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CENTRAL DISTRICT OF CALIFORNIA  
BY [Signature]

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

JAMES COLLINS, ) Case No. CV-02-02574 R (MANx)  
)  
Plaintiff, ) Civil Rights

v. )  
) FIRST AMENDED COMPLAINT  
) 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

HILTON HOTELS CORPORATION, a )  
Delaware Corporation, dba SAN )  
BERNARDINO HILTON HOTEL; D.S. )  
& DOROTHY DUNLAP TRUST; )  
JEREMY & HELEN CASSADAY )  
TRUST; CHARLES V. CASSADAY )  
TRUST; AND M.F. SALTA )  
COMPANY, INC., a California )  
corporation; and DOES ONE TO )  
TEN, inclusive, ) JURY TRIAL REQUESTED  
)  
Defendants. )

Plaintiff JAMES COLLINS complains of defendants HILTON HOTELS CORPORATION dba SAN BERNARDINO HILTON HOTEL; D.S. & DOROTHY DUNLAP TRUST; JEREMY & HELEN CASSADAY TRUST; CHARLES V. CASSADAY TRUST; AND M.F. SALTA COMPANY, INC., and DOES ONE TO TEN, inclusive, and alleges as follows:

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## JURISDICTION AND VENUE

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1. The Court has jurisdiction of this action pursuant to 28 *USC* § 1331 for violations of the *Americans with Disabilities Act of 1990*, (42 *USC* § 12101, *et seq.*) Pursuant to pendant jurisdiction, attendant and related causes of action, arising from the same facts, are also brought under California law, including but not limited to violations of *California Health & Safety Code* § 19955, *et seq.*, including *California Code of Regulations*, Title 24, § 19959, *California Civil Code* §§ 51, 51.5, 52(a), 52.1, 54, 54.1, 54.3 and 55.

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

## INTRODUCTION

3. The **Hilton Hotel** is located at 285 East Hospitality Lane, San Bernardino, California. Said hotel is owned and operated by defendants **HILTON HOTELS CORPORATION dba SAN BERNARDINO HILTON HOTEL; D.S. & DOROTHY DUNLAP TRUST; JEREMY & HELEN CASSADAY TRUST; CHARLES V. CASSADAY TRUST; AND M.F. SALTA COMPANY, INC., and DOES ONE TO TEN, inclusive.**

Defendants **HILTON HOTELS CORPORATION dba SAN BERNARDINO HILTON HOTEL; D.S. & DOROTHY DUNLAP TRUST; JEREMY & HELEN**

1 CASSADAY TRUST; CHARLES V. CASSADAY TRUST; AND M.F. SALTA  
2 COMPANY, INC., and DOES ONE TO TEN, inclusive, operate an establishment

3 for services to the public and at which Defendants failed to provide barrier free  
4 access to said establishment in conformity with both Federal and California legal  
5 requirements. Further, Defendants failed to provide compliance as follows:

6  
7  
8 **Exterior Survey:**

- 9 1) There is not a complying path of travel from the public sidewalk that is  
10 separate from the driveway.  
11  
12 2) The slopes and cross slopes of the transition from the public sidewalk  
13 to the driveway are up to 8%.  
14  
15 3) There are Two Designated parking spaces on east side:  
16 a. There is a swale crossing both parking spaces creating a slope  
17 exceeding 2%.  
18 b. The swale create a slippery surface when there has been a rain  
19 storm.  
20 c. The access aisle is on the driver's side of the designated parking  
21 space.  
22  
23  
24 4) The accessible entry doors do not have a complying International  
25 Accessibility Symbol.

26  
27 **Interior Survey:**

- 28 1) The lobby floor is a high gloss marble and does not appear to have a

1 nonskid surface.

2 2) The 34" high section of the registration desk has items stacked on it  
3 and cannot be used by a person with a disability.  
4

5 3) The door to the Gift Shop does not have a 10" high smooth surface.

6 4) The fire emergency pulls exceed 48" in height.

7 5) Most doors accessing the Courtyard from the interior corridors by the  
8 Meeting / Ballrooms have a 4 1/2" high smooth surface.  
9

10 6) Meeting / Ballrooms

11 a. The entry doors to most Meeting/Ballrooms have exposed  
12 locking hardware and or doorstop on the bottom 10".  
13

14 b. Several Meeting/Ballrooms have up to a 3" clear space at the  
15 latch side of entry door on the pull side and / or on the push side.  
16

17 c. Does not have complying signage identifying Meeting /  
18 Ballrooms.  
19

20 7) Restaurant.

21 a. There are no tables with a complying knee space. The table top  
22 is 28" – 34" high.  
23

24 b. About 50% of the restaurant is lowered 14" below the entry level.

