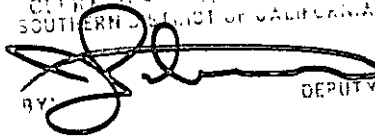


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3:02-CV-00965 COLLINS V. MAIN STREET
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CLERY, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY:  DEPUTY

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7
8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10 JAMES COLLINS,

11 Plaintiff,

12 v.

13 MAIN STREET CALIFORNIA, INC., STEVEN
14 SHERMAN, JOE PANTER, KEN GREEN,
15 dba T.G.I. FRIDAY'S, RECABAREN RANCH
16 DEVELOPMENT CO., INC., A CALIFORNIA
17 CORPORATION, and DOES ONE through
18 FIFTY, inclusive,

19 Defendants.

Case No. 02cv965-^W2[RBB]

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 Plaintiff JAMES COLLINS complains of MAIN STREET CALIFORNIA, INC.,
20 STEVEN SHERMAN, JOE PANTER, KEN GREEN, dba T.G.I. FRIDAY'S, RECABAREN
21 RANCH DEVELOPMENT CO., INC., A CALIFORNIA CORPORATION, and DOES ONE
22 to FIFTY, inclusive, and alleges as follows:

23 JURISDICTION AND VENUE

24
25 1. The Court has jurisdiction of this action pursuant to 28 USC § 1331 for
26 violations of the *Americans with Disabilities Act of 1990*, (42 USC § 12101, et seq.)

27 Pursuant to pendant jurisdiction, attendant and related causes of action, arising from the
28 same facts, are also brought under California law, including but not limited to violations of
COMPLAINT FOR INJUNCTIVE RELIEF AND DAMAGES 1
DENIAL OF CIVIL RIGHTS

1 **California Health & Safety Code § 19955, et seq., including California Code of**
2 **Regulations, Title 24, § 19959, California Civil Code §§ 51, 51.5, 52(a), 52.1, 54, 54.1,**
3 **54.3 and 55.**

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

7 **INTRODUCTION**

8
9 3. **T.G.I. FRIDAY'S** is located at 403 Camino Del Rio South, San Diego,
10 California. Said restaurant is owned and operated by **MAIN STREET CALIFORNIA, INC.,**
11 **STEVEN SHERMAN, JOE PANTER, KEN GREEN, dba T.G.I. FRIDAY'S, RECABAREN**
12 **RANCH DEVELOPMENT CO., INC., A CALIFORNIA CORPORATION, and DOES ONE**
13 **to FIFTY, inclusive.**

14 Defendants **MAIN STREET CALIFORNIA, INC., STEVEN SHERMAN, JOE**
15 **PANTER, KEN GREEN, dba T.G.I. FRIDAY'S, RECABAREN RANCH DEVELOPMENT**
16 **CO., INC., A CALIFORNIA CORPORATION, and DOES ONE to FIFTY, inclusive,**
17 operates an establishment for services to the public and at which Defendants failed to
18 provide barrier free access to said establishment in conformity with both Federal and
19 California legal requirements. Further, Defendants failed to provide compliance as follows:

20
21 **Exterior Survey:**

- 22 1) **Curbscut. On South side of entry door.**
23 a. The slope is up to 13% in violation of California Title 24 §
24 1127B.5.3 (ADAAG 4.7.2 & 4.8.2 require curbramps to be least
25 slope possible, but not to exceed 8.33% slope.)
26 b. No 12" wide grooved surface across the top and sides in
27 violation of California Title 24 § 1127B.5
28 c. The bottom landing slopes upward at about 10% in violation of
California Title 24 § 1127B.5.3
2) **Curbscut. On East side of entry door.**
a. The slope exceeds 6.6% and does not have detectable warning
surface in violation of California Title 24 § 1127B.5.8 Fig 11B-
23A, §1133B.8.3 thru 1133B.8.5 .

- 1 b. No 12" wide grooved surface across the top and sides in
2 violation of California Title 24 § 1127B.5
- 3 3) The 24" entry strike side clearance at both entry doors is blocked by a
4 column in violation of California Title 24 § 1133B.2.4.3. Fig 11B-26A ,
5 ADAAG 4.13.6
- 6 4) The entry door opening pressure is about 12 pounds in violation of
7 California Title 24 § 1133B.2.5, ADAAG 4.13.11

