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CLERK U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIF.
FBI/DOJ DIVISION

FILED

Attorney for Plaintiff, JAMES COLLINS

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JAMES COLLINS,

Plaintiff,

v.

DEL TACO, INC., a California
corporation, WILLIAM WERNER,
DOUG TELOW, and HURLEY
MEEKS, a partnership, dba DEL
TACO #7; and DOES ONE TO TEN,
inclusive,

Defendants.

Case No. EDCV03-0128 RT SGLX

Civil Rights

COMPLAINT FOR INJUNCTIVE
RELIEF AND DAMAGES: DENIAL
OF CIVIL RIGHTS OF A DISABLED
PERSON IN VIOLATION OF THE
AMERICANS WITH DISABILITIES
ACT OF 1990; VIOLATION OF
CALIFORNIA'S CIVIL RIGHTS
STATUTES

JURY TRIAL REQUESTED

Plaintiff JAMES COLLINS complains of defendants DEL TACO, INC., a
California corporation, WILLIAM WERNER, DOUG TELOW, and HURLEY
MEEKS, a partnership, dba DEL TACO #7; and DOES ONE TO TEN, inclusive, and
alleges as follows:

JURISDICTION AND VENUE

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.)

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

7
8 2. Venue is proper in this court pursuant to 28 *USC* § 1391(b) and is founded on
9 the fact that the real property which is the subject of this action is located in this district, at
10 Indio, California, and that Plaintiff's causes of action arose in this district.
11

12 INTRODUCTION

13 3. **DEL TACO #7** is located at 81566 Highway 111, Indio, California. Said
14 restaurant is owned and operated by defendants **DEL TACO, INC., a California**
15 **corporation, WILLIAM WERNER, DOUG TELOW, and HURLEY MEEKS, a**
16 **partnership, dba DEL TACO #7; and DOES ONE TO TEN, inclusive.**
17

18 Defendants **DEL TACO, INC., a California corporation, WILLIAM WERNER,**
19 **DOUG TELOW, and HURLEY MEEKS, a partnership, dba DEL TACO #7; and**
20 **DOES ONE TO TEN, inclusive,** operate an establishment for services to the public and
21 at which Defendants failed to provide barrier free access to said establishment in
22 conformity with both Federal and California legal requirements. Further, Defendants
23 failed to provide compliance as follows:
24
25

- 26
27 1) There are a total of 29 parking spaces, with only one designated parking space
28 in violation of California Title 24 § Table 11B-6. §1129B.1

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

7
8 2. Venue is proper in this court pursuant to 28 *USC* § 1391(b) and is founded on
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10 Indio, California, and that Plaintiff's causes of action arose in this district.
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12 INTRODUCTION

13 3. **DEL TACO #7** is located at 81566 Highway 111, Indio, California. Said
14 restaurant is owned and operated by defendants **DEL TACO, INC.**, a California
15 corporation, **WILLIAM WERNER, DOUG TELOW, and HURLEY MEEKS**, a
16 partnership, dba **DEL TACO #7**; and **DOES ONE TO TEN, inclusive**.
17

18 Defendants **DEL TACO, INC.**, a California corporation, **WILLIAM WERNER,**
19 **DOUG TELOW, and HURLEY MEEKS**, a partnership, dba **DEL TACO #7**; and
20 **DOES ONE TO TEN, inclusive**, operate an establishment for services to the public and
21 at which Defendants failed to provide barrier free access to said establishment in
22 conformity with both Federal and California legal requirements. Further, Defendants
23 failed to provide compliance as follows:
24

- 25
26
27 1) There are a total of 29 parking spaces, with only one designated parking space
28 in violation of California Title 24 § Table 11B-6. §1129B.1

- 1 2) There is no tow away sign at the entry to the parking lot in violation of
2 California Title 24 § 1129B.5.
3
- 4 3) There is no detectable warning surface where the pedestrian path of travel
5 from the restaurant entrance crosses the vehicular drive aisle in violation of
6 California Title 24 § 1127B.5.8 Fig 11B-23A
7
- 8 4) There is no detectable warning surface where the pedestrian path of travel
9 from the restaurant entrance adjoins the driveway on the South side in
10 violation of California Title 24 § 1133B.8.5.
11
- 12 5) Vestibule. At restaurant entrance.
 - 13 a. The vestibule is approximately 3'4" wide by 6'6" long in violation of
14 California Title 24 § 1133B.2.4.4, Figs 11B-30 & 31
15
 - 16 b. The vestibule doors swing out and the door opening pressure exceeds 5
17 pounds in violation of California Title 24 § 1133B.2.5, ADAAG
18 4.13.11
19
 - 20 c. The East vestibule door has a post that limits the clear space at the
21 strike edge of the door to 2" or 3" in violation of California Title 24 §
22 1133B.2.4.3. Fig 11B-26A/ 4.13.6
23
 - 24 d. A person must turn 90 degrees when entering or exiting the vestibule
25 making it so a large percentage of people using a wheelchair are unable
26 to enter this restaurant without assistance. See Fig. 11B-31
27
- 28 6) Pair Of 3' Doors Between Restaurant A Vestibule.

