

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<p>APRIL NGUYEN and BRETT BOYER, individually and on behalf of all others similarly situated,</p> <p style="text-align: right;">Plaintiff(s)</p> <p style="text-align: center;">v.</p> <p>OUTERWALL INC.,</p> <p style="text-align: right;">Defendant(s)</p>	<p>Case No. 16-cv-00611</p> <p>CONSOLIDATED CLASS ACTION COMPLAINT</p> <p>Jury Trial Demanded</p>
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Plaintiffs April Nguyen (“Nguyen”) and Brett Boyer (“Boyer”) (collectively, “Plaintiffs”)¹, on behalf of themselves and all others similarly situated and alleges as follows:

INTRODUCTION

1. In enacting the Americans with Disabilities Act (“ADA”), 42 U.S.C. § 12101 *et seq.*, Congress provided a clear mandate regarding the elimination of discrimination against individuals with disabilities. Such discrimination that Congress sought to eliminate includes: (i) barriers to full integration; (ii) barriers to independent living; and (iii) barriers to equal opportunity for persons with disabilities, including places of public accommodations that are inaccessible to blind and visually-impaired persons (collectively, “visually-impaired individuals” or “Legally Blind individuals”).²

¹ Plaintiffs are filing this consolidated complaint in conformity with the terms of the settlement agreement, filed with the Court on July 7, 2017. The settlement agreement, should it be approved by the Court, will resolve the claims set forth in Civil Action Nos. 16-cv-00611 and 17-cv-00853.

² Plaintiffs use the term “visually-impaired individuals” to refer to all persons with visual impairments who meet the legal definition of blindness in that they have a visual acuity with correction of less than or equal to 20 x 200. Some individuals who meet this definition have limited vision, while others have no vision.

2. This action involves Defendant Outerwall Inc.’s³ Coinstar automated coin-counting kiosk system, which is utilized by the general public to “convert their coins to cash or stored value products.” *See* Outerwall Inc. Quarterly Report filed with the Securities and Exchange Commission for quarterly period ending September 30, 2015, filed on or about October 29, 2015 (“3Q 2015”).

3. Coinstar kiosks are self-service, automated machines that permit individuals to exchange their coins, without the assistance of a store clerk or any other third party (“Coinstar Kiosks”).

4. As explained in detail below, Defendant’s kiosks fall within the purview of the ADA as they are deemed places of public accommodations.

5. As set forth in detail below, Defendant’s Coinstar kiosks are inaccessible to visually impaired individuals. The kiosks make use of a visual interface that requires users to identify and interact with command icons on the screen, without any adaptive features to accommodate visually-impaired individuals.

6. As a result, all of the services and features provided at Defendant’s kiosks are only available to sighted customers and not accessible to Plaintiffs or other visually-impaired individuals.

7. Unless Defendant corrects the access barriers detailed herein, Plaintiffs and other visually-impaired individuals will be effectively denied full and equal access to Defendant’s accommodations.

8. The ADA permits private individuals, such as Plaintiffs, to bring suit in federal court so as to compel compliance with the ADA.

³ Defendant Outerwall Inc. is now known as Coinstar, LLC.

SUMMARY OF CLAIMS

9. Plaintiffs bring this class action to seek an injunction against Defendant for their use of the Coinstar Kiosks until such time as they are remediated and rendered compliant with the ADA thereby permitting them to be fully accessible to visually-impaired individuals.

10. In particular, Plaintiffs bring this suit on behalf of the following similarly situated persons:

All Legally Blind individuals who attempted but were unable to access or who were deterred from accessing those products or services available at Coinstar Kiosks in all 50 states and the District of Columbia during the time period starting on February 8, 2014 for all states and the District of Columbia excluding California and February 8, 2013 in California and continuing through the present (the “Class”).

11. Accordingly, through this class action, Plaintiffs seek to end the systematic violation of the ADA – and thus the ongoing civil rights violations – of the Class by Defendant. In particular, Plaintiffs seeks: (a) a declaration that Defendant’s kiosks violate federal law as described; and (b) an injunction requiring Defendant to remove the identified access barriers so that they are fully accessible to, and independently usable by, visually-impaired individuals such as Plaintiffs and the Class they seeks to represent.

