

ORIGINAL

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CLERK OF DISTRICT COURT
CENTRAL DISTRICT OF CALIF.
BY [Signature]

8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

10 JEFF HOHLBEIN,

11 Plaintiff,

12 v.

13 EVERQUEST LODGE, INC., a California
14 Corporation dba SAN ROQUE MOTEL;
15 HUI TZU HUANG; NICOLAS TENG; and
16 DOES ONE TO TEN, inclusive,

17 Defendants.

) Case No.

02 - 00878 MRP (MCX)

) 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

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19
20 Plaintiff JEFF HOHLBEIN complains of defendants EVERQUEST LODGE, INC., dba
21 SAN ROQUE MOTEL; HUI TZU HUANG; NICOLAS TENG; and DOES ONE TO TEN,
22 inclusive, and alleges as follows:

23 JURISDICTION AND VENUE

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

ENTERED ON 1/23/02
JAN 31 2002

[Handwritten initials]

1 **California Civil Code** §§ 51, 51.5, 52(a), 52.1, 54, 54.1, 54.3 and 55.

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

5 **INTRODUCTION**

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7 3. **San Roque Motel** is located at 3344 State Street, Santa Barbara, California. Said
8 retail store is owned and operated by defendants **EVERQUEST LODGE, INC., dba SAN**
9 **ROQUE MOTEL; HUI TZU HUANG; NICOLAS TENG; and DOES ONE TO TEN, inclusive.**

10 Defendants **EVERQUEST LODGE, INC., dba SAN ROQUE MOTEL; HUI TZU HUANG;**
11 **NICOLAS TENG; and DOES ONE TO TEN, inclusive,** operate an establishment for services to
12 the public and at which Defendants failed to provide barrier free access to said establishment in
13 conformity with both Federal and California legal requirements. Defendants failed to provide
14 compliance by failing to remove architectural barriers including, but not limited to, the lack of
15 accessible parking, the lack of accessible guest rooms, the lack of disabled access to the
16 swimming pool, inaccessible routes to the office and guestrooms, the noncompliant door to the
17 office, and the noncompliant office counter.

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

23 **FACTUAL ALLEGATIONS**

24
25 4. Plaintiff **JEFF HOHLBEIN** is, and at all times relevant to this Complaint is, a
26 "physically handicapped person," "physically disabled person," and a "person with a disability," as
27 these terms are used under California law and under federal laws including, but not limited to,
28 Title III of the **Americans with Disabilities Act of 1990**. (The terms "physically handicapped

1 embarrassed and humiliated, suffered physical, psychological and mental injuries and emotional
2 distress, mental distress, mental suffering, mental anguish, which includes shame, humiliation,
3 embarrassment, anger, chagrin, disappointment and worry, expectedly and naturally associated
4 with a person with a physical disability being denied access to a public accommodation.

5 WHEREFORE, Plaintiff prays for damages as hereinafter stated.

6
7 **III. THIRD CAUSE OF ACTION**

8 **VIOLATION OF CALIFORNIA'S CIVIL RIGHTS ACTS**

9 (On Behalf of Plaintiff **JEFF HOHLBEIN** and Against Defendants **EVERQUEST**
10 **LODGE, INC., dba SAN ROQUE MOTEL; HUI TZU HUANG; NICOLAS TENG,**
11 **and DOES ONE TO TEN; inclusive) (*California Civil Code* §§ 54, 54.1 and
12 54.3)**

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

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

23 51. The rights of Plaintiff, the entitlement of Plaintiff to full and equal access and the
24 denial by defendants of such rights and entitlements are set forth in *California Civil Code* §§
25 54, 54.1 and 54.3, to wit:

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

Individuals with disabilities shall be entitled to full and equal access, as

1 and otherwise make handicapped-accessible, all public areas of the store, including, but not
2 limited to, those architectural barriers to access identified in Paragraph Three, above, and make
3 such facilities "readily accessible to and usable by individuals with disabilities," according to the
4 standards of Title 24 of the **California Administrative Code, California Health & Safety Code**
5 **§ 19955 et seq.**, and Title III of the **Americans with Disabilities Act of 1990** and the standards
6 of **ADAAG**; and prohibiting operation of the **San Roque Motel**, located in Santa Barbara,
7 California, as a public facility until Defendants provide full and equal enjoyment of goods and
8 services as described hereinabove to physically disabled persons, including Plaintiff;

10 2. General damages according to proof;

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

15 4. Prejudgment interest on all compensatory damages;

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

18 6. Remedies and Procedures available under **Americans with Disabilities Act of**
19 **1990** §§ 107, 203 and 308;

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 recoverable
22 pursuant to the provisions of **California Civil Code** §§ 52, 54.3, and 55, **California Code of**
23 **Civil Procedure** § 1021.5, and **Americans with Disabilities Act of 1990** §308 of Title III; and

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

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27 Dated: January 18, 2002

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Jason K. Singleton, Attorney for
Plaintiff, **JEFF HOHLBEIN**

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REQUEST FOR JURY TRIAL

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

Dated: January 18, 2002



Jason K. Singleton, Attorney for
Plaintiff, **JEFF HOHLBEIN**