1 a. Doors only have a 4" high smooth surface in violation of California
2 Title 24 § 1133B.2.6. Fig 11B-29

3
4 b. There is only a 40" level landing in direction of door swing into
5 vestibule in violation of California Title 24 § 1115B.4.2, 1133B.2.4, &
6 1003.3.1.6a, Fig 11B-26A &B

7
8 7) There is a non-complying, wall-hung drinking fountain in violation of
9 California Title 24 § 1507.1. Fig 11B-3

10
11 8) The service counter is 36" high in violation of California Title 24 § 1122B.4

12 9) Men's Restroom. One water closet, one lavatory. Overall dimensions, 5' from
13 plumbing wall to opposite wall by 5'4" wide.

14 **Entry Door**

15
16 a. There is no signage on wall at strike edge of door with raised letters and
17 Braille symbols in violation of California Title 24 § 1115B.5

18
19 b. There is only a 17" clear space at the strike edge of door on exterior
20 side in violation of California Title 24 § 1133B.2.4.3. Fig 11B-26A,
21 ADAAG 4.13.6

22
23 c. The door locking device is grasp and twist in violation of California
24 Title 24 § 1133B.2.5.1, ADAAG 4.13.9

25 **Water Closet**

26
27 d. There is only 35" clear space in front of the water closet in violation of
28 California Title 24 § 1115B.7.2. Fig 11B-1A

- 1 e. The flush valve is on the wall/narrow side in violation of California
2 Title 24 § 1502, ADAAG 4.16.5*
3
- 4 f. There is only 14 ½" to the centerline of the water closet in violation of
5 California Title 24 § 1115B.7.1.3. Fig 11B-1B, ADAAG 4.16.2
6
- 7 g. The seat is only 15" high in violation of California Title 24 § 1502,
8 ADAAG 4.16.3*
9
- 10 h. The Grab bar is only 36" long and only extends 16" in front of the
11 water closet in violation of California Title 24 § 1115B.8.1. Fig 11B-
12 1A, B, & C
13
- 14 i. Access to paper seat cover dispenser is blocked by the water closet in
15 violation of California Title 24 § 1115B.9.1.2, ADAAG 4.27.3*

16 **Lavatory**

- 17 j. The lavatory measurements are 29' underneath, 26" going back 8", and
18 33" to the top of the lavatory, all in violation of California Title 24 §
19 1504.1, ADAAG 4.19.1
20
- 21 k. There is only 14 ½" to the centerline of the lavatory in violation of
22 California Title 24 § 1504.1. Fig 11B-1A
23
- 24 l. The bottom of the mirror is mounted at 41" high in violation of
25 California Title 24 § 1115B.9.1.2
26
- 27 10) Women's restroom. One lavatory, one water closet. Small restroom.
28

1 **Entry Door**

- 2
- 3 a. There is no signage on strike edge of door with raised letters and Braille
- 4 symbols in violation of California Title 24 § 1115B.5
- 5 b. The entry door is only 28" with 26" clear opening in violation of
- 6 California Title 24 § 1133B.1111
- 7
- 8 c. The locking device is grasp and twist in violation of California Title 24
- 9 § 1133B.2.5.1, ADAAG 4.13.9

10 **Water Closet**

- 11
- 12 d. The water closet is recessed in a 33" wide alcove in violation of
- 13 California Title 24 § 1115B.7.2. Fig 11B-1A
- 14
- 15 e. There is only 29" in front of the water closet in violation of California
- 16 Title 24 § 1115B.7.2. Fig 11B-1A
- 17 f. The flush valve is on the wall/narrow side in violation of California
- 18 Title 24 § 1502, ADAAG 4.16.5*
- 19
- 20 g. There is only 19" to the centerline of the water closet in violation of
- 21 California Title 24 § 1115B.7.1.3. Fig 11B-1B, ADAAG 4.16.2
- 22
- 23 h. The seat is 16" high in violation of California Title 24 § 1502, ADAAG
- 24 4.16.3*
- 25 i. There are two 24" Grab bars in violation of California Title 24 §
- 26 1115B.8.1. Fig 11B-1A, B, & C
- 27
- 28

1 **Lavatory**

- 2
- 3 j. The measurements of the lavatory are 28" underneath, 26" going back
- 4 8", and 32" to the top of the lavatory, all in violation of California Title
- 5 24 § 1504.1, ADAAG 4.19.1
- 6
- 7 k. Paper towel dispenser is 55" high in violation of California Title 24 §
- 8 1115B.9.1.2, ADAAG 4.27.3*
- 9
- 10 l. There is 44" to the soap dispenser in violation of California Title 24 §
- 11 1115B.9.1.2, ADAAG 4.27.3*

12 11) Outside eating area.

