

**SC-100****Plaintiff's Claim and ORDER to Go to Small Claims Court****Notice to the person being sued:**

- You are the defendant if your name is listed in ② on page 2 of this form or on form SC-100A. The person suing you is the plaintiff, listed in ① on page 2.
- You and the plaintiff must go to court on the trial date listed below. If you do not go to court, you may lose the case. If you lose, the court can order that your wages, money, or property be taken to pay this claim.
- Bring witnesses, receipts, and any evidence you need to prove your case.
- Read this form and all pages attached to understand the claim against you and to protect your rights.

**Aviso al Demandado:**

- Usted es el Demandado si su nombre figura en ② de la página 2 de este formulario, o en el formulario SC-100A. La persona que lo demanda es el Demandante, la que figura en ① de la página 2.
- Usted y el Demandante tienen que presentarse en la corte en la fecha del juicio indicada a continuación. Si no se presenta, puede perder el caso. Si pierde el caso, la corte podría ordenar que le quiten de su sueldo, dinero u otros bienes para pagar este reclamo.
- Lleve testigos, recibos y cualquier otra prueba que necesite para probar su caso.
- Lea este formulario y todas las páginas adjuntas para entender la demanda en su contra y para proteger sus derechos.

Clerk stamps date here when form is filed.

**FILED/ENDORSED**  
Clerk of the Superior Court

SEP 30 2024

By **D. CIMMINO**  
DEPUTY CLERK

Fill in court name and street address:

Superior Court of California, County of

Old Solano Courthouse  
580 Texas Street  
Fairfield, CA 94533

Court fills in case number when form is filed.

Case Number: SC24-00521

Case Name: Baker, M. vs.  
City of Vacaville**Order to Go to Court****The people in ① and ② must attend court:** (Clerk fills out section below.)

Trial Date	Date	Time	Department	Name and address of court, if different from above
1.	Nov. 14 2024	1:00pm	Rm 303	HALL OF JUSTICE 600 UNION AVE. FAIRFIELD, CA 94533
2.				
3.				
Date: SEP 30 2024		Clerk, by <b>D. CIMMINO</b> , Deputy		

**Instructions for the person suing:**

**Do not use this form to recover COVID-19 rental debt**, which is unpaid rent or other financial obligations under a tenancy due between March 1, 2020, and September 30, 2021. (See Code of Civil Procedure, §1179.02.) To recover COVID-19 rental debt, use form SC-500, Plaintiff's Claim and ORDER to Go to Small Claims Court.

- You are the plaintiff. The person you are suing is the defendant.
- Before** you fill out this form, read form SC-100-INFO, Information for the Plaintiff, to know your rights. You can get form SC-100-INFO at any courthouse or county law library, or go to [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms).
- Fill out pages 2, 3, and 4 of this form.** Make copies of all the pages of this form and any attachments—one for each party named in this case and an extra copy for yourself. Take or mail the original and the copies to the court clerk's office and pay the filing fee. The clerk will write the date of your trial in the box above. Your court may allow electronic filing. Check your local court website for information: [www.courts.ca.gov/find-my-court.htm](http://www.courts.ca.gov/find-my-court.htm).
- You must have someone at least 18—not you or anyone else listed in this case—give each defendant a court-stamped copy of all pages of this form and any pages this form tells you to attach. There are special rules for "serving," or delivering, this form to public entities, associations, and some businesses. See forms SC-104, SC-104B, and SC-104C.
- Go to court on your trial date listed above.** Bring witnesses, receipts, and any evidence you need to prove your case.



Plaintiff (list names):

Case Number: \_\_\_\_\_

1 The plaintiff (the person, business, or public entity that is suing) is:

Name: Mark Baker Phone: 408-455-9233
Street address: 17809 County Road 85C Esparto CA 95627
Mailing address (if different): 9450 SW Gemini Drive PMB 44671 Beaverton OR 97008
Email address (if available): mbaker@softlights.org

If more than one plaintiff, list next plaintiff here:

Name: \_\_\_\_\_ Phone: \_\_\_\_\_
Street address: \_\_\_\_\_
Mailing address (if different): \_\_\_\_\_
Email address (if available): \_\_\_\_\_

- Check here if more than two plaintiffs and attach form SC-100A.
Check here if either plaintiff listed above is doing business under a fictitious name and attach form SC-103.
Check here if any plaintiff is a "licensee" or "deferred deposit originator" (payday lender) under Financial Code sections 23000 et seq.

2 The defendant (the person, business, or public entity being sued) is:

Name: City of Vacaville Phone: 707-449-5100
Street address: 650 Merchant Street Vacaville CA 95688
Mailing address (if different): \_\_\_\_\_

If the defendant is a corporation, limited liability company, or public entity, list the person or agent authorized for service of process here:

Name: Michelle Thornbrugh Job title, if known: City Clerk
Address: 650 Merchant Street Vacaville CA 95688
Check here if your case is against more than one defendant and attach form SC-100A.
Check here if any defendant is on active military duty and write defendant's name here: \_\_\_\_\_

3 The plaintiff claims the defendant owes \$ 2,500 . (Explain below and on next page.)

(Note: A claim for COVID-19 rental debt cannot be made on this form. Use form SC-500, Plaintiff's Claim and ORDER to Go to Small Claims Court (COVID-19 Rental Debt).)

- a. Why does the defendant owe the plaintiff money?
Compensatory and punitive damages for discrimination, in violation of the Americans with Disabilities Act.



Plaintiff (list names):

Case Number: \_\_\_\_\_

- 3 b. When did this happen? (Date): 6-2-2024  
 If no specific date, give the time period: Date started: \_\_\_\_\_ Through: \_\_\_\_\_
- c. How did you calculate the money owed to you? (Do not include court costs or fees for service.)  
\$2,500 is the limit for unrestricted Small Claims actions.
- \_\_\_\_\_
- \_\_\_\_\_

Check here if you need more space. Attach one sheet of paper or form MC-031 and write "SC-100, Item 3" at the top.

- 4 You must ask the defendant (in person, in writing, or by phone) to pay you before you sue. If your claim is for possession of property, you must ask the defendant to give you the property. Have you done this?
- Yes     No    If no, explain why not:
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

- 5 Why are you filing your claim at this courthouse?  
 This courthouse covers the area (check the one that applies):
- a.  (1) Where the defendant lives or does business.      (4) Where a contract (written or spoken) was made, signed, performed, or broken by the defendant or where the defendant lived or did business when the defendant made the contract.
- (2) Where the plaintiff's property was damaged.
- (3) Where the plaintiff was injured.
- b.  Where the buyer or lessee signed the contract, lives now, or lived when the contract was made, if this claim, is about an offer or contract for personal, family, or household goods, services, or loans. (Code Civ. Proc., § 395(b).)
- c.  Where the buyer signed the contract, lives now, or lived when the contract was made, if this claim is about a retail installment contract (like a credit card). (Civ. Code, § 1812.10.)
- d.  Where the buyer signed the contract, lives now, or lived when the contract was made, or where the vehicle is permanently garaged, if this claim is about a vehicle finance sale. (Civ. Code, § 2984.4.)
- e.  Other (specify): \_\_\_\_\_

6 List the zip code of the place checked in 5 above (if you know): 95688

7 Is your claim about an attorney-client fee dispute?  Yes     No  
 If yes, and if you have had arbitration, fill out form SC-101, attach it to this form, and check here:

8 Are you suing a public entity?  Yes     No  
 If yes, you must file a written claim with the entity first.  A claim was filed on (date): June 5, 2024  
 If the public entity denies your claim or does not answer within the time allowed by law, you can file this form.

Plaintiff (list names):

Case Number:

9 Have you filed more than 12 other small claims within the last 12 months in California?  
 Yes  No *If yes, the filing fee for this case will be higher.*

10 Is your claim for more than \$2,500?  Yes  No  
*If you answer yes, you also confirm that you have not filed, and you understand that you may not file, more than two small claims cases for more than \$2,500 in California during this calendar year.*

11 I understand that by filing a claim in small claims court, I have no right to appeal this claim.

I declare under penalty of perjury under the laws of the State of California that the information above and on any attachments to this form is true and correct.

Date: September 30, 2024

Mark Baker  
*Plaintiff types or prints name here*

  
*Plaintiff signs here*

Date: \_\_\_\_\_

\_\_\_\_\_  
*Second plaintiff types or prints name here*

\_\_\_\_\_  
*Second plaintiff signs here*



**Requests for Accommodations**

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the trial. For these and other accommodations, contact the clerk's office for form MC-410, Disability Accommodation Request. (Civ. Code, § 54.8.)



**"Small claims court"** is a special court where claims for \$12,500 or less are decided. Individuals, including "natural persons" and sole proprietors, may claim up to \$12,500. Corporations, partnerships, public entities, and other businesses are limited to claims of \$6,250. (See below for exceptions.\*) The process is quick and cheap. The rules are simple and informal. You are the *defendant*—the person being sued. The person who is suing you is the *plaintiff*.

**Do I need a lawyer?** You may talk to a lawyer before or after the case. But you *may not* have a lawyer represent you in court (unless this is an appeal from a small claims case).

**How do I get ready for court?** You don't have to file any papers before your trial, unless you think this is the wrong court for your case. But bring to your trial any witnesses, receipts, and evidence that support your case. And read "Be Prepared for Your Trial" at [www.courts.ca.gov/smallclaims/prepare](http://www.courts.ca.gov/smallclaims/prepare).

**What if I need an accommodation?** If you have a disability or are hearing impaired, fill out form MC-410, Disability Accommodation Request. Give the form to your court clerk or the ADA/Access Coordinator.

**What if I don't speak English well?** Ask the court clerk as soon as possible for a court-provided interpreter. You may use form INT-300, Request for Interpreter (Civil) or a local court form to request an interpreter. If a court interpreter is unavailable for your trial, it may be necessary to reschedule your trial. You cannot bring your own interpreter for the trial unless the interpreter has been approved by the court as a certified, registered, or provisionally qualified interpreter. (See Cal. Rules of Court, rule 2.893, and form INT-140.)

**Where can I get the court forms I need?** Go to any courthouse or your county law library, or print forms at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms).

**What happens at the trial?** The judge will listen to both sides. The judge may make a decision at your trial or mail the decision to you later.

**What if I lose the case?** If you lose, you may appeal. You'll have to pay a fee. (Plaintiffs cannot appeal their own claims.)

- If you were at the trial, file form SC-140, Notice of Appeal. You must file within 30 days after the clerk hands or mails you the judge's decision (judgment) on form SC-200 or form SC-130, Notice of Entry of Judgment.
- If you were *not* at the trial, fill out and file form SC-135, Notice of Motion to Vacate Judgment and Declaration, to ask the judge to cancel the judgment (decision). If the judge does not give you a new trial, you have 10 days to appeal the decision. File form SC-140.

For more information on appeals, see [www.courts.ca.gov/smallclaims/appeals](http://www.courts.ca.gov/smallclaims/appeals).

**Do I have options?** Yes. If you are being sued you can:

- **Settle your case before the trial.** If you and the plaintiff agree on how to settle the case before the trial, the plaintiff must file form CIV-110, Request for Dismissal or a written and signed settlement agreement with the clerk. Ask the Small Claims Advisor for help.

\* **Exceptions:** Different limits apply in an action against a defendant who is a guarantor. (See Code Civ. Proc., § 116.220(c).) Limits do not apply in an action to recover COVID-19 rental debt. (See Code Civ. Proc., §§ 116.223 & 1179.02; form SC-500.)

- **Prove this is the wrong court.** Send a letter to the court *before* your trial explaining why you think this is the wrong court. Ask the court to dismiss the claim. You must serve (give) a copy of your letter (by mail or in person) to all parties. (Your letter to the court must say you have done so.)
- **Go to the trial and try to win your case.** Bring witnesses, receipts, and any evidence you need to prove your case. To have the court order a witness to go to the trial, fill out form SC-107, Small Claims Subpoena and Declaration, and have it served on the witness.
- **Sue the person who is suing you.** If you have a claim against the plaintiff, and the claim is appropriate for small claims court as described on this form, you may file *Defendant's Claim* (form SC-120) and bring the claim in this action. If your claim is for *more* than allowed in small claims court, you may still file it in small claims court if you give up the amount over the small claims value amount, or you may file a claim for the full value of the claim in the appropriate court. If your claim is for more than allowed in small claims court *and* relates to the same contract, transaction, matter, or event that is the subject of the plaintiff's claim, you may file your claim in the appropriate court and file a motion to transfer the plaintiff's claim to that court to resolve both matters together. You can see a description of the amounts allowed in the paragraph above, titled "Small Claims Court."
- **Agree with the plaintiff's claim and pay the money.** Or, if you can't pay the money now, go to your trial and say you want to make payments.
- **Let the case "default."** If you don't settle and do not go to the trial (default), the judge may give the plaintiff what he or she is asking for plus court costs. If this happens, the plaintiff can legally take your money, wages, and property to pay the judgment.

### What if I need more time?

You can change the trial date if:

- You cannot go to court on the scheduled date (you will have to pay a fee to postpone the trial), or
- You did not get served (receive this order to go to court) at least 15 days before the trial (or 20 days if you live outside the county).

Ask the Small Claims Clerk about the rules and fees for postponing a trial. Or fill out form SC-150 (or write a letter) and mail it to the court *and* to all other people listed on your court papers before the deadline. Enclose a check for your court fees, unless a fee waiver was granted.