8 **Interior Survey:**

- 9 1) Vestibule Threshold. Between vestibule and restaurant.
- 10 a. Slopes upward at about 12% for 36" with no level landing on
11 each side of a door or opening. in violation of California Title 24
12 § 1115B.4.2, 1133B.2.4, & 1003.3.1.6a. Fig 11B-26A & B
- 13 b. There is a 1 ½" high threshold plate in violation of California
14 Title 24 § 1133B.2.4.1 & 1003.3.1.6.1a.
- 15 2) Raised Bar area does not have a ramp or lift to provide required
16 complying path of travel in violation of California Title 24 § 1120B.1
- 17 3) Three Riser Stairs. Three sets of stairs to raised bar area.
- 18 a. Handrails do not extend past the top or bottom tread in violation
19 of California Title 24 § 1003.3.3.6.1a, §1133B.4.2.1 & 2. Fig 11B-
20 35 & 37
- 21 b. There are no tread markings in violation of California Title 24 §
22 1133B.4.4. Fig 11B-35
- 23 c. The handrail diameter exceeds 1 ½" in violation of California
24 Title 24 § 1133B.4.2.6.1. Fig 11B-36
- 25 4) The bar is 42" high in violation of California Title 24 § 1122B.4
- 26 5) Four Riser Stairs. To raised dining area.
- 27 a. Handrails do not extend past the top or bottom tread in violation
28 of California Title 24 § 1003.3.3.6.1a, §1133B.4.2.1 & 2. Fig
 11B-35 & 37
- b. There are no tread markings in violation of California Title 24 §
 1133B.4.4. Fig 11B-35
- c. The handrail diameter exceeds 1 ½" in violation of California
 Title 24 § 1133B.4.2.6.1. Fig 11B-36
- 6) Ramps. Two ramps leading to lowered dining area on south side.
- a. Slope exceeds 8.33% in violation of California Title 24 §
 1133B.5.3
- b. Does not have complying handrails in violation of California Title
 24 § 1133B.5.5.1
- 7) Ramps. Two ramps leading to lowered dining area on east side.
- a. Slope exceeds 8.33% in violation of California Title 24 §
 1133B.5.3
- b. Does not have complying handrails in violation of California Title
 24 § 1133B.5.5.1
- 8) The public telephone is located in an old English Telephone Booth and
 is totally inaccessible in violation of California Title 24 § 1117B.2.7.1.
 Fig 11B-4(a)
- 9) Five percent of the seating did not comply for people with disabilities in
 violation of California Title 24 § 1122B. §1122B.1

10) Men's Restroom.

- 1 a. Entry door exceeds 5 pounds door opening pressure in violation of California Title 24 § 1133B.2.5/4.13.11
- 2 b. Urinal is not accessible to the disabled and does not comply with codes including, but not limited to, California Title 24 § 1503, 1503.2, §1115B.9.4, §1503, 1503.2, ADAAG 4.19.4
- 3 c. Water closet stall is not accessible to the disabled and does not comply with codes including, but not limited to, California Title 24 § 1115B.7.1.3, Fig 11B-1A & B, ADAAG 4.16.2
- 4 d. Lavatory is not accessible to the disabled and does not fully comply with codes including, but not limited to, California Title 24 § 1504.1.Fig 11B-1A
- 5 e. Mirror and accessories are not accessible to the disabled and do not comply with codes including, but not limited to, California Title 24 § 1115B.9.1.2, ADAAG 4.27.3

6
7
8
9
10 Several of these violations interfered with Plaintiff's safe and barrier free access to
11 the restaurant, and deter Plaintiff from returning in the future, as Plaintiff would have absent
12 the barriers. As a legal result, Plaintiff **JAMES COLLINS** suffered violation of his civil rights
13 to full and equal enjoyment of goods, services, facilities and privileges, and suffered
14 embarrassment and humiliation.

15 **FACTUAL ALLEGATIONS**

16
17 4. Plaintiff **JAMES COLLINS** is, and at all times relevant to this Complaint was,
18 a "physically handicapped person, "physically disabled person," and a "person with a
19 disability," as these terms are used under California law and under federal laws including,
20 but not limited to, Title III of the ***Americans with Disabilities Act of 1990***. (The terms
21 "physically handicapped person," "physically disabled person," and a "person with a
22 disability" will be used interchangeably throughout this Complaint.) Plaintiff is a "person
23 with a disability," as defined by all applicable California and United State's laws. Plaintiff
24 **JAMES COLLINS** is severely limited in the use of his hands and arms.

25
26 5. Defendants **MAIN STREET CALIFORNIA, INC., STEVEN SHERMAN, JOE**
27 **PANTER, KEN GREEN, dba T.G.I. FRIDAY'S, RECABAREN RANCH DEVELOPMENT**
28 **CO., INC., A CALIFORNIA CORPORATION, and DOES ONE to FIFTY, inclusive, at all**
COMPLAINT FOR INJUNCTIVE RELIEF AND DAMAGES 4
DENIAL OF CIVIL RIGHTS

1 times relevant herein were and are the owners and operators; lessors and/or lessees,
2 franchisers and/or franchisees, of public facilities known as the "T.G.I. FRIDAY'S" located
3 at San Diego, California, subject to the requirements of California state law requiring full
4 and equal access to public facilities pursuant to *California Health & Safety Code* § 19955,
5 *et seq.*, *California Civil Code* §§ 51, 51.5, 52(a), 52.1, 54, 54.1, 54.3 and 55, and subject
6 to Title III of the *Americans with Disabilities Act of 1990*, and to all other legal
7 requirements referred to in this Complaint. Plaintiff does not know the relative
8 responsibilities of defendants in the operation of the facilities herein complained of, and
9 alleges a joint venture and common enterprise by all such defendants.
10

