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Attorney for Plaintiff, JAMES COLLINS

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

JAMES COLLINS

PLAINTIFF(S)

v.

DAVID A. MOCK and CONNIE L. MOCK dba  
MOCK BROTHERS SADDLERY, and DOES ONE to  
TEN, inclusive,

DEFENDANT(S).

CASE NUMBER

CV- 02-1343

SUMMONS

TO: THE ABOVE-NAMED DEFENDANT(S):

YOU ARE HEREBY SUMMONED and required to file with this court and serve upon plaintiff's attorney

JASON K. SINGLETON, whose address is:

611 "L" Street, Suite A  
Eureka, CA 95501

An answer to the  COMPLAINT,  \_\_\_\_\_ AMENDED COMPLAINT,  
(1<sup>st</sup>, 2<sup>nd</sup>, etc.)

COUNTERCLAIM,  CROSS-CLAIM which is herewith served upon you within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

CLERK, U. S. DISTRICT COURT

DATE: DEC 10 2002

By L. Murray  
Deputy Clerk

(SEAL OF THE COURT)

→ **Videoconferencing**

Videoconferencing allows parties at off-site locations to appear at court hearings by way of two-way audio and visual monitors. The appropriate courtroom deputy clerk should be contacted as to whether use of this equipment in the courtroom is permitted for the specific hearing or trial. There are minimal telephone charges but no equipment charges for use of the unit. For more information or to reserve the equipment, visit the court's website or contact the court's Judicial Liaison Officer at (213)894-0222.

→ **Ordering Transcripts**

District court civil and criminal transcripts may be ordered by making financial arrangements with the individual court reporters. To identify which reporter to contact for a specific in-court matter, please refer to the appropriate docket entry on the civil or criminal docket sheet which is now electronically available on PACER. Transcript orders from magistrate judge courts should be placed with the magistrate judge courtroom deputy clerk. Please refer to the website for the necessary telephone numbers and applicable fees.

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Photocopy services are available from outside copy services at the Western and Southern Divisions. These copy services will provide public photocopies at a reduced rate within 8 business hours or less. In addition to cash, money orders and cashier's checks, credit cards will also be accepted. Additionally, billable accounts will be considered for high volume customers. Please note that certifications and exemplifications must still be obtained from the clerk's office. For more information, contact "West Coast Copy, Inc." (Western Division) at (213)687-3042 or 3043, and "JNS Copy Service" (Southern Division) at (714)567-9280.

**UNITED STATES  
DISTRICT COURT  
CENTRAL DISTRICT  
OF  
CALIFORNIA**

**WESTERN DIVISION**

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Clerk's Office, Room G-8  
312 North Spring Street  
Los Angeles, California 90012

(213)894-1565 (213)894-3646  
(213)894-4531 (only until 4 p.m.)  
(213)894-2215 (emergency filing/information  
between 4 p.m. - 5 p.m.)

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Ronald Reagan Federal Building and  
Courthouse

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**UNITED STATES  
DISTRICT COURT**

**CENTRAL DISTRICT  
OF  
CALIFORNIA**



**CLERK'S OFFICE SERVICES  
FOR ATTORNEYS**

**AND THE GENERAL PUBLIC**

February 2002

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

Pursuant to the Local Rules Governing Duties of Magistrate Judges, the following Magistrate Judge has been designated to hear discovery motions for this case at the discretion of the assigned District Judge:

- |  |  |
|--|--|
| <input type="checkbox"/> Paul L. Abrams (PLAx)               | <input type="checkbox"/> James W. McMahon (Mcx)    |
| <input type="checkbox"/> Robert N. Block (RNBx)              | <input type="checkbox"/> Margaret A. Nagle (MANx)  |
| <input type="checkbox"/> Rosalyn M. Chapman (RCx)            | <input type="checkbox"/> Arthur Nakazato (ANx)     |
| <input type="checkbox"/> Charles F. Eick (Ex)                | <input type="checkbox"/> Fernando M. Olguin (FMOx) |
| <input type="checkbox"/> Marc L. Goldman (MLGx)              | <input type="checkbox"/> Suzanne H. Segal (SHSx)   |
| <input type="checkbox"/> Stephen J. Hillman (SHx)            | <input type="checkbox"/> Carolyn Turchin (CTx)     |
| <input type="checkbox"/> Jeffrey W. Johnson (JWJx)           | <input type="checkbox"/> Patrick J. Walsh (PJWx)   |
| <input type="checkbox"/> Victor B. Kenton (VBKx)             | <input type="checkbox"/> Andrew J. Wistrich (AJWx) |
| <input checked="" type="checkbox"/> Stephen G. Larson (SGLx) | <input type="checkbox"/> Carla M. Woehrle (CWx)    |
| <input type="checkbox"/> Jennifer T. Lum (JTLx)              | <input type="checkbox"/> Ralph Zarefsky (RZx)      |

Upon the filing of a discovery motion, the motion will be presented to the United States District Judge for consideration and may thereafter be referred to the Magistrate Judge for hearing and determination. The Magistrate Judge's initials should be used on all documents filed with the Court so that the case number reads as follows:

ED CV- 02- 1343 VAP SGLX

---

NOTICE TO COUNSEL

*A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).*

Subsequent documents must be filed at the following location:

- |  |   |  |
|--|---|--|
| <input type="checkbox"/> Western Division<br>312 N. Spring St., Rm. G-8<br>Los Angeles, CA 90012 | <input type="checkbox"/> Southern Division<br>411 West Fourth St., Rm 1-053<br>Santa Ana, CA 92701-4516 | <input checked="" type="checkbox"/> Eastern Division<br>3470 Twelfth St., Rm. 134<br>Riverside, CA 92501 |
|--|---|--|

Failure to file at the proper location will result in your documents being returned to you.

NAME, ADDRESS & TELEPHONE NUMBER OF ATTORNEY(S) FOR, OR, PLAINTIFF OR DEFENDANT IF PLAINTIFF OR DEFENDANT IS PRO PER

Jason K. Singleton, SB# 166170  
611 "L" Street, Suite A  
Eureka, CA 95501  
(707) 441-1177  
FAX 441-1533

ATTORNEYS FOR: Plaintiff James Collins

FILED  
02 DEC 10 AM 11:36  
CLERK, U.S. DISTRICT COURT  
CENTRAL DIST. OF CALIF.  
EASTERN DIVISION

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

JAMES COLLINS

Plaintiff(s),

v.

