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10 Attorneys for Plaintiff  
TERRY COCHRELL

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12 IN THE UNITED STATES DISTRICT COURT  
13 IN AND FOR THE NORTHERN DISTRICT OF CALIFORNIA

14

15 TERRY COCHRELL,  
16 Plaintiff,

CASE NO. C11-03395 SI  
Civil Rights

17 v.

18 BERKELEY UNIFIED SCHOOL  
DISTRICT; CITY OF BERKELEY;  
19 and DOES 1-10, Inclusive,

**DECLARATION OF DORI  
MAXON, P.T., IN SUPPORT OF  
MOTION FOR PRELIMINARY  
INJUNCTION**

20 Defendants.  
21 \_\_\_\_\_/

22 I, DORI MAXON, declare as follows:

23 1. I am an expert in aquatic therapy, specializing in pediatric  
24 rehabilitation and community based services. I became a licensed Physical  
25 Therapist in 1990 and passed the Pediatric Clinical Specialist exam in 1996. I  
26 have a Masters' Degree in Science in Community Health and Physical Therapy  
27 and a second Masters' Degree in Education in Perceptual and Motor  
28 Development.

1           2.     I owned and directed Pediatric Contracting Services in Richmond,  
2 California from 1994-2009, providing school-, clinic-, and home-based Physical  
3 Therapy (PT), Occupational Therapy (OT), and Speech-Language Pathology  
4 (SLP) services for children with special needs. We grew to a staff of 100 and  
5 served approximately 1,500 children each year.

6           3.     I have been a pediatric physical therapist for children in a number of  
7 Bay Area school districts, as well as with California Children's Services, the  
8 Regional Center of the East Bay, and local hospitals and nursing facilities. I have  
9 also been a K-12 teacher in special education, physical education, and adapted  
10 physical education.

11          4.     I am the founder and Executive Director of the Special Needs  
12 Aquatic Program (SNAP). SNAP is the only community-based aquatic motor  
13 development and adapted aquatics program serving children with special needs  
14 ages 1-18 years old in the East Bay. SNAP has been using the Berkeley Warm  
15 Pool since 1992, serving as many as 55+ children per week.

16          5.     We provide services to children who have a condition which could  
17 benefit from the use of warm water immersion and vertical exercise. The majority  
18 of our swimmers have cerebral palsy; the rest have conditions such as muscular  
19 dystrophy, genetic conditions, autism, developmental delays, and/or other  
20 neuro-muscular, musculo-skeletal, and/or developmental challenges. Our  
21 sessions follow the school year and summer school calendars, making it possible  
22 for children with special needs to learn, maintain, and improve their fitness, skills,  
23 and independence.

24          6.     SNAP is a volunteer-driven agency operating under the auspices of  
25 United Cerebral Palsy of the Golden Gate, a non-profit 501(c)(3)) organization.  
26 We use volunteers from the community, mostly young adults, to work with our  
27 swimmers on a weekly basis. Volunteering at SNAP introduces these able-bodied  
28 people to the world of special needs in a positive, engaging, and personal light.

1 The connections they build stay with them for their lifetime, helping them build  
2 positive perceptions of and respect for people with disabilities. Our volunteers  
3 bring these experiences with them to the workplace as they become the  
4 decision-makers (and parents) of tomorrow. Thus, in addition to providing  
5 therapeutic services, we create inclusion in our community.

6 7. SNAP has received recognition from the Starbucks Grants for Giving  
7 Program (selected from 1500 applicants), Children's Support League, CAL  
8 Eggster, and hundreds of individual supporters. SNAP at the Berkeley High  
9 Warm pool has been featured in public service announcements produced by  
10 Starbucks, Channel 2, and Channel 12 as well as in countless presentations on  
11 warm water aquatics.

12 8. I have conducted over 150 professional aquatic training programs on  
13 aquatic therapy throughout the United States and internationally since 1991.

14 9. I keep current on literature regarding warm water rehabilitation and  
15 wellness. I have conducted research on the uses of aquatic therapy for persons  
16 recovering from stroke.

17 10. I have published numerous articles on aquatic therapy in professional  
18 publications, including "The Solution is Clear: Water" in "PT, OT, Speech  
19 Today", July 1998; "Aquatic Therapy for Children", in "Sportime Abilitations",  
20 Summer 1998; and "Mobilizing the Middle with Water" in "PT, OT, Speech  
21 Today" in December 1998. My work with SNAP has been featured in numerous  
22 articles in professional and general interest publications.