### Need help?

Your county's Small Claims Advisor can help for free.

Or go to [www.courts.ca.gov/smallclaims/advisor](http://www.courts.ca.gov/smallclaims/advisor).



La "Corte de reclamos menores" es una corte especial donde se deciden casos por \$12,500 o menos. Los individuos, o sea las "personas físicas" y los propietarios por cuenta propia, pueden reclamar hasta \$12,500. Las corporaciones, asociaciones, entidades públicas y otras empresas solo pueden reclamar hasta \$6,250. (Vea abajo para las excepciones.)\* El proceso es rápido y económico. Las reglas son sencillas e informales. Usted es el Demandado—la persona que se está demandando. La persona que lo está demandando es el Demandante.

**¿Necesito un abogado?** Puede hablar con un abogado antes o después del caso. Pero no puede tener a un abogado que lo represente ante la corte (a menos que se trate de una apelación de un caso de reclamos menores).

**¿Cómo me preparo para ir a la corte?** No tiene que presentar ningún documento antes del juicio, a menos que piense que ésta es la corte equivocada para su caso. Pero lleve al juicio cualquier testigos, recibos y pruebas que apoyan su caso. Y lea "Esté preparado para su juicio" en [www.courts.ca.gov/reclamosmenores/preparesse](http://www.courts.ca.gov/reclamosmenores/preparesse).

**¿Qué hago si necesito una modificación?** Si tiene una discapacidad o tiene impedimentos de audición, llene el formulario MC-410, *Solicitud de modificaciones para discapacidad*. Entregue el formulario al secretario de la corte o al Coordinador de Acceso/ADA de su corte.

**¿Qué pasa si no hablo bien inglés?** Solicite un intérprete al secretario de la corte lo más pronto posible. Puede usar el formulario INT-300 o un formulario de su corte local. Si no está disponible un intérprete de la corte para su juicio, es posible que se tenga que cambiar la fecha de su juicio. No puede llevar su propio intérprete para el juicio a menos que el intérprete haya sido aprobado por la corte como un intérprete certificado, registrado, o provisionalmente calificado. (Vea la regla 2.893 de las Reglas de la Corte de California, y el formulario INT-140.)

**¿Dónde puedo obtener los formularios de la corte que necesito?** Vaya a cualquier edificio de la corte, la biblioteca legal de su condado, o imprima los formularios en [www.courts.ca.gov/smallclaims/forms](http://www.courts.ca.gov/smallclaims/forms) (página está en inglés).

**¿Qué pasa en el juicio?** El juez escuchará a ambas partes. El juez puede tomar su decisión durante la audiencia o enviársela por correo después.

**¿Qué pasa si pierdo el caso?** Si pierde, puede apelar. Tendrá que pagar una cuota. (El Demandante no puede apelar su propio reclamo.)

- Si estuvo presente en el juicio, llene el formulario SC-140, *Aviso de apelación* (Notice of Appeal). Tiene que presentarlo dentro de 30 días después de que el secretario le entregue o envíe la decisión (fallo) del juez en el formulario SC-200 o SC-130, *Aviso de publicación del fallo* (Notice of Entry of Judgment).
- Si no estuvo en el juicio, llene y presente el formulario SC-135, *Aviso de petición para anular el fallo y Declaración* para pedirle al juez que anule el fallo (decisión). Si la corte no le otorga un nuevo juicio, tiene 10 días para apelar la decisión. Presente el formulario SC-140.

Para obtener más información sobre las apelaciones, vea [www.courts.ca.gov/reclamosmenores/apelaciones](http://www.courts.ca.gov/reclamosmenores/apelaciones).

**¿Tengo otras opciones?** Sí. Si lo están demandando, puede:

- **Resolver su caso antes del juicio.** Si usted y el Demandante se ponen de acuerdo en cómo resolver el caso antes del juicio, el Demandante tiene que presentar el formulario CIV-110 *Solicitud de desestimación* (Request for Dismissal) o un acuerdo de resolución escrito y firmado al secretario de la corte. Pídale al Asesor de Reclamos Menores que lo ayude.

- **Probar que es la corte equivocada.** Envíe una carta a la corte antes del juicio explicando por qué cree que es la corte equivocada. Pídale a la corte que despida el reclamo. Tiene que entregar (dar) una copia de su carta (por correo o en persona) a todas las partes. (Su carta a la corte tiene que decir que hizo la entrega.)
- **Ir al juicio y tratar de ganar el caso.** Lleve testigos, recibos y cualquier prueba que necesite para probar su caso. Si desea que la corte emita una orden de comparecencia para que los testigos vayan al juicio, llene el formulario SC-107, *Citatorio de reclamos menores* (Small Claims Subpoena) y entrégueselo legalmente al testigo.
- **Demandar a la persona que lo demandó.** Si tiene un reclamo contra el Demandante, y el reclamo se puede presentar en la corte de reclamos menores, tal como se describe en este formulario, puede presentar el formulario SC-120, *Reclamo del demandado* (Defendant's Claim) y presentarlo en este mismo caso. Si su reclamo excede el límite permitido en la corte de reclamos menores, puede igualmente presentarlo en la corte de reclamos menores si está dispuesto a limitar su reclamo al máximo permitido, o puede presentar un reclamo por el monto total en la corte apropiada. Si su reclamo excede el límite permitido en la corte de reclamos menores y está relacionado con el mismo contrato, transacción, asunto o acontecimiento que el reclamo del Demandante, puede presentar su reclamo en la corte apropiada y presentar una moción para transferir el reclamo del Demandante a dicha corte, para poder resolver los dos reclamos juntos. Puede ver una descripción de los montos permitidos en el párrafo anterior titulado "Corte de reclamos menores".
- **Aceptar el reclamo del Demandante y pagar el dinero.** O, si no puede pagar en ese momento, vaya al juicio y diga que quiere hacer los pagos a plazos.
- **No ir al juicio y aceptar el fallo por falta de comparecencia.** Si no llega a un acuerdo con el Demandante y no va al juicio (fallo por falta de comparecencia), el juez le puede otorgar al Demandante lo que está reclamando más los costos de la corte. En ese caso, el Demandante legalmente puede tomar su dinero, su sueldo o sus bienes para cobrar el fallo.

**¿Qué hago si necesito más tiempo?** Puede cambiar la fecha del juicio si:

- No puede ir a la corte en la fecha programada (tendrá que pagar una cuota para aplazar el juicio), o
- No le entregaron los documentos legalmente (no recibió la orden para ir a la corte) por lo menos 15 días antes del juicio (ó 20 días si vive fuera del condado).

Pregúntele al secretario de reclamos menores sobre las reglas y las cuotas para aplazar un juicio. O llene el formulario SC-150 (o escriba una carta) y envíelo antes del plazo a la corte y a todas las otras personas que figuran en sus papeles de la corte. Adjunte un cheque para pagar los costos de la corte, a menos que le hayan dado una exención.



**¿Necesita ayuda?** El Asesor de Reclamos Menores de su condado le puede ayudar sin cargo.

O visite [www.courts.ca.gov/reclamosmenores/asesores](http://www.courts.ca.gov/reclamosmenores/asesores).

\* **Excepciones:** Existen diferentes límites en un reclamo contra un garante. (Vea el Código de Procedimiento Civil, sección 116.220 (c).) Los límites no se aplican a las acciones para reclamar una deuda de alquiler del COVID-19. (Vea el Código de Procedimiento Civil, secciones 116.223 y 1179.02; y el formulario SC-500.)

1 Mark Baker  
9450 SW Gemini Drive PMB 44671  
2 Beaverton, OR 97008  
mbaker@softlights.org  
3 Pro Se

4 SMALL CLAIMS COURT OF THE STATE OF CALIFORNIA

5 SOLANO COUNTY

7 MARK BAKER,

8 Plaintiff,

9 vs.

10 CITY OF VACAVILLE

11 Defendant

Case No.: \_\_\_\_\_

COMPLAINT PURSUANT TO:

THE AMERICANS WITH DISABILITIES  
ACT 42 U.S.C. §§ 12131 – 12134

\$2,500

12 **I. INTRODUCTION**

13 1. Plaintiff Mark Baker (“Plaintiff”), an individual diagnosed with the qualified  
14 disability of autism spectrum disorder, alleges that the city of Vacaville (“Defendant”),  
15 operates a Rectangular Rapid Flashing Beacon (“RRFB”) on East Monte Vista Ave. that  
16 uses Light Emitting Diode (“LED”) flashing lights and that these flashing LED lights  
17 create an unlawful discriminatory barrier for Plaintiff.

18 2. Specifically, Plaintiff encountered the RRFB LED flashing lights on June 2, 2024,  
19 and again on August 15, 2024, and was denied full and equal access to East Monte Vista  
20 Ave. during both encounters, in violation of the Americans with Disabilities Act  
21 prohibitions on discrimination and interference with path-of-travel for individuals with  
22 disabilities.  
23

1 **II. STANDING**

2 3. To show standing, Plaintiff must meet the following criteria:

3 4. A) Plaintiff must have a qualified disability under the Americans with Disabilities  
4 Act (“ADA”). *Weinreich v. Los Angeles Cty. Metro. Transp. Auth.*, 114 F.3d 976, 978 (9th  
5 Cir. 1997).<sup>1</sup> Plaintiff has been diagnosed with Autism Spectrum Disorder (“autism”) which  
6 is a qualified ADA disability.

7 5. B) An architectural barrier must be related to the plaintiff’s disability for plaintiff.  
8 *Greer v. Richardson Independent School Dist.* (2010).<sup>2</sup> The LED RRFB device is the  
9 architectural barrier that is related to Plaintiff’s disability of autism, which manifests as a  
10 neurological intolerance to intense digitally pulsing LED lights.

11 6. C) Plaintiff must have suffered a concrete and particularized injury-in-fact, which is  
12 actual or imminent, not conjectural or hypothetical. *Hernandez v. Welcome Sacramento,*  
13 *LLC* (2021).<sup>3</sup> Plaintiff suffered the concrete injury-in-fact on June 2, 2024 and again on  
14 August 15, 2024.

15 7. D) It must be likely that the injury (i.e. discrimination) will be addressed by a  
16 favorable decision. *Hernandez v. Welcome Sacramento, LLC* (2021). In a Small Claims  
17 case, Plaintiff cannot sue for injunctive relief, such as to request removal of the RRFB, but  
18 Plaintiff can be awarded both compensatory and punitive damages which should dissuade  
19 Defendant from continuing its discriminatory practice, which would address Plaintiff’s  
20 injuries.

21 \_\_\_\_\_  
22  
23 <sup>1</sup> <https://casetext.com/case/weinreich-v-los-angeles-county-mta>

<sup>2</sup> <https://casetext.com/case/greer-v-richardson-independent-school-district>

<sup>3</sup> <https://casetext.com/case/hernandez-v-welcome-sacramento-llc>

1 8. As shown in this section, Plaintiff meets the criteria for standing.  
2  
3

### 4 **III. REQUIREMENTS TO SHOW DISCRIMINATION**

5 9. Under Title II of the ADA, the U.S. Court of Appeals, Ninth Circuit, which covers  
6 California, has explained that a plaintiff must can prove that a public program or service  
7 violates Title II of the ADA by showing: (1) plaintiff is a “qualified individual with a  
8 disability”; (2) plaintiff was either excluded from participation in or denied the benefits of a  
9 public entity’s services, programs or activities, or was otherwise discriminated against by  
10 the public entity; and (3) such exclusion, denial of benefits, or discrimination was by  
11 reason of his disability. *Weinreich v. Los Angeles Cty. Metro. Transp. Auth.*, 114 F.3d 976,  
12 978 (9th Cir. 1997).<sup>4</sup>

#### 13 A. QUALIFIED DISABILITY

14 10. Plaintiff has been diagnosed with autism (EXHIBIT A) and autism is a qualified  
15 disability under the ADA.

16 11. The ADA prohibits discrimination based on the severity of the disability. *Messier v.*  
17 *Southbury Training School*, 916 F. Supp. 133 (D. Conn. 1996). Thus, even though Plaintiff  
18 has been diagnosed with mild autism, Defendant is still prohibited from discrimination  
19 against individuals with mild autism.

20  
21  
22  
23 <sup>4</sup> <https://www.cacities.org/Resources-Documents/Member-Engagement/Professional-Departments/City-Attorneys/Library/2017/2017-Annual-Conference-CA-Track/9-2017-Annual-S-Patterson-ADA-Act-Proceed-with-Cau>

1 B. EXCLUSION AND DENIAL

2 12. Plaintiff's encounters with the RRFB LED flashing lights have resulted in a denial of  
3 the benefits of the full and equal use of Vacaville streets and sidewalks. The LED flashing  
4 lights cause Plaintiff to involuntarily close his eyes and/or turn his head which is a denial of  
5 the full and equal use of the streets and sidewalks. The LED flashing lights also cause  
6 Plaintiff to suffer psychological trauma such as fear, agitation, anger, mental anguish, and  
7 suicidal thoughts when exposed to the RRFB LED flashing lights which denies Plaintiff the  
8 benefit of using the streets and sidewalks without risk of suffering psychological trauma.

9 13. Full use of the city's streets and sidewalks means an unencumbered ability to use the  
10 streets and sidewalks. For example, a wheelchair user is denied full access due to a lack of  
11 curb ramps. The wheelchair user may thus be forced to travel on the street until finding a  
12 curb ramp. This is a denial of full access. Similarly, Plaintiff being forced to close his eyes  
13 to avoid being struck and traumatized by the LED flashing lights is a denial of full use.

