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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
SEATTLE DIVISION**

ABUSED DEAF WOMEN’S ADVOCACY SERVICES, a Washington non-profit organization; CAMILLE PETERSON; RENÉE BOULAC; and GINA PASINI on behalf of themselves and all others similarly situated,

Plaintiffs,

v.

NORTHWEST HOSPITAL & MEDICAL CENTER; UNIVERSITY OF WASHINGTON SCHOOL OF MEDICINE,

Defendants.

Case No.

COMPLAINT—CLASS ACTION

Title II of the American with Disabilities Act

Section 504 of the Rehabilitation Act

Washington Law Against Discrimination

Declaratory Relief

Plaintiffs Abused Deaf Women’s Advocacy Services (“ADWAS”), Camille Peterson, Renée Boulac, and Gina Pasini on behalf of themselves and all other persons similarly situated, complain of Defendants Northwest Hospital & Medical Center (“Northwest Hospital” or “the

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1 Hospital”) and the University of Washington School of Medicine (“UW Medicine”)
2 (collectively, “Defendants”) herein and allege as follows:

3 **INTRODUCTION**

4 1. This lawsuit is brought against Defendants to remedy a continuing policy, pattern,
5 or practice of unlawfully discriminating against Deaf and hard of hearing patients and family
6 members who seek healthcare services at Northwest Hospital. Effective communication in a
7 healthcare facility is of paramount importance to ensure that medical care plans and decisions are
8 properly implemented. Effective communication is necessary to ensure the doctors, nurses, and
9 other medical professionals can fully understand the information patients and their family
10 members are trying to express about their health condition, to ensure that patients and family
11 members can fully understand the information and advice that such medical professionals are
12 trying to provide, and to ensure that fully informed decisions can be made about care for often
13 complex medical conditions. Lack of prompt and effective communication access can result in a
14 host of harms, ranging from inadequate healthcare treatment to injury or death.

15 2. Compliant policies and procedures for the provision of effective communication
16 for Deaf and hard of hearing persons in a healthcare facility will require a range of
17 communication aids and services be made available, including qualified sign language
18 interpreters. State-owned healthcare providers must develop and implement policies and
19 procedures to ensure that the patient’s desired form of communication is given primary
20 consideration, and that the ultimate communication method only strays from that request when it
21 is determined to cause an undue burden or fundamental alteration to the service.

22 3. Qualified sign language interpreters must be made readily available for those
23 patients and family members who need such aids and services. Providing effective
24 communication also requires that alternative methods be utilized when it is infeasible to obtain

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1 an on-site, qualified sign language interpreter immediately or when urgent information must be
2 transmitted before a qualified interpreter has arrived on site. Such alternative measures include
3 technologies such as Video Remote Interpreting (“VRI”), through which a qualified sign
4 language interpreter located off-site is immediately available through internet video
5 communications. For VRI to be effective as an interim measure, the medical facility must have
6 in place adequate hardware; software; and internet speed, coverage and reliability. In general,
7 VRI will not be sufficient to provide effective communication in medical settings apart from
8 facilitating interim communications.

9 4. Finally, effective communication also requires that medical providers adopt
10 and/or modify various policies and practices so that systems that ordinarily require hearing—
11 such as patient intercom systems—are not barriers to equal access.

12 5. Northwest Hospital has repeatedly violated these requirements for effective
13 communication with Deaf and hard of hearing patients and family members. Deaf patients at
14 Northwest Hospital have been denied sign language interpreters, have been provided unqualified
15 interpreters, have been told they would have to bring their own sign language interpreters, have
16 been denied the use of effective VRI technology, have been subjected to unequal and demeaning
17 treatment due to their hearing disabilities, have been refused necessary modifications to policies
18 and procedures, and have been outright denied medical care due to the lack of effective
19 communication.

20 6. Such barriers and discrimination result in Deaf and hard of hearing patients and
21 family members suffering discriminatory conditions at this important healthcare facility. The
22 result is that Deaf and hard of hearing patients experience difficulty communicating with medical
23 staff as well as hardship, anxiety, and danger. Equal access to healthcare is a basic right under
24 federal and state civil rights laws. The Americans with Disabilities Act was enacted 25 years

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1 ago precisely to ensure that all aspects of mainstream life are made accessible to people with
2 disabilities including Deaf and hard of hearing persons.

3 7. Due to repeated discrimination at Northwest Hospital, Deaf and hard of hearing
4 persons have struggled to obtain healthcare services. Many have been deterred from going to, or
5 returning to, Northwest Hospital for healthcare services due to lack of effective communication
6 access at this facility. It is unacceptable that a major health-care provider in the Seattle area
7 subjects patients and family members with disabilities to such unequal and discriminatory
8 conditions. This lawsuit seeks to correct this discriminatory situation for all Deaf and hard of
9 hearing persons subjected to such unacceptable conditions.

