SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK
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HAWA BOUREIMA, MINKWON CENTER FOR COMMUNITY ACTION, MERCEDES CRUZ, XIAO DAN GUAN, MEKSHENG KWONG, REYITA RIVERA, MARTHA RODRIGUEZ, TIDA KONTEH, YAN YE, MARIA MA, YUE FU CHAN, ANTONIA CANO

Plaintiffs,

INDEX NO. 402014/09

-against-

PROPOSED VERIFIED AMENDED COMPLAINT

The New York City Human Resources Administration and ROBERT DOAR as Commissioner of the New York City Human Resources Administration,

Defendants.

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Plaintiffs HAWA BOUREIMA, MINKWON CENTER FOR COMMUNITY ACTION, MERCEDES CRUZ, XIAO DAN GUAN, MEKSHENG KWONG, REYITA RIVERA, MARTHA RODRIGUEZ, TIDA KONTEH, YAN YE, MARIA MA, YUE FU CHAN, and ANTONIA CANO as and for their verified complaint in this action, respectfully allege as follows:

PRELIMINARY STATEMENT

1. Five years after the passage of a comprehensive local law intended to guarantee access for limited English proficient ("LEP") applicants and recipients of benefits administered by the New York City Human Resources Administration ("HRA"), HRA has failed to comply with even the most basic

requirements of the law, depriving these individuals of the necessities of life and repeatedly subjecting them to humiliating discrimination.

2. This is an action for declaratory, injunctive, and monetary relief brought by MinKwon Center for Community Action, an organization serving and advocating on behalf of the Korean American community, as well as other Asian immigrant communities, and eleven individual plaintiffs, Hawa Boureima, Mercedes Cruz, Xiao Dan Guan, Meksheng Kwong, Reyita Rivera, Martha Rodriguez, Tida Konteh, Yan Ye, Maria Ma, Yue Fu Chan, and Antonia Cano, who have been denied access to vital services and programs by HRA because of their status as LEP individuals. HRA's actions constitute unlawful national origin discrimination and are in violation of New York City's Equal Access to Human Services Act of 2003 ("EAHSA"), HRA's EAHSA Language Access Implementation Plan, New York City's Human Rights Law ("NYCHRL"), New York State Social Services Regulations, HRA Policy Directive 06-12-OPE ("Servicing Individuals with Limited English Speaking Ability"), and the New York State Office of Temporary and Disability Assistance ("OTDA") Administrative Directive 06-ADM-05.

3. Defendants' failure to properly implement and monitor the EAHSA, to abide by New York City's Human Rights Law, and to follow HRA and OTDA internal policies regarding the provision of interpretation and translation services and the prohibition of national origin discrimination, has discriminated against and injured many otherwise qualified LEP applicants

and beneficiaries of HRA services and programs like the thirteen named plaintiffs.

4. For over ten years, Defendant HRA has been on notice of egregious language barriers faced by LEP applicants and recipients at HRA centers around the five boroughs. During this time, community-based and legal services organizations in New York City have waged an aggressive advocacy campaign aimed at bringing HRA into compliance with civil rights laws and with their own internal policies that mandate the provision of language services.

5. This advocacy campaign included the filing of a civil rights complaint against HRA with the Office for Civil Rights of the U.S. Department of Health and Human Services in 1999 on behalf of LEP individuals resulting in a finding that HRA discriminated on the basis of national origin.

6. In 1999, a lawsuit was also filed in U.S. District Court against HRA on behalf of LEP Food Stamp applicants and recipients.

7. In the following years, advocacy and legal services groups continued to address HRA's failure to provide language services to LEP individuals through media campaigns and legislative advocacy culminating in the passage of the EAHSA in 2003.

8. After surveying all of the HRA centers in New York City for their compliance with EAHSA mandates, Legal Services NYC published a report in December 2007 documenting ongoing language barriers faced by LEP individuals at the

centers around the five boroughs. Since that time, Legal Services NYC has met with HRA repeatedly to discuss the findings of this report and to convey ongoing problems faced by LEP clients at HRA centers. HRA has failed to adequately resolve these reported problems.

9. Plaintiffs seek a declaration that Defendants' actions violate the Equal Access to Human Services Act of 2003, HRA's EAHSA Language Access Implementation Plan, New York City Human Rights Law, New York State Social Services Regulations, HRA Policy Directive 06-12-OPE ("Servicing Individuals with Limited English Speaking Ability"), and OTDA Administrative Directive 06-ADM-05. They also seek an injunction ordering Defendants to comply with the applicable statutes and HRA's internal policies regarding the provision of translation and interpreter services. Plaintiffs also seek an order directing defendant HRA to provide them with any benefits for which they were eligible retroactive to the date when they were first denied access to HRA services. Under New York City Human Rights Law, plaintiffs seek civil penalties against HRA and punitive damages in the amount that the court sees fit.

PARTIES, JURISDICTION AND VENUE

10. Plaintiff MinKwon Center for Community Action is a not-for-profit organization located at 136-19 41st Ave. 3rd Fl. Flushing, NY, 11355. One of MinKwon Center's missions is to serve the marginalized members of their

community through various social service programs, including assisting limited English proficient individuals' access vital public benefits.

11. Plaintiff Hawa Boureima resides at 1310 Sheridan Avenue, Apartment 6I, Bronx, New York, 10456.

12. Plaintiff Mercedes Cruz resides at 1525 East 26th Street, Apartment 2H, Brooklyn, NY, 11229.

13. Plaintiff Xiao Dan Guan resides at 34 Monroe Street, Apartment C1-12, New York, NY, 10002.

14. Plaintiff Meksheng Kwong resides at 136 Eldridge Street, Apartment 11, New York, NY, 10002.

15. Plaintiff Reyita Rivera resides at 8418 Rockaway Beach Boulevard, Queens, NY, 11693.

16. Plaintiff Martha Rodriguez resides at 448 Wilson Avenue, Apartment 3F, Brooklyn, NY, 11221.

17. Plaintiff Tida Konteh resides at 1050 Carroll Place, Apt. 2C, Bronx, NY, 10456.

18. Plaintiff Yan Ye resides at 47 East Broadway, Apartment 302, New York, NY, 10002.

19. Plaintiff Maria Ma resides at 55 Jackson Street, Apartment 1B, New York, NY, 10002.

20. Yue Fu Chan resides at 265 Cherry Street, 14H, NYC, NY 10002.

21. Antonia Cano resides at 1151 Elder Avenue, Bronx, NY 10472.

22. Defendant Robert Doar is the Commissioner of New York City's Human Resources Administration ("HRA"), and in that capacity is responsible for administering the Public Assistance, Food Stamp and Medicaid programs in the City of New York in compliance with the Social Services Law, the regulations promulgated thereto, and other applicable law. HRA has its principle offices at 180 Water Street, New York, NY 10038.

23. Defendant HRA is the New York City Human Resources Administration. HRA is required to administer the Public Assistance, Food Stamp and Medicaid programs in New York City in compliance with the Social Services Law, the regulations promulgated thereto, and other applicable law. HRA has its principle offices at 180 Water Street, New York, NY 10038.

24. This court has jurisdiction over plaintiffs' claims pursuant to New York State

25. Civil Practice Laws and Rules (C.P.L.R.) §3001 for declaratory relief and §6001 for injunctive relief.

26. Venue lies properly in this Court pursuant to CPLR §506(b) and §509.

STATUTORY AND REGULATORY SCHEME

27. New York City's Equal Access to Human Services Act of 2003 ("EAHSA") was enacted by the City Council in 2003. The purpose of the law "is to ensure that persons eligible for social services receive them and to avoid the possibility that a person who attempts to access services will face discrimination based upon the language s/he speaks." NYC Code § 8-1001, n.1.

28. The EAHSA provides that:

> [w]hen a limited English proficient individual seeks or receives benefits or services from an agency office or agency contractor, the agency office or agency contractor shall provide prompt language assistance services in all interactions with that individual, whether that interaction is by telephone or in person. The agency office or agency contractor shall meet its obligation to provide prompt language assistance services for purposes of this subdivision by ensuring that limited English proficient individuals do not have to wait unreasonably longer to receive assistance than individuals who do not require language assistance services.

NYC Code § 8-1003(b).

29. The EAHSA states: "Where an application or form requires completion in English by a limited English proficient individual for submission to a state or federal authority, the agency or agency contractor shall provide oral translation of such application or form as well as certification by the limited English proficient individual that the form was translated and completed by an interpreter." NYC Code § 8-1003(c).

30. The EAHSA defines "Language assistance services" as "interpretation services and/or translation services provided by bilingual personnel or interpreter personnel to a limited English proficient individual in his/her primary language to ensure their ability to communicate effectively with agency or agency contractor personnel." NYC Code § 8-1002(n).

31. The EAHSA defines "Agency Office" as "job center, food stamp office, medical assistance program office, or other part, subdivision, field office or satellite facility of the agency or agency contractor office that performs a covered function." NYC Code § 8-1002(b).

32. The EAHSA provided HRA with a phase-in period allowing the agency five years to comply with the law. NYC Code § 8-1008. The phase-in period expired on February 1, 2009.