11 6. Defendants **MAIN STREET CALIFORNIA, INC., STEVEN SHERMAN, JOE**
12 **PANTER, KEN GREEN, dba T.G.I. FRIDAY'S, RECABAREN RANCH DEVELOPMENT**
13 **CO., INC., A CALIFORNIA CORPORATION, and DOES ONE to FIFTY, inclusive**
14 (hereinafter alternatively referred to collectively as "defendants"), at all times relevant
15 herein were and are owners, possessors, builders and keepers of the "T.G.I. FRIDAY'S" in
16 San Diego, California.
17

18 7. Defendants **MAIN STREET CALIFORNIA, INC., STEVEN SHERMAN, JOE**
19 **PANTER, KEN GREEN, dba T.G.I. FRIDAY'S, RECABAREN RANCH DEVELOPMENT**
20 **CO., INC., A CALIFORNIA CORPORATION, and DOES ONE to FIFTY, inclusive** are the
21 owners and operators of the subject "T.G.I. FRIDAY'S", at all times relevant to this
22 Complaint. Plaintiff is informed and believes that each of the defendants herein is the
23 agent, employee or representative of each of the other defendants, and performed all acts
24 and omissions stated herein within the scope of such agency or employment or
25 representative capacity and is responsible in some manner for the acts and omissions of
26 the other defendants in legally causing the damages complained of herein, and have
27 approved or ratified each of the acts or omissions of each other defendant, as herein
28

described.

1
2 8. Plaintiff **JAMES COLLINS** does not know the true names and capacities of
3 defendants **MAIN STREET CALIFORNIA, INC., STEVEN SHERMAN, JOE PANTER,**
4 **KEN GREEN, dba T.G.I. FRIDAY'S, RECABAREN RANCH DEVELOPMENT CO., INC.,**
5 **A CALIFORNIA CORPORATION, and DOES ONE to FIFTY, inclusive,** their business
6 capacities, their ownership connection to the property and business, nor their relative
7 responsibilities in causing the access violations herein complained of, and alleges a joint
8 venture and common enterprise by all such defendants. Plaintiff is informed and believes
9 that each of the defendants herein, including **DOES ONE to FIFTY, inclusive,** is the agent,
10 ostensible agent, master, servant, employer, employee, representative, franchiser,
11 franchisee, joint venturer, partner, and associate, or such similar capacity, of each of the
12 other defendants, and was at all times acting and performing, or failing to act or perform,
13 with the authorization, consent, permission or ratification of each of the other defendants,
14 and is 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 approved or
16 ratified each of the acts or omissions of each other defendant, as herein described. Plaintiff
17 will seek leave to amend this Complaint when the true names, capacities, connections and
18 responsibilities of defendants **MAIN STREET CALIFORNIA, INC., STEVEN SHERMAN,**
19 **JOE PANTER, KEN GREEN, dba T.G.I. FRIDAY'S, RECABAREN RANCH**
20 **DEVELOPMENT CO., INC., A CALIFORNIA CORPORATION, and DOES ONE to FIFTY,**
21 **inclusive,** are ascertained.

22
23
24
25 9. Plaintiff is informed and believes that all named defendants, including **DOES**
26 **ONE to FIFTY, inclusive,** conspired to commit the acts described herein, or alternatively,
27 aided and abetted one another in the performance of the wrongful acts hereinafter alleged.

28 10. Defendants **MAIN STREET CALIFORNIA, INC., STEVEN SHERMAN, JOE**
COMPLAINT FOR INJUNCTIVE RELIEF AND DAMAGES 6
DENIAL OF CIVIL RIGHTS

1 **PANTER, KEN GREEN, dba T.G.I. FRIDAY'S, RECABAREN RANCH DEVELOPMENT**
2 **CO., INC., A CALIFORNIA CORPORATION, and DOES ONE to FIFTY, inclusive, are**
3 the owners and operators of "T.G.I. FRIDAY'S" restaurant, located at San Diego, California.
4 This restaurant, including, but not limited to, parking spaces and access aisles and access
5 routes, are each a part of a "public accommodation or facility" subject to the requirements
6 of *California Health & Safety Code* § 19955, *et seq.*, and of *California Civil Code* §§ 51,
7 52(a), 54, 54.1, *et seq.* On information and belief, this "T.G.I. FRIDAY'S" was constructed
8 after 1990 which has subjected the "T.G.I. FRIDAY'S" to handicapped access requirements
9 per *California Health & Safety Code* § 19959, and applicable portions of *California Code*
10 *of Regulations*, Title 24, (the State Building Code).