25 c. The buffet is on the lower nonaccessible floor.

26 d. The bakery sales counter exceeds 42" in height.  
27

28 8) The two signs advertising Starbucks by the restaurant entrance are

1 about 70" high and extend about 12" off the wall into the corridor.

2 9) Bar Room.

- 3 a. Bar exceeds 42" in height.
- 4
- 5 b. The tables do not have complying knee space.

6 10) Men's Restroom. Adjacent to Meeting / Banquet rooms.

7 Entrance.

- 8
- 9 a. Does not have complying signage on entrance.

10 Lavatory.

- 11 b. The lavatory is 35" high.
- 12
- 13 c. The hot water and drain lines are not covered / protected.
- 14
- 15 d. The urinals exceed 17" in height.

16 Designated Water Closet Stall.

- 17 e. There is not a complying opening handle on both sides of the
- 18 designated water closet stall.
- 19
- 20 f. There is a lavatory blocking the clear space for a wheelchair
- 21 beside the water closet.
- 22
- 23 g. The flush valve is on the narrow side of the stall.
- 24
- 25 h. The water closet is 15" high.
- 26
- 27 i. The rear grab bar is 24" long.
- 28
- j. The side grab bar is 36" long.
- k. The toilet paper dispenser is located above the grab bar and

interferes with the use of the grab bar.

Accessories.

- l. There are no visual emergency warning devices.
- m. The paper towel dispenser exceeds 40" in height.

11) The Men's Restrooms on the east side by the sales offices are totally nonaccessible.

Second Floor:

12) Guestroom 230.

- a. There is about a 3" clear space at the strike side of the entry door.
- b. The entry door lock is 60" high.
- c. There is a round knob on the door between suites.
- d. A 64" high light scone extends 5 1/2" into the path of travel between bathroom and sleeping area
- e. There are no visual emergency warning devices.
- f. There are 31" on one side of the bed.

Closet.

- g. The clothes rod is 67" high.
- h. The closet door does not have a complying opening handle.

Bathroom.

- i. The lavatory has a cabinet underneath totally blocking knee

1 space.

2 j. The hair dryer is about 59" high.

3 k. The bathroom door blocks access to the bathtub.

4 l. The water closet is 15" high.

5 m. There is 26" to centerline of water closet.

6 n. There is about 2'6" in front of the water closet.

7 o. There is a 24" long grab bar behind the water closet.

8 p. There is a 36" long grab bar beside the water closet.

9 q. The toilet paper dispenser is on wall behind the water closet.

10  
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12  
13 13) Emergency Stairwell.

14 a. Entry door opening pressure exceeds 5 pounds.

15 b. The handrails do not extend past top and bottom tread.

16 c. The tread markings do not comply.

17 d. Does not have complying signage.

18  
19  
20 The above barriers interfered with Plaintiff's access and continue to deter  
21 Plaintiff from visiting said facilities, and as a legal result, Plaintiff **JAMES**  
22 **COLLINS** suffers violation of his civil rights to full and equal enjoyment of goods,  
23 services, facilities and privileges, and has and will suffer embarrassment and  
24 humiliation.

25  
26 **FACTUAL ALLEGATIONS**

27  
28 4. Plaintiff **JAMES COLLINS** is, and at all times relevant to this

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

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11 5. Defendants **HILTON HOTELS CORPORATION dba SAN**  
12 **BERNARDINO HILTON HOTEL; D.S. & DOROTHY DUNLAP TRUST; JEREMY**  
13 **& HELEN CASSADAY TRUST; CHARLES V. CASSADAY TRUST; AND M.F.**  
14 **SALTA COMPANY, INC., and DOES ONE TO TEN, inclusive,** at all times  
15 relevant herein were and are the owners and operators; lessors and/or lessees,  
16 franchisers and/or franchisees, of public facilities known as the "**Hilton Hotel**"  
17 located at San Bernardino, California, subject to the requirements of California  
18 state law requiring full and equal access to public facilities pursuant to **California**  
19 **Health & Safety Code § 19955, et seq., California Civil Code §§ 51, 51.5, 52(a),**  
20 **52.1, 54, 54.1, 54.3 and 55,** and subject to Title III of the **Americans with**  
21 **Disabilities Act of 1990**, and to all other legal requirements referred to in this  
22 Complaint. Plaintiff does not know the relative responsibilities of defendants in the  
23 operation of the facilities herein complained of, and alleges a joint venture and  
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1 common enterprise by all such defendants.