33. The EAHSA requires HRA to develop an implementation plan "to describe how and when the agency . . . will meet the requirements imposed by this chapter." NYC Code Tit. 8, Ch. 10. § 8-1008(3)(c).

34. Pursuant to the EAHSA, HRA promulgated a Language Access Implementation Plan. The introduction to this plan states, "This plan is a continuation of HRA/DSS's commitment to provide meaningful access to all individuals seeking benefits and services, including individuals with limited English proficiency.

35. 28. The plan itself states, "when a client visits one of our sites, staff relies upon telephonic interpretation. . . . Coverage for interpretation services spans all program areas and is available to every worker and at every site which meets with the public . . . ." (Available at: http://www.nyc.gov/html/imm/downloads/pdf/hra_plan06.pdf.)

36. HRA's Language Access Implementation Plan states that HRA was in 100% compliance with the translation requirements of the EAHSA at the time the legislation was fully phased-in. The plan further states, "[t]he agency has invested in technology solutions to provide customers with computer-generated notices in [the six covered languages under the EAHSA]."

37. The New York City Human Rights Law ("NYCHRL"), enacted in 1991, prohibits discrimination based on national origin in places of public accommodation. NYC Code § 8-107.

38. The New York City Council enacted comprehensive reforms to the NYCHRL when it passed NYC Local Law No. 85 of 2005, The Local Civil Rights Restoration Act ("Restoration Act").

39. Section 8-401 of NYCHRL includes the following statement:

> [t]he council finds . . . that the social and moral consequences of systemic discrimination are . . . injurious to the city in that systemic discrimination polarizes the city's communities, demoralizes its inhabitants and creates disrespect for the law, thereby frustrating the city's efforts to foster mutual respect and tolerance among its inhabitants and to promote a safe and secure environment.

40. NYCHRL further provides:

> It shall be an unlawful discriminatory practice for any person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place or provider of public accommodation because of the . . . national origin . . . of any person, directly or indirectly, to refuse, withhold from or deny to such person any of the accommodations, advantages, facilities or privileges thereof, or, directly or indirectly, to make any declaration, publish, circulate, issue, display, post or mail any written or printed communication, notice or advertisement, to the effect that any of the accommodations, advantages, facilities and privileges of any such place or provider shall be refused, withheld from or denied to any person on account of . . . national origin . . . .
>
> NYC Code § 8-107(4)(a).

41. New York State Social Services regulations prohibit discrimination based on national origin by social service districts and officials. 18 N.Y.C.R.R § 303.1.

42. Title 18, Section 303.1(a) of the New York Code of Rules and Regulations provides, in relevant part, "[n]o social services district or official shall establish or apply any policy or practice which would have the effect of discriminating against an individual because of . . . national origin. This prohibition shall apply to all aid, care, services, benefits or privileges provided directly, or indirectly . . . ."

43. This regulation also provides, in relevant part:

> In the provision of public assistance . . . no social services district or any member of its staff shall, on the basis of . . .national origin: (1) deny an individual any aid, care, services, other benefits or privileges provided by the district; (2) provide any aid, care, services, other benefits or privileges to an individual which are different, or are provided in a different manner, from that provided to others; (3) subject an individual to segregation or separate treatment in any matter related to his receipt of any aid, care, services, other benefits or privileges; (4) restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any aid, care, services, other benefits or privileges; . . . (6) deny any individual an opportunity to participate in a program through the provision of services . . . .

Id.

44. HRA Policy Directive 06-12-OPE ("Servicing Individuals with Limited English Speaking Ability") states that "communication assistance must be provided for those applicants/participants who have either limited or no English-speaking ability."

45. HRA Policy Directive 06-12-OPE further states "a person can never be denied service due to his/her inability to communicate in English."

46. HRA Policy Directive 06-12-OPE states that "an applicant must always be allowed to file an application . . . in the event that an appointment must be

rescheduled for a LESA applicant because interpreter services are not available, the worker must ensure that the application filing date is protected."

47. OTDA Administrative Directive 06-ADM-05 states, "Districts have the responsibilities to . . . obtain a qualified interpreter, but may not deny access to an application for benefits, programs or services based on the inability to provide adequate interpretation services."

48. OTDA Administrative Directive 06-ADM-05 further states, "No person shall be denied access to an application for benefits, programs or services based on a district's inability to provide adequate interpretation services. Persons with LEP must be able to apply without undue hardship."

STATEMENT OF FACTS

Plaintiff MinKwon Center for Community Action

49. The MinKwon Center for Community Action (formerly the Young Korean American Service & Education Center, Inc. [YKASEC]), is a community-based non-profit organization focused on meeting the needs of the Korean American community, including serving marginalized community members who have less access to resources, including the youth, the elderly, recent immigrants, low-income residents, and limited English proficient residents.

50. A large number of the community members served by the MinKwon Center are limited English proficient and receive one of the HRA-administered public benefits (public assistance, food stamps or Medicaid) at any one time.

51. An even larger percentage of community members served by the MinKwon Center are low-wage workers who often need to access such benefits on a temporary and sporadic basis. Additionally, many undocumented MinKwon clients access such benefits on behalf of their documented children.

52. The MinKwon Center regularly serves large numbers of community members who are unable to access vital benefits from HRA solely because of their limited English proficiency.

53. The MinKwon Center's bilingual staff regularly take time out of their own job duties to accompany clients to HRA centers for the sole purpose of interpreting when language services are not offered by HRA.

54. Limited English proficient clients regularly call the MinKwon Center's bilingual staff from HRA centers when they are denied interpreter services and ask MinKwon Center staff to interpret between them and their HRA workers.

55. MinKwon Center bilingual staff regularly spends portions of their time translating English notices for limited English proficient clients and calling HRA centers on behalf of LEP clients.

56. The MinKwon Center expends significant resources through staff time used to provide language services due to HRA's failure to provide such services which are required by law.

Plaintiff Hawa Boureima

57. Hawa Boureima is a thirty year old limited English proficient woman from Niger. Her primary language is Soninke and she is also proficient in Mandingo. She does not speak or understand English at a level that enables her to communicate effectively.

58. Ms. Boureima has two U.S. citizen children, ages 2 and 3. The father of her children returned to Niger, leaving Ms. Boureima without financial support.

59. Ms. Boureima applied for Public Assistance on behalf of her two children to avoid destitution and eviction. She is in the process of seeking Withholding of Removal and is thus not currently eligible for Public Assistance on her own behalf. However, her children, who are citizens of the United States, are eligible for Public Assistance.

60. Ms. Boureima's Income Support Center is Center # F-40- Melrose Center. The center is located at 260 East 161st Street, Bronx, NY.

61. On July 2, 2008, Ms. Boureima entered Center # F-40- Melrose Center to apply for Public Assistance for her two children.

62. At the time, Ms. Boureima was unaware of her right to assistance in a language other than English. Ms. Boureima indicated to the Center staff that

she did not speak English, but Center staff did not provide her with interpreter services.

63. Center staff communicated with Ms. Boureima only in English. Ms. Boureima left the office with an English application for Public Assistance which she could not understand.

64. .In July, Ms. Boureima submitted her application for Public Assistance. In August, she received a notice from HRA denying her application. The notice stated she was denied because she "did not give all of the things we need to decide if you can. . . ." This notice was entirely in English and the reason for denial was incomplete as it was not expressed in a full sentence.

65. Ms. Boureima requested a fair hearing to contest this denial with the assistance of Ms. Dawn Burley, a Family Support worker at the Women's Housing and Economic Development Corporation ("WHEDCo"). Ms. Burley was, at the time, unfamiliar with any language access mandates.

66. Ms. Boureima attended her fair hearing on August 27, 2008 without a representative.

67. At the hearing, Ms. Boureima was asked whether she spoke English and she answered, "a little bit."

68. The agency did not offer or provide an interpreter to Ms. Boureima.

69. Because Ms. Boureima was not aware of her right to interpreter services, she did not request an interpreter herself. Ms. Boureima did not understand what occurred at the hearing.

70. Ms. Boureima waited for a fair hearing decision but never received a decision. When Ms. Burley subsequently called the agency to request the fair hearing decision, she was told that Ms. Boureima had withdrawn her fair hearing request at the hearing.

71. Ms. Boureima had no intention of withdrawing her fair hearing request. She had not understood the ALJ when he told her she needed to reapply because of the language barrier.

72. Ms. Burley subsequently requested a new hearing for Ms. Boureima.

73. Ms. Boureima's next fair hearing was held on October 29, 2008. Ms. Burley acted as Ms. Boureima's representative at the hearing, but was still unaware of the legal requirement that HRA provide an interpreter.

74. Ms. Burley did not raise any language access issues at the hearing. Again, the agency never offered Ms. Boureima an interpreter.

75. At this hearing, the agency explained that because Ms. Boureima had not submitted the necessary documents with her application for Public Assistance, it was denied. Ms. Boureima was again instructed to reapply for Public Assistance.

76. Ms. Burley referred Ms. Boureima to a Public Benefits attorney at Legal Aid who gave Ms. Boureima a letter to present to the HRA center stating that she was in need of an interpreter and that HRA was required by law to provide an interpreter for her.

77. Ms. Boureima was falling behind in her rent and was desperate for benefits to

support her family.