11
12 11. On or about April 13, 2002 Plaintiff **JAMES COLLINS**, visited the "T.G.I.
13 **FRIDAY'S**" in San Diego, California, for the purpose of dining. Defendants **MAIN STREET**
14 **CALIFORNIA, INC., STEVEN SHERMAN, JOE PANTER, KEN GREEN, dba T.G.I.**
15 **FRIDAY'S, RECABAREN RANCH DEVELOPMENT CO., INC., A CALIFORNIA**
16 **CORPORATION, and DOES ONE to FIFTY, inclusive, interfered with plaintiff's access to**
17 the "T.G.I. FRIDAY'S" as set forth in Paragraph 3 above.

18
19 Said acts and omissions denied plaintiff legal handicapped access to the "T.G.I.
20 **FRIDAY'S**" according to federal and state law.

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

27 13. Defendants, and each of them, discriminated against plaintiff **JAMES**
28 **COLLINS** on the basis of his physical disability, and interfered with his access to the "T.G.I.
COMPLAINT FOR INJUNCTIVE RELIEF AND DAMAGES 7
DENIAL OF CIVIL RIGHTS

1 **FRIDAYS"** establishment, in violation of both California law including, but not limited to,
2 **California Civil Code** §§ 51, 51.5, 54, 54.1, and a violation of Title III, §302, the
3 "Prohibition of Discrimination" provision and §503, the "Prohibition Against Retaliation or
4 Coercion" provision of the **Americans with Disabilities Act of 1990**.

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

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

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

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 to
23 more fully protect 43 million Americans with one or more physical or mental disabilities;
24 [that] historically society has tended to isolate and segregate individuals with disabilities;
25 [that] such forms of discrimination against individuals with disabilities continue to be a
26 serious and pervasive social problem; [that] the nation's proper goals regarding individuals
27 with disabilities are to assure equality of opportunity, full participation, independent living
28

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

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

7
8 It is the purpose of this act (1) to provide a clear and comprehensive
9 national mandate for the elimination of discrimination against individuals with
10 disabilities; (2) to provide clear, strong, consistent, enforceable standards
11 addressing discrimination against individuals with disabilities; (3) to ensure that
12 the Federal government plays a central role in enforcing the standards
13 established in this act on behalf of individuals with disabilities; and (4) to
14 invoke the sweep of Congressional authority, including the power to enforce
15 the 14th Amendment and to regulate commerce, in order to address the major
16 areas of discrimination faced day to day by people with disabilities.

17 18. As part of the **Americans with Disabilities Act of 1990**, Public Law 101-336
18 (hereinafter the "ADA"), Congress passed "Title III - Public Accommodations and Services
19 Operated by Private Entities" (42 USC § 12181 *et seq.*). Among the public
20 accommodations identified for purposes of this title were "a bakery, restaurant, bar or other
21 establishment serving food or drink, grocery store, clothing store, hardware store, shopping
22 center or other sales or rental establishment."

23 19. Pursuant to 42 USC § 12182,

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

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

Denial of participation. It shall be discriminatory to subject an
individual or class of individuals on the basis of a disability or disabilities of
such individual or class, directly, or through contractual, licensing, or other
arrangements, to a denial of the opportunity of the individual or class to

participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations of an entity.

21. Among the general prohibitions against discrimination were included in 42

USC §12182(b)(1)(E):

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

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

22. Among the general prohibitions against discrimination were included in 42

USC § 12182(b)(2)(A)(i) and 42 USC § 12182(b)(2)(A)(ii):

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

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

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

23. Plaintiff alleges that constructing the eligibility requirements, policies, practices and procedure for entry to the "T.G.I. FRIDAY'S" facility by persons with disabilities and their companions as established by the defendants can be simply modified to eliminate disparate and discriminatory treatment of persons with disabilities by properly constructing barrier free handicapped access for safe and full and equal enjoyment of the "T.G.I. FRIDAY'S" as that enjoyed by other people.

1 24. The specific prohibition against retaliation and coercion is included in the
2 **Americans With Disabilities Act of 1990 § 503(b)** and the *Remedies and Procedures* in §
3 503(c):

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

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

13 25. Among the specific prohibitions against discrimination were included, in 42
14 **USC § 12182(b)(2)(a)(iv)**, "A failure to remove architectural barriers, and communications
15 barriers that are structural in nature, in existing facilities...where such removal is readily
16 achievable;" and (v) "where and entity can demonstrate that the removal of a barrier under
17 clause (iv) is not readily achievable, a failure to make such goods, services, facilities,
18 privileges, advantages, or accommodations available through alternative methods if such
19 methods are readily achievable." The acts of Defendants set forth herein were a violations
20 of Plaintiff's rights under the "ADA," Public Law 101-336, and the regulations promulgated
21 thereunder, 28 **CFR** Part 36, *et seq.*

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

26 27. Per 42 **USC § 12181(9)**, "The term 'readily achievable' means easily
27 accomplishable and able to be carried out without much difficulty or expense." The statute
28 and attendant regulations define relative "expense" in relation to the total financial

1 resources of the entities involved, including any "parent" companies. Plaintiff alleges that
2 properly repairing each of the items that Plaintiff complains of herein is readily achievable,
3 including but not limited to correcting and repairing the items set forth in Paragraph 3
4 above.