DAVID A. MOCK and CONNIE L. MOCK dba  
MOCK BROTHERS SADDLERY, and DOES  
ONE to TEN, inclusive,

Defendant(s)

CASE NUMBER

EDCV 02- 1343 VAP(SGL)

CERTIFICATION AND NOTICE  
OF INTERESTED PARTIES  
(Local Rule 83-1.5)

TO: THE COURT AND ALL PARTIES APPEARING OF RECORD:

The undersigned, counsel of record for Plaintiff, JAMES COLLINS  
(or party appearing in pro per), certifies that the following listed party (or parties) has (have) a direct, pecuniary interest in the outcome of this case. These representations are made to enable the Court to evaluate possible disqualification or recusal. (Use additional sheet if necessary.)

**PARTY**

**CONNECTION**

(List the names of all such parties and identify their connection and interest.)

JAMES COLLINS

PLAINTIFF

JASON K. SINGLETON

ATTORNEY FOR PLAINTIFF

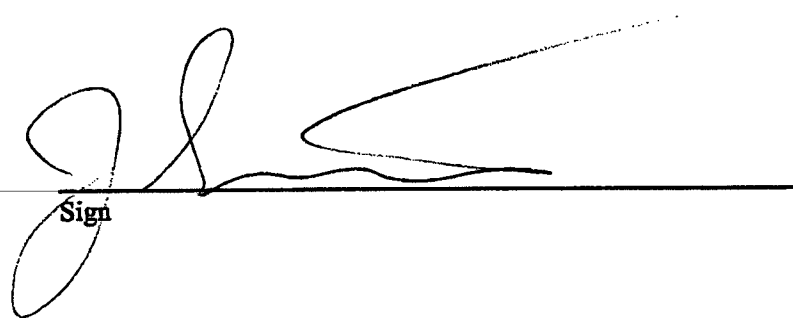
DAVID A. MOCK

DEFENDANT

CONNIE L. MOCK

DEFENDANT

12/5/02  
Date



\_\_\_\_\_  
JASON K. SINGLETON, Attorney for Plaintiff  
Attorney of record for or party appearing in pro per

NOTICE OF INTERESTED PARTIES

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

7 Attorney for Plaintiff, JAMES COLLINS

02 DEC 10 AM 11:37  
U.S. DISTRICT COURT  
CENTRAL DIST. OF CALIF.  
EASTERN DIVISION

FILED

8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 **JAMES COLLINS,**

11 **Plaintiff,**

12 **v.**

13 **DAVID A. MOCK and CONNIE L.**  
14 **MOCK, dba MOCK BROTHERS**  
15 **SADDLERY, and DOES ONE TO**  
16 **TEN, inclusive,**

17 **Defendants.**

) **Case No.**  
) **EDCV02- 1343 VAP (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**

19  
20 Plaintiff **JAMES COLLINS** complains of defendants **DAVID A. MOCK** and  
21 **CONNIE L. MOCK, dba MOCK BROTHERS SADDLERY, and DOES ONE TO**  
22 **TEN, inclusive,** and alleges as follows:

23  
24 **JURISDICTION AND VENUE**

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

1 same facts, are also brought under California law, including but not limited to violations of  
2 *California Health & Safety Code* § 19955, *et seq.*, including *California Code of*  
3 *Regulations*, Title 24, § 19959, *California Civil Code* §§ 51, 51.5, 52(a), 52.1, 54, 54.1,  
4 54.3 and 55.

6 2. Venue is proper in this court pursuant to 28 *USC* § 1391(b) and is founded on  
7 the fact that the real property which is the subject of this action is located in this district, at  
8 Yucca Valley, California, and that Plaintiff's causes of action arose in this district.  
9

### 10 INTRODUCTION

11 3. **MOCK BROTHERS SADDLERY** is located at 55225 29 Palms Highway.  
12 Yucca Valley, California. Said retail store is owned and operated by defendants **DAVID**  
13 **A. MOCK** and **CONNIE L. MOCK**, dba **MOCK BROTHERS SADDLERY**, and  
14 **DOES ONE TO TEN**, inclusive.  
15

16 Defendants **DAVID A. MOCK** and **CONNIE L. MOCK**, dba **MOCK**  
17 **BROTHERS SADDLERY**, and **DOES ONE TO TEN**, inclusive, operate an  
18 establishment for services to the public and at which Defendants failed to provide barrier  
19 free access to said establishment in conformity with both Federal and California legal  
20 requirements. Further, Defendants failed to provide compliance as follows:  
21

#### 22 **CUSTOM SADDLE SHOP**

- 23 1) Totally non-complying ramp with elevation changes at bottom and pole  
24 blocking access in violation of California Title 24 § 1133B.5.2.2
- 25 2) Two riser stairs.  
26  
27  
28

1 a. No handrails in violation of California Title 24 § 1003.3.3.6.1a,  
2 §1133B.4.2.1. Fig 11B-35  
3

4 b. No tread markings in violation of California Title 24 § 1133B.4.4. Fig  
5 11B-35  
6

7 3) No signage informing persons with disabilities how to contact store personnel  
8 for assistance. ADAAG: Requires accessibility into a public  
9 accommodation or equivalent facilitation.  
10

### 11 **MOCK BROTHERS**

12 1) Five riser stairs in front of building.

13 a. Handrails do not extend past the top or bottom tread in violation of  
14 California Title 24 § 1133B.4.2.2. Fig 11B-35 & 37  
15

16 b. Handrails are 4" wide in violation of California Title 24 §  
17 1133B.4.2.6.1. Fig 11B-36  
18

19 c. No tread markings in violation of California Title 24 § 1133B.4.4. Fig  
20 11B-35

21 2) No designated parking spaces in violation of California Title 24 § 1129B.1,  
22 Table 11B-6.  
23

24 3) No signage informing persons with disabilities how to contact store personnel  
25 for assistance. ADAAG: Requires accessibility into a public accommodation  
26 or equivalent facilitation.  
27

28 The above barriers interfered with Plaintiff's access and continue to deter Plaintiff from

1 visiting said facilities, and as a legal result, Plaintiff **JAMES COLLINS** suffers violation  
2 of his civil rights to full and equal enjoyment of goods, services, facilities and privileges,  
3 and has and will suffer embarrassment and humiliation.  
4