78. On February 2, 2009, Ms. Boureima returned to the Melrose Center with the letter from her attorney regarding her right to interpreter services. Once more, Ms. Boureima was not provided with an interpreter and she was told that the staff could not assist her in completing her application.

79. Ms. Boureima's Legal Aid attorney contacted Amy Taylor, an attorney at Legal Services NYC regarding the language access problems at the Melrose Center.

80. Amy Taylor contacted Kavita Pawria, the Director of HRA's Office of Refugee and Immigrant Affairs (ORIA) on February 3, 2009. Ms. Pawria then contacted Mr. Cruz, the "LESA Liaison" from the Melrose Center, who is responsible for overseeing the language access compliance of the Center.

81. With Ms. Pawria's assistance, Ms. Boureima obtained a scheduled meeting with Mr. Cruz.

82. Unfortunately, Ms. Boureima missed the meeting due to illness. Ms. Burley attempted to reschedule the meeting with Mr. Cruz by calling him on February 10, 2009, but her call was never returned.

83. Ms. Burley called Mr. Cruz again on February 19, 2009 and February 23, 2009. Ms. Burley also sent Mr. Cruz an e-mail on February 23, 2009. Mr. Cruz did not respond to any of Ms. Burley's messages.

84. On February 25, 2009, Ms. Boureima went to the Melrose Center with the letter from her attorney requesting interpreter services. She asked to speak

with Mr. Cruz but Mr. Cruz refused to see her, claiming he did not know who she was.

85. On that same day, other workers at the Center repeatedly questioned Ms. Boureima in English, even after she showed them her letter stating that she was LEP and needed an interpreter.

86. Ms. Boureima was never offered an interpreter on February 25, 2009.

87. Ms. Burley reported this experience to Ms. Pawria. Mr. Cruz subsequently returned Ms. Burley's messages on February 26, 2009.

88. When Ms. Burley requested a Soninke interpreter for Ms. Boureima, Mr. Cruz's response was, "they still speak that?"

89. Upon information and belief, Mr. Cruz is the "LESA Liaison" at the Melrose Center, who is the employee responsible for overseeing the Center's compliance with language access mandates and culturally competent services.

90. On Friday, February 27, 2009, Ms. Boureima returned to the Melrose Center with the letter from her attorney. Mr. Cruz determined that her English was "good enough" and that she did not need an interpreter.

91. Mr. Cruz then assigned a caseworker to Ms. Boureima who did not speak Soninke or Mandingo and who did not access interpreter services for her.

92. On February 27, Ms. Boureima was not offered any assistance in a language she could understand.

93. Ms. Boureima did not understand what was required of her in order to successfully file an application for Public Assistance.

94. After the February 27, 2009 meeting, the Center called Ms. Boureima to request further information regarding her application. They did not have an interpreter on the telephone and consequently, Ms. Boureima did not understand what papers she needed to provide.

95. Ms. Boureima's application was completed entirely without the use of an interpreter.

96. Ms. Burley contacted Ms. Pawria at HRA again to make a complaint about the Center's persistent failure to provide language services to Ms. Boureima.

97. On March 26, 2009, Ms. Boureima was called in to the Center and was provided with a Mandingo-speaking caseworker. This meeting took place on the 5th Floor of the Melrose Center. Mandingo, while not Ms. Boureima's primary language, is a language in which she feels comfortable communicating.

98. Subsequently, Ms. Boureima received an appointment letter in the mail stating that she must come in to the Melrose Center to recertify her benefits on July 8, 2009.

99. On July 8, Ms. Boureima went into the Melrose Center. Ms. Boureima tried to find the Mandingo-speaking caseworker on the 5th Floor again but was told that she must go down to the 3rd Floor to speak with another caseworker whom she had not met before. The caseworker did not offer to provide an interpreter for Ms. Boureima and spoke only in English.

100. Ms. Boureima feels that if she had any problems with her case, she would not

be able to communicate with anyone at the Center to resolve them.

Plaintiff Mercedes Cruz

101. Mercedes Cruz is a forty-five year old limited English proficient woman with three children. Ms. Cruz's native language is Spanish.

102. Ms. Cruz's Income Maintenance Center is Center #63 – Coney Island located at 3050 West 21st Street, Brooklyn, NY.

103. Ms. Cruz's Public Assistance case number is 4193002F.

104. Ms. Cruz opened her Public Assistance case in 2007. When she went to the second floor of Center #63 to open her case, Ms. Cruz tried to explain to the receptionist in limited English that she needed a Spanish interpreter.

105. She was not provided with an interpreter.

106. Ms. Cruz asked for the application form in Spanish. The receptionist told her that there were no application forms in Spanish and she gave Ms. Cruz an English form.

107. The receptionist told her she should find another applicant in the Center to help her fill out the application form.

108. Ms. Cruz managed to fill out the application form, although she did not understand many items on the form.

109. Every time Ms. Cruz has gone to Center #63 to attend appointments or to ask questions about her case, she has requested a Spanish interpreter. She has never been provided with a Spanish interpreter.

110. Ms. Cruz estimates that she has been to the Center approximately 20 times since opening her case, and she has never been provided with an interpreter.

111. The majority of the forms that Center #63 has mailed Ms. Cruz have been in English. Once in a while, Center #63 mails a communication in both Spanish and English, but important notices such as a notice of discontinuance of benefits and a notice of change in benefits have been entirely in English.

112. Ms. Cruz has asked the receptionist at Center #63 for documents in Spanish. The receptionist always says that they do not have Spanish forms.

113. Ms. Cruz has asked her caseworkers Ms. Gordon and Mr. Igor for assistance in Spanish. They have never provided her assistance in Spanish.

114. Ms. Cruz has asked her caseworkers' supervisors for assistance in Spanish, and they have not provided her with assistance in Spanish.

115. Ms. Cruz has a 19 year-old son named Jose Diaz. He is bilingual in English and Spanish.

116. Because Ms. Cruz does not understand English well, she often asks Jose to accompany her to appointments at Center #63 and to translate documents for her.

117. Jose attends Brooklyn College full-time. He cannot attend every appointment with his mother because of his class schedule, but he tries to go when he can.

118. In February 2009, Ms. Cruz received a sanction for failing to attend a face-to-face recertification interview. The sanction was eventually lifted after a fair hearing.

119. In the meantime, Ms. Cruz attended a Mandatory Dispute Resolution ("MDR") appointment at Center #63 to try and resolve the sanction.

120. Ms. Cruz brought her son Jose to the MDR appointment. After waiting for several hours, Ms. Mendes, a caseworker at the Center, told Ms. Cruz that it was time for her MDR appointment.

121. Jose stood up with his mother to attend the MDR appointment so that he could translate for her. Ms. Mendes told Jose he was not allowed to go in because there was no room.

122. Jose explained that his mother needed an interpreter, and that he would stand if there were not enough seats in the room. Ms. Mendes told Jose that he could not enter and that the Center would provide an interpreter for Ms. Cruz.

123. Ms. Cruz was not provided with an interpreter at the MDR appointment.

124. Ms. Mendes asked Ms. Cruz many questions in English, the majority of which Ms. Cruz did not understand. The worker gave Ms. Cruz a recertification form in English.

125. On March 11, 2009, after Ms. Cruz won her fair hearing, Ms. Cruz brought a letter to Center #63, written by her attorney Rachel Hannaford, stating that she would like to open a new Public Assistance case and that she needed an interpreter. The letter stated that an interpreter was required under the law.

126. Ms. Cruz showed the letter to the receptionist, who kept the letter. The receptionist indicated to Ms. Cruz that she should sit down and wait.

127. The agency did not provide an interpreter for Ms. Cruz that day.

128. Nevertheless, Ms. Cruz managed to open an application for benefits in English.

129. On March 12, 2009, Ms. Cruz's attorney Rachel Hannaford spoke to Ms. Campbell, the Deputy Center Director and Language Liaison, and explained that Ms. Cruz had never been provided with an interpreter and that the Center had ignored the March 11 letter requesting an interpreter. Ms. Campbell guaranteed Rachel Hannaford that Ms. Cruz would be paired with a Spanish-speaking caseworker, Ms. Diaz.

130. In April 2009, Ms. Cruz received a notice indicating that Maria Diaz was her new caseworker. Finally, she thought that she would be paired with someone who could communicate with her. Ms. Cruz went to the Center and spoke with Ms. Diaz, who gave her her telephone number and told her that she could call her if there was any problem. Ms. Cruz continued to receive notices mostly in English.

131. In early June 2009, Ms. Cruz received a bilingual notice indicating that her benefits would be changed because of agency error. She immediately called Ms. Diaz and left a message asking why her benefits were changing. Ms. Diaz never returned her phone call.

132. Later in June 2009, Ms. Cruz received a notice that she was required to attend a face-to-face appointment on July 6. Soon thereafter, she received a notice to change benefits, written entirely in English, stating that her caseworker was now Ms. Gordon. From previous experience, Ms. Cruz knew that Ms. Gordon

did not speak Spanish.

