

ORIGINAL

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U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIF.

FILED

8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

10 JAMES COLLINS,

11 Plaintiff,

12 v.

13 JAN MIN HSUSN, LEO HUANG,
14 CHENG-SHYONG AND
15 ASSOCIATES, a Partnership, dba
16 BEST WESTERN INN OF HEMET,
and DOES ONE TO TEN, inclusive,

17 Defendants.

) Case No. EDCV02- 1373 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

19
20 Plaintiff JAMES COLLINS complains of defendants JAN MIN HSUSN, LEO
21 HUANG, CHENG-SHYONG AND ASSOCIATES, a Partnership, dba BEST
22 WESTERN INN OF HEMET, and DOES ONE TO TEN, inclusive, and alleges as
23 follows:
24

25 JURISDICTION AND VENUE

26 1. The Court has jurisdiction of this action pursuant to 28 USC § 1331 for
27 violations of the *Americans with Disabilities Act of 1990*, (42 USC § 12101, et seq.)
28

ENTER ON ICMS
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AD

1 Pursuant to pendant jurisdiction, attendant and related causes of action, arising from the
2 same facts, are also brought under California law, including but not limited to violations of
3
4 **California Health & Safety Code § 19955, et seq., including California Code of**
5 **Regulations, Title 24, § 19959, California Civil Code §§ 51, 51.5, 52(a), 52.1, 54, 54.1,**
6 **54.3 and 55.**

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

11 INTRODUCTION

12
13 3. **BEST WESTERN INN OF HEMET** is located at 2625 W. Florida Avenue,
14 Hemet, California. Said hotel is owned and operated by defendants **JAN MIN HSUSN,**
15 **LEO HUANG, CHENG-SHYONG AND ASSOCIATES, and DOES ONE TO TEN,**
16 **inclusive.**

17
18 Defendants **JAN MIN HSUSN, LEO HUANG, CHENG-SHYONG AND**
19 **ASSOCIATES, a Partnership, and DOES ONE TO TEN, inclusive,** operate an
20 establishment for services to the public and at which Defendants failed to provide barrier
21 free access to said establishment in conformity with both Federal and California legal
22 requirements. Further, Defendants failed to provide compliance as follows:

23 **Exterior Survey:**

- 24
25
26 1) There is no complying path of travel coming in from the public
27 sidewalk to the office in violation of California Title 24 §§ 1127B.1,
28

1 1127B.1.2, ADAAG §§ 4.3, 4.1.2

2 2) Curb cut. In sidewalk adjacent to the public sidewalk

3
4 a. There is no level landing at the top in violation of California Title
5 24 § 1127B.5.4

6 b. Slope in direction of travel exceeds 8.33% slope in violation of
7 California Title 24 § 1127B.5.3; ADAAG 4.7.2 & 4.8.2.

8
9 c. Slope of side flares exceed 10% slope in violation of California
10 Title 24 § 1127B.5.3.

11
12 d. No 12" wide grooved surface in violation of California Title 24 §
13 1127B.5.7.

14
15 e. No complying ½" lip at bottom in violation of California Title 24
16 § 1127B.5.5

17 3) Sidewalk on Northwest corner of the office narrows down to 30" wide
18 including the top of the curb, then turns 90 degrees and goes in front of
19 the office, then finally narrows down to 24" and continues to public
20 sidewalk in violation of California Title 24 § 1133B.7.1, Fig 11B-27(a).

21
22 4) There is a 6" high curb / step in front of the lobby without a curbcut to
23 provide access into the lobby / office for a person with a mobility
24 disability in violation of California Title 24 § 1127B.5.1. Fig 11B-19
25 thru 11B-23.

26
27
28 5) The sidewalk narrows to about 24" wide on South side of lobby in

1 violation of California Title 24 § 1133B.7.1. Fig 11B-27(a).

2 6) Two designated parking spaces in front of room 103 and 104 by the
3 lobby.

4
5 a. One space requires' a person to travel behind a parked vehicle
6 other than their own in violation of California Title 24 §
7 1118A.4.1-3 §1129B.1 &1129B.4.

8
9 b. No van space in violation of California Title 24 § 1129B.4.2,
10 ADAAG 4.6.3.

11
12 c. Only one space has an access aisle in violation of California Title
13 24 § 1129B.4.1, Fig 11B-18A,B,C.

14
15 d. Curb ramp extends into access aisle in violation of California
16 Title 24 § 1129B.4.3. Fig 11B-18A, B, & C, ADAAG 4.6.3.

17
18 e. Access aisle is on the drivers' side in violation of California Title
19 24 § 1129B.4.1. Fig 11B-18B.

20 7) Curb ramp, extending into access aisle by rooms 103 and 104.

21
22 a. Prevents person from using access aisle in violation of California
23 Title 24 § 1129B.4.3. Fig 11B-18A, B, & C, ADAAG 4.6.3.

24
25 b. Slope of side flare is from 25% to 30% in violation of California
26 Title 24 § 1127B.5.3

27 8) Designated Parking Space. Front of room 115.

28 a. No van space in violation of California Title 24 §

1 1129B.4.2/4.6.3*(1 in 8 accessible spaces, but not less than 1,
2 shall be designated as van accessible).

3
4 b. Curb ramp extends into access aisle in violation of California
5 Title 24 § 1129B.4.3. Fig 11B-18A, B, & C, ADAAG 4.6.3.

