

1 ROB BONTA
 Attorney General of California
 2 SHARON A. GARSKE
 Supervising Deputy Attorney General
 3 SEAN LODHOLZ
 OLENA LIKHACHOVA
 4 GURPREET SANDHU
 TRACE O. MAIORINO
 5 ANNE KAMMER
 Deputy Attorney General
 6 State Bar No. 243113
 600 West Broadway, Suite 1800
 7 San Diego, CA 92101
 Telephone: (619) 321-5781
 8 Fax: (619) 645-2581
 E-mail: Anne.Kammer@doj.ca.gov
 9 *Attorneys for Defendants*
Gavin Newsom and CDCR

11 IN THE UNITED STATES DISTRICT COURT
 12 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 13 OAKLAND DIVISION

15 **JOHN ARMSTRONG, et al.,**

16 Plaintiffs,

17 v.

19 **GAVIN NEWSOM, et al.,**

20 Defendants.

C 94-2307 CW

DECLARATION OF SHARON A. GARSKE IN SUPPORT OF DEFENDANTS' STATEMENT ON SATF STIPULATION ITEM NOS. 7 AND 13

22 I, Sharon A. Garske, declare:

23 1. I am an attorney admitted to practice law in the State of California and before this
 24 Court. I am employed by the California Department of Justice as a Supervising Deputy Attorney
 25 General in the Correctional Law Section of the Office of the Attorney General. I am currently
 26 counsel of record for Defendants in this case and have been counsel of record since February 27,
 27 2015. I have personal knowledge of the facts stated in this declaration; if called as a witness, I
 28 could and would competently testify to those facts. I submit this declaration in support of

1 Defendants' statement on SATF Stipulation Item Nos. 7 and 13.

2 2. I am a duly authorized custodian of records maintained by the Office of the Attorney
3 General, including the *Armstrong* case file and all written correspondence received regarding the
4 *Armstrong* class action. I submit this declaration in support of Defendants' statement on SATF
5 Stipulation Item Nos. 7 and 13.

6 **Stipulation Item No. 7 (Effective Communication of Announcements)**

7 3. On June 30, 2015, K. Stone-Manista, Rosen Bien Galvan & Grunfeld LLP, sent a
8 letter to the Office of Legal Affairs and sent a copy to the Attorney General's office advocating
9 for a pocket talker for a class member "in outdoor environments, such as the yard, because it
10 'helps reduce wind noise'" and "makes it possible for the patient to be in a noisy environment
11 with multiple conversations and still be able to understand a person in front of them.' A true and
12 correct copy of the letter Ms. Stone-Manista sent is attached as **Exhibit A**.

13 **SATF Stipulation Item No. 13 (Captioning Technology)**

14 4. On July 26, 2019, R. Lomio, Prison Law Office, sent a letter to the Office of Legal
15 Affairs and sent a copy to the Attorney General's office advocating for the provision of
16 Computer-Assisted Real-Time (CART) transcription services for a class member then-housed at
17 SATF who would ultimately be referred to in later filings by the Court Expert as "Person E." A
18 true and correct copy of Ms. Lomio's letter is attached as **Exhibit B**.

19 5. On November 27, 2019, R. Lomio, Prison Law Office, sent a letter to the Office of
20 Legal Affairs and sent a copy to the Attorney General's office advocating for the provision of
21 CART transcription services for class members. A true and correct copy of Mr. Lomio's letter is
22 attached as **Exhibit C**.

23 6. On July 22, 2024, M. Hatton sent an email to the Office of Legal Affairs and copied
24 the Attorney General's office identifying Etienne Harvey and Tremmel Watson as experts. A true
25 and correct copy of Ms. Hatton's email is attached as **Exhibit D**.

26 ///

27 ///

28 ///

1 I declare under penalty of perjury that the foregoing is true and correct. Executed on
2 October 7, 2024, in San Francisco, California.

3
4 /s/Sharon A. Garske
5 SHARON A. GARSKE
6 Supervising Deputy Attorney General
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 ROB BONTA
 Attorney General of California
 2 SHARON A. GARSKE
 Supervising Deputy Attorney General
 3 OLENA LIKHACHOVA
 ANNE KAMMER
 4 GURPREET SANDHU
 TRACE O. MAIORINO
 5 SEAN W. LODHOLZ
 Deputy Attorney General
 6 State Bar No. 299096
 1300 I Street, Suite 125
 7 P.O. Box 944255
 Sacramento, CA 94244-2550
 8 Telephone: (916) 210-7369
 Fax: (916) 324-5205
 9 E-mail: Sean.Lodholz@doj.ca.gov
Attorneys for Defendants
Gavin Newsom and CDCR

11 IN THE UNITED STATES DISTRICT COURT
 12 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 13 OAKLAND DIVISION

16 **JOHN ARMSTRONG, et al.,**

17 Plaintiffs,

18 v.

19 **GAVIN NEWSOM, et al.,**

20 Defendants.

4:94-cv-02307-CW

EXHIBITS TO DECLARATION OF SHARON GARSKE

22 **EXHIBITS**

Ex. No.:	Description:	Filed Under Seal/Redacted:
A	6/30/2015 Letter from K. Stone-Manista to CDCR Office of Legal Affairs (OLA), "Armstrong v. Brown: Advocacy Letter Re __, CTF, Our File No. 0581-03"	Class member and non-party staff identifying information redacted.
B	7/26/2019 Letter from R. Lomio to CDCR OLA, "Armstrong Advocacy Letter __, SATF"	Class member identifying information redacted.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

C	11/27/2019 Letter from R. Lomio to CDCR OLA, "Armstrong v. Newsom Accommodations for Deaf and Hard of Hearing Class Members Who Do Not Know Sign Language"	--
D	7/22/2024 Email from M. Hatton, Prison Law Office, to CDCR OLA, "Plaintiffs" Statement on CART and ViewSonic (SATF Stip No. 13)"	--

CF1997CS0005
37678226.docx

Exhibit A



P.O. Box 390
San Francisco, California 94104-0390
T: (415) 433-6830 ▪ F: (415) 433-7104
www.rbgg.com

Krista Stone-Manista
Email: kstone-manista@rbgg.com

June 30, 2015

Carrie C. Stafford, Attorney
CDCR Office of Legal Affairs
Sacramento, CA 94283-0001
(916) 327-3957
E-mail: Carrie.Stafford@cdcr.ca.gov

**PRIVILEGED AND
CONFIDENTIAL**
**SUBJECT TO
PROTECTIVE ORDERS**

Byron Miller, Attorney
CDCR Office of Legal Affairs
Sacramento, CA 94283-0001
(916) 324-7177
Byron.Miller@cdcr.ca.gov

Re: *Armstrong v. Brown*: Advocacy Letter Re [REDACTED], CTF
Our File No. 0581-03

Dear Ms. Stafford and Mr. Miller:

I write regarding [REDACTED], [REDACTED], a class member who is currently housed at the Correctional Training Facility. As I wrote in my most recent CTF tour report for the June 5, 2015 CTF tour, [REDACTED] is still waiting to receive a pocket talker that was recommended for him by his audiologist on March 3, 2015 and ordered by his physician on March 19, 2015.