12. Plaintiffs also request that once Defendant is fully in compliance with the requirements of the ADA, the Court retain jurisdiction for a period of time to be determined to ensure that Defendant has adopted and is following an institutional policy that will, in fact, cause Defendant to remain in compliance with the law.

13. In addition, Plaintiff Boyer also brings this action as a state-wide class action to recover statutory wages pursuant to California Unruh Act, Cal. Civ. Code § 51 et seq. (“Unruh”), and California Disabled Persons Act, Cal. Civ. Code § 54 et seq. (“CDPA”). Unruh and the CDPA are collectively referred to herein as “California State Laws.”

14. As set forth herein, California State Laws permit the recovery of statutory damages for individuals who were denied access to public accommodations.

15. Accordingly, Plaintiff Boyer brings this suit on behalf of a class of similarly situated persons composed of:

All Legally Blind individuals who attempted, but were unable to access or who were deterred from accessing those products or services available at Coinstar Kiosks in California during the time period February 8, 2013 and continuing through the present (the “California Sub-Class”).

16. The Class and the California Sub-Class are hereafter collectively referred to as the “Classes.”

JURISDICTION AND VENUE

17. This Court has federal question jurisdiction over the ADA claims asserted herein pursuant to 28 U.S.C. § 1331 and 42 U.S.C. § 12188.

18. Plaintiff Nguyen’s claims arose in this judicial district and Defendant does substantial business in this judicial district. Plaintiff Boyer’s claims were transferred to this Court from the United States District Court for the Southern District of California.

19. This Court has supplement jurisdiction pursuant to 28 U.S.C. § 1367, over Plaintiff Boyer’s pendent claims under the California Unruh Civil Rights Act (the “Unruh Act”), Cal. Civ. Code, §51 *et seq.*, and the California Disabled Persons Act (the “CDPA”), Cal. Civ. Code, §54 *et seq.*

20. Venue in this judicial district is proper under 28 U.S.C. § 1391(b)(2) in that this is the judicial district in which a substantial part of the acts and omissions giving rise to the claims occurred.

PARTIES

21. Plaintiff Nguyen is an adult female individual who has the medical condition

papilledema. Plaintiff is and, at all times relevant hereto, was a resident of the Commonwealth of Pennsylvania. Plaintiff is and, at all times relevant hereto, has been a legally blind individual, and is therefore a member of a protected class under the ADA, 42 U.S.C. § 12102(2) and the regulations implementing the ADA set forth at 28 CFR §§ 36.101 *et seq.*

22. On or around February 1, 2016, Plaintiff Nguyen attempted to use the Coinstar kiosk located at the Giant Foods grocery store located at 2107 Van Reed Road, West Lawn, Pennsylvania to exchange her loose change. As set forth herein, Defendant's kiosk was not independently accessible to Plaintiff.

23. Plaintiff Boyer is and, at all times relevant hereto, was a resident of the State of California. Plaintiff Boyer is and, at all times relevant hereto, has been a legally blind individual, and is therefore a member of a protected class under the ADA, 42 U.S.C. § 12102(2) and the regulations implementing the ADA set forth at 28 CFR §§ 36.101 *et seq.*

24. On or around October 21, 2015, Plaintiff Boyer attempted to use the Coinstar kiosk located at the Ralph's grocery store in San Marcos, California to exchange his loose change. As set forth herein, Defendant's kiosk was not independently accessible to Plaintiff. In addition, Plaintiff Boyer has also encountered other Coinstar kiosks at other locations that were also not accessible to Plaintiff.

25. Defendant Outerwall, Inc., now known as Coinstar, LLC ("Defendant") is incorporated in the state of Delaware with headquarters in Bellevue, Washington. Defendant owns and operates more than 21,000 coin-counting kiosks in more than 20,000 locations, which enable consumers to convert their coins to cash or eGift Cards, or to donate their coins to a charitable cause.

