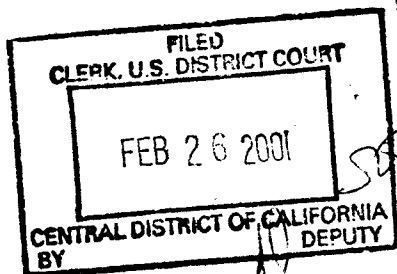


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7  
8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA

10 JAMES COLLINS,

11 Plaintiff,

12 v.

13 FELCOR LODGING TRUST  
14 INCORPORATED, a Maryland corporation,  
15 FELCOR LODGING LIMITED  
16 PARTNERSHIP, a Delaware Limited  
17 Partnership, dba EMBASSY SUITES  
HOTEL, and DOES ONE to TEN, inclusive,

18 Defendants.

) Case No. EDCV 01-146 RT (SGLx)

) Civil Rights

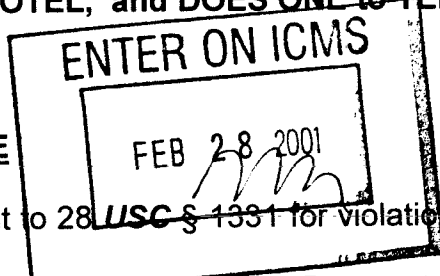
) COMPLAINT FOR INJUNCTIVE RELIEF  
) AND DAMAGES: DENIAL OF CIVIL  
) RIGHTS OF A DISABLED PERSON IN  
) VIOLATION OF THE AMERICANS WITH  
) DISABILITIES ACT OF 1990;  
) VIOLATION OF CALIFORNIA'S CIVIL  
) RIGHTS STATUTES

) JURY TRIAL REQUESTED

18 Plaintiff JAMES COLLINS complains of defendants FELCOR LODGING TRUST  
19 INCORPORATED, a Maryland corporation, FELCOR LODGING LIMITED PARTNERSHIP,  
20 a Delaware Limited Partnership, dba EMBASSY SUITES HOTEL, and DOES ONE to TEN,  
21 inclusive, and alleges as follows:

22 JURISDICTION AND VENUE

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



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Original

1 also brought under California law, including but not limited to violations of **California Health &**  
2 **Safety Code** § 19955, *et seq.*, including **California Code of Regulations**, Title 24, § 19959,  
3 **California Civil Code** §§ 51, 51.5, 52(a), 52.1, 54, 54.1, 54.3 and 55.

4 2. Venue is proper in this court pursuant to 28 **USC** § 1391(b) and is founded on the  
5 fact that the real property which is the subject of this action is located in this district, at Palm  
6 Desert, California, and that Plaintiff's causes of action arose in this district.

### 7 INTRODUCTION

8 3. **EMBASSY SUITES** is located at 74-700 Highway 111, Palm Desert, California.  
9 Said hotel is owned and operated by defendants **FELCOR LODGING TRUST**  
10 **INCORPORATED**, a Maryland corporation, **FELCOR LODGING LIMITED PARTNERSHIP**,  
11 a Delaware Limited Partnership, dba **EMBASSY SUITES HOTEL**, and **DOES ONE to TEN**,  
12 inclusive.  
13

14 Defendants **FELCOR LODGING TRUST INCORPORATED**, a Maryland corporation,  
15 **FELCOR LODGING LIMITED PARTNERSHIP**, a Delaware Limited Partnership, dba  
16 **EMBASSY SUITES HOTEL**, and **DOES ONE to TEN**, inclusive, operate an establishment  
17 for services to the public and at which Defendants failed to provide barrier free access to said  
18 establishment in conformity with both Federal and California legal requirements. Further,  
19 Defendants failed to provide compliance as follows:

#### 20 **A. EXTERIOR**

##### 21 **1. South Side:**

- 22 a) Does not have a complying path of travel separate from the driveway from  
23 the public sidewalk to the entrance which violates the minimal compliance  
24 with the readily achievable barrier removal requirements of the ADA which  
25

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

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

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

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

1 defendants to remove all such barriers, defendants have failed to make the required services  
2 available through alternative methods, although such methods are achievable as required by  
3 42 USC §12181(b)(2)(a)(iv), (v).)

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

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

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

21 30. Per **Americans With Disabilities Act of 1990** § 308(a)(1) (now 42 USC §  
22 12188), "Nothing in this section shall require a person with a disability to engage in a futile  
23 gesture if such person has actual notice that a person or organization covered by this title  
24 does not intend to comply with its provisions." Pursuant to this last section, Plaintiff, on  
25

1 information and belief, alleges that defendants have continued to violate the law and deny the  
2 rights of Plaintiff and other disabled persons to access this public accommodation for the  
3 purpose of lodging. Therefore, Plaintiff seeks injunctive relief pursuant to §308(a)(2),

4            "...Where appropriate, injunctive relief shall also include requiring the  
5 provision of an auxiliary aid or service, modifications of a policy, or provision of  
6 alternative methods, to the extent required by this title."

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

12  
13 **II. SECOND CAUSE OF ACTION**

14 **BREACH OF STATUTORY PROTECTIONS FOR PERSONS WITH PHYSICAL**  
15 **DISABILITIES (On Behalf of Plaintiff JAMES COLLINS and Against Defendants**  
16 **FELCOR LODGING TRUST INCORPORATED, a Maryland corporation,**  
17 **FELCOR LODGING LIMITED PARTNERSHIP, a Delaware Limited**  
18 **Partnership, dba EMBASSY SUITES HOTEL, and DOES ONE to TEN,**  
19 **inclusive) (California Health & Safety Code § 19955, et seq.)**

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

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

24            The purpose of this part is to insure that public accommodations or facilities  
25 constructed in this state with private funds adhere to the provisions of Chapter 7  
(commencing with Sec. 4450) of Division 5 of Title 1 of the *Government Code*.

For the purposes of this part "public accommodation or facilities" means a

1 building, structure, facility, complex, or improved area which is used by the  
2 general public and shall include auditoriums, hospitals, theaters, restaurants,  
3 hotels, motels, stadiums, and convention centers. When sanitary facilities are  
4 made available for the public, clients or employees in such accommodations or  
5 facilities, they shall be made available for the handicapped.

