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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF OREGON**  
**PORTLAND DIVISION**

**PAULA LANE, et al.,**  
Plaintiffs,

Case No. 3:12-cv-00138-ST

**THE UNITED STATES OF AMERICA'S**  
**MOTION TO INTERVENE**

v.

**JOHN KITZHABER**, in his official  
capacity as the Governor of Oregon, *et al.*,

Defendants.

The United States of America respectfully moves to intervene as a plaintiff in this action pursuant to Federal Rule of Civil Procedure 24(a)(2) and 24(b). In support of this motion, the United States avers as follows:

1. Pursuant to Local Rule 7-1(a)(1), the United States conferred in good faith with counsel for the parties, but was unable to resolve the dispute with Defendants regarding this Motion.

2. The United States has a significant, protectable interest in the subject matter of the action because it involves claims asserted under Title II of the Americans with Disabilities Act ("ADA") and Section 504 of the Rehabilitation Act of 1973 ("Section 504"). The United States Department of Justice is the agency with primary regulatory and enforcement responsibilities under Title II of the ADA, 42 U.S.C. §§ 12131-12134, and thus plays a unique role in enforcing and interpreting the statute and its implementing regulations on behalf of the broad public

interest. It also has a significant interest in enforcing *Olmstead v. L.C.*, 527 U.S. 581 (1999), in which the Supreme Court held that unnecessary segregation of individuals with disabilities violates the ADA and Section 504.

3. Disposition of the action without the United States' participation may impede its enforcement and regulatory interests. The outcome of this case implicates *stare decisis* concerns that warrant the United States' intervention.

4. This motion is timely because the Court has not yet substantively and substantially engaged the issues in this litigation; intervention will not result in any prejudice to any other party; and the United States had compelling reasons for filing now as opposed to earlier, as it was engaged in good faith negotiations with the State for the past nine months in an effort to resolve the very issues raised in the Complaint in Intervention.

5. The United States' interests are not adequately protected by the existing parties to the litigation. Because the United States represents the public interest on a national scale, its interests differ from those represented by private Plaintiffs. *EEOC v. Pemco Aeroplex*, 383 F.3d 1280, 1291 (11th Cir. 2004); *United States v. E. Baton Rouge Sch. Dist.*, 594 F.2d 56, 58 (5th Cir. 1979). Furthermore, the United States has a discrete interest in protecting the rights of individuals, including youth, who are at risk of placement in segregated sheltered workshops. *See M.R. v. Dreyfus*, 663 F.3d 1100, 1116, 1118 (9th Cir. 2011).

6. The United States also satisfies the requirements for permissive intervention because the action involves the interpretation of statutes that the Attorney General is entrusted by Congress to administer. *See Fed. R. Civ. P. 24(b)(2)*.

7. Further support for this Motion is set forth in the United States' accompanying Memorandum of Law, which is filed concurrently.

Dated: March 27, 2013

RESPECTFULLY SUBMITTED,

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**CERTIFICATE OF SERVICE**

I certify that on March 27, 2013, I filed the foregoing document, including all attachments, via the Court's CM/ECF system, which shall send notice to all counsel of record via electronic mail.

s/ Max Lapertosa \_\_\_\_\_