6 9) Curb ramp, extending into access aisle, by room 115.

7
8 a. Curb ramp extends into access aisle in violation of California
9 Title 24 § 1129B.4.3. Fig 11B-18A, B, & C, ADAAG 4.6.3.

10 b. Slope of side flare is from 25% to 30% in violation of California
11 Title 24 § 1127B.5.3

12
13 10) Stairs to second level.

14 a. Handrail on one side only in violation of California Title 24 §
15 1003.3.3.6.1a, §1133B.4.2.1. Fig 11B-35

16
17 b. Handrail does not extend past the top or bottom tread in violation
18 of California Title 24 § 1133B.4.2.2. Fig 11B-35 & 37.

19
20 c. No tread markings in violation of California Title 24 §
21 1133B.4.4. Fig 11B-35

22 **Swimming Pool / Spa**

23
24 11) Swimming Pool Gate.

25 a. Does not have a 10" high smooth surface on the bottom of the
26 gate in violation of California Title 24 § 1133B.2.6., Fig 11B-29

27
28 b. A noncomplying opening handle in violation of California Title

1 24 § 1133B.2.5.1, ADAAG § 4.13.

- 2 12) The swimming pool and spa do not have device to assist people with
3 disabilities into the pool or spa in violation of California Title 24 §
4 1113A.
5

6 **Interior Room 115**

- 7 13) Entry door

- 8 a. There is a 2” elevation change, 1” vertical and 1” beveled in
9 violation of California Title 24 § 1133B.2.4.1 & 1003.3.1.6.1a.
10 b. Night lock is 63” high in violation of California Title 24 §
11 1133B.2.5.1, ADAAG §4.13.9
12 c. Lock on door hardware is grasp and twist type in violation of
13 California Title 24 § 1133B.2.5.1, ADAAG § 4.13.
14 d. There is a doorstop on the bottom 10” of entry door in violation
15 of California Title 24 § 1133B.2.6. Fig 11B-29
16 e. Table blocks the 18” at the strike edge of door, allowing only 14”
17 in violation of California Title 24 § 1133B.2.4.3. Fig 11B-26A,
18 ADAAG § 4.13.6.
19

- 20 14) Phone is not beside the bed, but across from the bed on opposite table in
21 violation of Title II Technical Assistance Manual.
22

- 23 15) No visual devices for people with hearing disabilities in violation of
24 California Title 24 § 1111B.4.2, §1111B.4, § Table 11B-3.
25
26
27
28

- 1 16) Dresser does not have complying opening handles in violation of
2 California Title 24 §§ 1118B.5 & 1118B.6, 1125B.4.
3
- 4 17) Lamps have grasp and twist on/off switches in violation of California
5 Title 24 § 1117B.6.4 & 1507.2a
6
- 7 18) Two Tables. Neither table provide the required knee space in violation
8 of California Title 24 § 1122B.3. Fig 11B-13, ADAAG 4.32.
9
- 10 19) Closet.
11 a. No complying opening handle in violation of California Title 24
12 § 1133B.2.5.1, ADAAG § 4.13.
13 b. Clothes rod is 64" high in violation of California Title 24 §
14 1118B. 5& 6.
15 c. Shelf is 68" high in violation of California Title 24 § 1125B.1.
16 Fig 11B-5D
17
- 18 20) Light switch is 49 ½" high in violation of California Title 24 §
19 §1117B.6.3/380-8(c), §1117B.6.3/ 210-50(e).
20
- 21 21) Environmental controls.
22 a. Controls are 19 ½" high in violation of California Title 24 §
23 1117B.6.3/ 210-50(e).
24 b. Table blocks access to controls in violation of California Title 24
25 § 1117B.6.2.
26 c. Control compartment door does not have a complying opening
27
28

1 handle in violation of California Title 24 § 1125B.4.

2 22) Lavatory

- 3
- 4 a. There is no knee space in violation of California Title 24 §
- 5 1504.1, ADAAG § 4.19.1.
- 6 b. Sink is 35 ¼" high in violation of California Title 24 §
- 7 1115B.2.1.2.1, ADAAG § 4.19.1
- 8

9 23) Stove/Sink

- 10 a. Counter and sink is 37:" high in violation of California Title 24 §
- 11 1508.
- 12
- 13 b. No knee space under the sink in violation of California Title 24 §
- 14 1115B.2.1.2.1, ADAAG § 4.19.1.
- 15
- 16 c. Sink has round knobs in violation of California Title 24 § 1504.3.

17 24) Bathroom. Non-accessible.

- 18 a. Light switches are 50" to 52" high in violation of California Title
- 19 24 § §1117B.6.3 /380-8(c), §1117B.6.3/ 210-50(e).
- 20
- 21 b. Two non-complying grab bars in violation of California Title 24
- 22 § 1115B.8.1. Fig 11B-1A, B, & C.
- 23
- 24 c. There is 12 ½" between the water closet and the bathtub in
- 25 violation of California Title 24 § 1115B.7.1.3. Fig 11B-1A & B,
- 26 ADAAG § 4.16.2.
- 27
- 28 d. There is 35" in front of the water closet in violation of California

1 Title 24 § 1115B.7.1.3. Fig 11B-1A & B, ADAAG § 4.16.2.

2 e. There is 24 ½” to centerline of the water closet from the wall in
3 violation of California Title 24 § 1115B.7.1.3. Fig 11B-1A & B,
4 ADAAG § 4.16.2.