6 34. **California Health & Safety Code** § 19956, which appears in the same chapter  
7 as §19955, provides in pertinent part, "accommodations constructed in this state shall conform  
8 to the provisions of Chapter 7 (commencing with Sec. 4450) of Division 5 of Title 1 of the  
9 *Government Code*..." **California Health & Safety Code** § 19956 was operative July 1, 1970,  
10 and is applicable to all public accommodations constructed or altered after that date. On  
11 information and belief, portions of "EMBASSY SUITES" and/or of its buildings, were  
12 constructed and/or altered after July 1, 1970, and substantial portions of said building had  
13 alterations, structural repairs, and/or additions made to such public accommodations after July  
14 1, 1970, thereby requiring said public accommodations and/or buildings to be subject to the  
15 requirements of Part 5.5, **California Health & Safety Code** § 19955, *et seq.*, upon such  
16 alteration, structural repairs or additions per **California Health & Safety Code** § 19959.

17  
18 35. Pursuant to the authority delegated by **California Government Code** § 4450, *et*  
19 *seq.*, the State Architect promulgated regulations for the enforcement of these provisions.  
20 Effective January 1, 1982, Title 24 of the **California Administrative Code** adopted the  
21 California State Architect's Regulations and these regulations must be complied with as to any  
22 alterations and/or modifications of the "EMBASSY SUITES" occurring after that date.  
23 Construction changes occurring prior to this date but after July 1, 1970 triggered access  
24 requirements pursuant to the "ASA" requirements, the **American Standards Association**  
25

1 **Specifications**, A117.1-1961. On information and belief, at the time of the construction and  
2 modification of said building, all buildings and facilities covered were required to conform to  
3 each of the standards and specifications described in the **American Standards Association**  
4 **Specifications** and/or those contained in Title 24 of the **California Administrative Code**,  
5 (now known as Title 24, **California Code of Regulations**.)

6 36. Public facilities, such as "EMBASSY SUITES" are public accommodations or  
7 facilities within the meaning of **California Health & Safety Code** § 19955, *et seq.*

8 37. It is difficult or impossible for persons with physical disabilities who use  
9 wheelchairs, canes, walkers and service animals to travel about in public to use a hotel with  
10 the defects set forth in Paragraph 3 above as required by Title 24 of the **California Code of**  
11 **Regulations** and the **Americans with Disabilities Act Access Guidelines (ADAAG)**. Thus,  
12 when public accommodations fail to provide handicap accessible public facilities, persons with  
13 physical disabilities are unable to enter and use said facilities, and are denied full and equal  
14 access to and use of that facility that is enjoyed by other members of the general public.

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

21 39. The **California Health & Safety Code** was enacted "[t]o ensure that public  
22 accommodations or facilities constructed in this state with private funds adhere to the  
23 provisions of Chapter 7 (commencing with §4450) of Division 5 of Title 1 of the **Government**

1 Code." Such public accommodations are defined to include hotels.

2 40. Plaintiff is further informed and believes that as of the date of filing this  
3 Complaint, Defendants have not made accessible the facilities at the subject store as set forth  
4 in Paragraph 3 above.

5 41. Plaintiff **JAMES COLLINS** is informed and believes, and therefore alleges, that  
6 Defendants **FELCOR LODGING TRUST INCORPORATED, a Maryland corporation,**  
7 **FELCOR LODGING LIMITED PARTNERSHIP, a Delaware Limited Partnership, dba**  
8 **EMBASSY SUITES HOTEL, and DOES ONE to TEN, inclusive,** and each of them, caused  
9 the subject buildings constituting "**EMBASSY SUITES**" to be constructed, altered and  
10 maintained in such a manner that persons with physical disabilities were denied full and equal  
11 access to, within and throughout said buildings and were denied full and equal use of said  
12 public facilities, and despite knowledge and actual and constructive notice to such Defendants  
13 that the configuration of the store and/or buildings was in violation of the civil rights of persons  
14 with physical disabilities, such as Plaintiff. Such construction, modification, ownership,  
15 operation, maintenance and practices of such public facilities are in violation of law as stated in  
16 Part 5.5, **California Health & Safety Code § 19955, et seq.,** and elsewhere in the laws of  
17 California.

18  
19 42. On information and belief, the subject building constituting the public facilities of  
20 "**EMBASSY SUITES**" denied full and equal access to Plaintiff and other persons with physical  
21 disabilities in other respects due to non-compliance with requirement of Title 24 of the  
22 **California Code of Regulations** and **California Health & Safety Code § 19955, et seq.**

23  
24 43. The basis of Plaintiff's aforementioned information and belief is the various  
25 means upon which Defendants must have acquired such knowledge, including but not limited

1 Defendants failed and refused to take steps to comply with the applicable access statutes; and  
2 despite knowledge of the resulting problems and denial of civil rights thereby suffered by  
3 Plaintiff **JAMES COLLINS** and other similarly situated persons with disabilities, including the  
4 specific notices referred to in paragraph 43 of this Complaint. Defendants have failed and  
5 refused to take action to grant full and equal access to persons with physical disabilities in the  
6 respects complained of hereinabove. Defendants and each of them have carried out a course  
7 of conduct of refusing to respond to, or correct complaints about, denial of handicap access.  
8 Such actions and continuing course of conduct by Defendants, evidence despicable conduct in  
9 conscious disregard for the rights or safety of Plaintiff and of other similarly situated persons,  
10 justifying an award of exemplary and punitive damages pursuant to **California Civil Code §**  
11 **3294**.

13 46. Defendants' actions have also been oppressive to persons with physical  
14 disabilities and of other members of the public, and have evidenced actual or implied malicious  
15 intent toward those members of the public, such as Plaintiff and other persons with physical  
16 disabilities who have been denied the proper access they are entitled to by law. Further,  
17 Defendants' refusals on a day-to-day basis to correct these problems evidence despicable  
18 conduct in conscious disregard for the rights of Plaintiff and other members of the public with  
19 physical disabilities.

21 47. Plaintiff prays for an award of punitive damages against Defendants, and each of  
22 them, pursuant to **California Civil Code § 3294** in an amount sufficient to make a more  
23 profound example of Defendants and discourage owners, operators, franchisers and  
24 franchisees of other public facilities from willful disregard of the rights of persons with physical  
25 disabilities. Plaintiff does not know the financial worth of Defendants, or the amount of punitive

1 Said acts and omissions are also in violation of provisions of Title 24 of the **California Code of**  
2 **Regulations**.

