

**ORIGINAL**

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

**Attorneys for Plaintiff, JAMES COLLINS**

H/S  
JAN 2 2002  
FILED

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

**JAMES COLLINS,**  
**Plaintiff,**

**v.**

**INDRAKANT MANIBHAI PATEL,**  
**dba ROYAL PLAZA INN and**  
**CACTUS JACK'S RESTAURANT,**  
**and DOES ONE TO TEN, inclusive,**  
**Defendants.**

) **Case No.** CV 02-9875 FMC (RZY)  
)  
) **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**

Plaintiff **JAMES COLLINS** complains of defendants **INDRAKANT MANIBHAI PATEL, dba ROYAL PLAZA INN and CACTUS JACK'S RESTAURANT, and DOES ONE TO TEN, inclusive,** and alleges as follows:

**JURISDICTION AND VENUE**

ENTERED ON 10 15  
JAN - 2 2002  
CV

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

1

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

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

10 **INTRODUCTION**

11 3. The **ROYAL PLAZA INN/CACTUS JACK'S RESTAURANT** is located  
12 at 82347 Highway 111, Indio, California. Said inn/restaurant is owned and operated by  
13 defendants **INDRAKANT MANIBHAI PATEL, dba ROYAL PLAZA INN and**  
14 **CACTUS JACK'S RESTAURANT, and DOES ONE TO TEN, inclusive.**

17 Defendants **INDRAKANT MANIBHAI PATEL, dba ROYAL PLAZA INN and**  
18 **CACTUS JACK'S RESTAURANT, and DOES ONE TO TEN, inclusive,** operate an  
19 establishment for services to the public and at which Defendants failed to provide barrier  
20 free access to said establishment in conformity with both Federal and California legal  
21 requirements. Further, Defendants failed to provide compliance as follows:

24 **ROYAL PLAZA INN**

25 **Exterior Survey:**

26 1) There is not a complying path of travel from the public sidewalk to the  
27 building entrance, the only pedestrian access is via the driveway and parking lot in  
28

1 violation of California Title 24 § 1127B.1, § 1127B.1.2, ADAAG § 4.3, § 4.1.2.

2 2) One designated parking space in front of office.

3 a. Space is not van accessible in violation of California Title 24 §  
4 1129B.4.2, ADAAG 4.6.3\*

5  
6 b. The stripping is faded in violation of California Title 24 § 1129B.4.1.

7  
8 Fig 11B-18B

9 c. There are over 100 parking spaces but only one designated for people  
10 with disabilities in violation of California Title 24 § 1129B.1

11 d. The access aisle does not contain the wording "NO PARKING" in  
12 violation of California Title 24 § 1129B.4.1, Fig 11B-18A,B,C.

13  
14 3) The level path of travel from the lobby leads directly into a vehicular  
15 driveway without a detectable warning surface in violation of California Title 24 §§  
16 1133B.8.3 thru 1133B.8.5, § 1127B.5.8, Fig 11B-23A

17  
18 4) Main entry doors going into the lobby provide a 26 ½" wide clear opening,  
19 with one door open 90 ° in violation of California Title 24 § 1133B.2.3.1

20  
21 5) Curbramp. To North side of swimming pool

22 a. The running slope exceeds 10% in violation of California Title 24 §  
23 1127B.5.3, ADAAG 4.7.2 & 4.8.2.

24 b. The curbramp is less than 48" wide in violation of California Title 24 §  
25 1127B.5.2.

26  
27 c. The side flares exceed 18% slope in violation of California Title 24 §  
28

1 1127B.5.3

2 d. There is no 12" wide grooved surface across the top in violation of  
3 California Title 24 § 1127B.5.7

4 e. Does not have a level top landing in violation of California Title 24 §  
5 1127B.5.4

6  
7 6) Curb Ramp. From South parking lot to designated room.

8 a. It is 3' wide by 3' long in violation of California Title 24 § 1127B.5.2.

9 b. There is up to a 5" drop on the sides in violation of California Title 24  
10 § 1127B.5.3, § 1133B.8.1, Fig 11B-27(b)

11 c. Running slope exceeds 12% in violation of California Title 24 §  
12 1133B.5.3

13 7) Exterior Door. From South side parking lot.

14 a. There is only a 19" space at strike edge of door on pull side in violation  
15 of California Title 24 § 1133B.2.4.3. Fig 11B-26A. ADAAG 4.13.6

16 b. The door only has a 4" high smooth surface at the bottom in violation  
17 of California Title 24 § 1133B.2.6, Fig 11B-29

18 8) Gate to pool area. East side.

19 a. There is no 10" high smooth surface in violation of California Title 24  
20 § , Fig 11B-29

21 b. There is no 24" clear space at strike side in violation of California Title  
22 24 § 1133B.2.4.3. Fig 11B-26A, ADAAG 4.13.6  
23  
24  
25  
26  
27  
28

1 9) Wooden Ramp to Recreation Center / Meeting Rooms / Restrooms adjacent  
2 to pool. This is a dangerous, non-complying, portable ramp and is in the only path of  
3 travel to the Recreation Center, Meeting Rooms, and Restrooms.  
4

5 a. The Running slope exceeds 10% in violation of California Title 24 §  
6 1133B.5.3  
7

8 b. There are no handrails and the elevation change exceeds 6" in violation  
9 of California Title 24 § 1133B.5.5.1  
10

11 c. The top landing is non-complying in violation of California Title 24 §  
12 1133B.5.4.3, § 1003.3.4.4., Fig 11B-38 & 39.  
13

14 10) The entry Door to Recreation Center / Meeting Rooms / Restrooms.  
15

16 a. The door opening hardware is non-complying in violation of California  
17 Title 24 § 1133B.2.5.1, ADAAG 4.13.9  
18

19 b. The threshold is in violation of California Title 24 § 1133B.2.4.1 &  
20 1003.3.1.6.1  
21

22 11) The restrooms serving the Recreation Center / Meeting Rooms / Pool are  
23 totally non-accessible in violation of California Title 24 § 1115B.1  
24

25 12) Two Exterior Doors. To East side corridors by swimming pool and in front of  
26 room 112.  
27

28 a. There is a 17" and 18" space at strike edge of door on pull side in  
violation of California Title 24 § 1133B.2.4.3., Fig 11B-26A, ADAAG 4.13.6  
29

b. The door only has a 4" high smooth surface at the bottom in violation  
30

1 of California Title 24 § 1133B.2.6, Fig 11B-29

2 **Motel Interior, Lobby.**

3 13) Registration counter in office is 40" high, the lower section is filled items that  
4 block access to the counter top in violation of California Title 24 § 1122B.4

5 14) Stairs in corridor next to lobby by vending machines.