- 13 a. The entry gate has no 10" high smooth surface in violation of California
- 14 Title 24 § 1133B.2.6. Fig 11B-29
- 15
- 16 b. The entry gate is 4" above the floor in violation of California Title 24 §
- 17 1133B.1.1.1.4
- 18
- 19 c. Trash can block the 24" strike edge clearance to the gate in violation of
- 20 California Title 24 § 1133B.2.4.3. Fig 11B-26A, ADAAG 4.13.6

21 The above barriers interfered with Plaintiff's access and continue to deter Plaintiff from

22 visiting said facilities, and as a legal result, Plaintiff **JAMES COLLINS** suffers violation

23 of his civil rights to full and equal enjoyment of goods, services, facilities and privileges,

24 and has and will suffer embarrassment and humiliation.

25

26

27 **FACTUAL ALLEGATIONS**

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

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

8
9
10 5. Defendants **DEL TACO, INC.**, a California corporation, **WILLIAM**
11 **WERNER, DOUG TELOW, and HURLEY MEEKS, a partnership, dba DEL**
12 **TACO #7; and DOES ONE TO TEN, inclusive**, at all times relevant herein were and are
13 the owners and operators; lessors and/or lessees, franchisers and/or franchisees, of public
14 facilities known as the "**DEL TACO #7**"; located at Indio, California, subject to the
15 requirements of California state law requiring full and equal access to public facilities
16 pursuant to *California Health & Safety Code* § 19955, *et seq.*, *California Civil Code* §§
17 51, 51.5, 52(a), 52.1, 54, 54.1, 54.3 and 55, and subject to Title III of the *Americans with*
18 *Disabilities Act of 1990*, and to all other legal requirements referred to in this Complaint.
19 Plaintiff does not know the relative responsibilities of defendants in the operation of the
20 facilities herein complained of, and alleges a joint venture and common enterprise by all
21 such defendants.

22
23
24 6. Defendants **DEL TACO, INC.**, a California corporation, **WILLIAM**
25 **WERNER, DOUG TELOW, and HURLEY MEEKS, a partnership, dba DEL**

1 **TACO #7; and DOES ONE TO TEN, inclusive** (hereinafter alternatively referred to
2 collectively as "defendants"), at all times relevant herein were and are owners, possessors,
3
4 builders and keepers of the "DEL TACO #7" in Indio, California.

5 7. Defendants **DEL TACO, INC., a California corporation, WILLIAM**
6 **WERNER, DOUG TELOW, and HURLEY MEEKS, a partnership, dba DEL**
7 **TACO #7; and DOES ONE TO TEN, inclusive** are the owners and operators of the
8 subject "DEL TACO #7" at all times relevant to this Complaint. Plaintiff is informed and
9 believes that each of the defendants herein is the agent, employee or representative of each
10 of the other defendants, and performed all acts and omissions stated herein within the
11 scope of such agency or employment or representative capacity and is responsible in some
12 manner for the acts and omissions of the other defendants in legally causing the damages
13 complained of herein, and have approved or ratified each of the acts or omissions of each
14 other defendant, as herein described.

15 8. Plaintiff **JAMES COLLINS** does not know the true names and capacities of
16 defendants **DEL TACO, INC., a California corporation, WILLIAM WERNER,**
17 **DOUG TELOW, and HURLEY MEEKS, a partnership, dba DEL TACO #7; and**
18 **DOES ONE TO TEN, inclusive**, their business capacities, their ownership connection to
19 the property and business, nor their relative responsibilities in causing the access violations
20 herein complained of, and alleges a joint venture and common enterprise by all such
21 defendants. Plaintiff is informed and believes that each of the defendants herein, including
22 **DOES ONE TO TEN, inclusive**, is the agent, ostensible agent, master, servant, employer,

1 employee, representative, franchiser, franchisee, joint venturer, partner, and associate, or
2 such similar capacity, of each of the other defendants, and was at all times acting and
3 performing, or failing to act or perform, with the authorization, consent, permission or
4 ratification of each of the other defendants, and is responsible in some manner for the acts
5 and omissions of the other defendants in legally causing the violations and damages
6 complained of herein, and have approved or ratified each of the acts or omissions of each
7 other defendant, as herein described. Plaintiff will seek leave to amend this Complaint
8 when the true names, capacities, connections and responsibilities of defendants **DEL**
9 **TACO, INC., a California corporation, WILLIAM WERNER, DOUG TELOW,**
10 **and HURLEY MEEKS, a partnership, dba DEL TACO #7; and DOES ONE TO**
11 **TEN, inclusive,** are ascertained.

12
13
14
15
16 9. Plaintiff is informed and believes that all named defendants, including DOES
17 ONE TO TEN, inclusive, conspired to commit the acts described herein, or alternatively,
18 aided and abetted one another in the performance of the wrongful acts hereinafter alleged.