2 6. Defendants **HILTON HOTELS CORPORATION dba SAN**  
3 **BERNARDINO HILTON HOTEL; D.S. & DOROTHY DUNLAP TRUST; JEREMY**  
4 **& HELEN CASSADAY TRUST; CHARLES V. CASSADAY TRUST; AND M.F.**  
5 **SALTA COMPANY, INC., and DOES ONE TO TEN, inclusive** (hereinafter  
6 alternatively referred to collectively as "defendants"), at all times relevant herein  
7 were and are owners, possessors, builders and keepers of the "**Hilton Hotel**" in  
8 San Bernardino, California.  
9

10 7. Defendants **HILTON HOTELS CORPORATION dba SAN**  
11 **BERNARDINO HILTON HOTEL; D.S. & DOROTHY DUNLAP TRUST; JEREMY**  
12 **& HELEN CASSADAY TRUST; CHARLES V. CASSADAY TRUST; AND M.F.**  
13 **SALTA COMPANY, INC., and DOES ONE TO TEN, inclusive,** are the owners  
14 and operators of the subject "**Hilton Hotel,**" at all times relevant to this Complaint.  
15 Plaintiff is informed and believes that each of the defendants herein is the agent,  
16 employee or representative of each of the other defendants, and performed all  
17 acts and omissions stated herein within the scope of such agency or employment  
18 or representative capacity and is responsible in some manner for the acts and  
19 omissions of the other defendants in legally causing the damages complained of  
20 herein, and have approved or ratified each of the acts or omissions of each other  
21 defendant, as herein described.  
22

23 8. Plaintiff **JAMES COLLINS** does not know the true names and  
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1 capacities of defendants **HILTON HOTELS CORPORATION dba SAN**  
2 **BERNARDINO HILTON HOTEL; D.S. & DOROTHY DUNLAP TRUST; JEREMY**  
3 **& HELEN CASSADAY TRUST; CHARLES V. CASSADAY TRUST; AND M.F.**  
4 **SALTA COMPANY, INC., and DOES ONE TO TEN, inclusive,** their business  
5 capacities, their ownership connection to the property and business, nor their  
6 relative responsibilities in causing the access violations herein complained of, and  
7 alleges a joint venture and common enterprise by all such defendants. Plaintiff is  
8 informed and believes that each of the defendants herein, including **DOES ONE**  
9 **TO TEN, inclusive,** is the agent, ostensible agent, master, servant, employer,  
10 employee, representative, franchiser, franchisee, joint venturer, partner, and  
11 associate, or such similar capacity, of each of the other defendants, and was at all  
12 times acting and performing, or failing to act or perform, with the authorization,  
13 consent, permission or ratification of each of the other defendants, and is  
14 responsible in some manner for the acts and omissions of the other defendants in  
15 legally causing the violations and damages complained of herein, and have  
16 approved or ratified each of the acts or omissions of each other defendant, as  
17 herein described. Plaintiff will seek leave to amend this Complaint when the true  
18 names, capacities, connections and responsibilities of defendants **HILTON**  
19 **HOTELS CORPORATION dba SAN BERNARDINO HILTON HOTEL; D.S. &**  
20 **DOROTHY DUNLAP TRUST; JEREMY & HELEN CASSADAY TRUST;**  
21 **CHARLES V. CASSADAY TRUST; AND M.F. SALTA COMPANY, INC., and**

1 **DOES ONE TO TEN, inclusive**, are ascertained.

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

6  
7 10. Defendants **HILTON HOTELS CORPORATION dba SAN**  
8 **BERNARDINO HILTON HOTEL; D.S. & DOROTHY DUNLAP TRUST; JEREMY**  
9 **& HELEN CASSADAY TRUST; CHARLES V. CASSADAY TRUST; AND M.F.**  
10 **SALTA COMPANY, INC.**, and **DOES ONE TO TEN, inclusive**, are the owners  
11 and operators of "**Hilton Hotel**" located at San Bernardino, California. This  
12 establishment, including, but not limited to, parking spaces and access aisles and  
13 access routes, are each a part of a "public accommodation or facility" subject to  
14 the requirements of **California Health & Safety Code** § 19955, *et seq.*, and of  
15 **California Civil Code** §§ 51, 52(a), 54, 54.1, *et seq.* On information and belief,  
16 this "**Hilton Hotel**" was constructed after 1990, which subjects it to handicapped  
17 access requirements per **California Health & Safety Code** § 19959, and  
18 applicable portions of **California Code of Regulations**, Title 24, (the State  
19 Building Code).