When [REDACTED] was seen by the audiologist on March 3, 2015, the audiologist wrote a detailed report specifically setting forth [REDACTED] clinical need for a pocket talker in addition to his hearing aids. (See 3/3/15 audiology report, attached). The audiologist wrote that the pocket talker would assist [REDACTED] in outdoor environments, such as the yard, because it “helps reduce wind noise.” The audiologist also wrote that the pocket talker “makes it possible for the patient to be in a noisy environment with multiple conversations and still be able to understand a person in front of them.”

[REDACTED] physician ordered a pocket talker for him on March 19, 2015, but he has never received one. His appeal requesting the ordered appliance was denied at the

PRIVILEGED AND CONFIDENTIAL

Carrie Stafford and Byron Miller

June 30, 2015

Page 2

Second Level of Review on June 9, 2015. The appeal response does not discuss his actual need for accommodation as determined by the audiologist and his physician, but only points to the DME policy. The DME formulary guidelines are not an absolute and do not trump CDCR's obligations under the Armstrong Remedial Plan, p.4 (sec. II.E), to provide accommodations "to ensure equally effective communication with staff, other inmates, and where, applicable, the public." [REDACTED] clinicians have determined that, for him, this requires a pocket talker.

This matter is of particular urgency because [REDACTED] has recently been designated EOP for mental health care and will shortly be moved to an EOP facility. When he arrives, he must be able to participate in treatment, including groups which may occur in a noisy environment with multiple conversations. To do so, he must be given the pocket talker that was ordered for him more than three months ago.

Please feel free to contact me with any questions or concerns about this issue.

We look forward to your response within 14 days.

Sincerely,

ROSEN BIEN
GALVAN & GRUNFELD LLP

/s/ Krista Stone-Manista

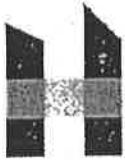
By: Krista Stone-Manista

Enclosure (March 3, 2015 Audiology Report; June 9, 2015 SLR response)

cc:

[REDACTED]
Mike Knowles
Cathy Etchbehere
Sadie Richmond
Trina Hirsig
Andrea Moon
Nashea Jackson
Sharon A. Garske
Edward R. Fluet

Bryan Kao
Rebekah Evanson
Edie DeGraff
John Dovey
Evelyn Matteuci
Donald Meier
Jacob Heringer



CALIFORNIA CORRECTIONAL HEALTH CARE SERVICES



Institution Response for Second Level HC Appeal

Date: June 9, 2015

To:



Correctional Training Facility
P.O. Box 686
Soledad, CA 93960-0686

COMPLETED
JUN 12 2015
HC CTF
HC APPEALS

Tracking/Log #:



Appeal Issues:

In your CDCR-602HC Inmate/Parolee Health Care Appeal Form received on May 15, 2015, you indicated:

Issue Type	Action Requested	Disposition
Issue 1: Device Issues (pocket talker)	Requests to be provided with a pocket talker to go with his hearing aids	Denied

Interview:

You were interviewed by [REDACTED] M.D., Physician and Surgeon (P&S) and Primary Care Physician (PCP) on April 21, 2015 regarding this appeal. During the interview, you were allowed the opportunity to fully explain your appeal issue(s).

Your appeal with attachment(s), electronic Unit Health Record (eUHR) and all pertinent departmental policies and procedures were reviewed. The Disability Effective Communication System (DECS) was checked and you were determined to have a Test for Basic Adult Education (TABE) score of 0 and did require accommodations to ensure effective communication. It is also noted to that you have a DPP code of DNH and effective communication was reached by speaking loudly and slowly. You were wearing your hearing aid in your R ear and the room was quiet. I showed you written material with regard to your appeal.

Response:

The First Level Appeal, received on April 6, 2015 indicated you are requesting to be provided with a pocket talker to go with you hearing aids.

The response stated that according to the new guidelines issued by the CCHCS for DME, page 34 which I showed you, a pocket talker is contraindicated if you have a functioning hearing aid which you have. I have enclosed a copy of the guidelines.

You were seen by the audiologist on 3/3/15 who recommended the pocket talker however the audiologist may not have known about the new guidelines. Additionally, medical staff is under no obligation to provide treatment as ordered by another institution or outside facility or physician. The Department shall provide only medical services for patient-inmates that are based on medical necessity and supported by outcome data as effective medical care. In the absence of available outcome data for a specific case, medical treatment for inmates shall be based on the judgment of the institution's physicians that the treatment is considered effective for the purpose intended and is supported by diagnostic information and consultations with appropriate specialists. Your contention that you have not been provided adequate medical care is refuted by professional health care staff familiar with your medical history, as well as a review of your medical records.

While you have a right to request treatment, it is inappropriate for a patient-inmate to recommend a treatment

plan and then expect a physician to implement the requested treatment plan. Private consultants may recommend treatment; however, it is determined by health care staff whether or not to implement such recommendations. This decision is based on the criteria set forth in CCR, Title 15, Section 3354 (c) which states in part: "(c) *Private Consultants*. Health care personnel not employed by the department are not authorized to order treatment for an inmate. Such persons may offer opinions and recommendations for consideration by department health care staff."

If you have future questions with regard to your hearing aid, you will need to discuss this with your PCP.

At the First Level of Review this appeal was denied.

The Second Level Appeal, received on May 15, 2015 indicated you are dissatisfied with the First Level response.

The response stated Regarding issue #1 your request for a "Pocket Talker" is denied on second level review. While you correctly point out that the DME device was intended to be ordered for you, the order did not pass review for the following reason. You possess working hearing aids and your manual dexterity is not impaired to the point that you cannot use them. Please refer to the following excerpts from the current durable medical equipment policy formulary.

INDICATIONS FOR POCKET TALKERS

For hearing impaired persons with significant problems with fine motor dexterity or cognitive impairments who are unable to use hearing aids but who are able to manipulate headphones and the controls on the pocket talker.

CONTRAINDICATIONS FOR POCKET TALKERS

Possession of a working hearing aid.

ESTABLISHMENT OF MEDICAL NECESSITY

For use in one-on-one communication settings (e.g., clinician visits) or other settings for persons who are hearing impaired *but do not have hearing aids* (when written or other communication is not feasible). *Pocket talker is not a good substitute for hearing aids—it amplifies sounds from only one direction. Hearing aids remain the preferred treatment for hearing loss.*

Clinical reference:

July 17,2013 Memo Pocket Talkers in California Correctional Health Care Service from Clinical Guidelines Committee

At the Second Level of Review this appeal was Denied:

Your appeal with attachment(s), Electronic Unit Health Record (eUHR), and all pertinent departmental policies and procedures were reviewed.

Appeal Decision:

Based upon the aforementioned information, your appeal is Denied.

If you are dissatisfied with the Second Level response, explain the reason on Section F. on CDCR 602 HC;

COMPLETED
JUN 12 2015
HC CTF
APPEALS

attach supporting documents and submit by mail for Third Level Review. It must be received within 30 calendar days from receipt of prior response. Mail to: Health Care Appeals, ATTN: Chief, Building C, P.O. Box 588500, Elk Grove, CA 95758. If you need more space, use Section F of the CDCR 602-A.



