

ORIGINAL

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

11 **SYLVIA SMITH AND MARILYNN**
12 **BIERMAN,**

13 **Plaintiffs,**

14 **v.**

15 **THE PROMENADE, LLC, a**
16 **California Limited Liability Company,**
17 **dba WESTFIELD SHOPPINGTOWN**
18 **PROMENADE and DOES ONE TO**
19 **TEN, inclusive,**

20 **Defendants.**

) **Case No.**

EDCV03-269

VAP 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**

21 **Plaintiffs SYLVIA SMITH AND MARILYNN BIERMAN complain of**
22 **defendants THE PROMENADE, LLC, a California Limited Liability Company, dba**
23 **WESTFIELD SHOPPINGTOWN PROMENADE and DOES ONE TO TEN,**
24 **inclusive, and alleges as follows:**

25 **JURISDICTION AND VENUE**

26 **1. The Court has jurisdiction of this action pursuant to 28**

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for

1 physical disabilities. Plaintiffs do not know the financial worth of Defendants, or the
2 amount of punitive damages sufficient to accomplish the public purposes of *California*
3 *Civil Code* § 3294 and seeks leave to amend this Complaint when such facts are known.
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5 48. As a result of the actions and failure of Defendants, and each of them, and as
6 a result of the failure to provide proper accessible public facilities, Plaintiffs SYLVIA
7 **SMITH AND MARILYNN BIERMAN** were denied their civil rights, including their
8 right to full and equal access to public facilities, were embarrassed and humiliated,
9 suffered physical, psychological and mental injuries and emotional distress, mental
10 distress, mental suffering, mental anguish, which includes shame, humiliation,
11 embarrassment, anger, chagrin, disappointment and worry, expectedly and naturally
12 associated with a person with a physical disability being denied access to a public
13 accommodation.
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17 WHEREFORE, Plaintiffs pray for damages as hereinafter stated.
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19 **III. THIRD CAUSE OF ACTION**
20 **VIOLATION OF CALIFORNIA'S CIVIL RIGHTS ACTS**
21 **(California Civil Code §§ 54, 54.1 and 54.3)**

22 49. Plaintiffs replead and incorporate by reference as if fully set forth again
23 herein, the allegations contained in paragraphs 1 through 48 of this Complaint and
24 incorporates them herein as if separately repled.

25 50. The public facilities above-described constitute public facilities and public
26 accommodations within the meaning of *California Health & Safety Code* § 19955 *et seq.*
27 and were facilities to which members of the public are invited. The aforementioned acts
28

1 these damages be trebled;

2 4. Prejudgment interest on all compensatory damages;

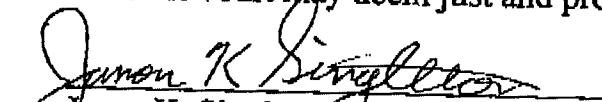
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4 5. Punitive and exemplary damages pursuant to the standards and purposes of
5 *California Civil Code* § 3294;

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

9
10 7. Award Plaintiffs all litigation expenses, all costs of this proceeding and all
11 reasonable attorneys' fees as provided by law, including, but not limited to, those
12 recoverable pursuant to the provisions of *California Civil Code* §§ 52, 54.3, and 55,
13 *California Code of Civil Procedure* § 1021.5, and *Americans with Disabilities Act of*
14 *1990* §308 of Title III; and

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


17 Dated: March 6, 2003

18 
19 Jason K. Singleton, Attorney for
20 Plaintiffs, SYLVIA SMITH AND
21 MARILYNN BIERMAN

22 **REQUEST FOR JURY TRIAL**

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

24
25 Dated: March 6, 2003

26 
27 Jason K. Singleton, Attorney for
28 Plaintiffs, SYLVIA SMITH AND
MARILYNN BIERMAN