

1 JASON K. SINGLETON, State Bar # 166170  
2 LAW OFFICES OF JASON K. SINGLETON  
3 611 "L" Street, Suite "A"  
4 Eureka, CA 95501  
5 (707) 441-1177  
6 FAX: 441-1533

7 Attorney for Plaintiff, JAMES COLLINS

DEC 03 2001 5:00 PM

alg

8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA

10 JAMES COLLINS,

11 Plaintiff,

12 v.

13 FREDERICK E. HITCHCOCK, JR. dba  
14 NORTH COUNTY TOYOTA; ANAHEIM  
15 IMPORTS, a California Corporation;  
16 ANAHEIM/EUCLID PLAZA, INC., a California  
17 Corporation; PROPERTY RESERVE, INC., a  
18 California Corporation, and DOES ONE TO  
19 TEN, inclusive,

20 Defendants.

) Case No. SACVD1-1161 AHS (AHS)

) Civil Rights

) COMPLAINT FOR INJUNCTIVE RELIEF  
) AND DAMAGES: DENIAL OF CIVIL  
) RIGHTS OF A DISABLED PERSON IN  
) VIOLATION OF THE AMERICANS WITH  
) DISABILITIES ACT OF 1990; VIOLATION  
) OF CALIFORNIA'S CIVIL RIGHTS  
) STATUTES

) JURY TRIAL REQUESTED

19 Plaintiff JAMES COLLINS complains of defendants FREDERICK E. HITCHCOCK, JR.  
20 dba NORTH COUNTY TOYOTA; ANAHEIM IMPORTS, a California Corporation;  
21 ANAHEIM/EUCLID PLAZA, INC., a California Corporation; PROPERTY RESERVE, INC., a  
22 California Corporation, and DOES ONE TO TEN, inclusive, and alleges as follows:

23 JURISDICTION AND VENUE

24 1. The Court has jurisdiction of this action pursuant to 28 USC § 1331 for violations  
25 of the *Americans with Disabilities Act of 1990*, (42 USC § 12101, et seq.) Pursuant to  
26 pendant jurisdiction, attendant and related causes of action, arising from the same facts, are  
27  
28

ENTERED ON ICMS  
JES (1)



1 b. The parking space slope exceeds 2% in violation of California Title 24 §  
2 1129B.4.4

3 3) Two Designated Parking Spaces. Farthest from the building entrance.

4 a. The top landing of the curbcut serving the designated parking spaces is  
5 blocked by parked vehicles that are for sale in violation of California Title 24  
6 § 1127B.5.4

7 b. The parking space slope exceeds 2% in violation of 1129B.4.4

8 4) Curbcut. At front entrance, East side.

9 a. The vertical elevation change at the bottom of the curbcut exceeds ¼" in  
10 violation of California Title 24 § 1133B.7.4, Fig 11B-5E(c) & (d)

11 b. The upward slope of the bottom landing exceeds 5% in violation of  
12 California Title 24 § 1127B.5.3

13 5) The path of travel from the south entrance crosses the driveway without a  
14 detectable warning surface or a slope exceeding 6.66% for a minimum of 36" long  
15 in violation of California Title 24 § 1127B.5.8 Fig 11B-23A

16  
17  
18 **Interior Survey.**

19 5) Receptionist counter is about 42" high in violation of California Title 24 § 1122B.4

20 6) The counter top at the Finance/Cashier is about 42" high in violation of California  
21 Title 24 § 1122B.4

22 7) The section of the counter that was lowered for people with disabilities is used to  
23 display items for sale in violation of California Title 24 § 1122B.4

24 8) Men's Restroom.

25 a. The opening pressure of the entry door is 10 pounds in violation of  
26 California Title 24 § 1133B.2.5  
27  
28

1           b.     The entry door to the water closet for people with disabilities has an opening  
2                     handle on one side in violation of California Title 24 § 1115B.7.1.4

3     The above barriers interfered with Plaintiff's access and continue to deter Plaintiff from visiting  
4     said facilities, and as a legal result, Plaintiff **JAMES COLLINS** suffers violation of his civil rights  
5     to full and equal enjoyment of goods, services, facilities and privileges, and has and will suffer  
6     embarrassment and humiliation.

7  
8                                     **FACTUAL ALLEGATIONS**

9           4.     Plaintiff **JAMES COLLINS** is, and at all times relevant to this Complaint is, a  
10           "physically handicapped person," "physically disabled person," and a "person with a disability," as  
11           these terms are used under California law and under federal laws including, but not limited to,  
12           Title III of the *Americans with Disabilities Act of 1990*. (The terms "physically handicapped  
13           person," "physically disabled person," and a "person with a disability" will be used  
14           interchangeably throughout this Complaint.) Plaintiff is a "person with a disability," as defined by  
15           all applicable California and United State's laws. Plaintiff **JAMES COLLINS** is severely limited  
16           in the use of his legs.

17  
18           5.     Defendants **FREDERICK E. HITCHCOCK, JR. dba NORTH COUNTY TOYOTA;**  
19           **ANAHEIM IMPORTS, a California Corporation; ANAHEIM/EUCLID PLAZA, INC., a**  
20           **California Corporation; PROPERTY RESERVE, INC., a California Corporation, and DOES**  
21           **ONE TO TEN, inclusive,** at all times relevant herein were and are the owners and operators;  
22           lessors and/or lessees, franchisers and/or franchisees, of public facilities known as the  
23           "**ANAHEIM CROSSROADS**" shopping center, located at Anaheim, California, subject to the  
24           requirements of California state law requiring full and equal access to public facilities pursuant to  
25           **California Health & Safety Code § 19955, et seq., California Civil Code §§ 51, 51.5, 52(a),**  
26           **52.1, 54, 54.1, 54.3 and 55,** and subject to Title III of the *Americans with Disabilities Act of*  
27  
28

1 **1990**, and to all other legal requirements referred to in this Complaint. Plaintiff does not know  
2 the relative responsibilities of defendants in the operation of the facilities herein complained of,  
3 and alleges a joint venture and common enterprise by all such defendants.