133. When she went to attend the face-to-face appointment on July 6, Ms. Cruz met with Ms. Gordon. Ms. Cruz informed Ms. Gordon that she did not speak much English. Nevertheless, Ms. Gordon continued the appointment in English. Luckily, Jose was present and was allowed to interpret. Ms. Cruz asked Ms. Gordon, through Jose, whether Ms. Diaz was going to be her caseworker any longer. Ms. Gordon informed Ms. Cruz that her caseworker had changed. Ms. Cruz continues to receive notices in English and has yet to receive a Spanish interpreter at the Center.

Plaintiff Xiao Dan Guan

134. Plaintiff Xiao Dan Guan is a fifty-year old limited English proficient woman. Her primary language is Mandarin.

135. Ms. Guan describes her English as "very bad."

136. Ms. Guan has three children who are 18, 21 and 23 years old. Ms. Guan lives with her 80 year old mother and her 18 year old son.

137. Ms. Guan has been divorced from her husband since 2001. Since that time, Ms. Guan had been a recipient of Public Assistance, Food Stamps and Medicaid until her benefits were unexpectedly terminated in September 2008.

138. Ms. Guan's HRA Center is the Waverly Center located at 12 West 14th Street, NY, NY.

139. Prior to September 2008, Ms. Guan's benefits had been terminated at other

times as well. It was always difficult for Ms. Guan to understand why that happened since HRA never provided her with an interpreter or any other assistance in Mandarin.

140. Ms. Guan would usually attend her fair hearing and appeal HRA's termination. Ms. Guan never fully understood what had happened because no one could communicate with her.

141. Ms. Guan does not feel comfortable enough with her English to communicate even the most basic information to her caseworker.

142. In September of 2008, Ms. Guan's benefits were terminated without any notice. Ms. Guan realized this when she brought her daughter to the doctor and was told her Medicaid card was no longer valid. After this incident, she received a notice in English from HRA but she could not read it.

143. After receiving the letter, Ms. Guan went to her HRA center to figure out what had happened. No one spoke to her in Mandarin. Ms. Guan felt the workers were impatient with her because she could not understand what they were saying. Although Ms. Guan attempted to use her very limited English to communicate, she was not able to resolve the matter.

144. To this day, Ms. Guan does not know why her benefits were terminated.

145. After visiting her Center in September, Ms. Guan returned several times over the following months to attempt to apply for Food Stamps because she felt she was still eligible. Each time she was denied language services and left feeling confused and humiliated.

146. Ms Guan believes that the workers at the Center told her she could not reapply for Food Stamps. Since they never provided her with an interpreter, she never fully understood what they were saying.

147. Ms. Guan uses her very limited English to communicate with her caseworker. As a result, Ms. Guan only understands a small portion of what her caseworker tells her.

148. During more than seven years of contact with HRA, no one at the Waverly Center has ever spoken to her in Mandarin or offered her an interpreter.

149. During this time, Ms. Guan has never received a notice from HRA in Chinese.

150. During this time, Ms. Guan has never had anyone offer to provide her with telephonic interpretation services at HRA. She has never witnessed this service in use at any of the offices she has visited. She did not even know it existed.

151. This year, Ms. Guan accompanied her 80 year old LEP mother to the Union Square Center on 16th Street to apply for Food Stamps. Ms. Guan's mother does not speak any English at all.

152. When the Union Square Center did not provide an interpreter for her mother, Ms. Guan attempted to act as the interpreter despite her own inability to speak and understand the English language. The Food Stamp office sent Ms. Guan and her mother back to the Waverly Center. Once again, Ms. Guan attempted to act as an interpreter for her mother since no interpreter was not provided.

153. Without an interpreter, Ms. Guan and her mother could not understand the

different responses each Center gave them about their cases. As far Ms. Guan understood, the Waverly Center was telling them that Ms. Guan's mother was qualified for Food Stamps, and the Union Square office was saying she was not.

154. Ms. Guan's caseworker at the Waverly Center wrote something down in English on a piece of paper for her to take to the Union Square Center. Ms. Guan did not know what the worker had written.

155. Ms. Guan felt that if she could speak English, she would not have had to go back and forth so many times. During this experience, her mother got lost and she had to contact the police to help find her.

156. Over the past year, Ms. Guan has received countless documents in English that she could not understand.

157. On November 29, 2008, Ms. Guan received a Notice of Intent to Reduce Public Assistance which was only in English.

158. On December 19, 2008, Ms. Guan received a Fair Hearing Decision Notice that was in English and in Spanish.

159. On December 22, 2008, Ms. Guan received a notice concerning her Medical Assistance Application that was only in English.

160. On December 26, 2008, Ms. Guan received a Documentation Request Form in English with additional information handwritten in English instructing Ms. Guan to gather documentation and deliver it to HRA. The form states that the "failure to provide this documentation to HRA may result in the denial of your

request for an additional allowance."

161. On February 13, 2009, Ms. Guan received a Notice of Fair Hearing in English that included a Timely Aid-Continuing Fair Hearing Language Insert in English and in Spanish.

162. On February 28, 2009, Ms. Guan received a Notice of Decision in English explaining the level of her benefits and her rights to a conference or fair hearing to contest these levels.

163. On March 8, 2009, Ms. Guan received a Medicaid/Family Health Plus Renewal Form in English and Spanish. This form stated that HRA required Ms. Guan to fill out the form and send additional documentation to HRA by a certain date to avoid the closing of her Medicaid case.

164. On June 8, 2009, Ms. Guan received an Acknowledgment of Fair Hearing request form in English and in Spanish.

165. When Ms. Guan receives a notice in English she is forced to guess what it says because she is never offered any language services by HRA.

166. In March 2009, Ms. Guan was dissuaded from attending her fair hearing by her case worker who told her she would not win. When Ms. Guan inquired about why she could not win, the caseworker wrote something in English for her on a piece of paper but she did not understand what it said.

167. Ms. Guan is not currently receiving Food Stamps or any other benefits, but believes she is eligible. As a result, she owes money to her landlord for rent and cannot afford to buy enough food for her family.

Plaintiff Meksheng Kwong

168. Meksheng Kwong is a forty-one year old limited English proficient woman. Her primary language is Cantonese.

169. Ms. Kwong describes her ability to speak English as very limited. She feels that when she speaks English no one understands her and that she cannot adequately express herself.

170. Ms. Kwong has three children who are 2, 6 and 8 years old.

171. Ms. Kwong is separated from her husband and is a victim of domestic violence.

172. Ms. Kwong is a recipient of Public Assistance, Food Stamps and Medicaid. She has been receiving Medicaid for at least 8 years. Ms. Kwong has also been receiving Food Stamps and Public Assistance sporadically during this period.

173. Ms. Kwong's HRA center is the Waverly Center located at 12 West 14th Street, NY, NY. Ms. Kwong visits this Center approximately once every two months to recertify her benefits and to attempt to correct problems with her benefits case.

174. In October, Ms. Kwong went to her Center with all of her documentation to recertify. Since no one spoke with her in Cantonese, she didn't understand what they were saying. She was not able to recertify that day.

175. When Ms. Kwong showed the workers at the Center the letter she received in the mail, they just said, "no!" Ms. Kwong tried to ask for help but kept being

told, “no!” Ms. Kwong was very upset that she could not understand what was happening.

176. During the past year, Ms. Kwong has occasionally requested assistance in Cantonese at the Waverly Center and has always been told to bring someone with her who speaks English. In May, she asked for help in Cantonese and one worker told her, “No Cantonese!”

177. Ms. Kwong feels humiliated and frustrated when she tries to handle her case and no one can communicate with her.

178. In November, Ms. Kwong showed up for an appointment and was told to wait outside. They would not allow her in. A couple of days later she received a notice stating that she had missed her appointment. Her benefits were terminated. Ms. Kwong believes this misunderstanding was a result of the language barrier.

179. Andy Kong, Ms. Kwong’s caseworker at University Settlement, sometimes accompanies her to appointments at the Waverly Center in order to interpret for her.

180. When Mr. Kong cannot accompany her, Ms. Kwong uses her very limited English to communicate with her caseworker. She is often told that they cannot understand her and she often feels confused and humiliated by the experience.

181. Mr. Kong has given Ms. Kwong a letter to take with her to the Center(s) requesting interpreter services, and he has offered to provide interpreter

services himself, but the workers at the Waverly Center have never responded to Mr. Kong's letter.

182. Ms. Kwong feels deeply upset by the experience of visiting the Center and being denied interpreter services. She feels overwhelmed and confused because she cannot understand what her caseworker tells her. Sometimes she feels discriminated against.

183. Ms. Kwong says that sometimes the workers laugh at her attempts to communicate in English.

184. Although Ms. Kwong has, on occasion, received a Chinese notice, the large majority of her notices arrive in English.

185. Ms. Kwong has sometimes received bilingual English/Spanish notices.

186. When Ms. Kwong gets a notice in English she brings it to Andy Kong at University Settlement so he can tell her what it says. Mr. Kong is not always available to assist Ms. Kwong.

187. On November 7, 2008, Ms. Kwong received a Notice of Decision on Your Public Assistance, Food Stamps and Medical Assistance in English and Spanish. This notice stated that her Public Assistance was being discontinued and referenced a missed appointment as the reason. The notice also stated that if she responded to the notice within ten days, she had the opportunity to remain eligible for assistance. Ms. Kwong could not understand the notice and did not respond.