20  
21 11. On or about February 1, 2002, Plaintiff **JAMES COLLINS**, visited the  
22 "**Hilton Hotel**" in San Bernardino, California for the purpose of obtaining  
23 accommodations. Defendants **HILTON HOTELS CORPORATION dba SAN**  
24

1 BERNARDINO HILTON HOTEL; D.S. & DOROTHY DUNLAP TRUST; JEREMY  
2 & HELEN CASSADAY TRUST; CHARLES V. CASSADAY TRUST; AND M.F.  
3 SALTA COMPANY, INC., and DOES ONE TO TEN, inclusive, interfered with  
4 Plaintiff's access to the "Hilton Hotel" establishment as set forth in Paragraph 3  
5 above.  
6

7 Said acts and omissions denied Plaintiff legal handicapped access to the  
8 "Hilton Hotel" according to federal and state law.  
9

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

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

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

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

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

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

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

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

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

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

1 "an inn, hotel, motel, or other place of lodging. . ."

2 19. Pursuant to 42 **USC** § 12182,

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

9 20. Among the general prohibitions against discrimination were included in

10  
11 42 **USC** §12182(b)(1)(A)(i):

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

20 21. Among the general prohibitions against discrimination were included in

21  
22 42 **USC** §12182(b)(1)(E):

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

1 individual or entity is known to have a relationship or association.

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

6 22. Among the general prohibitions against discrimination were included  
7 in 42 **USC** § 12182(b)(2)(A)(i) and 42 **USC** § 12182(b)(2)(A)(ii):  
8

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

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

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

2 23. Plaintiff alleges that constructing the eligibility requirements, policies,  
3 practices and procedure for entry to the "**Hilton Hotel**" facility by persons with  
4 disabilities and their companions as established by the defendants can be simply  
5 modified to eliminate disparate and discriminatory treatment of persons with  
6 disabilities by properly constructing barrier free handicapped access for safe and  
7 full and equal enjoyment of the "**Hilton Hotel**" as that enjoyed by other people.  
8

9 24. The specific prohibition against retaliation and coercion is included in  
10 the *Americans With Disabilities Act of 1990* § 503(b) and the *Remedies and*  
11 *Procedures* in § 503(c):  
12

13  
14 (b) Interference, Coercion, or Intimidation. - It shall be unlawful  
15 to coerce, intimidate, threaten, or interfere with any individual in the  
16 exercise or enjoyment of, or on account of his or her having exercised  
17 or enjoyed, or on account of his or her having aided or encouraged  
18 any other individual in the exercise or enjoyment of, any right granted  
19 or protected by this Act.  
20  
21

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

28 25. Among the specific prohibitions against discrimination were included,

1 in 42 **USC** § 12182(b)(2)(a)(iv), "A failure to remove architectural barriers, and  
2 communications barriers that are structural in nature, in existing facilities...where  
3 such removal is readily achievable;" and (v) "where and entity can demonstrate  
4 that the removal of a barrier under clause (iv) is not readily achievable, a failure to  
5 make such goods, services, facilities, privileges, advantages, or accommodations  
6 available through alternative methods if such methods are readily achievable."  
7  
8 The acts of Defendants set forth herein were a violations of Plaintiff's rights under  
9 the "ADA," Public Law 101-336, and the regulations promulgated thereunder, 28  
10 **CFR** Part 36, *et seq.*  
11

12  
13 26. The removal of the barriers complained of by Plaintiff as hereinabove  
14 alleged were at all times after 1990 "readily achievable." On information and  
15 belief, if the removal of all the barriers complained of here together were not  
16 "readily achievable," the removal of each individual barrier complained of herein  
17 was "readily achievable."  
18

19  
20 27. Per 42 **USC** § 12181(9), "The term 'readily achievable' means easily  
21 accomplishable and able to be carried out without much difficulty or expense."  
22 The statute and attendant regulations define relative "expense" in relation to the  
23 total financial resources of the entities involved, including any "parent" companies.  
24 Plaintiff alleges that properly repairing each of the items that Plaintiff complains of  
25 herein is readily achievable, including but not limited to correcting and repairing  
26 the items set forth in Paragraph 3 above.  
27  
28

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

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

21  
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24  
25 29. Defendants', and each of their acts and omissions of failing to provide  
26 barrier free handicapped access for Plaintiff, were tantamount to interference,  
27 coercion or intimidation pursuant to **Americans With Disabilities Act of 1990**  
28

1 §503(b) (now 42 **USC** § 12203):

2 It shall be unlawful to coerce, intimidate, threaten, or interfere  
3 with any individual in the exercise or enjoyment of, or on account of his  
4 or her having encouraged any other individual in the exercise or  
5 enjoyment of, any right granted or protected by this Act.  
6