4 6. Defendants **FREDERICK E. HITCHCOCK, JR. dba NORTH COUNTY TOYOTA;**  
5 **ANAHEIM IMPORTS, a California Corporation; ANAHEIM/EUCLID PLAZA, INC., a**  
6 **California Corporation; PROPERTY RESERVE, INC., a California Corporation, and DOES**  
7 **ONE TO TEN, inclusive** (hereinafter alternatively referred to collectively as "defendants"), at all  
8 times relevant herein were and are owners, possessors, builders and keepers of the "**ANAHEIM**  
9 **CROSSROADS**" in Anaheim, California.

10 7. Defendants **FREDERICK E. HITCHCOCK, JR. dba NORTH COUNTY TOYOTA;**  
11 **ANAHEIM IMPORTS, a California Corporation; ANAHEIM/EUCLID PLAZA, INC., a**  
12 **California Corporation; PROPERTY RESERVE, INC., a California Corporation, and DOES**  
13 **ONE TO TEN, inclusive** are the owners and operators of the subject "**ANAHEIM**  
14 **CROSSROADS**" shopping center, at all times relevant to this Complaint. Plaintiff is informed  
15 and believes that each of the defendants herein is the agent, employee or representative of  
16 each of the other defendants, and performed all acts and omissions stated herein within the  
17 scope of such agency or employment or representative capacity and is responsible in some  
18 manner for the acts and omissions of the other defendants in legally causing the damages  
19 complained of herein, and have approved or ratified each of the acts or omissions of each other  
20 defendant, as herein described.

21 8. Plaintiff **JAMES COLLINS** does not know the true names and capacities of  
22 defendants **FREDERICK E. HITCHCOCK, JR. dba NORTH COUNTY TOYOTA; ANAHEIM**  
23 **IMPORTS, a California Corporation; ANAHEIM/EUCLID PLAZA, INC., a California**  
24 **Corporation; PROPERTY RESERVE, INC., a California Corporation, and DOES ONE TO**  
25  
26  
27  
28

1 **TEN, inclusive**, their business capacities, their ownership connection to the property and  
2 business, nor their relative responsibilities in causing the access violations herein complained  
3 of, and alleges a joint venture and common enterprise by all such defendants. Plaintiff is  
4 informed and believes that each of the defendants herein, including DOES ONE TO TEN,  
5 inclusive, is the agent, ostensible agent, master, servant, employer, employee, representative,  
6 franchiser, franchisee, joint venturer, partner, and associate, or such similar capacity, of each of  
7 the other defendants, and was at all times acting and performing, or failing to act or perform,  
8 with the authorization, consent, permission or ratification of each of the other defendants, and is  
9 responsible in some manner for the acts and omissions of the other defendants in legally  
10 causing the violations and damages complained of herein, and have approved or ratified each of  
11 the acts or omissions of each other defendant, as herein described. Plaintiff will seek leave to  
12 amend this Complaint when the true names, capacities, connections and responsibilities of  
13 defendants **FREDERICK E. HITCHCOCK, JR. dba NORTH COUNTY TOYOTA; ANAHEIM**  
14 **IMPORTS, a California Corporation; ANAHEIM/EUCLID PLAZA, INC., a California**  
15 **Corporation; PROPERTY RESERVE, INC., a California Corporation, and DOES ONE TO**  
16 **TEN, inclusive**, are ascertained.

17  
18  
19 9. Plaintiff is informed and believes that all named defendants, including DOES ONE  
20 TO TEN, inclusive, conspired to commit the acts described herein, or alternatively, aided and  
21 abetted one another in the performance of the wrongful acts hereinafter alleged.

22  
23 10. Defendants **FREDERICK E. HITCHCOCK, JR. dba NORTH COUNTY TOYOTA;**  
24 **ANAHEIM IMPORTS, a California Corporation; ANAHEIM/EUCLID PLAZA, INC., a**  
25 **California Corporation; PROPERTY RESERVE, INC., a California Corporation, and DOES**  
26 **ONE TO TEN, inclusive**, are the owners and operators of "ANAHEIM CROSSROADS"  
27 shopping center, located at Anaheim, California. This shopping facility, including, but not limited  
28

1 to, parking spaces and access aisles and access routes, are each a part of a "public  
2 accommodation or facility" subject to the requirements of **California Health & Safety Code** §  
3 19955, *et seq.*, and of **California Civil Code** §§ 51, 52(a), 54, 54.1, *et seq.* On information and  
4 belief, this "ANAHEIM CROSSROADS" was constructed after 1990 which has subjected the  
5 "ANAHEIM CROSSROADS" to handicapped access requirements per **California Health &**  
6 **Safety Code** § 19959, and applicable portions of **California Code of Regulations**, Title 24,  
7 (the State Building Code).

8  
9 11. On or about September 17, 2001, Plaintiff **JAMES COLLINS**, visited the "ANAHEIM  
10 **CROSSROADS**" in Anaheim, California to shop for an automobile. Defendants **FREDERICK**  
11 **E. HITCHCOCK, JR. dba NORTH COUNTY TOYOTA; ANAHEIM IMPORTS**, a California  
12 **Corporation; ANAHEIM/EUCLID PLAZA, INC.**, a California Corporation; **PROPERTY**  
13 **RESERVE, INC.**, a California Corporation, and **DOES ONE TO TEN, inclusive**, interfered  
14 with Plaintiff's access to the "ANAHEIM CROSSROADS" as set forth in Paragraph 3 above.

15  
16 Said acts and omissions denied Plaintiff legal handicapped access to the "ANAHEIM  
17 **CROSSROADS**" according to federal and state law.

18  
19 12. Plaintiff encountered and/or is informed and believes that the following  
20 architectural barriers, which violate the requirements of the **California Code of Regulations**  
21 Title 24 and **ADAAG**, existed and continue to exist thereby denying Plaintiff and those similarly  
22 situated full and equal access to the subject public facility as set forth in Paragraph 3 above.