188. On November 14, 2008, Ms. Kwong received a notice in English adjusting the

amount of her Public Assistance grant.

189. On November 16, 2008, Ms. Kwong received a Notice of Intent to Reduce Public Assistance that was also only in English.

190. On November 29, 2008, Ms. Kwong received a Notice of Intent to Change Benefits that was written in English.

191. On June 18, 2009, Ms. Kwong received another notice adjusting the amount of her public assistance grant in English only.

192. Besides Mr. Kong, Ms. Kwong does not know anyone who speaks English well enough to help her understand the notices she receives from HRA. She has no one in her community who can help her understand these notices.

193. Ms. Kwong says that without Mr. Kang, she couldn't handle her HRA case on her own.

194. Currently, Ms. Kwong believes she is entitled to a higher level of Food Stamps than she is receiving. She does not know how to correct this problem. She feels it is impossible to attempt to speak with her caseworker because she is never provided with an interpreter.

Plaintiff Reyita Rivera

195. Reyita Rivera is a fifty year old limited English proficient woman from the Dominican Republic. Ms. Rivera's primary language is Spanish. Although Ms. Rivera speaks some English, her English vocabulary is limited and she is not able to understand or speak about complicated matters in English.

196. Ms. Rivera's HRA center is the Rockaway Center located at 219 Beach 59th St., Queens, NY 11692. She estimates that she has visited her Center about five times since September 2008.

197. After losing her job in September 2008, Ms. Rivera went to the Rockaway Beach Center in order to increase her monthly Food Stamp allowance.

198. Ms. Rivera asked for a Spanish interpreter at the Center, but a staff member responded, "Spanish? Nobody speaks Spanish here."

199. Center staff have never offered Ms. Rivera an interpreter or attempted to communicate with Ms. Rivera in any other way.

200. Center staff told Ms. Rivera that she must bring an English-speaking person with her to the Center. Ms. Rivera does not know anyone she can ask to accompany her to the Center.

201. As a result of the communication barrier, Ms. Rivera's Food Stamp benefits were mistakenly lowered to $10 a month.

202. Ms. Rivera returned to the HRA Food Stamp office about a month later to try to increase her Food Stamp allowance after it was mistakenly lowered.

203. When Ms. Rivera requested a Spanish application at the office, she was told that the office did not have any Spanish applications. Ms. Rivera was given an English application.

204. Because Ms. Rivera did not understand most of the application, she filled out the English application with the help of bilingual individuals in the waiting room.

205. Ms. Rivera never saw anyone access telephonic interpreting services at her Center.

206. Ms. Rivera felt horrible and believed she was being discriminated against when she could not communicate with the office or correct the problems in her food stamp case.

Plaintiff Martha Rodriguez

207. Martha Rodriguez is a thirty year old limited English proficient woman. Her primary language is Spanish. Ms. Rodriguez speaks very little English.

208. Ms. Rodriguez has two children who are nine and six years old.

209. Ms. Rodriguez has had ongoing contact with HRA for the past three years. Her primary center is the Linden Center located at 45 Hoyt Street, Brooklyn, NY.

210. In the past six months, Ms. Rodriguez has visited her Center at least four times. There has never been anyone there to communicate with her in Spanish.

211. When Ms. Rodriguez asks for someone to assist her in Spanish, she has been repeatedly told that no one there speaks Spanish.

212. When Ms. Rodriguez has gone to a center, she has usually shown the worker her documents and the worker, without making any attempts to communicate with Ms. Rodriguez, has selected the documents she needs without providing any interpretation services.

213. Ms. Rodriguez cannot understand what the workers say to her. Ms. Rodriguez feels bad when she cannot understand what is happening with her case.

214. Ms. Rodriguez has never seen anyone use a telephonic interpreter at the Center.

215. On April 8, 2009, Ms. Rodriguez went into the Center to apply for a one-shot deal. When no one offered her a Spanish application, she filled out the English application as best as she could but she did not understand what she completing.

216. The form Ms. Rodriguez signed asked her to bring in proof of her next month's rent payment by April 18, 2009. This request was hand-written in English on the form. Ms. Rodriguez did not understand the instructions.

217. On April 22, 2009, Ms. Rodriguez returned to the Center and was given a BEV Home Appointment Notice, which she signed. The notice stated that BEV investigators would visit Ms. Rodriguez's home on May 5, 2009. This notice was only in English and Ms. Rodriguez did not understand. Failure to complete the home visit would cause Ms. Rodriguez's application to be denied.

218. On May 5, 2009, Ms. Rodriguez waited at home all day for the BEV investigator, but no one ever showed up. Ms. Rodriguez called to find out why no one had shown up and understood, from her limited English, that her case was cancelled. Ms. Rodriguez returned to the office and was told she

needed to apply again. Once more, Ms. Rodriguez was told there was no one there who could help her in Spanish.

219. Ms. Rodriguez applied again, doing her best to complete an application in English, and her application was again denied. She was never told why. On her third attempt to apply for benefits, her application was once again denied.

220. Ms. Rodriguez is currently waiting for a response on her fourth application for a one-shot deal. Ms. Rodriguez is in imminent danger of being evicted from her apartment if her application for a one-shot deal is not approved.

221. Ms. Rodriguez has never received a notice from HRA in Spanish. All of the notices she receives are in English. Ms. Rodriguez says that whenever she can, she checks the box for Spanish on her forms from HRA. However, she still receives all notices in English. Her neighbors help translate documents for her. This makes her feel bad because she does not want to share her personal information with her neighbors.

Plaintiff Tida Konteh

222. Tida Konteh is a fifty-four year old limited English proficient woman from Gambia. Her primary languages are Mandinka and Fula. She also understands Wolof.

223. Ms. Konteh has extremely limited English speaking abilities. She can only understand very basic words.

224. Ms. Konteh cannot read in either English or in her native languages.

225. Ms. Konteh has three children who all live in Gambia. She lives in the United States alone in a rented room in the Bronx.

226. Ms. Konteh was recently granted asylum.

227. Ms. Konteh's Income Support Center is Center # F-40- Melrose Center. The center is located at 260 East 161st Street, Bronx, NY. This is the same center as plaintiff Ms. Boureima.

228. Ms. Konteh works as a home health aid but does not receive very much work because of her limited English skills.

229. Ms. Konteh first visited the Melrose Center, one of the centers named in Plaintiffs' Verified Complaint for failure to comply with language access mandates, on September 29, 2009 in order to apply for food stamps since she is struggling to live month to month with her limited work income.

230. Ms. Dawn Burley, a Family Support worker at the Women's Housing and Economic Development Corporation ("WHEDCo"), helped Ms. Konteh prepare for her visit to the Melrose Center by giving her a letter stating that she needed an interpreter and that HRA is required by law to provide one.

231. When Ms. Konteh presented this letter to a worker at the Melrose Center, the worker told her that her English was "good enough." No interpreter was provided despite Ms. Konteh's repeated protests that she could not understand anything the worker was saying.

232. Ms. Konteh did not understand what was happening during the meeting with her worker. The worker, at one point, wrote something in English on a piece of paper and gave it to Ms. Konteh.

233. Ms. Konteh did not understand what was written on the paper. Neither did she understand what was expected of her when the meeting was over. As a result, Ms. Konteh did not understand that she was supposed to provide further documentation to the center in order to complete her application for food stamps.

234. After Ms. Konteh's visit to the Melrose Center on September 29, Ms. Burley sent an email to Ms. Pawria, the Director of HRA's Office of Refugee and Immigrant Affairs, notifying her of the language barriers suffered by Ms. Konteh.

235. On October 6, 2009, Ms. Pawria responded to the e-mail message sent by Ms. Burley asking for Ms. Konteh's name.

236. Ms. Konteh received a notice dated October 24, 2009 stating that her application for Food Stamps was being denied.

237. When Ms. Konteh receives notices in English, the couple who share her apartment help her read them. Sometimes they feel overburdened when she asks them to help. Ms. Burley also helps her understand such notices.

238. On October 30, 2009, Ms. Konteh's advocate, Ms. Burley, contacted Ms. Pawria again as well as Mr. Cruz, the "LESA Liaison" from the Melrose Center, by e-mail to inform them of the ongoing violations at the Melrose

Center and to make them aware that because the center refused to provide Ms. Konteh with an interpreter, her application for food stamps had been denied.

239. Mr. Cruz responded to Ms. Burley by informing her that he was no longer working at the Melrose Center and that he had forwarded Ms. Burley's e-mail message to Mr. Lopez. Mr. Lopez contacted Ms. Burley to let her know that he could not help Ms. Konteh because she was a food stamps applicant and he worked only with public assistance applicants.

240. On November 2, Ms. Burley was contacted by Clinton Holman, Regional Manager at HRA, who stated that he was assigned to investigate the language barriers faced by Ms. Konteh when she attempted to apply for Food Stamps in September.

241. Mr. Holman scheduled an appointment with an interpreter for Ms. Konteh through Dawn Burley, for November 4, 2009 at 2 pm at the Melrose Center.

242. After her appointment on November 4th, Ms. Konteh was finally approved for Food Stamps more than a month after she had initially attempted to apply.