7 30. Per **Americans With Disabilities Act of 1990** § 308(a)(1) (now 42  
8 **USC** § 12188), "Nothing in this section shall require a person with a disability to  
9 engage in a futile gesture if such person has actual notice that a person or  
10 organization covered by this title does not intend to comply with its provisions."  
11 Pursuant to this last section, Plaintiff, on information and belief, alleges that  
12 defendants have continued to violate the law and deny the rights of Plaintiff and  
13 other disabled persons to access this public accommodation for the purpose of  
14 lodging. Therefore, Plaintiff seeks injunctive relief pursuant to §308(a)(2),  
15

16 "...Where appropriate, injunctive relief shall also include  
17 requiring the provision of an auxiliary aid or service, modifications of a  
18 policy, or provision of alternative methods, to the extent required by  
19 this title."  
20

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

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4 **II. SECOND CAUSE OF ACTION**  
5 **BREACH OF STATUTORY PROTECTIONS FOR PERSONS WITH**  
6 **PHYSICAL DISABILITIES (*California Health & Safety Code* § 19955,**  
7 ***et seq.*)**

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

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

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

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

1 this state shall conform to the provisions of Chapter 7 (commencing with Sec.  
2 4450) of Division 5 of Title 1 of the *Government Code*..." **California Health &**  
3 **Safety Code** § 19956 was operative July 1, 1970, and is applicable to all public  
4 accommodations constructed or altered after that date. On information and belief,  
5 portions of "**Hilton Hotel**" and/or of its buildings, were constructed and/or altered  
6 after July 1, 1970, and substantial portions of said building had alterations,  
7 structural repairs, and/or additions made to such public accommodations after July  
8 1, 1970, thereby requiring said public accommodations and/or buildings to be  
9 subject to the requirements of Part 5.5, **California Health & Safety Code** §  
10 19955, *et seq.*, upon such alteration, structural repairs or additions per **California**  
11 **Health & Safety Code** § 19959.

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

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

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

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

1           39. The **California Health & Safety Code** was enacted "[t]o ensure that  
2 public accommodations or facilities constructed in this state with private funds  
3 adhere to the provisions of Chapter 7 (commencing with §4450) of Division 5 of  
4 Title 1 of the *Government Code*." Such public accommodations are defined to  
5 include retail stores.  
6

7           40. Plaintiff is further informed and believes that as of the date of filing this  
8 Complaint, Defendants have not made accessible the facilities at the subject store  
9 as set forth in Paragraph 3 above.  
10

11           41. Plaintiff **JAMES COLLINS** is informed and believes, and therefore  
12 alleges, that Defendants **HILTON HOTELS CORPORATION dba SAN**  
13 **BERNARDINO HILTON HOTEL; D.S. & DOROTHY DUNLAP TRUST; JEREMY**  
14 **& HELEN CASSADAY TRUST; CHARLES V. CASSADAY TRUST; AND M.F.**  
15 **SALTA COMPANY, INC., and DOES ONE TO TEN, inclusive,** and each of them,  
16 caused the subject buildings constituting "**Hilton Hotel**" to be constructed, altered  
17 and maintained in such a manner that persons with physical disabilities were  
18 denied full and equal access to, within and throughout said buildings and were  
19 denied full and equal use of said public facilities, and despite knowledge and  
20 actual and constructive notice to such Defendants that the configuration of the  
21 store and/or buildings was in violation of the civil rights of persons with physical  
22 disabilities, such as Plaintiff. Such construction, modification, ownership,  
23 operation, maintenance and practices of such public facilities are in violation of  
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1 law as stated in Part 5.5, **California Health & Safety Code** § 19955, *et seq.*, and  
2 elsewhere in the laws of California.

3  
4 42. On information and belief, the subject building constituting the public  
5 facilities of "**Hilton Hotel**" denied full and equal access to Plaintiff and other  
6 persons with physical disabilities in other respects due to non-compliance with  
7 requirement of Title 24 of the **California Code of Regulations** and **California**  
8 **Health & Safety Code** § 19955, *et seq.*

9  
10 43. The basis of Plaintiff's aforementioned information and belief is the  
11 various means upon which Defendants must have acquired such knowledge,  
12 including but not limited to this lawsuit, other access lawsuits, communications  
13 with operators of other stores and other property owners regarding denial access,  
14 communications with Plaintiff and other persons with disabilities, communications  
15 with other patrons who regularly visit there, communications with owners of other  
16 businesses, notices and advisories they obtained from governmental agencies  
17 through the mails, at seminars, posted bulletins, television, radio, public service  
18 announcements, or upon modification, improvement, alteration or substantial  
19 repair of the subject premises and other properties owned by these Defendants,  
20 newspaper articles and trade publications regarding the **Americans with**  
21 **Disabilities Act of 1990** and other access law, and other similar information.  
22  
23 The scope and means of the knowledge of each defendant is within each  
24 defendant's exclusive control and cannot be ascertained except through  
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1 discovery.