23  
24 13. Defendants, and each of them, discriminated against Plaintiff **JAMES COLLINS**  
25 on the basis of his physical disability, and interfered with his access to the "ANAHEIM  
26 **CROSSROADS**" establishment, in violation of both California law including, but not limited to,  
27 **California Civil Code** §§ 51, 51.5, 54, 54.1, and a violation of Title III, §302, the "Prohibition of  
28 Discrimination" provision and §503, the "Prohibition Against Retaliation or Coercion" provision of

1 the **Americans with Disabilities Act of 1990**.

2 14. As a result of the actions and failure to act of defendants, and each of them, and  
3 as a result of the failure to provide appropriate handicapped parking, proper handicapped  
4 signage, proper handicapped accessible entryways, and handicapped accommodations for  
5 dressing rooms, Plaintiff **JAMES COLLINS** suffered and will suffer a loss of his civil rights to full  
6 and equal access to public facilities, and further suffered and will suffer emotional distress,  
7 mental distress, mental suffering, mental anguish, which includes shame, humiliation,  
8 embarrassment, anger, chagrin, disappointment and worry, expectedly and naturally associated  
9 with a person with a physical disability being denied access to a public accommodation, all to  
10 his damages as prayed hereinafter in an amount within the jurisdiction of this court.  
11

12 **I. FIRST CAUSE OF ACTION:**  
13 **VIOLATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990**  
14 **(42 USC §12101 et seq.)**

15 15. Plaintiff ~~repleads and incorporates by reference, as if fully set forth again herein,~~  
16 the allegations contained in paragraphs 1 through 14 of this Complaint and incorporates them  
17 herein as if separately repled.

18 16. Pursuant to law, in 1990 the United States Congress made findings per 42 **USC** §  
19 12101 regarding persons with physical disabilities, finding that laws were needed to more fully  
20 protect 43 million Americans with one or more physical or mental disabilities; [that] historically  
21 society has tended to isolate and segregate individuals with disabilities; [that] such forms of  
22 discrimination against individuals with disabilities continue to be a serious and pervasive social  
23 problem; ~~[that] the nation's proper~~ goals regarding individuals with disabilities are to assure  
24 equality of opportunity, full participation, independent living and economic self-sufficiency for  
25 such individuals; [and that] the continuing existence of unfair and unnecessary discrimination  
26 and prejudice denies people with disabilities the opportunity to compete on an equal basis and  
27  
28

1 to pursue those opportunities for which our free society is justifiably famous.

2 17. Congress stated as its purpose in passing the **Americans with Disabilities Act of**  
3 **1990 (42 USC § 12102):**

4 It is the purpose of this act (1) to provide a clear and comprehensive national  
5 mandate for the elimination of discrimination against individuals with disabilities; (2)  
6 to provide clear, strong, consistent, enforceable standards addressing  
7 discrimination against individuals with disabilities; (3) to ensure that the Federal  
8 government plays a central role in enforcing the standards established in this act on  
9 behalf of individuals with disabilities; and (4) to invoke the sweep of Congressional  
10 authority, including the power to enforce the 14th Amendment and to regulate  
11 commerce, in order to address the major areas of discrimination faced day to day  
12 by people with disabilities.  
13

14 18. As part of the **Americans with Disabilities Act of 1990**, Public Law 101-336  
15 (hereinafter the "ADA"), Congress passed "Title III - Public Accommodations and Services  
16 Operated by Private Entities" (42 USC § 12181 *et seq.*). Among the public accommodations  
17 identified for purposes of this title were "a bakery, restaurant, bar or other establishment serving  
18 food or drink, grocery store, clothing store, hardware store, shopping center or other sales or  
19 rental establishment."  
20

21 19. Pursuant to 42 USC § 12182,

22 "No individual shall be discriminated against on the basis of disability in the  
23 full and equal enjoyment of the goods, services, facilities, privileges, advantages,  
24 or accommodations of any place of public accommodation by any person who  
25 owns, leases (or leases to), or operates a place of public accommodation."  
26

27 20. Among the general prohibitions against discrimination were included in 42 USC  
28

1 §12182(b)(1)(A)(i):

2           **Denial of participation.** It shall be discriminatory to subject an individual  
3 or class of individuals on the basis of a disability or disabilities of such individual or  
4 class, directly, or through contractual, licensing, or other arrangements, to a denial  
5 of the opportunity of the individual or class to participate in or benefit from the  
6 goods, services, facilities, privileges, advantages, or accommodations of an entity.

7  
8 21. Among the general prohibitions against discrimination were included in 42 *USC*

9 §12182(b)(1)(E):

10           **Association** -- It shall be discriminatory to exclude or otherwise deny equal  
11 goods, services, facilities, privileges, advantages, accommodations, or other  
12 opportunities to an individual or entity because of the known disability of an  
13 individual with whom the individual or entity is known to have a relationship or  
14 association.

15  
16 The acts of defendants set forth herein were a violation of Plaintiff's rights under the ADA, Public  
17 Law 101-336, and the regulations promulgated thereunder, 28 *CFR* Part 36 et seq.