3 51. The rights of Plaintiff, the entitlement of Plaintiff to full and equal access and the  
4 denial by defendants of such rights and entitlements are set forth in **California Civil Code §§**  
5 **54, 54.1 and 54.3**, to wit:

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

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

19  
20  
21 52. On or about October 21, 2000, Plaintiff **JAMES COLLINS** suffered violations of  
22 **California Civil Code §§ 54 and 54.1** in that he was denied full and equal enjoyment of the  
23 goods, services, facilities and privileges of said **EMBASSY SUITES**, to wit :

24 **A. EXTERIOR**

25 **1. South Side:**

1 a) Does not have a complying path of travel separate from the driveway from  
2 the public sidewalk to the entrance which violates the minimal compliance  
3 with the readily achievable barrier removal requirements of the ADA which  
4 provides a complying path of travel is the most practical and direct route  
5 from public sidewalks and accessible parking spaces to the facility  
6 entrance(s).

7 b) Does not have Tow Away signage at each entry to the parking lot or  
8 visible from each complying parking space as required by California Title  
9 24 § 1129B.5.

10 c) Designated Parking Spaces:

11 1. The 3 designated parking spaces on the south side serving the  
12 restaurant are approximately 16' long in violation of California Title  
13 24 § 1129B.4.1 which requires a level 18' long by 9' wide parking  
14 space with a 5' wide access aisle or 8' wide for van spaces

15 2. There is a swail crossing the accessible parking spaces. California  
16 Title 24 § 1129B.4.4 allows for a 1 to 50 (2%) slope in any direction.

17 3. There is not a 48" clear walkway in front of the parking spaces.  
18 California Title 24 § 1129B.1/Table 11B-7 requires accessible  
19 parking spaces be located as near as practical to primary entrances  
20 of facility(s) and to provide a complying path of travel from  
21 accessible parking spaces to complying entrance(s), not requiring a  
22 person to travel behind parked vehicles other than their own.

23 d) Entrance to Restaurant:  
24  
25

1. Does not have an International Accessibility Symbol on the entry door in violation of California Title 24 § 1117B.5.1.
2. The entry door does not have a 10" high smooth surface on the bottom of the push side in violation of California Title 24 § 1004.15 and § 1133B.2.6.
3. There is not a level landing in the direction of the door swing in violation of California Title 24 § 1004.9.2.1a and § 1133B.1.1 which require a 60" clear level landing in direction of door swing, 48" in opposition direction of door swing.

2. West Side:

- a) One of the accessible parking spaces requires a person to travel behind a parked vehicle other than their own in violation of California Title 24 § 1129B.1/Table 11B-7.
- b) There is a non-complying curbcut in violation of California Title 24 § 1127B.5.3 and §1127B.5.7 which require an 8.33" slope in the direction of travel; a 10% side flare slope or 8.33% side flare slope if there's pedestrian cross traffic; and a 12" wide grooved border on the level surface across top and sides.
- c) Entrance to Hotel:
  1. There is an approximate 3" level area at the strike edge of the gate on the pull side in violation of California Title 24 § 1004.9.2.2a and § 1133B.2.4.3 which require a 24" clear space at latch side of exterior doors (pull side) (extends 5' in direction of door swing) and

1 a 12" clear space at latch edge (push side) of passage doors if  
2 there's a latch and closure.

3 2. The gate does not have a 10" high smooth surface in violation of  
4 California Title 24 § 1004.15 and § 1133B.2.6 which require a 10"  
5 high smooth surface on the bottom of passage doors/gates and one  
6 panel of double doors.

7  
8 3. North Side:

9 1. Entrance to Hotel:

10 a) The slope of the ramp exceeds 12% in violation of California Title  
11 24 § 1127B.5.3 which requires a maximum of 8:33% slope in  
12 direction of travel.

13 b) The ramp is not 48" wide in violation of California Title 24 §  
14 1127B.5.2 which requires the ramp lie in a single sloped plane, 48"  
15 wide with a 2% cross slope.

16 c) There is not a level landing on the pull side of the entry gate in  
17 violation of California Title 24 § 1004.9.2.1a and § 1133B.1.1 which  
18 require a 60" clear level landing in direction of door swing, 48" in  
19 opposition direction of door swing.

20 d) There is approximately 8" clear space at the latch edge on the pull  
21 side of the gate in violation of California Title 24 § 1004.9.2.2a and  
22 § 1133B.2.4.3 which require a 24" clear space at latch side of  
23 exterior doors (pull side) (extends 5' in direction of door swing) and  
24 a 12" clear space at latch edge (push side) of passage doors if  
25

1 there's a latch and closure.

2 2. Ramp—North towards Tennis Courts from Parking Lot:

3 a) The slope exceeds 8.33% in violation of California Title 24 §  
4 1127B.5.3 which requires a maximum of 8:33% slope in direction of  
5 travel.

6 b) The walk is lifted more than ¼" high vertical at top and bottom of  
7 ramp in violation of California Title 24 §1023.1 and § 1133B.7.4  
8 which states abrupt changes in level on an accessible route shall  
9 not exceed ¼" vertical or ½" if beveled at 1:2 slope.

10 3. Stairs to Tennis Courts:

11 a) There are no tread markings in violation of California Title 24 §  
12 1006.16.1 and § 1133B.4.4 which require a 2" wide non-skid  
13 contrasting colored stripe parallel to and 1" of upper / midway  
14 landings and lower tread of interior stairs or all treads and landings  
15 of exterior stairways.

16 b) There are non-complying handrails in violation of California Title 24  
17 § 1006.9.2a/1133B.4.2.2, §1006.9a/1133B.4.1 which require  
18 continuous handrails on both sides, installed 34"-34" above the  
19 tread nosing, handrails shall extend 12" parallel to floor past top  
20 landing, slope the width of bottom tread past bottom tread with an  
21 additional 12" parallel to the floor and the ends shall return or  
22 terminate in a post.

23 c) There is no ramp or lift access to the sunken Tennis Courts in  
24  
25

1 violation of California Title 24 § 1007.1a and 1133B.5.1 which  
2 require a path of travel shall comply with ramp standards if slopes  
3 are greater than 5% or there are stairs.