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

13 45. Defendants, and each of them, at times prior to and including February  
14 1, 2002, and continuing to the present time, knew that persons with physical  
15 disabilities were denied their rights of equal access to all portions of this public  
16 facility. Despite such knowledge, Defendants failed and refused to take steps to  
17 comply with the applicable access statutes; and despite knowledge of the resulting  
18 problems and denial of civil rights thereby suffered by Plaintiff **JAMES COLLINS**  
19 and other similarly situated persons with disabilities, including the specific notices  
20 referred to in paragraph 43 of this Complaint. Defendants have failed and refused  
21 to take action to grant full and equal access to persons with physical disabilities in  
22 the respects complained of hereinabove. Defendants and each of them have  
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1 carried out a course of conduct of refusing to respond to, or correct complaints  
2 about, denial of handicap access. Such actions and continuing course of conduct  
3 by Defendants, evidence despicable conduct in conscious disregard for the rights  
4 or safety of Plaintiff and of other similarly situated persons, justifying an award of  
5 exemplary and punitive damages pursuant to **California Civil Code** § 3294.  
6

7  
8 46. Defendants' actions have also been oppressive to persons with  
9 physical disabilities and of other members of the public, and have evidenced  
10 actual or implied malicious intent toward those members of the public, such as  
11 Plaintiff and other persons with physical disabilities who have been denied the  
12 proper access they are entitled to by law. Further, Defendants' refusals on a day-  
13 to-day basis to correct these problems evidence despicable conduct in conscious  
14 disregard for the rights of Plaintiff and other members of the public with physical  
15 disabilities.  
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18 47. Plaintiff prays for an award of punitive damages against Defendants,  
19 and each of them, pursuant to **California Civil Code** § 3294 in an amount  
20 sufficient to make a more profound example of Defendants and discourage  
21 owners, operators, franchisers and franchisees of other public facilities from willful  
22 disregard of the rights of persons with physical disabilities. Plaintiff does not know  
23 the financial worth of Defendants, or the amount of punitive damages sufficient to  
24 accomplish the public purposes of **California Civil Code** § 3294 and seeks leave  
25 to amend this Complaint when such facts are known.  
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1           48. As a result of the actions and failure of Defendants, and each of them,  
2 and as a result of the failure to provide proper accessible public facilities, Plaintiff  
3 **JAMES COLLINS** was denied his civil rights, including his right to full and equal  
4 access to public facilities, was embarrassed and humiliated, suffered physical,  
5 psychological and mental injuries and emotional distress, mental distress, mental  
6 suffering, mental anguish, which includes shame, humiliation, embarrassment,  
7 anger, chagrin, disappointment and worry, expectedly and naturally associated  
8 with a person with a physical disability being denied access to a public  
9 accommodation.  
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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  
18 again herein, the allegations contained in paragraphs 1 through 48 of this  
19 Complaint and incorporates them herein as if separately repled.  
20

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

1 also in violation of provisions of Title 24 of the **California Code of Regulations.**

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

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

11 Individuals with disabilities shall be entitled to full and equal  
12 access, as other members of the general public, to accommodations,  
13 advantages, facilities, and privileges of all common carriers, airplanes,  
14 motor vehicles, railroad trains, motor buses, streetcars, boats, or any  
15 other public conveyances or modes of transportation (whether private,  
16 public, franchised, licensed, contracted, or otherwise provided),  
17 telephone facilities, adoption agencies, private schools, hotels, lodging  
18 places, places of public accommodation, amusement or resort, and  
19 other places to which the general public is invited, subject only to the  
20 conditions and limitations established by law, or state or federal  
21 regulation, and applicable alike to all persons. **California Civil Code**  
22 § 54.1(a).  
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28 52. On or about February 1, 2002, Plaintiff **JAMES COLLINS** suffered

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

8  
9 53. As a result of the denial of full and equal enjoyment of the goods,  
10 services, facilities and privileges of defendants' **The Hilton Hotel** facility due to  
11 the acts and omissions of defendants, and each of them, in owning, operating and  
12 maintaining this subject public facility, Plaintiff suffered violations of his civil rights,  
13 including but not limited to rights under **California Civil Code** §§ 54, 54.1, and  
14 54.3, and has and will suffer physical injury, emotional distress, mental distress,  
15 mental suffering, mental anguish, which includes shame, humiliation,  
16 embarrassment, anger, chagrin, disappointment and worry, expectedly and  
17 naturally associated with a disabled person's denial of full and equal enjoyment of  
18 goods, services, privileges, etc. all to his damages as prayed hereinafter in an  
19 amount within the jurisdiction of the court. Defendants' actions and omissions to  
20 act constituted discrimination against Plaintiff on the sole basis that Plaintiff was  
21 physically disabled.  
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26 54. Plaintiff seeks damages for the violation of his rights as a disabled  
27 person on or about February 1, 2002, according to proof, pursuant to **California**  
28

1 **Civil Code** § 54.3, including a trebling of all statutory and actual damages,  
2 general and special, available pursuant to **California Civil Code** § 54.3(a).

