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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KATHLEEN SPENCER; JASON
VIGLIANCO; and MANDY RODRIGUEZ,
Washington residents, on behalf of themselves
and all others similarly situated,

Plaintiffs,

v.

PROVIDENCE ST. JOSEPH HEALTH, a
Washington non-profit corporation; and
WESTERN HEALTHCONNECT, a
Washington non-profit corporation

Defendants.

Case No. 22-1033

COMPLAINT—CLASS ACTION

Kathleen Spencer, Jason Viglianco, and Mandy Rodriguez (“Named Plaintiffs”) on behalf of themselves and all other persons similarly situated, bring this putative class action suit against Defendants Providence St. Joseph Health (“PSJH”) and Western HealthConnect (collectively “Defendants” or “Providence”), which own, operate, or manage multiple healthcare facilities in Western Washington where Named Plaintiffs and other d/Deaf patients have been denied effective communication in violation of federal anti-discrimination laws.

INTRODUCTION

1
2 1. Effective communication in a healthcare facility is of paramount importance to
3 ensure that doctors, nurses, and other medical professionals can fully understand the information
4 patients are trying to express about their health condition; that patients can fully understand the
5 information and advice that such medical professionals are trying to provide; and that fully
6 informed decisions can be made about care for medical conditions. Lack of prompt and effective
7 communication access can result in a host of harms, ranging from inadequate healthcare
8 treatment to injury or death.

9 2. Despite its importance, Defendants have consistently failed to provide Named
10 Plaintiffs and other d/Deaf¹ patients with the effective communication necessary to ensure full
11 and equal access to the benefits of Defendants’ healthcare services. Named Plaintiffs bring this
12 lawsuit to remedy Defendants’ unlawful discrimination against d/Deaf patients who seek
13 healthcare services at Defendants’ numerous healthcare facilities in Western Washington,
14 including facilities directly operated by Defendants’ subsidiaries, Providence Health & Services,
15 Providence Health & Services – Washington, Swedish, Swedish Edmonds, PacMed Clinics, and
16 Providence Health & Services – Western Washington.

17 3. Provision of effective communication for d/Deaf persons in a healthcare facility
18 requires a range of communication aids and services be made available, including qualified sign
19 language interpreters. Healthcare providers must develop and effectively implement policies and
20 procedures to ensure that the patient’s desired form of communication is given primary
21 consideration, and that the ultimate communication method only strays from that request when it
22 is determined to cause an undue burden or fundamental alteration to the service.

23 4. Qualified sign language interpreters must be made readily available for those
24 patients who need such aids and services. Providing effective communication also requires

25 _____
26 ¹ The lowercase “deaf” refers to the people with severe-profound hearing loss. The capitalized word “Deaf” refers to a person who is both deaf and identifies as a member of Deaf Culture; a linguistic minority with its own language (signed language) and culture. We use d/Deaf to encompass the broader group of individuals with severe-profound hearing loss while also recognizing the Deaf identity.

1 healthcare providers to utilize alternative methods when it is infeasible to obtain an on-site,
2 qualified sign language interpreter immediately or when they must transmit urgent information
3 before a qualified interpreter arrives on site. Such alternative measures include technologies such
4 as Video Remote Interpreting (“VRI”), through which a qualified sign language interpreter
5 located off-site is immediately available through internet video communications. For VRI to be
6 effective, the medical facility must have in place adequate internet speed, coverage, and
7 reliability; hardware; and software. Additionally, healthcare providers must consider whether the
8 patient is able to adequately observe the remote interpreter. Frequently, VRI will not be
9 sufficient to provide effective communication in medical settings apart from facilitating interim
10 communications.

11 5. Defendants have repeatedly violated these requirements for effective
12 communication with d/Deaf patients, by denying d/Deaf patients sign language interpreters either
13 in person or through effective VRI technology and by refusing necessary modifications to
14 policies and procedures. Without effective communication, d/Deaf Providence patients have had
15 to undergo serious medical procedures and make decisions for care without getting meaningful
16 answers to questions. They have been subjected to unequal and demeaning treatment due to their
17 disabilities and have been excluded from fully participating in their medical care due to the lack
18 of effective communication.

19 6. For example, Defendants have denied requests by all three Named Plaintiffs for
20 in-person American Sign Language (“ASL”) interpreters at many of their appointments at
21 Providence facilities. In several cases, Defendants have attempted to use VRI in place of in-
22 person ASL interpreters, which has been marked by significant technical issues, preventing
23 Ms. Spencer and Ms. Rodriguez from effectively communicating with their healthcare providers,
24 and causing distress and confusion. And when Mr. Viglianco arrived for a pre-scheduled surgical
25 procedure at a Providence facility, there was no in-person ASL interpreter present, and the VRI
26 machine did not work, so he had to communicate via written English using pen and paper. This

1 prevented him from asking all the questions he wanted to ask. Defendants did not even secure
2 effective interpretation services for post-operative discussions, and Mr. Viglianco was again
3 forced to communicate about discharge instructions via handwritten English which left him
4 confused and worried that he did not get all the pertinent information.

5 7. The Named Plaintiffs' experiences are illustrative of Defendants' actions and
6 inactions that result in persistent discriminatory conditions at its healthcare facilities in Western
7 Washington. d/Deaf patients routinely experience difficulty communicating with medical staff as
8 well as hardship and anxiety. Equal access to healthcare is a basic right under federal civil rights
9 laws. The Americans with Disabilities Act was enacted thirty-two years ago today precisely to
10 ensure that all aspects of mainstream life are accessible to people with disabilities, including
11 d/Deaf persons.

12 8. Due to repeated discrimination at Providence facilities, d/Deaf people have
13 struggled to obtain healthcare services. Some have been deterred from going to, or returning to,
14 Providence facilities for healthcare services due to lack of effective communication access.