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

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

24 29. Defendants', and each of their acts and omissions of failing to provide barrier
25 free handicapped access for plaintiff, were tantamount to interference, coercion or
26 intimidation pursuant to **Americans With Disabilities Act of 1990** §503(b) (now 42 **USC** §
27 12203):

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

5 30. Per **Americans With Disabilities Act of 1990** § 308(a)(1) (now 42 **USC** §
6 12188), "Nothing in this section shall require a person with a disability to engage in a futile
7 gesture if such person has actual notice that a person or organization covered by this title
8 does not intend to comply with its provisions." Pursuant to this last section, plaintiff, on
9 information and belief, alleges that defendants have continued to violate the law and deny
10 the rights of plaintiff and other disabled persons to access this public accommodation for
11 the purpose of lodging. Therefore, plaintiff seeks injunctive relief pursuant to §308(a)(2),
12 "...Where appropriate, injunctive relief shall also include requiring the provision of an
13 auxiliary aid or service, modifications of a policy, or provision of alternative methods, to the
14 extent required by this title."

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

21 Wherefore, Plaintiff prays for relief as hereinafter set forth.

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

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

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

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

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

35. Pursuant to the authority delegated by **California Government Code** § 4450, *et seq.*, the State Architect promulgated regulations for the enforcement of these provisions. Effective January 1, 1982, Title 24 of the **California Administrative Code** adopted the California State Architect's Regulations and these regulations must be complied with as to any alterations and/or modifications of the "T.G.I. FRIDAYS" occurring after that date. Construction changes occurring prior to this date but after July 1, 1970

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

8
9 36. Public facilities, such as "T.G.I. FRIDAYS" are public accommodations or
10 facilities within the meaning of *California Health & Safety Code* § 19955, *et seq.*

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

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

26
27 39. The *California Health & Safety Code* was enacted "[t]o ensure that public
28 accommodations or facilities constructed in this state with private funds adhere to the
COMPLAINT FOR INJUNCTIVE RELIEF AND DAMAGES 15
DENIAL OF CIVIL RIGHTS

1 provisions of Chapter 7 (commencing with §4450) of Division 5 of Title 1 of the *Government*
2 *Code.*" Such public accommodations are defined to include restaurants.

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

6 41. Plaintiff **JAMES COLLINS** is informed and believes, and therefore alleges,
7 that Defendants **MAIN STREET CALIFORNIA, INC., STEVEN SHERMAN, JOE PANTER,**
8 **KEN GREEN, dba T.G.I. FRIDAY'S, RECABAREN RANCH DEVELOPMENT CO., INC.,**
9 **A CALIFORNIA CORPORATION, and DOES ONE to FIFTY, inclusive,** and each of
10 them, caused the subject buildings constituting "**T.G.I. FRIDAY'S**" to be constructed,
11 altered and maintained in such a manner that persons with physical disabilities were denied
12 full and equal access to, within and throughout said buildings and were denied full and
13 equal use of said public facilities, and despite knowledge and actual and constructive notice
14 to such Defendants that the configuration of the restaurant and/or buildings was in violation
15 of the civil rights of persons with physical disabilities, such as Plaintiff. Such construction,
16 modification, ownership, operation, maintenance and practices of such public facilities are
17 in violation of law as stated in Part 5.5, ***California Health & Safety Code* § 19955, et seq.,**
18 and elsewhere in the laws of California.

19 42. On information and belief, the subject building constituting the public facilities
20 of "**T.G.I. FRIDAY'S**" denied full and equal access to Plaintiff and other persons with
21 physical disabilities in other respects due to non-compliance with requirement of Title 24 of
22 the ***California Code of Regulations*** and ***California Health & Safety Code* § 19955, et**
23 ***seq.***

24 43. The basis of Plaintiff's aforementioned information and belief is the various
25 means upon which Defendants must have acquired such knowledge, including but not
26 **COMPLAINT FOR INJUNCTIVE RELIEF AND DAMAGES 16**
27 **DENIAL OF CIVIL RIGHTS**
28

1 limited to this lawsuit, other access lawsuits, communications with operators of other
2 restaurants and other property owners regarding denial access, communications with
3 Plaintiff and other persons with disabilities, communications with other patrons who
4 regularly visit there, communications with owners of other businesses, notices and
5 advisories they obtained from governmental agencies through the mails, at seminars,
6 posted bulletins, television, radio, public service announcements, or upon modification,
7 improvement, alteration or substantial repair of the subject premises and other properties
8 owned by these Defendants, newspaper articles and trade publications regarding the
9 **Americans with Disabilities Act of 1990** and other access law, and other similar
10 information. The scope and means of the knowledge of each defendant is within each
11 defendant's exclusive control and cannot be ascertained except through discovery.
12