5
6 f. Bathtub has a grasp and twist water control in violation of
7 California Title 24 § 1115B.6.1.4. Fig 11B-9B.

8
9 g. Bathtub does not have a seat installed in violation of California
10 Title 24 § 1115B.8.3. §1115B.6.1.2. Fig 11B-8 & 9B.

11
12 h. Towel rack is 54” high and up behind the water closet in
13 violation of California Title 24 § 1117B.6.

14
15 i. Clothes hook on bathroom door is 68” high in violation of
16 California Title 24 § 1117B.6.

17 **Interior Motel Lobby**

18 25) The office Registration Desk is 42” high in violation of California Title
19 24 § 1122B.4.

20
21 The above barriers interfered with Plaintiff's access and continue to deter Plaintiff
22 from visiting said facilities, and as a legal result, Plaintiff **JAMES COLLINS** suffers
23 violation of his civil rights to full and equal enjoyment of goods, services, facilities and
24 privileges, and has and will suffer embarrassment and humiliation.

25
26
27 **FACTUAL ALLEGATIONS**

28 4. Plaintiff **JAMES COLLINS** is, and at all times relevant to this Complaint is,

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

10 5. Defendants **JAN MIN HSUSN, LEO HUANG, CHENG-SHYONG AND**
11 **ASSOCIATES, a Partnership, and DOES ONE TO TEN, inclusive**, at all times
12 relevant herein were and are the owners and operators; lessors and/or lessees, franchisers
13 and/or franchisees, of public facilities known as the ~~“BEST WESTERN INN OF~~
14 **HEMET,**” located at Hemet, California, subject to the requirements of California state law
15 requiring full and equal access to public facilities pursuant to *California Health & Safety*
16 *Code* § 19955, *et seq.*, *California Civil Code* §§ 51, 51.5, 52(a), 52.1, 54, 54.1, 54.3 and
17 55, and subject to Title III of the *Americans with Disabilities Act of 1990*, and to all other
18 legal requirements referred to in this Complaint. Plaintiff does not know the relative
19 responsibilities of defendants in the operation of the facilities herein complained of, and
20 alleges a joint venture and common enterprise by all such defendants.
21
22
23
24

25 6. Defendants **JAN MIN HSUSN, LEO HUANG, CHENG-SHYONG AND**
26 **ASSOCIATES, and DOES ONE TO TEN, inclusive** (hereinafter alternatively referred
27 to collectively as “defendants”), ~~at all times relevant herein were and are owners,~~
28

1 possessors, builders and keepers of the "BEST WESTERN INN OF HEMET" in Hemet,
2 California.

3
4 7. Defendants **JAN MIN HSUSN, LEO HUANG, CHENG-SHYONG AND**
5 **ASSOCIATES, and DOES ONE TO TEN, inclusive**, are the owners and operators of
6 the subject "BEST WESTERN INN OF HEMET" at all times relevant to this Complaint.
7 Plaintiff is informed and believes that each of the defendants herein is the agent, employee
8 or representative of each of the other defendants, and performed all acts and omissions
9 stated herein within the scope of such agency or employment or representative capacity
10 and is responsible in some manner for the acts and omissions of the other defendants in
11 legally causing the damages complained of herein, and have approved or ratified each of
12 the acts or omissions of each other defendant, as herein described.

13
14
15
16 8. Plaintiff **JAMES COLLINS** does not know the true names and capacities of
17 defendants **JAN MIN HSUSN, LEO HUANG, CHENG-SHYONG AND**
18 **ASSOCIATES, a Partnership, dba BEST WESTERN INN OF HEMET, and DOES**
19 **ONE TO TEN, inclusive**, their business capacities, their ownership connection to the
20 property and business, nor their relative responsibilities in causing the access violations
21 herein complained of, and alleges a joint venture and common enterprise by all such
22 defendants. Plaintiff is informed and believes that each of the defendants herein, including
23 **DOES ONE TO TEN, inclusive**, is the agent, ostensible agent, master, servant, employer,
24 employee, representative, franchiser, franchisee, joint venturer, partner, and associate, or
25 such similar capacity, of each of the other defendants, and was at all times acting and
26
27
28

1 performing, or failing to act or perform, with the authorization, consent, permission or
2 ratification of each of the other defendants, and is responsible in some manner for the acts
3 and omissions of the other defendants in legally causing the violations and damages
4 complained of herein, and have approved or ratified each of the acts or omissions of each
5 other defendant, as herein described. Plaintiff will seek leave to amend this Complaint
6 when the true names, capacities, connections and responsibilities of defendants **JAN MIN**
7 **HSUSN, LEO HUANG, CHENG-SHYONG AND ASSOCIATES, a Partnership, dba**
8 **BEST WESTERN INN OF HEMET, and DOES ONE TO TEN, inclusive, are**
9 **ascertained.**

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

17 10. Defendants **JAN MIN HSUSN, LEO HUANG, CHENG-SHYONG AND**
18 **ASSOCIATES, and DOES ONE TO TEN, inclusive, are the owners and operators of**
19 **"BEST WESTERN INN OF HEMET,"** located at Hemet, California. This
20 establishment, including, but not limited to, parking spaces and access aisles and access
21 routes, are each a part of a "public accommodation or facility" subject to the requirements
22 of *California Health & Safety Code* § 19955, *et seq.*, and of *California Civil Code* §§ 51,
23 52(a), 54, 54.1, *et seq.* On information and belief, this "**BEST WESTERN INN OF**
24 **HEMET"** was constructed after 1990, which subjects it to handicapped access
25 requirements per *California Health & Safety Code* § 19959, and applicable portions of
26
27
28

1 **California Code of Regulations**, Title 24, (the State Building Code).

