

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

COMMUNITIES ACTIVELY LIVING  
INDEPENDENT AND FREE, a  
nonprofit corporation, and AUDREY  
HARTHORN, an individual, on behalf of  
themselves and ALL OTHERS  
SIMILARLY SITUATED,

Plaintiffs,

v.

CITY OF LOS ANGELES, a public  
entity, and COUNTY OF LOS  
ANGELES, a public entity,

Defendants.

CASE NO.: CV-09-0287 CBM (RZx)

~~[Proposed]~~ Order Re Injunctive Relief

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1 **[Proposed] ORDER**

2 Pursuant to this Court's Order granting Plaintiffs' Motion for Summary  
3 Adjudication (Dkt. 140), the Court issues the following order with respect to Defendant  
4 City of Los Angeles ("the City"):

5 **A. Expert Review and Revision of the City's Emergency Preparedness**  
6 **Program**

7 The City will hire BCFS to serve as the independent expert to address all  
8 components of the City's emergency preparedness program. *See* Order re Expert  
9 Selection (Dkt. No. 169), dated 9/29/11. BCFS shall subcontract with June Kailes in  
10 order to utilize her subject matter expertise in disability issues. *See id.* The expert will  
11 evaluate the City's current plans and develop revised emergency plans as to all  
12 components of the City's emergency preparedness program to address the needs of  
13 persons with disabilities. Components to be addressed are listed in the Court's Order  
14 Granting Summary Adjudication (Dkt. No. 140), dated 2/10/11, pages 3-4.

15 In evaluating and revising the City's current emergency plans, the expert will,  
16 among other tasks, review relevant documents, meet with City personnel and meet with  
17 other governmental and non-governmental representatives (e.g. other local, state or  
18 federal emergency planners, and representatives of community organizations that  
19 represent people with disabilities). Throughout this process, the expert will also work  
20 cooperatively with City employees. In order to avoid unnecessary and duplicative costs,  
21 the expert should attempt to utilize the time and resources of City employees, if available,  
22 so long as the expert determines that City employees have the requisite expertise and  
23 skill. All work performed pursuant to this Order will be under the direction of the expert  
24 and ultimate decision-making authority remains with the expert. As the City's emergency  
25 plans are revised, the expert will oversee the implementation of these revised emergency  
26 plans.<sup>1</sup>

27  
28 <sup>1</sup> Pursuant to 42 U.S.C. § 12206(c)(1), the U.S. Department of Justice ("DOJ") may  
provide technical assistance to the Parties and the expert throughout the review and



**B. Compliance Period, Continuing Jurisdiction and Reporting**

The revision of the City's emergency plans and the implementation thereof shall be completed in a time period of three years commencing with the entry of this Order. The Parties agree that the Court shall retain jurisdiction for three years following the entry of this Order. The Court notes that this three year period is designed to allow the City a thoughtful and complete review of its emergency plans, and to provide time to implement the plans once revised. However, the Court orders that the City begin this review and revision without delay, and that it proceed as expeditiously as possible in this process.

During the three year period, the expert will provide bi-annual reports to the Court and counsel for the Parties such that they may monitor the progress being made. These reports shall include sufficient detail such that the Court and counsel for the Parties can evaluate progress of the review and revision of the plans, and at a minimum shall include the following information:

1. Identification of key City personnel involved in the process;
2. Identification of community groups and governmental agencies consulted or otherwise involved in the process;
3. Work plans, including time lines and completion dates, for revision of each of the City's emergency plans, broken down by type of plan;
4. The status of the revision of the City's emergency plans, per the work plans developed by the expert;
5. Identification of any obstacles or problems identified by the expert in the review and revision of the plans.

To the extent they believe it is necessary, the Parties may provide comments on these bi-annual reports and request additional information from the expert as to the

revision and implementation phases. The DOJ will be the lead federal agency in this case and all communications and interactions related to this litigation between Counsel and any federal agency, including the Federal Emergency Management Agency, will go through the DOJ.

1 progress made under this Order, within 30 days of the report's issuance. The Parties will  
 2 meet and confer if after receiving such additional information, either party believes  
 3 further information is required. The Parties shall share with each other all additional  
 4 information provided by the expert and shall file their comments, if any, with the Court.

5 At the conclusion of the three year period, the expert will submit a final report to  
 6 the Court describing the work completed to date. Within thirty (30) days of said  
 7 submission, the Parties may submit briefing to the Court as to their position on whether  
 8 the work required to remedy the violations identified by this Court is complete and/or  
 9 whether jurisdiction by the Court should be retained. Based on the expert's reports and  
 10 the Parties' briefing, the Court will make a determination whether to terminate the case or  
 11 to extend the jurisdiction of the Court.

#### 12 **C. Dispute Resolution**

13 If any disputes arise and if the Parties are unable to resolve those disputes through  
 14 a good faith meet and confer process, such disputes shall first be referred to Magistrate  
 15 Judge Andrew J. Wistrich or a successor that he shall designate, if Magistrate Judge  
 16 Wistrich becomes unavailable. Any unresolved disputes may be submitted to this Court  
 17 for final resolution.

#### 18 **D. Attorneys' Fees and Costs**

19 Following the entry of this Order by the Court, the Parties will negotiate in good  
 20 faith for three weeks in order to attempt to reach an agreement as to the amount of  
 21 attorneys' fees and costs for Class Counsel in this matter. If the Parties can reach  
 22 agreement as to the amount of attorneys' fees and costs within three weeks but require  
 23 additional time for the Los Angeles City Council to approve the amount, the Parties will  
 24 inform the Court of the date by which the City Council will consider the fee amount and

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1 request an extension until that date. If the Parties cannot reach agreement as to the  
2 amount of attorneys' fees and costs after three weeks of negotiations, Plaintiffs will file a  
3 motion with the Court within one week.

4 **IT IS SO ORDERED.**

5 DATED: 11/9/11

By: 

Hon. Consuelo B. Marshall