13 44. As a result of Defendants' acts and omissions in this regard, Plaintiff has
14 been required to incur legal expenses and hire attorneys in order to enforce his civil rights
15 and enforce provisions of the law protecting access for persons with physical disabilities
16 and prohibiting discrimination against persons with physical disabilities, and to take such
17 action both in his own interests and in order to enforce an important right affecting the
18 public interest. Plaintiff, therefore, seeks damages in this lawsuit for recovery of all
19 reasonable attorneys' fees incurred, pursuant to the provisions of the **California Code of**
20 **Civil Procedure** § 1021.5. Plaintiff additionally seeks attorneys' fees pursuant to
21 **California Health & Safety Code** § 19953 and **California Civil Code** §§ 54.3 and 55.
22

23 45. Defendants, and each of them, at times prior to and including April 13, 2002,
24 and continuing to the present time, knew that persons with physical disabilities were denied
25 their rights of equal access to all portions of this public facility. Despite such knowledge,
26 Defendants failed and refused to take steps to comply with the applicable access statutes;
27 and despite knowledge of the resulting problems and denial of civil rights thereby suffered
28

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

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

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

27 48. As a result of the actions and failure of Defendants, and each of them, and as
28 a result of the failure to provide proper accessible public facilities, Plaintiff **JAMES**
COMPLAINT FOR INJUNCTIVE RELIEF AND DAMAGES 18
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1 **COLLINS** was denied his civil rights, including his right to full and equal access to public
2 facilities, was embarrassed and humiliated, suffered physical, psychological and mental
3 injuries and emotional distress, mental distress, mental suffering, mental anguish, which
4 includes shame, humiliation, embarrassment, anger, chagrin, disappointment and worry,
5 expectedly and naturally associated with a person with a physical disability being denied
6 access to a public accommodation.

7 WHEREFORE, Plaintiff prays for damages as hereinafter stated.

8
9 **III. THIRD CAUSE OF ACTION**
10 **VIOLATION OF CALIFORNIA'S CIVIL RIGHTS ACTS**
11 **(California Civil Code §§ 54, 54.1 and 54.3)**

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

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

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

25
26 Individuals with disabilities shall have the same right as the...general
27 public to full and free use of the streets, highways, sidewalks, walkways, public
28 buildings, public facilities, and other public places. **California Civil Code §**
54(a).

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

12 52. On or about April 13, 2002, Plaintiff **JAMES COLLINS** suffered violations of
13 **California Civil Code §§ 54 and 54.1** in that he was denied full and equal enjoyment of the
14 goods, services, facilities and privileges of said **T.G.I. FRIDAY'S** by being denied access to
15 all of the dining areas of the restaurant and inadequate restroom facilities for persons in a
16 wheelchair, all as set forth in paragraph 3 above.

17 Plaintiff was also denied full and equal access to other particulars, including, but not
18 limited to, those described hereinabove. Plaintiff was also denied use of facilities that he
19 was entitled to under Title III of the **Americans with Disabilities Act of 1990**.

20 53. As a result of the denial of full and equal enjoyment of the goods, services,
21 facilities and privileges of defendants' **T.G.I. FRIDAY'S** due to the acts and omissions of
22 defendants, and each of them, in owning, operating and maintaining this subject public
23 facility, plaintiff suffered violations of his civil rights, including, but not limited to, rights under
24 **California Civil Code §§ 54, 54.1, and 54.3**, and has and will suffer physical injury,
25 emotional distress, mental distress, mental suffering, mental anguish, which includes
26 shame, humiliation, embarrassment, anger, chagrin, disappointment and worry, expectedly
27 and naturally associated with a disabled person's denial of full and equal enjoyment of
28 goods, services, privileges, etc. all to his damages as prayed hereinafter in an amount
discrimination against plaintiff on the sole basis that plaintiff was physically disabled.

1 54. Plaintiff seeks damages for the violation of his rights as a disabled person on
2 or about April 13, 2002, according to proof, pursuant to **California Civil Code** § 54.3,
3 including a trebling of all statutory and actual damages, general and special, available
4 pursuant to **California Civil Code** § 54.3(a).

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

17 56. The acts and omissions of defendants in failing to provide the required
18 accessible facilities subsequent to the enactment date and compliance date of the
19 **Americans with Disabilities Act of 1990**, and refusal to make remedial modifications and
20 alterations to its handicapped parking, handicapped signage, pathways, and other
21 elements as hereinabove stated, after being notified by patrons before and after the time of
22 plaintiff's visit and injuries, on or about April 13, 2002, and all times prior thereto with the
23 knowledge that persons with disabilities would enter defendants' premises, the reason
24 given therefor, was an established policy, practice and procedure of refusing and denying
25 entry, thereby denying lodging and other services to a person with disabilities and the

1 companions thereof, evidence malice and oppression toward plaintiff and other disabled
2 persons.