14 14. Equal use of the city's streets and sidewalks means that the city must ensure that  
15 individuals with disabilities can access the city's streets and sidewalks with the same level  
16 of ease as individuals without disabilities. For example, while a wheelchair user may be  
17 able to figure out a way to lift themselves up from the street and onto the sidewalk when  
18 there is no curb ramp, the amount of effort required does not equal the effort level of non-  
19 disabled individuals. Similarly, Plaintiff being forced to close his eyes or to suffer  
20 psychological trauma when exposed to the digitally flashing RRFB LED lights is unequal  
21 treatment by the city.

22 15. The use of the RRFB device creates a barrier for Plaintiff and thus Plaintiff is  
23 discriminated against by the city and denied the full and equal benefits of city services.

1  
2 C. DISCRIMINATION CAUSED BY REASON OF DISABILITY

3 16. The denial of benefits and discrimination is by reason of Plaintiff's disability of  
4 autism. Plaintiff does not react adversely to all lights, only certain LED lights. For  
5 example, Plaintiff does not have difficulty with slow flashing tungsten filament lights that  
6 glow gently. The LED RRFB however has an extreme intensity that Plaintiff is unable to  
7 neurologically tolerate. The digital pulsing is truly unbearable for Plaintiff, causing fight or  
8 flight reactions. The use of multiple, asynchronous emitters on the RRFB creates a wall of  
9 debilitating light that has caused Plaintiff to turn to thoughts of suicide on many occasions.

10 17. Plaintiff lived a traditional life prior to the switch to powerfully intense LED lights.  
11 Plaintiff attended the university and graduated with a degree in Electrical Engineering.  
12 Plaintiff had previously traveled to many locations in the world. Plaintiff has been an  
13 engineer and middle school math teacher.

14 18. However, around 2016, LED lights began appearing on vehicle headlights,  
15 streetlights, on emergency vehicles, and at Plaintiff's place of employment at the middle  
16 school. Over the next three years, Plaintiff endured repeated exposure to LED lights and  
17 began to suffer increased psychological trauma. Each new exposure to LED lights reduced  
18 Plaintiff's tolerance level to additional exposures to LED lights. On April 3, 2019, Plaintiff  
19 suffered a catastrophic mental breakdown and was taken against his will by the police to a  
20 psychiatric hospital. (EXHIBIT B).

21 19. The LED light and the inability of Plaintiff to tolerate this type of light due to  
22 plaintiff's autism is the reason that the use of LED lights is discriminatory for Plaintiff.

23 Prior to the switch to LED lighting, Plaintiff had no adverse reactions to lighting, including

1 non-LED strobe lights such as used in dance and bar facilities in previous decades. It is the  
2 LED light and its unique characteristics, and Plaintiff's reactions to this light due to his  
3 autism, that changed everything. The reason that the LED RRFB denies Plaintiff the full  
4 and equal benefits of the city's streets and sidewalks is due to Plaintiff's autism.

5 20. Plaintiff has encountered LED flashing lights on numerous occasions and has reacted  
6 similarly each time. The adverse reactions are exacerbated by multiple emitters, digital  
7 pulsing, asynchronous patterns, and contrast with the ambient light. Plaintiff's reactions  
8 have included screaming, self-harm, profanity, running away, nausea, and extreme fear,  
9 panic, and anxiety. Some of these incidents are documented in EXHIBIT C.

10 21. Thus, Plaintiff's exclusion, denial of benefits, and discrimination is by reason of his  
11 disability of autism.

#### 12 13 D. VIOLATION OF TITLE II OF THE ADA

14 22. As shown in this section, the city's use of the LED RRFB flashing lights is a violation  
15 of Title II of the ADA because: 1) Plaintiff has a qualified disability of autism; 2) The use  
16 of the RRFB LED flashing lights is denies Plaintiff full and equal benefits; and 3) Plaintiff  
17 was denied these benefits by reason of his disability of autism.

### 18 19 **IV. LED TECHNOLOGY**

20 23. A Light Emitting Diode is a device that emits Visible Light radiation from a flat  
21 surface instead of from the curved surface of traditional light sources. The US Department  
22 of Energy states that LEDs are a "radically new technology" that emit a "directional" light  
23

1 with “unique characteristics.”<sup>5</sup> It is the directional, focused, and digital nature of LEDs and  
2 other unique characteristics that make many LED devices unsafe for individuals with  
3 disabilities, and which creates discriminatory barriers for individuals diagnosed with  
4 autism, including Plaintiff.

5 24. No government agency at the federal, state, or local level has vetted LED lights and  
6 their impacts on individuals with neurological disabilities, including individuals with  
7 autism, epilepsy, PTSD, or migraines. There are numerous reports of harm of individuals  
8 with disabilities caused by LED products that have been submitted to the US Food and  
9 Drug Administration. Despite these reports of harm, the FDA has not published any  
10 performance standards to ensure the protection of individuals who are neurologically  
11 intolerant of LED light.

12 25. The California Department of Transportation (“CalTrans”) and the Federal Highway  
13 Administration (“FHWA”) have both approved the use of RRFB devices, but they have  
14 done so by ignoring the impacts of LED flashing lights on individuals with disabilities and  
15 these agencies have not consulted with the FDA on this matter. No guidance, standard, or  
16 authorization by CalTrans or the FHWA of the RRFB system overrides the requirements of  
17 the federal Americans with Disabilities Act. Thus, while the city of Vacaville may claim  
18 that they are authorized to install and operate RRFBs by CalTrans and the FHWA, that  
19 claim is irrelevant here because of the requirements that ADA alterations must ensure that  
20 the altered area is readily accessible and usable by individuals with disabilities. Because no  
21 government agency at any level of government tested RRFBs for their impacts on

---

22  
23 <sup>5</sup> [https://www1.eere.energy.gov/buildings/publications/pdfs/ssl/ssl\\_lessons-learned\\_2014.pdf](https://www1.eere.energy.gov/buildings/publications/pdfs/ssl/ssl_lessons-learned_2014.pdf)

1 individuals with disabilities, the city of Vacaville’s reliance on CalTrans and FHWA  
2 approval to use the RRFB device is negated by the requirements of the Americans with  
3 Disabilities Act.

4 26. The RRFB is an optional device for pedestrian crossings. It is not required by either  
5 CalTrans or the FHWA. There are many design solutions that Vacaville could use that  
6 don’t involve the pulsing of high-intensity LED light into people’s eyes. For example,  
7 Sacramento, Bridgeport, Salt Lake City, and other cities are using orange flags. The use of  
8 bulb outs and pedestrian islands are also solutions. The use of raised crosswalks is yet  
9 another solution. The use of slow flashing non-LED lights could also be a solution that  
10 isn’t discriminatory. Plaintiff is not aware of any evidence that shows that RRFBs are a  
11 safer solution than any of these alternatives.

## 12 **V. AMERICANS WITH DISABILITIES ACT**

13  
14 27. Plaintiff’s claim that the use of LED flashing lights is discriminatory has little case  
15 law for this Court to refer to in regards to whether LED flashing lights can be  
16 discriminatory and as to whether autism can be the reason by which LED flashing lights  
17 cause discrimination. However, there is substantial case law that the ADA should be  
18 interpreted broadly because it is Congress’ mandate that discrimination should be  
19 eliminated.

20  
21 28. 42 U.S.C. § 12132 states, “Subject to the provisions of this subchapter, no qualified  
22 individual with a disability shall, by reason of such disability, be excluded from  
23

1 participation in or be denied the benefits of the services, programs, or activities of a public  
2 entity, or be subjected to discrimination by any such entity.”<sup>6</sup>

3 29. As stated by the Court in *Hason v. Medical Bd. Of California* (2001), “Courts must  
4 construe the language of the ADA broadly in order to effectively implement the ADA's  
5 fundamental purpose of "provid[ing] a clear and comprehensive national mandate for the  
6 elimination of discrimination against individuals with disabilities.”<sup>7</sup> “In sum, the ADA  
7 represents Congress' considered efforts to remedy and prevent what it perceived as serious,  
8 widespread discrimination against the disabled.” *Coolbaugh v. State of Louisiana* (1998).

## 9 **VI. ARCHITECTURAL BARRIERS**

10 30. In *Coolbaugh v. State of Louisiana* (1998), the Court wrote, “Perhaps the most  
11 obvious example of such discrimination is when structural barriers prevent people with  
12 disabilities from accessing otherwise available public services. To remedy this form of  
13 discrimination, the DOJ has adopted structural accessibility standards that apply to newly  
14 constructed or altered facilities subject to Titles II and III.”<sup>8</sup> In this claim, the RRFB LED  
15 flashing light device is an alteration which created a structural barrier that prevents Plaintiff  
16 from fully and equally accessing an otherwise available city street and sidewalk.

17 31. 28 C.F.R. § 35.151(b)(1) states:

18 *Each facility or part of a facility altered by, on behalf of, or for the use of a public*  
19 *entity in a manner that affects or could affect the usability of the facility or part of the*  
20 *facility shall, to the maximum extent feasible, be altered in such manner that the*

21 \_\_\_\_\_  
22  
23 <sup>6</sup> <https://www.law.cornell.edu/uscode/text/42/12132>

<sup>7</sup> <https://casetext.com/case/hason-v-medical-bd-of-california-2>

<sup>8</sup> <https://law.justia.com/cases/federal/appellate-courts/F3/136/430/553620/>

1 *altered portion of the facility is readily accessible to and usable by individuals with*  
2 *disabilities, if the alteration was commenced after January 26, 1992. wheelchairs.*<sup>9</sup>

3 32. 28 C.F.R. § 35.151(b)(1) establishes that any alteration that the city makes must  
4 ensure that the alteration eliminates any existing discriminatory barriers, and that the  
5 alteration may not create new discriminatory barriers where none existed previously. This  
6 regulation applies for any alteration made after 1992.

7 33. A facility includes streets and sidewalks and any feature of that street or sidewalk.  
8 *Barden v. City of Sacramento* (2002).<sup>10</sup> Thus, the LED RRFB device is considered a  
9 facility or part of a facility under 28 C.F.R. § 35.151(b)(1).

10 34. The term ‘alteration’ is not explicitly defined in 28 C.F.R. Part 35. However, case  
11 law makes clear that an alteration is a subsequent change to an existing facility. In Third  
12 Circuit appeal of Kinney, et al., v. Pennsylvania Department of Transportation (1993), the  
13 Court wrote:

14 Thus, while Congress chose not to mandate full accessibility to existing facilities, it  
15 required that subsequent changes to a facility be undertaken in a non-discriminatory  
16 manner. The use of such changes must be made available to all. The emphasis on  
17 equal treatment is furthered, as well, by an expansive, remedial construction of the  
18 term "usability." "Usability should be broadly defined to include renovations which  
19 affect the use of a facility, and not simply changes which relate directly to access."<sup>11</sup>

21 \_\_\_\_\_  
22  
23 <sup>9</sup> <https://www.law.cornell.edu/cfr/text/28/35.151>

<sup>10</sup> <https://caselaw.findlaw.com/court/us-9th-circuit/1375815.html>

<sup>11</sup> <https://law.justia.com/cases/federal/appellate-courts/F3/9/1067/541669/>

1 35. Thus, the Third Circuit Court of Appeals ruling shows that the installation of the  
2 RRFB LED flashing light device is an alteration and that that this alteration must be  
3 undertaken in a non-discriminatory manner which ensures equal treatment for individuals  
4 with disabilities. The city of Vacaville violated 28 C.F.R. § 35.151(b)(1) because the  
5 installation of the RRFB LED flashing light device was not undertaken in a non-  
6 discriminatory manner and did not provide equal treatment for individuals with disabilities,  
7 including Plaintiff.

8 36. The Third Circuit appeal of Kinney, et al., v. Pennsylvania Department of  
9 Transportation also makes that clear that the city cannot make an undue burden claim in the  
10 case of an alteration.<sup>12</sup> The entire premise behind 28 C.F.R. § 35.151(b)(1) is that an  
11 alteration must ensure that the altered area is at least as usable for individuals with  
12 disabilities as before the alteration, and that a city must additionally fund upgrades such as  
13 curb ramps for wheelchair access during the alteration. There is no provision in 28 C.F.R.  
14 § 35.151(b)(1) or any other regulation or statute which allows a city to downgrade  
15 accessibility or provide unequal treatment for individuals with disabilities as part of an  
16 alteration, regardless of any perceived burden by the city or perceived safety benefits for  
17 non-disabled individuals.

18 37. 28 C.F.R. § 35.151(b)(4) states:

19 *Path of travel. An alteration that affects or could affect the usability of or access to*  
20 *an area of a facility that contains a primary function shall be made so as to ensure*  
21 *that, to the maximum extent feasible, the path of travel to the altered area and the*  
22 *restrooms, telephones, and drinking fountains serving the altered area are readily*

23 <sup>12</sup> <https://law.justia.com/cases/federal/appellate-courts/F3/9/1067/541669/>

1 *accessible to and usable by individuals with disabilities, including individuals who*  
2 *use wheelchairs, unless the cost and scope of such alterations is disproportionate to*  
3 *the cost of the overall alteration.*

4 38. Thus, when the city made the alteration of installing the RRFB system, it was  
5 required by 28 C.F.R. § 35.151(b)(4) to ensure that the area impacted by the alteration is  
6 readily accessible and usable by individuals with disabilities. The installation of the RRFB  
7 had the opposite effect. Whereas, as an ambulatory person, Plaintiff had no difficulty  
8 navigating the streets and sidewalks of Vacaville before the switch to LED lights, the  
9 alteration of the installing the RRFB has now rendered the streets and sidewalks  
10 inaccessible and not usable when the LED lights are flashing, interfering severely with  
11 Plaintiff's right to travel freely without encountering discriminatory barriers. The  
12 installation of the LED RRFB violates the path of travel requirements of 28 C.F.R. §  
13 35.151(b)(4).