18 22. Among the general prohibitions against discrimination were included in 42 *USC* §  
19 12182(b)(2)(A)(i) and 42 *USC* § 12182(b)(2)(A)(ii):

20           **Discrimination.** For purposes of subsection (a), discrimination includes -

21           (i) the imposition or application of eligibility criteria that screen out or tend to  
22 screen out an individual with a disability or any class of individuals with disabilities  
23 from fully and equally enjoying any goods, services, facilities, privileges,  
24 advantages, or accommodations, unless such criteria can be shown to be  
25 necessary for the provision of the goods, services, facilities, privileges,  
26 advantages, or accommodations being offered;

27  
28

1 (ii) a failure to make reasonable modifications in policies, practices, or  
2 procedures, when such modifications are necessary to afford such goods,  
3 services, facilities, privileges, advantages, or accommodations to individuals with  
4 disabilities, unless the entity can demonstrate that making such modifications  
5 would fundamentally alter the nature of such goods, services, facilities, privileges,  
6 advantages, or accommodations.  
7

8 23. Plaintiff alleges that constructing the eligibility requirements, policies, practices and  
9 procedure for entry to the "ANAHEIM CROSSROADS" facility by persons with disabilities and  
10 their companions as established by the defendants can be simply modified to eliminate  
11 disparate and discriminatory treatment of persons with disabilities by properly constructing  
12 barrier free handicapped access for safe and full and equal enjoyment of the "ANAHEIM  
13 CROSSROADS" as that enjoyed by other people.  
14

15 24. The specific prohibition against retaliation and coercion is included in the  
16 *Americans With Disabilities Act of 1990* § 503(b) and the *Remedies and Procedures* in §  
17 503(c):

18 (b) Interference, Coercion, or Intimidation. - It shall be unlawful to coerce,  
19 intimidate, threaten, or interfere with any individual in the exercise or enjoyment of,  
20 or on account of his or her having exercised or enjoyed, or on account of his or her  
21 having aided or encouraged any other individual in the exercise or enjoyment of,  
22 any right granted or protected by this Act.  
23

24 (c) Remedies and Procedure. - The remedies and procedures available  
25 under sections 107, 203, and 308 of this Act shall be available to aggrieved  
26 persons for violations of subsections (a) and (b), with respect to Title I, Title II and  
27 Title III, respectively.  
28

1           25. Among the specific prohibitions against discrimination were included, in 42 *USC* §  
2 12182(b)(2)(a)(iv), "A failure to remove architectural barriers, and communications barriers that  
3 are structural in nature, in existing facilities...where such removal is readily achievable," and (v)  
4 "where and entity can demonstrate that the removal of a barrier under clause (iv) is not readily  
5 achievable, a failure to make such goods, services, facilities, privileges, advantages, or  
6 accommodations available through alternative methods if such methods are readily achievable."  
7 The acts of Defendants set forth herein were a violations of Plaintiff's rights under the "ADA,"  
8 Public Law 101-336, and the regulations promulgated thereunder, 28 *CFR* Part 36, *et seq.*

9  
10           26. The removal of the barriers complained of by Plaintiff as hereinabove alleged were  
11 at all times after 1990 "readily achievable." On information and belief, if the removal of all the  
12 barriers complained of here together were not "readily achievable," the removal of each  
13 individual barrier complained of herein was "readily achievable."

14  
15           27. Per 42 *USC* § 12181(9), "The term 'readily achievable' means easily  
16 accomplishable and able to be carried out without much difficulty or expense." The statute and  
17 attendant regulations define relative "expense" in relation to the total financial resources of the  
18 entities involved, including any "parent" companies. Plaintiff alleges that properly repairing each  
19 of the items that Plaintiff complains of herein is readily achievable, including but not limited to  
20 correcting and repairing the items set forth in Paragraph 3 above.

21  
22           The changes needed to remove barriers to access for the disabled were and are "readily  
23 achievable" by the defendants under standards set forth under 42 *USC* § 12181 of the  
24 ***Americans with Disabilities Act of 1990***. (Further, if it was not "readily achievable" for  
25 defendants to remove all such barriers, defendants have failed to make the required services  
26 available through alternative methods, although such methods are achievable as required by 42  
27 *USC* §12181(b)(2)(a)(iv), (v).)

28

1           28. Pursuant to the **Americans with Disabilities Act of 1990**, §308 (42 **USC** § 12188  
2 *et seq.*), Plaintiff is entitled to the remedies and procedures set forth in the **Civil Rights Act of**  
3 **1964** §204(a), (42 **USC** § 2000a-3(a)), as Plaintiff is being subjected to discrimination on the  
4 basis of disability in violation of this title and/or Plaintiff has reasonable grounds for believing  
5 that he is about to be subjected to discrimination in violation of **Americans With Disabilities**  
6 **Act of 1990** §302. Plaintiff cannot return to or make use of the public facilities complained of  
7 herein for the purpose of entry and provision of goods and service so long as defendants  
8 continue to apply eligibility criteria, policies, practices and procedures to screen out and refuse  
9 to allow entry and service to persons with disabilities such as Plaintiff's.

11           29. Defendants', and each of their acts and omissions of failing to provide barrier free  
12 handicapped access for Plaintiff, were tantamount to interference, coercion or intimidation  
13 pursuant to **Americans With Disabilities Act of 1990** §503(b) (now 42 **USC** § 12203):

15           It shall be unlawful to coerce, intimidate, threaten, or interfere with any  
16 individual in the exercise or enjoyment of, or on account of his or her having  
17 encouraged any other individual in the exercise or enjoyment of, any right granted  
18 or protected by this Act.

19           30. Per **Americans With Disabilities Act of 1990** § 308(a)(1) (now 42 **USC** §  
20 12188), "Nothing in this section shall require a person with a disability to engage in a futile  
21 gesture if such person has actual notice that a person or organization covered by this title does  
22 not intend to comply with its provisions." Pursuant to this last section, Plaintiff, on information  
23 and belief, alleges that defendants have continued to violate the law and deny the rights of  
24 Plaintiff and other disabled persons to access this public accommodation for the purpose of  
25 making consumer purchases. Therefore, Plaintiff seeks injunctive relief pursuant to §308(a)(2),

27           "...Where appropriate, injunctive relief shall also include requiring the  
28

1 provision of an auxiliary aid or service, modifications of a policy, or provision of  
2 alternative methods, to the extent required by this title.”