23 11. I am a member of the Infant Development Association of California,  
24 the American Physical Therapy Association (pediatric and aquatic sections), the  
25 American Alliance of Health, Physical Education, Recreation, and Dance, and  
26 have co-chaired the Association of Pediatric Therapists. I am a former faculty  
27 member of the Aquatic Exercise Association and the Aquatic Therapy and Rehab  
28 Institute.

1           12. I have received professional recognition and awards including the  
2 Aquatic Therapy and Rehab Institute Professional of the Year (2001); the Aquatic  
3 Therapy and Rehab Institute Tsunami Award for Achievement in Aquatic  
4 Therapy (1999); and the John K. Williams Jr. Adaptive Aquatics Award from the  
5 International Swimming Hall of Fame (2004).

6           13. A copy of my curriculum vitae is attached as **Exhibit 1**.

7           14. In the fields of aquatic therapy, rehabilitation and exercise, a pool for  
8 rehabilitation and exercise is defined as a pool in which water temperature is  
9 maintained at 90-92°F. A “learn to swim” pool is one which maintains water  
10 temperature at 87-89°F. A “competition pool” maintains water temperature at  
11 below 84°F. 92-95° water is referred to as “thermo-neutral” because it is close to  
12 normal human body temperature.

13           15. There is a substantial body of research demonstrating the benefits of  
14 warm water for rehabilitation, therapy, and exercise. For the most comprehensive  
15 current information on th health benefits, please refer to the primary aquatic  
16 therapy reference text, Comprehensive Aquatic Therapy, 3rd edition by Becker  
17 and Cole MDs, Chapter 2, “The “Biophysiologic Aspects of Hydrotherapy.” For  
18 a clinical review of the literature in the field, please see Becker, B.E., M.D., M.S.,  
19 (2009). “Aquatic Therapy: Scientific Foundations and Clinical Rehabilitation  
20 Applications,” *PM&R, Vol. 1*, 859-872. DOI: 10.1016/j.pmrj.2009.05.017, a true  
21 and correct copy of which is attached as **Exhibit 2**.

22           16. The benefits of vertical warm water immersion are myriad. For  
23 example, the hydrostatic pressure of the water, along with thermo-neutral  
24 temperatures, helps improve cardiovascular circulation by creating a pressure  
25 gradient directing fluids to the body’s central core. This helps increase heart  
26 stroke volume (blood the heart can pump), decrease extremity swelling, and  
27 increase circulation and fitness of the heart. The pulmonary system is also  
28 addressed by hydrostatic pressure stressing, in a good way, the muscles of

1 respiration and helping to build pulmonary fitness for individuals with  
2 compromised systems. Hydrostatic pressure also improves renal system  
3 circulation and endocrine function, essentially creating a diuretic effect and  
4 flushing the system.

5 17. In a vertical position, water buoyancy serves to “de-weight” joints,  
6 allowing individuals with musculo-skeletal injuries or conditions to improve their  
7 strength, range of motion, and fitness levels in order to regain or maintain  
8 function and independence. Immersion in waist-deep water de-weights the body  
9 to 50% of body weight on land; at chest deep, to 30% of weight on land, and at  
10 neck-deep to about 10% of body weight, making warm water a perfect place for  
11 persons with orthopedic needs to maintain/build fitness and independence with  
12 less pain. The viscosity of water assists with balance and allows persons with  
13 neurological impairments more time to practice regaining of balance skills.

14 18. Viscosity and hydrostatic pressure along with warmer temperatures  
15 provide increased sensory feedback, particularly to those children with sensory  
16 integration dysfunction or those on the autistic spectrum. Many children with  
17 autism and other conditions find being in water calming and organizing to their  
18 entire sensory system. Warmer water also provides a stimulating environment  
19 which increases motivation.

20 19. Due to its significant physiological benefits, warm water immersion  
21 provides physical fitness opportunities for people who have only limited  
22 movement abilities. It affords them whole-body exercise efficiently, without the  
23 side effects associated with chilling. In addition, it can provide the social  
24 opportunities that are essential to support continued health and wellness. This  
25 social vehicle is powerful, allowing persons with special needs a support system  
26 where they are part of the larger community. Moreover, maintaining their  
27 physical abilities enables them to maintain their productivity and contributions to  
28 our community.