26. In the Third Quarter of 2015, Coinstar kiosks generated \$85.67 million in revenue

and over \$235.2 million for year-to-date 2015. *See* 3Q 2015 at p. 51.

TITLE III OF THE ADA

27. On July 26, 1990, President George H.W. Bush signed into law the ADA, a comprehensive civil rights law prohibiting discrimination on the basis of disability.

28. The ADA broadly protects the rights of individuals with disabilities with respect to employment, access to State and local government services, places of public accommodation, transportation, and other important areas of American life.

29. Title III of the ADA prohibits discrimination in the activities of places of public accommodation and requires places of public accommodation to comply with ADA standards and to be readily accessible to, and independently usable by, individuals with disabilities. 42 U.S.C. § 12181-89.

30. The ADA applies to all places of “public accommodation.” Effectively, a public accommodation is any private entity that owns, operates, leases, or leases to a place of public accommodation. Based on the broad definition, restaurants, hotels, theaters, doctors’ offices, dentists’ offices, hospitals, retail stores, health clubs, museums, libraries, private schools, and day care centers are all considered places of public accommodation under the ADA.

31. Section 302(a) of Title III of the ADA provides:

No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation.

32. Under Section 302(b)(1) of Title III of the ADA, it is unlawful discrimination to deny individuals with disabilities or a class of individuals with disabilities the opportunity to participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation.

33. Under Section 302(b)(1) of Title III of the ADA, it is unlawful discrimination to deny individuals with disabilities or a class of individuals with disabilities an opportunity to participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation, which is equal to the opportunities afforded to other individuals.

34. Under Section 302(b)(2) of Title III of the ADA, unlawful discrimination also includes, among other things:

a failure to make reasonable modifications in policies, practices, or procedures, when such modifications are necessary to afford such goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the entity can demonstrate that making such modifications would fundamentally alter the nature of such goods, services, facilities, privileges, advantages, or accommodations; and a failure to take such steps as may be necessary to ensure that no individual with a disability is excluded, denied services, segregated, or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, unless the entity can demonstrate that taking such steps would fundamentally alter the nature of the good, service, facility, privilege, advantage, or accommodation being offered or would result in an undue burden;

35. Importantly, places of public accommodation newly built or altered after January 26, 1993 must be readily accessible and usable by disabled individuals.

36. As set forth below, Defendant has failed to comply with the aforementioned requirements of the ADA.

FACTUAL ALLEGATIONS

37. Defendant owns, operates, and/or leases a place of public accommodation.

38. Defendant's facilities are not fully accessible to, and independently usable by, individuals with disabilities.

39. Modern technology has provided a wave of automated and self-service shopping

services. As such, self-service kiosks are becoming an increasingly common, and thus necessary, way people shop and access other services.

40. One such type of self-service kiosk is Defendant's "Coinstar" branded kiosks which allow individuals to exchange loose coins for cash or stored value products.

41. Defendant maintains over 21,000 Coinstar kiosks in over 19,000 locations across the United States. Its kiosks are located primarily in supermarkets, drug stores, convenience stores, malls, restaurants, and financial institutions across the United States. *See* 3Q 2015 at p. 11.

42. For example, Defendant maintains Coinstar kiosks at CVS Pharmacies, Wal-mart Stores, Inc., Giant Food Stores, and Albertsons.

43. Upon information and belief, Defendant uses a uniform design for its Coinstar kiosks in the United States. As part of this uniform design, Coinstar kiosks provide a visual, touch-screen interface that offers customers the same form of services irrespective of the actual kiosk used.

44. The touch-screen interface allows sighted customers to access a variety of accommodations, advantages, facilities, privileges, and services, including the ability to independently select the product they wish to receive in exchange for their coins.

45. Coinstar kiosks also include physical numerical keypads which, presumably, offer some access to the visual, touch-screen interface. However, the keypads contain no tactile keys, audio jack, or any other such features which would make the kiosks accessible to the visually impaired.