3 31. Plaintiff seeks relief pursuant to remedies set forth in § 204(a) of the **Civil Rights**  
4 **Act of 1964** (42 USC § 2000a-3(a), and pursuant to federal regulations adopted to implement  
5 the **Americans with Disabilities Act of 1990**, including but not limited to an order granting  
6 injunctive relief and attorneys' fees. Such attorneys' fees, "including litigation expenses and  
7 costs," are further specifically provided for by §505 of Title III.  
8

9 **II. SECOND CAUSE OF ACTION**  
10 **BREACH OF STATUTORY PROTECTIONS FOR PERSONS WITH PHYSICAL**  
11 **DISABILITIES (*California Health & Safety Code* § 19955, et seq.)**

12 32. Plaintiff repleads and incorporates by reference, as if fully set forth again herein,  
13 the allegations contained in paragraphs 1 through 31 of this Complaint and incorporate them  
14 herein as if separately repled.

15 33. **California Health & Safety Code** § 19955 provides in pertinent part:

16 The purpose of this part is to insure that public accommodations or facilities  
17 constructed in this state with private funds adhere to the provisions of Chapter 7  
18 (commencing with Sec. 4450) of Division 5 of Title 1 of the *Government Code*. For  
19 the purposes of this part "public accommodation or facilities" means a building,  
20 structure, facility, complex, or improved area which is used by the general public  
21 and shall include auditoriums, hospitals, theaters, restaurants, hotels, motels,  
22 stadiums, and convention centers. When sanitary facilities are made available for  
23 the public, clients or employees in such accommodations or facilities, they shall be  
24 made available for the handicapped.  
25

26 34. **California Health & Safety Code** § 19956, which appears in the same chapter as  
27 §19955, provides in pertinent part, "accommodations constructed in this state shall conform to  
28

1 the provisions of Chapter 7 (commencing with Sec. 4450) of Division 5 of Title 1 of the  
2 *Government Code*..." **California Health & Safety Code** § 19956 was operative July 1, 1970,  
3 and is applicable to all public accommodations constructed or altered after that date. On  
4 information and belief, portions of "ANAHEIM CROSSROADS" and/or of its buildings, were  
5 constructed and/or altered after July 1, 1970, and substantial portions of said building had  
6 alterations, structural repairs, and/or additions made to such public accommodations after July  
7 1, 1970, thereby requiring said public accommodations and/or buildings to be subject to the  
8 requirements of Part 5.5, **California Health & Safety Code** § 19955, *et seq.*, upon such  
9 alteration, structural repairs or additions per **California Health & Safety Code** § 19959.

11 35. Pursuant to the authority delegated by **California Government Code** § 4450, *et*  
12 *seq.*, the State Architect promulgated regulations for the enforcement of these provisions.  
13 Effective January 1, 1982, Title 24 of the **California Administrative Code** adopted the  
14 California State Architect's Regulations and these regulations must be complied with as to any  
15 alterations and/or modifications of the "ANAHEIM CROSSROADS" occurring after that date.  
16 Construction changes occurring prior to this date but after July 1, 1970 triggered access  
17 requirements pursuant to the "ASA" requirements, the **American Standards Association**  
18 **Specifications**, A117.1-1961. On information and belief, at the time of the construction and  
19 modification of said building, all buildings and facilities covered were required to conform to  
20 each of the standards and specifications described in the **American Standards Association**  
21 **Specifications** and/or those contained in Title 24 of the **California Administrative Code**, (now  
22 known as Title 24, **California Code of Regulations**.)

25 36. Public facilities, such as "ANAHEIM CROSSROADS" are public accommodations  
26 or facilities within the meaning of **California Health & Safety Code** § 19955, *et seq.*

27 37. It is difficult or impossible for persons with physical disabilities who use  
28

1 wheelchairs, canes, walkers and service animals to travel about in public to use a shopping  
2 facility with the defects set forth in Paragraph 3 above as required by Title 24 of the *California*  
3 *Code of Regulations* and the *Americans with Disabilities Act Access Guidelines (ADAAG)*.  
4 Thus, when public accommodations fail to provide handicap accessible public facilities, persons  
5 with physical disabilities are unable to enter and use said facilities, and are denied full and equal  
6 access to and use of that facility that is enjoyed by other members of the general public.

7  
8 38. Plaintiff **JAMES COLLINS** and other similarly situated persons with physical  
9 disabilities whose physical conditions require the use of wheelchairs, canes, walkers and  
10 service animals are unable to use public facilities on a "full and equal" basis unless each such  
11 facility is in compliance with the provisions of the *California Health & Safety Code* § 19955, *et*  
12 *seq.* Plaintiff is a member of that portion of the public whose rights are protected by the  
13 provisions of *California Health & Safety Code* § 19955, *et seq.*

14  
15 39. The *California Health & Safety Code* was enacted "[t]o ensure that public  
16 accommodations or facilities constructed in this state with private funds adhere to the provisions  
17 of Chapter 7 (commencing with §4450) of Division 5 of Title 1 of the *Government Code*." Such  
18 public accommodations are defined to include shopping centers and retail stores.

19  
20 40. Plaintiff is further informed and believes that as of the date of filing this Complaint,  
21 Defendants have not made accessible the facilities at the subject shopping facility as set forth in  
22 Paragraph 3 above.

23  
24 41. Plaintiff **JAMES COLLINS** is informed and believes, and therefore alleges, that  
25 Defendants **FREDERICK E. HITCHCOCK, JR. dba NORTH COUNTY TOYOTA; ANAHEIM**  
26 **IMPORTS, a California Corporation; ANAHEIM/EUCLID PLAZA, INC., a California**  
27 **Corporation; PROPERTY RESERVE, INC., a California Corporation, and DOES ONE TO**  
28 **TEN, inclusive, and each of them, caused the subject buildings constituting "ANAHEIM**

1 **CROSSROADS**" to be constructed, altered and maintained in such a manner that persons with  
2 physical disabilities were denied full and equal access to, within and throughout said buildings  
3 and were denied full and equal use of said public facilities, and despite knowledge and actual  
4 and constructive notice to such Defendants that the configuration of the shopping facility and/or  
5 buildings was in violation of the civil rights of persons with physical disabilities, such as Plaintiff.  
6 Such construction, modification, ownership, operation, maintenance and practices of such public  
7 facilities are in violation of law as stated in Part 5.5, **California Health & Safety Code** § 19955,  
8 *et seq.*, and elsewhere in the laws of California.