6 a. The handrails are non-compliant in violation of California Title 24 §  
7 1003.3.3.6.1a, §1133B.4.2.1. Fig 11B-35

8 b. There are open risers in violation of California Title 24 § 1133B.4.5.3.  
9 Fig 11B-35

10 c. There are no tread markings in violation of California Title 24 §  
11 1133B.4.4. Fig 11B-35

12 d. The sloping stairs vary from 0 to 90" high without a rail to prevent a  
13 blind person from walking into the stair stringer in violation of California Title 24 §  
14 1121B.2. Fig 11B-7A

15 15) All rooms including guestrooms have round knobs in violation of California  
16 Title 24 § 1133B.2.5.1, ADAAG 4.13.9

17 16) Room signage is non-complying in violation of California Title 24 § 1117.5B,  
18 ADAAG § 4.30

19 **Corridor.** East side of motel.

20 17) Fire extinguisher boxes extend 6" off the wall and are 25" high in violation of  
21 California Title 24 § 1121B.1. Fig 11B-7A , ADAAG 4.4

1 18) Fire pull is 5' high and blocked access by fire extinguisher box in violation of  
2 California Title 24 § 1117B.6.3

3 19) Stairs in front of room 126.

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

6 b. There are no tread markings in violation of California Title 24 § in  
7 violation of California Title 24 § 1133B.4.4, Fig 11B-35

8 c. There are open risers in violation of California Title 24 § 1133B.4.5.3,  
9 Fig 11B-35

10 20) Soap dispensers at laundry machines are 55" high in violation of California  
11 Title 24 § 1117B.6.3

12 21) **Guest Room. Room 155**

13 **Entry door.**

14 a. There is non-complying signage in violation of California Title 24 §  
15 1117B.5.1, ADAAG 4.30

16 b. The door has a round knob in violation of California Title 24 §  
17 1133B.2.5.1, ADAAG 4.13.9

18 c. There is only a 3" clear space at the strike side of the door in violation  
19 of California Title 24 § 1133B.2.4.3. Fig 11B-26A, ADAAG 4.13.6

20 d. Night lock is 61" high in violation of California Title 24 § 1133B.2.5.1,  
21 ADAAG 4.13.9

1 e. Dead bolt is 47" high in violation of California Title 24 § 1133B.2.5.1

2 f. Peep hole is 62" high in violation of California Title 24 § 1111B.4

3  
4 **Room interior.**

5 g. The only telephone is on the dresser across from bed in violation of  
6 California Title 24 § 1111B.4

7 h. Lamp beside bed has a grasp and twist on/off switch in violation of  
8 California Title 24 § 1117B.6.4 & 1507.2a

9 i. There is only 35" between beds in violation of California Title 24 §  
10 1111B.4.3

11 j. The dresser does not have complying opening handles in violation of  
12 California Title 24 § 1118B.5 & 1118B.6, 1125B.4\*

13 k. Thermostat controls are 60" high in violation of California Title 24 §  
14 1117B.6.3, ADAAG 380-8(c), 210-50(e)

15 l. Electrical receptacles are 13" high in violation of California Title 24 §  
16 1117B.6.3, ADAAG 210-50(e)

17 m. No visual emergency warning devices or text-type telephones in  
18 violation of California Title 24 § 1111B.4.5.2, § 1114B.2.4 & 7204(a)

19 n. Room is not sprinkled.

20 o. Sliding glass patio door has up to a 2" high vertical threshold in  
21 violation of California Title 24 § 1133B.2.4.1 & 1003.3.1.6.1a.

22 p. Table is 25" high, and base prevents access in violation of California  
23  
24  
25  
26  
27  
28

1 Title 24 § 1122B.3. Fig 11B-13, ADAAG 4.32

2 q. There is not a clear space under the bed to accommodate a lift in  
3 violation of California Title 24 § 1111B.4.3

4  
5 r. There is not a 36" wide path of travel to the table or sliding glass door  
6 to the patio in violation of California Title 24 § 1111B.4

7  
8 **Bathroom**

9 Vestibule with lavatory and closet.

10 s. There is only a 32" clear opening to the vestibule in violation of  
11 California Title 24 § 1133B.2.4.3.

12  
13 t. There is 23 ½" underneath, and 31 ½" to the top of the lavatory in  
14 violation of California Title 24 § 1504.1, ADAAG 4.19.1

15  
16 u. The hot water and drain lines are not insulated in violation of California  
17 Title 24 § 1504.2, ADAAG 4.19.4

18  
19 v. Faucets are grasp and twist type in violation of California Title 24 §  
20 1504.3

21  
22 w. Clothes rack is 65" high in violation of California Title 24 § 1118B.5 &  
23 1118B.6.

24  
25 x. Shelf is 68 ½" high in violation of California Title 24 § 1118B.5 &  
26 1118B.6.

27 **Water closet. (5' wide by 4'10" long.)**

28 y. Door to room has a round knob in violation of California Title 24 §

1 1133B.2.5.1ADAAG4.13.9

2 z. There is only 37" in direction of door swing at strike side of door in  
3 violation of California Title 24 § 1115B.4.2, 1133B.2.4, & .3.1, Fig 11B-26A & B

4  
5 aa. There is 29" in front of the water closet in violation of California Title  
6 24 § 1115B.7.2. Fig 11B-1A

7  
8 bb. There is 24" to centerline of water closet in violation of California Title  
9 24 § 1115B.7.2. Fig 11B-1A

10 cc. Flush valve is on the narrow side in violation of California Title 24 §  
11 1502, ADAAG 4.16.5\*

12  
13 dd. Only one 12" long grab bar on side in violation of California Title 24 §  
14 1115B.8.1. Fig 11B-1A, B, & C

15  
16 **Bathtub**

17 ee. There is 27 ½" beside the tub in violation of California Title 24 §  
18 1115B.6.1.1. Fig 11B-8

19 ff. Tub has grasp and twist faucet in violation of California Title 24 §  
20 1115B.6.1.4. Fig 11B-9B

21 gg. There are no grab bars in violation of California Title 24 § 1115B.8.2  
22 through 1115B.8.4. §1115B.6.1.3. Fig 11B-9A & 9B

23  
24 hh. Handheld shower device in violation of California Title 24 §  
25 1115B.6.1.5 & 1506. Fig 11B-9B

26  
27 ii. No permanent seat in violation of California Title 24 § 1115B.8.3.  
28

1 §1115B.6.1.2. Fig 11B-8 & 9B

2 jj. Towel rack is 49" high in violation of California Title 24 § 1118B.5

3 22) There are no rooms that accommodate people with hearing disabilities in  
4 violation of California Title 24 § 1111B.4.5, Table 11B-4

5 23) We were told there were no assistive lifting device too assist people with  
6 mobility disabilities into the swimming pool in violation of California Title 24 §  
7 1104B.4.3  
8  
9

## 10 CACTUS JACK'S RESTAURANT

### 11 Exterior Survey:

12 1) Two designated parking spaces. Ramp runs into access isle with a sloping 0"  
13 to 1 3/4" elevation change in violation of California Title 24 § 1129B.4.3. Fig 11B-18A, B,  
14 & C  
15  
16

### 17 Interior Survey.

18 1) ...Men's restroom.