### 5 FACTUAL ALLEGATIONS

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

16 5. Defendants **DAVID A. MOCK and CONNIE L. MOCK, dba MOCK**  
17 **BROTHERS SADDLERY, and DOES ONE TO TEN, inclusive,** at all times relevant  
18 herein were and are the owners and operators; lessors and/or lessees, franchisers and/or  
19 franchisees, of public facilities known as the "**MOCK BROTHERS SADDLERY**",  
20 located at Yucca Valley, California, subject to the requirements of California state law  
21 requiring full and equal access to public facilities pursuant to *California Health & Safety*  
22 *Code* § 19955, *et seq.*, *California Civil Code* §§ 51, 51.5, 52(a), 52.1, 54, 54.1, 54.3 and  
23 55, and subject to Title III of the *Americans with Disabilities Act of 1990*, and to all other  
24 legal requirements referred to in this Complaint. Plaintiff does not know the relative  
25  
26  
27  
28

1 responsibilities of defendants in the operation of the facilities herein complained of, and  
2 alleges a joint venture and common enterprise by all such defendants.  
3

4 6. Defendants **DAVID A. MOCK and CONNIE L. MOCK, dba MOCK**  
5 **BROTHERS SADDLERY, and DOES ONE TO TEN, inclusive** (hereinafter  
6 alternatively referred to collectively as “defendants”), at all times relevant herein were and  
7 are owners, possessors, builders and keepers of the “**MOCK BROTHERS SADDLERY**”  
8 in Yucca Valley, California.  
9

10 7. Defendants **DAVID A. MOCK and CONNIE L. MOCK, dba MOCK**  
11 **BROTHERS SADDLERY, and DOES ONE TO TEN, inclusive** are the owners and  
12 operators of the subject “**MOCK BROTHERS SADDLERY,**” at all times relevant to this  
13 Complaint. Plaintiff is informed and believes that each of the defendants herein is the  
14 agent, employee or representative of each of the other defendants, and performed all acts  
15 and omissions stated herein within the scope of such agency or employment or  
16 representative capacity and is responsible in some manner for the acts and omissions of the  
17 other defendants in legally causing the damages complained of herein, and have approved  
18 or ratified each of the acts or omissions of each other defendant, as herein described.  
19  
20  
21

22 8. Plaintiff **JAMES COLLINS** does not know the true names and capacities of  
23 defendants **DAVID A. MOCK and CONNIE L. MOCK, dba MOCK BROTHERS**  
24 **SADDLERY, and DOES ONE TO TEN, inclusive,** their business capacities, their  
25 ownership connection to the property and business, nor their relative responsibilities in  
26 causing the access violations herein complained of, and alleges a joint venture and  
27  
28

1 common enterprise by all such defendants. Plaintiff is informed and believes that each of  
2 the defendants herein, including DOES ONE TO TEN, inclusive, is the agent, ostensible  
3 agent, master, servant, employer, employee, representative, franchiser, franchisee, joint  
4 venturer, partner, and associate, or such similar capacity, of each of the other defendants,  
5 and was at all times acting and performing, or failing to act or perform, with the  
6 authorization, consent, permission or ratification of each of the other defendants, and is  
7 responsible in some manner for the acts and omissions of the other defendants in legally  
8 causing the violations and damages complained of herein, and have approved or ratified  
9 each of the acts or omissions of each other defendant, as herein described. Plaintiff will  
10 seek leave to amend this Complaint when the true names, capacities, connections and  
11 responsibilities of defendants **DAVID A. MOCK and CONNIE L. MOCK, dba MOCK**  
12 **BROTHERS SADDLERY, and DOES ONE TO TEN, inclusive**, are ascertained.  
13

14  
15  
16  
17 9. Plaintiff is informed and believes that all named defendants, including DOES  
18 ONE TO TEN, inclusive, conspired to commit the acts described herein, or alternatively,  
19 aided and abetted one another in the performance of the wrongful acts hereinafter alleged.  
20

21 10. Defendants **DAVID A. MOCK and CONNIE L. MOCK, dba MOCK**  
22 **BROTHERS SADDLERY, and DOES ONE TO TEN, inclusive**, are the owners and  
23 operators of "**MOCK BROTHERS SADDLERY**," located at Yucca Valley, California.  
24 This establishment, including, but not limited to, parking spaces and access aisles and  
25 access routes, are each a part of a "public accommodation or facility" subject to the  
26 requirements of *California Health & Safety Code* § 19955, *et seq.*, and of *California Civil*  
27  
28

1 **Code** §§ 51, 52(a), 54, 54.1, *et seq.* On information and belief, this "**MOCK**  
2 **BROTHERS SADDLERY**" was constructed after 1990, which subjects it to handicapped  
3 access requirements per *California Health & Safety Code* § 19959, and applicable  
4 portions of *California Code of Regulations*, Title 24, (the State Building Code).  
5

6  
7 11. On or about September 28, 2002, Plaintiff **JAMES COLLINS**, visited the  
8 "**MOCK BROTHERS SADDLERY**" in Yucca Valley, California for the purpose of  
9 making a purchase. Defendants **DAVID A. MOCK** and **CONNIE L. MOCK**, dba  
10 **MOCK BROTHERS SADDLERY**, and **DOES ONE TO TEN**, inclusive, interfered  
11 with Plaintiff's access to the "**MOCK BROTHERS SADDLERY**" establishment as set  
12 forth in Paragraph 3 above.  
13

14 Said acts and omissions denied Plaintiff legal handicapped access to the "**MOCK**  
15 **BROTHERS SADDLERY**" according to federal and state law.  
16

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

23 13. Defendants, and each of them, discriminated against Plaintiff **JAMES**  
24 **COLLINS** on the basis of his physical disability, and interfered with his access to the  
25 "**MOCK BROTHERS SADDLERY**" establishment, in violation of both California law  
26 including, but not limited to, *California Civil Code* §§ 51, 51.5, 54, 54.1, and a violation  
27  
28

1 of Title III, §302, the "Prohibition of Discrimination" provision and §503, the "Prohibition  
2 Against Retaliation or Coercion" provision of the *Americans with Disabilities Act of*  
3 *1990*.