19
20 10. Defendants **DEL TACO, INC., a California corporation, WILLIAM**
21 **WERNER, DOUG TELOW, and HURLEY MEEKS, a partnership, dba DEL**
22 **TACO #7; and DOES ONE TO TEN, inclusive,** are the owners and operators of “**DEL**
23 **TACO #7**” located at Indio, California. This restaurant, including, but not limited to,
24 parking spaces and access aisles and access routes, are each a part of a “public
25 accommodation or facility” subject to the requirements of *California Health & Safety*
26 *Code* § 19955, *et seq.*, and of *California Civil Code* §§ 51, 52(a), 54, 54.1, *et seq.* On
27
28

1 information and belief, this "DEL TACO #7" restaurant was constructed and/or
2 remodeled after 1990 which has subjected the "DEL TACO #7" restaurant to handicapped
3 access requirements per *California Health & Safety Code* § 19959, and applicable
4 portions of *California Code of Regulations*, Title 24, (the State Building Code).
5
6

7 11. On or about September 27, 2002, Plaintiff **JAMES COLLINS**, visited the
8 "**DEL TACO #7**" in Indio, California for the purpose of dining. Defendants **DEL TACO,**
9 **INC.,** a California corporation, **WILLIAM WERNER, DOUG TEFLOW, and**
10 **HURLEY MEEKS, a partnership, dba DEL TACO #7; and DOES ONE TO TEN,**
11 **inclusive,** interfered with Plaintiff's access to the "**DEL TACO #7**" as set forth in
12 Paragraph 3 above.
13

14 Said acts and omissions denied Plaintiff legal handicapped access to the "**DEL**
15 **TACO #7**" according to federal and state law.
16

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

24 13. Defendants, and each of them, discriminated against Plaintiff **JAMES**
25 **COLLINS** on the basis of his physical disability, and interfered with his access to the
26 "**DEL TACO #7**" establishment, in violation of both California law including, but not
27 limited to, *California Civil Code* §§ 51, 51.5, 54, 54.1, and a violation of Title III, §302,
28

1 the "Prohibition of Discrimination" provision and §503, the "Prohibition Against
2 Retaliation or Coercion" provision of the *Americans with Disabilities Act of 1990*.

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

14
15
16
17 **I. FIRST CAUSE OF ACTION:**
18 **VIOLATION OF *THE AMERICANS WITH DISABILITIES ACT OF 1990***
19 **(42 USC §12101 et seq.)**

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

23
24 16. Pursuant to law, in 1990 the United States Congress made findings per 42
25 *USC* § 12101 regarding persons with physical disabilities, finding that laws were needed
26 to more fully protect 43 million Americans with one or more physical or mental
27 disabilities; [that] historically society has tended to isolate and segregate individuals with
28

1 disabilities; [that] such forms of discrimination against individuals with disabilities
2 continue to be a serious and pervasive social problem; [that] the nation's proper goals
3 regarding individuals with disabilities are to assure equality of opportunity, full
4 participation, independent living and economic self-sufficiency for such individuals; [and
5 that] the continuing existence of unfair and unnecessary discrimination and prejudice
6 denies people with disabilities the opportunity to compete on an equal basis and to pursue
7 those opportunities for which our free society is justifiably famous.
8
9

10
11 17. Congress stated as its purpose in passing the *Americans with Disabilities Act*
12 *of 1990* (42 *USC* § 12102):

13 It is the purpose of this act (1) to provide a clear and comprehensive
14 national mandate for the elimination of discrimination against individuals with
15 disabilities; (2) to provide clear, strong, consistent, enforceable standards
16 addressing discrimination against individuals with disabilities; (3) to ensure
17 that the Federal government plays a central role in enforcing the standards
18 established in this act on behalf of individuals with disabilities; and (4) to
19 invoke the sweep of Congressional authority, including the power to enforce
20 the 14th Amendment and to regulate commerce, in order to address the major
21 areas of discrimination faced day to day by people with disabilities.
22
23

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

1 accommodations identified for purposes of this title were “a bakery, restaurant, bar or
2 other establishment serving food or drink, grocery store, clothing store, hardware store,
3 shopping center or other sales or rental establishment.”
4

5 19. Pursuant to 42 *USC* § 12182,

6 “No individual shall be discriminated against on the basis of disability
7 in the full and equal enjoyment of the goods, services, facilities, privileges,
8 advantages, or accommodations of any place of public accommodation by any
9 person who owns, leases (or leases to), or operates a place of public
10 accommodation.”
11
12

13 20. Among the general prohibitions against discrimination were included in 42
14 *USC* §12182(b)(1)(A)(i):
15

16 **Denial of participation.** It shall be discriminatory to subject an
17 individual or class of individuals on the basis of a disability or disabilities of
18 such individual or class, directly, or through contractual, licensing, or other
19 arrangements, to a denial of the opportunity of the individual or class to
20 participate in or benefit from the goods, services, facilities, privileges,
21 advantages, or accommodations of an entity.
22
23

24 21. Among the general prohibitions against discrimination were included in 42
25 *USC* §12182(b)(1)(E):
26