14 39. *Kinney v. Yerusalim* (1993) addresses the issue of alterations and accessibility for a  
15 wheelchair user.<sup>13</sup> In that case, the city of Philadelphia failed to install curb ramps when  
16 performing the alteration of resurfacing the streets. Because the city failed to install curb  
17 ramps for wheelchair access, the Court wrote, "Without the ability to cross streets, the  
18 opportunities afforded by the ADA are of little benefit."

19 40. 28 C.F.R. § 35.151(i)(1) and 28 C.F.R. § 35.151(i)(2) require that curb ramps be  
20 installed on streets and sidewalks whenever an alteration is made to the street or sidewalk  
21 to eliminate barriers for wheelchair access. It would defy all logic to believe that Congress

---

22  
23  
<sup>13</sup> <https://law.justia.com/cases/federal/district-courts/FSupp/812/547/1761223/>

1 or the DOJ would then consider it reasonable or lawful to allow a city to install an RRFB  
2 LED flashing light device that creates the same type of discriminatory barrier for  
3 individuals with neurological disabilities such as autism, epilepsy, PTSD, and migraines, as  
4 the lack of curb ramp creates a discriminatory barrier for individuals who use wheelchairs.  
5 Congress and the DOJ did not know about RRFBs when passing the ADA and writing the  
6 codes, but based on the totality of the historical record, statutes, and regulations, the  
7 installation of a device such as an RRFB that causes harm, denies access, or interferes with  
8 path of travel would be recognized by Congress and the DOJ as being unlawful.

9 41. The RRFB LED flashing lights operated by the city of Vacaville create the same type  
10 of barrier for Plaintiff as a lack of curb ramp creates for a wheelchair user. The RRFB  
11 LED flashing lights prevent Plaintiff from safely driving or walking. There is no safe  
12 mechanism for Plaintiff to cross a street, walk on the sidewalk, or drive a car on the road  
13 when being struck by the LED flashing lights. Plaintiff is unable to simply “see through”  
14 the LED flashing lights. The LED flashing lights impair Plaintiff’s vision and cognitive  
15 functioning due to Plaintiff’s autism. Plaintiff is compelled to close his eyes and stop  
16 movement, waiting for the LED flashing lights to stop, all the while suffering  
17 psychological trauma such as fear and panic.

18 42. The city’s alteration of adding the RRFB has rendered the area around the RRFB  
19 inaccessible and not usable by Plaintiff, in violation of ADA requirements requiring that  
20 alterations ensure that the altered area is readily accessible and usable by individuals with  
21 disabilities.

22 43. It must be emphasized here that the entire switch to LED flashing lights was done  
23 without concern for individuals with disabilities. LED flashing lights are not the same as

1 traditional flashing lights. LEDs are close cousins with lasers, but with unique  
2 characteristics that have debilitating impacts on Plaintiff and other individuals with  
3 disabilities. These LEDs are not just regular lights, and the government has failed at all  
4 levels to comply with its own mandates regarding accessibility and safety requirements for  
5 individuals with disabilities. Just because LED lights are now everywhere does not give  
6 the city of Vacaville the legal justification for using the RRFB LED flashing light system  
7 since their use violates the Americans with Disabilities Act.

## 8 9 **VII. COMPENSATORY AND PUNITIVE DAMAGES**

10 44. Plaintiff suffered the injury (i.e. discrimination) on June 2, 2024. On June 2, 2024,  
11 Plaintiff submitted a Notification of RRFB Alteration Creating a Discriminatory Barrier  
12 letter to the city, requesting that the RRFB device be turned off to protect Plaintiff from  
13 psychological trauma and to make the area around the area readily accessible and usable by  
14 Plaintiff. (EXHIBIT E). The city did not respond to this request.

15 45. On June 5, 2024, Plaintiff filed an injury claim with the city. (EXHIBIT D). The city  
16 notified Plaintiff on June 12, 2024, that Plaintiff's claim was submitted to the George Hills  
17 claims administrator. The George Hills administrator wrote to Plaintiff on July 22, 2024,  
18 "If the City does not respond in writing after 45 days, the claim is "deemed" rejected by  
19 operation of law." The city did not provide any response at all, and thus Plaintiff's claimed  
20 was denied.

21 46. After the initial RRFB incident on June 2, 2024, Plaintiff submitted additional  
22 documents to the city, notifying the city that LED flashing lights create dangerous and  
23 discriminatory conditions and that these issues should be addressed. (EXHIBIT E).

1 Despite these notices, the city took no action and continued operating the RRFB device.  
2 On Augst 15, 2024, Plaintiff again encountered the LED flashing lights from the same  
3 RRFB as the first incident on June 2. Plaintiff submitted a second injury claim form. The  
4 city provided no response to the second claim form, and thus Plaintiff’s injury claim was  
5 again denied.

6 47. Plaintiff cannot sue for injunctive relief in Small Claims Court. However, a monetary  
7 damage can be awarded for violation of the Americans with Disabilities Act. For a  
8 compensatory damage award, Plaintiff must show intentional discrimination via the  
9 Deliberate Indifference standard. For a punitive damage award, Plaintiff must show that  
10 the city acted with malice.

11 A. Deliberate Indifference

12 48. The standard for intentional discrimination in an ADA claim is called Deliberate  
13 Indifference. For the Deliberate Indifference standard, which has been adopted by the  
14 Ninth Circuit which covers California, Plaintiff must show that ‘the defendant  
15 *knew* that harm to a federally protected right was substantially likely and [that the  
16 defendant] *failed* to act on that likelihood’. *S.H. v Lower Merion School Dist.*  
17 (2013).<sup>14</sup>

18 49. In this claim, Defendant had this knowledge that harm was likely because  
19 Plaintiff submitted a Notification of RRFB Alteration Creating a Discriminatory  
20 Barrier letter on June 2, 2024, a Notice of Dangerous Condition – LED Flashing  
21 Lights letter on June 18, 2024, a Notice of Private Enforcement Action – LED

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22  
23  
<sup>14</sup> <https://casetext.com/case/sh-v-lower-merion-sch-dist>

1 Flashing Lights on August 17, 2024, an Injury Claim Form on June 5, 2024, and an  
2 Injury Claim Form on August 15, 2024. Despite all these notices from Plaintiff,  
3 Defendant failed to act or even provide a response.

4 50. Thus, Defendant has acted with Deliberate Indifference. The Defendant *knew* that  
5 the RRFB LED flashing lights were harming Plaintiff and interfering with Plaintiff's  
6 path of travel. The Defendant *knew* that Plaintiff is an individual with autism and  
7 protected by the ADA. The Defendant *knew* that the LED flashing lights cause  
8 Plaintiff to suffer psychological trauma. Yet, Defendant failed to act.

9 51. Because Defendant has acted with Deliberate Indifference, the Court may award  
10 compensatory damages for violation of the ADA.

11  
12 B. Malice

13 52. California Civil Code Section 3294(c)(1) states: "'Malice' means conduct which  
14 is intended by the defendant to cause injury to the plaintiff or despicable conduct  
15 which is carried on by the defendant with a willful and conscious disregard of the  
16 rights or safety of others."

17 53. California Civil Code Section 3294(a) states, "In an action for the breach of an  
18 obligation not arising from contract, where it is proven by clear and convincing  
19 evidence that the defendant has been guilty of oppression, fraud, or malice, the  
20 plaintiff, in addition to the actual damages, may recover damages for the sake of  
21 example and by way of punishing the defendant."

22 54. The city of Vacaville has acted with malice because the city willfully and  
23 consciously disregarded the rights and safety of Plaintiff by continuing to operate the

1 LED RRFB device, despite being fully aware that the RRFB causes life-threatening  
2 reactions for Plaintiff.

3 55. Because Defendant has acted with malice, Plaintiff may be awarded punitive  
4 damages by the Small Claims Court. The purpose of the punitive award is to punish  
5 the Defendant for their discriminatory actions with the goal of preventing such  
6 discriminatory actions in the future.

### 7 8 **VIII. CONCLUSION**

9 56. As shown above, Plaintiff has met all the requirements for showing that the city of  
10 Vacaville has discriminated against Plaintiff.

11 57. A) The city of Vacaville's use of the LED RRFB flashing lights is a violation of Title  
12 II of the ADA because: 1) Plaintiff has a qualified disability of autism; 2) The use of the  
13 RRFB LED flashing lights denies Plaintiff full and equal benefits; and 3) Plaintiff was  
14 denied these benefits by reason of his disability of autism.

15 58. B) The installation of the RRFB device is an alteration which makes the altered area  
16 not readily accessible or usable by Plaintiff, in violation of 28 C.F.R. § 35.151(b)(1). The  
17 RRFB also interferes with Plaintiff's path of travel and has rendered the city's streets and  
18 sidewalks inaccessible and not usable by Plaintiff when the LED lights are flashing, in  
19 violation of 28 C.F.R. § 35.151(b)(4).

20 59. C) Defendant has been provided with constructive notice of the discriminatory nature  
21 of the RRFB and the violations of 28 C.F.R. § 35.151(b)(1) and 28 C.F.R. § 35.151(b)(4)  
22 and the severe trauma that the RRFB causes for Plaintiff, and yet Defendant acted with  
23

1 both deliberate indifference and malice and took no action to protect Plaintiff from harm or  
2 discrimination.

3  
4 **VIII. RELIEF REQUESTED**

5  
6 60. Plaintiff respectfully requests that the Court enter judgment:

7 61. A) Finding that Defendant discriminated against Plaintiff;

8 62. B) Ordering an award of \$1,250 in compensatory damages;

9 63. C) Ordering an award of \$1,250 in punitive damages.

10  
11 Dated: September 30, 2024

12 Respectfully Submitted,

13 By: /s/ Mark Baker  
14 9450 SW Gemini Drive PMB 44671  
15 Beaverton, OR 97008  
16 mbaker@softlights.org

# Exhibit A



THE PERMANENTE MEDICAL GROUP  
KAISER FOUNDATION HOSPITALS

SCH-HOSPITAL  
Clinical Summary

Baker, Mark D



## Demographics on File

Baker, Mark D



## Patient Preferred Languages

Interpreter Needed: No

Spoken Language: English

Written Language: English

## Patient Ethnicity & Race

Ethnic Group	Patient Race
American/United States	White

## Emergency Contacts

Name	Relation	Home	Work	Mobile
[Redacted]				

## Problem List as of 04/15/2020

Problem	Noted
[Redacted]	
MAJOR DEPRESSIVE DISORDER, RECURRENT EPISODE	4/5/2019
AUTISM SPECTRUM DISORDER Mild	4/6/2019
OBSESSIVE COMPULSIVE DISORDER	4/10/2019
GENERALIZED ANXIETY DISORDER	4/10/2019

## Immunizations

Never Reviewed

Name	Date
[Redacted]	

## PPD/Skin Test - PPD Results Key: 00 = Negative 01 = Positive

PPD Documentation	4/18/2019	4/16/2019	4/4/2019	6/30/2014	7/27/2010
[Redacted]					-
[Redacted]					-
[Redacted]					-
[Redacted]					-
PPD Existing Results	4/18/2019	4/16/2019	4/4/2019	6/30/2014	7/27/2010
TB SKIN TEST	-	-	-	0	00

## Allergies as of 4/15/2020

Reviewed on 8/15/2019

	Noted	Reaction Type	Reactions
No Known Drug Allergies 2004-01-09	01/09/2004		(No reactions)

# Exhibit B



REG-EPRP  
1950 FRANKLIN  
OAKLAND CA 94612-5190  
Encounter Record

Baker, Mark D  
[REDACTED]  
Visit date: 4/4/2019

## EPRP Telephone 4/4/2019

### Visit Information

Date & Time 4/4/2019 7:29 PM	Provider Endaya, Joselito Lacdan (M.D.)	Department EPRP CALL CENTER	Encounter # 578834282
---------------------------------	--	--------------------------------	--------------------------

### Reason For Encounter History

User	Date & Time	Reason For Encounter
Torres, Tomas J Jr.	04/04/2019 07:29 PM	EMERGENCY PROSPECTIVE REVIEW PROGRAM

### Encounter Messages

No messages in this encounter

### Patient Secure Message

No messages in this encounter

## Telephone Encounter - Call Documentation

### Telephone Encounter signed by Torres, Tomas J Jr. at 4/4/2019 7:29 PM

Version 1 of 1

Author: Torres, Tomas J Jr.	Service: —	Author Type: —
Filed: 4/4/2019 7:29 PM	Creation Time: 4/4/2019 7:29 PM	Status: Signed
Editor: Torres, Tomas J Jr.		