10 8. Named Plaintiffs ADWAS, Camille Peterson, Renée Boulac, and Gina Pasini
11 bring this action on behalf of themselves and all persons with hearing disabilities who have been
12 and are being discriminated against due to Defendants' unlawful failure to provide effective
13 communication and equal access to healthcare services.

14 9. Federal and state access laws were enacted to ensure that persons with disabilities
15 receive equal access to services of public and private entities including access to healthcare
16 services. *See* 29 U.S.C. § 794 (Section 504 of the Rehabilitation Act of 1973 (“Section 504”));
17 42 U.S.C. § 12101(a)(7) (Americans with Disabilities Act (“ADA”)); Revised Code of
18 Washington (“RCW”)§ 49.60.010 (Washington Law Against Discrimination (“WLAD”)).
19 Defendants have excluded Plaintiffs from participation in and denied them the benefits of the
20 healthcare programs and services offered at Northwest Hospital (hereafter “Northwest Hospital”
21 or “Hospital”). The violations at issue include: a) failing to provide qualified sign language
22 interpreters and effective Video Remote Interpreting as necessary auxiliary aids or services;
23 b) failing to provide such necessary auxiliary aids or services in a timely manner; c) refusing to
24 provide healthcare services due to an individual’s hearing disability; d) failing to sufficiently

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1 train staff regarding the provision of effective communication to individuals who have hearing
2 disabilities; and e) failing to create and implement policies to ensure effective communication for
3 individuals with hearing disabilities.

4 10. Plaintiffs thus bring this action to remedy violations of Title II of the ADA, 42
5 U.S.C. §§ 12131, *et seq.* and its accompanying regulations; Section 504 of the Rehabilitation
6 Act, 29 U.S.C. §§ 794, *et seq.* and its accompanying regulations; and the Washington Law
7 Against Discrimination, RCW §§ 49.60.010 *et seq.*.

8 **JURISDICTION AND VENUE**

9 11. This is an action for declaratory and injunctive relief, brought pursuant to Title II
10 of the ADA, 42 U.S.C. §§ 12131 *et seq.*; Section 504 of the Rehabilitation Act, 29 U.S.C.
11 §§ 794, *et seq.*; the WLAD, RCW §§ 49.60.010, *et seq.* to redress systemic civil rights violations
12 against people with hearing disabilities by Northwest Hospital and UW Medicine.

13 12. This Court has jurisdiction over the claims alleged herein arising under the ADA
14 and Section 504 pursuant to 28 U.S.C. §§ 1331 and 1343, and has supplemental jurisdiction over
15 Washington state law claims alleged herein pursuant to 28 U.S.C. § 1367.

16 13. This Court has jurisdiction to issue declaratory and injunctive relief pursuant to 28
17 U.S.C. §§ 2201 and 2202, and Rule 65 of the Federal Rules of Civil Procedure.

18 14. Venue is proper in the Western District of Washington because Defendants reside
19 in this District within the meaning of 28 U.S.C. § 1391, and because the events, acts, and
20 omissions giving rise to Plaintiffs’ claims occurred in this District.

21 **PARTIES**

22 15. Organizational Plaintiff Abused Deaf Women’s Advocacy Services (“ADWAS”)
23 is a consumer-based, non-profit organization located at 8623 Roosevelt Way NE, Seattle,
24 Washington—approximately two miles from Northwest Hospital. ADWAS provides services

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1 and advocacy for women who are Deaf, DeafBlind, and hard of hearing and are survivors of
2 domestic violence and/or sexual assault. ADWAS's mission is to empower Deaf and DeafBlind
3 survivors of domestic violence, sexual assault and harassment to transform their lives. The
4 organization is run by and for Deaf people. ADWAS provides comprehensive services to
5 individuals and families including advocacy, counseling, education and outreach, and a
6 supportive housing program that includes nineteen (19) individual units located near ADWAS's
7 office.