10 42. On information and belief, the subject building constituting the public facilities of  
11 "**ANAHEIM CROSSROADS**" denied full and equal access to Plaintiff and other persons with  
12 physical disabilities in other respects due to non-compliance with requirement of Title 24 of the  
13 **California Code of Regulations** and **California Health & Safety Code** § 19955, *et seq.*

15 43. The basis of Plaintiff's aforementioned information and belief is the various means  
16 upon which Defendants must have acquired such knowledge, including but not limited to this  
17 lawsuit, other access lawsuits, communications with operators of other stores and other property  
18 owners regarding denial access, communications with Plaintiff and other persons with  
19 disabilities, communications with other patrons who regularly visit there, communications with  
20 owners of other businesses, notices and advisories they obtained from governmental agencies  
21 through the mails, at seminars, posted bulletins, television, radio, public service  
22 announcements, or upon modification, improvement, alteration or substantial repair of the  
23 subject premises and other properties owned by these Defendants, newspaper articles and  
24 trade publications regarding the **Americans with Disabilities Act of 1990** and other access  
25 law, and other similar information. The scope and means of the knowledge of each defendant is  
26 within each defendant's exclusive control and cannot be ascertained except through discovery.  
27  
28

1           44. As a result of Defendants' acts and omissions in this regard, Plaintiff has been  
2 required to incur legal expenses and hire attorneys in order to enforce his civil rights and  
3 enforce provisions of the law protecting access for persons with physical disabilities and  
4 prohibiting discrimination against persons with physical disabilities, and to take such action both  
5 in his own interests and in order to enforce an important right affecting the public interest.  
6 Plaintiff, therefore, seeks damages in this lawsuit for recovery of all reasonable attorneys' fees  
7 incurred, pursuant to the provisions of the *California Code of Civil Procedure* § 1021.5.  
8 Plaintiff additionally seeks attorneys' fees pursuant to *California Health & Safety Code* §  
9 19953 and *California Civil Code* §§ 54.3 and 55.

11           45. Defendants, and each of them, at times prior to and including September 17,  
12 2001, and continuing to the present time, knew that persons with physical disabilities were  
13 denied their rights of equal access to all portions of this public facility. Despite such knowledge,  
14 Defendants failed and refused to take steps to comply with the applicable access statutes; and  
15 despite knowledge of the resulting problems and denial of civil rights thereby suffered by Plaintiff  
16 **JAMES COLLINS** and other similarly situated persons with disabilities, including the specific  
17 notices referred to in paragraph 43 of this Complaint. Defendants have failed and refused to  
18 take action to grant full and equal access to persons with physical disabilities in the respects  
19 complained of hereinabove. Defendants and each of them have carried out a course of conduct  
20 of refusing to respond to, or correct complaints about, denial of handicap access. Such actions  
21 and continuing course of conduct by Defendants, evidence despicable conduct in conscious  
22 disregard for the rights or safety of Plaintiff and of other similarly situated persons, justifying an  
23 award of exemplary and punitive damages pursuant to *California Civil Code* § 3294.

26           46. Defendants' actions have also been oppressive to persons with physical  
27 disabilities and of other members of the public, and have evidenced actual or implied malicious  
28

1 intent toward those members of the public, such as Plaintiff and other persons with physical  
2 disabilities who have been denied the proper access they are entitled to by law. Further,  
3 Defendants' refusals on a day-to-day basis to correct these problems evidence despicable  
4 conduct in conscious disregard for the rights of Plaintiff and other members of the public with  
5 physical disabilities.

6  
7 47. Plaintiff prays for an award of punitive damages against Defendants, and each of  
8 them, pursuant to **California Civil Code** § 3294 in an amount sufficient to make a more  
9 profound example of Defendants and discourage owners, operators, franchisers and  
10 franchisees of other public facilities from willful disregard of the rights of persons with physical  
11 disabilities. Plaintiff does not know the financial worth of Defendants, or the amount of punitive  
12 damages sufficient to accomplish the public purposes of **California Civil Code** § 3294 and  
13 seeks leave to amend this Complaint when such facts are known.

14  
15 48. As a result of the actions and failure of Defendants, and each of them, and as a  
16 result of the failure to provide proper accessible public facilities, Plaintiff **JAMES COLLINS** was  
17 denied his civil rights, including his right to full and equal access to public facilities, was  
18 embarrassed and humiliated, suffered physical, psychological and mental injuries and emotional  
19 distress, mental distress, mental suffering, mental anguish, which includes shame, humiliation,  
20 embarrassment, anger, chagrin, disappointment and worry, expectedly and naturally associated  
21 with a person with a physical disability being denied access to a public accommodation.

22  
23 WHEREFORE, Plaintiff prays for damages as hereinafter stated.

24 **III. THIRD CAUSE OF ACTION**  
25 **VIOLATION OF CALIFORNIA'S CIVIL RIGHTS ACTS**  
26 **(California Civil Code §§ 54, 54.1 and 54.3)**

27 49. Plaintiff repleads and incorporates by reference as if fully set forth again herein,  
28 the allegations contained in paragraphs 1 through 48 of this Complaint and incorporates them

1 herein as if separately repled.

2 50. The public facilities above-described constitute public facilities and public  
3 accommodations within the meaning of **California Health & Safety Code** § 19955 *et seq.* and  
4 were facilities to which members of the public are invited. The aforementioned acts and  
5 omissions of defendants, and each of them, constitute a denial of equal access to and use and  
6 enjoyment of these facilities by persons with disabilities, including Plaintiff **JAMES COLLINS**.  
7 Said acts and omissions are also in violation of provisions of Title 24 of the **California Code of**  
8 **Regulations**.

