

USDC SCAN INDEX SHEET



NMC 3/11/04 7:05

3:04-CV-00503 RIVERA V. JC MANAGEMENT INC

\*1\*

\*CMP.\*

1 LAW OFFICES OF ROY L. LANDERS  
2 ROY L. LANDERS (BAR #64920)  
3 LaTOYA S. REDD (BAR#218342)  
4 7840 MISSION CENTER COURT, SUITE 101  
5 SAN DIEGO, CALIFORNIA 92108  
6 TELEPHONE (619) 296-7898  
7 FACSIMILE (619) 296-5611

8 Attorney for Plaintiff, Ismael Rivera

FILED

04 MAR 10 AM 10:38

CLERK U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BY:

DEPUTY

9 UNITED STATES DISTRICT COURT  
10 SOUTHERN DISTRICT OF CALIFORNIA

'04 CV 0503 JM (BLM)

11 ISMAEL RIVERA

12 Plaintiff,

13 vs.

14 JC MANAGEMENT, INC., dba ARBY'S,  
15 JAMES CUNNINGHAM, CHRISCH, INC.,  
16 CHRISCH FOOD SERVICES, INC. AND  
DOES 1-10 Inclusive,

17 Defendants.  
18

) Case No.:

) COMPLAINT FOR DAMAGES RE:  
) VIOLATION OF CIVIL RIGHTS ON  
) BASIS OF DISCRIMINATION IN  
) PUBLIC ACCOMMODATIONS; NEGLIGENT  
) INFLECTION OF EMOTIONAL  
) DISTRESS; INTENTIONAL INFLECTION  
) OF EMOTIONAL DISTRESS;  
) DECLARATORY RELIEF; DEMAND FOR  
) JURY TRIAL

19 I

20 JURISDICTION AND VENUE

21 1. (a) Jurisdiction of this action is invoked on the basis of 28  
22 USC 1331 and 1343, 42 USC 12101-12102, 12181-12183 and 12201, et.  
23 seq., which is applicable to causes of action where persons with  
24 disabilities have been denied their civil rights. Venue in the  
25 Southern Judicial District of California in the United States  
26 District Court is in accord with 28. U.S.C. section 1391(b)  
27 because a substantial part of plaintiff's claims arose within the  
28

1 Judicial District of the United States District Court of the  
2 Southern District of California.

3 (b) Supplemental Jurisdiction. The Judicial District of the  
4 United States District Court of the Southern District of  
5 California has supplemental jurisdiction over the state claims  
6 alleged in this Complaint pursuant to 28 U.S.C. section 1367(a).  
7 Supplemental jurisdiction is appropriate in this action on the  
8 basis that all the causes of action or claims derived from federal  
9 law and those arising under state law, as herein alleged, arose  
10 from a common nucleus of operative facts. The common nucleus of  
11 operative facts, include, but are not limited to, the incidents  
12 whereby plaintiff was denied full and equal access to Defendant's  
13 facilities, goods, and/or services in violation of both federal  
14 and state laws when plaintiff attempted to enter, use, and/or exit  
15 Defendant's facilities as described within this Complaint.  
16 Further, due to this denial of full and equal access Plaintiff and  
17 other person's with disabilities were injured. Based upon such  
18 allegations the state actions, as stated herein, are so related to  
19 the federal actions that they form part of the same case or  
20 controversy, and the actions would ordinarily be expected to be  
21 tried in one judicial proceeding.

22 **II**

23 **PARTIES**

24 2. Defendant JC Management, Inc., dba Arby's was and at all times  
25 herein mentioned was a duly organized business, association, or  
26 corporation duly authorized to exist and operate within the State  
27 of California and County of San Diego and the owner, lessee, or  
28

1 tenant of the premises located at 1280 West San Marcos Boulevard  
2 San Marcos, California 92069.

3 3. Plaintiff is informed and believes and thereon alleges that  
4 defendants James Cunningham, Chrisch, Inc., and Chrisch Food  
5 Services, Inc. are the owners and/or landlords of the subject  
6 property upon which defendant business is sited.

7 4. Plaintiff is informed and believes and thereon alleges that  
8 each of the named defendants herein operates a business and  
9 or/facility of public accommodation as defined and described  
10 within 42 USC 12181(7)(b) of the American with Disabilities Act  
11 [ADA] and as such must comply with the ADA under provisions of  
12 Title III therein.