4 **4. East Side:**

5 a) There are two entrances on the East side of the hotel that are non-  
6 complying in violation of California Title 24 § 1001.9.1.2 which states all  
7 entrances and exterior ground-floor exit doors to buildings and facilities  
8 shall be accessible to persons with disabilities.

9 b) There is no access aisle serving parking spaces on the East side in  
10 violation of California Title 24 § 1129B.4.1 which requires an access aisle  
11 on the passenger side of a single vehicle or van parking space.  
12

13 **B. INTERIOR:**

14 **1. Restaurant:**

15 a) The entry door on the south side has exposed locking hardware on the  
16 bottom 10" of the door in violation of California Title 24 §1004.15 and §  
17 1133B.2.6 which require a 10" high smooth surface on the bottom  
18 passage doors/gates and one panel of double doors.

19 b) The entry door on the north side has exposed locking hardware on the  
20 bottom 10" of the door in violation of California Title 24 §1004.15 and §  
21 1133B.2.6 which require a 10" high smooth surface on the bottom  
22 passage doors/gates and one panel of double doors.

23 c) The bar is 42" high in violation of California Title 24 § 1122B.4 which  
24 requires tables, counters and pass thru windows used as dining/work  
25

1 surfaces shall be 28" - 34" high by 36" wide or 5% of the table/bar length  
2 (whichever is longer).

3 d) The elevator has a grasp and pull opening handle in violation of California  
4 Title 24 § California Title 24 § 3003.4.10.

5 e) The telephone has a grasp and pull handle on the telephone compartment  
6 door in violation of California Title 24 § 3003.4.10 and § 1117B.6.4 which  
7 also requires an emergency telephone to be no more than 48" high with a  
8 29" long handset cord and complying handle on the telephone  
9 compartment door not requiring tight grasping, pinching or twisting of the  
10 wrist.  
11

## 12 2. Lobby of Hotel:

13 a) The registration desk is 43" high in violation of California Title 24 §  
14 1122B.4 which requires a registration desk shall have a section that is 28"  
15 -34" high and 36" minimum width.

16 b) There is not a 60" level landing on the pull side of the Lobby Exit Door on  
17 the Southeast side in violation of California Title 24 § 1004.9.2.1a and §  
18 1133B.1.1 which require a 60" clear level landing in direction of door  
19 swing, 48" in opposition direction of door swing.  
20

## 21 3. Conference / Ballrooms:

22 a) There are non-complying handrails on the two ramps accessing  
23 Conference Rooms from the Third Floor in violation of California Title 24 §  
24 1007.5a.2 and § 1133B.5.5 which require continuous handrails on both  
25 sides, installed 34"-34" above the tread nosing, handrails shall extend 12"

1 parallel to floor past top landing, slope the width of bottom tread past  
2 bottom tread with an additional 12" parallel to the floor and the ends shall  
3 return or terminate in a post.

4 b) The slope on the two ramps accessing Conference Rooms from the Third  
5 Floor varies from 14% to 18% in violation of California Title 24 § 1007.3a  
6 and § 1133B.5.3 which require the least possible slope or not more than  
7 8.33%.

8 c) The two sets of stairs from the Second Floor to the Conference /  
9 Ballrooms do not have complying tread markings in violation of California  
10 Title 24 § 1006.16.1 and § 1133B.4.4 which require a 2" wide non-skid  
11 contrasting colored stripe parallel to and 1" of upper / midway landings  
12 and lower tread of interior stairs or all treads and landings of exterior  
13 stairways.

14 d) The handrails on the two sets of stairs from the Second Floor to the  
15 Conference / Ballrooms do not extend more than 6" past the top and the  
16 bottom treads in violation of California Title 24 § 1006.9.2a/1133B.4.2.2,  
17 §1006.9a/1133B.4.1 which require continuous handrails on both sides,  
18 installed 34"-34" above the tread nosing, handrails shall extend 12"  
19 parallel to floor past top landing, slope the width of bottom tread past  
20 bottom tread with an additional 12" parallel to the floor and the ends shall  
21 return or terminate in a post.  
22

23  
24 4. Standard Guest Room - Second Floor:

25 a) There is a 1-1/4" high threshold, with a 1/2" high vertical elevation change

1 in violation of California Title 24 §1004.9.1a and § 1133B.2.4.1 which  
2 allows a ¼" vertical high threshold or ½" if beveled.

3 b) The bathroom doors provide a 22" clear opening in violation of California  
4 Title 24 § 1111B.4.6 which requires the standard guestrooms require an  
5 18" clear space at strike edge of entry and other passage doors (pull side),  
6 a complying 32" clear opening outward swinging bathroom door allowing a  
7 person using a 30" X 48" wheelchair to enter and touch the wheelchair to  
8 all fixtures.

9  
10 5. Complying Guest Room - Second Floor:

11 a) There is a 1-1/4" high threshold, with a ½" high vertical elevation change  
12 in violation of California Title 24 §1004.9.1a and § 1133B.2.4.1 which  
13 allows a ¼" vertical high threshold or ½" if beveled.

14 b) The bathroom door swings into the bathroom in violation of California Title  
15 24 § 1111B.4.6 and § 1133B.2 which state the entry door shall not swing  
16 into the required clear space for bathroom fixtures.

17 d) There is a 12" clear space beside the water closet in violation of California  
18 Title 24 § 1111B.4 which requires a 32" clear space beside and a 48" X  
19 36" wide space in front of the water closet.

20 e) There is not a 30" X 48" clear space beside the bathtub in violation of  
21 California Title 24 §1111B.4.6.6 which requires one tub or shower, if  
22 provided, shall comply with California Title 24 § 1115B.6.1 and § 1506.0,  
23 or, at least one shower complying with California Title 24 § 1115B.6.2 and  
24 § 1505.0.  
25

- 1 f) There is no seat in the tub in violation of California Title 24 §1111B.4.6.6  
2 which requires one tub or shower, if provided, shall comply with California  
3 Title 24 § 1115B.6.1 and § 1506.0, or, at least one shower complying with  
4 California Title 24 § 1115B.6.2 and § 1505.0.
- 5 g) The bathtub controls were not offset to the outside edge of the tub in  
6 violation of California Title 24 §1111B.4.6.5 which requires controls,  
7 dispensers, receptacles, or other types of equipment, if provided, to have  
8 at least one of each comply with California Title 24 § 1117B.6.
- 9 h) There are four rooms for people with mobility disabilities, but non had a  
10 roll-in shower in violation of California Title 24 § 1111B.4.5 which requires  
11 6 rooms for people with hearing disabilities and 8 accessible rooms  
12 including 2 with roll-in showers for people with mobility disabilities as set  
13 forth in Tables 11B-3 and 11B-4.

