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17 **UNITED STATES DISTRICT COURT**
18 **NORTHERN DISTRICT OF CALIFORNIA**

19 SCOTT BLANKS, on behalf of himself and
20 all others similarly situated, CALIFORNIA
21 COUNCIL OF THE BLIND, on behalf of its
22 members and all others similarly situated,
23 LEAH GARDNER, on behalf of herself and
24 all others similarly situated, LIGHTHOUSE
25 FOR THE BLIND AND VISUALLY
26 IMPAIRED, CHARLES NABARRETE, on
27 behalf of himself and all others similarly
28 situated, ROBERT SCHULENBURG, on
behalf of himself and all others similarly
situated, and EMPISH THOMAS, on behalf of
herself and others similarly situated,

Plaintiffs,

v.

AMC ENTERTAINMENT INC., AMC
ENTERTAINMENT HOLDINGS, INC., and
AMERICAN MULTI-CINEMA, INC.,

Defendants.

CLASS ACTION

**COMPLAINT FOR INJUNCTIVE AND
DECLARATORY RELIEF FOR
VIOLATIONS OF THE AMERICANS
WITH DISABILITIES ACT, 42 U.S.C. §§
12101, et seq.**

INTRODUCTION

1
2 1. This class action seeks to end the systemic civil rights violations committed by
3 Defendants AMC Entertainment Inc. (“AMC Entertainment”), AMC Entertainment Holdings,
4 Inc. (“AMC Holdings”), and American Multi-Cinema, Inc. (“American Multi-Cinema”)
5 (collectively, “AMC”) against blind and visually-impaired individuals in California and across
6 the United States. AMC is denying blind and visually-impaired individuals throughout the
7 United States equal access to the services it offers in its movie theaters.

8 2. Many individuals who are blind or visually-impaired enjoy watching films in
9 theaters and engaging in this classic part of American cultural life. Audio description technology
10 is essential to the movie-going experience of blind individuals, so that they will know what is
11 happening in scenes without dialogue or scenes that include significant visual elements.

12 3. To use audio description at the movies, a blind individual wears a headset and
13 listens to an audio description track that contains narration of the visual elements of the film that
14 is synchronized with the movie. Movie studios create the audio description tracks and provide
15 them to AMC and other theaters. Without audio description, blind individuals watching a movie
16 do not know what is happening in scenes without dialogue and may misunderstand the meaning
17 of other scenes. Thus, audio description is essential for blind viewers to understand movies.

18 4. AMC exhibits movies in its theaters, providing movie-going experiences to
19 millions of individuals each year, but fails to make its services accessible to blind individuals by
20 providing the correct, functioning audio description equipment. Although AMC claims to
21 provide audio description services for blind patrons at many of its theaters, effective audio
22 description services are seldom available. AMC fails to adequately maintain the equipment for
23 playing audio description, fails to adequately train its staff on maintenance, set-up, and use of the
24 equipment, and fails to adequately keep equipment charged and properly programmed.
25 Plaintiffs’ counsel have received reports of over 50 instances in which blind and low vision
26 persons have experienced difficulty and/or been unable to use the audio description technology
27 at AMC theaters due to Defendants’ failure to maintain and train staff on use of the equipment.
28

1 5. Through its failure to provide and maintain functional audio description
2 technology and services, AMC is excluding blind individuals from full and equal access to its
3 services in theaters across the country where AMC offers audio description.

4 6. Over twenty-five years ago, Congress provided a clear and national mandate for
5 the elimination of discrimination against individuals with disabilities when it enacted the
6 Americans with Disabilities Act. Such discrimination includes barriers to full integration,
7 independent living, and equal opportunity for persons with disabilities, including those barriers
8 that deny blind persons the accommodations, advantages, facilities, privileges and services of
9 places of public accommodation, such as movie theaters.

10 7. Plaintiffs notified AMC of these barriers and attempted to resolve this matter
11 without a lawsuit. However, AMC failed to remedy the ongoing discriminatory practices.

12 **JURISDICTION**

13 8. This Court has subject matter jurisdiction of this action pursuant to 28 U.S.C. §
14 1331 and 42 U.S.C. § 12188, for Plaintiffs' claims arising under the Americans with Disabilities
15 Act, 42 U.S.C. §§ 12101, *et seq.* ("ADA").