15 9. Providence is the largest health care provider in Washington with hospitals,
16 clinics, senior care centers, hospice, and home health services in communities across the state,
17 including in the Puget Sound Region of Western Washington. It is unacceptable that the largest
18 healthcare provider in Washington state subjects patients with disabilities to unequal and
19 discriminatory conditions. This lawsuit seeks to correct this discriminatory situation for all
20 d/Deaf persons subjected to such unacceptable conditions.

21 10. Named Plaintiffs bring this action on behalf of themselves and all d/Deaf persons
22 who have been and are being discriminated against due to Defendants' unlawful failure to
23 provide effective communication and equal access to healthcare services at facilities in
24 Providence's Puget Sound Region.

25 11. Federal access laws were enacted to ensure that persons with disabilities receive
26 equal access to services of private entities including access to healthcare services. *See* 29 U.S.C.

1 § 794 (Section 504 of the Rehabilitation Act of 1973 (“Section 504”)); 42 U.S.C. § 12101(a)(7)
2 (Americans with Disabilities Act (“ADA”)); and 42 U.S.C. § 18116(a) (Section 1557 of the
3 Affordable Care Act (“Section 1557”)). Defendants have excluded Named Plaintiffs from
4 participation in and denied them the benefits of the healthcare programs and services offered at
5 healthcare facilities owned and/or operated by Defendants. The violations at issue include:
6 a) failing to provide qualified sign language interpreters as necessary auxiliary aids or services;
7 b) insisting on attempting to provide sign language interpretation via VRI despite insufficient
8 technical capacity to do so; c) failing to provide necessary auxiliary aids or services in a timely
9 manner; d) refusing to provide healthcare services due to an individual’s hearing disability; and
10 e) failing to sufficiently train staff regarding the provision of effective communication to d/Deaf
11 individuals.

12 12. Named Plaintiffs thus bring this action to remedy violations of Title III of the
13 ADA, 42 U.S.C. sections 12182, *et seq.* and its accompanying regulations; Section 504 of the
14 Rehabilitation Act, 29 U.S.C. sections 794, *et seq.* and its accompanying regulations; and Section
15 1557 of the Affordable Care Act (“ACA”), 42 U.S.C. section 18116(a).

16 **JURISDICTION AND VENUE**

17 13. This is an action for declaratory and injunctive relief, brought pursuant to Title III
18 of the ADA, 42 U.S.C. sections 12182 *et seq.*; Section 504 of the Rehabilitation Act, 29 U.S.C.
19 sections 794, *et seq.*; and Section 1557 of the ACA, 42 U.S.C. section 18116(a) to redress
20 systemic civil rights violations against d/Deaf individuals by Defendants.

21 14. This Court has jurisdiction over the claims alleged herein arising under the ADA,
22 Section 504, and Section 1557 pursuant to 28 U.S.C. sections 1331 and 1343.

23 15. This Court has jurisdiction to issue declaratory and injunctive relief pursuant to 28
24 U.S.C. sections 2201 and 2202, and Rule 65 of the Federal Rules of Civil Procedure.

1 16. Venue is proper in the Western District of Washington because Defendants reside
2 in this District within the meaning of 28 U.S.C. section 1391, and because the events, acts, and
3 omissions giving rise to Named Plaintiffs' claims occurred in this District.

4 **PARTIES**

5 17. Defendant Providence St. Joseph Health ("PSJH") is a Washington non-profit
6 organization with headquarters in Renton, Washington. PSJH operates a healthcare system made
7 up of various member entities, including Providence Health & Services, Western HealthConnect,
8 Providence Health & Services – Washington ("Providence – Washington"), Providence Health &
9 Services – Western Washington ("Providence – Western Washington"), Swedish Health
10 Services, Swedish Edmonds, and PacMed Clinics. PSJH is the parent and sole corporate member
11 of Providence Health & Services. Providence Health & Services is the sole corporate member of
12 Providence – Washington, which owns, operates, and/or manages Providence Regional Medical
13 Center Everett ("PRMC-Everett") in Everett, Washington; and is a co-corporate member of
14 Providence Health & Services – Western Washington.

15 18. Defendant Western HealthConnect is a Washington non-profit corporation with
16 headquarters in Renton, Washington. Western HealthConnect is the sole corporate member of
17 Swedish Health Services, Swedish Edmonds, and PacMed Clinics; and is a co-corporate member
18 of Providence Health & Services – Western Washington.

19 19. Named Plaintiff Kathleen Spencer lives in Snohomish County, Washington.
20 Ms. Spencer is Deaf and uses ASL as her primary method of communication. Ms. Spencer is a
21 "qualified person with a disability" and a person with "a disability" within the meaning of all
22 applicable statutes and regulations including 42 USC section 12102(1), 28 C.F.R. section 35.104,
23 and 29 U.S.C. section 705(20)(B). Ms. Spencer has previously sought medical services at
24 multiple Providence facilities and anticipates future visits to Providence locations.

25 20. Named Plaintiff Jason Viglianco resides in Marysville, Washington.
26 Mr. Viglianco is Deaf, and his primary method of communication is ASL. Mr. Viglianco is a

1 “qualified person with a disability” and a person with “a disability” within the meaning of all
2 applicable statutes and regulations including 42 USC section 12102(1), 28 C.F.R. section 35.104,
3 and 29 U.S.C. section 705(20)(B). Mr. Viglianco has sought medical services at a Providence
4 facility and anticipates future visits to this and/or other Providence locations.

5 21. Named Plaintiff Mandy Rodriguez lives in Edmonds, Washington. Ms. Rodriguez
6 is Deaf, and her primary method of communication is ASL. Ms. Rodriguez is a “qualified person
7 with a disability” and a person with “a disability” within the meaning of all applicable statues
8 and regulations including 42 USC section 12102(1), 28 C.F.R. section 35.104, and 29 U.S.C.
9 section 705(20)(B). Ms. Rodriguez has sought care at multiple Providence facilities and
10 anticipates future visits to Providence locations.