8 16. As survivors of domestic violence and sexual assault, many of ADWAS's
9 consumers require medical care. Many ADWAS consumers—especially participants in the
10 supportive housing program—seek care at Northwest Hospital since it is the closest hospital to
11 ADWAS. As a result of Northwest Hospital's repeated and ongoing failure to provide effective
12 communication to individuals who have hearing disabilities, ADWAS has expended time and
13 resources to assist Deaf and hard of hearing individuals due to lack of communication access at
14 Northwest Hospital, including time spent receiving and addressing clients' complaints and
15 concerns about the accessibility of Northwest Hospital; assisting clients in filing complaints
16 when they wish to do so; advising clients on the communication barriers that they will likely
17 experience at Northwest Hospital so that they can make informed decision regarding where to
18 seek medical services; and preparing a position statement on interpreting services. ADWAS
19 continues to advocate for healthcare access for persons who are Deaf and hard of hearing
20 through education and outreach to the community.

21 17. Named Plaintiff Camille Peterson lives in Seattle, less than five miles from
22 Northwest Hospital. Ms. Peterson is Deaf and uses American Sign Language (“ASL”) as her
23 primary method of communication. Ms. Peterson is a “qualified person with a disability” and a
24 person with “a disability” within the meaning of all applicable statutes and regulations including

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1 42 U.S.C. § 12131(2); 28 C.F.R. § 35.104; 29 U.S.C. § 705(20)(B); and RCW § 49.60.040(7).
2 Ms. Peterson is self-employed as an independent life skills teacher to individuals who are
3 DeafBlind. Ms. Peterson has previously sought medical services at Northwest Hospital and
4 would use the healthcare services of Northwest Hospital again if such services were made
5 accessible to her.

6 18. Named Plaintiff Renée Boulac resides in Snohomish County. Ms. Boulac is hard
7 of hearing and her primary method of communication is ASL. Ms. Boulac is a “qualified person
8 with a disability” and a person with “a disability” within the meaning of all applicable statutes
9 and regulations including 42 U.S.C. § 12131(2); 28 C.F.R. § 35.104; 29 U.S.C. § 705(20)(B);
10 and RCW § 49.60.040(7). She is an ASL teacher at Inglemoor High School in Kenmore,
11 Washington. Ms. Boulac has a number of medical conditions that require regular care. She has
12 sought medical services at Northwest Hospital, and would continue to do so if such services were
13 made accessible to her.

14 19. Named Plaintiff Gina Pasini lives in Seattle within two miles of the Hospital and
15 volunteers at ADWAS. Ms. Pasini is Deaf and her primary method of communication is ASL.
16 Ms. Pasini is a “qualified person with a disability” and a person with “a disability” within the
17 meaning of all applicable statutes and regulations including 42 U.S.C. § 12131(2); 28 C.F.R.
18 § 35.104; 29 U.S.C. § 705(20)(B); and RCW § 49.60.040(7). Ms. Pasini is receiving ongoing
19 obstetric care, as she is pregnant with twins. Ms. Pasini would seek obstetric care at Northwest
20 Hospital’s clinics had she not been completely excluded from medical services due to her
21 hearing disability.

22 20. The Plaintiff class consists of all persons with hearing disabilities who have
23 sought or will seek healthcare services at Northwest Hospital.

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1 21. Hereafter, references in this document to “Plaintiffs” shall be deemed to include
2 the Named Plaintiffs and each member of the class, unless otherwise indicated.

3 22. Defendant UW Medicine is an agency of the State of Washington and is therefore
4 a public entity within the meaning of Title II of the ADA. UW Medicine owns and operates
5 Northwest Hospital. UW Medicine provides management, administrative, and staff support to
6 Northwest Hospital. UW Medicine is a recipient of federal financial assistance within the
7 meaning of the Rehabilitation Act.

8 23. Defendant Northwest Hospital is a full-service, non-profit community hospital
9 located in Seattle, Washington that provides comprehensive medical, surgical, emergency and
10 therapeutic services including both primary and highly specialized care. In 2015 Northwest
11 Hospital had 209 inpatient beds; 36,159 emergency department visits; and 195,031 outpatient
12 visits. The Hospital has over 1,000 employees.

13 24. Presently, and at all times relevant to this complaint, Northwest Hospital has been
14 owned and operated by UW Medicine, and is therefore a public entity within the meaning of
15 Title II of the ADA. Northwest Hospital is also a recipient of federal financial assistance within
16 the meaning of the Rehabilitation Act.

17 **FACTS THAT APPLY TO ALL CLAIMS**

18 25. As a result of Defendants’ policies, practices, and procedures with regard to
19 effective communication, people with hearing disabilities have been discriminated against and
20 denied full and equal access to the benefits of Defendants’ healthcare services.

21 26. Defendants have failed and are failing to provide qualified interpreters as a
22 necessary auxiliary aid or service. Despite Deaf patients’ immediate requests for interpreters
23 upon arrival at Northwest Hospital’s emergency room and when scheduling medical
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1 appointments, the Hospital does not give primary consideration to the requests of individuals
2 with hearing disabilities and often fails to assess whether interpreting services are available at all.