\*\* The information included herein has been obtained from telephone conversations between the EPRP Physician and the non-plan Physician(s).\*\*

### EPRP ENCOUNTER REPORT

Call Date: 4/3/2019 4:19:00 PM      NKP: SANTA CLARA EMERGENCY PSYCHIATRY SERVICES (EPS)

MRN: 11-0011473296      PT Name: BAKER, MARK

PT arrived by: Police      Disposition: BLS

Transfer To: KAISER PERMANENTE SANTA CLARA MC

### VITALS

Type	BP	T	P	R	O2 SAT	ON
(4/3/2019 3:30:00 PM)	108/68	36.7	89	18	99	RA
(4/4/2019 8:00:00 AM)	117/81	36.3	82	18	100	ra

### CLINICAL NOTES

Generated on 4/15/20 12:37 PM

**Telephone Encounter - Call Documentation (continued)**

Telephone Encounter signed by Torres, Tomas J Jr. at 4/4/2019 7:29 PM (continued)

Version 1 of 1

Created	Note
Bhat, Sundeep (4/4/2019 11:32:00 AM)	54-year-old male, possible remote history of depression in the past, currently works as a math teacher, brought into Valley psychiatric emergency services after being placed on a 5150 by the police department. Patient was reportedly noted at work today hitting himself in the head and was deemed to be a possible danger to self. Upon further interview with the patient he is reporting that he has had severe photophobia and phonophobia due to specific LED lights as well as high-pitched noises from his phone as well as any call bell rings. He has no focal neurologic deficits on exam and is calm and redirectable at outside ED. Labs are currently pending.
Bhat, Sundeep (4/4/2019 11:49:00 AM)	DIAGNOSIS: Photophobia, Phonophobia, 5150 hold
Bhat, Sundeep (4/4/2019 11:49:00 AM)	PLAN: Discussed with Non-KP provider - if patient remains on hold, he will need to stay at non-plan facility which is a dual med-psych license facility. If 5150 hold lifted, can consider repatriation to KP for further evaluation versus discharge and outpatient PCP follow-up. Non-KP MD will callback pending lab results and further patient evaluation.
Bhat, Sundeep (4/4/2019 1:39:00 PM)	Upon further evaluation at outside psychiatric support services patient continues to display obsessive thoughts about the lights and sounds, and is now appearing more paranoid about taking medications and other treatments. At this time he is being continued on a 5150 hold and has been medically cleared. His CBC, chem panel, LFTs, TSH were all normal, U tox was negative. Patient is stable for transfer for further inpatient psychiatric care.
Bhat, Sundeep (4/4/2019 1:40:00 PM)	DIAGNOSIS: Paranoia, Obsessive Thoughts, 5150 hold (medically cleared)
Bhat, Sundeep (4/4/2019 1:40:00 PM)	PLAN: Transfer case to Northern CA psych team.
Torres, Tomas (4/4/2019 7:20:00 PM)	PT PLACED TO KP SANTA CLARA BY BHC. ACCEPTING MD: DR. CHOY



REG-EPRP  
 1950 FRANKLIN  
 OAKLAND CA 94612-5190  
 Encounter Record

Baker, Mark D  
 [REDACTED]  
 Visit date: 4/4/2019

**Telephone Encounter - Call Documentation (continued)**

**Telephone Encounter signed by Torres, Tomas J Jr. at 4/4/2019 7:29 PM (continued)**

Version 1 of 1

Electronically signed by Torres, Tomas J Jr. on 4/4/2019 7:29 PM

**Vitals**

None

**Patient Preferred Languages**

Interpreter Needed	Spoken Language	Written Language
No	English	English

**All Meds and Administrations**

(There are no med orders for this encounter)

**Allergies as of 4/4/2019**

Reviewed by Suazo, Diana (R.N.) on 4/4/2019

	Noted	Reaction Type	Reactions
No Known Drug Allergies 2004-01-09	01/09/2004		

**Future Appointments 4/15/2020 - 4/15/2021**

None

**Misc Information**

**Encounter Information**

	Provider	Department	Encounter #	Center
4/4/2019 7:29 PM	Endaya, Joselito Lacdan (M.D.)	Reg-Eprp >Eprp	578834282	REGE

There are no online responses available

**Encounter Status**

Closed by Torres, Tomas J Jr. on 4/4/19 at 19:29

**Electronically signed by:**

Signer	Date	Time
Tomas J Torres jr	Apr 4, 2019	19:29:13



REG-EPRP  
1950 FRANKLIN  
OAKLAND CA 94612-5190  
Encounter Record

Baker, Mark D  
[REDACTED]  
Visit date: 4/4/2019

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REG-EPRP  
1950 FRANKLIN  
OAKLAND CA 94612-5190  
Encounter Record

Baker, Mark D  
[REDACTED]  
Visit date: 4/4/2019

---

**Encounter-Level Documents:**

---

There are no encounter-level documents.

---

**Order-Level Documents:**

---

There are no order-level documents.

**End of Encounter**



SCH-HOSPITAL  
700 LAWRENCE EXPWY  
SANTA CLARA CA 95051-5173

Baker, Mark D

Adm: 4/6/2019, D/C: 4/6/2019

Encounter Results

**Encounter Information**

Date & Time 4/6/2019 1:45 PM	Provider MRI EQUIP RM1 839964	Department #122, MRI, FLR 1	Encounter # 579170634
---------------------------------	----------------------------------	--------------------------------	--------------------------

**All Notes**

No notes exist for this encounter.

**All Meds and Administrations**

(There are no med orders for this encounter)

**All Orders and Results**

**MR HEAD [857842633]**

Electronically signed by: **Choi, Sung Hak (D.O.) on 04/05/19 1544**

Status: **Completed**

Ordering user: Choi, Sung Hak (D.O.) 04/05/19 1544

Ordering provider: Choi, Sung Hak (D.O.)

Authorized by: Choi, Sung Hak (D.O.)

Ordering mode: Standard

Ordered during: Admission (Discharged) on 04/04/2019

Class: Inpatient

Indications of use: Altered Consciousness

Indications comment: abrupt change in his personality

Instance released by: Choi, Sung Hak (D.O.) (auto-released) 4/5/2019 3:44 PM

**Questionnaire**

Question	Answer
Priority	ROUTINE
Allergic response to MR contrast (Gadolinium)	No
Sedation needed	No
Possible Contraindications:	NO CONTRAINDICATION

Order comments: MRI OF BRAIN

**MR HEAD MRI OF BRAIN [857842633]**

Resulted: 04/06/19 1446, Result status: Final result

Ordering provider: Choi, Sung Hak (D.O.) 04/05/19 1544

Order status: Completed

Resulted by: Sriram, Ganesan (M.D.)

Filed by: Rad Results, Inbound 04/06/19 1447

Performed: 04/06/19 1405 - 04/06/19 1407

Accession number: 12200928304

Narrative:

MRI BRAIN WITHOUT CONTRAST

**\*\* HISTORY \*\*:**

54 year old man, with altered consciousness, abrupt change in personality..

**\*\* TECHNIQUE \*\*:**

MR images of the brain were acquired without intravenous contrast.

COMPARISON: None available.

**\*\* FINDINGS \*\*:**

BRAIN PARENCHYMA: No acute infarct or hemorrhage. No mass effect or herniation. Signal intensities are within normal limits for age.

VENTRICLES/EXTRA-AXIAL SPACES: No hydrocephalus or extra-axial fluid collections.

FLOW VOIDS: Intact.

EXTRACRANIAL STRUCTURES: Visualized structures are normal.

Impression:

Normal noncontrast MRI brain.

**Procedures Performed**

MRI BRAIN NO CONTRAST. [250876]



SCH-HOSPITAL  
700 LAWRENCE EXPWY  
SANTA CLARA CA 95051-  
5173  
Encounter Results

Baker, Mark D  
[REDACTED]  
Adm: 4/6/2019, D/C: 4/6/2019

---



SCH-HOSPITAL  
700 LAWRENCE EXPWY  
SANTA CLARA CA 95051-  
5173  
Encounter Results

Baker, Mark D

Adm: 4/6/2019, D/C: 4/6/2019

---

**Encounter-Level Documents:**

---

There are no encounter-level documents.

---

**Order-Level Documents:**

---

There are no order-level documents.

April 7, 2019

Today I learned that I have Autism. I learned this because I have been in the mental hospital for 4 days. The police brought me here against my will because I was having a mental breakdown at work. The police chased me through the park, grabbed me, shoved me into the sidewalk and put handcuffs on me. The fire department showed up and stuck all kinds of wires onto my body. When I asked the police to stop talking because my brain was overloaded, they all laughed at me.

Earlier in the day, I had been teaching middle school students, but in 4<sup>th</sup> period, I simply lost all my emotional control. This happened because my principal told me that the school district refused to remove the 5000K LED floodlights at the front of the school. They said they needed the lights for "security". But every day I would come to work, and these unnatural lights would shine into my eyes, terrorizing me. April 3 was the day I could not take it anymore.

But it was not just at school. I was being tortured by car headlights and daytime running lights, by flood lights, by streetlights, by flashing lights on police cars and utility trucks. Every single day had become a terrifying day. I learned that these are called LED lights and they have a color temperature and a non-uniform luminance that my beautiful brain cannot tolerate. The lights feel Satanic, despite my non-religious nature.

I now mostly hide in my house. Leaving the house, especially at night, is an exercise in terror management. Why can't we get rid of these LED lights?

# Exhibit C

On September 3, 2021, at approximately 8:00pm, my partner and I were driving south on Highway 101 at Yachats when we came across an emergency vehicle that was attacking us with high luminance LED flashing lights. Neither of us could see properly, and my partner, the driver, started swearing because of the assault and because she was afraid for my life.

I have been diagnosed with Autism Spectrum Disorder. LED flashing lights exceed my tolerance level and cause sensory overload. I tried to leap out of the car, but my partner grabbed onto me, trying to protect me. Eventually I freed myself and ran to the emergency vehicle and told them to stop assaulting us, that we couldn't see, and that their flashing lights were killing us. They refused to turn off the assault weapons.

Here is a link to the video I took just as I suffered my sensory overload panic attack. WARNING: MAY CAUSE SEIZURES: <https://youtu.be/GULzdBENYqA>

I could not get immediately up to the truck because the light weapons were overpowering. I ran to the front of the truck and closed my eyes and waved my arms around to try and get them to stop, but they kept attacking me. Every time I opened my eyes I was stabbed by the lights.

I finally ended up rolling around on the street in front of the emergency vehicle, screaming my head off and telling them to stop assaulting us. My partner came over and got me off the road, and another woman came over to try and help. I was crawling around on the ground, pulling the grass, pulling my hair, screaming. I eventually ran away from the scene.

I began hyperventilating and could not stop. My partner eventually found me, and we took a number of side streets to get home.

# LED Incident Reports Submitted by Mark Baker to the US Food and Drug Administration

September 14, 2024 – Vacaville, CA – Autism

I was driving at dusk when a fire truck or ambulance suddenly appeared with LED lights flashing. I immediately threw both of my arms in front of my face and hit the brakes to stop the car. I thought that this might be the end of my life. The LED flashing lights are sheer terror and I can't function. After the fire truck/ambulance passed by, I felt like I was going to cry from the emotional trauma. My brain then feels like it's dead even hours later.

August 31, 2024 – Madison, California – Autism

I was a passenger in a car. As we approached a roundabout, a truck with white LED lights, the circular ones near the bumper, struck me directly. I screamed profanity and began crying. The other 3 passengers all confirmed that the light was excessively bright. For me, however, it was severe emotional trauma. The after effects are very long lasting.

August 28, 2024 – Esparto, CA – Autism

I was driving and encountered a utility truck with both sets of headlights turned on. I turned on my non-LED high beams in the hope that the driver would turn off the high beams. Instead, the driver turned on amber LED flashing lights that incapacitated me. I was unable to proceed forward and stopped my car. Instead of driving off, the driver of the utility truck stopped also. My vision and cognitive abilities were severely impaired, with panic setting in. Finally, I started to inch forward, and then so did the utility truck. It seems like the driver was doing it on purpose. After he left, I spent several minutes simply stopped in the middle of the road, trying to breathe and let the panic subside.

August 6, 2024 – Winters, CA – Autism

I was driving on a country road in the daytime. Over 1 mile ahead of me was a utility truck on the side of the road with amber LED flashing lights. For the entire mile, I was either glued to these LED flashing lights, or forcing myself to look away. As I approached the truck, the LED strobe lights were overwhelming and I could not see through the lights. I stopped my car in the road and started to panic. I put my hand in front of my right eye, and then tried to use my left eye to navigate around the truck. It is impossible for me to think or see with these LED flashing lights blasting me and I suffer extreme anxiety and panic.

July 17, 2024 – Sacramento, CA – Autism

I was driving on the freeway in the slow lane, when a tow truck in the fast lane ahead of me

suddenly turned on LED strobe lights on the top of his truck. It felt like a lightning bolt when through my body. I instantly closed both eyes and felt like I should drive off the bridge.

July 9, 2024 – Woodland, California – Autism

A fire truck came down the street with LED strobe lights. The strobe lights caused me to suffer psychological trauma which lasts for hours after the incident.

June 1, 2024 – Fairfield, CA – Autism

During the day, I was driving a vehicle on a freeway when I struck by an LED flashing light from a bicycle on a parallel road. I reactively closed my eyes and then suffered a seizure reaction, which I would describe as like an electrical shock and loss of cognitive functioning and vision. I then had to emotionally fight off a panic attack.

4/30/2024 – Roseville, CA – Autism

I was standing in a room and another person's cell phone buzzed with a message notification. The iPhone also pulsed its LED camera flash, which struck me in the eyes. I fell to my knees, breathing hard, and trying to fight off a panic attack.