11 22. The proposed class consists of and all d/Deaf persons who have sought or will
12 seek healthcare services at any Providence facility in Providence’s Puget Sound Region.
13 Hereafter, references in this document to “Plaintiffs” shall be deemed to include the Named
14 Plaintiffs and each member of the proposed class, unless otherwise indicated.

15 **FACTS THAT APPLY TO ALL CLAIMS**

16 23. Providence’s healthcare system is currently organized into geographic regions.

17 24. Providence’s Puget Sound Region includes three service areas: North Puget
18 Sound, Central Puget Sound, and South Puget Sound.

19 25. In the greater Puget Sound area of Washington, Providence Swedish operates
20 eight hospitals in King, Snohomish, Lewis and Thurston Counties, and a network of over 200
21 primary care and specialty clinics throughout the Seattle area.

22 26. The following facilities, among others, fall within Providence’s Puget Sound
23 Region: Swedish Edmonds; Swedish Medical Center Campuses (Ballard, Issaquah, Cherry Hill,
24 and First Hill); Providence Centralia Hospital; PRMC-Everett; Providence St. Peter Hospital;
25 Providence Marionwood; Providence Mother Joseph Care Center; and Providence Mount St.
26 Vincent.

1 27. PSJH's corporate officers and supporting staff oversee the management activities
2 performed on a day-to-day basis by the management staff of each region.

3 28. PSJH's corporate staff provides centralized services and coordination in the areas
4 of operations, technical support, quality of care, and planning and policy development.

5 29. As a result of Defendants' deficient policies, practices, and/or procedures with
6 regard to effective communication, d/Deaf patients have been discriminated against and denied
7 full and equal access to the benefits of Defendants' healthcare services.

8 30. Defendants have failed and are failing to provide qualified interpreters as a
9 necessary auxiliary aid or service. Despite d/Deaf patients' immediate requests for interpreters
10 upon arrival at Providence's emergency rooms and when scheduling medical appointments,
11 Defendants do not give primary consideration to the requests of d/Deaf individuals and
12 Defendants often fail to assess whether in-person interpreting services are available at all.

13 31. Defendants have failed and are failing to adequately train staff at Providence
14 facilities regarding the provision of effective communication. As a result, doctors and other staff
15 treat d/Deaf patients differently than other patients. For example, they often do not look d/Deaf
16 patients in the eyes, direct their visual attention to interpreters rather than to patients who are
17 d/Deaf, and do not know how to properly locate and use auxiliary aids and services.

18 32. Defendants have failed and are failing to create and implement effective policies
19 at Providence facilities to ensure effective communication for individuals who are d/Deaf. For
20 instance, Providence has no effective policy to ensure that an individual's requested auxiliary aid
21 is given primary consideration, that a qualified interpreter is provided or even contacted where
22 necessary for effective communication, or that staff know what aids and services are available
23 and where they are located.

EXPERIENCES OF THE NAMED PLAINTIFFS

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2 33. The experiences of Named Plaintiffs Spencer, Viglianco, and Rodriguez are
3 representative of the discrimination experienced by d/Deaf persons at Providence healthcare
4 facilities.

5 **A. Kathleen Spencer**

6 34. Named Plaintiff Kathleen Spencer is Deaf and ASL is her primary form of
7 communication.

8 35. Since at least early 2020, Ms. Spencer has received health care services at
9 multiple Providence facilities.

10 36. On or around January 16, 2020, Ms. Spencer visited PRMC-Everett for an exam
11 to assess breast pain. During a mammogram, rather than wait for the in-person ASL interpreter to
12 provide interpretation of the instructions for the procedure to Ms. Spencer, the technician became
13 impatient with the interpretation process and physically manipulated Ms. Spencer’s body so
14 aggressively that Ms. Spencer describes the encounter as assaultive.

15 37. On or around February 11, 2020, Ms. Spencer visited PRMC-Everett for a follow-
16 up appointment to receive the results of her mammogram and a biopsy from a specialist. At
17 scheduling, Ms. Spencer requested in-person ASL interpretation. She also contacted the office
18 the day before the appointment to make sure that an interpreter would be provided. However,
19 when she arrived at the appointment, staff told her that no interpreter had been confirmed and
20 offered for her to use a “live Skype interpreter” (i.e. VRI) instead. Due to the nature of the
21 medical conditions to be discussed, she declined to use VRI; and having already wasted so much
22 time on this unsuccessful appointment, she declined to reschedule. Instead, Ms. Spencer called
23 the specialist to talk about her test results over the phone via Video Relay Service (“VRS”). VRS
24 did not provide Ms. Spencer the benefits of an in-person medical appointment, which is her
25 preference due to the increased clarity of non-verbal communication when sharing the same
26 physical space.

1 38. Following the mammogram and biopsy, Ms. Spencer was referred to a specialist
2 at Providence North Everett General Surgery for further discussion of the results and treatment
3 options. The physician requested that an initial appointment be conducted in person to complete
4 an examination. Ms. Spencer requested an in-person ASL interpreter when she scheduled this
5 appointment for April 7, 2020. Due to the early impacts of the COVID-19 pandemic, the
6 appointment was rescheduled to May 26, 2020. However, the facility did not schedule an
7 interpreter for that appointment. As a result, the appointment again had to be rescheduled for the
8 morning of June 2, 2020.

9 39. On or around the evening of June 1, 2020, Ms. Spencer received a call from
10 Providence North Everett General Surgery informing her that yet again, an interpreter had not
11 been obtained for her appointment the following day. Having already rescheduled this specific
12 appointment twice, Ms. Spencer agreed to use VRI in order not to further delay her medical care.