9  
10 51. The rights of Plaintiff, the entitlement of Plaintiff to full and equal access and the  
11 denial by defendants of such rights and entitlements are set forth in **California Civil Code** §§  
12 54, 54.1 and 54.3, to wit:

13  
14 Individuals with disabilities shall have the same right as the...general public  
15 to full and free use of the streets, highways, sidewalks, walkways, public buildings,  
16 public facilities, and other public places. **California Civil Code** § 54(a).

17  
18 Individuals with disabilities shall be entitled to full and equal access, as  
19 other members of the general public, to accommodations, advantages, facilities,  
20 and privileges of all common carriers, airplanes, motor vehicles, railroad trains,  
21 motor buses, streetcars, boats, or any other public conveyances or modes of  
22 transportation (whether private, public, franchised, licensed, contracted, or  
23 otherwise provided), telephone facilities, adoption agencies, private schools,  
24 hotels, lodging places, places of public accommodation, amusement or resort, and  
25 other places to which the general public is invited, subject only to the conditions  
26 and limitations established by law, or state or federal regulation, and applicable  
27 alike to all persons. **California Civil Code** § 54.1(a).  
28

1           52. On or about September 17, 2001, Plaintiff **JAMES COLLINS** suffered violations of  
2 **California Civil Code** §§ 54 and 54.1 in that he was denied full and equal enjoyment of the  
3 goods, services, facilities and privileges of said **ANAHEIM CROSSROADS**, as set forth in  
4 paragraph 3 above. Plaintiff was also denied full and equal access to other particulars,  
5 including but not limited to those described hereinabove. Plaintiff was also denied use of  
6 facilities that he was entitled to under Title III of the **Americans with Disabilities Act of 1990**.  
7

8           53. As a result of the denial of full and equal enjoyment of the goods, services,  
9 facilities and privileges of defendants' "**ANAHEIM CROSSROADS**" due to the acts and  
10 omissions of defendants, and each of them, in owning, operating and maintaining this subject  
11 public facility, Plaintiff suffered violations of his civil rights, including but not limited to rights  
12 under **California Civil Code** §§ 54, 54.1, and 54.3, and has and will suffer physical injury,  
13 emotional distress, mental distress, mental suffering, mental anguish, which includes shame,  
14 humiliation, embarrassment, anger, chagrin, disappointment and worry, expectedly and naturally  
15 associated with a disabled person's denial of full and equal enjoyment of goods, services,  
16 privileges, etc. all to his damages as prayed hereinafter in an amount within the jurisdiction of  
17 the court. Defendants' actions and omissions to act constituted discrimination against Plaintiff  
18 on the sole basis that Plaintiff was physically disabled.  
19

20           54. Plaintiff seeks damages for the violation of his rights as a disabled person on or  
21 about September 17, 2001, according to proof, pursuant to **California Civil Code** § 54.3,  
22 including a trebling of all statutory and actual damages, general and special, available pursuant  
23 to **California Civil Code** § 54.3(a).  
24

25           55. As a result of defendants' acts and omissions in this regard, Plaintiff **JAMES**  
26 **COLLINS** has been required to incur legal expenses and hire attorneys in order to enforce his  
27 rights and enforce provisions of the law protecting the full and equal enjoyment of goods,  
28

1 services, facilities, privileges of public facilities by the disabled, and those individuals associated  
2 with or accompanied by a person with disabilities, and prohibiting discrimination against the  
3 disabled. Plaintiff, therefore, seeks recovery in this lawsuit for all reasonable attorneys' fees  
4 incurred pursuant to the provisions of **California Civil Code** § 54.3. Additionally, Plaintiff's  
5 lawsuit is intended not only to obtain compensation for damages to Plaintiff, but also to compel  
6 the defendants to make their goods, services, facilities and privileges available and accessible  
7 to all members of the public with physical disabilities, justifying public interest attorneys' fees  
8 pursuant to the provisions of **California Code of Civil Procedure** § 1021.5.

9  
10 56. The acts and omissions of defendants in failing to provide the required accessible  
11 facilities subsequent to the enactment date and compliance date of the **Americans with**  
12 **Disabilities Act of 1990**, and refusal to make remedial modifications and alterations to its  
13 handicapped parking, handicapped signage, pathways, and other elements as hereinabove  
14 stated, after being notified by patrons before and after the time of Plaintiff's visit and injuries, on  
15 or about September 17, 2001, and all times prior thereto with the knowledge that persons with  
16 disabilities would enter defendants' premises, the reason given therefor, was an established  
17 policy, practice and procedure of refusing and denying entry, thereby denying lodging and other  
18 services to a person with disabilities and the companions thereof, evidence malice and  
19 oppression toward Plaintiff and other disabled persons.

20  
21 57. Such despicable conduct, as that incorporated herein by reference and specifically  
22 set forth in Paragraph 11, was carried out by defendants with a willful and conscious disregard  
23 for the law and the rights of Plaintiff and of other disabled persons, and was oppressive in that  
24 such conduct subjected Plaintiff "to cruel and unjust hardship in conscious disregard" for the law  
25 and Plaintiff's rights, and justifies exemplary and punitive damages pursuant to **California Civil**  
26 **Code** § 3294, in amounts sufficient to make an example of defendants and to punish  
27  
28

1 defendants and to carry out the purposes of *California Civil Code* § 3294.

2 58. Defendants have failed to establish a nondiscriminatory criteria, policy, practice  
3 and procedure for entry into said "**ANAHEIM CROSSROADS**" as hereinabove described.

4 59. As a result of defendants' continuing failure to provide for the full and equal  
5 enjoyment of goods, services, facilities and privileges of said "**ANAHEIM CROSSROADS**" as  
6 hereinabove described, Plaintiff has continually been denied his rights to full and equal  
7 enjoyment of the subject shopping facility, as it would be a "futile gesture" to attempt to  
8 patronize said "**ANAHEIM CROSSROADS**" with the discriminatory policy in place as  
9 hereinabove described.