2
3 11. On or about October 18-19, 2002, Plaintiff **JAMES COLLINS**, visited the
4 "**BEST WESTERN INN OF HEMET**" in Hemet, California, for the purpose of obtaining
5 accommodations. Defendants **JAN MIN HSUSN, LEO HUANG, CHENG-SHYONG**
6 **AND ASSOCIATES, a Partnership, dba BEST WESTERN INN OF HEMET, and**
7 **DOES ONE TO TEN, inclusive**, interfered with Plaintiff's access to the "**BEST**
8 **WESTERN INN OF HEMET**" establishment as set forth in Paragraph 3 above.

9
10 Said acts and omissions denied Plaintiff legal handicapped access to the "**BEST**
11 **WESTERN INN OF HEMET**" according to federal and state law.

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

18
19 13. Defendants, and each of them, discriminated against Plaintiff **JAMES**
20 **COLLINS** on the basis of his physical disability, and interfered with his access to the
21 "**BEST WESTERN INN OF HEMET**" establishment, in violation of both California law
22 including, but not limited to, *California Civil Code* §§ 51, 51.5, 54, 54.1, and a violation
23 of Title III, §302, the "Prohibition of Discrimination" provision and §503, the "Prohibition
24 Against Retaliation or Coercion" provision of the *Americans with Disabilities Act of*
25 *1990*.

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

12
13
14 **I. FIRST CAUSE OF ACTION:**
15 **VIOLATION OF *THE AMERICANS WITH DISABILITIES ACT OF 1990***
16 **(42 USC §12101 *et seq.*)**

17 15. Plaintiff repleads and incorporates by reference, as if fully set forth again
18 herein, the allegations contained in paragraphs 1 through 14 of this Complaint and
19 incorporates them herein as if separately repled.
20

21 16. Pursuant to law, in 1990 the United States Congress made findings per 42
22 *USC* § 12101 regarding persons with physical disabilities, finding that laws were needed
23 to more fully protect 43 million Americans with one or more physical or mental
24 disabilities; [that] historically society has tended to isolate and segregate individuals with
25 disabilities; [that] such forms of discrimination against individuals with disabilities
26 continue to be a serious and pervasive social problem; [that] the nation's proper goals
27
28

1 regarding individuals with disabilities are to assure equality of opportunity, full
2 participation, independent living and economic self-sufficiency for such individuals; [and
3 that] the continuing existence of unfair and unnecessary discrimination and prejudice
4 denies people with disabilities the opportunity to compete on an equal basis and to pursue
5 those opportunities for which our free society is justifiably famous.
6

7
8 17. Congress stated as its purpose in passing the *Americans with Disabilities Act*
9 *of 1990* (42 USC § 12102):

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

22
23 18. As part of the *Americans with Disabilities Act of 1990*, Public Law 101-336
24 (hereinafter the "ADA"), Congress passed "Title III - Public Accommodations and
25 Services Operated by Private Entities" (42 USC § 12181 *et seq.*). Among the public
26 accommodations identified for purposes of this title were "an inn, hotel, motel, or other
27 place of lodging."
28

1 19. Pursuant to 42 *USC* § 12182,

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

9 20. Among the general prohibitions against discrimination were included in 42
10 *USC* §12182(b)(1)(A)(i):
11

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

20 21. Among the general prohibitions against discrimination were included in 42
21 *USC* §12182(b)(1)(E):
22

23 **Association --** It shall be discriminatory to exclude or otherwise deny
24 equal goods, services, facilities, privileges, advantages, accommodations, or
25 other opportunities to an individual or entity because of the known disability
26 of an individual with whom the individual or entity is known to have a
27 relationship or association.
28

1 The acts of defendants set forth herein were a violation of Plaintiff's rights under the
2 ADA, Public Law 101-336, and the regulations promulgated thereunder, 28 *CFR* Part 36
3
4 et seq.

5 22. Among the general prohibitions against discrimination were included in 42
6 *USC* § 12182(b)(2)(A)(i) and 42 *USC* § 12182(b)(2)(A)(ii):
7

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

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

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

26 23. Plaintiff alleges that constructing the eligibility requirements, policies,
27 practices and procedure for entry to the "**BEST WESTERN INN OF HEMET**" facility
28

1 by persons with disabilities and their companions as established by the defendants can be
2 simply modified to eliminate disparate and discriminatory treatment of persons with
3 disabilities by properly constructing barrier free handicapped access for safe and full and
4 equal enjoyment of the "BEST WESTERN INN OF HEMET" as that enjoyed by other
5 people.
6

7
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

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

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

23
24 25. Among the specific prohibitions against discrimination were included, in 42
25 *USC* § 12182(b)(2)(a)(iv), "A failure to remove architectural barriers, and communications
26 barriers that are structural in nature, in existing facilities...where such removal is readily
27 achievable;" and (v) "where and entity can demonstrate that the removal of a barrier under
28