13 40. During the June 2, 2020 appointment, the VRI screen froze, and the signal
14 disconnected several times. Ms. Spencer and the specialist had to pause every few sentences until
15 the video unfroze. They moved the VRI stand to different positions in the room and opened the
16 door to see if the signal could be improved, but none of these measures worked. This
17 appointment also included examination from a prone position, during which Ms. Spencer could
18 not see the VRI screen very well. It was the worst VRI experience Ms. Spencer had ever had—
19 both she and the specialist were distracted the entire time because of the technical difficulties.
20 Ms. Spencer was extremely frustrated because she was trying to focus on her appointment, but
21 instead was preoccupied by the VRI freezing and trying to find locations where it would work.
22 This prevented Ms. Spencer from speaking normally, as she had to try to fit her responses and
23 questions in between VRI freezes and she would then forget what she wanted to say. Even the
24 specialist expressed frustration about the VRI failures, indicating that she would not use VRI
25 again.

1 41. On or around September 10, 2020, Ms. Spencer visited PRMC-Everett for a
2 follow-up ultrasound. At scheduling, Ms. Spencer requested an in-person interpreter for this
3 appointment. She called two days before the appointment to make sure there would be an
4 interpreter in person. But there was no interpreter present when she showed up for the
5 appointment. The receptionist incorrectly told Ms. Spencer via a written note that the reason
6 there was no in-person interpreter was that Ms. Spencer did not request one. A manager
7 subsequently informed Ms. Spencer that in fact the interpreter had been requested but had not
8 shown up. VRI was used instead, and again there were technical issues. Ms. Spencer asked the
9 VRI interpreter if she was having trouble understanding Ms. Spencer, and the interpreter
10 responded that she was. The VRI interpreter reported to Ms. Spencer that the image of
11 Ms. Spencer was blurry and grainy. Ms. Spencer also had difficulty seeing the screen while she
12 was lying down for the ultrasound.

13 42. On or around August 26, 2020, Ms. Spencer visited the emergency department at
14 PRMC-Everett, which is approximately six miles from her home. While Ms. Spencer knew that
15 an in-person interpreter would have been more effective for her, she requested VRI upon arrival
16 given the unplanned nature of the visit. The receptionist did not seem to know what VRI was.
17 When Ms. Spencer was first called back to take her vitals, the nurse left to look for the VRI
18 machine and returned about ten to fifteen minutes later saying it was already being used for other
19 patients. Several hours later, Ms. Spencer was seen by a different nurse for bloodwork and a
20 urine sample; the VRI machine was still unavailable. When a bed opened for Ms. Spencer
21 several hours later, they located and set up the VRI machine, however, there were technical
22 issues again, and the doctor appeared to Ms. Spencer to be frustrated by the ordeal. Ms. Spencer
23 was then moved to get an ultrasound; the examination room did not have VRI, and the technician
24 communicated with Ms. Spencer via written English by pen and paper. Ms. Spencer could not
25 fully communicate without ASL. She tried to figure out the technician's instructions, and what
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1 the technician needed from her, but felt that she was guessing as written English could not get all
2 the necessary points across.

3 43. On or around January 26, 2021, Ms. Spencer had appointments at the Swedish
4 Edmonds Campus and Swedish Mill Creek Campus. Ms. Spencer requested an in-person ASL
5 interpreter for both appointments when scheduling in advance. Prior to the appointments,
6 Ms. Spencer received a phone call confirmation that there would be an interpreter present.

7 44. An in-person interpreter was provided for the Mill Creek appointment, and
8 communication went smoothly. However, upon arrival at Swedish Edmonds, there was no in-
9 person interpreter present. Ms. Spencer inquired with the receptionist, who brought out a VRI
10 machine. The receptionist was rude and unprofessional. While still in the lobby, Ms. Spencer
11 contacted the Providence Interpreting Services Department on speaker so that the receptionist
12 could listen to the conversation. Throughout the call, the receptionist interrupted Ms. Spencer
13 and made threats about cancelling her appointment before she was seen by the doctor. The
14 Interpreting Services Department informed Ms. Spencer that the confirmation call she had
15 received was only for her earlier appointment at Swedish Mill Creek, as Swedish Edmonds had
16 never put in the ASL interpreter request.²

17 45. Ms. Spencer was stunned and shook up by how the receptionist treated her and
18 the fact that this individual had the ability to take away an appointment she had waited months
19 for simply because Ms. Spencer advocated for her communication needs. Ultimately,
20 Ms. Spencer decided to go forward with VRI to avoid further delay.

21 46. Unfortunately, Ms. Spencer again experienced technical issues due to the VRI,
22 which impacted her appointment. The interpreter and Ms. Spencer struggled to see each other
23 clearly because of connection problems and the orientation of the VRI machine during the exam.
24 What would have taken about twenty to twenty-five minutes with an in-person interpreter ended
25 up taking over forty minutes. Due to this experience, Ms. Spencer decided to travel to UWMC in

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² Ms. Spencer was originally told that this was because the clinic prohibits in-person interpreters but later learned that this is not the policy at Swedish Edmonds and the Interpreting Services Department was incorrect.

1 Seattle to obtain the necessary healthcare services there instead of Swedish Edmonds.
2 Ms. Spencer continues to receive these specific healthcare services in Seattle because
3 communication access is better there, but would prefer to go to Providence because it is far
4 closer. While it takes about forty minutes to get to Swedish Edmonds, it is about an hour to
5 Seattle without traffic and it is significantly longer with traffic—sometimes it can take an hour
6 and a half or more to travel between Ms. Spencer’s home and UWMC in Seattle.