3 27. When the Hospital does provide interpreters, they are often unqualified within the
4 meaning of Title II’s implementing regulations. 28 C.F.R. § 35.104 (a “qualified interpreter . . .
5 is able to interpret effectively, accurately, and impartially, both receptively and expressively,
6 using any necessary specialized vocabulary”).

7 28. Defendants have failed and are failing to train Northwest Hospital staff regarding
8 the provision of effective communication. As a result, doctors and staff treat patients with
9 hearing disabilities differently than other patients. For example, they often do not look patients
10 with hearing disabilities in the eyes, they speak to hearing companions rather than to patients
11 who are Deaf or hard of hearing, and they do not know how to properly locate and use auxiliary
12 aids and services.

13 29. Defendants have failed and continue to fail to modify procedures such as standard
14 appointment length and communication methods where necessary to prevent discrimination
15 against people with hearing disabilities.

16 30. Defendants have failed and are failing to create and implement policies at
17 Northwest Hospital to ensure effective communication for individuals who are Deaf and hard of
18 hearing. For instance, the Hospital has no effective policy to ensure that an individual’s
19 requested auxiliary aid is given primary consideration, that a qualified interpreter is provided or
20 even contacted where necessary for effective communication, or that staff know what aids and
21 services are available and where they are located.

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EXPERIENCES OF THE NAMED PLAINTIFFS

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2 31. The experiences of Named Plaintiffs Peterson, Boulac, and Pasini are
3 representative of the nature of discrimination experienced by persons with hearing disabilities at
4 Northwest Hospital.

5 32. Named Plaintiff Camille Peterson is Deaf and ASL is her primary form of
6 communication. On or about December 9, 2014, Ms. Peterson sought medical care at the
7 Northwest Hospital emergency room. Upon arrival, she requested an ASL interpreter while
8 checking in. Ms. Peterson waited to be seen for a significant amount of time while patients who
9 arrived after her were called in. After about two hours, Ms. Peterson returned to the front desk to
10 inquire about the delay and was told that an interpreter had been called.

11 33. At one point a nurse told Ms. Peterson that they could use Video Remote
12 Interpreting (VRI) instead of waiting for a live interpreter. Ms. Peterson agreed to use VRI, and
13 the hospital staff went to locate the VRI machine. However, the hospital staff person returned to
14 report that the Hospital, in fact, did not have a VRI machine.

15 34. Ms. Peterson was finally called back to be seen over two hours after arriving at
16 the ER. The nurse treating her knew some ASL signs, but was not fluent and did not provide
17 effective communication.

18 35. An ASL interpreter was provided at the hospital approximately four and a half
19 hours after Ms. Peterson's initial request upon arrival at the ER. Yet even when the interpreter
20 finally arrived, the interpreter was not qualified to interpret in a medical setting.

21 36. Shortly after Ms. Peterson's December 2014 visit to the Northwest Hospital
22 emergency room, she visited one of Northwest Hospital's clinics for an appointment. When
23 Ms. Peterson scheduled the appointment, she was told that the clinic might not be able to provide
24 an interpreter because they needed two to three weeks' notice. Rather than delaying medical

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1 attention, Ms. Peterson followed Northwest Hospital's direction and arranged to bring her own
2 interpreter to the appointment.

3 37. Named Plaintiff Renée Boulac is hard of hearing with severe hearing loss and is
4 able to speak clearly. Ms. Boulac uses ASL in addition to verbal, English communication.
5 Ms. Boulac has received treatment at Northwest Hospital a number of times since 2012. Her
6 heart specialist's office is on the Northwest Hospital campus and her ophthalmologist performs
7 major surgery at Northwest Hospital, which Ms. Boulac will need within the next five years.

8 38. On or around July 21, 2014, Ms. Boulac had a scheduled back surgery performed
9 at Northwest Hospital. Northwest Hospital failed to take sufficient steps to ensure effective
10 communication for the duration of Ms. Boulac's treatment, including the pre- and post-operative
11 phases. The surgery was scheduled for approximately 3:30pm on July 21, but did not occur until
12 approximately 7:30pm. Immediately preceding the scheduled surgery time, Northwest Hospital
13 briefly provided Ms. Boulac an ASL interpreter, but none was provided during the many hours
14 that the surgery was postponed, or for the duration of her stay. No ASL interpreter was provided
15 to explain how the operation went or to explain instructions at discharge.

16 39. She remained in the hospital for three-and-a-half days following the surgery.
17 During that time, the nursing staff treated Ms. Boulac with disrespect and made her feel like a
18 burden due to the modifications that she requested for effective communication.

