic excellence, and potential for leadership.

9. As an Assistant Public Defender, Ms. Tucker was a trial attorney, handling hundreds of felony and misdemeanor cases in Georgia Juvenile, State, and Superior Courts, as well as post-conviction appeals to the Georgia Court of Appeals.

10. As the Robin Nash Postgraduate Fellow in Law at Emory, Ms. Tucker managed a caseload of young clients seeking habeas relief and served as a supervising attorney to law students in the Barton Child Law and Policy Clinics.

11. In 2016, Ms. Tucker was identified as an “emerging leader in the career of indigent defense” by the Georgia Public Defender Council (GPDC) and subsequently served on the faculty for the GPDC’s Transition into Law Practice Program (TILPP), training new public defenders across Georgia.

12. Since joining the ACLU of Georgia, Ms. Tucker has been involved in litigating civil rights cases, including class actions and other complex cases, and is qualified to represent the class proposed in this action.

13. The ACLU of Georgia, along with plaintiffs’ counsel from the ACLU Disability Rights Program, NAD, and Weil, Gotshal and Manges, LLP, have the necessary resources to zealously represent the interests of the class. Counsel have expended significant hours and resources investigating and identifying the claims in this matter. They have advanced the costs

associated with the litigation to date and will continue to do so. They have expended many hours of time advancing this case and will continue to do so.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed in Atlanta, Georgia on September 27, 2019.

A handwritten signature in cursive script, appearing to read "Sean Young", written in black ink.

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Sean Young

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION**

**RICARDO HARRIS, et al.,**  
Plaintiffs, v.  
**GEORGIA DEPARTMENT OF  
CORRECTIONS, et al.,**  
Defendants.

Civil Action No. 5:18-cv-365-TES

**CLASS ACTION**

**DECLARATION OF SUSAN  
MIZNER IN SUPPORT OF MOTION  
FOR CLASS CERTIFICATION**

I, Susan Mizner, declare:

1. I have personal knowledge of the matters set forth herein, except as to those matters which are alleged on information and belief; and as to those matters I believe them to be true. I could and would competently testify to all such matters, if called upon to do so.

2. The American Civil Liberties Union Foundation (“ACLU”) Disability Rights Program, American Civil Liberties Union of Georgia, Weil, Gotshal & Manges, LLP, and the National Association of the Deaf (“NAD”) jointly represent the plaintiffs and the putative class in this matter.

3. I am among the counsel of record for the plaintiffs and the putative class in this matter. I am a member of the California bar. I am admitted to the Middle District of Georgia for this case *pro hac vice*. I graduated from Stanford Law School in 1992. I received a B.A. *cum laude* in Chemical Engineering and English from Yale University in 1983.

4. I am the director and founder of the American Civil Liberties Union Foundation (“ACLU”) Disability Rights Program. Founded in 1920, the ACLU is a nationwide, nonprofit nonpartisan organization of more than 1.5 million members dedicated to protecting the fundamental rights guaranteed by the Constitution and laws of the United States. Since its

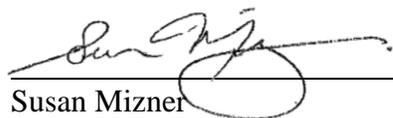
founding, the ACLU has been deeply involved in protecting the rights of detainees and prisoners.

5. I founded the ACLU Disability Rights Program in 2012 and I lead the ACLU's strategic plan for disability rights. The Disability Rights Program litigates cases, introduces and supports legislation, and coordinates with national and state ACLU offices on disability rights litigation and policy. The ACLU is devoted to protecting the civil liberties and civil rights of people with disabilities across the country. I have overseen numerous lawsuits to protect and enforce the rights of people with disabilities, including cases about voting access for blind and low-vision voters and cases about restraint and seclusion of children with disabilities in schools.

6. Before joining the ACLU, I served for 13 years at the San Francisco Mayor's Office on Disability, first as Deputy Director and then for 9 years as Director. As director of the Mayor's Office on Disability, I directed the city's ADA Self-Evaluation and Transition Plan and worked with the San Francisco Mayor, Board of Supervisors, community organizations, and local citizens on disability rights issues. I conducted the nation's first needs assessment on the needs of deaf and hard of hearing people in relation to city services. Before that, I worked for seven years as the Coordinating Attorney at the Bar Association of San Francisco's Poverty and Disability Rights Project.

7. The ACLU Disability Rights Program, along with plaintiffs' counsel from ACLU of Georgia, NAD, and Weil, Gotshal and Manges, LLP, have the necessary resources to zealously represent the interests of the class. Counsel have expended significant hours and resources investigating and identifying the claims in this matter. They have advanced the costs associated with the litigation to date and will continue to do so. They have expended many hours of time advancing this case and will continue to do so.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed in San Francisco, California on October 4, 2019.

  
Susan Mizner