13 5. Plaintiff is ignorant of the defendants sued as Does 1-10  
14 herein, and therefore sues them in their fictitious names as Doe  
15 defendants. Plaintiff is informed and believes and thereon alleges  
16 that Does 1-10 are the owners, operators, lessees or tenants of  
17 the subject property and each of the Doe defendants at all times  
18 herein was acting as the agent and or representative of each other  
19 and thereby are responsible in some manner for the injuries and  
20 damages complained of herein. Plaintiff will seek leave of court  
21 to amend this complaint to name Doe defendants when the same is  
22 ascertained.

23 **III**

24 **GENERAL ALLEGATIONS COMMON TO ALL CLAIMS**

25 6. Plaintiff is a male who is disabled and confined to a  
26 wheelchair. He has no control over his lower extremities and must  
27 use a wheelchair to transport himself and to affect the basic  
28 necessities of his everyday existence. Plaintiff's disability

1 substantially limits one or more of life's major activities and  
2 therefore he is disabled as defined under 42 USC  
3 12102(2) (A) (B) (C) .

4 7. On or about January 14, 2004 plaintiff patronized the premises  
5 of defendants to utilize goods and/or services offered by  
6 defendants. When Plaintiff attempted to gain access to the goods  
7 and/or services offered by defendants he encountered access  
8 barriers because the premises failed to comply with federal ADA  
9 Access Guidelines For Building and Facilities [hereinafter  
10 "ADAAG"]; Department of Justice [DOJ] regulations at 28 CFR.  
11 36.201; 36.304 and/or the State of California's Title 24 Building  
12 Code Requirements.

13 8. The specific difficulty Plaintiff had in entering and utilizing  
14 Defendants' facility and which amount to a violation of ADAAG, DOJ  
15 regulations and Title 24 of the California Building Code are:

- 16 (a) Lack of van accessible parking per ADAAG 4.1.2.(5) (b) and  
17 Title 24 1129B.4.2
- 18 (b) Lack of warning sign per Title 24 1129B.4. 1&2
- 19 (c) Lack of access aisle per Title 24 1129B.4.1
- 20 (d) Lack of signage per ADAAG 4.6.3 and Title 24 1129B.5
- 21 (e) Parking space emblem does not comply with ADAAG 4.6.4.
- 22 (f) Entrance signage does not comply with ADAAG 4.1.3(16) (b)  
23 and Title 24 1127B.3
- 24 (g) Facility lacks international symbol of accessibility as  
25 required by ADAAG 4.30.4; 4.30.6 and Title 24 1117B.5.9  
26 1117B.5.5.2; 1117B/5.6 1&2.
- 27 (h) Wall mount signage (latch side) is lacking - ADAAG  
28 4.1.2(7) (d) and Title 24 1117B5.1.1 and 5.6.3.

- 1 (i) Wall mount signage does not comply with 60-inch requirement  
2 of ADAAG 4.30.6 and Title 24 1117B.5.9.
- 3 (j) Dining facilities do not comply with ADAAG 5.1; 4.2.4.1;  
4 4.32.3; 4.32.4; 5.3; 5.4 and Title 24 1104B.5.4; 1122B.3;  
5 1122B.4; 1104B.5.4
- 6 (k) Bathroom grab bars do not comply with ADAAG. 4.17.6 and  
7 Title 24 1115B.8.1.
- 8 (l) Faucets/fixtures do not comply with ADAAG 4.27.4 and Title  
9 24 1508.1&2
- 10 (m) Accessories/fixtures do not comply with ADAAG 4.23.7 and  
11 Title 24 1115B.9.2
- 12 (n) Hardware-door knobs are non-compliant with ADAAG 4.13.9 and  
13 Title 24 1133B.2.5.1; 1133B.7.1.4
- 14 (o) Flush valve not on correct side as required by ADAAG 4.18.2  
15 and title 24 1503.2.1

16 9. Based upon the above facts, Plaintiff as been discriminated  
17 against and will continue to be discriminated against unless and  
18 until Defendants are enjoined and forced to cease and desist from  
19 continuing to discriminate against Plaintiff and others similarly  
20 situated.