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

15  
16  
17  
18 **I. FIRST CAUSE OF ACTION:**  
19 **VIOLATION OF *THE AMERICANS WITH DISABILITIES ACT OF 1990***  
20 **(42 *USC* §12101 *et seq.*)**

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

24  
25 16. Pursuant to law, in 1990 the United States Congress made findings per 42  
26 *USC* § 12101 regarding persons with physical disabilities, finding that laws were needed  
27 to more fully protect 43 million Americans with one or more physical or mental  
28

1 disabilities; [that] historically society has tended to isolate and segregate individuals with  
2 disabilities; [that] such forms of discrimination against individuals with disabilities  
3 continue to be a serious and pervasive social problem; [that] the nation's proper goals  
4 regarding individuals with disabilities are to assure equality of opportunity, full  
5 participation, independent living and economic self-sufficiency for such individuals; [and  
6 that] the continuing existence of unfair and unnecessary discrimination and prejudice  
7 denies people with disabilities the opportunity to compete on an equal basis and to pursue  
8 those opportunities for which our free society is justifiably famous.  
9  
10

11  
12 17. Congress stated as its purpose in passing the *Americans with Disabilities Act*  
13 *of 1990* (42 USC § 12102):  
14

15 It is the purpose of this act (1) to provide a clear and comprehensive  
16 national mandate for the elimination of discrimination against individuals with  
17 disabilities; (2) to provide clear, strong, consistent, enforceable standards  
18 addressing discrimination against individuals with disabilities; (3) to ensure  
19 that the Federal government plays a central role in enforcing the standards  
20 established in this act on behalf of individuals with disabilities; and (4) to  
21 invoke the sweep of Congressional authority, including the power to enforce  
22 the 14th Amendment and to regulate commerce, in order to address the major  
23 areas of discrimination faced day to day by people with disabilities.  
24  
25

26  
27 18. As part of the *Americans with Disabilities Act of 1990*, Public Law 101-336  
28 (hereinafter the "ADA"), Congress passed "Title III - Public Accommodations and

1 Services Operated by Private Entities” (42 *USC* § 12181 *et seq.*). Among the public  
2 accommodations identified for purposes of this title were “a bakery, grocery store, clothing  
3 store, hardware store, shopping center, or other sales or rental establishment . . .”  
4

5 19. Pursuant to 42 *USC* § 12182,

6 “No individual shall be discriminated against on the basis of disability  
7 in the full and equal enjoyment of the goods, services, facilities, privileges,  
8 advantages, or accommodations of any place of public accommodation by any  
9 person who owns, leases (or leases to), or operates a place of public  
10 accommodation.”  
11  
12

13 20. Among the general prohibitions against discrimination were included in 42  
14 *USC* §12182(b)(1)(A)(i):

15  
16 **Denial of participation.** It shall be discriminatory to subject an  
17 individual or class of individuals on the basis of a disability or disabilities of  
18 such individual or class, directly, or through contractual, licensing, or other  
19 arrangements, to a denial of the opportunity of the individual or class to  
20 participate in or benefit from the goods, services, facilities, privileges,  
21 advantages, or accommodations of an entity.  
22  
23

24 21. Among the general prohibitions against discrimination were included in 42  
25 *USC* §12182(b)(1)(E):

26  
27 **Association** -- It shall be discriminatory to exclude or otherwise deny  
28 equal goods, services, facilities, privileges, advantages, accommodations, or

1 other opportunities to an individual or entity because of the known disability  
2 of an individual with whom the individual or entity is known to have a  
3 relationship or association.  
4

5 The acts of defendants set forth herein were a violation of Plaintiff's rights under the  
6 ADA, Public Law 101-336, and the regulations promulgated thereunder, 28 *CFR* Part 36  
7 et seq.  
8

9 22. Among the general prohibitions against discrimination were included in 42  
10 *USC* § 12182(b)(2)(A)(i) and 42 *USC* § 12182(b)(2)(A)(ii):  
11

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

14 (i) the imposition or application of eligibility criteria that screen out or  
15 tend to screen out an individual with a disability or any class of individuals  
16 with disabilities from fully and equally enjoying any goods, services,  
17 facilities, privileges, advantages, or accommodations, unless such criteria can  
18 be shown to be necessary for the provision of the goods, services, facilities,  
19 privileges, advantages, or accommodations being offered;  
20  
21

22 (ii) a failure to make reasonable modifications in policies, practices, or  
23 procedures, when such modifications are necessary to afford such goods,  
24 services, facilities, privileges, advantages, or accommodations to individuals  
25 with disabilities, unless the entity can demonstrate that making such  
26 modifications would fundamentally alter the nature of such goods, services,  
27  
28

1 facilities, privileges, advantages, or accommodations.

2 23. Plaintiff alleges that the eligibility requirements, policies, practices and  
3 procedure for entry to the "**MOCK BROTHERS SADDLERY**" facility by persons with  
4 disabilities and their companions as established by the defendants can be simply modified  
5 to eliminate disparate and discriminatory treatment of persons with disabilities by properly  
6 constructing barrier free handicapped access for safe and full and equal enjoyment of the  
7 "**MOCK BROTHERS SADDLERY**" as that enjoyed by other people.

8 24. The specific prohibition against retaliation and coercion is included in the  
9 *Americans With Disabilities Act of 1990* § 503(b) and the *Remedies and Procedures* in §  
10 503(c):

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

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

20 25. Among the specific prohibitions against discrimination were included, in 42  
21 *USC* § 12182(b)(2)(a)(iv), "A failure to remove architectural barriers, and communications  
22  
23  
24  
25  
26  
27  
28

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

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

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

25 The changes needed to remove barriers to access for the disabled were and are  
26 "readily achievable" by the defendants under standards set forth under 42 *USC* § 12181 of  
27 the *Americans with Disabilities Act of 1990*. (Further, if it was not "readily achievable"  
28

1 for defendants to remove all such barriers, defendants have failed to make the required  
2 services available through alternative methods, although such methods are achievable as  
3 required by 42 *USC* §12181(b)(2)(a)(iv), (v).  
4

5 28. Pursuant to the *Americans with Disabilities Act of 1990*, §308 (42 *USC* §  
6 12188 *et seq.*), Plaintiff is entitled to the remedies and procedures set forth in the *Civil*  
7 *Rights Act of 1964* §204(a), (42 *USC* § 2000a-3(a)), as Plaintiff is being subjected to  
8 discrimination on the basis of disability in violation of this title and/or Plaintiff has  
9 reasonable grounds for believing that he is about to be subjected to discrimination in  
10 violation of *Americans With Disabilities Act of 1990* §302. Plaintiff cannot return to or  
11 make use of the public facilities complained of herein for the purpose of entry and  
12 provision of goods and service so long as defendants continue to apply eligibility criteria,  
13 policies, practices and procedures to screen out and refuse to allow entry and service to  
14 persons with disabilities such as Plaintiff's.  
15  
16  
17