#### 19 Vestibule

20 a. Vestibule is only 3'4" wide by 7' long in violation of California Title  
21 24 § 1133B.2.4.4, Figs 11B-30 & 31  
22

23 b. Vestibule entry door does not have strike side clearance in violation of  
24 California Title 24 § 1133B.2.4.3. Fig 11B-26A, ADAAG 4.13.6  
25

26 c. All three vestibule and bathroom entry doors exceed 5 pounds pull in  
27 violation of California Title 24 § 1133B.2.5, ADAAG 4.13.11  
28

1 **Bathroom Entry door**

2 d. There is no strike side clearance on pull side of door in violation of  
3 California Title 24 § 1133B.2.4.3. Fig 11B-26A, ADAAG 4.13.6  
4

5 **Lavatory**

6 e. The lavatory only has 28 ½" underneath and 36" to the top in violation  
7 of California Title 24 § 1504.1, ADAAG 4.19.1  
8

9 f. The hot water drain lines are not insulated in violation of California  
10 Title 24 § 1504.2, ADAAG 4.19.4  
11

12 g. The soap dispenser is 42" high in violation of California Title 24 §  
13 1115B.9.1.2, ADAAG 4.27.3\*  
14

15 h. The paper towel dispensers are 55" and 59" high in violation of  
16 California Title 24 § 1115B.9.1.2, ADAAG 4.27.3\*  
17

18 i. Faucets are grasp and twist type in violation of California Title 24 §  
19 1504.3  
20

21 **Urinal**

22 j. Access to urinal is 24" wide for more than 24" in violation of  
23 California Title 24 § 1115B.9.4,  
24

25 k. Urinal lip is 24" high in violation of California Title 24 § 1503.1,  
26 ADAAG 4.19.4  
27

28 l. Flush valve is 51" high in violation of California Title 24 § 1503,  
1503.2

1 m. The urinal extends 13" off the wall in violation of California Title 24 §  
2 503.1, ADAAG 4.19.4

3 **Water closet.** Stall with grab bar.

4  
5 n. The larger stall is only 35½" wide in violation of California Title 24 §  
6 1115B.7.1.3, Fig 11B-1B

7  
8 o. There is only 16½" to the centerline from the wall in violation of  
9 California Title 24 § 1115B.7.1.3, Fig 11B-1B

10 p. There is only 28" in front of the water closet in violation of California  
11 Title 24 § 1115B.7.1.4, Fig 11B-1B

12  
13 q. There are no opening handles on stall door in violation of California  
14 Title 24 § 1115B.7.1.4

15  
16 r. The toilet seat is only 16" high in violation of California Title 24 §  
17 1502, ADAAG 4.16.3\*

18 s. The flush valve is on the narrow side in violation of California Title 24  
19 § 1502, ADAAG 4.16.5\*

20  
21 t. The toilet paper dispenser is 38" high in violation of California Title 24  
22 § 1115B.9.3

23  
24 u. The seat cover dispenser is 56" high and is not on an accessible route in  
25 violation of California Title 24 § 1115B.9.1.2

26  
27 v. There is only one 42" long grab bar on the side in violation of  
28 California Title 24 § 1115B.8.1. Fig 11B-1A, B, & C



1 franchisers and/or franchisees, of public facilities known as the "ROYAL PLAZA  
2 INN/CACTUS JACK'S RESTAURANT" located at Indio, California, subject to the  
3 requirements of California state law requiring full and equal access to public facilities  
4 pursuant to *California Health & Safety Code* § 19955, *et seq.*, *California Civil Code* §§  
5 51, 51.5, 52(a), 52.1, 54, 54.1, 54.3 and 55, and subject to Title III of the *Americans with*  
6 *Disabilities Act of 1990*, and to all other legal requirements referred to in this Complaint.  
7  
8 Plaintiff does not know the relative responsibilities of defendants in the operation of the  
9 facilities herein complained of, and alleges a joint venture and common enterprise by all  
10 such defendants.  
11

12  
13 6. Defendants **INDRAKANT MANIBHAI PATEL, dba ROYAL PLAZA**  
14 **INN and CACTUS JACK'S RESTAURANT, and DOES ONE TO TEN, inclusive**  
15 (hereinafter alternatively referred to collectively as "defendants"), at all times relevant  
16 herein were and are owners, possessors, builders and keepers of the "ROYAL PLAZA  
17 **INN/CACTUS JACK'S RESTAURANT"** in Indio, California.  
18

19  
20 7. Defendants **INDRAKANT MANIBHAI PATEL, dba ROYAL PLAZA**  
21 **INN and CACTUS JACK'S RESTAURANT, and DOES ONE TO TEN, inclusive,** are  
22 the owners and operators of the subject "**ROYAL PLAZA INN/CACTUS JACK'S**  
23 **RESTAURANT"** at all times relevant to this Complaint. Plaintiff is informed and  
24 believes that each of the defendants herein is the agent, employee or representative of each  
25 of the other defendants, and performed all acts and omissions stated herein within the  
26 scope of such agency or employment or representative capacity and is responsible in some  
27  
28

1 manner for the acts and omissions of the other defendants in legally causing the damages  
2 complained of herein, and have approved or ratified each of the acts or omissions of each  
3 other defendant, as herein described.  
4

5 8. Plaintiff **JAMES COLLINS** does not know the true names and capacities of  
6 defendants **INDRAKANT MANIBHAI PATEL, dba ROYAL PLAZA INN and**  
7 **CACTUS JACK'S RESTAURANT, and DOES ONE TO TEN, inclusive,** their  
8 business capacities, their ownership connection to the property and business, nor their  
9 relative responsibilities in causing the access violations herein complained of, and alleges  
10 a joint venture and common enterprise by all such defendants. Plaintiff is informed and  
11 believes that each of the defendants herein, including **DOES ONE TO TEN, inclusive,** is  
12 the agent, ostensible agent, master, servant, employer, employee, representative,  
13 franchiser, franchisee, joint venturer, partner, and associate, or such similar capacity, of  
14 each of the other defendants, and was at all times acting and performing, or failing to act  
15 or perform, with the authorization, consent, permission or ratification of each of the other  
16 defendants, and is responsible in some manner for the acts and omissions of the other  
17 defendants in legally causing the violations and damages complained of herein, and have  
18 approved or ratified each of the acts or omissions of each other defendant, as herein  
19 described. Plaintiff will seek leave to amend this Complaint when the true names,  
20 capacities, connections and responsibilities of defendants **INDRAKANT MANIBHAI**  
21 **PATEL, dba ROYAL PLAZA INN and CACTUS JACK'S RESTAURANT, and**  
22 **DOES ONE TO TEN, inclusive,** are ascertained.  
23  
24  
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1           9. Plaintiff is informed and believes that all named defendants, including DOES  
2 ONE TO TEN, inclusive, conspired to commit the acts described herein, or alternatively,  
3 aided and abetted one another in the performance of the wrongful acts hereinafter alleged.  
4