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

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21 56. The acts and omissions of defendants in failing to provide the required  
22 accessible facilities subsequent to the enactment date and compliance date of the  
23 **Americans with Disabilities Act of 1990**, and refusal to make remedial  
24 modifications and alterations to its handicapped parking, handicapped signage,  
25 pathways, and other elements as hereinabove stated, after being notified by  
26 patrons before and after the time of Plaintiff's visit and injuries, on or about  
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1 February 1, 2002, and all times prior thereto with the knowledge that persons with  
2 disabilities would enter defendants' premises, the reason given therefor, was an  
3 established policy, practice and procedure of refusing and denying entry, thereby  
4 denying lodging and other services to a person with disabilities and the  
5 companions thereof, evidence malice and oppression toward Plaintiff and other  
6 disabled persons.  
7  
8

9 57. Such despicable conduct, as that incorporated herein by reference and  
10 specifically set forth in Paragraph 11, was carried out by defendants with a willful  
11 and conscious disregard for the law and the rights of Plaintiff and of other disabled  
12 persons, and was oppressive in that such conduct subjected Plaintiff "to cruel and  
13 unjust hardship in conscious disregard" for the law and Plaintiff's rights, and  
14 justifies exemplary and punitive damages pursuant to **California Civil Code §**  
15 **3294**, in amounts sufficient to make an example of defendants and to punish  
16 defendants and to carry out the purposes of **California Civil Code § 3294**.  
17  
18

19 58. Defendants have failed to establish a nondiscriminatory criteria, policy,  
20 practice and procedure for entry into said "**Hilton Hotel**" as hereinabove  
21 described.  
22  
23

24 59. As a result of defendants' continuing failure to provide for the full and  
25 equal enjoyment of goods, services, facilities and privileges of said "**Hilton Hotel**"  
26 as hereinabove described, Plaintiff has continually been denied his rights to full  
27 and equal enjoyment of the subject retail store, as it would be a "futile gesture" to  
28

1 attempt to patronize said **"Hilton Hotel"** with the discriminatory policy in place as  
2 hereinabove described.

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

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26 61. Wherefore, Plaintiff asks this court to preliminarily and permanently  
27  
28 enjoin any continuing refusal by defendants to permit entry to said **"Hilton Hotel"**

1 and to serve Plaintiff or others similarly situated, and to require defendants to  
2 comply forthwith with the applicable statutory requirements relating to the full and  
3 equal enjoyment of goods and services as described hereinabove for disabled  
4 persons. Such injunctive relief is provided by **California Civil Code** § 55. Plaintiff  
5 further requests that the court award statutory costs and attorneys' fees to Plaintiff  
6 pursuant to **California Civil Code** § 55 and **California Code of Civil Procedure**  
7 § 1021.5, all as hereinafter prayed for.

8  
9  
10 WHEREFORE, Plaintiff prays for compensatory damages, reasonable  
11 attorneys' fees and costs of suit, as allowed by statute and according to proof, and  
12 appropriate exemplary damages.  
13

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

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

21 63. Defendants' acts and omissions as specified with regard to the  
22 discriminatory treatment of Plaintiff **JAMES COLLINS** on the basis of his physical  
23 disabilities, have been in violation of **California Civil Code** §§ 51 and 51.5, the  
24 **Unruh Civil Rights Act**, and have denied to Plaintiff his rights to "full and equal  
25 accommodations, advantages, facilities, privileges or services in all business  
26 establishments of every kind whatsoever."  
27  
28

1           64. **California Civil Code** § 51 also provides that “[a] violation of the right  
2 of any individual under the **Americans with Disabilities Act of 1990** (Public Law  
3 101-336) shall also constitute a violation of this section.”

4  
5           65. **California Civil Code** § 51.5 also provides that “[n]o business  
6 establishment of any kind whatsoever shall discriminate against, boycott, or  
7 blacklist, refuse to buy from, sell to, or trade with any person in this state because  
8 of the race, creed, religion, color, national origin, sex, disability of the person or of  
9 the person’s partners, members, stockholders, directors, officers, managers,  
10 superintendents, agents, employees, business associates, suppliers, or  
11 customers.”