S. Posson D.O., Chief Medical Executive (A)
Correctional Training Facility
California Correctional Health Care Services

COMPLETED
JUN 12 2015
HC CTF
APPEALS

RECEIVED

MAR 04 2015

MEDICAL RECORDS

DATE	TIME	
3/3/15		audiology - Pt. audiogram = bilateral moderate/severe SNHL. Pt audiogram has not changed since 10/24/13.
Time in	11:45am	Speech disc. through audiometer headset at the Pt Most comfortable level = (R) 80%. (L) 95%. @ MCL
	1:30pm	Speech disc without amplification, No sound pressure meter to determine decibels, 5ft distance from subject, One ear masked & speaking in a subjective normal voice with my mouth covered so that the subject cannot read my lips = (R) 60%. (L) 70%. Bilateral 75%.
		Speech disc with hearing aids, No sound pressure meter to determine dB, 5ft distance facing away from subject with no visual of my lips = (R) 90%. (L) 95%. Bilateral 100%. The above was also done speaking at a subjective normal voice.
		SRT is at 55dB in both ears.

COMPLETED
MAY 11 2015
HC CTF APPEALS

all testing was done in a room with minimal noise. testing was not done in a sound proof booth as the state does not have one built in any of its institutions.

- 1. Disability Code:
 - TABE score ≤ 4.0
 - DPH DPV LD
 - DPS DNH
 - DNS DDP
- 2. Accommodation:
 - Additional time
 - Equipment GCI
 - Louder Slower
 - Basic Transcribe
 - Other: None
- 3. Effective Communication:
 - P/t asked questions
 - P/t summarized information
 - Please check one:
 - Not reached
 - Reached
- 4. Comments:
 - speech clarity and tempo

RECEIVED

FSP41-0010 (Rev. 1/12) JUN 11 2015

INSTITUTION HOUSING UNIT

CDC NUMBER, NAME (LAST, FIRST, MI) AND DATE OF BIRTH



INTERDISCIPLINARY PROGRESS NOTES

COMPLETED
JUN 12 2015
HC CTF APPEALS

RECEIVED
15 JUN 11 2015
HC CTF APPEALS

DATE TIME
3/31/15

(Continued) Pg 2

It is reasonable to say that the Pt can hear well in a quite office environment with only one speaker talking while wearing hearing aids. It is not reasonable to suggest the same in his day to day environment, unless you test him in the day room setting, "chow hall" setting, out door setting, etc. In these settings the Pt is dealing with "wind-noise" ^{from} multiple fans, making speech at a 5ft distance very difficult if not impossible with hearing aids. Social areas where multiple people are talking will also drop disc scores significantly. Outdoor settings with wind noise will also drop discrimination scores dramatically. It is reasonable for the Pt to not wear his hearing aids in these types of situations. Very similar to reading glasses, hearing aids have limitations.

The prisons are filled with noise pollution and it is hard to determine what area the hearing aids will work and where they will not.

- 1. Disability Code:
 - TABE score ≤ 4.0
 - OPH DPV LD
 - DPS DNH
 - DNS DDP
- 2. Accommodation:
 - Additional time
 - Equipment SLI
 - Louder Slower
 - Basic Transcribe
 - Other
- 3. Effective Communication:
 - P/I asked questions
 - P/I summed information
 - Please check one:
 - Not reached
 - Reached

4. Comments: *Speak slowly and loud*

(Continued)

INSTITUTION

HOUSING UNIT

CDC NUMBER, NAME (LAST, FIRST, MI) AND DATE OF BIRTH

INTERDISCIPLINARY PROGRESS NOTES

COMPLETED

JUN 12 2015

HC CTF APPEALS

RECEIVED

15 04 19 38 2015

HC CTF APPEALS

DATE TIME

3/3/15

(continued 893)

Conjunction
 Like brifocals, hearing aids work in parallel with a pre-amplifier. The pre-amp or "Pocket talker"® helps reduce wind noise. It also makes it possible for the pt to be in a noisy environment with multiple conversations and still be able to understand a person in front of them. disc scores are ^{very} likely to be higher with a pre amp in these settings.

These issues and solutions are well known in the audiology profession and they are handled very similarly but with more expensive technology.

The pt would benefit from a pre amp with his hearing aids. The consideration is handled case by case at CTF and would need pre approval before the pt can receive one. Bilateral hearing aids are also recommended. A hearing impaired vest would benefit the pt and state employees when he is not wearing his hearing aids.

No follow up needed.

1. Disability Code:

- TABE score ≤ 4.0
- DPH DPV LD
- DPS ONH
- DNS ODP

2. Accommodation:

- Additional time
- Equipment SLI
- Louder Slower
- Basic Transcribe
- Other

3. Effective Communication:

- PII-asked questions
- PII summed information
- Please check one:
- Not reached Reached
- *See chron/notes

MAY 11 2015
 CTF APPEALS
 RECEIVED

INSTITUTION

HOUSING UNIT

CDC NUMBER, NAME (LAST, FIRST, MI) AND DATE OF BIRTH

2015

INTERDISCIPLINARY PROGRESS NOTES

COMPLETE

JUN 12 2015

HC CTF APPEALS

RECEIVED

15 04 19 2015

HR - 5 2015

CTF APPEALS

Exhibit B



PRISON LAW OFFICE
General Delivery, San Quentin, CA 94964
Telephone (510) 280-2621 • Fax (510) 280-2704
www.prisonlaw.com

Director:
Donald Specter

Managing Attorney:
Sara Norman

Staff Attorneys:
Rana Anabtawi
Steven Fama
Alison Hardy
Sophie Hart
Corene Kendrick
Rita Lomio
Margot Mendelson
Thomas Nosewicz
Shira Tevah
Camille Woods

VIA EMAIL ONLY

July 26, 2019

Ms. Russa Boyd
CDCR Office of Legal Affairs

RE: *Armstrong* Advocacy Letter
[REDACTED]

Dear Ms. Boyd:

I write regarding [REDACTED], a 61-year-old *Armstrong* class member. [REDACTED] is designated DPH and has a TABE score of 9.8. According to the electronic medical record, his primary form of communication is written notes, and his secondary form of communication is an assistive listening device. In 2017, an audiologist wrote that [REDACTED] has “profound SNHL” and “[e]ven with hearing aids, [he] will not understand most words [he] hear[s].”¹ That same year, a provider wrote that [REDACTED] brain will recognize, at best, “14% of what is said.”

[REDACTED], who has been incarcerated since 2010, reports that he struggles to communicate in prison. Among other things, he reports that he is unable to participate in rehabilitative programming because he cannot hear the facilitator or participants. In light of his disability, and because he does not know sign language, it appears that real-time captioning is the appropriate accommodation to provide him equal access to the full range of programming offered at the Substance Abuse Treatment Facility and State Prison, Corcoran (SATF).