7 47. On or around January 27, 2021, Ms. Spencer attempted to schedule an
8 appointment at PRMC-Everett. The staff first noted two upcoming openings within the week,
9 then rescinded those dates as unavailable and stated that the next open date was not until March
10 2021. When Ms. Spencer asked why the previous two dates were no longer available, the
11 scheduler explained that they were Saturdays, and it would be “too much extra work” for the
12 staff to schedule an ASL interpreter for a Saturday appointment. Ms. Spencer called the
13 Interpreting Services Department who confirmed there was no policy preventing ASL
14 interpreters from being provided for Saturday appointments, and the Interpreting Services
15 Department called the clinic who eventually relented and gave her a Saturday appointment.
16 Being told that it would be “too much extra work” to provide her with accommodations makes
17 Ms. Spencer angry that her concerns are not being addressed and that she has to spend extra time
18 herself to get timely appointments.

19 48. On or about June 21, 2022, Ms. Spencer returned to PRMC-Everett for a
20 mammogram. The facility did schedule an in-person interpreter for this appointment, however
21 staff did not know this in advance, as they spent time setting up the VRI machine before
22 Ms. Spencer entered the room and said that no one had told them that an interpreter was present.
23 This delayed the appointment. During the mammogram, staff appeared to be uncomfortable
24 communicating with Ms. Spencer and did not know how to use an interpreter. For instance, they
25 looked at the interpreter and talked to them instead of addressing statements and questions to
26 Ms. Spencer. The staff person performing the mammogram also asked Ms. Spencer a number of

1 questions while she was holding different positions for the imaging. Ms. Spencer told the staff a
2 few times that she could not sign while holding positions, but the staff disregarded this
3 information. Ms. Spencer was distracted and frustrated by the situation and the staff person's
4 lack of training in serving Deaf patients.

5 49. Ms. Spencer is frustrated and disappointed that she consistently has to deal with
6 Providence's failures to provide her accommodations for her disability and the communication
7 fallout that ensues. She is exhausted from having this happen over and over, and there are times
8 where she dreads going to appointments at Providence because of the lack of accessibility.
9 Nearly every time she goes to an appointment at Providence, she has to advocate for both her
10 health and her accommodation needs. Having to explain complex medical issues through
11 inconsistent communication modes is frustrating and difficult and sometimes she is forced to put
12 her health over her needs as a Deaf person—a choice she should never have to make.

13 **B. Jason Viglianco**

14 50. Named Plaintiff Jason Viglianco is Deaf and ASL is his primary form of
15 communication.

16 51. Mr. Viglianco has received healthcare services at PRMC-Everett.

17 52. Mr. Viglianco's primary care provider³ referred him to PRMC-Everett for surgery
18 in 2020. It is Mr. Viglianco's understanding that his primary care provider will continue to refer
19 him to receive specialty care services at PRMC-Everett.

20 53. On or around August 28, 2020, Jason Viglianco underwent surgery at PRMC-
21 Everett. Mr. Viglianco called Providence twice prior to the surgery to confirm that an interpreter
22 would be present in person for his appointment.

23 54. When Mr. Viglianco arrived at the hospital, there was no interpreter. He agreed to
24 use VRI to proceed with the appointment, but the connection was poor, and the signal kept
25 dropping out. The nurse struggled with it before giving up and taking it out of the room.

26 _____
³ Mr. Viglianco receives primary care at The Everett Clinic. While The Everett Clinic is not a Providence facility, it has an ongoing partnership with PRMC-Everett.

1 55. This upset Mr. Viglianco and he was worried about moving forward without an
2 interpreter because he had poor experiences going through surgeries without ASL interpreters
3 growing up in West Virginia, where he was unable to share his needs with his medical providers.
4 He felt that he should have called off the surgery and rescheduled with an in-person ASL
5 interpreter but did not want to delay his important medical care. He felt that the doctors wanted
6 to move on without an ASL interpreter, which was upsetting.

7 56. Ultimately, during surgical prep Mr. Viglianco communicated with his medical
8 providers in written English via pen and paper, and, for a short time, a staff member who knew
9 some ASL but was not proficient attempted to interpret.

10 57. Mr. Viglianco went through the surgery without a qualified interpreter and
11 continued to communicate via pen and paper after the surgery was completed. This made him
12 very nervous and left him unsatisfied. He did not feel comfortable writing back and forth as he
13 did not want to make mistakes. Communicating about medical subjects via written English was
14 confusing for Mr. Viglianco, particularly after surgery when he was still groggy and having a
15 harder time reading and writing.

16 58. At discharge, there were questions that Mr. Viglianco would have asked but did
17 not because there was no interpreter. He wanted to know about any next steps and what
18 medication they gave him, as well as what to do at home, but because he was only offered the
19 option of communicating via written English, his communication was very limited.

20 59. In addition, because there was no interpreter, Mr. Viglianco believes there may
21 have been some miscommunication regarding his insurance coverage, as it seems that a portion
22 of his bill was processed through Medicare, which he does not have.

23 **C. Mandy Rodriguez**

24 60. Named Plaintiff Mandy Rodriguez is Deaf, and ASL is her primary form of
25 communication.
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1 61. Ms. Rodriguez began seeing a primary care physician at PacMed Clinic’s
2 Lynnwood location in Lynnwood, Washington in or around June 2018. Over the next several
3 years, Ms. Rodriguez saw primary care physicians at multiple Providence facilities, including
4 PacMed Clinic’s Lynnwood, Northgate, and Canyon Park locations. None of these Providence
5 healthcare providers met her communication needs.

6 62. Ms. Rodriguez visited primary care providers at the Lynnwood, Northgate, and
7 Canyon Park PacMed locations from June 2018 through March 2022, and at each location VRI
8 was used almost exclusively, even when she requested in-person interpreters. Unfortunately, at
9 each location Ms. Rodriguez experienced regular technical difficulties that rendered this mode of
10 communication ineffective. During primary care appointments and more specialized
11 appointments, attempts to communicate using VRI were characterized by long delays while staff
12 attempted to connect and reconnect the device and a screen that repeatedly froze. Given her poor
13 experiences using VRI, Ms. Rodriguez asked for an in-person ASL interpreter when scheduling
14 all appointments, but rarely received one.