1           20. Warm water, at 92 degrees, is essential to the populations who  
2 benefit from aquatic therapy, rehabilitation, and exercise. People who have little  
3 physical movement need warm water to maintain their body temperature while  
4 decreasing pain, muscle guarding, improving flexibility, balancing and strength  
5 without fear of additional injury and/or falling. The warmth helps muscles relax,  
6 improves circulation and increases range of motion as patrons regain, maintain,  
7 and learn movement patterns, balance, and independence. Targeted populations  
8 include those with high tone, limited movement, limited body fat (e.g. from  
9 cerebral palsy) fibromyalgia, musculo-skeletal pain, shoulder/neck injuries, and a  
10 host of other orthopedic and neurological conditions.

11           21. When the water is too cool, the autonomic nervous system reacts,  
12 causing chilling, shivering, distress, and tension. This defeats the potential  
13 benefits, limiting movement and inhibiting water's pain reduction properties.  
14 Cooler water also reduces the length of time these populations can remain in the  
15 water to get the benefits of conditioning and therapy. The cooler water  
16 temperatures is a disruption to the system and impairs the ability to meet  
17 rehabilitation and wellness goals. Patrons can feel this and self-limit or stop  
18 participating in their programs. In short, a warm pool allows people to stay in the  
19 water longer and reap the physiological benefits of warmer water helping to meet  
20 their fitness and rehabilitation goals.

21           22. The Berkeley Warm Pool provides significant benefits to people with  
22 disabilities. It has the benefit of both an appropriate temperature and varying  
23 depths needed for vertical exercise. In addition to the 92-degree water  
24 temperature, the water depth varies from shallow (3.5 feet) to deep (9 feet),  
25 providing vertical exercise opportunity and joint unloading for its patrons. This  
26 allows for more pain free movement, greater strength and endurance, and a sense  
27 of wellness that is not easily found on land or in pools which are shallow for their  
28 entire length. Deep water also is very important because some people, such as

1 those with spine and neck injuries need the opportunity for full neck-deep  
2 immersion. Deep water affords additional opportunities for rehabilitation,  
3 conditioning, strengthening and endurance activities with release from gravity's  
4 pressure. For those with orthopedic conditions, joint unloading is a vital  
5 component of their warm water exercise programs and maintaining their  
6 independence. In my experience as a Berkeley High Warm Pool user for nearly  
7 20 years, I have observed that that nearly half of the patrons use the deep water  
8 area for vertical exercise.

9 23. Closing the Berkeley Warm Pool would have a devastating impact  
10 upon the people with disabilities who rely on it. I have found no other pool in the  
11 Bay Area which provides the necessary benefits of both shallow and deep water at  
12 a therapeutic temperature, serving children and adults in a community-based  
13 setting. The temperature is an essential component; water which is only a few  
14 degrees cooler, as in the other pools run by the City, presents a barrier to access  
15 for people with disabilities. Similarly, the variable depth is vital to the program.  
16 Persons with disabling conditions should have the same access to health,  
17 wellness, fitness, and social opportunities as the rest of our community.

18 24. Keeping the Berkeley Warm Pool open is in the public interest.  
19 First, it is a model for all communities, creating a diverse, inclusive health,  
20 wellness, and rehabilitative opportunity for persons with physical and/or  
21 developmental challenges. Second, it provides independence and social contact,  
22 particularly for this underserved group. Third, it builds connections between  
23 able-bodied and disabled people in an environment which minimizes differences  
24 and emphasizes commonalities of interest. Fourth, it provides both able-bodied  
25 and disabled people a unique opportunity for vertical exercise, shallow and deep  
26 water, in a temperature that allows a wide range of people to reap the benefits of  
27 water exercise. In summary, the Berkeley High Warm Pool serves as an essential  
28 wellness center in our community. Its facilities keep our population engaged,

1 healthy, and productive in way that no other City facility does.

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4 I declare the above statement to be true and correct to the best of my  
5 knowledge and so declare under penalty of perjury, and under the law of the State  
6 of California, on November 9, 2011, in the City of Richmond, California.

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DORIMAXON, P.T.

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