16 **VENUE**

17 9. Venue is proper in the Northern District of California pursuant to 28 U.S.C. §§
18 1391(b)-(c).

19 10. Defendants AMC Entertainment, American Multi-Cinema, and AMC Holdings
20 are registered to do business in California and do business in the Northern District of California.
21 Defendants own and operate movie theaters throughout California, including at least 10 movie
22 theaters in the Northern District of California.

23 11. Defendants are subject to personal jurisdiction in the Northern District of
24 California. Defendants have been and are committing a substantial part of the acts alleged herein
25 in the Northern District of California, have been and are violating the rights of consumers with
26 disabilities in the Northern District of California, and have been and are causing injury to
27 consumers with disabilities in the Northern District of California.
28

1 18. Plaintiff California Council of the Blind (“CCB”) is a nonprofit corporation and
2 an association of blind Californians. It is the California state affiliate of the American Council of
3 the Blind. CCB’s mission is to increase the independence, security, equality of opportunity, and
4 quality of life for all Californians who are blind or visually-impaired. CCB seeks to ensure that
5 culture, laws, programs, and attitudes are inclusive of persons who are blind or visually-
6 impaired. Access to fundamental American cultural activities, such as movie-going, is critical to
7 CCB and its members. Securing access to AMC services advances CCB’s goal to promote
8 integration of the blind into society on a basis of equality by enabling blind individuals to enjoy
9 movies, engage with popular culture, and go to the theater with friends and family, in the same
10 way that many sighted individuals do. CCB is a membership organization, and AMC has failed
11 to provide functional audio description services to members of CCB. CCB sues on behalf of its
12 members who have been denied audio description by AMC.

13 19. Plaintiff LightHouse for the Blind and Visually Impaired (“the LightHouse”) is a
14 nonprofit corporation and is one of California’s oldest organizations serving the blind and
15 visually-impaired community. The LightHouse is dedicated to aiding blind and visually-impaired
16 individuals in leading productive, enriching, and independent lives. To further its mission, the
17 LightHouse offers members of the blind and visually-impaired community training in blindness
18 skills so that they can independently engage in a variety of activities. In addition, the
19 LightHouse organizes trips to movie theaters to offer cultural enrichment activities to blind
20 persons and to educate the blind community about audio description. Ensuring access to AMC
21 services advances the LightHouse’s mission to aid blind and visually-impaired individuals in
22 leading productive and independent lives, by allowing them to more fully, and independently,
23 enjoy movies and engage in popular culture. Discrimination against blind individuals frustrates
24 this mission of the LightHouse and results in the LightHouse diverting resources to address
25 Defendants’ discriminatory practices. For example, on February 7, 2015, James Gump,
26 Lighthouse Youth Services Coordinator, organized a trip for blind students to the AMC Metreon
27 Theater in San Francisco to watch *The Spongebob Movie: Sponge Out of Water*. One of the
28 students was denied access to audio description because AMC staff provided the student with an

1 audio description device that was not functioning. Because audio description is not consistently
2 available at AMC theaters and other theaters, the LightHouse has diverted staff time and other
3 resources to collaborate with other companies to seek out other ways to expand the availability
4 of audio description for blind moviegoers. The LightHouse sues on behalf of itself and in
5 furtherance of its extensive efforts and expenditure of resources in promoting its mission of
6 strengthening the independence of blind and visually-impaired persons in all aspects of their
7 lives.

8 20. Defendant AMC Entertainment Inc., a for-profit corporation, through its direct
9 and indirect subsidiaries, owns and operates movie theaters. AMC Entertainment owns and/or
10 operates approximately 344 movie theaters, with 4,943 screens, in thirty-three states and the
11 District of Columbia, including forty-six theaters, with 673 screens, in California. Plaintiffs seek
12 full and equal access to the goods and services provided by AMC Entertainment through its
13 AMC theaters.

14 21. Defendant AMC Entertainment Holdings, Inc., a for-profit corporation, is the
15 parent company of AMC Entertainment. AMC Holdings owns and operates movie theaters
16 throughout the United States and California, through its subsidiary AMC Entertainment and
17 indirect subsidiaries. Plaintiffs seek full and equal access to the goods and services provided by
18 AMC Holdings through its AMC theaters.