15 63. Due to these consistent issues, Ms. Rodriguez has had to condense explanation of
16 her symptoms and health care needs rather than recounting them in greater detail, making things
17 briefer than she would have liked and leading her to not raise health concerns that she wanted to.
18 These experiences left Ms. Rodriguez very frustrated and caused her to change primary care
19 physicians multiple times in an effort to find a Providence location that would provide her with
20 effective communication.

21 64. In or around Spring 2021, Ms. Rodriguez had a telehealth appointment with her
22 primary care physician at Lynnwood for which she requested an ASL interpreter. However, the
23 interpreter did not show up, and Ms. Rodriguez’s doctor told her she would need to come to the
24 clinic to hold the appointment in person. Ms. Rodriguez felt this was unfair because people who
25 are hearing have the ability to use telehealth, but she did not have the benefit of this service. In
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1 addition, being told to otherwise come in person was upsetting to Ms. Rodriguez because the
2 VRI at Lynnwood was always very slow or froze, leading to communication issues.

3 65. Ms. Rodriguez felt that she had to transfer her primary care from Lynnwood due
4 to the communication barriers, and in or around September 2021 she began to see a primary care
5 physician at PacMed's Canyon Park location hoping that she would receive better
6 communication access during her medical appointments. Two weeks before Ms. Rodriguez's
7 first appointment with her new primary care doctor at Canyon Park, she contacted the medical
8 office to request an in-person interpreter. However, when she arrived there was no in-person
9 interpreter. The office told her no interpreter was available, but no one had informed her prior to
10 the appointment that there would be no in-person interpreter. The medical staff used VRI instead
11 and the screen was pixelated and froze repeatedly. The interpreter did not seem to understand
12 what Ms. Rodriguez was saying and she did not believe the doctor was getting all of the
13 information she was trying to communicate. After the appointment, Ms. Rodriguez called
14 Canyon Park via VRS to talk to a nurse and explain the things that she was not able to say to the
15 doctor during the appointment.

16 66. In or around December 2021, Ms. Rodriguez contacted the Canyon Park clinic
17 around 11:00 a.m. to schedule a same-day Zoom appointment with her primary care physician
18 later that afternoon in order to get an MRI referral. The appointment was scheduled for
19 approximately 4:00 p.m. and, at the time of scheduling, Ms. Rodriguez requested an ASL
20 interpreter for this appointment. The office staff represented that the request could be
21 accommodated. However, when Ms. Rodriguez logged on for the appointment, no one ever
22 joined. She reached out to the front desk to inquire about the appointment, and staff informed her
23 that her appointment had been canceled because there was no interpreter scheduled.

24 Ms. Rodriguez was not informed of any cancellation prior to the scheduled appointment.

25 67. After this incident, Ms. Rodriguez decided to transfer her primary care to
26 PacMed's Northgate location in the hope that she would receive better communication access

1 with a new primary care provider, despite prior issues with VRI at Northgate in 2019.
2 Unfortunately, she experienced more of the same. During a January 18, 2022 appointment at
3 Northgate, VRI was used to provide interpretation and the image was blurry and broken up.

4 68. At the conclusion of the January 18 appointment, Ms. Rodriguez scheduled a
5 follow-up appointment for more than a week later and requested an in-person interpreter. When
6 she arrived on January 27, 2022, there was no interpreter present. The reception staff said that
7 they had requested one and confirmed the request, but no one had arrived. Staff called the
8 interpretation agency and found out that the interpreter had canceled; the front desk manager
9 stated that they had no idea. The doctor used VRI to communicate instead, but the image froze,
10 and the picture was blurry, making communication difficult.

11 69. Ms. Rodriguez consistently requested an in-person ASL interpreter when
12 scheduling appointments at these PacMed clinics. However, they never contacted her ahead of
13 appointments for which she had requested an in-person interpreter to let her know that they were
14 not able to schedule one and would need to proceed with VRI during the appointment.

15 70. Ms. Rodriguez has since transitioned her primary care to Swedish Mill Creek.

16 **CLASS ACTION ALLEGATIONS**

17 71. Named Plaintiffs bring this action on behalf of themselves and all d/Deaf persons
18 who have been and are being discriminated against due to Defendants' unlawful failure to
19 provide effective communication and equal access to healthcare services at facilities in
20 Providence's Puget Sound Region, as a class action under Rule 23(b)(2) of the Federal Rules of
21 Civil Procedure.

22 72. Each member of the proposed class is a "qualified person with a disability" and/or
23 a person with "a disability" pursuant to Title III of the ADA; Section 504 of the Rehabilitation
24 Act; and Section 1557 of the ACA. 42 USC § 12102(1); 29 U.S.C. § 794, *et seq.*; 42 U.S.C.
25 § 18116(a).

1 73. The persons in the proposed class are so numerous that the joinder of all such
2 persons is impracticable and disposition of their claims in a class action rather than in individual
3 actions will benefit the parties and the Court. The class consists of hundreds of persons in the
4 Puget Sound Region.

5 74. According to U.S. Census Bureau data, over 149,000 individuals across
6 Snohomish, King, Pierce, Skagit, Kitsap, and Thurston Counties report that they are deaf or have
7 serious difficulty hearing.⁴

8 75. The Puget Sound Region had a total inpatient market share of 28 percent in their
9 service areas in 2020, as reported by the Comprehensive Hospital Abstract Reporting System.

10 76. Defendants have failed and continue to fail to comply with the ADA, Section 504,
11 and Section 1557 in its implementation of policies, procedures, and/or practices with regard to
12 the provision of effective communication for people who are d/Deaf.