14  
15 **C. COURTYARD - IN CENTER OF HOTEL**

16 1. Paths of Travel

- 17 a) All paths of travel to the courtyard exceed 5% slope but do not have  
18 handrails in violation of California Title 24 § 1007.5a.2 and § 1133B.5.5  
19 which require continuous handrails on both sides of a ramp if the slope is  
20 greater than 5% unless it is a curbcut/ramp or contiguous to a vehicular  
21 driveway/parking lot, except that at exterior door landings, handrails are  
22 not required on ramps with less that 6" rise or 72" in length.

23  
24 2. Stairs leading to sunken area:

- 25 a) There are no tread markings in violation of California Title 24 § 1006.16.1

1 and § 1133B.4.4 which require a 2" wide non-skid contrasting colored  
2 stripe parallel to and 1" of upper / midway landings and lower tread of  
3 interior stairs or all treads and landings of exterior stairways.

4 b) There are no handrails or have non-complying handrails in violation of  
5 California Title 24 § 1006.9.2a/1133B.4.2.2, which require handrails shall  
6 extend 12" parallel to floor past top landing, slope the width of bottom  
7 tread past bottom tread with an additional 12" parallel to the floor and the  
8 ends shall return or terminate in a post.

9  
10 3. The swimming pool does not have a device to assist people with disabilities to  
11 enter the pool in violation of California Title 24 § 1104B.4.3.

12 4. Ramp to Recreational building in Courtyard:

13 a) The turn on the ramp exceeds 30 degrees but does not have a level  
14 landing in violation of California Title 24 § 1007.4.6a and § 1133B.5.4.6  
15 which require a 72" long level landing if turn in ramp exceeds 30 degrees  
16 or at the bottom of a ramp.

17 b) The ramp slope exceeds 5% but does not have complying handrails in  
18 violation of California Title 24 § 1007.5a.2 and § 1133B.5.5 which require  
19 continuous handrails on both sides of a ramp, 34" to 38" high, extending  
20 12" past ramp top and bottom with ends terminating in a post or returned.

21 c) The slope of the ramp is between 8% and 13.5% for about 60" in violation  
22 of California Title 24 § 1007.3.a and § 1133B.5.3 which require the least  
23 possible slope or not more than 8.33%.  
24

25 Plaintiff was also denied full and equal access to other particulars, including but not

1 limited to those described hereinabove. Plaintiff was also denied use of facilities that he was  
2 entitled to under Title III of the **Americans with Disabilities Act of 1990**.

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

14  
15 54. Plaintiff seeks damages for the violation of his rights as a disabled person on or  
16 about October 21, 2000, according to proof, pursuant to **California Civil Code** § 54.3,  
17 including a trebling of all statutory and actual damages, general and special, available  
18 pursuant to **California Civil Code** § 54.3(a).

19  
20 55. As a result of defendants' acts and omissions in this regard, Plaintiff **JAMES**  
21 **COLLINS** has been required to incur legal expenses and hire attorneys in order to enforce his  
22 rights and enforce provisions of the law protecting the full and equal enjoyment of goods,  
23 services, facilities, privileges of public facilities by the disabled, and those individuals  
24 associated with or accompanied by a person with disabilities, and prohibiting discrimination  
25 against the disabled. Plaintiff, therefore, seeks recovery in this lawsuit for all reasonable

1 attorneys' fees incurred pursuant to the provisions of **California Civil Code** § 54.3.  
2 Additionally, Plaintiff's lawsuit is intended not only to obtain compensation for damages to  
3 Plaintiff, but also to compel the defendants to make their goods, services, facilities and  
4 privileges available and accessible to all members of the public with physical disabilities,  
5 justifying public interest attorneys' fees pursuant to the provisions of **California Code of Civil**  
6 **Procedure** § 1021.5.

7  
8 56. ~~The acts and omissions of defendants in failing to provide the required~~  
9 accessible facilities subsequent to the enactment date and compliance date of the **Americans**  
10 **with Disabilities Act of 1990**, and refusal to make remedial modifications and alterations to its  
11 handicapped parking, handicapped signage, pathways, and other elements as hereinabove  
12 stated, after being notified by patrons before and after the time of Plaintiff's visit and injuries,  
13 on or about October 21, 2000, and all times prior thereto with the knowledge that persons with  
14 disabilities would enter defendants' premises, the reason given therefor, was an established  
15 policy, practice and procedure of refusing and denying entry, thereby denying lodging and  
16 other services to a person with disabilities and the companions thereof, evidence malice and  
17 oppression toward Plaintiff and other disabled persons.

18  
19 57. Such despicable conduct, as that incorporated herein by reference and  
20 specifically set forth in Paragraph 11, was carried out by defendants with a willful and  
21 conscious disregard for the law and the rights of Plaintiff and of other disabled persons, and  
22 was oppressive in that such conduct subjected Plaintiff "to cruel and unjust hardship in  
23 conscious disregard" for the law and Plaintiff's rights, and justifies exemplary and punitive  
24 damages pursuant to **California Civil Code** § 3294, in amounts sufficient to make an example  
25 of defendants and to punish defendants and to carry out the purposes of **California Civil**

1 **Code § 3294.**

2 58. Defendants have failed to establish a nondiscriminatory criteria, policy, practice  
3 and procedure for entry into said "**EMBASSY SUITES**" 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 "**EMBASSY SUITES**" as  
6 hereinabove described, Plaintiff has continually been denied his rights to full and equal  
7 enjoyment of the subject hotel, as it would be a "futile gesture" to attempt to patronize said  
8 "**EMBASSY SUITES**" with the discriminatory policy in place as hereinabove described.