“**Real-time captioning** (also known as computer-assisted real-time transcription, or CART) is a service . . . in which a transcriber types what is being said at a meeting or event into a computer that projects the words onto a screen. This service, which can be provided on-site or remotely, is particularly useful for people who are deaf or have hearing loss but do not use sign language.”² U.S. Dep’t of Justice, ADA Requirements: Effective Communication (Jan. 2014), <https://www.ada.gov/effective-comm.htm> (emphasis in original); *see also Duvall v. County of Kitsap*, 260 F.3d 1124, 1136 (9th Cir. 2001) (discussing ADA regulations regarding transcription services and videotext displays);

¹ Sensorineural hearing loss, or SNHL, “often results in speech itself being heard, while particular words containing high-frequency consonants lack sufficient clarity to be understood; the result is the oft-heard complaint, ‘I hear but I can’t understand.’” James M. Grover, *Bonding With Your Hard of Hearing or Late-Deafened VR Client*, 47 J. of Voc’l Rehab. 47-64, 55 (2017).

² Remote real-time captioning typically does not have the same limitations as remote sign language interpretation because it does not require a video feed and it involves transcription (and not interpretation). Remote captioning uses microphones to transmit sound to an off-site captionist and a computer to display the written transcript to the on-site deaf person.

Ms. Russa Boyd
[REDACTED]

July 26, 2019

Page 2

Argenyi v. Creighton University, 703 F.3d 441, 443-44, 451 (8th Cir. 2013) (concluding that “the record supports [plaintiff]’s claim that he was unable to follow lectures and classroom dialogue” absent CART, where plaintiff had “a serious hearing impairment” and “does not know sign language”); Michael S. Hood *et al.*, Classroom Captioning for Deaf and Hard of Hearing Students, *J. of Eng’g Educ.* 273-78, 273 (July 1997) (“This technology enables a stenographer to transcribe spoken language into written text instantaneously, and can position deaf and hard of hearing students on a near-equal playing field with other students in the classroom.”). CART is (or very soon will be) provided in other state prisons, including in Maryland, Illinois, and Massachusetts.³

During the April 2019 *Armstrong* monitoring tour at SATF, I asked the Principal and Community Resource Manager (CRM) whether CART services could be provided to [REDACTED] or someone with a similar disability. The Principal informed us that the Office of Correctional Education does not offer CART services at SATF; for deaf students who do not know sign language, he said, “written notes is all we can offer.”⁴ When asked how someone like [REDACTED] would be accommodated in self-help groups, the CRM responded: “I don’t have the material, equipment, or staff” to provide accommodations.

We request that CART be offered to [REDACTED] so that he has equal access to rehabilitative programming. In addition, we note that people who become deaf later in life may not know what accommodations are available to them; “it often takes late-deafened adults years to learn about coping strategies, assistive technology, and their basic rights to communication access.” Marylyn Howe, *Meeting the Needs of Late-Deafened Adults*, 19 *Am. Rehabilitation* 25, *3 (Winter 1993). Class members at SATF whose primary form of communication is written notes, for example, did not know about CART. As a result, we ask that ADA staff inform people who are deaf or hard of hearing about what accommodations, including CART, FM systems, and CapTel devices, may be available to them. This is particularly important as the prison population ages and in light of the significant and well-documented isolation that often accompanies adventitious hearing loss.⁵

³ See, e.g., Email from Michele C. Gardner, ADA Coordinator, Maryland Dep’t of Public Safety and Corr. Svcs., to Chelsea Rinnig, Prison Law Office (July 17, 2019) (on file with PLO) (“The Maryland Department of Public Safety and Correctional Services (DPSCS) provides Communication Access Real-time Translation (CART) as an accommodation for individuals who do not know sign language. . . . The service is very beneficial for the inmates who do not use American Sign Language (ASL).”); Settlement Agreement, *Briggs v. Massachusetts Dep’t of Corr.*, No. 15-CV-40162, at 31 (D. Mass. May 28, 2019); Settlement Agreement, *Holmes v. Godinez*, No. 11-2961 at 5 (N.D. Ill. Apr. 23, 2018).

⁴ For why written notes are not an adequate alternative, see Michael S. Hood *et al.*, Classroom Captioning for Deaf and Hard of Hearing Students, *J. of Eng’g Educ.* 273-78, 274 (July 1997).

⁵ See, e.g., Miguel O. Aguayo & Nick F. Coady, The Experience of Deafened Adults, 26 *Health & Social Work* 269-276, 270 (Nov. 2001) (“The psychological and social effect of adventitious hearing loss can be devastating. . . . [P]eople who experience profound hearing loss after being socialized as a hearing person must face the task of learning a new way to cope with the world

Ms. Russa Boyd

July 26, 2019

Page 3

Thank you for your prompt attention to this matter.

Sincerely yours,



Rita Lomio
Staff Attorney

cc:


Co-Counsel

Ed Swanson, Court Expert

Tamiya Davis, Lex Powell, Patricia Lee, Patrick Jones, Nicholas Meyer,

OLAArmstrongCAT@cdcr.ca.gov, OLA

Lois Welch, Tricia Ramos, Mike Hallman, OACC,

Danielle O'Bannon, Bryan Kao, Sharon Garske, Janet Chen, Erick Rhoan, OAG

Kelly Mitchell, Adam Fouch, Teauna Miranda, Laurie Hoogland, DAI

John Dovey, Vince Cullen, Don Meier, Judy Burleson, Kelli Abernathy, Laurene Payne,

Cesar Aguila, Rita Lowe, Samantha Lawrence-Chastain, Olga Dobrynina,

m_CCHCSAcctLog@cdcr.ca.gov, CCHCS

without dependence on the auditory sense. . . . They no longer can function effectively among hearing people as they were accustomed to doing.”); Julie H. Barlow *et al.*, *Living with Late Deafness*, 46 *Int’l J. of Audiology* 442-448 (2007) (“The inability to interact in social situations often causes social isolation resulting in problems such as anxiety and depression.”); Marylyn Howe, *Meeting the Needs of Late-Deafened Adults*, 19 *Am. Rehabilitation* 25, *2 (Winter 1993) (“No longer able to communicate with their families and peers, most late-deafened adults become confined to a limited world in which they are viewed as aloof, withdrawn, depressed, passive, and/or over-reactive.” (citations omitted)).