5           10. Defendants **INDRAKANT MANIBHAI PATEL, dba ROYAL PLAZA**  
6 **INN and CACTUS JACK'S RESTAURANT, and DOES ONE TO TEN, inclusive,** are  
7 the owners and operators of "**ROYAL PLAZA INN/CACTUS JACK'S**  
8 **RESTAURANT**" located at Indio, California. This establishment, including, but not  
9 limited to, parking spaces and access aisles and access routes, are each a part of a "public  
10 accommodation or facility" subject to the requirements of *California Health & Safety*  
11 *Code* § 19955, *et seq.*, and of *California Civil Code* §§ 51, 52(a), 54, 54.1, *et seq.* On  
12 information and belief, this "**ROYAL PLAZA INN/CACTUS JACK'S**  
13 **RESTAURANT**" was constructed after 1990, which subjects it to handicapped access  
14 requirements per *California Health & Safety Code* § 19959, and applicable portions of  
15 *California Code of Regulations*, Title 24, (the State Building Code).  
16  
17  
18

19           11. On or about August 5, 2002, Plaintiff **JAMES COLLINS**, visited the  
20 "**ROYAL PLAZA INN/CACTUS JACK'S RESTAURANT**" in Indio, California for  
21 the purpose of obtaining accommodations. Defendants **INDRAKANT MANIBHAI**  
22 **PATEL, dba ROYAL PLAZA INN and CACTUS JACK'S RESTAURANT, and**  
23 **DOES ONE TO TEN, inclusive,** interfered with Plaintiff's access to the "**ROYAL**  
24 **PLAZA INN/CACTUS JACK'S RESTAURANT**" establishment as set forth in  
25  
26  
27  
28 Paragraph 3 above.

1 Said acts and omissions denied Plaintiff legal handicapped access to the "ROYAL  
2 PLAZA INN/CACTUS JACK'S RESTAURANT" according to federal and state law.

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

9  
10 13. Defendants, and each of them, discriminated against Plaintiff JAMES  
11 COLLINS on the basis of his physical disability, and interfered with his access to the  
12 "ROYAL PLAZA INN/CACTUS JACK'S RESTAURANT" establishment, in  
13 violation of both California law including, but not limited to, *California Civil Code* §§ 51,  
14 51.5, 54, 54.1, and a violation of Title III, §302, the "Prohibition of Discrimination"  
15 provision and §503, the "Prohibition Against Retaliation or Coercion" provision of the  
16 *Americans with Disabilities Act of 1990*.

17  
18  
19  
20 14. As a result of the actions and failure to act of defendants, and each of them,  
21 and as a result of the failure to provide appropriate handicapped parking, proper  
22 handicapped signage, proper handicapped accessible entryways, and handicapped  
23 accommodations, Plaintiff JAMES COLLINS suffered and will suffer a loss of his civil  
24 rights to full and equal access to public facilities, and further suffered and will suffer  
25 emotional distress, mental distress, mental suffering, mental anguish, which includes  
26 shame, humiliation, embarrassment, anger, chagrin, disappointment and worry, expectedly  
27  
28

1 and naturally associated with a person with a physical disability being denied access to a  
2 public accommodation, all to his damages as prayed hereinafter in an amount within the  
3 jurisdiction of this court.  
4

5 **I. FIRST CAUSE OF ACTION:**  
6 **VIOLATION OF *THE AMERICANS WITH DISABILITIES ACT OF 1990***  
7 **(42 USC §12101 *et seq.*)**

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

11 16. Pursuant to law, in 1990 the United States Congress made findings per 42  
12 USC § 12101 regarding persons with physical disabilities, finding that laws were needed  
13 to more fully protect 43 million Americans with one or more physical or mental  
14 disabilities; [that] historically society has tended to isolate and segregate individuals with  
15 disabilities; [that] such forms of discrimination against individuals with disabilities  
16 continue to be a serious and pervasive social problem; [that] the nation's proper goals  
17 regarding individuals with disabilities are to assure equality of opportunity, full  
18 participation, independent living and economic self-sufficiency for such individuals; [and  
19 that] the continuing existence of unfair and unnecessary discrimination and prejudice  
20 denies people with disabilities the opportunity to compete on an equal basis and to pursue  
21 those opportunities for which our free society is justifiably famous.  
22

23 17. Congress stated as its purpose in passing the *Americans with Disabilities Act*  
24 *of 1990* (42 USC § 12102):  
25  
26  
27  
28

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

10           18. As part of the *Americans with Disabilities Act of 1990*, Public Law 101-336  
11 (hereinafter the "ADA"), Congress passed "Title III - Public Accommodations and  
12 Services Operated by Private Entities" (42 *USC* § 12181 *et seq.*). Among the public  
13 accommodations identified for purposes of this title were "an inn, hotel, motel, or other  
14 place of lodging. . ." and "a restaurant, bar, or other establishment serving food or drink."

15           19. Pursuant to 42 *USC* § 12182,

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

21           20. Among the general prohibitions against discrimination were included in 42  
22  
23  
24  
25  
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28

1 **USC §12182(b)(1)(A)(i):**

2           **Denial of participation.** It shall be discriminatory to subject an  
3 individual or class of individuals on the basis of a disability or disabilities of  
4 such individual or class, directly, or through contractual, licensing, or other  
5 arrangements, to a denial of the opportunity of the individual or class to  
6 participate in or benefit from the goods, services, facilities, privileges,  
7 advantages, or accommodations of an entity.  
8

9  
10 21. Among the general prohibitions against discrimination were included in 42

11  
12 **USC §12182(b)(1)(E):**

13           **Association --** It shall be discriminatory to exclude or otherwise deny  
14 equal goods, services, facilities, privileges, advantages, accommodations, or  
15 other opportunities to an individual or entity because of the known disability  
16 of an individual with whom the individual or entity is known to have a  
17 relationship or association.  
18

19  
20 The acts of defendants set forth herein were a violation of Plaintiff's rights under the  
21 ADA, Public Law 101-336, and the regulations promulgated thereunder, 28 *CFR* Part 36  
22 et seq.  
23