46. Via the visual, touch-screen interface, and prior to inserting their coins into the Coinstar kiosk, sighted customers opt to either receive cash (minus a service fee of more than

10% of the value of the coins inserted), an eGift Card from a selected group of merchants, or to donate their coins to one of several charities offered at each kiosk.

47. Through the use of the visual, touch-screen interface, a sighted person can make their selection without the assistance of third parties and, as such, does not have to disclose any information, such as the amount of coins deposited or the cash value thereof, to said third-parties.

48. After making their selection, Defendant's customers must add their coins to a tray on the kiosk, lift the corresponding handle, and guide the coins into the slot.

49. Depending on the selection made, once the value of the coins has been calculated the kiosk produces one of the following: a printed cash voucher that must be redeemed for cash at the customer service area or checkout area of the merchant in which the kiosk is located; a printed voucher with a unique eGift Card code; or, a receipt detailing the value of the charitable donation.

50. The visual, touch-screen interface also allows sighted customers the ability to see the calculated amount of the coins they have inserted into the Coinstar kiosk and the corresponding value of their voucher, eGift Card or charitable donation.

51. In contrast, visually-impaired individuals must seek the assistance of companions, strangers, or other third parties in order to use Coinstar kiosks in any of the foregoing ways. Such assistance requires, among other things, disclosure to other individuals of the amount of coins deposited and the value of the cash or eGift Cards received, or the charitable contribution made.

52. Accordingly, because of the visual, touch-screen interfaces utilized by Defendant's kiosks, all Coinstar kiosks are effectively not independently accessible to visually-impaired individuals.

53. According to the National Federation of the Blind, California has the largest population of visually impaired people in the United States. *See* <https://nfb.org/blindness-statistics> (last visited January 8, 2016). As of 2013, there were approximately 790,700 blind/visually-impaired people in California.

54. According to the National Federation of the Blind, Pennsylvania has the fifth-largest population of visually impaired people in the United States. *See* <https://nfb.org/blindness-statistics> (last visited February 3, 2016). As of 2013, there were approximately 285,300 blind/visually-impaired people in Pennsylvania.

55. Across the country, the National Federation of the Blind estimates that there are more than eight million adult individuals who are visually impaired. *See* <https://nfb.org/blindness-statistics> (last visited February 3, 2016).

56. Although each Plaintiff is classified as an “individual with a disability” under the ADA, both Plaintiffs lead an active social life and routinely travel for family and social functions.

57. However, each of the Plaintiff’s active lifestyles are impeded by Defendant’s failure to conform to the requirements of the ADA. Defendant’s Coinstar kiosks prevent visually-impaired individuals, such as Plaintiffs, from independently using them.

58. Indeed, in each instance where one of the Plaintiffs attempted to utilize a Coinstar Kiosk, they were prevented from doing so independently and instead had to rely on a family member or third-party to access Defendant’s machine.

59. Plaintiffs seek full and equal access to the accommodations, advantages, facilities, privileges, and services provided by Defendant at all its Coinstar kiosks located in the United States.

60. Based on the sheer volume of kiosks Defendant has in the United States, Defendant's kiosks provide an array of coin-changing services to thousands (if not tens of thousands) of customers on a daily basis.

61. Many visually-impaired individuals, including Plaintiffs, wish to exchange their coins for cash or eGift Cards, or to donate their coins to a charitable cause.

62. Indeed, each Plaintiff makes use of Defendant's Coinstar kiosks for coin-changing purposes and will continue to do so in the future.

63. The lack of accessible Coinstar kiosks means that visually-impaired individuals, including Plaintiffs, are excluded from independently accessing this service. Consequently, visually-impaired individuals must rely on sighted companions or strangers to assist them in exchanging coins at Defendant's Coinstar kiosks.

64. In order to use Defendant's kiosk, Plaintiffs are each required to seek the assistance of others as Defendant's kiosks are designed to be self-service machines and thus Defendant does not typically maintain employees at the machines.

65. Because Coinstar kiosks are not independently accessible to visually-impaired individuals, Plaintiffs were unable to use Coinstar kiosks without being forced to seek assistance from a third party.