27 **Association** -- It shall be discriminatory to exclude or otherwise deny
28 equal goods, services, facilities, privileges, advantages, accommodations, or

1 other opportunities to an individual or entity because of the known disability
2 of an individual with whom the individual or entity is known to have a
3 relationship or association.
4

5 The acts of defendants set forth herein were a violation of Plaintiff's rights under the
6 ADA, Public Law 101-336, and the regulations promulgated thereunder, 28 *CFR* Part 36
7 et seq.
8

9 22. Among the general prohibitions against discrimination were included in 42
10 *USC* § 12182(b)(2)(A)(i) and 42 *USC* § 12182(b)(2)(A)(ii):
11

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

14 (i) the imposition or application of eligibility criteria that screen out or
15 tend to screen out an individual with a disability or any class of individuals
16 with disabilities from fully and equally enjoying any goods, services,
17 facilities, privileges, advantages, or accommodations, unless such criteria can
18 be shown to be necessary for the provision of the goods, services, facilities,
19 privileges, advantages, or accommodations being offered;
20
21

22 (ii) a failure to make reasonable modifications in policies, practices, or
23 procedures, when such modifications are necessary to afford such goods,
24 services, facilities, privileges, advantages, or accommodations to individuals
25 with disabilities, unless the entity can demonstrate that making such
26 modifications would fundamentally alter the nature of such goods, services,
27
28

1 facilities, privileges, advantages, or accommodations.

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

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

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

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

24
25 25. Among the specific prohibitions against discrimination were included, in 42
26 *USC* § 12182(b)(2)(a)(iv), "A failure to remove architectural barriers. and communications
27
28

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

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

15
16 27. Per 42 *USC* § 12181(9), "The term 'readily achievable' means easily
17 accomplishable and able to be carried out without much difficulty or expense." The
18 statute and attendant regulations define relative "expense" in relation to the total financial
19 resources of the entities involved, including any "parent" companies. Plaintiff alleges that
20 properly repairing each of the items that Plaintiff complains of herein is readily achievable,
21 including, but not limited to, correcting and repairing the items set forth in Paragraph 3
22 above.
23

24
25 The changes needed to remove barriers to access for the disabled were and are
26 "readily achievable" by the defendants under standards set forth under 42 *USC* § 12181 of
27 the *Americans with Disabilities Act of 1990*. (Further, if it was not "readily achievable"
28

1 for defendants to remove all such barriers, defendants have failed to make the required
2 services available through alternative methods, although such methods are achievable as
3 required by 42 *USC* §12181(b)(2)(a)(iv), (v).
4

5 28. Pursuant to the *Americans with Disabilities Act of 1990*, §308 (42 *USC* §
6 12188 *et seq.*), Plaintiff is entitled to the remedies and procedures set forth in the *Civil*
7 *Rights Act of 1964* §204(a), (42 *USC* § 2000a-3(a)), as Plaintiff is being subjected to
8 discrimination on the basis of disability in violation of this title and/or Plaintiff has
9 reasonable grounds for believing that he is about to be subjected to discrimination in
10 violation of *Americans With Disabilities Act of 1990* §302. Plaintiff cannot return to or
11 make use of the public facilities complained of herein for the purpose of entry and
12 provision of goods and service so long as defendants continue to apply eligibility criteria,
13 policies, practices and procedures to screen out and refuse to allow entry and service to
14 persons with disabilities such as Plaintiff's.
15
16
17

18 29. Defendants', and each of their acts and omissions of failing to provide barrier
19 free handicapped access for Plaintiff, were tantamount to interference, coercion or
20 intimidation pursuant to *Americans With Disabilities Act of 1990* §503(b) (now 42 *USC*
21 § 12203):
22
23

24 It shall be unlawful to coerce, intimidate, threaten, or interfere with any
25 individual in the exercise or enjoyment of, or on account of his or her having
26 encouraged any other individual in the exercise or enjoyment of, any right
27 granted or protected by this Act.
28

1 30. Per *Americans With Disabilities Act of 1990* § 308(a)(1) (now 42 *USC* §
2 12188), “Nothing in this section shall require a person with a disability to engage in a
3
4 futile gesture if such person has actual notice that a person or organization covered by this
5 title does not intend to comply with its provisions.” Pursuant to this last section, Plaintiff,
6 on information and belief, alleges that defendants have continued to violate the law and
7 deny the rights of Plaintiff and other disabled persons to access this public
8 accommodation for the purpose of dining. Therefore, Plaintiff seeks injunctive relief
9 pursuant to §308(a)(2),
10

11 “...Where appropriate, injunctive relief shall also include requiring the
12 provision of an auxiliary aid or service, modifications of a policy, or
13 provision of alternative methods, to the extent required by this title.”
14
15