19 22. Defendant American Multi-Cinema, Inc., a for-profit corporation, is a subsidiary
20 of AMC Entertainment. American Multi-Cinema owns and operates movie theaters throughout
21 the United States and California. Plaintiffs seek full and equal access to the goods and services
22 provided by American Multi-Cinema through its AMC theaters.

23 **CLASS ACTION ALLEGATIONS**

24 23. Plaintiffs bring this case as a class action pursuant to Fed. R. Civ. P. 23(b)(2), and
25 alternatively, (b)(3), on behalf of all blind individuals and individuals with a visual impairment
26 that substantially limits the major life activity of seeing, in the United States, who have
27 attempted to use audio description at an AMC theater.

1 24. The persons in the class are so numerous that joinder of all such persons is
2 impractical and the disposition of their claims in a class action is a benefit to the parties and to
3 the Court.

4 25. There are common questions of law and fact involved affecting the parties to be
5 represented in that they all have been and/or are being denied their civil rights to full and equal
6 access to, and use and enjoyment of, AMC's goods, facilities, and services due to the lack of
7 provision and maintenance of audio description required by law for persons with disabilities.

8 26. The claims of the named Plaintiffs are typical of those of the class.

9 27. Plaintiffs will fairly and adequately represent and protect the interests of the
10 members of the Class. Plaintiffs have retained and are represented by counsel competent and
11 experienced in complex class action litigation, including class actions brought under the
12 Americans with Disabilities Act.

13 28. Class certification of the claims is appropriate pursuant to Fed. R. Civ P. 23(b)(2)
14 because Defendants have acted or refused to act on grounds generally applicable to the Class,
15 making appropriate both declaratory and injunctive relief with respect to Plaintiffs and the Class
16 as a whole.

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

21 30. References to Plaintiffs shall be deemed to include the named Plaintiffs and each
22 member of the Class, unless otherwise indicated.

23 **FACTUAL ALLEGATIONS**

24 31. AMC provides movie-going entertainment to thousands of Americans each day.
25 AMC owns and operates a massive chain of over 300 AMC movie theaters. AMC serves
26 approximately 200 million guests each year in its movie theaters, operates six of the top ten
27 highest grossing theaters in the United States, and has the number one market share in the top
28 three markets for theater-going.

1 32. Despite this strong record of providing entertainment to millions of Americans,
2 AMC fails to provide equivalent services to individuals who are blind or visually-impaired.

3 33. The primary service that AMC offers to the general public in its theaters is
4 playing movies. In order to make movies accessible to individuals who are blind and to provide
5 its customers an experience comparable to that of sighted patrons, AMC supposedly offers audio
6 description at many of its theaters. However, AMC rarely provides appropriate, functioning
7 audio description devices to blind customers. Instead, AMC routinely provides the wrong
8 technology when customers request audio description devices, or audio description devices that
9 are non-functioning or so malfunctioning that they are useless to blind customers.

10 34. Properly functioning audio description technology provides an audio track
11 containing descriptions of the visual elements of the film and is synchronized with the film's
12 audio track. Most major film studios release wide-release movies with audio description tracks.
13 Audio description tracks are available for most wide-release films that AMC Theaters exhibit.

14 35. Theaters deliver audio description tracks to blind customers through audio
15 description devices. To access audio description, a theater provides a blind customer with a small
16 receiver, which the blind customer can connect to his or her own headphones or headphones that
17 the theater provides. The headset receiver is battery-operated and programmed to wirelessly
18 receive the audio track for the specific movie the individual has bought a ticket to watch.

19 36. Although many AMC theaters have the technology to provide audio description
20 tracks to customers, Plaintiffs have repeatedly found that the devices are unavailable, improperly
21 charged, programmed to play audio description for the wrong movie, and otherwise
22 malfunctioning.

23 37. When blind customers ask for an audio description device at AMC theaters, staff
24 frequently do not provide the correct equipment. AMC staff members often give blind patrons
25 the wrong device – instead of giving a blind person an audio description device, they give a blind
26 person a device that assists people who are hard of hearing. If a blind customer gets the correct
27 device at all, it is usually because AMC staff sought assistance from management, which takes
28 additional time, often causing the blind patron to be late to the movie they have come to the

1 theater to watch. In some instances, AMC staff give blind customers an audio description device
2 that is programmed to provide audio description for the wrong movie. When this problem
3 happens, a blind customer must decide whether to leave the movie auditorium to seek out staff
4 assistance, or sit and watch the movie without audio description, missing significant aspects of
5 the movie that are not apparent from the dialogue.