1 clause (iv) is not readily achievable, a failure to make such goods, services, facilities,
2 privileges, advantages, or accommodations available through alternative methods if such
3 methods are readily achievable.” The acts of Defendants set forth herein were a violations
4 of Plaintiff’s rights under the “ADA,” Public Law 101-336, and the regulations
5 promulgated thereunder, 28 *CFR* Part 36, *et seq.*
6

7
8 26. The removal of the barriers complained of by Plaintiff as hereinabove alleged
9 were at all times after 1990 “readily achievable.” On information and belief, if the
10 removal of all the barriers complained of here together were not “readily achievable,” the
11 removal of each individual barrier complained of herein was “readily achievable.”
12

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

22 The changes needed to remove barriers to access for the disabled were and are
23 “readily achievable” by the defendants under standards set forth under 42 *USC* § 12181 of
24 the *Americans with Disabilities Act of 1990*. (Further, if it was not “readily achievable”
25 for defendants to remove all such barriers, defendants have failed to make the required
26 services available through alternative methods, although such methods are achievable as
27
28

1 required by 42 *USC* §12181(b)(2)(a)(iv), (v).)

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

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

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

20 30. Per *Americans With Disabilities Act of 1990* § 308(a)(1) (now 42 *USC* §
21 12188), "Nothing in this section shall require a person with a disability to engage in a
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1 futile gesture if such person has actual notice that a person or organization covered by this
2 title does not intend to comply with its provisions.” Pursuant to this last section, Plaintiff,
3
4 on information and belief, alleges that defendants have continued to violate the law and
5 deny the rights of Plaintiff and other disabled persons to access this public
6 accommodation for the purpose of lodging. Therefore, Plaintiff seeks injunctive relief
7
8 pursuant to §308(a)(2),

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

13 31. Plaintiff seeks relief pursuant to remedies set forth in § 204(a) of the *Civil*
14 *Rights Act of 1964* (42 USC § 2000a-3(a), and pursuant to federal regulations adopted to
15 implement the *Americans with Disabilities Act of 1990*, including but not limited to an
16 order granting injunctive relief and attorneys’ fees. Such attorneys’ fees, “including
17 litigation expenses and costs,” are further specifically provided for by §505 of Title III.
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20 **II. SECOND CAUSE OF ACTION**
21 **BREACH OF STATUTORY PROTECTIONS FOR PERSONS WITH**
22 **PHYSICAL DISABILITIES (*California Health & Safety Code* § 19955, *et***
***seq.*)**

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

27 33. *California Health & Safety Code* § 19955 provides in pertinent part:
28

The purpose of this part is to insure that public accommodations or

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

13 34. *California Health & Safety Code* § 19956, which appears in the same chapter
14 as §19955, provides in pertinent part, “accommodations constructed in this state shall
15 conform to the provisions of Chapter 7 (commencing with Sec. 4450) of Division 5 of
16 Title 1 of the *Government Code*...” *California Health & Safety Code* § 19956 was
17 operative July 1, 1970, and is applicable to all public accommodations constructed or
18 altered after that date. On information and belief, portions of “**BEST WESTERN INN**
19 **OF HEMET**” and/or of its buildings, were constructed and/or altered after July 1, 1970,
20 and substantial portions of said building had alterations, structural repairs, and/or additions
21 made to such public accommodations after July 1, 1970, thereby requiring said public
22 accommodations and/or buildings to be subject to the requirements of Part 5.5, *California*
23 *Health & Safety Code* § 19955, *et seq.*, upon such alteration, structural repairs or additions
24 per *California Health & Safety Code* § 19959.

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

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18 36. Public facilities, such as "**BEST WESTERN INN OF HEMET**" are public
19 accommodations or facilities within the meaning of *California Health & Safety Code* §
20 19955, *et seq.*

21
22 37. It is difficult or impossible for persons with physical disabilities who use
23 wheelchairs, canes, walkers and service animals to travel about in public to use a hotel
24 with the defects set forth in Paragraph 3 above as required by Title 24 of the *California*
25 *Code of Regulations* and the *Americans with Disabilities Act Access Guidelines*
26 *(ADAAG)*. Thus, when public accommodations fail to provide handicap accessible public
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1 facilities, persons with physical disabilities are unable to enter and use said facilities, and
2 are denied full and equal access to and use of that facility that is enjoyed by other members
3 of the general public.
4

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

12 39. The *California Health & Safety Code* was enacted “[t]o ensure that public
13 accommodations or facilities constructed in this state with private funds adhere to the
14 provisions of Chapter 7 (commencing with §4450) of Division 5 of Title 1 of the
15 *Government Code.*” Such public accommodations are defined to include hotels.
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18 40. Plaintiff is further informed and believes that as of the date of filing this
19 Complaint, Defendants have not made accessible the facilities at the subject hotel as set
20 forth in Paragraph 3 above.
21

22 41. Plaintiff **JAMES COLLINS** is informed and believes, and therefore alleges,
23 that Defendants **JAN MIN HSUSN, LEO HUANG, CHENG-SHYONG AND**
24 **ASSOCIATES, a Partnership, and DOES ONE TO TEN, inclusive,** and each of them,
25 caused the subject buildings constituting “**BEST WESTERN INN OF HEMET**” to be
26 constructed, altered and maintained in such a manner that persons with physical
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1 disabilities were denied full and equal access to, within and throughout said buildings and
2 were denied full and equal use of said public facilities, and despite knowledge and actual
3 and constructive notice to such Defendants that the configuration of the hotel and/or
4 buildings was in violation of the civil rights of persons with physical disabilities, such as
5 Plaintiff. Such construction, modification, ownership, operation, maintenance and
6 practices of such public facilities are in violation of law as stated in Part 5.5, *California*
7 *Health & Safety Code* § 19955, *et seq.*, and elsewhere in the laws of California.
8