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

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

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

2 The purpose of this part is to insure that public accommodations or
3
4 facilities constructed in this state with private funds adhere to the provisions
5 of Chapter 7 (commencing with Sec. 4450) of Division 5 of Title 1 of the
6 *Government Code*. For the purposes of this part “public accommodation or
7 facilities” means a building, structure, facility, complex, or improved area
8 which is used by the general public and shall include auditoriums, hospitals,
9 theaters, restaurants, hotels, motels, stadiums, and convention centers. When
10 sanitary facilities are made available for the public, clients or employees in
11 such accommodations or facilities, they shall be made available for the
12 handicapped.
13
14

15 34. *California Health & Safety Code* § 19956, which appears in the same chapter
16 as §19955, provides in pertinent part, “accommodations constructed in this state shall
17 conform to the provisions of Chapter 7 (commencing with Sec. 4450) of Division 5 of
18 Title 1 of the *Government Code*...” ~~*California Health & Safety Code* § 19956~~ was
19 operative July 1, 1970, and is applicable to all public accommodations constructed or
20 altered after that date. On information and belief, portions of “DEL TACO #7” and/or of
21 its buildings, were constructed and/or altered after July 1, 1970, and substantial portions of
22 said building had alterations, structural repairs, and/or additions made to such public
23 accommodations after July 1, 1970, thereby requiring said public accommodations and/or
24 buildings to be subject to the requirements of Part 5.5, *California Health & Safety Code* §
25
26
27
28

1 19955, *et seq.*, upon such alteration, structural repairs or additions per *California Health*
2 *& Safety Code* § 19959.
3

4 35. Pursuant to the authority delegated by *California Government Code* § 4450,
5 *et seq.*, the State Architect promulgated regulations for the enforcement of these
6 provisions. Effective January 1, 1982, Title 24 of the *California Administrative Code*
7 adopted the California State Architect's Regulations and these regulations must be
8 complied with as to any alterations and/or modifications of the "DEL TACO #7"
9 occurring after that date. Construction changes occurring prior to this date but after July 1,
10 1970 triggered access requirements pursuant to the "ASA" requirements, the *American*
11 *Standards Association Specifications*, A117.1-1961. On information and belief, at the
12 time of the construction and modification of said building, all buildings and facilities
13 covered were required to conform to each of the standards and specifications described in
14 the *American Standards Association Specifications* and/or those contained in Title 24 of
15 the *California Administrative Code*, (now known as Title 24, *California Code of*
16 *Regulations*.)
17
18
19
20

21 36. Public facilities, such as "DEL TACO #7" are public accommodations or
22 facilities within the meaning of *California Health & Safety Code* § 19955, *et seq.*
23

24 37. It is difficult or impossible for persons with physical disabilities who use
25 wheelchairs, canes, walkers and service animals to travel about in public to use a
26 restaurant with the defects set forth in Paragraph 3 above as required by Title 24 of the
27 *California Code of Regulations* and the *Americans with Disabilities Act Access*
28

1 **Guidelines (ADAAG).** Thus, when public accommodations fail to provide handicap
2 accessible public facilities, persons with physical disabilities are unable to enter and use
3 said facilities, and are denied full and equal access to and use of that facility that is enjoyed
4 by other members of the general public.
5

6 38. Plaintiff **JAMES COLLINS** and other similarly situated persons with
7 physical disabilities whose physical conditions require the use of wheelchairs, canes,
8 walkers and service animals are unable to use public facilities on a "full and equal" basis
9 unless each such facility is in compliance with the provisions of the *California Health &*
10 *Safety Code* § 19955, *et seq.* Plaintiff is a member of that portion of the public whose
11 rights are protected by the provisions of *California Health & Safety Code* § 19955, *et seq.*
12
13

14 39. The *California Health & Safety Code* was enacted "[t]o ensure that public
15 accommodations or facilities constructed in this state with private funds adhere to the
16 provisions of Chapter 7 (commencing with §4450) of Division 5 of Title 1 of the
17 *Government Code.*" Such public accommodations are defined to include restaurants.
18
19

20 40. Plaintiff is further informed and believes that as of the date of filing this
21 Complaint, Defendants have not made accessible the facilities at the subject restaurant as
22 set forth in Paragraph 3 above.
23

24 41. Plaintiff **JAMES COLLINS** is informed and believes, and therefore alleges,
25 that Defendants **DEL TACO, INC., a California corporation, WILLIAM WERNER,**
26 **DOUG TELOW, and HURLEY MEEKS, a partnership, dba DEL TACO #7; and**
27 **DOES ONE TO TEN, inclusive,** and each of them, caused the subject buildings
28

1 constituting "DEL TACO #7" to be constructed, altered and maintained in such a manner
2 that persons with physical disabilities were denied full and equal access to, within and
3
4 throughout said buildings and were denied full and equal use of said public facilities, and
5 despite knowledge and actual and constructive notice to such Defendants that the
6 configuration of the restaurant and/or buildings was in violation of the civil rights of
7 persons with physical disabilities, such as Plaintiff. Such construction, modification,
8 ownership, operation, maintenance and practices of such public facilities are in violation of
9 law as stated in Part 5.5, *California Health & Safety Code* § 19955, *et seq.*, and elsewhere
10 in the laws of California.
11
12