243. Without the assistance of Dawn Burley, her letter and her advocacy calls and e-mails, it is very unlikely that Ms. Konteh would have successfully applied for Food Stamps.

Plaintiff Yan Ye

244. Yan Ye is a seven year old U.S. Citizen living off of Food Stamp benefits.

245. Because Ms. Ye is a minor child, all interactions with HRA concerning her benefits are handled by and through Ms. Ye's father, Mr. Fei Jian Ye. Mr. Ye is a limited English proficient man whose primary language is Fukanese. He is also proficient in Mandarin. Mr. Ye's English is not good enough to communicate with HRA effectively and he cannot read or write English at all.

246. Ms. Ye resides with her parents at 47 East Broadway, Apartment 302, New York, NY 10002. Ms. Ye's mother is employed; however, Ms. Ye's father cannot work due to a work-related injury he suffered in 1997. Due to this accident, Mr. Ye suffered three broken bones and liver and nerve damage. As a result, he is unable to sit for extended periods of time without experiencing intense pain and weakness. Mr. Ye is currently receiving medical treatment twice weekly to treat his symptoms. The daughter depends on public benefits to survive each month, and the entire family would encounter severe hardships if they were unable to receive these benefits

247. Ms. Ye's HRA center is the Waverly Center located at 12 West 14th Street, NY, NY.

248. Mr. Ye first applied for his daughter's Medicaid benefits in April of 2002, just after she was born. Ms. Ye received Medicaid benefits shortly after her birth; however, soon after, in July of 2002, the entire family traveled to China where they remained until the end of 2006, when they returned to New York. At that time, they decided to apply for both Medicaid and Food Stamps on their daughter's behalf.

249. When applying for benefits during the end of 2006 through the beginning of 2007, Mr. Ye was unable to understand the Medicaid application form because the form was in English and Spanish. In order to file the application on his daughter's behalf, he sought the help English-speaking friends who helped him complete the application forms. Mr. Ye says that several of the forms were in Spanish only, and he does not have any friends who speak both Spanish and Chinese. As a result, he and his friends could not fill out those specific forms. Mr. Ye says that had the forms been in Chinese or English, he would have been able to complete them with his friends' assistance.

250. Mr. Ye says that without his friends' help, it would have been impossible for him to file for his daughter's benefits because all the forms were only provided in English and Spanish. When it was time for a renewal of Ms. Ye's Medicaid benefits on or about June or July of 2007, Ms. Ye's physician recommended that Mr. Ye contact Henry Street Settlement House for assistance with completing the forms since Mr. Ye had expressed that he did not want to bother his English-speaking friends with this task.

251. Mr. Ye sought assistance from staff at the Henry Street Settlement House soon after receiving the referral from his daughter's physician. The Henry Street Settlement staff contacted the HRA Center on Mr. Ye's behalf in order to obtain Chinese language renewal applications for Ms. Ye. However, following these efforts, Mr. Ye has received materials only in Spanish. Mr. Ye says he has received Spanish-language notices on at least five occasions

since seeking assistance at Henry Street Settlement House. Mr. Ye says he has received Spanish-language notices on at least five occasions since seeking assistance at Henry Street Settlement House.

252. To date, Ms. Carol Tang, an Enrollment Counselor at Henry Street, has assisted Mr. Ye in translating notices and completing renewal applications for his daughter's Medicaid benefits. Following his daughter's physician's referral to Henry Street Settlement House, Mr. Ye says that he always goes to Henry Street for assistance with his daughter's Medicaid benefits.

253. Mr. Ye encountered even more difficulties when he tried to apply for Food Stamps on his daughter's behalf in late 2006 and early 2007.

254. Mr. Ye initially tried to apply independently for his daughter's Food Stamp benefits. Mr. Ye says he first went to the Waverly HRA Center in early 2007. Once he arrived at the Center, he, along with several other applicants, approached three to four HRA employees sitting behind a long table in the reception area.

255. Because he is unable to communicate effectively in English, Mr. Ye cannot ask for a Chinese language interpreter, but he is able to tell the receptionist that he is Chinese. With hand gestures and sign language, he expressed to the HRA staff that he wanted to apply for Food Stamps. The HRA staff, responding in sign language and gestures, indicated to Mr. Ye that he should pick up all the forms that were stored along the wall in the reception area and he should get someone to interpret for him. Mr. Ye says that he reviewed the

forms that were in the area indicated by the HRA staff, and when he realized that there were no materials in Chinese, he approached the staff and said, "Excuse me, no Chinese," and held up the Spanish and English forms to indicate that the Center lacked the same forms in Chinese. The HRA staff member replied, "No."

256. At this point, the HRA employee went to an area of the waiting room where there were many Chinese applicants seated and asked one of these applicants to interpret and Mr. Ye. A woman who was seated in the waiting area offered to assist Mr. Ye. She was an employee of a private language service company who was assisting several Chinese LEP applicants in applying for benefits at the Center.

257. The woman assisted Mr. Ye in communicating with the HRA staff and expressing his need for forms in Chinese. Mr. Ye says that after the woman expressed Mr. Ye's request, a staff member responded, "After you have a Chinese mayor in New York City, then you will have documents in Chinese." The woman from the private language company later recommended that Mr. Ye seek assistance from a private agency, not her own, located at 98 Mott Street, New York, NY, when accessing HRA services.

258. After hearing the HRA employee's remark and following his own unsuccessful attempt to communicate with the HRA staff or obtain the necessary materials to apply for benefits, Mr. Ye took one copy of each form

on the wall and decided to return home and seek assistance from English-speaking friends or the private company to complete the forms.

259. Following this unsuccessful visit to the HRA Center, and following the referral he had received, Mr. Ye finally decided to hire the private Chinese language service company located at 98 Mott Street to help him apply for his daughter's benefits. The service charged $100 to fill out and file the first application. The company asked for Mr. Ye's personal information as well as copies of the following documentation: monthly bank statements, proof of low-income status, passports, Ms. Ye's birth certificate, and the family's social security cards.

260. Mr. Ye provided the necessary documentation to the company and it completed the forms accordingly. A company employee then accompanied Mr. Ye to the HRA Center. Once there, the private company employee secured a number for Mr. Ye to see a Mandarin-speaking HRA employee. The private company employee then left the HRA Center and Mr. Ye had to wait approximately three hours to meet with the Mandarin-speaking HRA employee on his daughter's behalf. Mr. Ye says that he was very worried and nervous as he waited, especially because he noticed roughly 100 to 200 Chinese applicants in the waiting room but only saw one to two Chinese HRA employees, and he was concerned that he would be unable to meet with the Mandarin-speaking employee due to the high demand.

261. Following a three hour wait, Mr. Ye was able to meet with the Mandarin-speaking employee and submitted his daughter's application.

262. After filing the application earlier that year, Mr. Ye received a notice in May 2007 from the HRA Center regarding his daughter's application. Mr. Ye says that there were a few words in Chinese on the exterior of the envelope, indicating: "Important Document Inside: Please open and read." After opening the envelope, however, Mr. Ye discovered that the notice was provided only in Spanish and English. As a result, Mr. Ye decided to contact the private language company once more in order to verify the contents of the notice.

263. The private company informed Mr. Ye that the notice contained an authorization of his daughter's Food Stamp benefits. They informed him that his daughter was supposed to receive the Food Stamp Cards within one to two weeks after receiving the initial authorization notice.

264. When Mr. Ye had still not received Ms. Ye's Benefits Card, Mr. Ye returned to the private company to inquire about the status of the card. A private company employee hand wrote on the authorization letter that Ms. Ye had not yet received her card and instructed Mr. Ye to take the notice to the Food Stamps card issuing office in Chinatown. The private company charged Mr. Ye $10.00 for assistance with the authorization letter.

265. Mr. Ye took this letter along with the necessary documentation to the issuing office in Chinatown. Once at the Center, he handed the authorization notice

with the handwritten information to an employee in order to express the purpose of his visit. Mr. Ye entered his pin number, signed a form, and then left the office. Approximately eight or nine days later, Ms. Ye received his daughter's Benefits Card in the mail.

266. Once Ms. Ye received her Food Stamps benefits card, she was required to renew her benefits on a semi-annual basis. Since the renewal notices were only provided in English and Spanish, Mr. Ye was unable to understand them and subsequently unable to complete the forms on his daughter's behalf. Mr. Ye felt he had to resort to using the private service for every renewal thereafter so as to ensure his daughter's benefits would not be interrupted.

267. When filing for a renewal, Mr. Ye provides the private company with all the necessary documentation, including proof of income, and the private company goes to the HRA Center on his behalf. Mr. Ye notes that every time he visits the private company's office on Mott Street, he notices roughly 20 to 40 other applicants in the waiting room seeking assistance from the firm.

268. Mr. Ye has used the private company twice every year since 2007 and still presently uses the company to process these renewals. The private company charges Mr. Ye $70.00 for each renewal application and filing.

269. To date, Ms. Ye's family has spent approximately $500 on these private language services. These costs represent a massive burden on the family's budget, but the family finds it necessary in order for Ms. Ye to receive the benefits to which she was entitled.