9  
10 60. The acts and omissions of defendants as complained of herein in failing to  
11 provide the required accessible facilities subsequent to the enactment date and compliance  
12 date of the *Americans with Disabilities Act of 1990* and refusal to make remedial  
13 modifications and alternations to the architectural barriers as stated herein and in failing to  
14 establish practices, policies and procedures to allow safe access by persons who are disabled  
15 are continuing on a day-to-day basis to have the effect of wrongfully and willfully excluding  
16 Plaintiff and other members of the public who are physically disabled, from full and equal  
17 enjoyment of the subject "**EMBASSY SUITES**" as hereinabove described. Such acts and  
18 omissions are the continuing cause of humiliation and mental and emotional suffering of  
19 Plaintiff in that these actions continue to treat Plaintiff as an inferior and second class citizen  
20 and serve to discriminate against him on the sole basis that he is a physically disabled.  
21 Plaintiff is unable, so long as such acts and omissions of defendants continue, to achieve full  
22 and equal enjoyment of the goods and services of said "**EMBASSY SUITES**" as described  
23 hereinabove. The acts of defendants have legally caused and will continue to cause  
24 irreparable injury to Plaintiff if not enjoined by this court.  
25

1           61. Wherefore, Plaintiff asks this court to preliminarily and permanently enjoin any  
2 continuing refusal by defendants to permit entry to said "**EMBASSY SUITES**" and to serve  
3 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  
5 services as described hereinabove for disabled persons. Such injunctive relief is provided by  
6 **California Civil Code** § 55. Plaintiff further requests that the court award statutory costs and  
7 attorneys' fees to Plaintiff pursuant to **California Civil Code** § 55 and **California Code of Civil**  
8 **Procedure** § 1021.5, all as hereinafter prayed for.

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

13 **IV. FOURTH CAUSE OF ACTION**  
14 **VIOLATIONS OF UNRUH CIVIL RIGHTS ACT** (On Behalf of Plaintiff **JAMES**  
15 **COLLINS** and Against Defendants **FELCOR LODGING TRUST**  
16 **INCORPORATED**, a Maryland corporation, **FELCOR LODGING LIMITED**  
17 **PARTNERSHIP**, a Delaware Limited Partnership, dba **EMBASSY SUITES**  
18 **HOTEL**, and **DOES ONE to TEN**, inclusive) (**California Civil Code** §§ 51 and  
19 51.5)

20           62. Plaintiff repleads and incorporates by reference, as if fully set forth again herein,  
21 the allegations contained in paragraphs 1 through 61 of this Complaint and incorporates them  
22 herein as if separately repled.

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



1 grant injunctive relief requiring that Defendants repair and render safe to handicapped  
2 persons, and otherwise make handicapped-accessible, all public areas of the hotel, including  
3 but not limited to:

4 ///

5 ///

6 **A. EXTERIOR**

7 **1. South Side:**

8 a) Provide a complying path of travel separate from the driveway from the  
9 public sidewalk to the entrance which is the most practical and direct route  
10 from public sidewalks and accessible parking spaces to the facility  
11 entrance(s).

12 b) Place a Tow Away signage at each entry to the parking lot or visible from  
13 each complying parking space as required by California Title 24 §  
14 1129B.5.

15 c) Designated Parking Spaces:

16 1. Restripe the 3 designated parking spaces on the south side serving  
17 the restaurant are approximately 16' long to comply with California  
18 Title 24 § 1129B.4.1 which requires a level 18' long by 9' wide  
19 parking space with a 5' wide access aisle or 8' wide for van spaces

20 2. Correct the swail crossing the accessible parking spaces.  
21 California Title 24 § 1129B.4.4 allows for a 1 to 50 (2%) slope in  
22 any direction.

23 3. Provide a 48" clear walkway in front of the parking spaces.  
24  
25

1 California Title 24 § 1129B.1/Table 11B-7 requires accessible  
2 parking spaces be located as near as practical to primary entrances  
3 of facility(s) and to provide a complying path of travel from  
4 accessible parking spaces to complying entrance(s), not requiring a  
5 person to travel behind parked vehicles other than their own.

6 d) Entrance to Restaurant:

- 7 1. Provide an International Accessibility Symbol on the entry door in  
8 compliance with California Title 24 § 1117B.5.1.
- 9 2. Provide a 10" high smooth surface on the bottom of the push side  
10 in compliance with California Title 24 § 1004.15 and § 1133B.2.6.
- 11 3. Provide a level landing in the direction of the door swing in  
12 compliance with California Title 24 § 1004.9.2.1a and § 1133B.1.1  
13 which requires a 60" clear level landing in direction of door swing,  
14 48" in opposition direction of door swing.

15 2. West Side:

- 16 a) Correct the accessible parking space which requires a person to travel  
17 behind a parked vehicle other than their own in compliance with California  
18 Title 24 § 1129B.1/Table 11B-7.
- 19 b) Correct the curbcut in compliance with California Title 24 § 1127B.5.3 and  
20 §1127B.5.7 which require an 8.33" slope in the direction of travel; a 10%  
21 side flare slope or 8.33% side flare slope if there's pedestrian cross traffic;  
22 and a 12" wide grooved border on the level surface across top and sides.
- 23 c) Entrance to Hotel:
- 24
- 25

1 1. Correct the level area at the strike edge of the gate on the pull side  
2 in compliance with California Title 24 § 1004.9.2.2a and §  
3 1133B.2.4.3 which require a 24" clear space at latch side of exterior  
4 doors (pull side) (extends 5' in direction of door swing) and a 12"  
5 clear space at latch edge (push side) of passage doors if there's a  
6 latch and closure.

7  
8 2. Provide the gate with a 10" high smooth surface in compliance with  
9 California Title 24 § 1004.15 and § 1133B.2.6 which require a 10"  
10 high smooth surface on the bottom of passage doors/gates and one  
11 panel of double doors.

12 3. North Side:

13 1. Entrance to Hotel:

14 a) Correct the slope of the ramp in compliance with California Title 24  
15 § 1127B.5.3 which requires a maximum of 8:33% slope in direction  
16 of travel.

17 b) Correct the ramp width in compliance with California Title 24 §  
18 1127B.5.2 which requires the ramp lie in a single sloped plane, 48"  
19 wide with a 2% cross slope.

20 c) Provide a level landing on the pull side of the entry gate in  
21 compliance with California Title 24 § 1004.9.2.1a and § 1133B.1.1  
22 which require a 60" clear level landing in direction of door swing,  
23 48" in opposition direction of door swing.