6 38. AMC compounds these problems for blind customers by not maintaining its audio
7 description equipment. AMC often gives blind customers audio description devices with dead
8 batteries, which are therefore useless. AMC has also given customers audio description devices
9 with such poor sound quality that individuals miss out on parts of the movie because they can
10 only hear some of the audio description track.

11 39. This case arises out of AMC's policy and practice of denying blind and visually-
12 impaired individuals access to its movie showings, through its failures to provide and properly
13 maintain functioning audio description devices.

14 40. Numerous individuals who are blind or visually-impaired enjoy going to movie
15 theaters, and have attempted to access AMC's services with the assistance of audio description.
16 These individuals have repeatedly been unable to fully and equally enjoy movies in AMC
17 theaters with audio description because AMC fails to provide, maintain, and operate audio
18 description devices. These failures deny these individuals full and equal access to AMC's
19 primary service—playing films for the public to enjoy.

20 41. Plaintiff Scott Blanks has encountered great difficulty accessing audio description
21 at AMC theaters. Mr. Blanks goes to see movies at the theater every couple of months. He visits
22 AMC Bay Street in Emeryville, AMC Van Ness, or AMC Metreon in San Francisco.

23 42. Most recently, on or around November 27, 2015, Mr. Blanks went to see *The*
24 *Good Dinosaur* at AMC Bay Street with his wife and twin three-year-old sons. AMC staff did
25 not provide him with a properly functioning audio device. AMC staff gave Mr. Blanks an audio
26 description device that was programmed for *The Good Dinosaur*, but the device only worked for
27 about the first ten minutes of the movie. After that, the audio started to cut out intermittently, for
28 about fifteen seconds at a time. After thirty minutes of the audio cutting out intermittently, the

1 device stopped playing audio altogether. From that point on, Mr. Blanks had no access to audio
2 description for the movie he and his family had come to watch together. Mr. Blanks was
3 particularly disappointed because this was the first family outing to the movies with his young
4 sighted sons, and AMC's failures put a damper on what should have been an enjoyable and
5 significant family event.

6 43. In addition, on or around June 19, 2015, Mr. Blanks went to see *Inside Out* at
7 AMC Bay Street. Again, AMC staff did not provide him with a properly functioning audio
8 description device. The audio description device that AMC staff provided to Mr. Blanks did not
9 work when the movie began. Again, Mr. Blanks had to choose between leaving the theater and
10 missing part of the movie, or going without audio description. Rather than missing the first part
11 of the movie to go ask staff once again for a functioning device, Mr. Blanks again gave up and
12 sat through the film without audio description, which meant that he missed critical scenes and
13 could not fully enjoy the film.

14 44. On or about June 12, 2014, Mr. Blanks went to AMC Bay Street to watch *The*
15 *Fault in Our Stars*. An AMC staff member provided Mr. Blanks with the wrong technology,
16 giving him an assistive listening device for people with hearing impairments instead of an audio
17 description device for blind individuals. Mr. Blanks had to explain this mistake to AMC staff,
18 and they gave him an audio description device. However, when the movie started, it did not play
19 any audio. Rather than missing the first part of the movie to go ask staff once again for a
20 functioning device, Mr. Blanks gave up and sat through the film without audio description,
21 which meant that he missed many critical scenes and could not fully enjoy the film. On other
22 occasions, AMC provided an audio description device to Mr. Blanks, but the device did not work
23 because the batteries are not charged and AMC was unable to provide replacement batteries.

24 45. Because of the foregoing malfunctions and failures by AMC employees, Mr.
25 Blanks has missed portions of movies, or watched movies without audio description. Mr. Blanks
26 now often chooses to attend other theaters rather than AMC, because he knows that he is more
27 likely to get functional audio description equipment from other theaters.
28

1 46. AMC has also denied Plaintiff Leah Gardner audio description services at AMC
2 theaters. Ms. Gardner enjoys seeing films in the theater and goes to AMC theaters once every
3 few months. In February of 2015, Ms. Gardner went to the AMC Bay Street theater in
4 Emeryville, California to see *The Imitation Game*. She asked AMC staff for an audio description
5 device for the film. AMC staff provided her with numerous audio description receivers that did
6 not work at all. Finally, AMC staff provided Ms. Gardner with a receiver that did work, but
7 when the movie started, Ms. Gardner discovered that the device was programmed for the wrong
8 movie. Instead of providing Ms. Gardner with audio description for *The Imitation Game*, AMC
9 provided her with audio description for *Fifty Shades of Grey*. Thus, she was unable to fully enjoy
10 the movie that she had paid to see.