13 77. Defendants have not adopted and/or do not enforce appropriate policies,
14 procedures, and/or practices to ensure nondiscrimination against people who are d/Deaf and
15 equal access to services for people who are d/Deaf.

16 78. There are common questions of law and fact involved affecting the proposed class
17 in that they all are being denied their civil rights to access to Defendants' healthcare facilities and
18 services due to the denial of aids, services and procedures necessary for effective
19 communication.

20 79. The violations of the ADA, Section 504, and Section 1557 set forth in detail
21 herein injure all members of the proposed class and violate their rights in a similar way.
22
23

24 _____
25 ⁴ 2016-2020 American Community Survey 5-Year Estimates Subjects Table, Table ID S1810, available at
26 <https://data.census.gov/cedsci/table?q=disability&g=0500000US53033,53035,53053,53057,53061,53067>. The ACS reports a person as having a hearing difficulty if they answer yes to the question: "Is this person deaf or does he/she have serious difficulty hearing?" See U.S. Dep't of Com., ACS Questionnaire Informational Copy 14 (2020), available at <https://www2.census.gov/programs-surveys/acs/methodology/questionnaires/2020/quest20.pdf> (question 18(a)).

1 80. Defendants have acted or refused to act on grounds generally applicable to the
2 proposed class, thereby making appropriate final injunctive or declaratory relief with respect to
3 the class as a whole.

4 81. Class claims are brought for the purposes of obtaining declaratory and injunctive
5 relief only.

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

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

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

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

- 25 a) What the communication access requirements are under Title III, Section
26 504, and Section 1557;

1 88. Defendants own or operate healthcare facilities including hospitals, clinics, and
2 professional offices of health care providers, where Defendants provide healthcare services.

3 89. Defendants' healthcare services are available to the public.

4 90. Named Plaintiffs and members of the proposed Class are individuals who are deaf
5 and are thus individuals with disabilities within the meaning of the ADA.

6 91. Plaintiffs have sought healthcare services at Defendants' healthcare facilities and
7 will continue to seek healthcare services at such facilities.

8 92. By failing to provide effective communication, including through the failure to
9 provide auxiliary aids and services, Defendants fail to provide d/Deaf persons with equal access
10 to the healthcare services and accommodations they provide to the public, in violation of Title
11 III.

12 93. Defendants' failure to make reasonable modifications to their policies, practices,
13 or procedures when necessary to ensure d/Deaf individuals have full and equal access to their
14 healthcare services and accommodations violates the requirements of Title III.

15 94. Defendants' failure to ensure that its VRI services provide real-time, full-motion
16 video and audio over a connection that delivers high-quality video images that do not produce
17 lags, choppy, blurry, or grainy images, or irregular pauses in communication; a sharply
18 delineated image; and adequate training to users of the technology and other involved individuals
19 so that they may quickly and efficiently set up and operate the VRI violates Title III.

20 95. Defendants' conduct constitutes an ongoing and continuous violation of Title III,
21 and unless restrained from doing so, Defendants will continue to violate the ADA. This conduct,
22 unless enjoined, will continue to inflict injuries for which Plaintiffs have no adequate remedy at
23 law. Consequently, Plaintiffs are entitled to injunctive relief pursuant to section 308 of the ADA,
24 42 U.S.C. § 12188(a), as well as reasonable attorneys' fees and costs, 42 U.S.C. § 12205

25 WHEREFORE, Plaintiffs pray for relief as set forth below.
26

SECOND CAUSE OF ACTION

Section 504 of the Rehabilitation Act of 1973

29 U.S.C. § 794 *et seq.*

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

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

9 98. Defendants receive federal financial assistance within the meaning of Section 504
10 and its implementing regulations, and have received such federal financial assistance at all times
11 relevant to the claims asserted in this Complaint.

12 99. Plaintiffs have physical impairments that substantially limit one or more major
13 life activities. They are qualified individuals with disabilities within the meaning of Section 504
14 and are otherwise qualified to participate in and receive benefits from Defendants’ healthcare
15 services.

16 100. Recipients of federal financial assistance, including Defendants, are prohibited
17 from denying qualified persons with a disability any health, welfare, or other social services or
18 benefits on the basis of disability. 45 C.F.R. § 84.52(a)(1).

19 101. Recipients of federal financial assistance, including Defendants, may not afford a
20 qualified individual with a disability an opportunity to receive health, welfare, or other social
21 services or benefits that is not equal to that afforded people without disabilities. 45 C.F.R.
22 § 84.52(a)(2).

23 102. Recipients of federal financial assistance, including Defendants, may not, solely
24 on the basis of disability, provide a qualified person with a disability health, welfare, or other
25 social services or benefits that are not as effective as the benefits or services provided to others.
26 45 C.F.R. § 84.52(a)(3).

1 103. Recipients of federal financial assistance, including Defendants, must “provide
2 appropriate auxiliary aids to persons with impaired sensory, manual, or speaking skills, where
3 necessary to afford such persons an equal opportunity to benefit from the service in question.” 45
4 C.F.R. § 84.52(d)(1).

5 104. Auxiliary aids may include interpreters and other aids for persons with impaired
6 hearing. 45 C.F.R. § 84.52(d)(3).

7 105. Defendants discriminate against Plaintiffs and members of the proposed class
8 solely by reason of their disabilities in violation of Section 504 and its implementing regulations.
9 Defendants discriminatory conduct includes, but is not limited to:

- 10 a) excluding Plaintiffs from the opportunity to participate in and benefit from Defendants’
11 healthcare programs, services, and activities;
- 12 b) affording Plaintiffs an opportunity to participate in or benefit from healthcare services
13 that is not equal to the opportunity afforded hearing individuals;
- 14 c) failing to provide Plaintiffs with appropriate auxiliary aids where necessary to afford
15 them an equal opportunity to benefit from healthcare services; and
- 16 d) failing to make reasonable modifications in policies, practices, and procedures when the
17 modifications are necessary to avoid discrimination on the basis of disability and would
18 not fundamentally alter the nature of Defendants’ services, programs, or activities.