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

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

26           **Discrimination.** For purposes of subsection (a), discrimination  
27 includes -  
28

1 (i) the imposition or application of eligibility criteria that screen out or  
2 tend to screen out an individual with a disability or any class of individuals  
3 with disabilities from fully and equally enjoying any goods, services,  
4 facilities, privileges, advantages, or accommodations, unless such criteria can  
5 be shown to be necessary for the provision of the goods, services, facilities,  
6 privileges, advantages, or accommodations being offered;  
7

8  
9 (ii) a failure to make reasonable modifications in policies, practices, or  
10 procedures, when such modifications are necessary to afford such goods,  
11 services, facilities, privileges, advantages, or accommodations to individuals  
12 with disabilities, unless the entity can demonstrate that making such  
13 modifications would fundamentally alter the nature of such goods, services,  
14 facilities, privileges, advantages, or accommodations.  
15

16  
17 23. Plaintiff alleges that constructing the eligibility requirements, policies,  
18 practices and procedure for entry to the **"ROYAL PLAZA INN/CACTUS JACK'S**  
19 **RESTAURANT"** facility by persons with disabilities and their companions as established  
20 by the defendants can be simply modified to eliminate disparate and discriminatory  
21 treatment of persons with disabilities by properly constructing barrier free handicapped  
22 access for safe and full and equal enjoyment of the **"ROYAL PLAZA INN/CACTUS**  
23 **JACK'S RESTAURANT"** as that enjoyed by other people.  
24

25  
26 24. The specific prohibition against retaliation and coercion is included in the  
27 *Americans With Disabilities Act of 1990* § 503(b) and the *Remedies and Procedures* in §  
28

1 503(c):

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

8  
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  
12 II and Title III, respectively.  
13

14 25. Among the specific prohibitions against discrimination were included, in 42  
15 *USC* § 12182(b)(2)(a)(iv), "A failure to remove architectural barriers, and communications  
16 barriers that are structural in nature, in existing facilities...where such removal is readily  
17 achievable;" and (v) "where and entity can demonstrate that the removal of a barrier under  
18 clause (iv) is not readily achievable, a failure to make such goods, services, facilities,  
19 privileges, advantages, or accommodations available through alternative methods if such  
20 methods are readily achievable." The acts of Defendants set forth herein were a violations  
21 of Plaintiff's rights under the "ADA," Public Law 101-336, and the regulations  
22 promulgated thereunder, 28 *CFR* Part 36, *et seq.*  
23

24 26. The removal of the barriers complained of by Plaintiff as hereinabove alleged  
25 were at all times after 1990 "readily achievable." On information and belief, if the  
26  
27  
28

1 removal of all the barriers complained of here together were not "readily achievable," the  
2 removal of each individual barrier complained of herein was "readily achievable."

3  
4 27. Per 42 *USC* § 12181(9), "The term 'readily achievable' means easily  
5 accomplishable and able to be carried out without much difficulty or expense." The  
6 statute and attendant regulations define relative "expense" in relation to the total financial  
7 resources of the entities involved, including any "parent" companies. Plaintiff alleges that  
8 properly repairing each of the items that Plaintiff complains of herein is readily achievable,  
9 including but not limited to correcting and repairing the items set forth in Paragraph 3  
10 above.  
11  
12

13 The changes needed to remove barriers to access for the disabled were and are  
14 "readily achievable" by the defendants under standards set forth under 42 *USC* § 12181 of  
15 the *Americans with Disabilities Act of 1990*. (Further, if it was not "readily achievable"  
16 for defendants to remove all such barriers, defendants have failed to make the required  
17 services available through alternative methods, although such methods are achievable as  
18 required by 42 *USC* §12181(b)(2)(a)(iv), (v).)  
19  
20

21 28. Pursuant to the *Americans with Disabilities Act of 1990*, §308 (42 *USC* §  
22 12188 *et seq.*), Plaintiff is entitled to the remedies and procedures set forth in the *Civil*  
23 *Rights Act of 1964* §204(a), (42 *USC* § 2000a-3(a)), as Plaintiff is being subjected to  
24 discrimination on the basis of disability in violation of this title and/or Plaintiff has  
25 reasonable grounds for believing that he is about to be subjected to discrimination in  
26 violation of *Americans With Disabilities Act of 1990* §302. Plaintiff cannot return to or  
27  
28

1 make use of the public facilities complained of herein for the purpose of entry and  
2 provision of goods and service so long as defendants continue to apply eligibility criteria,  
3 policies, practices and procedures to screen out and refuse to allow entry and service to  
4 persons with disabilities such as Plaintiff's.

5  
6 29. Defendants', and each of their acts and omissions of failing to provide barrier  
7 free handicapped access for Plaintiff, were tantamount to interference, coercion or  
8 intimidation pursuant to *Americans With Disabilities Act of 1990* §503(b) (now 42 USC  
9 § 12203):

10  
11 It shall be unlawful to coerce, intimidate, threaten, or interfere with any  
12 individual in the exercise or enjoyment of, or on account of his or his having  
13 encouraged any other individual in the exercise or enjoyment of, any right  
14 granted or protected by this Act.

15  
16  
17 30. Per *Americans With Disabilities Act of 1990* § 308(a)(1) (now 42 USC §  
18 12188), "Nothing in this section shall require a person with a disability to engage in a  
19 futile gesture if such person has actual notice that a person or organization covered by this  
20 title does not intend to comply with its provisions." Pursuant to this last section, Plaintiff,  
21 on information and belief, alleges that defendants have continued to violate the law and  
22 deny the rights of Plaintiff and other disabled persons to access this public  
23 accommodation for the purpose of lodging. Therefore, Plaintiff seeks injunctive relief  
24 pursuant to §308(a)(2),

25  
26  
27 "...Where appropriate, injunctive relief shall also include requiring the  
28

1 provision of an auxiliary aid or service, modifications of a policy, or  
2 provision of alternative methods, to the extent required by this title.”