4/27/2024 – Elk Grove, CA – Autism

The Ziosk portable kiosk payment system has a bright LED screen. During dinner at a Chilis restaurant, we placed the kiosk face down on the table to avoid exposure to the LED Visible Light radiation from the LED screen. At payment time, my partner inserted the credit card for processing. At the completion of the processing, a large white LED light on the side of the kiosk suddenly irradiated me with white LED Visible Light radiation.

Due to the intensity of the white light, everything around me became black, except for the overwhelming feeling of bright white light. I felt disconnected from reality and as if I had entered a nightmare dream. I believe that I was partially unconscious. As I began to recover consciousness, I thought that perhaps I was staring at the LED flash on a cell phone, but that this was much more powerful. Then, as I became more aware of my surroundings, I realized that that the white light was from a large, white LED from the side of the Ziosk device.

I felt nauseous, so I fell to my stomach and tried to vomit, but I only ended up coughing. I then felt overwhelming anxiety and panic and went to the kitchen, demanding accommodation. A staff person then began yelling at me. I ran outside screaming. I continued to try to vomit, but only spit came out. At some point, both of my hands went numb and tingly.

The police were called. I dialed 911 to tell them not to turn on their LED flashing lights, but they had the red and blue flashing lights on, which further debilitated me.

4/21/2024 – Beaverton, OR – Autism

LED flashing lights cause me to suffer severe anxiety, panic attacks, and fear.

04/06/2024

Dr Janine Manuel

Email: janine.m.manuel@gmail.com Phone/ New Zealand: 0064 22 6307308

To whom it may concern :

Mark Baker is a fellow colleague with whom I have worked and collaborated in my capacity as a medical doctor in the field of clinical analysis over the last two years. I also work as a freelance medical translator for a biotech company in Germany. During this period, I have supported two organizations centered on the impact of LED illumination on health, one in the United Kingdom (LightAware) and the other The Softlights Foundation in the United States of America.

As a clinical analyst the information and data I have been party to has shown LED illumination to have neurological consequences (seizure, migraine, headache, and other neurological effects). This includes adverse effects on those with autism.

The effects of LEDs causing seizure, migraine and other neurological conditions have resulted in individuals being excluded from municipal life, loss of employment, confined in part to their home and significant deterioration of their health (previous well and fully participating in life).

In the case of Mark Baker, I attest to the adverse effect that LED illumination has had on his life causing hospitalization, loss of employment (as head of department as a mathematics teacher) and psychological trauma. He is placed on the autistic spectrum. Flashing LED illumination is of particular distress to Mark evoking a fight/flight response, intense sensation of fear and ongoing psychological trauma.

Sincerely

Dr Janine Manuel

BHB MBChB FRNZCGP

Clinical Analyst/ Medical Translator

*Journal*

June, 2024

To Whom It May Concern:

Dr. John Lincoln of the charity Light Aware introduced me to Mark Baker several years ago. Mark and I have since become friends. One time in spring, 2021, I was talking to Mark on the phone. I was home in Upstate New York and he was sitting in his car in a park in Medford, Oregon. I'd been telling him about a project I was starting, when he suddenly made a sharp gasping sound, as if he'd just been shocked or struck. Alarmed, I said his name, and asked was he all right? what had happened? but he didn't answer. I could hear a commotion, an agitation like someone moving around or thrashing about, plus a background noise I couldn't identify. I kept calling to Mark, anxious for him to answer and tell me what was going on. I was afraid to hang up and try to send him help, but I also afraid not to. After a while, I could hear Mark speaking again, but his voice was shaking and disjointed, like he was disoriented in some way. The background noise was gone. After what seemed like a long time, Mark was able to tell me that a fire truck had passed by with its LED lights flashing, driving right by the car where he sat. From what I heard, by the abrupt onset, jolt, arc and character of the event, it reminded me of some sort of brain seizure. I have epilepsy and I've had seizures myself and witnessed seizures in family members and in my students. The way that Mark was left disoriented and finding it hard to speak was like symptoms of a seizure's aftermath. I stayed on the phone with him quite a while longer as he gradually recovered. It was a striking, terrible experience. Obviously much, much worse for him, but I felt badly shaken up. I have no doubt, either, that had I been in that park when the truck passed, I too would've suffered an equally sudden and severe reaction to that fire truck's flashers..I'm attaching an incident report with this letter to illustrate.

Sincerely,

MarieAnn Cherry

Washington County, New York

Incident report, Altamont, NY, June 11, 2023

On June 11, 2023, I was attending a festival with Kelsey Whittemore, and my mother, MarieAnn Cherry. The festival was outdoors, and it was a sunny day. We were walking down the row of vendors' tents when I realized that one vendor just ahead of us on our right had a LED light on inside their tent. I quickly turned to warn my mother to look away and go back the way we came, but as I started to speak, she caught a glimpse of the light. She immediately stumbled, then fell to the left and began to shake. I tried to catch her, but was on her right so she fell away from me. I tripped as I reached for her, and couldn't prevent her shoulder from striking the ground, but did manage to prevent her from hitting her head. All of this happened in about three seconds from my spotting the light. I put my body between her and the light behind me, and Ms. Whittemore did the same to shield her from the light I couldn't block. My mother continued to convulse, and I had to keep my hands under her head to prevent her from striking the ground. Several people stopped to offer assistance, and I told them to ask the vendor to turn off the light, which they did.

After about a minute to 70 seconds, my mother stopped shaking, but was still unconscious. It took another four to five minutes for her to come to, at which point she was disoriented and having difficulty speaking. After several minutes, Ms. Whittemore and I were able to support her weight and help her to move about five feet off the gritty dirt path where she had fallen, to under a tree, out of the flow of foot traffic. She was not able to sit up or move without assistance, and we stayed there for a quarter of an hour. While she was still having difficulty speaking, my mother asked to go home, so we managed to help her stand with one of us on each side supporting her, and began slowly making our way to the parking lot. A staff person offered to help us, and then an EMT arrived, so Ms. Whittemore was able to go ahead of us to check for any LEDs between us and the car while the EMT took her place supporting my mother. The EMT wanted to take her to an ambulance, but when I explained that she needed to avoid LEDs, he admitted he did not know if the lights in the ambulance were LED or not. We had to walk very slowly and carefully, because my mother could neither balance nor stand and walk without someone on either side of her to help. We were finally able to make it back to the car, and leave to go home.

Sylvana Maione

Incident report: Williamstown, Massachusetts

On September 17, 2022, my mother MarieAnn Cherry and I had an errand in Western Massachusetts. The most efficient route would take us through Williamstown, MA. We carefully planned a route that avoided Williams College Campus, skirting the edge of town to keep well away from the spot she had previously encountered the flashing pedestrian signal which caused her to have a seizure. It had been several months since she reported the incident to Williamstown's police, and had spoken to Williamstown's Supervisor, telling them what had happened and how dangerous flashing lights are to people with photosensitive epilepsy. While we were hopeful that the flashing sign had been removed, we were not prepared to risk encountering it. However, once we were at the outskirts of Williamstown, it became impossible for us to avoid. An unexpected detour routed us back into the center of town and forced us onto the exact same road where the seizure-causing sign was. Once it became clear where the detour was taking us, I pulled over so my mother could move to the backseat, lie down, completely cover her head with her sweater and a blanket, and get below the windows. We then drove on. I was horrified to discover that not only was the offending flashing pedestrian signal still in place, but that at least seven identical flashing pedestrian signs were placed at regular intervals along that main road. And we encountered two more of a different model on residential side streets! It was impossible to get away from them. All I could do was get through town, my heart in my throat the entire time. It was nerve wracking, fearing that at any moment one of the lights flash, fearing that the light would reach my mother, and fearing it would cause her even further injury.

On our return trip, we were forced to go many miles out of our way in order to circle around Williamstown entirely. I am appalled that the town, despite knowing both of the injury their flashing signal has *already* done my mother, and of the ongoing danger these flashing signals pose for anyone with photosensitive epilepsy, have not acted to remove this threat to people's safety.

Sylvana Maione  
October 22, 2022

# Exhibit D

## CLAIM AGAINST THE CITY OF VACAVILLE

(Reserved for City Date Stamp)

File With:  
City Clerk  
City of Vacaville, City Hall  
650 Merchant Street  
Vacaville, CA 95688



**NOTICE:** The City Clerk is the ONLY office to which claims may be submitted. Claims are **NOT** to be submitted to any other City Department.

**Instructions:** Please read each section carefully. If additional space is required, please attach sheets, identifying the section(s) being answered. Answer each section as thoroughly as possible.

Pursuant to the Government Code of the State of California, a claim must be presented, which includes the information prescribed by Government Code sections 910 and 910.2.

**1. Name and mailing address of the Claimant(s):**

Name of Claimant(s): Mark Baker

Telephone: 408-455-9233

Claimant(s) Home Address:

Alternate Numbers:

17809 County Road 85C

Esparto, CA 95627

**2. Address to which the person presenting the claim desires notices to be sent:**

Name of Addressee: Mark Baker

Telephone: 408-455-9233

Mailing Address:

9450 SW Gemini Drive PMB 44671

Beaverton, OR 97008

**3. If claim for Indemnity, provide the date that the complaint was served on claimant(s) (and provide copy of summons and complaint):**

**4. The date, place and other circumstances of the occurrence or transaction giving rise to the claim asserted:**

Date of Occurrence: June 2, 2024

Time of Occurrence: 7:15pm

Exact Location: 1650 East Monte Vista Ave.

Describe in full detail how the injury or damage occurred: I was driving east when I was struck by the high-intensity, digitally flashing light from an RRFB.

**5. What action or inaction of City official(s) or employee(s) allegedly caused your injury or damage:**

Failure to comply with 28 C.F.R. 35.151(b)(1)

6. **The name(s) of the City official(s) or employee(s) causing the injury, damage, or loss, if known:**  
Unknown

7. **Description of the claimed injury, damage, or loss incurred so far as it may be known at the time of the presentation of this claim:**  
Seizure reaction and long term neurological and psychological trauma.

8. **If amount claimed totals less than \$10,000: State the estimated amount of any prospective injury, damage, or loss, insofar as it may be known as of the date of the presentation of this claim, together with the basis for computation of the amount claimed:**

a. **Amount claimed:** \$9,999

b. **Basis for computation:** This is the first claim that I have filed with the city of Vacaville regarding RRFBs. Therefore, the calculated amount is due only to the injury from this event and does not include additional amounts for deliberate indifference or negligence.

**If amount claimed exceeds \$10,000:** No dollar amount shall be included in the claim. However, indicate below whether the claim would be a limited civil case. A limited civil case is one where the recovery sought, not including attorneys' fees, interest and court costs, does not exceed \$35,000. An unlimited civil case is one in which the recovery sought is more than \$35,000. (See Code of Civil Procedure § 86.)

Limited Civil Case (\$10,000 - \$35,000)       Unlimited Civil Case (More than \$35,000)

**You are required by law to provide the information requested above and your signature on Page 3, Section 13, in order to comply with Government Code § 910 and § 910.2. Additionally, in order to conduct a timely investigation and possible resolution of your claim, the City requests that you provide the following information:**

9. **Claimant(s) Date(s) of Birth:**  
2-9-1965

10. **Name, address, and telephone number of any witnesses to the event or occurrence giving rise to this claim:**  
None.

11. **If the claim involves a motor vehicle incident, please provide the following information:**

Claimant(s) Insurance Company: \_\_\_\_\_ Telephone: \_\_\_\_\_

Insurance Policy No.: \_\_\_\_\_

Insurance Agent: \_\_\_\_\_ Telephone: \_\_\_\_\_

Claimant's Vehicle Year/Make/Model: \_\_\_\_\_ License Plate No.: \_\_\_\_\_

**Please check here if there was no insurance coverage in effect at the time of the incident.**

*(Please attach any repair bills, estimates, and photographs of your vehicle damage.)*

12. a. If this claim involves medical treatment for a claimed injury, please provide the name, address, and telephone number of any doctors, hospitals, or other medical providers (e.g., chiropractors, physical therapists, acupuncturists, etc.) providing treatment. (Government Code § 985(c).)

None.

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b. Additionally, please provide the name, address, and telephone number of any insurance company (or other similar entity), which has or is expected to make payments to you or any medical provider on your behalf as a result of your claimed injuries (e.g., Medi-Cal, unemployment insurance, disability insurance, etc.). (Government Code § 985(c).)

None.

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13. **Declaration and Signature of Claimant(s):** I/We the undersigned, declare under penalty of perjury that I/we have read the foregoing claim for damages and know the contents thereof; that the same is true of my/our knowledge and belief, save and except as to those matters stated on information and belief, and as to them, I/we believe to be true.

Signature *Mark Baker*

Relationship: Self

Date: 6-5-2024

Signature:

Relationship:

Date:

**WARNING:**

It is unlawful to knowingly present or cause to be presented any false or fraudulent claim for payment of a loss or injury. (P.C. § 550(a).) Every person who violates this paragraph is guilty of a felony punishable by imprisonment in state prison for two, three, or five years and by a fine not exceeding fifty thousand dollars (\$50,000). (P.C. § 550(c)(1).)

Pursuant to Code of Civil Procedure § 1038, the City may seek to recover all costs of defense in the event an action is filed that is later determined not to have been brought in good faith and with reasonable cause.