9
10 42. On information and belief, the subject building constituting the public
11 facilities of “**BEST WESTERN INN OF HEMET**” denied full and equal access to
12 Plaintiff and other persons with physical disabilities in other respects due to non-
13 compliance with requirement of Title 24 of the *California Code of Regulations* and
14 *California Health & Safety Code* § 19955, *et seq.*
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16

17 43. The basis of Plaintiff’s aforementioned information and belief is the various
18 means upon which Defendants must have acquired such knowledge, including, but not
19 limited to, this lawsuit, other access lawsuits, communications with operators of other
20 hotels and other property owners regarding denial access, communications with Plaintiff
21 and other persons with disabilities, communications with other patrons who regularly visit
22 there, communications with owners of other businesses, notices and advisories they
23 obtained from governmental agencies through the mails, at seminars, posted bulletins,
24 television, radio, public service announcements, or upon modification, improvement,
25 alteration or substantial repair of the subject premises and other properties owned by these
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1 Defendants, newspaper articles and trade publications regarding the *Americans with*
2 *Disabilities Act of 1990* and other access law, and other similar information. The scope
3 and means of the knowledge of each defendant is within each defendant's exclusive
4 control and cannot be ascertained except through discovery.
5

6 44. As a result of Defendants' acts and omissions in this regard, Plaintiff has been
7 required to incur legal expenses and hire attorneys in order to enforce his civil rights and
8 enforce provisions of the law protecting access for persons with physical disabilities and
9 prohibiting discrimination against persons with physical disabilities, and to take such
10 action both in his own interests and in order to enforce an important right affecting the
11 public interest. Plaintiff, therefore, seeks damages in this lawsuit for recovery of all
12 reasonable attorneys' fees incurred, pursuant to the provisions of the *California Code of*
13 *Civil Procedure* § 1021.5. Plaintiff additionally seeks attorneys' fees pursuant to
14 *California Health & Safety Code* § 19953 and *California Civil Code* §§ 54.3 and 55.
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18 45. Defendants, and each of them, at times prior to and including October 18-19,
19 2002, and continuing to the present time, knew that persons with physical disabilities were
20 denied their rights of equal access to all portions of this public facility. Despite such
21 knowledge, Defendants failed and refused to take steps to comply with the applicable
22 access statutes; and despite knowledge of the resulting problems and denial of civil rights
23 thereby suffered by Plaintiff **JAMES COLLINS** and other similarly situated persons with
24 disabilities, including the specific notices referred to in paragraph 43 of this Complaint.
25 Defendants have failed and refused to take action to grant full and equal access to persons
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1 with physical disabilities in the respects complained of hereinabove. Defendants and each
2 of them have carried out a course of conduct of refusing to respond to, or correct
3 complaints about, denial of handicap access. Such actions and continuing course of
4 conduct by Defendants, evidence despicable conduct in conscious disregard for the rights
5 or safety of Plaintiff and of other similarly situated persons, justifying an award of
6 exemplary and punitive damages pursuant to *California Civil Code* § 3294.
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8
9 46. Defendants' actions have also been oppressive to persons with physical
10 disabilities and of other members of the public, and have evidenced actual or implied
11 malicious intent toward those members of the public, such as Plaintiff and other persons
12 with physical disabilities who have been denied the proper access they are entitled to by
13 law. Further, Defendants' refusals on a day-to-day basis to correct these problems
14 evidence despicable conduct in conscious disregard for the rights of Plaintiff and other
15 members of the public with physical disabilities.
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18 47. Plaintiff prays for an award of punitive damages against Defendants, and each
19 of them, pursuant to *California Civil Code* § 3294 in an amount sufficient to make a more
20 profound example of Defendants and discourage owners, operators, franchisers and
21 franchisees of other public facilities from willful disregard of the rights of persons with
22 physical disabilities. Plaintiff does not know the financial worth of Defendants, or the
23 amount of punitive damages sufficient to accomplish the public purposes of *California*
24 *Civil Code* § 3294 and seeks leave to amend this Complaint when such facts are known.
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27 48. As a result of the actions and failure of Defendants, and each of them, and as
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1 a result of the failure to provide proper accessible public facilities, Plaintiff **JAMES**
2 **COLLINS** was denied his civil rights, including his right to full and equal access to public
3 facilities, was embarrassed and humiliated, suffered physical, psychological and mental
4 injuries and emotional distress, mental distress, mental suffering, mental anguish, which
5 includes shame, humiliation, embarrassment, anger, chagrin, disappointment and worry,
6 expectedly and naturally associated with a person with a physical disability being denied
7 access to a public accommodation.
8
9

10 WHEREFORE, Plaintiff prays for damages as hereinafter stated.
11

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

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

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

1 the denial by defendants of such rights and entitlements are set forth in *California Civil*
2 *Code* §§ 54, 54.1 and 54.3, to wit:

3
4 Individuals with disabilities shall have the same right as the...general
5 public to full and free use of the streets, highways, sidewalks, walkways,
6 public buildings, public facilities, and other public places. *California Civil*
7 *Code* § 54(a).