24 d) Provide a clear space at the latch edge on the pull side of the gate  
25

1 in compliance with California Title 24 § 1004.9.2.2a and §  
2 1133B.2.4.3 which require a 24" clear space at latch side of exterior  
3 doors (pull side) (extends 5' in direction of door swing) and a 12"  
4 clear space at latch edge (push side) of passage doors if there's a  
5 latch and closure.

6 2. Ramp—North towards Tennis Courts from Parking Lot:

- 7 a) Correct the slope in compliance with California Title 24 § 1127B.5.3  
8 which requires a maximum of 8:33% slope in direction of travel.  
9  
10 b) Correct the walk at the top and bottom of the ramp in compliance  
11 with California Title 24 §1023.1 and § 1133B.7.4 which states  
12 abrupt changes in level on an accessible route shall not exceed ¼"  
13 vertical or ½" if beveled at 1:2 slope.

14 3. Stairs to Tennis Courts:

- 15 a) Place tread markings in compliance with California Title 24 §  
16 1006.16.1 and § 1133B.4.4 which require a 2" wide non-skid  
17 contrasting colored stripe parallel to and 1" of upper / midway  
18 landings and lower tread of interior stairs or all treads and landings  
19 of exterior stairways.  
20  
21 b) Install handrails in compliance with California Title 24 §  
22 1006.9.2a/1133B.4.2.2, §1006.9a/1133B.4.1 which require  
23 continuous handrails on both sides, installed 34"-34" above the  
24 tread nosing, handrails shall extend 12" parallel to floor past top  
25 landing, slope the width of bottom tread past bottom tread with an

1 additional 12" parallel to the floor and the ends shall return or  
2 terminate in a post.

- 3 c) Install a ramp or lift access to the sunken Tennis Courts in  
4 compliance with California Title 24 § 1007.1a and 1133B.5.1 which  
5 require a path of travel shall comply with ramp standards if slopes  
6 are greater than 5% or there are stairs.

7  
8 **4. East Side:**

- 9 a) Make the two entrances on the East side of the hotel accessible in  
10 compliance with California Title 24 § 1001.9.1.2 which states all entrances  
11 and exterior ground-floor exit doors to buildings and facilities shall be  
12 accessible to persons with disabilities.

- 13 b) Insert an access aisle serving parking spaces on the East side in  
14 compliance with California Title 24 § 1129B.4.1 which requires an access  
15 aisle on the passenger side of a single vehicle or van parking space.

16 **B. INTERIOR:**

17 **1. Restaurant:**

- 18 a) Remove the exposed locking hardware on the bottom 10" of the entry door  
19 on the south side in compliance with California Title 24 §1004.15 and §  
20 1133B.2.6 which require a 10" high smooth surface on the bottom  
21 passage doors/gates and one panel of double doors.

- 22 b) Remove the exposed locking hardware on the bottom 10" of the entry door  
23 on the north side in compliance with California Title 24 §1004.15 and §  
24 1133B.2.6 which require a 10" high smooth surface on the bottom  
25

1 passage doors/gates and one panel of double doors.

2 c) Provide a bar in compliance with California Title 24 § 1122B.4 which  
3 requires tables, counters and pass thru windows used as dining/work  
4 surfaces shall be 28" - 34" high by 36" wide or 5% of the table/bar length  
5 (whichever is longer).

6 d) Replace the grasp and pull opening handle on the elevator in compliance  
7 with California Title 24 § California Title 24 § 3003.4.10.

8 e) Replace the grasp and pull handle on the telephone compartment door in  
9 compliance with California Title 24 § 3003.4.10 and § 1117B.6.4 which  
10 also requires an emergency telephone to be no more than 48" high with a  
11 29" long handset cord.  
12

13 2. Lobby of Hotel:

14 a) Provide a registration desk in compliance with California Title 24 §  
15 1122B.4 which requires a registration desk shall have a section that is 28"  
16 -34" high and 36" minimum width.

17 b) Provide a 60" level landing on the pull side of the Lobby Exit Door on the  
18 Southeast side in compliance with California Title 24 § 1004.9.2.1a and §  
19 1133B.1.1 which require a 60" clear level landing in direction of door  
20 swing, 48" in opposition direction of door swing.  
21

22 3. Conference / Ballrooms:

23 a) Provide complying handrails on the two ramps accessing Conference  
24 Rooms from the Third Floor in compliance with California Title 24 §  
25 1007.5a.2 and § 1133B.5.5 which require continuous handrails on both

1 sides, installed 34"-34" above the tread nosing, handrails shall extend 12"  
2 parallel to floor past top landing, slope the width of bottom tread past  
3 bottom tread with an additional 12" parallel to the floor and the ends shall  
4 return or terminate in a post.

5 b) Redo the two ramps accessing Conference Rooms from the Third Floor in  
6 compliance with California Title 24 § 1007.3a and § 1133B.5.3 which  
7 require the least possible slope or not more than 8.33%.

8 c) Place complying tread markings on the two sets of stairs from the Second  
9 Floor to the Conference / Ballrooms in compliance with California Title 24  
10 § 1006.16.1 and § 1133B.4.4 which require a 2" wide non-skid contrasting  
11 colored stripe parallel to and 1" of upper / midway landings and lower  
12 tread of interior stairs or all treads and landings of exterior stairways.

13 d) Replace the handrails on the two sets of stairs from the Second Floor to  
14 the Conference / Ballrooms to comply with California Title 24 §  
15 1006.9.2a/1133B.4.2.2, §1006.9a/1133B.4.1 which require continuous  
16 handrails on both sides, installed 34"-34" above the tread nosing,  
17 handrails shall extend 12" parallel to floor past top landing, slope the width  
18 of bottom tread past bottom tread with an additional 12" parallel to the  
19 floor and the ends shall return or terminate in a post.

20  
21  
22 4. Standard Guest Room - Second Floor:

23 a) Remodel the thresholds in compliance with California Title 24 §1004.9.1a  
24 and § 1133B.2.4.1 which allows a ¼" vertical high threshold or ½" if  
25 beveled.

1 b) Remodel the bathroom doors in compliance with California Title 24 §  
2 1111B.4.6 which requires the standard guestrooms require an 18" clear  
3 space at strike edge of entry and other passage doors (pull side), a  
4 complying 32" clear opening outward swinging bathroom door allowing a  
5 person using a 30" X 48" wheelchair to enter and touch the wheelchair to  
6 all fixtures.