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

12 58. Defendants have failed to establish a nondiscriminatory criteria, policy,
13 practice and procedure for entry into said "T.G.I. FRIDAY'S" as hereinabove described.
14

15 59. As a result of defendants' continuing failure to provide for the full and equal
16 enjoyment of goods, services, facilities and privileges of said "T.G.I. FRIDAY'S" as
17 hereinabove described, plaintiff has continually been denied his rights to full and equal
18 enjoyment of the subject restaurant, as it would be a "futile gesture" to attempt to patronize
19 said "T.G.I. FRIDAY'S" with the discriminatory policy in place as hereinabove described.
20

21 60. The acts and omissions of defendants as complained of herein in failing to
22 provide the required accessible facilities subsequent to the enactment date and compliance
23 date of the **Americans with Disabilities Act of 1990** and refusal to make remedial
24 modifications and alternations to the architectural barriers as stated herein and in failing to
25 establish practices, policies and procedures to allow safe access by persons who are
26 disabled are continuing on a day-to-day basis to have the effect of wrongfully and willfully
27 excluding plaintiff and other members of the public who are physically disabled, from full
28 and equal enjoyment of the subject "T.G.I. FRIDAY'S" as hereinabove described. Such

1 acts and omissions are the continuing cause of humiliation and mental and emotional
2 suffering of plaintiff in that these actions continue to treat plaintiff as an inferior and second
3 class citizen and serve to discriminate against him on the sole basis that he is a physically
4 disabled. Plaintiff is unable, so long as such acts and omissions of defendants continue, to
5 achieve full and equal enjoyment of the goods and services of said "T.G.I. FRIDAY'S" as
6 described hereinabove. The acts of defendants have legally caused and will continue to
7 cause irreparable injury to plaintiff if not enjoined by this court.
8

9 61. Wherefore, plaintiff asks this court to preliminarily and permanently enjoin any
10 continuing refusal by defendants to permit entry to said "T.G.I. FRIDAY'S" and to serve
11 plaintiff or others similarly situated, and to require defendants to comply forthwith with the
12 applicable statutory requirements relating to the full and equal enjoyment of goods and
13 services as described hereinabove for disabled persons. Such injunctive relief is provided
14 by *California Civil Code* § 55. Plaintiff further requests that the court award statutory
15 costs and attorneys' fees to plaintiff pursuant to *California Civil Code* § 55 and *California*
16 *Code of Civil Procedure* § 1021.5, all as hereinafter prayed for.
17

18 WHEREFORE, plaintiff prays for compensatory damages, reasonable attorneys'
19 fees and costs of suit, as allowed by statute and according to proof, and appropriate
20 exemplary damages.
21

22 **IV. FOURTH CAUSE OF ACTION**
23 **VIOLATIONS OF UNRUH CIVIL RIGHTS ACT**
24 **(California Civil Code §§ 51 and 51.5)**

25 62. Plaintiff repleads and incorporates by reference, as if fully set forth again
26 herein, the allegations contained in paragraphs 1 through 61 of this Complaint and
27 incorporates them herein as if separately repled.
28

63. Defendants' acts and omissions as specified with regard to the discriminatory
treatment of plaintiff **JAMES COLLINS** on the basis of his physical disabilities, have been

1 in violation of **California Civil Code** §§ 51 and 51.5, the **Unruh Civil Rights Act**, and have
2 denied to plaintiff his rights to "full and equal accommodations, advantages, facilities,
3 privileges or services in all business establishments of every kind whatsoever."

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

7 65. **California Civil Code** § 51.5 also provides that

8 "[n]o business establishment of any kind whatsoever shall discriminate
9 against, boycott, or blacklist, refuse to buy from, sell to, or trade with any
10 person in this state because of the race, creed, religion, color, national origin,
11 sex, disability of the person or of the person's partners, members,
12 stockholders, directors, officers, managers, superintendents, agents,
employees, business associates, suppliers, or customers."

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

21 WHEREFORE, Plaintiff prays that this court award damages and provide relief as
22 follows:

23 **PRAYER FOR RELIEF**

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

25 1. Grant injunctive relief requiring that defendants establish a non-discriminatory
26 criteria policy, practice and procedure permitting entry into the **T.G.I. FRIDAY'S** in San
27 Diego, California, for the receipt of food and beverage service according to **California Civil**
28