3  
4 31. Plaintiff seeks relief pursuant to remedies set forth in § 204(a) of the *Civil*  
5 *Rights Act of 1964* (42 USC § 2000a-3(a), and pursuant to federal regulations adopted to  
6 implement the *Americans with Disabilities Act of 1990*, including but not limited to an  
7 order granting injunctive relief and attorneys’ fees. Such attorneys’ fees, “including  
8 litigation expenses and costs,” are further specifically provided for by §505 of Title III.  
9

10 **II. SECOND CAUSE OF ACTION**  
11 **BREACH OF STATUTORY PROTECTIONS FOR PERSONS WITH**  
12 **PHYSICAL DISABILITIES (*California Health & Safety Code* § 19955, *et***  
13 ***seq.*)**

14 32. Plaintiff repleads and incorporates by reference, as if fully set forth again  
15 herein, the allegations contained in paragraphs 1 through 31 of this Complaint and  
16 incorporate them herein as if separately repled.  
17

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

19 The purpose of this part is to insure that public accommodations or  
20 facilities constructed in this state with private funds adhere to the provisions  
21 of Chapter 7 (commencing with Sec. 4450) of Division 5 of Title 1 of the  
22 *Government Code*. For the purposes of this part “public accommodation or  
23 facilities” means a building, structure, facility, complex, or improved area  
24 which is used by the general public and shall include auditoriums, hospitals,  
25 theaters, restaurants, hotels, motels, stadiums, and convention centers. When  
26 sanitary facilities are made available for the public, clients or employees in  
27  
28

1 such accommodations or facilities, they shall be made available for the  
2 handicapped.

3 34. *California Health & Safety Code* § 19956, which appears in the same chapter  
4 as §19955, provides in pertinent part, "accommodations constructed in this state shall  
5 conform to the provisions of Chapter 7 (commencing with Sec. 4450) of Division 5 of  
6 Title 1 of the *Government Code*..." *California Health & Safety Code* § 19956 was  
7 operative July 1, 1970, and is applicable to all public accommodations constructed or  
8 altered after that date. On information and belief, portions of "**ROYAL PLAZA**  
9 **INN/CACTUS JACK'S RESTAURANT**" and/or of its buildings, were constructed  
10 and/or altered after July 1, 1970, and substantial portions of said building had alterations,  
11 structural repairs, and/or additions made to such public accommodations after July 1,  
12 1970, thereby requiring said public accommodations and/or buildings to be subject to the  
13 requirements of Part 5.5, *California Health & Safety Code* § 19955, *et seq.*, upon such  
14 alteration, structural repairs or additions per *California Health & Safety Code* § 19959.  
15

16 35. Pursuant to the authority delegated by *California Government Code* § 4450,  
17 *et seq.*, the State Architect promulgated regulations for the enforcement of these  
18 provisions. Effective January 1, 1982, Title 24 of the *California Administrative Code*  
19 adopted the California State Architect's Regulations and these regulations must be  
20 complied with as to any alterations and/or modifications of the "**ROYAL PLAZA**  
21 **INN/CACTUS JACK'S RESTAURANT**" occurring after that date. Construction  
22 changes occurring prior to this date but after July 1, 1970 triggered access requirements  
23  
24  
25  
26  
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28

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

8  
9 36. Public facilities, such as "**ROYAL PLAZA INN/CACTUS JACK'S**  
10 **RESTAURANT**" are public accommodations or facilities within the meaning of  
11 *California Health & Safety Code* § 19955, *et seq.*  
12

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

23  
24 38. Plaintiff **JAMES COLLINS** and other similarly situated persons with  
25 physical disabilities whose physical conditions require the use of wheelchairs, canes,  
26 walkers and service animals are unable to use public facilities on a "full and equal" basis  
27 unless each such facility is in compliance with the provisions of the *California Health &*  
28

1 *Safety Code* § 19955, *et seq.* Plaintiff is a member of that portion of the public whose  
2 rights are protected by the provisions of *California Health & Safety Code* § 19955, *et seq.*

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

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

12  
13 41. Plaintiff **JAMES COLLINS** is informed and believes, and therefore alleges,  
14 that Defendants **INDRAKANT MANIBHAI PATEL, dba ROYAL PLAZA INN and**  
15 **CACTUS JACK'S RESTAURANT, and DOES ONE TO TEN, inclusive,** and each of  
16 them, caused the subject buildings constituting the "**ROYAL PLAZA INN/CACTUS**  
17 **JACK'S RESTAURANT**" to be constructed, altered and maintained in such a manner  
18 that persons with physical disabilities were denied full and equal access to, within and  
19 throughout said buildings and were denied full and equal use of said public facilities, and  
20 despite knowledge and actual and constructive notice to such Defendants that the  
21 configuration of the inn/restaurant and/or buildings was in violation of the civil rights of  
22 persons with physical disabilities, such as Plaintiff. Such construction, modification,  
23 ownership, operation, maintenance and practices of such public facilities are in violation of  
24 law as stated in Part 5.5, *California Health & Safety Code* § 19955, *et seq.*, and elsewhere

1 in the laws of California.

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

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

26 44. As a result of Defendants' acts and omissions in this regard, Plaintiff has been  
27 required to incur legal expenses and hire attorneys in order to enforce his civil rights and  
28

1 enforce provisions of the law protecting access for persons with physical disabilities and  
2 prohibiting discrimination against persons with physical disabilities, and to take such  
3 action both in his own interests and in order to enforce an important right affecting the  
4 public interest. Plaintiff, therefore, seeks damages in this lawsuit for recovery of all  
5 reasonable attorneys' fees incurred, pursuant to the provisions of the *California Code of*  
6 *Civil Procedure* § 1021.5. Plaintiff additionally seeks attorneys' fees pursuant to  
7 *California Health & Safety Code* § 19953 and *California Civil Code* §§ 54.3 and 55.  
8  
9

10 45. Defendants, and each of them, at times prior to and including August 5, 2002,  
11 and continuing to the present time, knew that persons with physical disabilities were  
12 denied their rights of equal access to all portions of this public facility. Despite such  
13 knowledge, Defendants failed and refused to take steps to comply with the applicable  
14 access statutes; and despite knowledge of the resulting problems and denial of civil rights  
15 thereby suffered by Plaintiff **JAMES COLLINS** and other similarly situated persons with  
16 disabilities, including the specific notices referred to in paragraph 43 of this Complaint.  
17 Defendants have failed and refused to take action to grant full and equal access to persons  
18 with physical disabilities in the respects complained of hereinabove. Defendants and each  
19 of them have carried out a course of conduct of refusing to respond to, or correct  
20 complaints about, denial of handicap access. Such actions and continuing course of  
21 conduct by Defendants, evidence despicable conduct in conscious disregard for the rights  
22 or safety of Plaintiff and of other similarly situated persons, justifying an award of  
23 exemplary and punitive damages pursuant to *California Civil Code* § 3294.  
24  
25  
26  
27  
28

1           46. Defendants' actions have also been oppressive to persons with physical  
2 disabilities and of other members of the public, and have evidenced actual or implied  
3 malicious intent toward those members of the public, such as Plaintiff and other persons  
4 with physical disabilities who have been denied the proper access they are entitled to by  
5 law. Further, Defendants' refusals on a day-to-day basis to correct these problems  
6 evidence despicable conduct in conscious disregard for the rights of Plaintiff and other  
7 members of the public with physical disabilities.  
8