66. The instructions for using the Coinstar kiosk are provided exclusively via the unit's touchscreen interface, and, therefore, inaccessible to Plaintiffs and other visually-impaired individuals.

67. According to the third party who assisted Plaintiff Nguyen in using the Coinstar kiosk during her visit, there was a small sign on the kiosk directing Coinstar customers to seek assistance at the customer service section of the Giant Foods market in which the kiosk is

located.

68. However, the customer service section of the Giant Foods market – which, upon information and belief, is unaffiliated with Defendant – was closed at the time of Plaintiff Nguyen’s attempt to access the Coinstar kiosk.

69. Because Defendant’s Coinstar machines are inaccessible, even had customer service been available during Plaintiff’s visit, any “service” provided to Plaintiff and all visually impaired individuals would still require them to seek assistance from a third party regarding personal financial matters, including, *inter alia*, how much money they are carrying and whether they intend to keep said funds or donate the money charity.

70. Further, Plaintiff Nguyen experienced personal embarrassment at the prospect of being forced to seek assistance from a customer service representative in order to use a self-service kiosk that is fully accessible to sighted individuals.

71. Stated another way, because of the nature of Defendant’s machines including their use of an exclusive touch-screen interface, Plaintiffs are denied the ability to use a place of public accommodation that is otherwise fully accessible to sighted individuals.

72. Plaintiffs will continue to attempt to use Defendant’s accommodations as they each wish to exchange their coin money for cash or eGift Cards, or to make charitable donations. However, so long as Defendant’s kiosks continue to violate the ADA, Plaintiffs will be unable to use them independently and will be, thereby, denied full access to Defendant’s accommodations.

73. An investigation by counsel of other Coinstar kiosk locations has confirmed that Defendant’s kiosks uniformly violate the ADA. For instance, each of the Coinstar kiosks located inside the following locations contain the accessibility violations discussed above and, like the kiosk visited by Plaintiff Nguyen, provide only a small sign directing Coinstar customers to

“Please contact customer service for assistance:”

- a. Giant Foods market located at 168 Eagleview Boulevard, Exton, Pennsylvania 19341;
- b. Wal-Mart store located at 3461 Horizon Boulevard, Bensalem, Pennsylvania 19020;
- c. Acme Markets store located at 3951 Lincoln Hwy, Downingtown, PA 19335; and
- d. Giant Foods market located at 3455 Lincoln Highway, Thorndale, PA 19372.

74. The inaccessible nature of Defendant’s kiosks exists despite the fact there is readily available accessible technology. This technology has long been used by financial institutions that make use of audio features, tactile controls, and screen reading software which permits visually-impaired individuals to use their ATMs independently.⁴

75. Despite this readily available technology, Defendant has chosen to rely on an exclusively visual interface – rendering the kiosks only independently accessible to sighted customers who can browse and select products, and exchange their coins without the assistance of others.

76. Defendant is aware that its Coinstar kiosks do not comply with the ADA. Indeed, Defendant’s subsidiary, Redbox Automated Retail, LLC, settled class action lawsuits filed by and on behalf of blind and visually impaired consumers in California and Pennsylvania which alleged that Redbox’s kiosks – which utilize similar touch-screen technology as Coinstar kiosks – violated the ADA and California state law.

77. Defendant thus provides accommodations, advantages, facilities, privileges, and services to customers that contain access barriers. These barriers deny full and equal access to

⁴ The ADA and its implementing regulations required ATMs to be fully accessible by March 2012.

Plaintiffs and other visually-impaired individuals who would otherwise use Defendant's Coinstar kiosks independently.

78. By failing to make its Coinstar kiosks accessible to visually-impaired individuals, Defendant is violating basic equal access requirements under applicable federal law.

79. Plaintiffs use Defendants' public accommodations and will likely continue to do so in the future.

80. Plaintiffs request periodic monitoring to confirm that the public accommodations are brought into compliance and remain in compliance.

