

NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION LAWSUIT

ATTENTION: ALL PERSONS WITH A MOBILITY DISABILITY: If you have used, tried to use, or believe you will in the future use or try to use any of Bay Area Rapid Transit's station elevators, escalators, accessible fare gates, call boxes, communication systems or signage **you may be a member of the proposed settlement class affected by this lawsuit.** This is a court-authorized notice.

PLEASE READ THIS NOTICE CAREFULLY. YOUR RIGHTS MAY BE AFFECTED BY LEGAL PROCEEDINGS IN THIS CASE.

NOTICE OF CLASS ACTION

The purpose of this notice is to inform you of a proposed settlement in a pending class action lawsuit brought on behalf of persons with mobility disabilities. The class action settlement ("Settlement Agreement"), which must be approved by the United States District Court, was reached in the case entitled *Senior and Disability Action, et al. v. Bay Area Rapid Transit, et al.*, Case No. 3:17-cv-01876-LB, pending in the United States District Court for the Northern District of California.

This notice summarizes the proposed settlement. For the precise terms and conditions of the settlement, please see the settlement agreement available at <https://dralegal.org/class-notice/bart/>, by contacting class counsel at bart@dralegal.org, (510) 324-9638, or (415) 864-8848, by accessing the Court docket in this case through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov>, or by visiting the office of the Clerk of the Court for the United States District Court for the Northern District of California, located at 450 Golden Gate Avenue, 16th floor, San Francisco, CA 94102, between 9:00 a.m. and 1:00 p.m., Monday through Friday, excluding court holidays.

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS.

BASIC INFORMATION

Filed in 2017, this lawsuit alleges that San Francisco Bay Area Rapid Transit District ("BART") violated federal and state disability access laws by denying individuals with mobility disabilities access to station elevators, escalators, accessible fare gates, call boxes, communication systems and signage ("Accessible Features"). BART denies these allegations and disputes that it has any liability or committed any wrongdoing.

This is a class action. In a class action, one or more people or organizations, called Class Representatives (in this case Senior and Disability Action, Independent Living Resource Center of San Francisco, Pi Ra and Ian Smith ("Plaintiffs")), sue on behalf of people who have similar legal claims. This group of people are called a "Class" or "Class Members." One court resolves the issues for all Class Members. United States District Magistrate Judge Laurel Beeler is in

charge of this class action.

The Court did not decide in favor of either Plaintiffs or BART in this case. Instead, both sides agreed to a settlement. That way, they avoid the cost, delay, and uncertainty of a trial, and settlement benefits go to the Class Members. The Class Representatives and Class Counsel (the attorneys appointed by the Court to represent the Class) think the proposed settlement is in the best interests of the Class Members taking into account the benefits of the settlement, the risks of continued litigation and the delay in obtaining relief for the Class if the litigation continues.

THE SETTLEMENT CLASS

The settlement class includes all persons with any mobility disability, who from April 5, 2014 through June 1, 2039: (1) have needed to use the Accessible Features of BART facilities; or (2) will need to use the Accessible Features of BART facilities.

SUMMARY OF THE PROPOSED SETTLEMENT AGREEMENT

The Settlement Agreement will be in effect until June 1, 2039, at the latest. Throughout that time period, BART has agreed to changes that will improve access to its facilities for people with mobility disabilities. Below is a summary of the main components, which are more fully described in the Settlement Agreement. In all respects the terms of the Settlement Agreement solely govern BART's obligations under that agreement.

1. Elevator Repairs and Preventative Maintenance

BART has agreed to seek funding and to renovate eight elevators per year such that forty elevators designated in the Settlement as the highest priority will be renovated by June 1, 2039, at the latest. Once the initial 40 elevators are renovated, BART will continue to seek funding and qualified contractors to renovate additional elevators each year until all elevators in need of work have been renovated.

BART will use best efforts to send a repair person or crew to an out of service station elevator within one hour of the elevator being reported out of service, except on Saturdays, Sundays and holidays when a repair person or crew will be sent to an out of service elevator within two hours. BART will perform elevator preventative maintenance only during the graveyard shift, when trains are not in service.

2. Escalator Repairs and Preventative Maintenance

Using bond measure RR funds, BART will renovate 40 downtown San Francisco escalators and one additional escalator by June 1, 2034 at the latest. BART will search for funding to renovate 38 escalators in downtown Oakland, along Mission Street in San Francisco as part of the second stage of escalator repairs. Thereafter, BART will seek funding to renovate the remaining 96 station escalators.