19 40. Ms. Boulac requested that nursing staff repeat things when she did not
20 understand. In response, the staff became irritated and impatient and treated her rudely.
21 Ms. Boulac also asked that the nursing staff modify their normal practice of responding to
22 patients' bedside pages via a telecom speaker because she could not hear their responses.
23 Instead, Ms. Boulac requested that the nurses simply come to her room when she paged so that
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1 she could communicate with them. Most of the nurses refused to do so; thus Ms. Boulac could
2 not use the paging function that is available for other patients.

3 41. Named Plaintiff Gina Pasini is profoundly Deaf and uses ASL as her primary
4 form of communication. Ms. Pasini moved to Seattle in May 2015 and is pregnant with twins.
5 On or about December 28, 2015, Ms. Pasini attended an OB/GYN appointment and Northwest
6 Hospital's Meridian Women's Health clinic. Ms. Pasini scheduled this appointment by phone
7 approximately three weeks in advance and requested an ASL interpreter at that time. Ms. Pasini
8 arrived at the clinic, checked in, and asked whether the interpreter was there. The check-in
9 administrator wrote that they thought Ms. Pasini was bringing her own interpreter. Ms. Pasini
10 responded that she had never said that she would do so. The check-in administrator asked
11 whether she would like to reschedule the appointment and Ms. Pasini declined to do so, opting to
12 communicate via writing instead.

13 42. After waiting for approximately twenty minutes, a manager came out to speak
14 with Ms. Pasini. The manager reiterated that the clinic thought Ms. Pasini was bringing her own
15 interpreter and stated that the doctor was not comfortable using written communications to
16 provide medical services to Ms. Pasini, and that she would have to reschedule the appointment
17 for January 19, 2016—over three weeks later. Ms. Pasini declined to reschedule, and the
18 manager stated that the appointment time was over anyway, so she would be referred to another
19 clinic.

20 **CLASS ACTION ALLEGATIONS**

21 43. Plaintiffs bring this action individually and on behalf of all persons with hearing
22 disabilities who have or will seek treatment at Northwest Hospital, as a class action under Rule
23 23(b)(2) of the Federal Rules of Civil Procedure.

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1 44. Each member of the class is a “qualified person with a disability” and/or a person
2 with “a disability” pursuant to Title II of the ADA, 42 U.S.C. § 12131(2); Section 504 of the
3 Rehabilitation Act, 29 U.S.C. §§ 794, *et seq.*; and the Washington Law Against Discrimination,
4 RCW §§ 49.60.010 *et seq.*. The persons in the class are so numerous that the joinder of all such
5 persons is impracticable and such that disposition of their claims in a class action rather than in
6 individual actions will benefit the parties and the Court. The class consists of hundreds of
7 persons with hearing disabilities.

8 45. Defendants have failed and continue to fail to comply with the ADA, Section 504,
9 and the WLAD in their implementation of policies, procedures, and/or practices with regard to
10 the provision of effective communication for people who are Deaf or hard of hearing.

11 46. Defendants have not adopted and/or do not enforce appropriate policies,
12 procedures, and/or practices to ensure nondiscrimination against people with hearing disabilities
13 and equal access to services for persons with hearing disabilities.

14 47. There are common questions of law and fact involved affecting the parties to be
15 represented in that they all have been and/or are being denied their civil rights to access to
16 Defendants’ healthcare facilities, programs and activities due to the denial of aids, services and
17 procedures necessary for effective communication.

18 48. The violations of the ADA, Section 504, and the WLAD set forth in detail herein
19 have injured all members of the proposed class and violated their rights in a similar way.

20 49. Defendant has acted or refused to act on grounds generally applicable to the class,
21 thereby making appropriate final injunctive or declaratory relief with respect to the class as a
22 whole. Class claims are brought for the purposes of obtaining declaratory and injunctive relief
23 only.

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1 50. Alternatively, class certification is appropriate under Fed. R. Civ. P. 23(b)(3)
2 because questions of law and fact common to Class members predominate over questions
3 affecting only individual class members, and because a class action is superior to other available
4 methods for the fair and efficient adjudication of this litigation.

5 51. Named Plaintiffs will fairly and adequately represent the interests of the class.
6 They have no interests adverse to the interests of other members of the class and have retained
7 counsel who are competent and experienced in litigating complex class actions, including large-
8 scale disability rights class action cases.