8
9 Individuals with disabilities shall be entitled to full and equal access, as
10 other members of the general public, to accommodations, advantages,
11 facilities, and privileges of all common carriers, airplanes, motor vehicles,
12 railroad trains, motor buses, streetcars, boats, or any other public conveyances
13 or modes of transportation (whether private, public, franchised, licensed,
14 contracted, or otherwise provided), telephone facilities, adoption agencies,
15 private schools, hotels, lodging places, places of public accommodation,
16 amusement or resort, and other places to which the general public is invited,
17 subject only to the conditions and limitations established by law, or state or
18 federal regulation, and applicable alike to all persons. *California Civil Code*
19 § 54.1(a).

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24 52. On or about October 18-19, 2002, Plaintiff **JAMES COLLINS** suffered
25 violations of *California Civil Code* §§ 54 and 54.1 in that he was denied full and equal
26 enjoyment of the goods, services, facilities and privileges of said **BEST WESTERN INN**
27 **OF HEMET**, as set forth in paragraph 3 above. Plaintiff was also denied full and equal
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1 access to other particulars, including but not limited to those described hereinabove.
2 Plaintiff was also denied use of facilities that he was entitled to under Title III of the
3
4 *Americans with Disabilities Act of 1990.*

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

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21 54. Plaintiff seeks damages for the violation of his rights as a disabled person on
22 or about October 18-19, 2002, according to proof, pursuant to *California Civil Code* §
23 54.3, including a trebling of all statutory and actual damages, general and special,
24 available pursuant to *California Civil Code* § 54.3(a).

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27 55. As a result of defendants' acts and omissions in this regard, Plaintiff **JAMES**
28 **COLLINS** has been required to incur legal expenses and hire attorneys in order to enforce

1 his rights and enforce provisions of the law protecting the full and equal enjoyment of
2 goods, services, facilities, privileges of public facilities by the disabled, and those
3 individuals associated with or accompanied by a person with disabilities, and prohibiting
4 discrimination against the disabled. Plaintiff, therefore, seeks recovery in this lawsuit for
5 all reasonable attorneys' fees incurred pursuant to the provisions of *California Civil Code*
6 § 54.3. Additionally, Plaintiff's lawsuit is intended not only to obtain compensation for
7 damages to Plaintiff, but also to compel the defendants to make their goods, services,
8 facilities and privileges available and accessible to all members of the public with physical
9 disabilities, justifying public interest attorneys' fees pursuant to the provisions of
10 *California Code of Civil Procedure* § 1021.5.
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14 56. The acts and omissions of defendants in failing to provide the required
15 accessible facilities subsequent to the enactment date and compliance date of the
16 *Americans with Disabilities Act of 1990*, and refusal to make remedial modifications and
17 alterations to its handicapped parking, handicapped signage, pathways, and other elements
18 as hereinabove stated, after being notified by patrons before and after the time of
19 Plaintiff's visit and injuries, on or about October 18-19, 2002, and all times prior thereto
20 with the knowledge that persons with disabilities would enter defendants' premises, the
21 reason given therefor, was an established policy, practice and procedure of refusing and
22 denying entry, thereby denying lodging and other services to a person with disabilities and
23 the companions thereof, evidence malice and oppression toward Plaintiff and other
24 disabled persons.
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1 57. Such despicable conduct, as that incorporated herein by reference and
2 specifically set forth in Paragraph 11, was carried out by defendants with a willful and
3 conscious disregard for the law and the rights of Plaintiff and of other disabled persons,
4 and was oppressive in that such conduct subjected Plaintiff “to cruel and unjust hardship in
5 conscious disregard” for the law and Plaintiff’s rights, and justifies exemplary and punitive
6 damages pursuant to *California Civil Code* § 3294, in amounts sufficient to make an
7 example of defendants and to punish defendants and to carry out the purposes of
8 *California Civil Code* § 3294.
9

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11
12 58. Defendants have failed to establish a nondiscriminatory criteria, policy,
13 practice and procedure for entry into said "**BEST WESTERN INN OF HEMET**" as
14 hereinabove described.
15

16 59. As a result of defendants’ continuing failure to provide for the full and equal
17 enjoyment of goods, services, facilities and privileges of said "**BEST WESTERN INN**
18 **OF HEMET**” as hereinabove described, Plaintiff has continually been denied his rights to
19 full and equal enjoyment of the subject hotel, as it would be a “futile gesture” to attempt to
20 patronize said "**BEST WESTERN INN OF HEMET**" with the discriminatory policy in
21 place as hereinabove described.
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24 60. The acts and omissions of defendants as complained of herein in failing to
25 provide the required accessible facilities subsequent to the enactment date and compliance
26 date of the *Americans with Disabilities Act of 1990* and refusal to make remedial
27 modifications and alternations to the architectural barriers as stated herein and in failing to
28

1 establish practices, policies and procedures to allow safe access by persons who are
2 disabled are continuing on a day-to-day basis to have the effect of wrongfully and willfully
3 excluding Plaintiff and other members of the public who are physically disabled, from full
4 and equal enjoyment of the subject "**BEST WESTERN INN OF HEMET**" as
5 hereinabove described. Such acts and omissions are the continuing cause of humiliation
6 and mental and emotional suffering of Plaintiff in that these actions continue to treat
7 Plaintiff as an inferior and second class citizen and serve to discriminate against him on
8 the sole basis that he is physically disabled. Plaintiff is unable, so long as such acts and
9 omissions of defendants continue, to achieve full and equal enjoyment of the goods and
10 services of said "**BEST WESTERN INN OF HEMET**" as described hereinabove. The
11 acts of defendants have legally caused and will continue to cause irreparable injury to
12 Plaintiff if not enjoined by this court.