9  
10           47. Plaintiff prays for an award of punitive damages against Defendants, and each  
11 of them, pursuant to *California Civil Code* § 3294 in an amount sufficient to make a more  
12 profound example of Defendants and discourage owners, operators, franchisers and  
13 franchisees of other public facilities from willful disregard of the rights of persons with  
14 physical disabilities. Plaintiff does not know the financial worth of Defendants, or the  
15 amount of punitive damages sufficient to accomplish the public purposes of *California*  
16 *Civil Code* § 3294 and seeks leave to amend this Complaint when such facts are known.  
17  
18

19  
20           48. As a result of the actions and failure of Defendants, and each of them, and as  
21 a result of the failure to provide proper accessible public facilities, Plaintiff **JAMES**  
22 **COLLINS** was denied his civil rights, including his right to full and equal access to public  
23 facilities, was embarrassed and humiliated, suffered physical, psychological and mental  
24 injuries and emotional distress, mental distress, mental suffering, mental anguish, which  
25 includes shame, humiliation, embarrassment, anger, chagrin, disappointment and worry,  
26 expectedly and naturally associated with a person with a physical disability being denied  
27  
28

1 access to a public accommodation.

2 WHEREFORE, Plaintiff prays for damages as hereinafter stated.

3  
4 **III. THIRD CAUSE OF ACTION**  
5 **VIOLATION OF CALIFORNIA'S CIVIL RIGHTS ACTS**  
6 **(California Civil Code §§ 54, 54.1 and 54.3)**

7  
8 49. Plaintiff replays and incorporates by reference as if fully set forth again  
9 herein, the allegations contained in paragraphs 1 through 48 of this Complaint and  
10 incorporates them herein as if separately replaid.

11  
12 50. The public facilities above-described constitute public facilities and public  
13 accommodations within the meaning of *California Health & Safety Code* § 19955 *et seq.*  
14 and were facilities to which members of the public are invited. The aforementioned acts  
15 and omissions of defendants, and each of them, constitute a denial of equal access to and  
16 use and enjoyment of these facilities by persons with disabilities, including Plaintiff  
17 **JAMES COLLINS**. Said acts and omissions are also in violation of provisions of Title  
18 24 of the *California Code of Regulations*.

19  
20 51. The rights of Plaintiff, the entitlement of Plaintiff to full and equal access and  
21 the denial by defendants of such rights and entitlements are set forth in *California Civil*  
22 *Code* §§ 54, 54.1 and 54.3, to wit:

23  
24 Individuals with disabilities shall have the same right as the...general  
25 public to full and free use of the streets, highways, sidewalks, walkways,  
26 public buildings, public facilities, and other public places. *California Civil*  
27 *Code* § 54(a).  
28

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 conveyances  
5 or modes of transportation (whether private, public, franchised, licensed,  
6 contracted, or otherwise provided), telephone facilities, adoption agencies,  
7 private schools, hotels, lodging places, places of public accommodation,  
8 amusement or resort, and other places to which the general public is invited,  
9 subject only to the conditions and limitations established by law, or state or  
10 federal regulation, and applicable alike to all persons. *California Civil Code*  
11 § 54.1(a).

12  
13  
14  
15  
16           52. On or about August 5, 2002, Plaintiff **JAMES COLLINS** suffered violations  
17 of *California Civil Code* §§ 54 and 54.1 in that he was denied full and equal enjoyment of  
18 the goods, services, facilities and privileges of said **The ROYAL PLAZA INN/CACTUS**  
19 **JACK'S RESTAURANT**, as set forth in paragraph 3 above. Plaintiff was also denied full  
20 and equal access to other particulars, including, but not limited to, those described  
21 hereinabove. Plaintiff was also denied use of facilities that he was entitled to under Title  
22 III of the *Americans with Disabilities Act of 1990*.  
23  
24

25           53. As a result of the denial of full and equal enjoyment of the goods, services,  
26 facilities and privileges of defendants' **The ROYAL PLAZA INN/CACTUS JACK'S**  
27 **RESTAURANT** facility due to the acts and omissions of defendants, and each of them, in  
28

1 owning, operating and maintaining this subject public facility, Plaintiff suffered violations  
2 of his civil rights, including but not limited to rights under *California Civil Code* §§ 54,  
3 54.1, and 54.3, and has and will suffer physical injury, emotional distress, mental distress,  
4 mental suffering, mental anguish, which includes shame, humiliation, embarrassment,  
5 anger, chagrin, disappointment and worry, expectedly and naturally associated with a  
6 disabled person's denial of full and equal enjoyment of goods, services, privileges, etc. all  
7 to his damages as prayed hereinafter in an amount within the jurisdiction of the court.  
8 Defendants' actions and omissions to act constituted discrimination against Plaintiff on the  
9 sole basis that Plaintiff was physically disabled.

10  
11  
12  
13 54. Plaintiff seeks damages for the violation of his rights as a disabled person on  
14 or about August 5, 2002, according to proof, pursuant to *California Civil Code* § 54.3,  
15 including a trebling of all statutory and actual damages, general and special, available  
16 pursuant to *California Civil Code* § 54.3(a).

17  
18 55. As a result of defendants' acts and omissions in this regard, Plaintiff **JAMES**  
19 **COLLINS** has been required to incur legal expenses and hire attorneys in order to enforce  
20 his rights and enforce provisions of the law protecting the full and equal enjoyment of  
21 goods, services, facilities, privileges of public facilities by the disabled, and those  
22 individuals associated with or accompanied by a person with disabilities, and prohibiting  
23 discrimination against the disabled. Plaintiff, therefore, seeks recovery in this lawsuit for  
24 all reasonable attorneys' fees incurred pursuant to the provisions of *California Civil Code*  
25 § 54.3. Additionally, Plaintiff's lawsuit is intended not only to obtain compensation for  
26  
27  
28

1 damages to Plaintiff, but also to compel the defendants to make their goods, services,  
2 facilities and privileges available and accessible to all members of the public with physical  
3 disabilities, justifying public interest attorneys' fees pursuant to the provisions of  
4 *California Code of Civil Procedure* § 1021.5.

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

17  
18  
19  
20  
21 57. Such despicable conduct, as that incorporated herein by reference and  
22 specifically set forth in Paragraph 11, was carried out by defendants with a willful and  
23 conscious disregard for the law and the rights of Plaintiff and of other disabled persons,  
24 and was oppressive in that such conduct subjected Plaintiff "to cruel and unjust hardship in  
25 conscious disregard" for the law and Plaintiff's rights, and justifies exemplary and punitive  
26 damages pursuant to *California Civil Code* § 3294, in amounts sufficient to make an  
27  
28

1 example of defendants and to punish defendants and to carry out the purposes of  
2 *California Civil Code* § 3294.