Exhibit C



PRISON LAW OFFICE

General Delivery, San Quentin, CA 94964
 Telephone (510) 280-2621 • Fax (510) 280-2704
 www.prisonlaw.com

Director:
 Donald Specter

Managing Attorney:
 Sara Norman

Staff Attorneys:
 Rana Anabtawi
 Steven Fama
 Alison Hardy
 Sophie Hart
 Corene Kendrick
 Rita Lomio
 Margot Mendelson
 Thomas Nosewicz
 Shira Tevah

VIA EMAIL ONLY

November 27, 2019

Ms. Tamiya Davis
 CDCR Office of Legal Affairs

RE: *Armstrong v. e som*
 Accommodations for Deaf and Hard of Hearing Class Members
 Who Do Not Know Sign Language

Dear Ms. Davis:

The parties have made significant progress over the past year in improving accommodations for class members whose primary form of communication is sign language. I am concerned, however, that other deaf class members are not being properly accommodated. There currently are 51 people designated DPH in California prisons whose primary form of communication is *not* sign language.¹

California Health Care Facility, Stockton (CHCF)	8
California Institution for Men (CIM)	3
California Medical Facility (CMF)	15
Deuel Vocational Institution Reception Center (DVI)	1
High Desert State Prison (HDSP)	2
Richard J. Donovan Correctional Facility (RJD)	11
Substance Abuse Treatment Facility and State Prison, Corcoran (SATF)	11

Plaintiffs' counsel surveyed deaf class members whose primary form of communication is *not* sign language. I have shared some of their responses in this letter. Overwhelmingly, class members expressed feelings of isolation in prison due to their disabilities, an inability to fully participate in rehabilitative programs, and an unawareness of accommodations that may be able to help them. We look forward to working with you to address these issues and to ensure that this population is properly accommodated. At a minimum, Defendants should offer real-time captioning and FM systems to deaf and hard of hearing class members. Defendants also should provide captioned telephones and sign language instruction.

¹ *Armstrong Remedial Plan II.C.2* ("Inmates/parolees who are permanently deaf or who have a permanent hearing impairment so severe that they must rely on written communication, lip reading, or signing because their residual hearing, with aids, does not enable them either to communicate effectively or hear an emergency warning shall be designated as DPH.").

Board of Directors

Penelope Cooper, President • Michele WalkinHawk, Vice President • Marshall Krause, Treasurer
 Harlan Grossman • Christiane Hipps • Margaret Johns • Cesar Lagleva
 Laura Magnani • Michael Marcum • Ruth Morgan • Seth Morris

What is it like being deaf or hard of hearing in prison?

- ◆ “Very difficult. They label me as lip reading and I can’t lip read. Most time only catch a fraction of word [sic] spoken if any. Often times I feel left out because I don’t have interpreter to tell me what’s going on. Such as the recent legionnaire [sic] water outbreak. They have no ASL learning classes. . . . I’m isolated. No can’t hear announcements. No can’t hear conversations. Can’t lip read.” (CHCF)
- ◆ “It’s very hard to be in prison when you can’t hear that well. Sometimes I get frustrated.” (CHCF)
- ◆ “It is very difficult and frustrating. I never know if I am missing out on something or if there is an emergency I am unaware of. . . . Sometimes it is just easier to go away and keep to myself since it is so hard to communicate with others.” (CHCF)
- ◆ “I feel frustrated and unsafe all the time.” (CMF)
- ◆ “I’ve felt frustrated because I cannot hear what is being said in class/group and benefit very little. Confused because I can’t hear instructions or commands. Unsafe because I have been attacked & hurt, due to inmates & officers thinking I am ignoring them. Alone because people avoid me due to me asking them to repeat themselves [sic].” (CMF)
- ◆ “I often feel afraid not knowing who may come up behind me. . . . I have felt all those emotions [frustration, confusion, being unsafe and alone] in prison.” (CMF)
- ◆ “Most inmates and staff lack the patience to try to communicate with me because I often have to have them repeat things several times. I stay to myself for the most part. . . . I don’t blame people for getting frustrated with my disability as I too get frustrated with it.” (HDSP)
- ◆ “Fill [sic] left out a lot. Don’t know what is going on a lot. Because information is given out but because I cannot hear I do not know what to do.” (RJD)
- ◆ “I’m always frustrated and confused about what it is I’m doing wrong.” (RJD)
- ◆ “Hard to communicate or participate in programs or socialize. Never really know what is going on because everything is announced on speakers which I cannot hear. I have adapted over the years by being a recluse and reading a lot for entertainment.” (SATF)
- ◆ “It’s very hard for me to understand words. It gets very frustrated [sic] at tim [sic], but I try to keep myself under control. . . . [It] can be scare [sic] at time, if yoor [sic] not paying attion [sic] to your surround [sic]. . . . [I]t’s hard to hold a conversation always misunderstand people or over hearing word, or not hearing the right words. So I get frustrate [sic], then I rathe [sic] be alone I try to stay on my bunk in [sic] watch tv alone.” (SATF)
- ◆ “It’s frustrating when you can no longer communicate with others and no longer hear music. When telling people they need to write me notes they keep on talking expecting me to read lips or if they talk louder I would hear, it’s hopeless when they won’t write notes, depressing. It’s a silent, lonely world. Can’t communicate with sign language people and the hearing. Don’t know what’s going on with anything.” (SATF)
- ◆ “I felt frustrated, confused too difficult to understand.” (SATF)

Real-time Captioning and Member

Deaf class members reported that they are unable to fully and meaningfully participate in programs, services, and activities because of their disabilities.

Are you able to understand what everyone is saying in programs, services, and activities?

- ◆ “They skip me [during self-help groups] cause I can’t follow along because Deaf [sic]. . . . Most times I’m ignored or overlooked. I can’t follow along because I don’t read lips and in self-help, religious services no one provides written notes.” (*CHCF*)
- ◆ “Nothing special is done and I don’t catch much.” (*CHCF*)
- ◆ “I sit in class and look stupid. I take my books and leave.” (*CMF*)
- ◆ “I am in the E.O.P. program here in Vacaville, and I am in all of the above. The best the teacher can do is allow me to sit in the front, and sometimes give me handouts to read later in my cell to accommodate me. The class set up is, the instructor in the center of the room and us around the room. I can’t hear anyone speak, and I do not understand what is being said.” (*CMF*)
- ◆ “I would love to attend any and all services programs, and activities but under the current level of ADA compliance it is not possible.” (*RJD*)
- ◆ “I’ll [sic] love to participate [in programs]. I just hate to slow the class up on the account of my disability. When I do go to group I just sit there.” (*RJD*)
- ◆ “No because I can’t hear!” (*RJD*)
- ◆ “These situations are the hardest for me as I cannot follow conversation well enough to keep up and its [sic] not a situation to be constantly asking ‘what.’” (*SATF*)
- ◆ “No. . . . Anything as a group, I would not understand. It has to be one on one with writing.” (*SATF*)

Deaf class members also reported that they are unaware of accommodations that may be able to assist them, including real-time captioning. That is not surprising. “[I]t often takes late-deafened adults years to learn about coping strategies, assistive technology, and their basic rights to communication access.” Marylyn Howe, *Meeting the Needs of Late-Deafened Adults*, 19 *Am. Rehabilitation* 25, *3 (Winter 1993); *see also Pierce v. District of Columbia*, 128 F. Supp. 3d 250, 272 (D.D.C. 2015) (holding that “prison officials have an affirmative duty to assess the potential accommodation needs of inmates with known disabilities who are taken into custody and to provide the accommodations that are necessary for those inmates to access the prison’s programs and services, without regard to whether or not the disabled individual has made a specific request for accommodation”).

...

...