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17 61. Wherefore, Plaintiff asks this court to preliminarily and permanently enjoin
18 any continuing refusal by defendants to permit entry to said "**BEST WESTERN INN OF**
19 "**HEMET**" and to serve Plaintiff or others similarly situated, and to require defendants to
20 comply forthwith with the applicable statutory requirements relating to the full and equal
21 enjoyment of goods and services as described hereinabove for disabled persons. Such
22 injunctive relief is provided by *California Civil Code* § 55. Plaintiff further requests that
23 the court award statutory costs and attorneys' fees to Plaintiff pursuant to *California Civil*
24 *Code* § 55 and *California Code of Civil Procedure* § 1021.5, all as hereinafter prayed for.

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28 WHEREFORE, Plaintiff prays for compensatory damages, reasonable attorneys'

1 fees and costs of suit, as allowed by statute and according to proof, and appropriate
2 exemplary damages.

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4 **IV. FOURTH CAUSE OF ACTION**
5 **VIOLATIONS OF *UNRUH CIVIL RIGHTS ACT***
6 **(*California Civil Code* §§ 51 and 51.5)**

7
8 62. Plaintiff repleads and incorporates by reference, as if fully set forth again
9 herein, the allegations contained in paragraphs 1 through 61 of this Complaint and
10 incorporates them herein as if separately repled.

11
12 63. Defendants' acts and omissions as specified with regard to the discriminatory
13 treatment of Plaintiff **JAMES COLLINS** on the basis of his physical disabilities, have
14 been in violation of *California Civil Code* §§ 51 and 51.5, the *Unruh Civil Rights Act*,
15 and have denied to Plaintiff his rights to "full and equal accommodations, advantages,
16 facilities, privileges or services in all business establishments of every kind whatsoever."

17
18 64. *California Civil Code* § 51 also provides that "[a] violation of the right of any
19 individual under the *Americans with Disabilities Act of 1990* (Public Law 101-336) shall
20 also constitute a violation of this section."

21
22 65. *California Civil Code* § 51.5 also provides that "[n]o business establishment
23 of any kind whatsoever shall discriminate against, boycott, or blacklist, refuse to buy from,
24 sell to, or trade with any person in this state because of the race, creed, religion, color,
25 national origin, sex, disability of the person or of the person's partners, members,
26 stockholders, directors, officers, managers, superintendents, agents, employees, business
27 associates, suppliers, or customers."
28

1 *et seq.*, and Title III of the *Americans with Disabilities Act of 1990* and the standards of
2 **ADAAG**; and prohibiting operation of **BEST WESTERN INN OF HEMET**, located in
3 Hemet, California, as a public facility until Defendants provide full and equal enjoyment
4 of goods and services as described hereinabove to physically disabled persons, including
5 Plaintiff;

6
7
8 2. General damages according to proof;

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

12
13 4. Prejudgment interest on all compensatory damages;

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

16
17 6. Remedies and Procedures available under *Americans with Disabilities Act of*
18 *1990* §§ 107, 203 and 308;

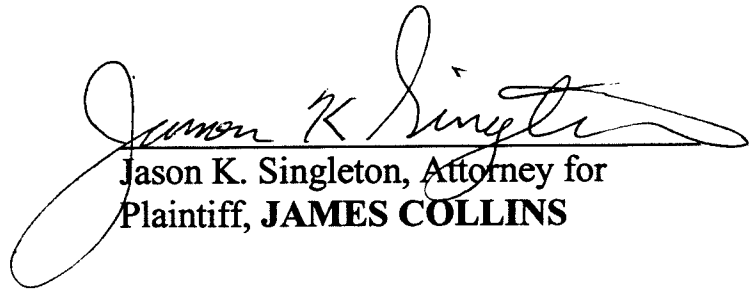
19
20 7. Award Plaintiff all litigation expenses, all costs of this proceeding and all
21 reasonable attorneys' fees as provided by law, including but not limited to those
22 recoverable pursuant to the provisions of *California Civil Code* §§ 52, 54.3, and 55,
23 *California Code of Civil Procedure* § 1021.5, and *Americans with Disabilities Act of*
24 *1990* §308 of Title III; and
25

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28 ///

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

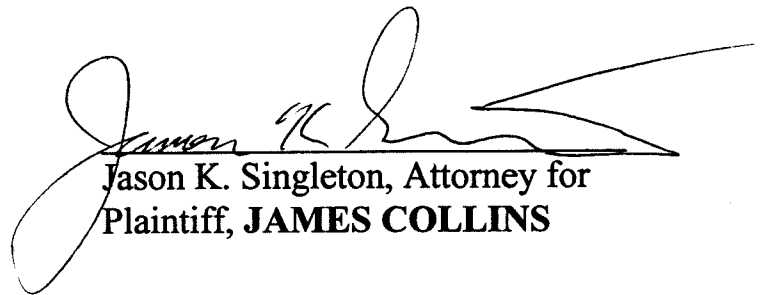
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4 Dated: December 5, 2002


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

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7 **REQUEST FOR JURY TRIAL**

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

9
10
11 Dated: December 5, 2002


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