13 42. On information and belief, the subject building constituting the public
14 facilities of "DEL TACO #7" denied full and equal access to Plaintiff and other persons
15 with physical disabilities in other respects due to non-compliance with requirement of Title
16 24 of the *California Code of Regulations* and *California Health & Safety Code* § 19955,
17 *et seq.*
18
19

20 43. The basis of Plaintiff's aforementioned information and belief is the various
21 means upon which Defendants must have acquired such knowledge, including, but not
22 limited to, this lawsuit, other access lawsuits, communications with operators of other
23 stores and other property owners regarding denial access, communications with Plaintiff
24 and other persons with disabilities, communications with other patrons who regularly visit
25 there, communications with owners of other businesses, notices and advisories they
26 obtained from governmental agencies through the mails, at seminars, posted bulletins,
27
28

1 disabilities, including the specific notices referred to in paragraph 43 of this Complaint.
2 Defendants have failed and refused to take action to grant full and equal access to persons
3
4 with physical disabilities in the respects complained of hereinabove. Defendants and each
5 of them have carried out a course of conduct of refusing to respond to, or correct
6 complaints about, denial of handicap access. Such actions and continuing course of
7
8 conduct by Defendants, evidence despicable conduct in conscious disregard for the rights
9 or safety of Plaintiff and of other similarly situated persons, justifying an award of
10 exemplary and punitive damages pursuant to *California Civil Code* § 3294.
11

12 46. Defendants' actions have also been oppressive to persons with physical
13 disabilities and of other members of the public, and have evidenced actual or implied
14 malicious intent toward those members of the public, such as Plaintiff and other persons
15 with physical disabilities who have been denied the proper access they are entitled to by
16 law. Further, Defendants' refusals on a day-to-day basis to correct these problems
17 evidence despicable conduct in conscious disregard for the rights of Plaintiff and other
18
19 members of the public with physical disabilities.
20

21 47. Plaintiff prays for an award of punitive damages against Defendants, and each
22 of them, pursuant to *California Civil Code* § 3294 in an amount sufficient to make a more
23
24 profound example of Defendants and discourage owners, operators, franchisers and
25 franchisees of other public facilities from willful disregard of the rights of persons with
26 physical disabilities. Plaintiff does not know the financial worth of Defendants, or the
27
28 amount of punitive damages sufficient to accomplish the public purposes of *California*

1 *Civil Code* § 3294 and seeks leave to amend this Complaint when such facts are known.

2 48. As a result of the actions and failure of Defendants, and each of them, and as
3
4 a result of the failure to provide proper accessible public facilities, Plaintiff **JAMES**
5 **COLLINS** was denied his civil rights, including his right to full and equal access to public
6 facilities, was embarrassed and humiliated, suffered physical, psychological and mental
7 injuries and emotional distress, mental distress, mental suffering, mental anguish, which
8 includes shame, humiliation, embarrassment, anger, chagrin, disappointment and worry,
9 expectedly and naturally associated with a person with a physical disability being denied
10 access to a public accommodation.
11
12

13 WHEREFORE, Plaintiff prays for damages as hereinafter stated.

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

17 49. Plaintiff repleads and incorporates by reference as if fully set forth again
18 herein, the allegations contained in paragraphs 1 through 48 of this Complaint and
19 incorporates them herein as if separately repled.
20

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

1 24 of the *California Code of Regulations*.

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

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

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

23
24
25
26
27 52. On or about September 27, 2002, Plaintiff JAMES COLLINS suffered
28 violations of *California Civil Code* §§ 54 and 54.1 in that he was denied full and equal

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

7
8 53. As a result of the denial of full and equal enjoyment of the goods, services,
9 facilities and privileges of defendants' **DEL TACO #7** due to the acts and omissions of
10 defendants, and each of them, in owning, operating and maintaining this subject public
11 facility, Plaintiff suffered violations of his civil rights, including but not limited to rights
12 under *California Civil Code* §§ 54, 54.1, and 54.3, and has and will suffer physical injury,
13 emotional distress, mental distress, mental suffering, mental anguish, which includes
14 shame, humiliation, embarrassment, anger, chagrin, disappointment and worry, expectedly
15 and naturally associated with a disabled person's denial of full and equal enjoyment of
16 goods, services, privileges, etc. all to his damages as prayed hereinafter in an amount
17 within the jurisdiction of the court. Defendants' actions and omissions to act constituted
18 discrimination against Plaintiff on the sole basis that Plaintiff was physically disabled.
19
20
21

22 54. Plaintiff seeks damages for the violation of his rights as a disabled person on
23 or about September 27, 2002, according to proof, pursuant to *California Civil Code* §
24 54.3, including a trebling of all statutory and actual damages, general and special,
25 available pursuant to *California Civil Code* § 54.3(a).
26
27

28 55. As a result of defendants' acts and omissions in this regard, Plaintiff **JAMES**