18 29. Defendants', and each of their acts and omissions of failing to provide barrier  
19 free handicapped access for Plaintiff, were tantamount to interference, coercion or  
20 intimidation pursuant to *Americans With Disabilities Act of 1990* §503(b) (now 42 *USC*  
21 § 12203):  
22  
23

24 It shall be unlawful to coerce, intimidate, threaten, or interfere with any  
25 individual in the exercise or enjoyment of, or on account of his or her having  
26 encouraged any other individual in the exercise or enjoyment of, any right  
27 granted or protected by this Act.  
28

1           30. Per *Americans With Disabilities Act of 1990* § 308(a)(1) (now 42 *USC* §  
2 12188), “Nothing in this section shall require a person with a disability to engage in a  
3 futile gesture if such person has actual notice that a person or organization covered by this  
4 title does not intend to comply with its provisions.” Pursuant to this last section, Plaintiff,  
5 on information and belief, alleges that defendants have continued to violate the law and  
6 deny the rights of Plaintiff and other disabled persons to access this public  
7 accommodation for the purpose of lodging. Therefore, Plaintiff seeks injunctive relief  
8 pursuant to §308(a)(2),  
9

10  
11           “...Where appropriate, injunctive relief shall also include requiring the  
12 provision of an auxiliary aid or service, modifications of a policy, or  
13 provision of alternative methods, to the extent required by this title.”  
14  
15

16           31. Plaintiff seeks relief pursuant to remedies set forth in § 204(a) of the *Civil*  
17 *Rights Act of 1964* (42 *USC* § 2000a-3(a), and pursuant to federal regulations adopted to  
18 implement the *Americans with Disabilities Act of 1990*, including but not limited to an  
19 order granting injunctive relief and attorneys’ fees. Such attorneys’ fees, “including  
20 litigation expenses and costs,” are further specifically provided for by §505 of Title III.  
21

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

25           32. Plaintiff repleads and incorporates by reference, as if fully set forth again  
26 herein, the allegations contained in paragraphs 1 through 31 of this Complaint and  
27 incorporate them herein as if separately repled.  
28

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

2           The purpose of this part is to insure that public accommodations or  
3 facilities constructed in this state with private funds adhere to the provisions  
4 of Chapter 7 (commencing with Sec. 4450) of Division 5 of Title 1 of the  
5 *Government Code*. For the purposes of this part “public accommodation or  
6 facilities” means a building, structure, facility, complex, or improved area  
7 which is used by the general public and shall include auditoriums, hospitals,  
8 theaters, restaurants, hotels, motels, stadiums, and convention centers. When  
9 sanitary facilities are made available for the public, clients or employees in  
10 such accommodations or facilities, they shall be made available for the  
11 handicapped.

12           34.    *California Health & Safety Code* § 19956, which appears in the same chapter  
13 as §19955, provides in pertinent part, “accommodations constructed in this state shall  
14 conform to the provisions of Chapter 7 (commencing with Sec. 4450) of Division 5 of  
15 Title 1 of the *Government Code*...” *California Health & Safety Code* § 19956 was  
16 operative July 1, 1970, and is applicable to all public accommodations constructed or  
17 altered after that date. On information and belief, portions of “**MOCK BROTHERS**  
18 **SADDLERY**” and/or of its buildings, were constructed and/or altered after July 1, 1970,  
19 and substantial portions of said building had alterations, structural repairs, and/or additions  
20 made to such public accommodations after July 1, 1970, thereby requiring said public  
21 accommodations and/or buildings to be subject to the requirements of Part 5.5, *California*

1 *Health & Safety Code* § 19955, *et seq.*, upon such alteration, structural repairs or additions  
2 per *California Health & Safety Code* § 19959.  
3

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

21 36. Public facilities, such as "**MOCK BROTHERS SADDLERY**" are public  
22 accommodations or facilities within the meaning of *California Health & Safety Code* §  
23 19955, *et seq.*  
24

25 37. It is difficult or impossible for persons with physical disabilities who use  
26 wheelchairs, canes, walkers and service animals to travel about in public to use a retail  
27 store with the defects set forth in Paragraph 3 above as required by Title 24 of the  
28

1 *California Code of Regulations* and the *Americans with Disabilities Act Access*  
2 *Guidelines (ADAAG)*. Thus, when public accommodations fail to provide handicap  
3 accessible public facilities, persons with physical disabilities are unable to enter and use  
4 said facilities, and are denied full and equal access to and use of that facility that is enjoyed  
5 by other members of the general public.  
6

7  
8 38. Plaintiff **JAMES COLLINS** and other similarly situated persons with  
9 physical disabilities whose physical conditions require the use of wheelchairs, canes,  
10 walkers and service animals are unable to use public facilities on a “full and equal” basis  
11 unless each such facility is in compliance with the provisions of the *California Health &*  
12 *Safety Code* § 19955, *et seq.* Plaintiff is a member of that portion of the public whose  
13 rights are protected by the provisions of *California Health & Safety Code* § 19955, *et seq.*  
14

15  
16 39. The *California Health & Safety Code* was enacted “[t]o ensure that public  
17 accommodations or facilities constructed in this state with private funds adhere to the  
18 provisions of Chapter 7 (commencing with §4450) of Division 5 of Title 1 of the  
19 *Government Code.*” Such public accommodations are defined to include retail stores.  
20

21 40. Plaintiff is further informed and believes that as of the date of filing this  
22 Complaint, Defendants have not made accessible the facilities at the subject store as set  
23 forth in Paragraph 3 above.  
24

25 41. Plaintiff **JAMES COLLINS** is informed and believes, and therefore alleges,  
26 that Defendants **DAVID A. MOCK and CONNIE L. MOCK, dba MOCK**  
27 **BROTHERS SADDLERY, and DOES ONE TO TEN, inclusive,** and each of them,  
28