7  
8 5. Complying Guest Room - Second Floor:

9 a) Remodel the threshold in compliance with California Title 24 §1004.9.1a  
10 and § 1133B.2.4.1 which allows a ¼" vertical high threshold or ½" if  
11 beveled.

12 b) Rehang the bathroom door to swing in compliance with California Title 24  
13 § 1111B.4.6 and § 1133B.2 which state the entry door shall not swing into  
14 the required clear space for bathroom fixtures.

15 d) Remodel the water closet in compliance with California Title 24 § 1111B.4  
16 which requires a 32" clear space beside and a 48" X 36" wide space in  
17 front of the water closet.

18 e) Provide for a 30" X 48" clear space beside the bathtub in compliance with  
19 California Title 24 §1111B.4.6.6 which requires one tub or shower, if  
20 provided, shall comply with California Title 24 § 1115B.6.1 and § 1506.0,  
21 or, at least one shower complying with California Title 24 § 1115B.6.2 and  
22 § 1505.0.

23  
24 f) Provide a seat in the tub in compliance with California Title 24  
25 §1111B.4.6.6 which requires one tub or shower, if provided, shall comply

1 with California Title 24 § 1115B.6.1 and § 1506.0, or, at least one shower  
2 complying with California Title 24 § 1115B.6.2 and § 1505.0.

3 g) Provide bathtub controls offset to the outside edge of the tub in  
4 compliance with California Title 24 §1111B.4.6.5 which requires controls,  
5 dispensers, receptacles, or other types of equipment, if provided, to have  
6 at least one of each comply with California Title 24 § 1117B.6.

7 h) Provide roll-in showers in compliance with California Title 24 § 1111B.4.5  
8 which requires 6 rooms for people with hearing disabilities and 8  
9 accessible rooms including 2 with roll-in showers for people with mobility  
10 disabilities as set forth in Tables 11B-3 and 11B-4.  
11

12 **C. COURTYARD - IN CENTER OF HOTEL**

13 1. Paths of Travel

14 a) Provide handrails on all paths of travel to the courtyard exceeding 5%  
15 slope in compliance with California Title 24 § 1007.5a.2 and § 1133B.5.5  
16 which require continuous handrails on both sides of a ramp if the slope is  
17 greater than 5% unless it is a curbcut/ramp or contiguous to a vehicular  
18 driveway/parking lot, except that at exterior door landings, handrails are  
19 not required on ramps with less than 6" rise or 72" in length.

20 2. Stairs leading to sunken area:

21 a) Provide tread markings in compliance with California Title 24 § 1006.16.1  
22 and § 1133B.4.4 which require a 2" wide non-skid contrasting colored  
23 stripe parallel to and 1" of upper / midway landings and lower tread of  
24 interior stairs or all treads and landings of exterior stairways.  
25

1           b) Provide handrails or complying handrails in compliance with California  
2 Title 24 § 1006.9.2a/1133B.4.2.2, which require handrails shall extend 12"  
3 parallel to floor past top landing, slope the width of bottom tread past  
4 bottom tread with an additional 12" parallel to the floor and the ends shall  
5 return or terminate in a post.

6  
7 3. Provide the swimming pool with a device to assist people with disabilities to enter  
8 the pool in compliance with California Title 24 § 1104B.4.3.

9 4. Ramp to Recreational building in Courtyard:

10 a) Remodel the ramp in compliance with California Title 24 § 1007.4.6a and  
11 § 1133B.5.4.6 which require a 72" long level landing if turn in ramp  
12 exceeds 30 degrees or at the bottom of a ramp.

13 b) Install complying handrails along the ramp which slope exceeds 5% in  
14 compliance with California Title 24 § 1007.5a.2 and § 1133B.5.5 which  
15 require continuous handrails on both sides of a ramp, 34" to 38" high,  
16 extending 12" past ramp top and bottom with ends terminating in a post or  
17 returned.

18 c) Re-slope of the ramp in compliance with California Title 24 § 1007.3.a and  
19 § 1133B.5.3 which require the least possible slope or not more than  
20 8.33%.

21  
22 and make such facilities "readily accessible to and usable by individuals with disabilities,"  
23 according to the standards of Title 24 of the **California Administrative Code**, **California**  
24 **Health & Safety Code** § 19955 *et seq.*, and Title III of the **Americans with Disabilities Act of**  
25 **1990** and the standards of **ADAAG**; and prohibiting operation of the **EMBASSY SUITES**,

1 located in Palm Desert, California, as a public facility until Defendants provide full and equal  
2 enjoyment of goods and services as described hereinabove to physically disabled persons,  
3 including Plaintiff;

4 2. General damages according to proof;

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

8 4. Prejudgment interest on all compensatory damages;

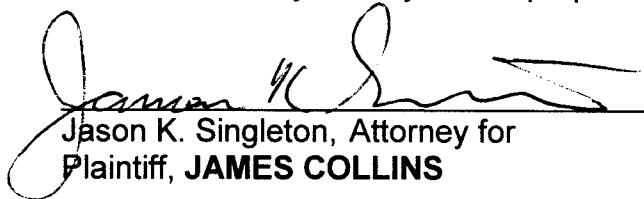
9 5. Punitive and exemplary damages pursuant to the standards and purposes of  
10 **California Civil Code** § 3294;

11 6. Remedies and Procedures available under **Americans with Disabilities Act of**  
12 **1990** §§ 107, 203 and 308;

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

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

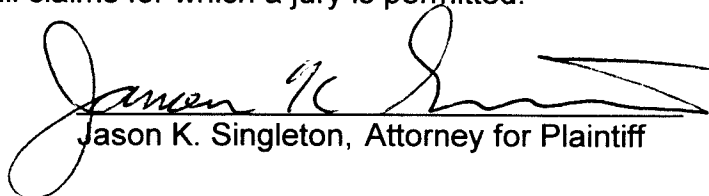
19  
20 Dated: February 22, 2001

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

21  
22 **REQUEST FOR JURY TRIAL**

23 Plaintiffs hereby request a jury for all claims for which a jury is permitted.

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25 Dated: February 22, 2001

  
Jason K. Singleton, Attorney for Plaintiff