270. Mr. Ye says that if the renewal notices had been written in Chinese, he would have been able to understand them without the help of the private company. However, because the renewal notices and applications were only provided in English and Spanish, he was unable to act independently and was forced to rely on the private language company's services.

271. Mr. Ye further states that he decided to rely on the private company's services in applying for and renewing his daughter's benefits because of frustration at the overall experience. Mr. Ye says that once he arrives at the Center, he has to wait for several hours, a waiting period that seriously aggravates his injuries as he is forced to sit for extended periods of time. Further, he says that once he is at the HRA Center, an applicant is made to complete forms in English or Spanish, and he does not understand either language.

272. Additionally, Mr. Ye says he was frustrated because there was never any guarantee of seeing a Mandarin-speaking caseworker at the HRA Center. Further, he says that if he were to be given an appointment with an English-speaking caseworker, they would have a very limited ability to communicate with each other and that it would be highly unlikely that they would understand one another. As a result, Mr. Ye says that he has not attempted to return to the HRA Center since his last visit in early 2007.

273. Mr. Ye says that he feels that he is unable to finalize anything on his own when he attempts to act independently and complete a benefits application or HRA Center visit. He further says that he dislikes asking his friends for

assistance with these matters, especially when it involves them missing work, because he believes he is a burden to them and owes them something. Mr. Ye says that, in order to save time, as well as not to overburden himself or his friends, he has sought the assistance of the private language company for the past three years.

274. Mr. Ye has never been told by HRA that he has the right to interpretation services.

275. Mr. Ye has never seen any signs telling him of his right to such interpretation services.

276. Mr. Ye has never been offered the use of telephonic interpretation services for Food Stamps. He says he and his wife have used such services to inquire about their daughter's Medicaid benefits. Mr. Ye says that only his wife is able to call as she is the designated agent in their daughter's file and this is problematic because his wife's work schedule limits the number of opportunities they have to use such telephonic interpretation services.

277. Mr. Ye says that when his wife is able to call, she frequently has to wait between two to three hours on hold. Further, his wife is frequently directed to an answering system indicating that the service is busy and requiring that his wife leave a message. Mr. Ye says that it often takes two to three days for his wife to receive any response from the telephonic interpretation service after she has left a message.

278. Mr. Ye says that he feels "guilty" having to ask other people to assist him, but that he continues to burden others because he must get benefits for his daughter. He says that if the notices were sent to him in his native language, he would be able to complete them on his own and would not have to rely on or pay others to help him.

279. Mr. Ye has never received a single notice from HRA in Chinese.

280. Mr. Ye has missed approximately one Medicaid deadline and one to two Food Stamp benefits deadlines for reapplying for his daughter's public benefits because he did not understand the notices sent to him directing him to reapply for those benefits. Mr. Ye says that the envelopes containing these notices all looked the same to him and so he believed the contents were identical. As a result, he did not pay attention to them and only took them to Henry Street for assistance with translation after some time had passed, resulting in the missed deadlines.

281. Mr. Ye does not know whether his daughter receives the correct amount of benefits each month because he cannot understand the English documents sent to him and he cannot communicate with the HRA case workers without interpretation services.

282. Mr. Ye has relied on the help of the Henry Street Settlement staff to obtain assistance with his daughter's Medicaid benefits. Mr. Ye says that he has visited Henry Street Settlement approximately eleven or twelve times in 2009 for help with understanding HRA notices. Mr. Ye says that six of these visits

were completed in October 2009 because he had received several notices during that month and needed immediate assistance in translating them. Mr. Ye says that, additionally, his wife has sought assistance from Henry Street Settlement on at least two occasions.

283. Mr. Ye says that he recently discovered that Henry Street Settlement staff is able to assist him with his daughter's Food Stamp benefits as well. As a result, Mr. Ye says that he intends to get help at Henry Street Settlement with these benefits from now on in order to save money and to avoid having to hire the private language company. Nevertheless, Mr. Ye says that his Enrollment Counselor, Ms. Carol Tang, will be unable to assist him with the Spanish language notices he frequently receives as she does not speak Spanish.

284. Mr. Ye feels guilty about encroaching on the time of the Henry Street Settlement staff, but he feels that he has no choice because he has no other way to communicate with the HRA and he continues to receive notices in English and Spanish only

285. Mr. Ye believes that he is being discriminated against because he is Chinese.

Plaintiff Maria Ma

286. Maria Ma is a sixty-three year old limited English proficient woman. Ms. Ma's primary language is Mandarin.

287. Ms. Ma resides at 55 Jackson Street, Apartment 1B, New York, NY 10002 on her own and relies on Public Assistance to survive each month.

288. Ms. Ma speaks very little English and cannot read or write English at all.

289. Ms. Ma's primary HRA center is the HRA Refugee Job Center located at 2 Washington Street, NYC, NY, the Center that, according to HRA's website, "primarily services refugee or immigrant clients as well as individuals with language barriers."

290. Ms. Ma first applied for Medicaid in September 2001.

291. Ms. Ma has never spoken to an HRA worker in Mandarin.

292. Because of her limited English, Ms. Ma is not able to ask for a Chinese interpreter. However, she is able to express that she does not understand English and that she is Chinese.

293. On at least one occasion, Ms. Ma has been provided with an English-speaking case worker with whom she has been unable to communicate.

294. On several occasions, a Cantonese-speaking caseworker has come to assist Ms. Ma. When Ms. Ma tries to explain that she speaks Mandarin and not Cantonese, the caseworker simply waives his or her hand to indicate that he or she does not understand Mandarin. Ms. Ma has never spoken to a case worker in Mandarin.

295. HRA personnel, including receptionists and case workers, have repeatedly told Ms. Ma that she is responsible for bringing her own interpreter when she comes to the HRA center.

296. Rather than pay a private service, Ms. Ma often asks her adult daughter or other friends to translate for her over the phone.

297. At the HRA Refugee Job Center, Ms. Ma was forced to use her own phone to call a friend to help her communicate with her caseworker, but she was not provided with free telephonic interpretation services.

298. Ms. Ma says that she most frequently asks her daughter and son-in-law for assistance with understanding notices. She says that on occasion she will also ask for help from her daughter's friends as none of her own friends speak English. Ms. Ma says that in certain cases she will not ask her daughter and son-in-law for assistance with translation because they do not completely understand the content of the notices due to their own limited English proficiency.

299. Ms. Ma says that she feels helpless when she has to ask for assistance with English from others.

300. Ms. Ma has never seen any signs at any HRA center telling her that she has a right to free interpretation services.

301. No one at HRA has ever told Ms. Ma that she has such a right. If she knew of such a service, she says she would have used it many times.

302. Ms. Ma has never received a notice from HRA in Chinese.

303. When Ms. Ma receives HRA notices in English, she relies on her daughter, son-in-law, daughter's friends, pharmacies owned by Mandarin speakers, senior centers, or a community-based organization, such as Henry Street Settlement House, to assist her in translating the notices.

304. Ms. Ma says that as soon as she receives a notice, she examines it to see if she is able to recognize a date, time, or dollar amount. If she does, she suspects it is an urgent matter and she tries to seek immediate assistance with translating the notice.

305. In cases where she suspects that the notice is not urgent, Ms. Ma sometimes must carry her notices around with her for one or two weeks before she can find someone whom she can ask to translate them for her.

306. At the end of 2008, Ms. Ma went to the HRA Refugee Job Center to obtain a proof of income which she had to provide in order to continue to receive her housing benefits. During that visit, because she was unable to get assistance from a Mandarin speaker or any telephonic interpretation services, Ms. Ma left the Center.

307. Due to the frustrating experience she had at the HRA Refugee Job Center in trying to obtain the proof of income, Ms. Ma decided to seek assistance at the HRA Department of Social Services located at 180 Water Street, New York, NY, following a friend's referral. Ms. Ma was hoping that she would be able to obtain assistance from a Mandarin speaker at the Water Street Center.

308. Once she arrived at the Water Street Center, Ms. Ma was not provided with either a Mandarin speaker or any telephonic interpretation services, and realizing that she would be unable to obtain the required documentation she needed without the aid of an interpreter, she left the Center.

309. Soon after the Water Street Center visit, Ms. Ma decided to attempt to obtain assistance once again at the HRA Refugee Job Center. Upon her return visit, however, Ms. Ma was once again denied assistance from a Mandarin speaking caseworker or telephonic interpretation services, and she subsequently left the Center.

310. Ms. Ma says that she has not returned to either the HRA Refugee Job Center or the Water Street Center since this series of visits in the end of 2008 because neither Center helped her.

Plaintiff Yue Fu Chan

311. Yue Fu Chan resides at 265 Cherry Street, Apartment 14H, New York, NY 10002 with his wife, San Teng, and two sons, William and Robert.

312. Mr. Chan is a sixty-eight year old, disabled, monolingual Cantonese-speaking man.

313. Mr. Chan and his wife are both limited English proficient.

314. Mr. Chan was forced to stop working approximately twenty years ago because of a gunshot wound to his neck which resulted in a permanent tracheostomy. After his injury, Mr. Chan applied for benefits at HRA.

315. Since that time, Mr. Chan has regularly visited his HRA Center, the Refugee Job Center, located at 2 Washington Street, NYC, NY, to renew his benefits. Mr. Chan is required to submit proof of his disability on a quarterly basis,

which consists of a verification from his physician that he continues to be permanently disabled.