1 caused the subject buildings constituting "**MOCK BROTHERS SADDLERY**" to be  
2 constructed, altered and maintained in such a manner that persons with physical  
3 disabilities were denied full and equal access to, within and throughout said buildings and  
4 were denied full and equal use of said public facilities, and despite knowledge and actual  
5 and constructive notice to such Defendants that the configuration of the store and/or  
6 buildings was in violation of the civil rights of persons with physical disabilities, such as  
7 Plaintiff. Such construction, modification, ownership, operation, maintenance and  
8 practices of such public facilities are in violation of law as stated in Part 5.5, *California*  
9 *Health & Safety Code* § 19955, *et seq.*, and elsewhere in the laws of California.  
10  
11

12  
13 42. On information and belief, the subject building constituting the public  
14 facilities of "**MOCK BROTHERS SADDLERY**" denied full and equal access to Plaintiff  
15 and other persons with physical disabilities in other respects due to non-compliance with  
16 requirement of Title 24 of the *California Code of Regulations* and *California Health &*  
17 *Safety Code* § 19955, *et seq.*  
18

19  
20 43. The basis of Plaintiff's aforementioned information and belief is the various  
21 means upon which Defendants must have acquired such knowledge, including but not  
22 limited to this lawsuit, other access lawsuits, communications with operators of other  
23 stores and other property owners regarding denial access, communications with Plaintiff  
24 and other persons with disabilities, communications with other patrons who regularly visit  
25 there, communications with owners of other businesses, notices and advisories they  
26 obtained from governmental agencies through the mails, at seminars, posted bulletins,  
27  
28

1 television, radio, public service announcements, or upon modification, improvement,  
2 alteration or substantial repair of the subject premises and other properties owned by these  
3 Defendants, newspaper articles and trade publications regarding the *Americans with*  
4 *Disabilities Act of 1990* and other access law, and other similar information. The scope  
5 and means of the knowledge of each defendant is within each defendant's exclusive  
6 control and cannot be ascertained except through discovery.  
7  
8

9       44. As a result of Defendants' acts and omissions in this regard, Plaintiff has been  
10 required to incur legal expenses and hire attorneys in order to enforce his civil rights and  
11 enforce provisions of the law protecting access for persons with physical disabilities and  
12 prohibiting discrimination against persons with physical disabilities, and to take such  
13 action both in his own interests and in order to enforce an important right affecting the  
14 public interest. Plaintiff, therefore, seeks damages in this lawsuit for recovery of all  
15 reasonable attorneys' fees incurred, pursuant to the provisions of the *California Code of*  
16 *Civil Procedure* § 1021.5. Plaintiff additionally seeks attorneys' fees pursuant to  
17 *California Health & Safety Code* § 19953 and *California Civil Code* §§ 54.3 and 55.  
18  
19  
20

21       45. Defendants, and each of them, at times prior to and including September 28,  
22 2002, and continuing to the present time, knew that persons with physical disabilities were  
23 denied their rights of equal access to all portions of this public facility. Despite such  
24 knowledge, Defendants failed and refused to take steps to comply with the applicable  
25 access statutes; and despite knowledge of the resulting problems and denial of civil rights  
26 thereby suffered by Plaintiff **JAMES COLLINS** and other similarly situated persons with  
27  
28

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

12 46. Defendants' actions have also been oppressive to persons with physical  
13 disabilities and of other members of the public, and have evidenced actual or implied  
14 malicious intent toward those members of the public, such as Plaintiff and other persons  
15 with physical disabilities who have been denied the proper access they are entitled to by  
16 law. Further, Defendants' refusals on a day-to-day basis to correct these problems  
17 evidence despicable conduct in conscious disregard for the rights of Plaintiff and other  
18 members of the public with physical disabilities.  
19  
20

21 47. Plaintiff prays for an award of punitive damages against Defendants, and each  
22 of 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  
25 physical disabilities. Plaintiff does not know the financial worth of Defendants, or the  
26 amount of punitive damages sufficient to accomplish the public purposes of *California*  
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28

1 *Civil Code* § 3294 and seeks leave to amend this Complaint when such facts are known.

2  
3 48. As a result of the actions and failure of Defendants, and each of them, and as  
4 a result of the failure to provide proper accessible public facilities, Plaintiff **JAMES**  
5 **COLLINS** was denied his civil rights, including his right to full and equal access to public  
6 facilities, was embarrassed and humiliated, suffered physical, psychological and mental  
7 injuries and emotional distress, mental distress, mental suffering, mental anguish, which  
8 includes shame, humiliation, embarrassment, anger, chagrin, disappointment and worry,  
9 expectedly and naturally associated with a person with a physical disability being denied  
10 access to a public accommodation.  
11  
12

13 WHEREFORE, Plaintiff prays for damages as hereinafter stated.

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

17 49. Plaintiff repleads and incorporates by reference as if fully set forth again  
18 herein, the allegations contained in paragraphs 1 through 48 of this Complaint and  
19 incorporates them herein as if separately repled.  
20

21 50. The public facilities above-described constitute public facilities and public  
22 accommodations within the meaning of *California Health & Safety Code* § 19955 *et seq.*  
23 and were facilities to which members of the public are invited. The aforementioned acts  
24 and omissions of defendants, and each of them, constitute a denial of equal access to and  
25 use and enjoyment of these facilities by persons with disabilities, including Plaintiff  
26 **JAMES COLLINS**. Said acts and omissions are also in violation of provisions of Title  
27  
28

1 24 of the *California Code of Regulations*.

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

6 Individuals with disabilities shall have the same right as the...general  
7  
8 public to full and free use of the streets, highways, sidewalks, walkways,  
9  
10 public buildings, public facilities, and other public places. *California Civil*  
11 *Code* § 54(a).

12 Individuals with disabilities shall be entitled to full and equal access, as  
13  
14 other members of the general public, to accommodations, advantages,  
15  
16 facilities, and privileges of all common carriers, airplanes, motor vehicles,  
17  
18 railroad trains, motor buses, streetcars, boats, or any other public conveyances  
19  
20 or modes of transportation (whether private, public, franchised, licensed,  
21  
22 contracted, or otherwise provided), telephone facilities, adoption agencies,  
23  
24 private schools, hotels, lodging places, places of public accommodation,  
25  
26 amusement or resort, and other places to which the general public is invited,  
27  
28 subject only to the conditions and limitations established by law, or state or  
federal regulation, and applicable alike to all persons. *California Civil Code*  
§ 54.1(a).