11 47. AMC has also denied Plaintiff Charles Nabarrete audio description services at
12 AMC theaters on multiple occasions. Most recently, on January 17, 2016, Mr. Nabarrete tried to
13 enjoy *Star Wars* with his son and wife at the Covina AMC. Although the Covina theater
14 advertises the availability of audio description, when Mr. Nabarrete arrived at the Covina AMC
15 with his family and requested an audio description device, staff told him that audio description
16 was not available. The staff explained that the theater's audio description system was
17 malfunctioning. Disappointed, Mr. Nabarrete and his family did not see *Star Wars* that day, and
18 had to travel to a more-distant theater the next day to finally enjoy the movie together.

19 48. In late 2013, Mr. Nabarrete went to see *Gravity* and *The Hobbit: The Desolation*
20 *of Smaug*, at the AMC theater in Arcadia. Each time, Mr. Nabarrete called the theater in advance
21 to ensure that audio description would be available and AMC staff assured him that it would be
22 available. However, both times, the devices failed to work.

23 49. Mr. Nabarrete has obtained audio description in other circumstances only after
24 educating uninformed AMC employees about AMC's audio description equipment and seeking
25 the assistance of supervisors.

26 50. AMC has also denied Plaintiff Robert Schulenburg audio description services at
27 AMC theaters on multiple occasions. Mr. Schulenburg has encountered problems accessing
28

1 audio description services at AMC theaters in San Jose, Campbell, and Manteca, California on
2 several occasions.

3 51. Most recently, Mr. Schulenburg went to see *The Good Dinosaur* at the AMC
4 theater in Manteca, California on January 21, 2016. When Mr. Schulenburg requested audio
5 description, the staff provided him with two receiver units and one headset, because they
6 anticipated that one of the receiver units might not function. Once the movie started, he had to
7 switch the headphones back and forth between the receivers to determine which one was giving
8 him a functioning signal. This distracted him and caused him to miss out on the beginning of the
9 movie. Mr. Schulenburg settled upon a receiver that seemed to be working, but about fifteen
10 minutes into the movie, he realized that it had poor sound control. When Mr. Schulenburg
11 increased volume, which was necessary to hear the descriptive track, he experienced significant
12 distortion and the signal cut in and out. Mr. Schulenburg left the theater to get a new set of
13 equipment, missing another portion of the film. When he returned to the theater, the new receiver
14 provided somewhat better sound quality but there was still distortion when he raised the volume.
15 As a result, there were parts of the movie when Mr. Schulenburg could not hear the audio
16 description track.

17 52. On or about June 15, 2013, Mr. Schulenburg visited the AMC Saratoga 14 to
18 watch *Epic*. Mr. Schulenburg requested an audio description device for the movie, but theater
19 staff were unable to properly configure the audio description device for him. AMC also failed to
20 provide Mr. Schulenburg with functional audio description equipment at a screening of *Now You*
21 *See Me* in June of 2013. After these incidents, Mr. Schulenburg primarily visited other movie
22 theaters, since AMC audio description malfunctioned so routinely.

23 53. AMC has also denied Plaintiff Empish Thomas audio description services at
24 AMC theaters on multiple occasions. Ms. Thomas typically goes to the movies one to two times
25 each month. On January 3, 2016, Ms. Thomas went to see *Concussion* at the AMC Stonecrest 16
26 Theatre in Lithonia. AMC staff provided her with three different audio description devices, but
27 none of them worked properly. Each time she tried a new audio description device, her sighted
28 boyfriend who was sitting beside her in the theater left the movie to ask AMC staff for a

1 functioning device. When the third device did not work, Ms. Thomas gave up on trying to get
2 functioning audio description for the movie. As a result, Ms. Thomas was unable to fully enjoy
3 the film.