1 **Code** §§ 51, 51.5, 52, 54, 54.1, 54.3, *et seq.*, and Title III of the **Americans with**
2 **Disabilities Act of 1990**, and grant injunctive relief requiring that Defendants repair and
3 render safe to handicapped persons, and otherwise make handicapped-accessible, all
4 public areas of the restaurant, and make such facilities "readily accessible to and usable by
5 individuals with disabilities," according to the standards of Title 24 of the **California**
6 **Administrative Code, California Health & Safety Code** § 19955 *et seq.*, and Title III of
7 the **Americans with Disabilities Act of 1990** and the standards of **ADAAG**; and
8 prohibiting operation of the **T.G.I. FRIDAY'S, RECABAREN RANCH DEVELOPMENT**
9 **CO., INC., A CALIFORNIA CORPORATION**, located in San Diego, California, as a public
10 facility until Defendants provide full and equal enjoyment of goods and services as
11 described hereinabove to physically disabled persons, including Plaintiff;

13 2. General damages according to proof;

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

18 4. Prejudgment interest on all compensatory damages;

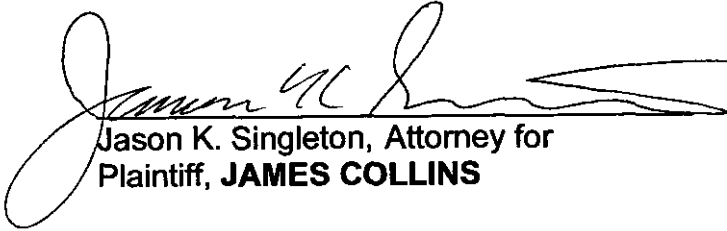
19 5. Punitive and exemplary damages pursuant to the standards and purposes of
20 **California Civil Code** § 3294;

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

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

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

Dated: May 8, 2002

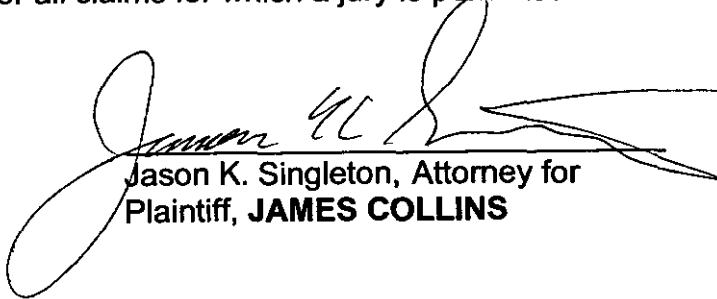


Jason K. Singleton, Attorney for
Plaintiff, **JAMES COLLINS**

REQUEST FOR JURY TRIAL

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

Dated: May 8, 2002



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

(Rev. 07/89)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

FILED
02 MAR 10 AM 9:59
CLERK OF DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

I (a) PLAINTIFFS

JAMES COLLINS

DEFENDANTS

MAIN STREET CALIFORNIA, INC., STEVEN SHERMAN, JOE PANTER, KEN GREEN, dba T.G.I. FRIDAY'S, RECA BAREN RANCH DEVELOPMENT CO., INC., a California corporation and DOES ONE through FIFTY inclusive
COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT (IN U.S. PLAINTIFF CASES ONLY)

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF
(EXCEPT IN U.S. PLAINTIFF CASES)

RIVERSIDE

3Y:

DEPUTY
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

JASON K. SINGLETON
611 "L" Street, Suite A
Eureka, CA 95501
(707) 441-1177

ATTORNEYS (IF KNOWN)

02cv965-WLRBBJ

II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) (For Diversity Cases Only)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PT | DEF | | PT | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY).

28 USC §1331, Violations of the Americans With Disabilities Act of 1990, 42 USC §12101 et seq. 42:12101

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reappointment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury-Medical Malpractice	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC881	PROPERTY RIGHTS	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 450 Commerce/ICC Rates/etc.
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	PERSONAL PROPERTY	<input type="checkbox"/> 640 RR & Truck	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 650 Airline Regs	SOCIAL SECURITY	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 660 Occupational Safety/Health	<input type="checkbox"/> 861 HIA (13958)	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 153 Recovery of Overpayment of Veterans Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 850 Securities/Commodities Exchange
<input type="checkbox"/> 160 Stockholders Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 385 Property Damage Product Liability	LABOR	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 875 Customer Challenge 12 USC
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 195 Contract Product Liability	CIVIL RIGHTS	<input type="checkbox"/> 530 General	<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 865 RSI (405(e))	<input type="checkbox"/> 892 Economic Stabilization Act
REAL PROPERTY	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	FEDERAL TAX SUITS	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 230 Rent Lease & Eiectmant	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 555 Prisoner Conditions	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 240 Tort to Land	<input checked="" type="checkbox"/> 440 Other Civil Rights				<input type="checkbox"/> 950 Constitutionality of State
<input type="checkbox"/> 245 Tort Product Liability					<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 290 All Other Real Property					

VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

- 1 Original Proceeding
- 2 Removal from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$150,000.00

Check YES only if demanded in complaint:

JURY DEMAND: YES NO

VIII. RELATED CASE(S) IF ANY (See Instructions):

JUDGE

Docket Number

DATE 5/8/02

SIGNATURE OF ATTORNEY OF RECORD

#082609 \$150.00 ftd