19 106. Defendants’ violations of Section 504 have harmed and will continue to harm
20 Plaintiffs in the future.

21 107. Because Defendants’ discriminatory conduct is ongoing, declaratory and
22 injunctive relief are appropriate remedies.

23 108. Plaintiffs are entitled to declaratory and injunctive relief, as well as reasonable
24 attorneys’ fees and costs in bringing this action.

25 WHEREFORE, Plaintiffs pray for relief as set forth below.
26

THIRD CAUSE OF ACTION
Section 1557 of the Affordable Care Act
42 U.S.C. § 18116(a)

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

5 110. Section 1557 of the Affordable Care Act (“Section 1557”) provides in pertinent
6 part: “[A]n individual shall not, on the ground prohibited under . . . section 794 of title 29
7 [Section 504], be excluded from participation in, be denied the benefits of, or be subjected to
8 discrimination under, any health program or activity, any part of which is receiving Federal
9 financial assistance....” 42 U.S.C. § 18116(a).

10 111. Plaintiffs are individuals with physical impairments that substantially limit their
11 hearing and are therefore individuals with disabilities within the meaning of Section 1557. *See*
12 45 C.F.R. § 92.102(c).

13 112. Defendants are principally engaged in the business of providing healthcare and
14 receive Federal financial assistance provided by the U.S. Department of Health and Human
15 Services.

16 113. Defendants’ violation of Section 504 also violates Section 1557.

17 114. Defendants’ failure to take appropriate steps to ensure that communications with
18 Plaintiffs are as effective as communications with others is a violation of Section 1557. *See* 45
19 C.F.R. § 92.102(a).

20 115. Defendants’ failure to provide appropriate auxiliary aids and services where
21 necessary to provide Plaintiffs an equal opportunity to benefit from Defendants’ healthcare
22 services violates Section 1557. *See* 45 C.F.R. § 92.102(b).

23 116. Defendants’ failure to give primary consideration to the requests of individuals
24 with disabilities in determining what types of auxiliary aids and services are necessary violates
25 Section 1557. *See* 45 C.F.R. § 92.102(b); 28 C.F.R § 35.160(b)(2).
26

1 117. Defendants' failure to ensure that its VRI services provide real-time, full-motion
2 video and audio over a connection that delivers high-quality video images that do not produce
3 lags, choppy, blurry, or grainy images, or irregular pauses in communication; a sharply
4 delineated image; and adequate training to users of the technology and other involved individuals
5 so that they may quickly and efficiently set up and operate the VRI violates Section 1557. *See* 45
6 C.F.R. § 92.102(b); 28 C.F.R § 35.160(d).

7 118. Defendants' failure to make reasonable modifications to its policies, practices, or
8 procedures when such modifications are necessary to avoid discrimination on the basis of
9 disability and would not fundamentally alter the nature of the health program or activity violates
10 Section 1557. *See* 45 C.F.R. § 92.105.

11 119. Defendants' violations of Section 1557 have harmed and will continue to harm
12 Plaintiffs and members of the proposed class in the future.

13 120. Because Defendants' discriminatory conduct is ongoing, declaratory and
14 injunctive relief are appropriate remedies.

15 121. Plaintiffs are entitled to declaratory and injunctive relief, as well as reasonable
16 attorneys' fees and costs in bringing this action.

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

18 **FOURTH CAUSE OF ACTION**

19 **Declaratory Relief**

20 122. Plaintiffs incorporate by reference the foregoing allegations as if set forth fully
21 herein.

22 123. An actual controversy has arisen and now exists between the parties in that
23 Plaintiffs contend, are informed, and believe that Defendants deny that they are violating Title III
24 of the ADA, Section 504 of the Rehabilitation Act, and Section 1557 of the Affordable Care Act.

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

1 WHEREFORE, Plaintiffs request relief as set forth below.

2 **PRAYER FOR RELIEF**

3 WHEREFORE, Plaintiffs request judgment as follows:

4 A. A declaration that Defendants' conduct as alleged herein has violated and
5 continues to violate Title III, Section 504, Section 1557, and the regulations promulgated under
6 those statutes;

7 B. Issuance of a permanent injunction requiring Defendants to undertake remedial
8 measures to mitigate the effects of Defendants' past and ongoing violations of Title III, Section
9 504, Section 1557, and the regulations promulgated under those statutes. At a minimum,
10 Plaintiffs request that Defendants be enjoined to take the following actions:

- 11 1. Provide qualified interpreters where necessary for effective
12 communication with d/Deaf individuals.
- 13 2. Modify policies, practices, and procedures to ensure that d/Deaf
14 individuals are not discriminated against, including:
 - 15 i. Making arrangements with interpreting agencies to ensure that
16 qualified sign language interpreters are made available promptly when
17 needed; and
 - 18 ii. Making necessary provisions to ensure that VRI services meet the
19 necessary technical requirements in order to provide effective
20 communication in situations where VRI is appropriate.
- 21 3. Train staff and doctors on appropriate interactions with d/Deaf individuals
22 and how to determine what auxiliary aid or service is needed.
- 23 4. Give primary consideration to the auxiliary aid or service requested by
24 d/Deaf individuals.

25 C. Reasonable attorneys' fees and costs, including litigation expenses, as provided
26 by law; and

1 D. Such other relief as the Court finds just and proper.
2

3 DATED: July 26, 2022

Respectfully submitted,

4 By: s/ Meredith J. Weaver

5 Meredith J. Weaver, WA Bar No. 58337

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