4 54. On November 23, 2015, Ms. Thomas went to see *The 33* at the AMC Stonecrest
5 16 Theatre in Lithonia. When the movie started, the audio description device that AMC staff
6 provided to her did not work. Ms. Thomas navigated her way out of the auditorium to ask AMC
7 staff to provide a functioning device. AMC staff eventually provided Ms. Thomas with a
8 functioning audio description device, but she had to miss a portion of the movie to resolve the
9 problem. Ms. Thomas has also encountered difficulty accessing audio description at the AMC
10 Dine-in Theatres Buckhead 6 in Atlanta and AMC North DeKalb Mall 16 in Decatur.

11 55. AMC has denied Ardis Bazyn, a member of CCB, full and equal access to AMC
12 theaters' services. AMC failed to provide Ms. Bazyn with audio description in January of 2015
13 when she went with her husband to see *The Imitation Game* at the Burbank 16 theater in
14 Burbank, California. Ms. Bazyn asked an AMC staff member for an audio description device but
15 the staff member did not know what audio description was and gave Ms. Bazyn an assistive
16 listening device. Because Ms. Bazyn was not familiar with the physical design of the two
17 different devices, she did not realize this until she had entered the theater and the movie had
18 started. Ms. Bazyn did not want her husband to miss part of the film to return to customer service
19 and fix AMC's error. Instead, Ms. Bazyn had to watch the film without audio description. When
20 she alerted a customer service employee of the issue after the film, the employee did not
21 understand that the audio description and assistive listening devices were different, and insisted
22 that there was no problem.

23 56. In addition, many other blind individuals have been entirely unable to access or
24 have encountered difficulty accessing audio description at AMC theaters because AMC fails to
25 properly maintain its audio description equipment and to adequately train its staff on use of that
26 equipment. Other blind individuals in California who have encountered these problems include
27 Mark Hanohano, Michael Pedersen, Mark Grossman, and Ryan Dour. Blind individuals have
28

1 encountered these problems at AMC theaters outside of California, including Sharon Dudley in
2 Maryland, Martin Kuhn in Pennsylvania, and Bob Jacob in Missouri.

3 57. The repeated denial of effective audio description equipment and services at
4 AMC theatres has deterred and will continue to deter blind and visually impaired people from
5 attending movies at such theatres as often as they otherwise would like to attend such movies.

6 58. AMC is violating basic equal access requirements under the ADA by failing to
7 provide functioning audio description. AMC has failed to implement policies and procedures to
8 ensure that its audio description devices are charged and maintained, that its staff are trained, and
9 that devices are correctly programmed.

10 **FIRST CAUSE OF ACTION**

11 **Violation of Title III of the Americans with Disabilities Act (42 U.S.C. § 12181, *et seq.*)**

12 **(on Behalf of the Named Plaintiffs and the Class)**

13 59. Plaintiffs incorporate by reference the foregoing allegations as though fully set
14 forth herein.

15 60. Title III of the ADA prohibits discrimination on the basis of disability in the full
16 and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations
17 of places of public accommodation. 42 U.S.C. § 12182.

18 61. Defendants own or operate AMC movie theaters, which are places of public
19 accommodation within the statutory definition. 42 U.S.C. § 12181(7)(C).

20 62. Title III prohibits entities that own, operate, lease, or lease to places of public
21 accommodation from denying an individual or class of individuals with disabilities the
22 opportunity to participate or benefit from the goods, services, facilities, privileges, advantages, or
23 accommodations of an entity. 42 U.S.C. § 12182(b)(1)(A)(i); 28 C.F.R. § 36.202(a).

24 63. Title III prohibits entities that own, operate, lease, or lease to places of public
25 accommodation from affording an individual or class of individuals with disabilities the
26 opportunity to participate in or benefit from a good, service, facility, privilege, advantage, or
27 accommodation that is not equal to that afforded to other individuals. 42 U.S.C. §
28 12182(b)(1)(A)(ii); 28 C.F.R. § 36.202(b).

1 64. By failing to provide and maintain a functional audio description system, AMC is
2 excluding Plaintiffs from participating in and benefiting from the goods, services, facilities,
3 privileges, advantages, and accommodations of its movie theaters, in violation of Title III. AMC
4 further violates Title III because it is providing Plaintiffs with a movie-going experience that is
5 not equal to that afforded to other individuals when its audio description devices malfunction and
6 when staff fail to properly configure the devices.