9 52. The requirements of Federal Rule of Civil Procedure 23 are met with regard to the
10 proposed class in that:

- 11 a) The class is so numerous that it would be impractical to bring all class
12 members before the Court;
- 13 b) There are questions of law and fact which are common to the class;
- 14 c) The Named Plaintiffs' claims for declaratory and injunctive relief are
15 typical of the claims of the class;
- 16 d) The Named Plaintiffs will fairly and adequately represent common class
17 interests and are represented by counsel who are experienced in class
18 actions and the disability rights issues in this case; and
- 19 e) Defendants have acted or refused to act on grounds generally applicable to
20 the class.

21 53. The common questions of law and fact, shared by the Named Plaintiffs and all
22 class members, include but are not limited to:

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- 1 a) What the communication access requirements are under Title II of the
2 ADA, Section 504 of the Rehabilitation Act, and the Washington Law
3 Against Discrimination;
- 4 b) What the required elements are for a comprehensive access plan to ensure
5 that Deaf and hard of hearing patients and family members receive
6 effective communication in all aspects of the Northwest Hospital
7 healthcare system;
- 8 c) What steps are needed to ensure that Defendants develop and implement
9 such a plan for communication access;
- 10 d) When is Video Remote Interpreting necessary and appropriate as a partial
11 level of communication access and when is it not sufficient to ensure
12 effective communication;
- 13 e) What are the technical and other requirements needed for Video Remote
14 Interpreting to be as effective as possible;
- 15 f) When is a qualified sign language interpreter necessary and appropriate to
16 ensure full communication access;
- 17 g) What are the contractual and other requirements needed to ensure that
18 qualified sign language interpreters are readily available to patients and
19 family members seeking services at Northwest Hospital;
- 20 h) What changes are needed to patient intercom systems and other
21 communication features at Northwest Hospital that currently rely upon
22 hearing;
- 23 i) What proactive procedures are needed to ensure that communication
24 access needs are identified and appropriate accommodations provided

25 COMPLAINT - 15; Case No.
26 *ADWAS et al. v. Northwest Hosp. & Med. Center et al.*

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1 relative to such needs on a systemic basis throughout the Northwest
2 Hospital system;

3 j) Whether Defendants have received federal financial assistance so as to
4 make their facilities and services subject to Section 504 of the
5 Rehabilitation Act;

6 k) What is the fiscal and control relationship between Northwest Hospital
7 and the University of Washington School of Medicine;

8 l) What are the costs involved in providing comprehensive communication
9 access to the class;

10 m) What are Defendants' financial and other resources available to address
11 the communication access needs of the class;

12 n) Whether Defendants have any undue burden defense to part or all of the
13 communication access needs of the class under Title II of the ADA;

14 o) Whether the undue burden limitation applies to claims under Section 504
15 of the Rehabilitation Act;

16 p) Whether Defendants are violating the federal and state civil rights laws at
17 issue by failing to provide auxiliary aids and services that are necessary to
18 make the Hospital's healthcare facilities, programs and activities
19 accessible to and useable by persons with hearing disabilities, and
20 otherwise discriminating against persons with hearing disabilities, as set
21 forth above.

22 //

23 //

24 //

25 COMPLAINT - 16; Case No.
26 *ADWAS et al. v. Northwest Hosp. & Med. Center et al.*

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FIRST CAUSE OF ACTION

**Title II of the Americans with Disabilities Act of 1990
42 U.S.C. §§ 12131 *et seq.***

1
2
3 54. Plaintiffs incorporate by reference each and every allegation contained in the
4 foregoing paragraphs.

5 55. Title II of the ADA provides in pertinent part: “[N]o qualified individual with a
6 disability shall, by reason of such disability, be excluded from participation in or be denied the
7 benefits of services, programs, or activities of a public entity, or be subjected to discrimination
8 by any such entity.” 42 U.S.C. § 12132.

9 56. At all times relevant to this action, Northwest Hospital and UW Medicine have
10 been and are “public entities” within the meaning of Title II of the ADA, which provide
11 healthcare programs or services to the general public. 42 U.S.C. § 12131.

12 57. At all times relevant to this action, Plaintiffs were and are qualified individuals
13 with disabilities within the meaning of Title II of the ADA and meet the essential eligibility
14 requirements for receipt of the services, programs, or activities of Northwest Hospital and UW
15 Medicine. 42 U.S.C. § 12131.

16 58. Public entities are prohibited from denying the opportunity or affording an
17 unequal opportunity to participate in or benefit from an aid, benefit, or service on the basis of
18 disability. 28 C.F.R. § 35.130(b)(1)(i-ii). Furthermore, public entities must “make reasonable
19 modifications in policies, practices, or procedures when . . . necessary to avoid discrimination on
20 the basis of disability.” 28 C.F.R. § 35.130(b)(7).