12  
13  
14           66. As a result of the violation of Plaintiff’s civil rights protected by  
15 **California Civil Code** §§ 51 and, 51.5, Plaintiff is entitled to the rights and  
16 remedies of **California Civil Code** § 52, including a trebling of actual damages  
17 (defined by **California Civil Code** § 52(h) to mean “special and general  
18 damages”), as well as reasonable attorneys’ fees and costs, as allowed by statute,  
19 according to proof. Further, pursuant to paragraphs 11, 12, 13, 35 and 43,  
20 Plaintiff seeks appropriate exemplary damages under **California Civil Code** §  
21 3294.

22  
23  
24  
25           WHEREFORE, Plaintiff prays that this court award damages and provide  
26 relief as follows:  
27

28     ///

## PRAYER FOR RELIEF

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

1. Grant injunctive relief requiring that defendants establish a non-discriminatory criteria policy, practice and procedure permitting entry into the **Hilton Hotel** in San Bernardino, California, for the purpose of services according to **California Civil Code** §§ 51, 51.5, 52, 54, 54.1, 54.3, *et seq.*, and Title III of the **Americans with Disabilities Act of 1990**, and grant injunctive relief requiring that Defendants repair and render safe to handicapped persons, and otherwise make handicapped-accessible, all public areas of the store, including, but not limited to, removal of all barriers to access identified in Paragraph 3, above, and make such facilities "readily accessible to and usable by individuals with disabilities," according to the standards of Title 24 of the **California Administrative Code**, **California Health & Safety Code** § 19955 *et seq.*, and Title III of the **Americans with Disabilities Act of 1990** and the standards of **ADAAG**; and prohibiting operation of the **Hilton Hotel**, located in San Bernardino, California, as a public facility until Defendants provide full and equal enjoyment of goods and services as described hereinabove to physically disabled persons, including Plaintiff;
2. General damages according to proof;
3. Statutory and "actual" damages, including general damages and special damages, according to proof, pursuant to **California Civil Code** §§ 52, and 54.3, and that these damages be trebled;

1 4. Prejudgment interest on all compensatory damages;

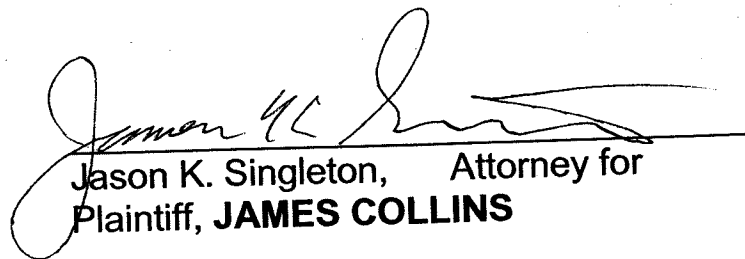
2 5. Punitive and exemplary damages pursuant to the standards and  
3 purposes of **California Civil Code** § 3294;

4  
5 6. Remedies and Procedures available under **Americans with**  
6 **Disabilities Act of 1990** §§ 107, 203 and 308;

7  
8 7. Award Plaintiff all litigation expenses, all costs of this proceeding and  
9 all reasonable attorneys' fees as provided by law, including but not limited to those  
10 recoverable pursuant to the provisions of **California Civil Code** §§ 52, 54.3, and  
11 55, **California Code of Civil Procedure** § 1021.5, and **Americans with**  
12 **Disabilities Act of 1990** §308 of Title III; and

13  
14 8. Grant such other and further relief as the court may deem just and  
15 proper.

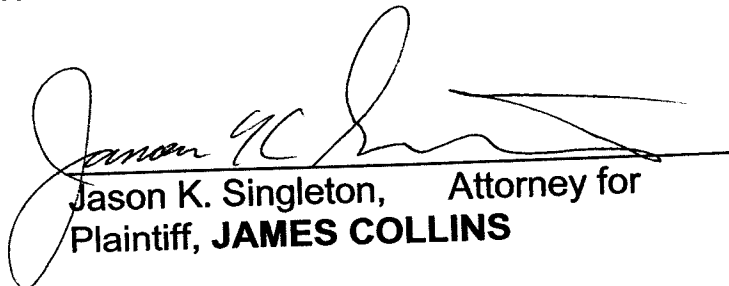
16  
17 Dated: May 2, 2002

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

18  
19  
20 **REQUEST FOR JURY TRIAL**

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

22  
23  
24 Dated: May 2, 2002

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