Assuming qualified mechanics are available, BART will also send a repair person or crew to an out of service station elevator within four hours of the elevator being reported out of service, except on Saturdays, Sundays and holidays when a repair person or crew will be sent to an out of service elevator within six hours.

3. **Elevator Attendants**

BART has instituted an elevator attendant program at Civic Center, Powell Street, Embarcadero and Montgomery Street stations and has agreed to seek to continue the program. BART will notify Class Counsel at least three weeks beforehand if it plans to make changes to the program.

4. **System Service Workers**

BART will ensure that System Service Workers respond to 12th Street Oakland, 19th Street Oakland, Ashby, Civic Center, Downtown Berkeley, Embarcadero, Montgomery and Powell stations within 30 minutes of soiling being reported and within one hour of soiling being reported for the remaining BART stations.

5. **Communication Regarding Outages**

Within 15 minutes of a report of an outage, BART will communicate elevator and escalator outages to the public through BART's email subscription, on-demand text messages and website. BART will update the elevator hotline hourly and ensure hotline messages are timestamped. BART will announce elevator outages on trains and at platforms at least once every half-hour. BART will post physical signage on elevators and station agent booths when there is a planned elevator outage.

6. **Elevator Mitigation Plan**

BART will, subject to funding, implement a plan with specific options for when a BART station elevator is out of service. BART will also look to staff a helpline in order to provide riders with detailed information about their options when an elevator is out of service.

7. **Emergency Preparedness Plan**

BART has purchased 40 "slings" to evacuate passengers with disabilities who need assistance in an emergency. BART is required to follow specific procedures for passengers who are separated from their mobility devices during an emergency. BART will update its website and posters about its emergency evacuation procedures. BART will inform BART police officers that they may be asked to assist train operators in emergencies and will request that fire departments practice evacuating people with disabilities.

8. **Call Boxes**

BART will maintain call boxes in working condition.

9. **Signage/Path of Travel**

BART will provide seven days' notice to Class Counsel before making material changes to a station's path of travel. BART is working to improve signage related to the accessible path of travel.

10. **Accessible Fare Gates**

BART will maintain accessible fare gates in working condition and when accessible fare gates are out of order, BART will ensure a station agent is available to assist riders with mobility disabilities to tag and process tickets.

11. **Training of BART Personnel**

BART will train station agents and operation control center workers on disability access, disability etiquette, BART's emergency preparedness plan and BART's elevator mitigation plan. In addition, train operators will be trained on BART's emergency preparedness plan and system service workers will be trained on responding to soiling and vandalism in BART stations.

12. **Complaints about Disability Accessibility**

BART will provide a phone number and email address to report accessibility problems.

13. **Monitoring**

Class Counsel shall also be responsible for monitoring BART's implementation of the Settlement Agreement throughout the term of the Settlement Agreement. BART will provide Class Counsel with regular reports about BART's compliance with the terms of the Settlement Agreement. BART and Class Counsel will also meet periodically during the term of the Settlement Agreement to discuss BART's efforts to implement and comply with the Settlement Agreement.

RELEASE OF CLAIMS

The Settlement Agreement resolves and releases, for all members of the Settlement Class for the term of the Settlement Agreement, all claims for injunctive, declaratory or other non-monetary relief that were brought, could have been brought, or could be brought in the future under accessibility laws and that relate to the accessibility of any BART facilities to individuals with mobility disabilities. The Settlement Agreement does not provide for any monetary relief to the Settlement Class, and it does not release any damages claims that Settlement Class members may have.

PAYMENTS TO CLASS REPRESENTATIVES

BART has agreed to pay Plaintiffs and Class Representatives Senior and Disability Action and Independent Living Resource Center of San Francisco a \$15,000 service award in

recognition of the services rendered to the Settlement Class. BART has also agreed to pay Plaintiffs and Class Representatives Pi Ra and Ian Smith a \$7,500 service award in recognition of the services rendered to the Settlement Class. The payments must be approved by the Court and the Court-awarded amount will not be paid from the monies to be spent on disability access improvements required by the Settlement Agreement.

REASONABLE ATTORNEYS' FEES, COSTS AND EXPENSES

The settlement class is represented by Disability Rights Advocates and Legal Aid at Work. BART has agreed to pay Class Counsel \$825,000 for their attorneys' fees, costs and expenses associated with representing the Class. Class Counsel shall also be entitled to monitoring fees and costs as set forth in the Settlement Agreement. Any award of attorneys' fees, costs and expenses must be approved by the Court as fair, reasonable and consistent with prevailing marketplace standards. The award must be approved by the Court and the Court-awarded amount will not be paid from the monies to be spent on disability access improvements required by the Settlement Agreement.