21 59. Defendants’ failure to make reasonable modifications to their policies, practices,
22 or procedures when necessary to provide individuals with hearing disabilities the benefits of the
23 healthcare services, programs, and activities that the Hospital provides, violates the requirements
24 of Title II.

25 COMPLAINT - 17; Case No.
26 *ADWAS et al. v. Northwest Hosp. & Med. Center et al.*

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1 60. The Department of Justice clarified the communication-related requirements of
2 Title II in its implementing regulations, which require that Defendants “take appropriate steps to
3 ensure that communications with applicants, participants, members of the public, and
4 companions with disabilities are as effective as communications with others.” 28 C.F.R.
5 § 35.160(a)(1).

6 61. Furthermore, Defendants are required to “furnish appropriate auxiliary aids and
7 services where necessary to afford qualified individuals with disabilities . . . an equal opportunity
8 to participate in, and enjoy the benefits of” their services, programs, or activities. 28 C.F.R.
9 § 35.160(b)(1). According to the regulations implementing Title II of the ADA, “[i]n
10 determining what types of auxiliary aids and services are necessary, a public entity shall give
11 primary consideration to the requests of individuals with disabilities.” *Id.* at § 35.160(b)(2). An
12 auxiliary aid or service is not effective unless it is provided “in a timely manner, and in such a
13 way as to protect the privacy and independence of the individual with a disability.” *Id.*

14 62. As alleged above, Defendants have violated their obligations under these
15 effective-communication regulations.

16 63. As a direct and proximate result of the aforementioned discriminatory acts,
17 Plaintiffs have suffered and continue to suffer difficulty, hardship, anxiety, and danger. These
18 failures have denied and continue to deny Plaintiffs the full and equal access to the Hospital’s
19 healthcare services that the ADA requires.

20 64. Because Defendants’ discriminatory conduct presents a real and immediate threat
21 of current and continuing future violations, declaratory and injunctive relief are appropriate
22 remedies pursuant to 42 U.S.C. § 12133.

23 WHEREFORE, Plaintiffs pray for relief as set forth below.

24 //

25 COMPLAINT - 18; Case No.
26 *ADWAS et al. v. Northwest Hosp. & Med. Center et al.*

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SECOND CAUSE OF ACTION
Section 504 of the Rehabilitation Act of 1973
29 U.S.C. § 794 et seq.

65. Plaintiffs incorporate by reference each and every allegation contained in the foregoing paragraphs.

66. Section 504 of the Rehabilitation Act of 1973 provides in pertinent part: “[N]o otherwise qualified individual with a disability . . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance” 29 U.S.C. § 794(a).

67. Plaintiffs are otherwise qualified to participate in the services, programs, or activities that are provided at Northwest Hospital. *See* 29 U.S.C. § 794(b).

68. Northwest Hospital and UW Medicine are recipients of federal financial assistance sufficient to invoke the coverage of Section 504, and have received such federal financial assistance at all times relevant to the claims asserted in this Complaint.

69. Defendants and their agents and employees have violated and continue to violate the Rehabilitation Act and the regulations promulgated thereunder by excluding Plaintiffs from participation in, denying Plaintiffs the benefits of, and subjecting Plaintiffs based solely by reason of their disability to, discrimination as set forth above.

70. As a direct and proximate result of the aforementioned acts, Plaintiffs suffered and continue to suffer difficulty, hardship, anxiety, and danger. These failures have denied Plaintiffs full, equal, and meaningful access to the Hospital’s healthcare services, which Section 504 requires.

71. Because Defendants’ discriminatory conduct presents a real and immediate threat of current and continuing violations, declaratory and injunctive relief are appropriate remedies pursuant to 29 U.S.C. § 794(a).

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1 WHEREFORE, Plaintiffs pray for relief as set forth below.

2 **THIRD CAUSE OF ACTION**
3 **Washington Law Against Discrimination**
4 **Revised Code of Washington §§ 49.60.010-49.60.505**

5 72. Plaintiffs incorporate by reference each and every allegation contained in the
6 foregoing paragraphs.

7 73. Section 49.60.030(1) of the Revised Code of Washington provides in pertinent
8 part:

9 The right to be free from discrimination because of . . . the presence of any sensory,
10 mental, or physical disability . . . is recognized as and declared to be a civil right. This
11 right shall include, but not be limited to: . . . (b) The right to the full enjoyment of any of
12 the accommodations, advantages, facilities, or privileges of any place of public resort,
13 accommodation, assemblage, or amusement

14 74. Northwest Hospital is a “place of public resort, accommodation, assemblage, or
15 amusement,” which includes “any place where medical service or care is made available.” RCW
16 § 49.60.040(2).