# Exhibit E

June 2, 2024

## **BY EMAIL**

Samantha Brown, ADA Coordinator  
Vacaville, California  
samantha.brown@cityofvacaville.com

## **Re: Notification of RRFB Alteration Creating a Discriminatory Barrier**

Dear Samantha Brown,

On June 2, 2024, at approximately 7:15pm, I was driving east on East Monte Vista Ave, when I was struck by the high-intensity, pulsing LED light from a Rectangular Rapid Flashing Beacon. I suffered a seizure reaction, covered my eyes, and was debilitated for several seconds. I was then forced to fight off a panic attack. This is a typical reaction for me when I am exposed to high-intensity, digitally pulsing light from LEDs due to my disability of autism spectrum disorder and is a common reaction for other individuals who have been diagnosed with epilepsy, migraines, and PTSD.

28 C.F.R. 35.151(a)(1) states, “*Each facility or part of a facility constructed by, on behalf of, or for the use of a public entity shall be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by individuals with disabilities, if the construction was commenced after January 26, 1992.*”<sup>1</sup>

On May 24, 2024, the US Food and Drug Administration issued a decision that the FDA will not publish performance standards for any LED product, which includes RRFBs.<sup>2</sup> Despite the requirements of 21 U.S.C. 360ii(a)(6)(B), the FDA has chosen to not liaise with any other federal agency to establish the required performance standards for any LED product, including those performance standards necessary to ensure protection and non-discrimination for individuals with autism spectrum disorder. The result is that RRFB approvals by the FHWA and CalTrans are not legally valid due the lack of published health, safety and civil right standards, and the US Access Board has no disability access guidelines for LED products to ensure full and equal access to city services.

Due to the lack of federal regulation of LED products such as RRFBs, the decision by the city of Vacaville to install and operate an LED RRFB device requires that the city of Vacaville first publish its own regulations for LED products to ensure the health, safety, and civil rights of individuals with autism spectrum disorder and the city must ensure that all alterations that include an LED device, including RRFBs, be readily accessible and usable by individuals with autism spectrum disorder. An RRFB alteration renders the altered area not readily accessible or usable by me due to my autism spectrum disorder and neurological inability to tolerate such intense, pulsing light.

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<sup>1</sup> <https://www.ada.gov/law-and-regs/design-standards/2010-stds/#206-accessible-routes>

<sup>2</sup> <https://www.softlights.org/wp-content/uploads/2024/05/Final-Response-Citizen-Petitions-FDA-2022-P-1151-FDA-2023-P-0233-FDA-2023-P-3828-FDA-2023-P-3879.pdf>

I request that the city of Vacaville comply with 28 C.F.R. 35.151(a)(1) and disable or remove the RRFB device and ensure that the altered area is once again readily accessible and usable by individuals with disabilities such as autism spectrum disorder. Any decision by the city of Vacaville to ignore this request to protect my health, safety, and civil rights would be reckless, negligent, and show deliberate indifference.

Sincerely,

/s/ Mark Baker

Mailing Address:  
9450 SW Gemini Drive PMB 44671  
Beaverton, OR 97008  
[mbaker@softlights.org](mailto:mbaker@softlights.org)



June 12, 2024

Mark Baker  
9450 SW Gemini Dr. PMB 44671  
Beaverton, OR 97008

RE:    Our Client:            City of Vacaville  
       GHC Claim #:        GHC0073200  
       Claimant:             Mark Baker  
       Date of Loss:         June 2, 2024

George Hills is the claims administrator for the City of Vacaville, and we are handling the above-referenced claim on their behalf.

This correspondence will serve as an acknowledgment of the Claim for Damages you filed with the City of Vacaville. This is not an acceptance or admission of liability.

Please be advised we are investigating the circumstances surrounding the claim. The claim review process can take 45 days or more. You will be advised in writing of the City of Vacaville's decision after our investigation.

In the interim if you have any questions regarding the status of the claim, please contact the undersigned.

Sincerely,  
George Hills Company, Inc.

A handwritten signature in cursive script that reads 'Dan Lamb'.

Dan Lamb, Sr. Adjuster  
(209) 795-0742  
dan.lamb@georgehills.com

cc:    City of Vacaville

REV 02/21/23

June 18, 2024

**BY EMAIL**

Erin Berndsen  
Vacaville, California  
erin.berndsen@cityofvacaville.com

**Re: Notice of Dangerous Condition – LED Flashing Lights**

Dear Erin Berndsen,

This letter serves to provide Constructive Notice of a dangerous condition(s) within the city of Vacaville. LED flashing lights have been proven to impair vision and cognitive functioning and can cause non-epileptic and epileptic seizures. The US Food and Drug Administration has not vetted LED flashing lights for photobiological, neurological, or psychological safety. LED flashing lights are unregulated and create hazardous, dangerous, and discriminatory conditions.

California Government Code Section 835 states:

*Except as provided by statute, a public entity is liable for injury caused by a dangerous condition of its property if the plaintiff establishes that the property was in a dangerous condition at the time of the injury, that the injury was proximately caused by the dangerous condition, that the dangerous condition created a reasonably foreseeable risk of the kind of injury which was incurred, and that either:*

*(a) A negligent or wrongful act or omission of an employee of the public entity within the scope of his employment created the dangerous condition; or*

*(b) The public entity had actual or constructive notice of the dangerous condition under Section 835.2 a sufficient time prior to the injury to have taken measures to protect against the dangerous condition.*

Here are a few reports of neurological, psychological, and physical injury caused by LED flashing light devices:

- Minnesota Department of Human Rights – LED RRFB – (<https://www.softlights.org/wp-content/uploads/2023/06/74059-6-15-2023-ECP-Memorandum-.pdf>)
- Seizure – LED RRFB - (<https://www.softlights.org/wp-content/uploads/2022/09/MA-Incident-Report.pdf>).
- Emergency Vehicle – Seizure Reaction / Panic Attack - (<https://www.softlights.org/wp-content/uploads/2021/09/Encounter-with-Emergency-Vehicle.pdf>)

The city is now on notice that LED flashing light devices create dangerous conditions, and that the city has a Due Care obligation to eliminate those dangerous conditions.

Sincerely,

/s/ Mark Baker

President

Soft Lights Foundation

[mbaker@softlights.org](mailto:mbaker@softlights.org)

August 7, 2024

**BY EMAIL**

Aaron Busch, City Manager  
Vacaville, California  
aaron.busch@cityofvacaville.com

**Re: Notice of Dangerous and Discriminatory Conditions – LED Flashing Lights**

Dear Aaron Busch,

The US Department of Energy states that LEDs are a “radically new technology” that emit a “directional” light with “unique characteristics”.<sup>1</sup> It is the directional nature of LEDs and their unique characteristics which cause individuals with disabilities to suffer non-epileptic and epileptic seizures, migraines, vomiting, and panic attacks when exposed to LED flashing lights such as on police cars and RRFBs.

The Equal Protection Clause of the 14<sup>th</sup> Amendment of the U.S. Constitution states:

*All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.*<sup>2</sup>

28 C.F.R. § 35.151(a)(1) states:

*Each facility or part of a facility constructed by, on behalf of, or for the use of a public entity shall be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by individuals with disabilities, if the construction was commenced after January 26, 1992.*<sup>3</sup>

28 C.F.R. § 35.151(b)(1) states:

*Each facility or part of a facility altered by, on behalf of, or for the use of a public entity in a manner that affects or could affect the usability of the facility or part of the facility shall, to the maximum extent feasible, be altered in such manner that the altered portion of the facility is*

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<sup>1</sup> [https://www1.eere.energy.gov/buildings/publications/pdfs/ssl/ssl\\_lessons-learned\\_2014.pdf](https://www1.eere.energy.gov/buildings/publications/pdfs/ssl/ssl_lessons-learned_2014.pdf)

<sup>2</sup> [https://www.law.cornell.edu/wex/equal\\_protection](https://www.law.cornell.edu/wex/equal_protection)

<sup>3</sup> <https://www.law.cornell.edu/cfr/text/28/35.151>

*readily accessible to and usable by individuals with disabilities, if the alteration was commenced after January 26, 1992.*

California Government Code Section 835 states:

*Except as provided by statute, a public entity is liable for injury caused by a dangerous condition of its property if the plaintiff establishes that the property was in a dangerous condition at the time of the injury, that the injury was proximately caused by the dangerous condition, that the dangerous condition created a reasonably foreseeable risk of the kind of injury which was incurred, and that either:*

*(a) A negligent or wrongful act or omission of an employee of the public entity within the scope of his employment created the dangerous condition; or*

*(b) The public entity had actual or constructive notice of the dangerous condition under Section 835.2 a sufficient time prior to the injury to have taken measures to protect against the dangerous condition.*

Here is a sampling of reports of neurological, psychological, and physical injury caused by LEDs:

- Minnesota Department of Human Rights – LED RRFB – (<https://www.softlights.org/wp-content/uploads/2023/06/74059-6-15-2023-ECP-Memorandum-.pdf>)
- LED RRFB – Seizure / Concussion - (<https://www.softlights.org/wp-content/uploads/2022/09/MA-Incident-Report.pdf>).
- Emergency Vehicle – Seizure Reaction / Panic Attack - (<https://www.softlights.org/wp-content/uploads/2021/09/Encounter-with-Emergency-Vehicle.pdf>)
- LED Incident Reports - (<https://www.softlights.org/led-incident-reports/>)
- NYSPSC LED Streetlight Case 21-02623 Public Comments: (<https://tinyurl.com/3b9farmy>)

Below are several examples of LED flashing light videos and their titles:

1. My LED Lights (epilepsy/seizure warning): (<https://www.youtube.com/shorts/qvtmhHbPeMU>)
2. LED Strobe Lights - Blue \*\*Warning May Cause Seizure\*\* : ([https://youtu.be/K\\_oIWfOMKel](https://youtu.be/K_oIWfOMKel))
3. How to Have a Seizure 101 (Warning Flashing Lights)  
(<https://www.youtube.com/shorts/1fGBrt2D9s4>)
4. Edmonds, WA RRFB installation: (<https://youtu.be/bdabrTTnf3w>)
5. 2015 Dodge Charger Police Car LED Police Lights outfitted by HG2 Emergency Lighting:  
([https://youtu.be/KJ\\_1CiNVtTo](https://youtu.be/KJ_1CiNVtTo))
6. LVT Manual Strobe and Flood Light: (<https://youtu.be/FVqCqBi5wY>)

Seizure reactions are primarily a function of radiance, flash rate, and cycle depth. The higher the radiance, the more risk. The faster the rate, the more risk. The closer to digital pulsing, the more risk. All three factors play a role. A very high radiance LED can cause a seizure with zero flashing. A low radiance light can cause a seizure if the rate is high. A digital on/off has a higher risk of seizure than sine wave. As can be seen in the videos, the first three videos are marked with seizure warnings, whereas the other LED flashing lights are in public places, are unavoidable, are triggering seizures, but are not marked with seizure warnings.

On May 24, 2024, the US Food and Drug Administration issued a decision to not publish performance standards for any LED product, despite the requirements of 21 U.S.C. 360ii. Thus, given the numerous reports of harm and discrimination caused by LED lights and the lack of regulation from the FDA, all LED products must be vetted to ensure that the directional nature and unique

characteristics of the LED product do not create a dangerous condition and that a constructed or altered area containing an LED device, including vehicles, is readily accessible and usable by all individuals with disabilities, including, but not limited to, individuals with epilepsy, migraines, autism, EMS, and PTSD.

The use of LED flashing lights by a city segregates members of the public into two classes, those without disabilities who are provided the purported safety benefits of using LED flashing lights, and those with disabilities for whom those very same LED flashing lights cause acute neurological and psychological trauma and an obstruction to path-of-travel. This segregation into two separate classes is a violation of the Equal Protection Clause of the 14<sup>th</sup> Amendment, and a violation of the Americans with Disabilities Act. 28 C.F.R. 35.151(b)(1) requires that any alteration ensure that the altered area be readily accessible and usable by individuals with disabilities. The alteration of adding an LED flashing light, whether on a city sign or on a city vehicle, creates an obstruction to path-of-travel for individuals with disabilities, and therefore is prohibited by 28 C.F.R. 35.151(b)(1).

Therefore, on behalf of MarieAnn Cherry, an individual diagnosed with epilepsy, Donald Berry, an individual diagnosed with PTSD, and Mark Baker, an individual diagnosed with autism, the Soft Lights Foundation is notifying the city of Vacaville that Ms. Cherry, Mr. Berry, and Mr. Baker may be injured and discriminated against if they encounter LED flashing lights. The Soft Lights Foundation therefore requests removal of city-operated LED flashing lights such as on police vehicles and RRFBs to ensure the safe and equal access to city services for Ms. Cherry, Mr. Berry, Mr. Baker, and all individuals with disabilities. Failure to remove LED flashing lights may result in an injury liability claim against the city and/or discrimination lawsuit.

Sincerely,

/s/ Mark Baker

President

Soft Lights Foundation

[mbaker@softlights.org](mailto:mbaker@softlights.org)

**CLAIM AGAINST THE CITY OF VACAVILLE**

(Reserved for City Date Stamp)

File With:  
City Clerk  
City of Vacaville, City Hall  
650 Merchant Street  
Vacaville, CA 95688



**NOTICE:** The City Clerk is the ONLY office to which claims may be submitted. Claims are **NOT** to be submitted to any other City Department.