Ms. Tamiya Davis
Re: Deaf and Hard of Hearing Class Members
November 27, 2019
Page 4

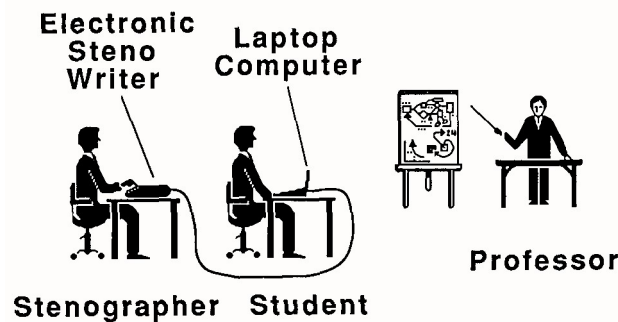
On July 26, 2019, I sent an advocacy letter on behalf of a deaf class member at SATF. **i it** . According to the medical record, the class member has profound sensorineural hearing loss and, even with hearing aids, can understand at best “14% of what is said.” His primary form of communication is written notes. To allow him to fully participate in rehabilitative programming, including self-help groups that are primarily discussion-based, I requested that real-time captioning (also known as computer-assisted real-time transcription, or CART) be made available to him. I also requested that the institution inform deaf and hard of hearing class members who do not know sign language about accommodations that may be available to them, including CART and FM systems.

On August 20, 2019, you sent me a two-page memorandum from the ADA Coordinator at SATF, dated August 13, 2019, denying my request. **i it** . The memorandum stated that the class member currently was participating in a vocational computer course and, among other things, the instructor would give him a handout during lecture “so that [he] can follow along.” The memorandum did not explain how the class member would be able to fully participate in discussion-based, self-help groups absent CART services. The memorandum stated: “SATF does not currently have this type of technology available for use.” The memorandum further stated: “The Inmate Orientation Handbook provides all inmates information regarding available accommodations for disabled persons.” The Handbook does not contain any information about CART or FM systems.

SATF is not the only prison that has denied a deaf class member real-time captioning. A class member at CHCF requested CART for self-help groups and religious services. The RAP response, issued September 20, 2019, stated: “Research revealed that the California Department of Corrections & Rehabilitation (CDCR) has not implemented the Computer Assisted Real Time (CART) service at this time. However, [the class member] is already accommodated by way of written notes as a primary method of communication. [The class member] was observed to be successful with reading lips during communication. If and when the CART technology is introduced into CDCR, the California Health Care Facility will pursue implementation of this at this institution.”² 1824 Log No. CHCF-E-19-3467.

² Lip reading is not an adequate form of communication for most people in any setting. *See* Deirdre M. Smith, *Confronting Silence*, 46 *Me. L. Rev.* 87, 97 (1994) (“One study found that the best lipreaders (or speechreaders) could fully comprehend only twenty-six percent or what was said to them.”); Anna Middleton, ed., *Working with Deaf People: A Handbook for Healthcare Professionals* 53 (2010) (“Lip-reading is difficult to do clearly as identical lip-patterns are often used with words which incorporate different sounds from the throat; these may be invisible to the viewer.”). Even the most skilled lip-readers cannot understand group conversations for a simple reason: To read someone’s lips, you must be looking at them. In group settings, participants typically use sound-based cues for turn-taking, such as a teacher calling on the next student, or a member of the group interjecting with a comment. Even people with some hearing will not be looking at the speaker when the speaker begins to talk. At best, they miss the first several seconds of every utterance, making it even more difficult to follow the conversation. At worst, they have no idea who is talking for some time, and lose the thread entirely. As the class member at CHCF explained: “[M]ost times I can’t read lips effectively. Often I only understand a fraction of what is said In group I’m left out, skipped and cannot actively participate being that I’m deaf and when group members speak I don’t know what they’re saying.”

“Real-time captioning (also known as computer-assisted real-time transcription, or CART) is a service . . . in which a transcriber types what is being said at a meeting or event into a computer that projects the words onto a screen. This service, which can be provided on-site or remotely, is particularly useful for people who are deaf or have hearing loss but do not use sign language.”³ U.S. Dep’t of Justice, ADA Requirements: Effective Communication (Jan. 2014), <https://www.ada.gov/effective-comm.htm>; *see also Duvall v. County of Kitsap*, 260 F.3d 1124, 1136 (9th Cir. 2001) (discussing ADA regulations regarding transcription services and videotext displays); *Argenyi v. Creighton University*, 703 F.3d 441, 443-44, 451 (8th Cir. 2013) (concluding that “the record supports [plaintiff]’s claim that he was unable to follow lectures and classroom dialogue” absent CART, where plaintiff had “a serious hearing impairment” and “does not know sign language”); Michael S. Hood *et al.*, Classroom Captioning for Deaf and Hard of Hearing Students, *J. of Eng’g Educ.* 273-78, 273 (July 1997) (“This technology enables a stenographer to transcribe spoken language into written text instantaneously, and can position deaf and hard of hearing students on a near-equal playing field with other students in the classroom.”). One way to determine who may benefit from CART is to ask whether a person reads well enough to follow the captioning of a movie. CART is (or very soon will be) provided in other state prisons, including in Maryland, Illinois, and Massachusetts.⁴ The Board of Parole Hearings in California currently offers CART services for attorney consultations and parole hearings.



Michael S. Hood *et al.*, Classroom Captioning for Deaf and Hard of Hearing Students, *J. of Eng’g Educ.* 273-78, 275 (July 1997)

³ Remote real-time captioning typically does not have the same limitations as remote sign language interpretation because it does not require a video feed and it involves transcription (and not interpretation). Remote captioning uses microphones to transmit sound to an off-site captionist and a computer to display the written transcript to the on-site deaf person.

⁴ *See, e.g.*, Email from Michele C. Gardner, ADA Coordinator, Maryland Dep’t of Public Safety and Corr. Svcs., to Chelsea Rinnig, Prison Law Office (July 17, 2019) (on file with PLO) (“The Maryland Department of Public Safety and Correctional Services (DPSCS) provides Communication Access Real-time Translation (CART) as an accommodation for individuals who do not know sign language. . . . The service is very beneficial for the inmates who do not use American Sign Language (ASL).”); Settlement Agreement, *Briggs v. Massachusetts Dep’t of Corr.*, No. 15-CV-40162, at 31 (D. Mass. May 28, 2019); Settlement Agreement, *Holmes v. Godinez*, No. 11-2961 at 5 (N.D. Ill. Apr. 23, 2018).

Deaf class members at CHCF, CMF, HDSP, RJD, and SATF reported that CART might help them.⁵ (A few others reported that it would not be helpful to them because they cannot read well.)

Do you think CART services would be helpful to you?