52. On or about September 28, 2002, Plaintiff **JAMES COLLINS** suffered  
violations of *California Civil Code* §§ 54 and 54.1 in that he was denied full and equal

1 enjoyment of the goods, services, facilities and privileges of said **MOCK BROTHERS**  
2 **SADDLERY**, as set forth in paragraph 3 above. Plaintiff was also denied full and equal  
3  
4 access to other particulars, including, but not limited to, those described hereinabove.  
5 Plaintiff was also denied use of facilities that he was entitled to under Title III of the  
6 *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' **MOCK BROTHERS SADDLERY** facility due to  
10 the acts and omissions of defendants, and each of them, in owning, operating and  
11 maintaining this subject public facility, Plaintiff suffered violations of his civil rights,  
12 including, but not limited to, rights under *California Civil Code* §§ 54, 54.1, and 54.3, and  
13 has and will suffer physical injury, emotional distress, mental distress, mental suffering,  
14 mental anguish, which includes shame, humiliation, embarrassment, anger, chagrin,  
15 disappointment and worry, expectedly and naturally associated with a disabled person's  
16 denial of full and equal enjoyment of goods, services, privileges, etc. all to his damages as  
17 prayed hereinafter in an amount within the jurisdiction of the court. Defendants' actions  
18 and omissions to act constituted discrimination against Plaintiff on the sole basis that  
19 Plaintiff was physically disabled.

20  
21  
22  
23  
24 54. Plaintiff seeks damages for the violation of his rights as a disabled person on  
25 or about September 28, 2002, according to proof, pursuant to *California Civil Code* §  
26 54.3, including a trebling of all statutory and actual damages, general and special,  
27 available pursuant to *California Civil Code* § 54.3(a).

1           55. As a result of defendants' acts and omissions in this regard, Plaintiff **JAMES**  
2 **COLLINS** has been required to incur legal expenses and hire attorneys in order to enforce  
3 his rights and enforce provisions of the law protecting the full and equal enjoyment of  
4 goods, services, facilities, privileges of public facilities by the disabled, and those  
5 individuals associated with or accompanied by a person with disabilities, and prohibiting  
6 discrimination against the disabled. Plaintiff, therefore, seeks recovery in this lawsuit for  
7 all reasonable attorneys' fees incurred pursuant to the provisions of *California Civil Code*  
8 § 54.3. Additionally, Plaintiff's lawsuit is intended not only to obtain compensation for  
9 damages to Plaintiff, but also to compel the defendants to make their goods, services,  
10 facilities and privileges available and accessible to all members of the public with physical  
11 disabilities, justifying public interest attorneys' fees pursuant to the provisions of  
12 *California Code of Civil Procedure* § 1021.5.

13           56. The acts and omissions of defendants in failing to provide the required  
14 accessible facilities subsequent to the enactment date and compliance date of the  
15 *Americans with Disabilities Act of 1990*, and refusal to make remedial modifications and  
16 alterations to its handicapped parking, handicapped signage, pathways, and other elements  
17 as hereinabove stated, after being notified by patrons before and after the time of  
18 Plaintiff's visit and injuries, on or about September 28, 2002, and all times prior thereto  
19 with the knowledge that persons with disabilities would enter defendants' premises, the  
20 reason given therefore, was an established policy, practice and procedure of refusing and  
21 denying entry, thereby denying lodging and other services to a person with disabilities and  
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1 the companions thereof, evidence malice and oppression toward Plaintiff and other  
2 disabled persons.

3  
4 57. Such despicable conduct, as that incorporated herein by reference and  
5 specifically set forth in Paragraph 11, was carried out by defendants with a willful and  
6 conscious disregard for the law and the rights of Plaintiff and of other disabled persons,  
7 and was oppressive in that such conduct subjected Plaintiff “to cruel and unjust hardship in  
8 conscious disregard” for the law and Plaintiff’s rights, and justifies exemplary and punitive  
9 damages pursuant to *California Civil Code* § 3294, in amounts sufficient to make an  
10 example of defendants and to punish defendants and to carry out the purposes of  
11 *California Civil Code* § 3294.

12  
13  
14 58. Defendants have failed to establish a nondiscriminatory criteria, policy,  
15 practice and procedure for entry into said **"MOCK BROTHERS SADDLERY"** as  
16 hereinabove described.

17  
18  
19 59. As a result of defendants’ continuing failure to provide for the full and equal  
20 enjoyment of goods, services, facilities and privileges of said **"MOCK BROTHERS**  
21 **SADDLERY"** as hereinabove described, Plaintiff has continually been denied his rights to  
22 full and equal enjoyment of the subject store, as it would be a “futile gesture” to attempt to  
23 patronize said **"MOCK BROTHERS SADDLERY"** with the discriminatory policy in  
24 place as hereinabove described.

25  
26  
27 60. The acts and omissions of defendants as complained of herein in failing to  
28 provide the required accessible facilities subsequent to the enactment date and compliance

1 date of the *Americans with Disabilities Act of 1990* and refusal to make remedial  
2 modifications and alternations to the architectural barriers as stated herein and in failing to  
3 establish practices, policies and procedures to allow safe access by persons who are  
4 disabled are continuing on a day-to-day basis to have the effect of wrongfully and willfully  
5 excluding Plaintiff and other members of the public who are physically disabled, from full  
6 and equal enjoyment of the subject "**MOCK BROTHERS SADDLERY**" as hereinabove  
7 described. Such acts and omissions are the continuing cause of humiliation and mental  
8 and emotional suffering of Plaintiff in that these actions continue to treat Plaintiff as an  
9 inferior and second class citizen and serve to discriminate against him on the sole basis  
10 that he is physically disabled. Plaintiff is unable, so long as such acts and omissions of  
11 defendants continue, to achieve full and equal enjoyment of the goods and services of said  
12 "**MOCK BROTHERS SADDLERY**" as described hereinabove. The acts of defendants  
13 have legally caused and will continue to cause irreparable injury to Plaintiff if not enjoined  
14 by this court.

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19  
20 61. Wherefore, Plaintiff asks this court to preliminarily and permanently enjoin  
21 any continuing refusal by defendants to permit entry to said "**MOCK BROTHERS**  
22 **SADDLERY**" and to serve Plaintiff or others similarly situated, and to require defendants  
23 to comply forthwith with the applicable statutory requirements relating to the full and  
24 equal enjoyment of goods and services as described hereinabove for disabled persons.  
25 Such injunctive relief is provided by *California Civil Code* § 55. Plaintiff further requests  
26 that the court award statutory costs and attorneys' fees to Plaintiff pursuant to *California*  
27  
28

1 *Civil Code* § 55 and *California Code of Civil Procedure* § 1021.5, all as hereinafter  
2 prayed for.