10  
11 60. The acts and omissions of defendants as complained of herein in failing to provide  
12 the required accessible facilities subsequent to the enactment date and compliance date of the  
13 *Americans with Disabilities Act of 1990* and refusal to make remedial modifications and  
14 alternations to the architectural barriers as stated herein and in failing to establish practices,  
15 policies and procedures to allow safe access by persons who are disabled are continuing on a  
16 day-to-day basis to have the effect of wrongfully and willfully excluding Plaintiff and other  
17 members of the public who are physically disabled, from full and equal enjoyment of the subject  
18 "**ANAHEIM CROSSROADS**" as hereinabove described. Such acts and omissions are the  
19 continuing cause of humiliation and mental and emotional suffering of Plaintiff in that these  
20 actions continue to treat Plaintiff as an inferior and second class citizen and serve to  
21 discriminate against him on the sole basis that he is a physically disabled. Plaintiff is unable, so  
22 long as such acts and omissions of defendants continue, to achieve full and equal enjoyment of  
23 the goods and services of said "**ANAHEIM CROSSROADS**" as described hereinabove. The  
24 acts of defendants have legally caused and will continue to cause irreparable injury to Plaintiff if  
25 not enjoined by this court.  
26  
27  
28

1           61. Wherefore, Plaintiff asks this court to preliminarily and permanently enjoin any  
2 continuing refusal by defendants to permit entry to said "**ANAHEIM CROSSROADS**" and to  
3 serve Plaintiff or others similarly situated, and to require defendants to comply forthwith with the  
4 applicable statutory requirements relating to the full and equal enjoyment of goods and services  
5 as described hereinabove for disabled persons. Such injunctive relief is provided by **California**  
6 **Civil Code** § 55. Plaintiff further requests that the court award statutory costs and attorneys'  
7 fees to Plaintiff pursuant to **California Civil Code** § 55 and **California Code of Civil Procedure**  
8 § 1021.5, all as hereinafter prayed for.

9           WHEREFORE, Plaintiff prays for compensatory damages, reasonable attorneys' fees  
10 and costs of suit, as allowed by statute and according to proof, and appropriate exemplary  
11 damages.  
12

13  
14 **IV. FOURTH CAUSE OF ACTION**  
15 **VIOLATIONS OF UNRUH CIVIL RIGHTS**  
16 **(California Civil Code §§ 51 and 51.5)**

17           62. Plaintiff replays and incorporates by reference, as if fully set forth again herein,  
18 the allegations contained in paragraphs 1 through 61 of this Complaint and incorporates them  
19 herein as if separately replied.

20           63. Defendants' acts and omissions as specified with regard to the discriminatory  
21 treatment of Plaintiff **JAMES COLLINS** on the basis of his physical disabilities, have been in  
22 violation of **California Civil Code** §§ 51 and 51.5, the **Unruh Civil Rights Act**, and have denied  
23 to Plaintiff his rights to "full and equal accommodations, advantages, facilities, privileges or  
24 services in all business establishments of every kind whatsoever."

25           64. **California Civil Code** § 51 also provides that "[a] violation of the right of any  
26 individual under the **Americans with Disabilities Act of 1990** (Public Law 101-336) shall also  
27 constitute a violation of this section."  
28



1 **California Health & Safety Code § 19955 et seq.**, and Title III of the **Americans with**  
2 **Disabilities Act of 1990** and the standards of **ADAAG**; and prohibiting operation of the  
3 **ANAHEIM CROSSROADS**, located in Anaheim, California, as a public facility until Defendants  
4 provide full and equal enjoyment of goods and services as described hereinabove to physically  
5 disabled persons, including Plaintiff;

6 2. General damages according to proof;

7 3. Statutory and "actual" damages, including general damages and special damages,  
8 according to proof, pursuant to **California Civil Code §§ 52, and 54.3**, and that these damages  
9 be trebled;

10 4. Prejudgment interest on all compensatory damages;

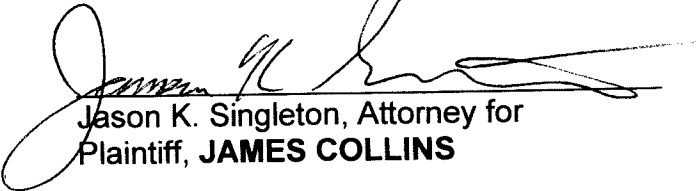
11 5. Punitive and exemplary damages pursuant to the standards and purposes of  
12 **California Civil Code § 3294**;

13 6. Remedies and Procedures available under **Americans with Disabilities Act of**  
14 **1990 §§ 107, 203 and 308**;

15 7. Award Plaintiff all litigation expenses, all costs of this proceeding and all  
16 reasonable attorneys' fees as provided by law, including but not limited to those recoverable  
17 pursuant to the provisions of **California Civil Code §§ 52, 54.3, and 55, California Code of**  
18 **Civil Procedure § 1021.5, and Americans with Disabilities Act of 1990 §308 of Title III**; and

19 8. Grant such other and further relief as the court may deem just and proper.

20 Dated: November 19, 2001

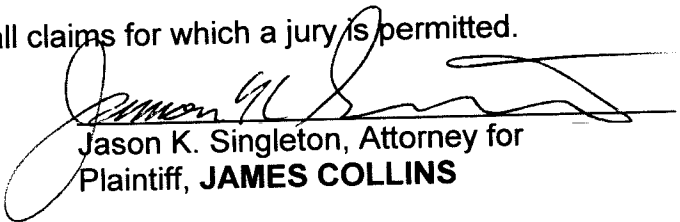
21   
22 Jason K. Singleton, Attorney for  
23 Plaintiff, **JAMES COLLINS**

24 //

REQUEST FOR JURY TRIAL

Plaintiff hereby requests a jury for all claims for which a jury is permitted.

Dated: November 19, 2001

  
Jason K. Singleton, Attorney for  
Plaintiff, **JAMES COLLINS**

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28