81. Without injunctive relief, Plaintiffs will continue to be unable to independently use Defendant's accommodations.

CLASS ACTION ALLEGATIONS

82. Plaintiffs bring this action pursuant to Rules 23(a) and 23(b)(1) and (b)(2) of the Federal Rules of Civil Procedure on behalf of the Class.

83. Upon information and belief, the Class is so numerous that joinder of all individual members in one action would be impracticable. The disposition of the individual claims of the respective Class members through this class action will benefit both the parties and this Court.

84. Typicality: Plaintiff's claims are typical of the claims of the members of the Class. The claims of the Plaintiff and members of the Class are based on the same legal theories and arise from the same unlawful conduct.

85. Common Questions of Fact and Law: There is a well-defined community of interest and common questions of fact and law affecting members of the Class in that they all have been and/or are being denied their civil rights to full and equal access to, and use and

enjoyment of, Defendant's accommodations and/or services due to Defendant's failure to make its accommodations fully accessible and independently usable as above described.

86. The questions of fact and law common to the class include but are not limited to the following:

- a. Whether Defendant is a "public accommodation" under the ADA;
- b. Whether Defendant's conduct in failing to make its accommodations fully accessible and independently usable as described above violated the ADA; and
- c. Whether Plaintiff and members of the class are entitled to declaratory and injunctive relief.

87. Adequacy of Representation: Plaintiffs are adequate representatives of the Class because their interests do not conflict with the interests of the members of the Class. Plaintiffs will fairly, adequately, and vigorously represent and protect the interests of the members of the Class and have no interests antagonistic to the members of the Class. Plaintiffs have retained counsel who are competent and experienced in the prosecution of class action litigation, including litigation involving claims of violations of the ADA.

88. Class certification is appropriate pursuant to Fed. R. Civ. P. 23(b)(1) and (b)(2) because Defendant has acted or refused to act on grounds generally applicable to the Class, making appropriate both declaratory and injunctive relief with respect to Plaintiffs and the Class as a whole.

89. Plaintiff Boyer also seeks certification of the California Sub-Class pursuant to Fed.R.Civ.P. 23(a) and (b)(3). Alternatively, Plaintiff seeks certification pursuant to Fed.R.Civ.P. 23(a) and (b)(2).

90. Given the sheer number of visually-impaired individuals in California, Plaintiff Boyer believes that there are well in excess of thirty individuals in the California Sub-Class.

91. For the reasons set forth above, Plaintiff Boyer believes that the California Sub-Class meets the requirements of Fed.R.Civ.P. 23(a)(2)-(4) and (b)(2).

92. Certification of the California Sub-Class is appropriate pursuant to Fed.R.Civ.P. (b)(3) as the class action mechanism is superior to other available methods for a fair and efficient adjudication of the controversy. The damages suffered by individual members of the California Sub-Class may be relatively small when compared to the expense and burden of litigation, making it virtually impossible for members of the Classes to individually seek redress for the wrongs done to them.

COUNT I
VIOLATION OF THE ADA
(On Behalf Of The Class)

93. Plaintiffs, on behalf of themselves and the Class, re-alleges and incorporate by reference the paragraphs above as if they were set forth again herein.

94. Defendant's kiosks are places of public accommodation within the definition of Title III of the ADA. *See* 42 U.S.C. §§12181(7)(E).

95. Defendant has discriminated against Plaintiffs and the Class in that it has failed to make its kiosks fully accessible to, and independently usable by, individuals with disabilities in violation of the ADA, as described above.

96. Defendant's acts described above constitute a violation of Title III of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq., and the regulations promulgated thereunder.

97. Complying with the ADA would neither fundamentally alter the nature of Defendant's business or its kiosks, nor result in an undue burden to Defendant.

98. Defendant's conduct is ongoing, and, given that Defendant has not complied with

the ADA's requirements that public accommodations make themselves fully accessible to, and independently usable by, individuals with disabilities – as specified by the ADA, Plaintiffs invokes their statutory right to declaratory and injunctive relief, as well as costs and attorneys' fees.