- ◆ “Tremendously helpful. I could follow along in group and not feel left out. I could actively participate in discussions.” (CHCF)
- ◆ “I think that [CART] would be helpful because prisoners can read & follow along with what is being said.” (CMF)
- ◆ “It would allow me to participate in more programs and activities and disallow mistakes and all types of miscommunication.” (CMF)
- ◆ “Yes, yes, yes.” (CMF)
- ◆ “Yes ‘CART’ would be very helpful because then it would allow for me to understand and keep up with all that’s going on, or at least the majority of what’s going on.” (RJD)
- ◆ “Yes this should be used to provide people like me with the knowledge that is needed.” (RJD)
- ◆ “I believe a CART services [sic] would be wonderful for the hearing impaired an [sic] deaf people.” (SATF)
- ◆ “Remote captioning would work for me . . . someone talk into the microphone – it comes out in words on the screen. Then I can have all program and talk (communicate) with people.” (SATF)
- ◆ “Yes. It would make it easy to communicate with me.” (SATF)

FM systems also may help people who are hard of hearing. *See* Am. Bar Ass’n, *Court Access for Individuals Who Are Deaf and Hard of Hearing* at 26-27 (2017). A microphone would be provided to the instructor or placed in the center of a group of people. The microphone sends sound to a receiver, which would be worn around the class member’s neck or connected to the class member’s hearing aid. The class member would be able to control the volume using the receiver, and background noise can be quieter because of the microphone. This accommodation primarily should be of use to class members

⁵ Real-time captioning or other typed communication also would be helpful during classification hearings, where several class members reported a lack of effective communication. *See, e.g.*, **M** (“I ask questions and find myself confused because I don’t know what’s being said, or done most of the time. I tend to have no voice in important decision [sic] that are made, so I just sit their [sic] with really no idea of what’s going on.”); (“For years I go classification I never understood. I pretend that I understood but I never understood. . . . No I do not understand at all. I have been in prison for 15 years and do not understand at all because I do not know how or what to do.”); **R** (“I am not accommodated at all.”); **R** (“I miss a lot at committee people and staff are used to doing and acting as if you can hear, it’s hard for them because they are not in my shoes.”). Handwritten notes are likely to be briefer than spoken words or typed notes, given the time it takes to write information. In addition, Defendants’ Deaf Culture Town Halls are not accessible to all in the deaf population because much of the content is spoken with no captioning.

Ms. Tamiya Davis
 Re: Deaf and Hard of Hearing Class Members
 November 27, 2019
 Page 7

designated DNH. That said, several class members designated DPH at CHCF, CMF, HDSP, RJD, and SATF reported that the FM system might be beneficial to them. (Other class members reported that it would not be helpful to them because they cannot hear spoken language at all.)

Do you think an FM system would help you participate in programs, services, or activities?

- ◆ “It sounds like a perfect system.” (*CHCF*)
- ◆ “Yes the FM system would be very helpful because I would have a better chance of hearing what is being said in group or class. I think this would be very helpful.” (*CMF*)
- ◆ “I could fully understand the teacher and respond more to the subject under discussion.” (*CMF*)
- ◆ “Yes; in classroom or groups.” (*RJD*)
- ◆ “Yes. FM systems would help [me] participate in programs!” (*RJD*)
- ◆ “Yes, yes, yes, wow... in church that would help me a lote [sic] and if a teacher in school wore it wow, it would be so good to hear all of what is being said.” (*SATF*)
- ◆ “I honestly wouldn’t know, because I never had one, or use one befor [sic]. But it wouldn’t hurt to try one.” (*SATF*)

captioned elep one and ign ang age n tr ction

As noted above, deaf people in prison often experience feelings of severe isolation due to their disabilities. *See also* Miguel O. Aguayo & Nick F. Coady, *The Experience of Deafened Adults*, 26 *Health & Social Work* 269-276, 270 (Nov. 2001) (“The psychological and social effect of adventitious hearing loss can be devastating. . . . [P]eople who experience profound hearing loss after being socialized as a hearing person must face the task of learning a new way to cope with the world without dependence on the auditory sense. . . . They no longer can function effectively among hearing people as they were accustomed to doing.”); Julie H. Barlow *et al.*, *Living with Late Deafness*, 46 *Int’l J. of Audiology* 442-448 (2007) (“The inability to interact in social situations often causes social isolation resulting in problems such as anxiety and depression.”); Marylyn Howe, *Meeting the Needs of Late-Deafened Adults*, 19 *Am. Rehabilitation* 25, *2 (Winter 1993) (“No longer able to communicate with their families and peers, most late-deafened adults become confined to a limited world in which they are viewed as aloof, withdrawn, depressed, passive, and/or over-reactive.” (citations omitted)).

To address this, and as we have discussed before, Defendants should provide captioned telephones. *See* Settlement Agreement, *Briggs v. Massachusetts Dep’t of Corr.*, No. 15-CV-40162, at 38 (D. Mass. May 28, 2019) (“DOC will make at least one CapTel device available at each DOC Facility. . . . The CapTel device shall be available during the same hours, including nights and weekends, that hearing inmates have access to traditional phones”); Settlement Agreement Between the United States of America and Elizabeth F. Arthur, in Her Official Capacity as the Arlington County Sheriff, https://www.ada.gov/arlington_co_sheriff_sa.html (Nov. 17, 2016) (“Within sixty (60) days of the effective date of this Agreement, the ACSO agrees to provide, if it has not already done so, at least three devices capable of

Ms. Tamiya Davis
 Re: Deaf and Hard of Hearing Class Members
 November 27, 2019
 Page 8

video telephone calls (including video relay calls), three TTYs, *three captioned telephones*, three hearing aid compatible telephones, and three volume control telephones for use by inmates and members of the public at the ACDF.” (emphasis added); Penal Code 6350 (“Maintaining an inmate’s family and community relationships is an effective correctional technique which reduces recidivism.”); *n re rench*, 106 Cal. App. 3d 74, 84 n.21 (1980) (“A study done for the California Department of Corrections indicated a directly proportional relationship between opportunities for contract [sic] with the outside world while in prison and parole success.”).

For deaf and hard of hearing people with intelligible speech, captioned telephones provide far superior telephone access than a TDD. Captioned telephones such as CapTel are a more modern technology, are easier to use, have a faster connection, have a larger font size, and allow multiple lines of text to be viewed at one time.⁶ “CapTel serves hard of hearing persons and other persons who can benefit from word-for-word captions of everything said by the other party in a telephone conversation. These word-for-word captions are generated by a CapTelCommunications Assistant (CA) using the latest voice-recognition technology. At the same time, the other caller’s voice can be heard via an amplified handset. Users with intelligible speech who are Deaf or hard of hearing speak directly to the other party. The call flows like a regular telephone conversation with the added benefit of having captions. The captions appear on the bright display screen a few seconds after the other party has spoken.” Cal. Public Utilities Comm’n, Deaf and Disabled Telecommunications Program: Captioned Telephone Service, <https://ddtp.cpuc.ca.gov/default.aspx?id=1490> (last visited Nov. 26, 2019).