**Instructions:** Please read each section carefully. If additional space is required, please attach sheets, identifying the section(s) being answered. Answer each section as thoroughly as possible.

Pursuant to the Government Code of the State of California, a claim must be presented, which includes the information prescribed by Government Code sections 910 and 910.2.

**1. Name and mailing address of the Claimant(s):**

Name of Claimant(s): Mark Baker

Telephone: 408-455-9233

Claimant(s) Home Address:

Alternate Numbers:

17809 County Road 85C

Esparto, CA 95627

**2. Address to which the person presenting the claim desires notices to be sent:**

Name of Addressee: Mark Baker

Telephone: 408-455-9233

Mailing Address:

9450 SW Gemini Drive PMB 44671

Beaverton, OR 97008

**3. If claim for Indemnity, provide the date that the complaint was served on claimant(s) (and provide copy of summons and complaint):**

**4. The date, place and other circumstances of the occurrence or transaction giving rise to the claim asserted:**

Date of Occurrence: August 15, 2024

Time of Occurrence: 2:22pm

Exact Location: 1650 East Monte Vista Ave.

Describe in full detail how the injury or damage occurred: I was driving east when I was struck by the high-intensity, digitally flashing light from an RRFB.

**5. What action or inaction of City official(s) or employee(s) allegedly caused your injury or damage:**

Failure to comply with 28 C.F.R. 35.151(b)(1) and as per California Government Code Section 835. This is my second injury claim to Vacaville for the same RRFB device.

Despite multiple letters warning of the injuries that RRFBs cause, Vacaville continues to operate the dangerous and discriminatory devices.

6. The name(s) of the City official(s) or employee(s) causing the injury, damage, or loss, if known:  
Unknown

7. Description of the claimed injury, damage, or loss incurred so far as it may be known at the time of the presentation of this claim:  
Seizure reaction and long term neurological and psychological trauma.

8. If amount claimed totals less than \$10,000: State the estimated amount of any prospective injury, damage, or loss, insofar as it may be known as of the date of the presentation of this claim, together with the basis for computation of the amount claimed:

a. Amount claimed:

b. Basis for computation:

If amount claimed exceeds \$10,000: No dollar amount shall be included in the claim. However, indicate below whether the claim would be a limited civil case. A limited civil case is one where the recovery sought, not including attorneys' fees, interest and court costs, does not exceed \$35,000. An unlimited civil case is one in which the recovery sought is more than \$35,000. (See Code of Civil Procedure § 86.)

Limited Civil Case (\$10,000 - \$35,000)       Unlimited Civil Case (More than \$35,000)

You are required by law to provide the information requested above and your signature on Page 3, Section 13, in order to comply with Government Code § 910 and § 910.2. Additionally, in order to conduct a timely investigation and possible resolution of your claim, the City requests that you provide the following information:

9. Claimant(s) Date(s) of Birth:  
2-9-1965

10. Name, address, and telephone number of any witnesses to the event or occurrence giving rise to this claim:  
None.

11. If the claim involves a motor vehicle incident, please provide the following information:

Claimant(s) Insurance Company:

Telephone:

Insurance Policy No.:

Insurance Agent:

Telephone:

Claimant's Vehicle Year/Make/Model:

License Plate No.:

Please check here if there was no insurance coverage in effect at the time of the incident.

(Please attach any repair bills, estimates, and photographs of your vehicle damage.)

12. a. If this claim involves medical treatment for a claimed injury, please provide the name, address, and telephone number of any doctors, hospitals, or other medical providers (e.g., chiropractors, physical therapists, acupuncturists, etc.) providing treatment. (Government Code § 985(c).)

None.

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b. Additionally, please provide the name, address, and telephone number of any insurance company (or other similar entity), which has or is expected to make payments to you or any medical provider on your behalf as a result of your claimed injuries (e.g., Medi-Cal, unemployment insurance, disability insurance, etc.). (Government Code § 985(c).)

None.

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13. **Declaration and Signature of Claimant(s):** I/We the undersigned, declare under penalty of perjury that I/we have read the foregoing claim for damages and know the contents thereof; that the same is true of my/our knowledge and belief, save and except as to those matters stated on information and belief, and as to them, I/we believe to be true.

Signature *Mark Baker*

Relationship: Self

Date: 8-15-2024

Signature:

Relationship:

Date:

**WARNING:**

It is unlawful to knowingly present or cause to be presented any false or fraudulent claim for payment of a loss or injury. (P.C. § 550(a).) Every person who violates this paragraph is guilty of a felony punishable by imprisonment in state prison for two, three, or five years and by a fine not exceeding fifty thousand dollars (\$50,000). (P.C. § 550(c)(1).)

Pursuant to Code of Civil Procedure § 1038, the City may seek to recover all costs of defense in the event an action is filed that is later determined not to have been brought in good faith and with reasonable cause.

August 17, 2024

**BY EMAIL**

Aaron Busch, City Manager  
Vacaville, California  
aaron.busch@cityofvacaville.com

**Re: Notice of Private Enforcement Action – LED Flashing Lights**

Dear Aaron Busch,

California Vehicle Code (“CVC”) Section 25250 states, “Flashing lights are prohibited on vehicles except as otherwise permitted.” There is no California statute that authorizes the use of LED flashing lights on vehicles, and thus all LED flashing lights on vehicles are prohibited by CVC Section 25250. Vacaville is using LED flashing lights on vehicles without legal authorization. Since government authorities have not enforced this code, this letter serves as a private enforcement action under the Americans with Disabilities Act.

The introduction of unregulated Light Emitting Diode (“LED”) products has segregated the public into two groups: those individuals without disabilities who are not acutely impacted by LED lights, and those individuals with disabilities who suffer acute adverse reactions to LED lights, including non-epileptic and epileptic seizures, migraines, vomiting, anxiety, panic attacks, impaired vision, reduced cognitive abilities, and suicidal ideations. This segregation by government officials is a violation of the Equal Protection Clause of the 14<sup>th</sup> Amendment of the U.S. Constitution.

The US Department of Energy states that LEDs are a “radically new technology” that emit a “directional” light with “unique characteristics”.<sup>1</sup> It is the directional nature of LEDs and their unique spatial, spectral, and temporal characteristics which cause individuals with disabilities to suffer acute adverse neurological reactions when exposed to LED flashing lights such as on police cars and RRFBs. The US Food and Drug Administration is mandated by 21 U.S.C. 360ii(a) to maintain a radiation control program for LED products to minimize the exposure to, and emissions of, unnecessary LED light. However, the FDA has ignored this mandate, and thus all LED products are entirely unregulated, despite LEDs being a radically new technology with directional light and unique characteristics.

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<sup>1</sup> [https://www1.eere.energy.gov/buildings/publications/pdfs/ssl/ssl\\_lessons-learned\\_2014.pdf](https://www1.eere.energy.gov/buildings/publications/pdfs/ssl/ssl_lessons-learned_2014.pdf)

Here is a sampling of reports of neurological, psychological, and physical injury caused by LEDs:

- Minnesota Department of Human Rights – LED RRFB – (<https://www.softlights.org/wp-content/uploads/2023/06/74059-6-15-2023-ECP-Memorandum-.pdf>)
- LED RRFB – Seizure / Concussion - (<https://www.softlights.org/wp-content/uploads/2022/09/MA-Incident-Report.pdf>).
- Emergency Vehicle – Seizure Reaction / Panic Attack - (<https://www.softlights.org/wp-content/uploads/2021/09/Encounter-with-Emergency-Vehicle.pdf>)
- LED Incident Reports - (<https://www.softlights.org/led-incident-reports/>)
- NYSpsc LED Streetlight Case 21-02623 Public Comments: (<https://tinyurl.com/3b9farmy>)

Pulsed LED light is particularly dangerous. Below are several examples of LED flashing light videos and their titles:

1. My LED Lights (epilepsy/seizure warning): (<https://www.youtube.com/shorts/qvtmhHbPeMU>)
2. LED Strobe Lights - Blue \*\*Warning May Cause Seizure\*\*: ([https://youtu.be/K\\_oIWfOMKel](https://youtu.be/K_oIWfOMKel))
3. How to Have a Seizure 101 (Warning Flashing Lights) (<https://www.youtube.com/shorts/1fGBrt2D9s4>)
4. Edmonds, WA RRFB installation: (<https://youtu.be/bdabrTTnf3w>)
5. 2015 Dodge Charger Police Car LED Police Lights outfitted by HG2 Emergency Lighting: ([https://youtu.be/KJ\\_1CiNVtTo](https://youtu.be/KJ_1CiNVtTo))
6. LVT Manual Strobe and Flood Light: (<https://youtu.be/FVoqCqBi5wY>)

Seizure reactions are primarily a function of radiance, flash rate, and cycle depth. The higher the radiance, the more risk. The faster the rate, the more risk. The closer to digital pulsing, the more risk. All three factors play a role. A very high radiance LED can cause a seizure with zero flashing. A low radiance light can cause a seizure if the rate is high. A digital on/off has a higher risk of seizure than sine wave. As can be seen in the videos, the first three videos are marked with seizure warnings, whereas the other LED flashing lights are in public places, are unavoidable, are triggering seizures, but are not marked with seizure warnings.

Many municipalities believe that the Americans with Disabilities Act allows for a municipality to provide a reasonable accommodation when notified of a discriminatory barrier. However, this understanding is not correct when the issue involves alterations to municipality infrastructure. 28 C.F.R. § 35.151(b)(1) states:

*Each facility or part of a facility altered by, on behalf of, or for the use of a public entity in a manner that affects or could affect the usability of the facility or part of the facility shall, to the maximum extent feasible, be altered in such manner that the altered portion of the facility is readily accessible to and usable by individuals with disabilities, if the alteration was commenced after January 26, 1992.*

Since LED flashing lights were installed by the city after 1992, there is an absolute requirement that this alteration not create a new discriminatory barrier where none existed previously. There is no allowance for reasonable accommodation in this situation. The switch to LED light was a major alteration that required extensive analysis to ensure that the radically new LED technology did not create a path-of-travel barrier for individuals with disabilities and to ensure that the altered area was still readily accessible and usable by individuals with disabilities. Due to the failure of the FDA to comply with 21 U.S.C. 360ii(a), and the decision by the city to implement LED technology without ensuring its safety, the LED products that have been installed now need to be removed.

On August 14, 2024, in the case Baker v. Petrovich involving LEDs creating a discriminatory barrier, the Court ruled that the case can continue, stating, “Petrovich’s demurrer to the first cause of action [The Americans with Disabilities Act] in plaintiff’s complaint is OVERRULED. (Code Civ. Proc., § 430.010, subd. (e).) **The Court finds that plaintiff has alleged facts sufficient to state this cause of action.** (42 USC 12181, subd. (7)(E); 28 CFR 36.101, 36.402; Martinez v. San Diego County Credit Union (2020) 50 Cal.App.5th 1048, 1060; see Serrano v. Priest (1971) 5 Cal.3d 584, 591; Compl., ¶¶ 2, 12, 15, 16, 30 – 33, 35 – 37.)”<sup>2</sup> (emphasis added). While this ruling is not the result of a trial and is not an appellate level ruling, this ruling nonetheless shows that company and government officials may not install unregulated, dangerous technology and simply let individuals with disabilities suffer the consequences.

The Equal Protection Clause of the 14<sup>th</sup> Amendment of the U.S. Constitution states:

*All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.*<sup>3</sup>

LED products divide the public into two groups: those individuals with disabilities who need regulatory protection from the city, and those individuals without disabilities who do not need regulatory protection. If the city is to allow the use of LED products, then the city is Constitutionally required to adopt policies and procedures for those LED products which ensure the equal protection of individuals with disabilities.

California Government Code Section 835 states:

*Except as provided by statute, a public entity is liable for injury caused by a dangerous condition of its property if the plaintiff establishes that the property was in a dangerous condition at the time of the injury, that the injury was proximately caused by the*

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<sup>2</sup> <https://www.yolo.courts.ca.gov/sites/default/files/yolo/default/2024-08/ATO-TEN-240815.pdf>

<sup>3</sup> [https://www.law.cornell.edu/wex/equal\\_protection](https://www.law.cornell.edu/wex/equal_protection)

*dangerous condition, that the dangerous condition created a reasonably foreseeable risk of the kind of injury which was incurred, and that either:*

*(a) A negligent or wrongful act or omission of an employee of the public entity within the scope of his employment created the dangerous condition; or*

*(b) The public entity had actual or constructive notice of the dangerous condition under Section 835.2 a sufficient time prior to the injury to have taken measures to protect against the dangerous condition.*

Since LED products can create dangerous conditions for individuals with disabilities, the city is required to eliminate those dangerous conditions, or it can be held liable for any injuries caused by the use of the LED products.

LED flashing lights are prohibited by CVC 25250 and 28 CFR 35.151(b)(1) because LED flashing lights on vehicles have not been authorized by the California Legislature, because LED flashing lights create a barrier to path-of-travel for individuals with disabilities, and because LED flashing lights cause acute adverse neurological reactions for individuals with disabilities. This letter is a good-faith effort to allow Vacaville to correct the LED flashing light violations by turning off and/or removing LED flashing lights on city vehicles without being subjected to litigation. However, failure to turn off and/or remove LED flashing lights from city vehicles may result in a discrimination lawsuit.

Sincerely,

/s/ Mark Baker

President

Soft Lights Foundation

[mbaker@softlights.org](mailto:mbaker@softlights.org)

Exhibit F