316. For the past three years, Mr. Chan's caseworker was Ms. Lipton, who is English-speaking and does not speak Cantonese. While meeting with Ms. Lipton, Mr. Chan was never offered an interpreter.

317. Mr. Chan states that in the past year, he has received approximately five mailed written notices from the HRA, and the notices have all been in Spanish and English.

318. Mr. Chan has not received any notices in Chinese, despite the fact that his center is well aware that he is a monolingual Cantonese speaker.

319. Mr. Chan states that when he needs to understand a written notice, he takes it to Henry Street Settlement House. A Cantonese-speaking employee, Yoke Chai, regularly assists Mr. Chan and his wife interpret these notices.

320. Mr. Chan also states that he frequently goes to Asian Americans for Equality offices in Chinatown to use their free translation services.

321. Sometimes Mr. Chan is forced to ask his three children to help him understand notices he receives from HRA in English. His children help him understand simple notices but due to their limited Cantonese, Mr. Chan does not often rely on their assistance.

322. Mr. Chan states that he has frequently seen other LEP applicants bring family and friends to interpret at for them at HRA.

323. On October 5, 2009, Mr. and Mrs. Chan submitted a Recertification Form for Temporary Assistance and Medical Assistance and Food Stamp Benefits. This form was only provided to them in English.

324. On October 16, 2009, while in the HRA waiting room prior to his appointment, Mr. Chan observed one private translator who was hired and brought in by four senior citizen applicants for an HRA meeting. Mr. Chan spoke to these applicants and they confirmed that they had paid for this outside interpreter to accompany them.

325. In October, 2009, Mr. Chan was assigned a new caseworker, Ms. Li. Mr. Chan had worked with Ms. Li on one occasion prior to his assignment to Ms. Lipton. Ms. Li is fluent in Cantonese and Mr. Chan is able to converse with her in Cantonese regarding his case.

326. Mr. Chan continues to receive notices in English and Spanish.

Plaintiff Antonia Cano

327. Antonia Cano is a forty year old monolingual Spanish-speaking woman with three children who has been struggling to maintain her benefits from HRA for a decade due to HRA's failure to communicate with her in Spanish.

328. Ms. Cano is a survivor of domestic violence who lives with her three children, two of whom are U.S. citizens.

329. Ms. Cano speaks Spanish at home and does not understand English well. She also does not read or write in English.

330. Ms. Cano first came into contact with HRA about ten years ago when she began receiving Public Assistance and Food Stamps for her son. These benefits were terminated after she missed a recertification appointment due to her inability to read a notice in English. Ms. Cano eventually stopped trying to get her son's benefits reinstated because of the language barrier.

331. In June 2007, Ms. Cano's husband was arrested for domestic violence. At this time, she reapplied for benefits on behalf of her two U.S. citizen children.

332. In June 2009, the U.S. Citizenship and Immigration Services granted Ms. Cano and her oldest child U visas, a visa given to victims of crimes. At this time, she and her daughter were added to the family's Public Benefits case.

333. Up until recently, Ms. Cano's family's case was administered through the Family Services Call Center #17. Additionally, she had contact with the Center 17 Bronx Satellite Office located at 260 East 161st Street, Bronx, NY.

334. Recently, Ms. Cano has learned that her case will be transferred to Center 46.

335. Ms. Cano has been to the Satellite Center approximately eight times since the beginning of 2009. Each time she makes clear that she does not speak English and requests a Spanish-speaking worker. Of the eight interactions Ms. Cano has had at the Center, only twice has she received assistance in Spanish. Usually, Ms. Cano is told there is no one there who can speak to her in Spanish.

336. Once in 2007, Ms. Cano was provided with a Spanish interpreter after waiting for 45 minutes.

337. On September 16, 2009, Ms. Cano went to her center and told her worker "No English." Her worker responded with "No Spanish." When Ms. Cano became frustrated and took her papers to the desk of someone she knew to be a Spanish-speaking worker, the Spanish-speaking worker yelled across a room full of workers and clients regarding the intimate details of Ms. Cano's case, including her status as a victim of domestic violence. The first worker got up and brought Ms. Cano back to her desk and continued to shout across the room in English with the Spanish-speaking worker about Ms. Cano's case. Though her English is limited, Ms. Cano knew these case workers were spefically talking about her case.

338. Ms. Cano can sometimes understand parts of what the workers are saying. She once heard a worker state that the Spanish-speakers are dumb for coming into the Centers without interpreters since the Centers will not provide one.

339. In August 2009, Ms. Cano asked for a Spanish interpreter and was told that the Center did not have anyone who could help her.

340. Ms. Cano was also never provided with an interpreter for the many conversations she had over the phone with HRA.

341. Recently, on November 19, 2009, Ms. Cano received an English-language message on her phone. There was no mention of an interpreter being available to assist her.

342. Sometimes when she is very frustrated, Ms. Cano asks other client in the waiting room for help, but many times these clients don't want to help because it takes too long.

343. When Ms. Cano is forced to speak English with her worker, she tries to use her very limited English to get by. When this occurs, she often becomes frustrated because she cannot get answers to her questions and must leave the appointment with doubts and questions. She usually does not understand what happened during the appointment and must wait for a letter from the Center to arrive to find out what occurred at the appointment.

344. Ms. Cano occasionally receives notices in the mail in Spanish, but often they are only in English. She always checks the box for Spanish notices but does not always receive them.

345. When she receives letters in English, she usually asks her 15 year-old daughter to translate the letters for her. Sometimes she has her social worker from Safe Horizon or her lawyer from the Legal Aid Society help her translate notices.

346. When Ms. Cano asks her daughter to help translate, she feels badly. Her daughter struggles with Spanish and often cannot translate all of the words on the notices. If Ms. Cano asks her social worker or lawyer for help, she often has to wait several days before they are available to see her.

347. On November 16, 2009, Ms. Cano missed an appointment because she did not understand the notice sent to her.

348. Ms. Cano experiences other frustrations when she cannot communicate with her worker. For example, she cannot explain a situation she is currently facing with her landlord to the workers. She also has trouble explaining her U visa status to her workers. She is currently not sure whether her own case is active or just pending because she cannot communicate with anyone.

349. Ms. Cano has never seen any notices about the right to an interpreter in her Center. If she had seen them, she would have pointed them out to her workers.

350. The most recent Client Notification System (CNS) notice sent to Ms. Cano was dated October 27, 2009 and was written only English.

351. Recently Ms. Cano received notices for two appointments in English and Spanish but the Spanish portions were incomplete because they did not include the reasons for the appointments.

352. Ms. Cano feels powerless, angry and frustrated when she cannot communicate with her center. She often leaves the Center crying.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

(Equal Access to Human Services Act of 2003)

353. Defendants denied plaintiffs access to vital services and benefits as well as the language services needed to obtain and maintain such benefits despite

Plaintiffs' and their representatives' repeated attempts to communicate their needs for language services with HRA.

354. Defendants' failure to provide interpreter and translation services to limited English proficient applicants and beneficiaries effectively denies agency services and programs to LEP individuals. These actions violate the Equal Access to Human Services Act of 2003. NYC Code § 8-1003.

SECOND CLAIM FOR RELIEF

(New York City Human Rights Law)

355. Defendants' failure to offer and provide translation and interpretation services to limited English proficient applicants and beneficiaries for their programs and services creates serious barriers to access for LEP individuals and unlawfully discriminates against these individuals based on their national origin in violation of the New York City Human Rights Law.

356. Plaintiffs are entitled to injunctive relief and damages, including punitive damages, in an amount to be determined by the court.

THIRD CLAIM FOR RELIEF

(New York State Social Services Regulations, HRA Language Access Implementation Plan, HRA Policy Directive 06-12-OPE, OTDA Administrative Directive 06-ADM-05)

357. Defendants' actions with respect to plaintiffs violated the requirements of New York State Social Service regulations and OTDA and HRA policies regarding the provision of language services.

358. **REQUEST FOR RELIEF**

359. WHEREFORE, plaintiffs demand judgment:

1. Declaring that Defendants' actions violate the Equal Access to Human Services Act of 2003, as well as OTDA and HRA policy.

2. Declaring that Defendants' actions constitute discrimination based on national origin in violation of the New York City Human Rights Law.

2. Issuing an injunction pursuant to C.P.L.R. §6301 mandating that HRA abide by laws and policies requiring the provision of interpreter and translation services at HRA offices.

3. Directing Defendants to follow state regulations and OTDA and HRA policy regarding the provision of language services.

4. Awarding plaintiffs any retroactive Public Assistance or Food Stamps benefits to which they are entitled because of Defendants' failure to provide required language services.

5. Awarding to plaintiff Konteh Food Stamp Benefits retroactive to September 29, 2009.

5. Issuing a judgment against HRA in an amount to be determined by the court, including civil penalties and punitive damages as permitted under the New York City Human Rights Law.

6. Awarding reasonable costs and attorney's fees in an amount to be determined by the court.

6. Granting such other and further relief as the Court deems just and proper.

Dated: December 28, 2009
New York, N.Y.

Respectfully submitted,

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