3  
4 58. Defendants have failed to establish a nondiscriminatory criteria, policy,  
5 practice and procedure for entry into said **"ROYAL PLAZA INN/CACTUS JACK'S**  
6 **RESTAURANT"** as hereinabove described.

7  
8 59. As a result of defendants' continuing failure to provide for the full and equal  
9 enjoyment of goods, services, facilities and privileges of said **"ROYAL PLAZA**  
10 **INN/CACTUS JACK'S RESTAURANT"** as hereinabove described, Plaintiff has  
11 continually been denied his rights to full and equal enjoyment of the subject inn/restaurant,  
12 as it would be a "futile gesture" to attempt to patronize said **"ROYAL PLAZA**  
13 **INN/CACTUS JACK'S RESTAURANT"** with the discriminatory policy in place as  
14 hereinabove described.  
15  
16

17 60. The acts and omissions of defendants as complained of herein in failing to  
18 provide the required accessible facilities subsequent to the enactment date and compliance  
19 date of the *Americans with Disabilities Act of 1990* and refusal to make remedial  
20 modifications and alternations to the architectural barriers as stated herein and in failing to  
21 establish practices, policies and procedures to allow safe access by persons who are  
22 disabled are continuing on a day-to-day basis to have the effect of wrongfully and willfully  
23 excluding Plaintiff and other members of the public who are physically disabled, from full  
24 and equal enjoyment of the subject **"ROYAL PLAZA INN/CACTUS JACK'S**  
25 **RESTAURANT"** as hereinabove described. Such acts and omissions are the continuing  
26  
27  
28

1 cause of humiliation and mental and emotional suffering of Plaintiff in that these actions  
2 continue to treat Plaintiff as an inferior and second class citizen and serve to discriminate  
3 against him on the sole basis that he is physically disabled. Plaintiff is unable, so long as  
4 such acts and omissions of defendants continue, to achieve full and equal enjoyment of the  
5 goods and services of said **"ROYAL PLAZA INN/CACTUS JACK'S**  
6 **RESTAURANT"** as described hereinabove. The acts of defendants have legally caused  
7 and will continue to cause irreparable injury to Plaintiff if not enjoined by this court.  
8  
9

10 61. Wherefore, Plaintiff asks this court to preliminarily and permanently enjoin  
11 any continuing refusal by defendants to permit entry to said **"ROYAL PLAZA**  
12 **INN/CACTUS JACK'S RESTAURANT"** and to serve Plaintiff or others similarly  
13 situated, and to require defendants to comply forthwith with the applicable statutory  
14 requirements relating to the full and equal enjoyment of goods and services as described  
15 hereinabove for disabled persons. Such injunctive relief is provided by *California Civil*  
16 *Code* § 55. Plaintiff further requests that the court award statutory costs and attorneys'  
17 fees to Plaintiff pursuant to *California Civil Code* § 55 and *California Code of Civil*  
18 *Procedure* § 1021.5, all as hereinafter prayed for.  
19  
20  
21

22 WHEREFORE, Plaintiff prays for compensatory damages, reasonable attorneys'  
23 fees and costs of suit, as allowed by statute and according to proof, and appropriate  
24 exemplary damages.  
25

26 ///

27 ///

1 **IV. FOURTH CAUSE OF ACTION**  
2 **VIOLATIONS OF *UNRUH CIVIL RIGHTS ACT***  
3 **(*California Civil Code* §§ 51 and 51.5)**

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

7  
8 63. Defendants' acts and omissions as specified with regard to the discriminatory  
9 treatment of Plaintiff **JAMES COLLINS** on the basis of his physical disabilities, have  
10 been in violation of *California Civil Code* §§ 51 and 51.5, the *Unruh Civil Rights Act*,  
11 and have denied to Plaintiff his rights to "full and equal accommodations, advantages,  
12 facilities, privileges or services in all business establishments of every kind whatsoever."

13  
14 64. *California Civil Code* § 51 also provides that "[a] violation of the right of any  
15 individual under the *Americans with Disabilities Act of 1990* (Public Law 101-336) shall  
16 also constitute a violation of this section."

17  
18 65. *California Civil Code* § 51.5 also provides that "[n]o business establishment  
19 of any kind whatsoever shall discriminate against, boycott, or blacklist, refuse to buy from,  
20 sell to, or trade with any person in this state because of the race, creed, religion, color,  
21 national origin, sex, disability of the person or of the person's partners, members,  
22 stockholders, directors, officers, managers, superintendents, agents, employees, business  
23 associates, suppliers, or customers."

24  
25  
26 66. As a result of the violation of Plaintiff's civil rights protected by *California*  
27 *Civil Code* §§ 51 and, 51.5, Plaintiff is entitled to the rights and remedies of *California*  
28

1 **INN/CACTUS JACK'S RESTAURANT**, located in Indio, California, as a public facility  
2 until Defendants provide full and equal enjoyment of goods and services as described  
3  
4 hereinabove to physically disabled persons, including Plaintiff;

5 2. --General damages according to proof;

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

9  
10 4. Prejudgment interest on all compensatory damages;

11  
12 5. Punitive and exemplary damages pursuant to the standards and purposes of  
13 *California Civil Code* § 3294;

14 6. Remedies and Procedures available under *Americans with Disabilities Act of*  
15 *1990* §§ 107, 203 and 308;

16  
17 7. Award Plaintiff all litigation expenses, all costs of this proceeding and all  
18 reasonable attorneys' fees as provided by law, including but not limited to those  
19 recoverable pursuant to the provisions of *California Civil Code* §§ 52, 54.3, and 55,  
20 *California Code of Civil Procedure* § 1021.5, and *Americans with Disabilities Act of*  
21 *1990* §308 of Title III; and

22  
23  
24 8. Grant such other and further relief as the court may deem just and proper.

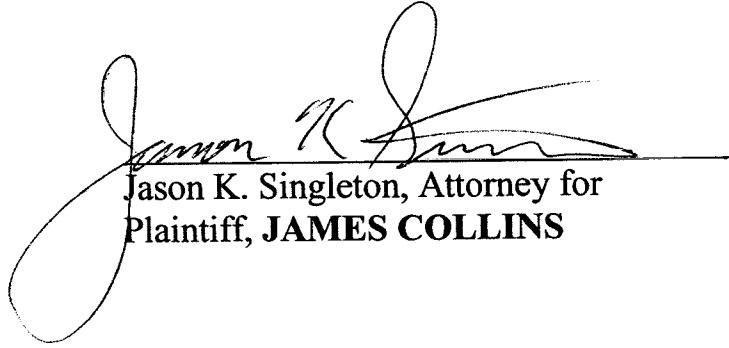
25  
26 Dated: December 16, 2002

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28  
  
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: December 16, 2002



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

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