3  
4 WHEREFORE, Plaintiff prays for compensatory damages, reasonable attorneys'  
5 fees and costs of suit, as allowed by statute and according to proof, and appropriate  
6 exemplary damages.

7  
8 **IV. FOURTH CAUSE OF ACTION**  
9 **VIOLATIONS OF *UNRUH CIVIL RIGHTS ACT***  
10 **(*California Civil Code* §§ 51 and 51.5)**

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

14 63. Defendants' acts and omissions as specified with regard to the discriminatory  
15 treatment of Plaintiff **JAMES COLLINS** on the basis of his physical disabilities, have  
16 been in violation of *California Civil Code* §§ 51 and 51.5, the *Unruh Civil Rights Act*,  
17 and have denied to Plaintiff his rights to "full and equal accommodations, advantages,  
18 facilities, privileges or services in all business establishments of every kind whatsoever."  
19

20 64. *California Civil Code* § 51 also provides that "[a] violation of the right of any  
21 individual under the *Americans with Disabilities Act of 1990* (Public Law 101-336) shall  
22 also constitute a violation of this section."  
23

24 65. *California Civil Code* § 51.5 also provides that "[n]o business establishment  
25 of any kind whatsoever shall discriminate against, boycott, or blacklist, refuse to buy from,  
26 sell to, or trade with any person in this state because of the race, creed, religion, color,  
27  
28

1 national origin, sex, disability of the person or of the person's partners, members,  
2 stockholders, directors, officers, managers, superintendents, agents, employees, business  
3 associates, suppliers, or customers.”

5 66. As a result of the violation of Plaintiff's civil rights protected by *California*  
6 *Civil Code* §§ 51 and, 51.5, Plaintiff is entitled to the rights and remedies of *California*  
7 *Civil Code* § 52, including a trebling of actual damages (defined by *California Civil Code*  
8 § 52(h) to mean “special and general damages”), as well as reasonable attorneys' fees and  
9 costs, as allowed by statute, according to proof. Further, pursuant to paragraphs 11, 12,  
10 13, 35 and 43, Plaintiff seeks appropriate exemplary damages under *California Civil Code*  
11 § 3294.

14 WHEREFORE, Plaintiff prays that this court award damages and provide relief as  
15 follows:  
16

#### 17 **PRAYER FOR RELIEF**

18 Plaintiff prays that this court award damages and provide relief as follows:

19 1. Grant injunctive relief requiring that defendants establish a non-  
20 discriminatory criteria policy, practice and procedure permitting entry into the **MOCK**  
21 **BROTHERS SADDLERY** in Yucca Valley, California, for the purpose of shopping and  
22 utilizing the services offered according to *California Civil Code* §§ 51, 51.5, 52, 54, 54.1,  
23 54.3, *et seq.*, and Title III of the *Americans with Disabilities Act of 1990*, and grant  
24 injunctive relief requiring that Defendants repair and render safe to handicapped persons,  
25 and otherwise make handicapped-accessible, all public areas of the store, including, but  
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1 not limited to, removal of all barriers to access identified in Paragraph 3, above, and make  
2 such facilities “readily accessible to and usable by individuals with disabilities,” according  
3 to the standards of Title 24 of the *California Administrative Code, California Health &*  
4 *Safety Code* § 19955 *et seq.*, and Title III of the *Americans with Disabilities Act of 1990*  
5 and the standards of *ADAAG*; and prohibiting operation of the **MOCK BROTHERS**  
6 **SADDLERY**, located in Yucca Valley, California, as a public facility until Defendants  
7 provide full and equal enjoyment of goods and services as described hereinabove to  
8 physically disabled persons, including Plaintiff;

9  
10  
11  
12 2. General damages according to proof;

13 3. Statutory and “actual” damages, including general damages and special  
14 damages, according to proof, pursuant to *California Civil Code* §§ 52, and 54.3, and that  
15 these damages be trebled;

16  
17 4. Prejudgment interest on all compensatory damages;

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

20 6. Remedies and Procedures available under *Americans with Disabilities Act of*  
21 *1990* §§ 107, 203 and 308;

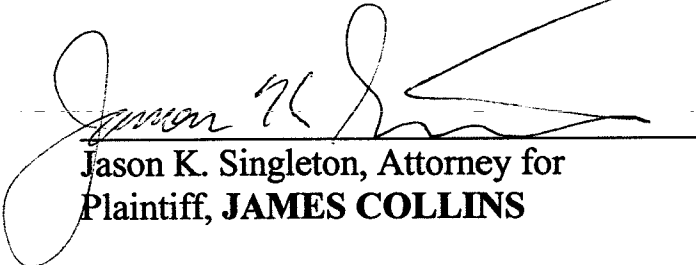
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23 7. Award Plaintiff all litigation expenses, all costs of this proceeding and all  
24 reasonable attorneys’ fees as provided by law, including but not limited to those  
25 recoverable pursuant to the provisions of *California Civil Code* §§ 52, 54.3, and 55,  
26 *California Code of Civil Procedure* § 1021.5, and *Americans with Disabilities Act of*  
27  
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1 **1990 §308 of Title III; and**

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

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Dated: December 6, 2002

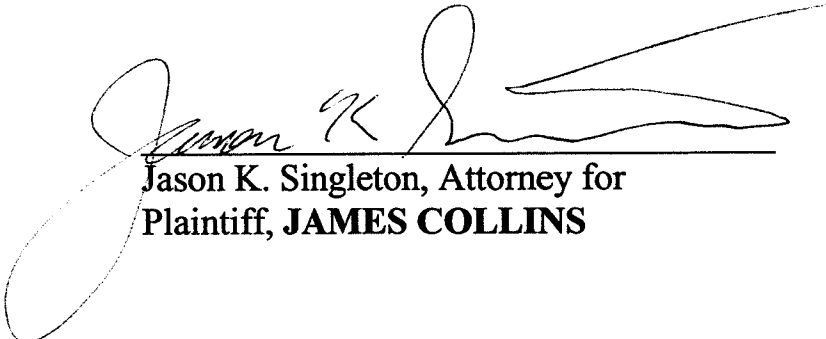


Jason K. Singleton, Attorney for  
Plaintiff, **JAMES COLLINS**

**REQUEST FOR JURY TRIAL**

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

Dated: December 6, 2002



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