CapTel, Captioned Telephone, <https://www.captel.com/>
 (last visited Nov. 25, 2019)

⁶ Class members have reported, and we have observed, issues with the TDD at certain prisons. *See, e.g.*, Letter from Shira Tevah, Plaintiffs’ Counsel, to Russa Boyd, CDCR Office of Legal Affairs (Aug. 2, 2019) (reporting issues at CIM); Email from Shira Tevah, Plaintiffs’ Counsel, to Alexander Powell, CDCR Office of Legal Affairs (Nov. 6, 2019) (same); RJD Survey Response (“The TDD system is garbled 90% of the time California Relay . . . operators say the systems are not compatible. . . . I wish I could talk to my family and see and read what they are saying, instead of only getting a few words if that.”); CHCF Survey Response (“TDD/TTY phones are often ineffective because they have too much garble [sic] distorted text. Takes long time to process, clear up garble [sic]. Call often family friends get frustrated hang up it’s not real time.”).

Do you think a CapTel phone would be helpful for you?

- ◆ “Yes, because I could see and read the text of our conversation.” (CMF)
- ◆ “Yes because what I don’t hear I can read.” (CMF)
- ◆ “ABSOLUTELY!!!! Please. Please. Please try to get this available. It allows my parents to hear my voice and the voice to text allows me to know what’s being said without having to have them repeat everything 20 times. I only get about 5 minutes of actual conversation per 15 minute phone call. This would help dramatically.” (HDSP)
- ◆ “Yes, because currently its [sic] way to [sic] difficult to communicate.” (HDSP)
- ◆ “Yes the CapTel phones would help because then I would fully be able to make out all of what my folks are saying.” (RJD)
- ◆ “Seems to be answer to all my deaf communication desires.” (RJD)
- ◆ “I believe a CapTel phone would be very helpful. People that’s hard of hearing have a hard time hearing on the phone.” (SATF)
- ◆ “If I could get this it would work better than anything I can think of.” (SATF)

Deaf class members at CHCF, CMF, HDSP, RJD, and SATF also expressed interest in in-person sign language instruction, reporting that such classes either were not offered at their institution or were offered only as college courses. At least one class member noted that he had tried and failed to learn sign language through a book. *See also* Letter from Caroline Jackson, Plaintiffs’ Counsel, to Russa Boyd, CDCR Office of Legal Affairs at 2 (Nov. 1, 2019) (“It is not realistic to expect [a person] to learn sign language through a correspondence course. Sign language is a visual language with no written form. The most widely used ASL courses have an extensive video component.”). As you know, many hearing people at the Deaf Culture Town Halls at SATF and San Quentin State Prison expressed a strong interest in learning sign language so that they could communicate with and include their deaf peers. In fact, dozens of people showed up to the town halls because they (incorrectly) believed the town halls were sign language courses. After one of the town halls at SATF, a hearing person wrote to my office:

With all due respect to you and the staff who enlightened us about Deaf Culture. Thank you, for taking the time to have an open forum to educate those of us who have been miseducated for years. Without that open platform, most of us incarcerated males would still be in the blind about the plight of a deaf human being. For years I’ve been in the dark about what it means to have a disability in prison. What you and your staff did was beyond awesome and it made me realize that there are folks incarcerated who are seriously misunderstood due to being born without the gift of hearing or losing their hearing late in life. When I asked questions about ASL I was sincere. And I would love to learn more and as much as I can about deaf communities and culture.

Ms. Tamiya Davis
Re: Deaf and Hard of Hearing Class Members
November 27, 2019
Page 10

In addition to in-person sign language instruction, Defendants should offer instructional videos in the library and program areas, as well as through the personal tablets. Defendants also should consider airing news in sign language and open captions on a state television channel. Such news videos are available through the Daily Moth. *See* Daily Moth, Deaf News, What Is It , <https://www.dailymoth.com/> (last visited Nov. 25, 2019) (“The Daily Moth delivers news in video using American Sign Language. The deaf host . . . covers trending news stories and deaf topics on new shows Monday-Fridays.”). Defendants should consider incorporating d/Deaf people who already know sign language as tutors and by allowing them to create instructional and informational videos about Deaf culture and sign language. Such videos could also play on the state television channel and teach all incarcerated people how to sign simple statements. This would greatly expand the communication options for deaf class members who do not know sign language, increasing their chances for rehabilitation and successful reintegration into society, and also would generally help strengthen and build relationships between deaf and hearing people in prison something Defendants have started to do through the Deaf Culture Town Halls.

Thank you for your attention to this matter. I look forward to discussing these issues with you.

Sincerely yours,



Rita Lomio
Staff Attorney

cc: Co-Counsel
Ed Swanson, Court Expert
Patricia Ferguson, Alexander Powell, Russa Boyd, Amber Lopez, Nicholas Meyer, Erin Anderson, OLAArmstrongCAT@cdcr.ca.gov, OLA
Brantley Choate, Hillary Iserman, Shannon Swain, Jennifer Wynn, Rod Braly, Jennifer Winistorfer, Martin Griffin, Alicia Legarda, OCE
Matt Espenshade, Lois Welch, Steven Faris, OACC
Annakarina De La Torre-Fennell, Joanna Hood, Damon McClain, OAG
Kelly Mitchell, Landon Bravo, Teuna Miranda, Laurie Hoogland, DAI
Bruce Beland, Robert Gaultney, John Dovey, Donald Meier, Robin Hart, Laurene Payne, Ceasar Aguila, Cindy Flores, Joseph (Jason) Williams, Cathy Jefferson, Vincent Cullen, Desiree Collum, Lynda Robinson, Barb Pires, Ngoc Vo, Samantha Chastain, Olga Dobrynina, Dawn Malone-Stevens, Bryan McCloughan, Alexandra Tonis, Gently Armedo, m_CCHCSAcctLog@cdcr.ca.gov, CCHCS

Exhibit D

From: [Marissa Hatton](#)
To: [Anne Kammer](#); [Audrey Barron](#); [Caroline Jackson](#); [Olena Likhachova](#); [Patricia@CDCR](#); [Rita Lomio](#); [Ruiz, Ramon@CDCR](#); [Sharon Garske](#); [Skye Lovett](#); [Tamiya@CDCR](#); [Trace Maiorino](#); [Ed Swanson](#); [Stuter, Ursula@CDCR](#); [Thao, Chor@CDCR](#); [Lau-Silveira, Ava](#)
Cc: [Armstrong Team](#); [Armstrong Team - RBG only](#)
Subject: Plaintiffs' Statement on CART and ViewSonic (SATF Stip No. 13)
Date: Monday, July 22, 2024 8:31:32 PM
Attachments: [2024-07-22, Plaintiffs' Statement on CART and ViewSonic.pdf](#)
[2024-07-17, Declaration of Etienne Harvey.pdf](#)
[2024-07-22, Declaration of Tremmel Watson.pdf](#)
[2024-07-21, Declaration of Jen McDonald-Peltier.pdf](#)

EXTERNAL EMAIL: This message was sent from outside DOJ. Please do not click links or open attachments that appear suspicious.

Hi everyone:

Plaintiffs' statement on CART and ViewSonic is attached, along with declarations from our three experts. We look forward to receiving your response on July 29th and meeting with the Court Expert on August 1st.

Please forward to anyone I may have inadvertently left off this email, and have a good night.

Thanks,

--

Marissa K. Hatton (she/her)
Staff Attorney | Prison Law Office
1917 Fifth Street
Berkeley, CA 94710
(510) 280-2621