7 65. Under Title III, entities that own, operate, lease, or lease to places of public
8 accommodation must take the steps necessary to ensure that no individuals with disabilities are
9 excluded, denied services, or otherwise treated differently than others because of the absence of
10 auxiliary aids and services, unless doing so would fundamentally alter the services provided or
11 create an undue burden. 42 U.S.C. § 12182(b)(2)(A)(iii); 28 C.F.R. § 36.303.

12 66. Audio description is an auxiliary aid under Title III of the ADA. AMC has
13 further violated Title III by failing to take the steps necessary to ensure that blind and visually-
14 impaired persons are not excluded from its movie-showing services because of the absence of
15 audio description.

16 67. Additionally, public accommodations must maintain in operable working
17 condition those features of equipment that are required to be readily accessible to and usable by
18 persons with disabilities. 28 C.F.R. § 36.211.

19 68. Although AMC has the necessary equipment to provide an accessible movie-
20 going experience to blind patrons, it fails to maintain this equipment in operable working
21 condition, in violation of Title III.

22 69. It is a violation of Title III for entities that own, operate, lease, or lease to places
23 of public accommodation to fail to make reasonable modifications in policies, practices, or
24 procedures when such modifications are necessary to afford such goods, services, facilities,
25 privileges, advantages, or accommodations to individuals with disabilities, unless the
26 modification would fundamentally alter the nature of such goods, services, facilities, privileges,
27 advantages, or accommodations. 42 U.S.C. § 12182(b)(2)(A)(ii); 28 C.F.R. § 36.302(a).

1 70. By failing to modify practices, policies, and procedures to ensure that audio
2 description equipment is maintained and fully functional and that employees know how to set up
3 equipment and monitor audio description equipment, AMC is violating Title III.

4 71. The actions of Defendants were and are in violation of the Americans with
5 Disabilities Act, 42 U.S.C. §§ 12181, *et seq.*, and regulations promulgated thereunder. Many
6 blind and visually-impaired individuals, including named Plaintiffs Blanks, Gardner, Nabarrete,
7 Thomas, and Schulenburg, have been and continue to be denied full and equal access to AMC's
8 movie theater services. Defendants have failed to take the necessary steps to provide full and
9 equal access to blind and visually-impaired patrons, and Defendants' violations of the ADA are
10 ongoing. Unless the Court enjoins Defendants from continuing to engage in these unlawful
11 practices, Plaintiffs will continue to suffer irreparable harm.

12 72. Plaintiffs are entitled to injunctive relief. 42 U.S.C. § 12188.
13 WHEREFORE, Plaintiffs pray for relief as set forth below.

14 **SECOND CAUSE OF ACTION**

15 **Declaratory Relief**

16 **(on Behalf of The Named Plaintiffs and the Class)**

17 73. Plaintiffs incorporate by reference the foregoing allegations as if set forth fully
18 herein.

19 74. An actual controversy has arisen and now exists between the parties in that
20 Plaintiffs contend, and are informed and believe that Defendants deny, that by failing to maintain
21 and provide audio description equipment and services, Defendants fail to comply with applicable
22 laws, including but not limited to Title III of the Americans with Disabilities Act, 42 U.S.C. §§
23 12181, *et seq.*

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

26 WHEREFORE, Plaintiffs request relief as set forth below.

27 **PRAYER FOR RELIEF**

28 WHEREFORE, Plaintiffs pray for judgment as follows:

- 1 1. A permanent injunction pursuant to the Americans with Disabilities Act, 42
2 U.S.C. §§ 12181, *et seq.*, requiring Defendants to take the steps necessary to provide properly
3 functioning audio description equipment and services in their movie theaters for individuals who
4 are blind or visually-impaired.
- 5 2. A declaration that Defendants discriminate against blind and visually-impaired
6 persons by failing to provide blind and visually-impaired individuals, including Plaintiffs, with
7 full and equal access to the services, facilities, privileges, advantages, and accommodations of
8 the services at AMC theaters in violation of Title III of the ADA, 42 U.S.C. §§ 12181, *et seq.*
- 9 3. An order awarding Plaintiffs reasonable attorneys' fees and costs, as authorized
10 by 42 U.S.C. § 12188; and
- 11 4. For such other and further relief as the Court deems just and proper.
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14 DATED: February 16, 2016

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16 DISABILITY RIGHTS ADVOCATES

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