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

12
13
14
15
16 56. The acts and omissions of defendants in failing to provide the required
17 accessible facilities subsequent to the enactment date and compliance date of the
18 *Americans with Disabilities Act of 1990*, and refusal to make remedial modifications and
19 alterations to its handicapped parking, handicapped signage, pathways, and other elements
20 as hereinabove stated, after being notified by patrons before and after the time of
21 Plaintiff's visit and injuries, on or about September 27, 2002, and all times prior thereto
22 with the knowledge that persons with disabilities would enter defendants' premises, the
23 reason given therefor, was an established policy, practice and procedure of refusing and
24 denying entry, thereby denying services to a person with disabilities and the companions
25 thereof, evidence malice and oppression toward Plaintiff and other disabled persons.
26
27
28

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

10
11
12 58. Defendants have failed to establish a nondiscriminatory criteria, policy,
13 practice and procedure for entry into said "DEL TACO #7" 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 "DEL TACO #7" 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 "DEL TACO #7" 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
28

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

13 61. Wherefore, Plaintiff asks this court to preliminarily and permanently enjoin
14 any continuing refusal by defendants to permit entry to said "**DEL TACO #7**" and to serve
15 Plaintiff or others similarly situated, and to require defendants to comply forthwith with
16 the applicable statutory requirements relating to the full and equal enjoyment of goods and
17 services as described hereinabove for disabled persons. Such injunctive relief is provided
18 by *California Civil Code* § 55. Plaintiff further requests that the court award statutory
19 costs and attorneys' fees to Plaintiff pursuant to *California Civil Code* § 55 and *California*
20 *Code of Civil Procedure* § 1021.5, all as hereinafter prayed for.
21
22
23

24 WHEREFORE, Plaintiff prays for compensatory damages, reasonable attorneys'
25 fees and costs of suit, as allowed by statute and according to proof, and appropriate
26 exemplary damages.
27

28 ///

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.~~

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

1 *Civil Code* § 52, including a trebling of actual damages (defined by *California Civil Code*
2 § 52(h) to mean “special and general damages”), as well as reasonable attorneys’ fees and
3 costs, as allowed by statute, according to proof. Further, pursuant to paragraphs 11, 12,
4 13, 35 and 43, Plaintiff seeks appropriate exemplary damages under *California Civil Code*
5 § 3294.
6

7
8 WHEREFORE, Plaintiff prays that this court award damages and provide relief as
9 follows:
10

11 **PRAYER FOR RELIEF**

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

13 1. Grant injunctive relief requiring that defendants establish a non-
14 discriminatory criteria policy, practice and procedure permitting entry into the DEL
15 TACO #7 restaurant in Indio, California, for the purpose of services according to
16 *California Civil Code* §§ 51, 51.5, 52, 54, 54.1, 54.3, *et seq.*, and Title III of the
17 *Americans with Disabilities Act of 1990*, and grant injunctive relief requiring that
18 Defendants repair and render safe to handicapped persons, and otherwise make
19 handicapped-accessible, all public areas of the restaurant, including, but not limited to,
20 those barriers to access identified in Paragraph 3, above, and make such facilities “readily
21 accessible to and usable by individuals with disabilities,” according to the standards of
22 Title 24 of the *California Administrative Code*, *California Health & Safety Code* § 19955
23 *et seq.*, and Title III of the *Americans with Disabilities Act of 1990* and the standards of
24 *ADAAG*; and prohibiting operation of the DEL TACO #7, located in Indio, California, as
25
26
27
28

1 a public facility until Defendants provide full and equal enjoyment of goods and services
2 as described hereinabove to physically disabled persons, including Plaintiff;
3

4 2. General damages according to proof;

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

9 4. Prejudgment interest on all compensatory damages;

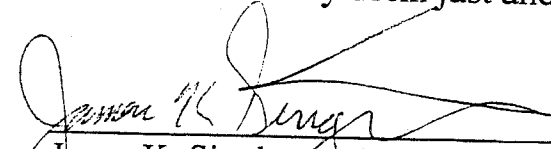
10 5. Punitive and exemplary damages pursuant to the standards and purposes of
11 *California Civil Code* § 3294;

12 6. Remedies and Procedures available under *Americans with Disabilities Act of*
13 *1990* §§ 107, 203 and 308;

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

20 8. Grant such other and further relief as the court may deem just and proper.
21

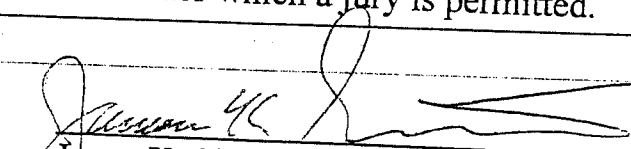
22 Dated: January 27, 2003

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26 Jason K. Singleton, Attorney for
27 Plaintiff, JAMES COLLINS
28

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REQUEST FOR JURY TRIAL

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

Dated: January 27, 2003


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