FAIRNESS OF SETTLEMENT

The Class Representatives and Class Counsel have concluded that the terms and conditions of the proposed Settlement Agreement are fair, reasonable, adequate, and in the best interests of the Settlement Class. In reaching this conclusion, the Class Representatives and Class Counsel have considered the benefits of the settlement, the possible outcomes of continued litigation of these issues, the expense and length of continued litigation, and actual and possible appeals.

THE COURT'S FINAL APPROVAL HEARING

The Court has preliminarily approved the settlement, and has scheduled a hearing for April 18, 2024 at 9:30 A.M. in the Courtroom of the Honorable Laurel Beeler, United States District Court for the Northern District of California, 450 Golden Gate Avenue, Courtroom B (15th Floor) San Francisco, CA 94102, to decide whether the proposed settlement is fair, reasonable, and adequate, and should be finally approved. Although you are not required to attend, as a Settlement Class member, you have the right to attend and be heard at this hearing. At the hearing, the Court will consider any objections to the settlement. Judge Beeler will listen to people who have asked to speak at the hearing. After the hearing, the Court will decide whether to approve the settlement.

This hearing date is subject to change without further notice. If you wish to be informed of any changes to the schedule, please notify Class Counsel at the addresses listed below. You may also check <https://dralegal.org/class-notice/bart/> or the public court records on file in this action at <https://www.pacer.gov/> for any updates.

OBJECTIONS TO THE SETTLEMENT

You can ask the Court to deny approval by filing an objection. You cannot ask the Court to order a different settlement; the Court can only approve or reject the settlement. If the Court denies approval, the lawsuit will continue. If that is what you want to happen, you must object.

Any objection to the proposed settlement must be in writing. If you file a timely written objection, you may, but are not required to, appear at the Final Approval Hearing, either in person or through your own attorney. If you appear through your own attorney, you are responsible for hiring and paying that attorney. All written objections and supporting papers must (a) clearly identify the case name and number (*Senior and Disability Action, et al. v. Bay Area Rapid Transit District, et al*, Case Number 3:17-cv-01876-LB), (b) be submitted to the Court either by mailing them to the Class Action Clerk, United States District Court for the Northern District of California, 450 Golden Gate Avenue, 16th Floor, San Francisco, CA 94102, or by filing them in person at any location of the United States District Court for the Northern District of California, and (c) be filed or postmarked on or before February 23, 2024.

IF YOU DO NOT TIMELY MAKE AN OBJECTION AS DESCRIBED ABOVE, YOU WILL BE DEEMED TO HAVE WAIVED YOUR OBJECTION AND SHALL BE FORECLOSED FROM MAKING ANY OBJECTION TO THE SETTLEMENT.

IF YOU DO NOT OPPOSE THIS SETTLEMENT, YOU NEED NOT APPEAR OR FILE ANYTHING IN WRITING.

BINDING EFFECT

The proposed Settlement Agreement, if given final approval by the Court, will bind all members of the Settlement Class. This will bar any person who is a member of the Settlement Class from prosecuting or maintaining any claim or action released under the terms of the Settlement Agreement.

FURTHER INFORMATION

The terms of the settlement are only summarized in this notice. For the precise and full terms and conditions of the settlement, please see the Settlement Agreement available at <https://dralegal.org/class-notice/bart/>, or by accessing the Court docket on this case through the Court's Public Access to Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov>, or by visiting the office of the Clerk of the Court for the United States District Court for the Northern District of California, 450 Golden Gate Avenue, 16th Floor, San Francisco, California, 94102, between 9:00 a.m. and 1:00 p.m., Monday through Friday, excluding Court holidays.

You can also obtain more detailed information about the settlement or a copy of the Settlement Agreement from Class Counsel at the following addresses and telephone numbers:

Jinny Kim
Disability Rights Advocates
2001 Center Street, Third Floor
Berkeley, CA 94704
(510) 324-9638
jkim@dralegal.org

Christopher Ho
Legal Aid at Work
180 Montgomery Street, Suite 600
San Francisco, CA 94104
(415) 864-8848
cho@legalaidthatwork.org

Please do not direct questions to the District Court.

To obtain copies of this Notice in alternative accessible formats, please contact Class Counsel listed above.