99. Without the requested injunctive relief, specifically including the request that the Court retain jurisdiction of this matter for a period to be determined after the Defendant certifies that it is fully in compliance with the mandatory requirements of the ADA that are discussed above, Defendant's non-compliance with the ADA's requirement that its kiosks be fully accessible to, and independently usable, by individuals with disabilities is likely to recur.

COUNT II
VIOLATION OF THE UNRUH CIVIL RIGHTS ACT
(On Behalf Of The California Sub-Class)

100. Plaintiff Boyer, on behalf of himself and the California Sub-Class, re-alleges and incorporate by reference the paragraphs above as if they were set forth again herein.

101. Unruh guarantees, inter alia, that persons with disabilities are entitled to full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever within the jurisdiction of the State of California. Cal. Civ. Code, §51(b).

102. Unruh also provides that a violation of the ADA is a violation of Unruh. Cal. Civ. Code, §51(f).

103. Defendant has violated Unruh by, inter alia, denying, or aiding or inciting denial of, Plaintiff Boyer's and the California Sub-Class members' rights to the full and equal accommodations, advantages, facilities, privileges, or services offered by Coinstar kiosks.

104. Defendant has also violated Unruh by denying, or aiding or inciting the denial of,

Plaintiff Boyer's and the California Sub-Class members' rights to equal access arising from the provisions of the California state accessibility regulations and the ADA.

105. Pursuant to the remedies, procedures, and rights set forth in Cal. Civ. Code §52, Plaintiff Boyer prays for judgment as set forth below.

COUNT III
VIOLATION OF THE CALIFORNIA DISABLED PERSONS ACT
(On Behalf Of The California Sub-Class)

106. Plaintiff Boyer, on behalf of himself and the California Sub-Class, re-alleges and incorporate by reference the paragraphs above as if they were set forth again herein.

107. Defendant's Coinstar kiosks are places of public accommodation and/or places to which the general public is invited and, as such, are obligated to comply with the provisions of the CDPA.

108. The CDPA guarantees, inter alia, that persons with disabilities are entitled to full and equal access, as other members of the general public, to accommodations, advantages, facilities, and privileges of covered entities. Cal. Civ. Code §54.1(a)(1).

109. The CDPA also provides that a violation of the ADA, or of California state accessibility regulations, is a violation of the CDPA. Cal. Civ. Code §54.1(d).

110. Defendant has violated the CDPA by, inter alia, denying and/or interfering with Plaintiff Boyer's and the California Sub-Class members' right to full and equal access as other members of the general public to the accommodations, advantages, or facilities of Coinstar kiosks in California.

111. Defendant has also violated the CDPA by denying and/or interfering with the Plaintiff Boyer's and the California Sub-Class members' rights to equal access arising from the provisions of the California state accessibility regulations and the ADA.

112. Pursuant to the remedies, procedures, and rights set forth in California law, including Cal. Civ. Code §§54.3 and 55, Plaintiff Boyer prays for judgment as set forth below.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, on behalf of themselves and the members of the Class, pray for:

A. A Declaratory Judgment that at the commencement of this action Defendant was in violation of the specific requirements of Title III of the ADA described above;

B. A permanent injunction which directs Defendant to take all steps necessary to bring its facilities into full compliance with the requirements set forth in the ADA, and its implementing regulations, and which further directs that the Court shall retain jurisdiction for a period to be determined after Defendant certifies that all of its facilities are fully in compliance with the relevant requirements of the ADA to ensure that Defendant has adopted and is following an institutional policy that will in fact cause Defendant to remain in compliance with the law;

C. An Order certifying the Class proposed by Plaintiffs, and naming Plaintiffs as the class representatives and appointing their counsel as class counsel;

D. Payment of costs of suit;

E. Payment of reasonable attorneys' fees;

F. The provision of whatever other relief the Court deems just, equitable and appropriate; and

G. Plaintiff Boyer also prays for an award of minimum statutory damages under Unruh and the CDPA to Plaintiff Boyer and members of the California Sub-Class.

DEMAND FOR JURY TRIAL

Plaintiffs demand a trial by jury as to all issues so triable.

Dated: July 7, 2017

Respectfully submitted,

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