17 75. Plaintiffs are individuals with disabilities within the scope of the WLAD. RCW
18 § 49.60.040.

19 76. Defendants and their agents and employees have violated and continue to violate
20 sections 49.60.010 *et seq.* of the Revised Code of Washington by unlawfully denying Plaintiffs
21 full and equal access to the Hospital’s healthcare services comparable to the access that they
22 offer to others and for the reasons set forth above, including violating the ADA.

23 77. Defendants’ actions constitute discrimination against persons with disabilities and
24 violate the WLAD, RCW §§ 49.60.010 *et seq.*, in that persons with hearing disabilities have been
25 and are denied full and equal enjoyment of the accommodations, advantages, facilities,
26 privileges, and services that Defendants provide to non-disabled persons.

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1 78. As a direct and proximate result of the aforementioned acts, Plaintiffs have
2 suffered and continue to suffer difficulty, hardship, anxiety, and danger. These failures have
3 denied Plaintiffs the full and equal enjoyment of the Hospital's healthcare services that the
4 Washington Law Against Discrimination requires.

5 79. Pursuant to RCW § 49.60.030(2), Plaintiffs are entitled to declaratory and
6 injunctive relief.

7 WHEREFORE, Plaintiffs pray for relief as set forth below.

8 **FOURTH CAUSE OF ACTION**
9 **Declaratory Relief**

10 80. Plaintiffs incorporate by reference the foregoing allegations as if set forth fully
11 herein.

12 81. An actual controversy has arisen and now exists between the parties in that
13 Plaintiffs contend, are informed, and believe that Defendants deny that they are violating Title II
14 of the ADA, Section 504 of the Rehabilitation Act, and the Washington Law Against
15 Discrimination by failing to ensure effective communication for Deaf and hard of hearing
16 patients and family members for all healthcare services and activities provided at Northwest
17 Hospital.

18 82. A judicial declaration is necessary and appropriate at this time in order that each
19 of the parties may know their respective rights and duties and act accordingly.

20 WHEREFORE, Plaintiffs request relief as set forth below.

21 **PRAYER FOR RELIEF**

22 WHEREFORE, Plaintiffs request judgment as follows:

23 A. A declaration that Defendants' conduct as alleged herein has violated and
24 continues to violate Title II of the Americans with Disabilities Act of 1990, Section 504 of the

25 COMPLAINT - 21; Case No.
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1 Rehabilitation Act of 1973, the Washington Law Against Discrimination, and the regulations
2 promulgated under those statutes;

3 B. Issuance of a permanent injunction requiring Defendants to undertake remedial
4 measures to mitigate the effects of Defendants' past and ongoing violations of Title II of the
5 ADA, Section 504 of the Rehabilitation Act, and the Washington Law Against Discrimination,
6 and the regulations promulgated under those statutes. At a minimum, Plaintiffs request that
7 Defendants be enjoined to take the following actions:

- 8 1. Provide qualified interpreters where necessary for effective
9 communication with individual who have hearing disabilities.
- 10 2. Modify policies, practices, and procedures to ensure that individuals who
11 have hearing disabilities are not discriminated against, including:
 - 12 i. Making arrangements with interpreting agencies to ensure that
13 qualified sign language interpreters are made available promptly when
14 needed;
 - 15 ii. Making necessary provision to ensure that Video Remote Interpreting
16 services are made available in as effective a manner as possible for
17 those situations where VRI can provide some level of communication
18 access;
 - 19 iii. Changes to communication systems and procedures such as patient
20 intercoms that rely on hearing so that Deaf and hard of hearing
21 individuals receive effective access.
- 22 3. Train staff and doctors on appropriate interactions with individuals with
23 hearing disabilities and how to determine what auxiliary aid or service is
24 needed.

25 COMPLAINT - 22; Case No.
26 *ADWAS et al. v. Northwest Hosp. & Med. Center et al.*

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1 4. Give primary consideration to the auxiliary aid or service requested by
2 individuals with hearing disabilities.

3 C. Compensatory damages for named Plaintiffs Camille Peterson, Renée Boulac and
4 Gina Pasini pursuant to Titles II and Section 504.

5 D. Reasonable attorneys' fees and costs, including litigation expenses, as provided
6 by law; and

7 E. Such other relief as the Court finds just and proper.
8

9 DATED: July 21, 2016

Respectfully submitted,

10 THE GOOD LAW CLINIC

11 /s/ Moloy K. Good
12 Moloy K. Good, WSB # 36036

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