21 10. Pursuant to federal [ADA], Title 28 CFR 36.201; 36.203;  
22 36.304; 36.305 and state law [California Title 24], Defendants are  
23 required to remove barriers to their existing facilities.  
24 Defendants have been put on notice pursuant to the ADA and  
25 California Civil Codes [51,52] prior to the statutory effect of  
26 the ADA on January 26, 1992 that Defendants and each of them had a  
27 duty to remove barriers to persons with disabilities such as  
28 plaintiff. Defendants also knew or should have known that

1 individuals such as plaintiff with a disability are not required  
2 to give notice to a governmental agency prior to filing suit  
3 alleging Defendants' failure to remove architectural barriers.

4 11. Plaintiff believes and thereon allege that Defendants'  
5 facilities, as described herein, have other access violations not  
6 directly experienced by Plaintiff, which preclude or limit access  
7 by others with disabilities, including, but not limited to, Space  
8 Allowances, Reach Ranges, Accessible Routes, Protruding Objects,  
9 Ground and Floor Surfaces, Parking and Passenger Loading Zones,  
10 Curb Ramps, Ramps, Stairs, Elevators, Platform Lifts (Wheelchair  
11 Lifts), Windows, Doors, Entrances, Drinking Fountains, and Water  
12 Coolers, Water Closets, Toilet Stalls, Urinals, Lavatories and  
13 Mirrors, Sinks, Storage, Handrails, Grab Bars, Telephones,  
14 Controls and Operating Mechanisms, Alarms, Detectable Warnings and  
15 Signage. Accordingly, Plaintiff alleges Defendants are required to  
16 remove all architectural barriers, known or unknown. Also,  
17 Plaintiff alleges Defendants are required to utilize the ADA  
18 checklist for Readily Achievable Barrier Removal approved by the  
19 United States Department of Justice and created by Adaptive  
20 Environments.

21 12. Plaintiff desires to return to Defendants' places of business  
22 and utilize their facilities without being discriminated against  
23 in the immediate future.

24 //

25 //

26 //

27 //

28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

IV

FIRST CAUSE OF ACTION

**(Violation of Civil Rights-American With Disabilities Act)**

13. Plaintiff realleges the allegations in paragraphs 1 through 12 as though set forth fully herein.

**Claim 1: Denial of Full and Equal Access**

14. Based on the facts asserted above Plaintiff has been denied full and equal access to Defendants' goods, services, facilities, privileges, advantages, or accommodations. Defendant business is a public accommodation owned, leased and/or operated by Defendants and each of them. Defendants' existing facilities and/or services failed to provide full and equal access to Defendants' facility as required by 42 U.S.C. section 12182(a). Thus, Plaintiff was subjected to discrimination in violation of 42 U.S.C. 12182(b)(2)(A)(ii)(iv) and 42 U.S.C. section 12188 because Plaintiff was denied equal access to Defendants' existing facilities.

15. Plaintiff has a physical impairment as alleged herein because his condition affects one or more of the following body systems: neurological, musculoskeletal, special sense organs, and/or cardiovascular. Further, his physical impairments substantially limits one or more of the following major life activities: [walking]. In addition, Plaintiff cannot perform one or more of the said major life activities in the manner speed, and duration when compared to the average person. Moreover, Plaintiff has a history of or has been classified as having a physical impairment as required by 42 U.S.C. section 12102(2)(A).

//



1                   **Claim 2: Failure To Remove Architectural Barriers**

2 16. Based upon the facts alleged herein, Plaintiff was denied  
3 full and equal access to Defendants' goods, services, facilities,  
4 privileges, advantages, or accommodations within a public  
5 accommodation owned leased, and/or operated by the named  
6 Defendants. Defendants individually and collectively failed to  
7 remove barriers as required by 42 U.S.C. 12182(a) and 28 CFR  
8 36.304. Plaintiff is informed and believes, and thus alleges that  
9 architectural barriers which are structural in nature exist at the  
10 following physical elements of Defendants' facilities:

11 Space Allowance and Reach Ranges, Accessible Route, Protruding  
12 Objects, Ground and Floor Surfaces, Parking and Passenger Loading  
13 Zones, Curb Ramps, Ramps, Stairs, Elevators, Platform Lifts  
14 (Wheelchair Lifts), Windows, Doors, Entrances, Drinking Fountains  
15 and Water Coolers, Water Closets, Toilet Stalls, Urinals,  
16 Lavatories and Mirrors, Sinks, Storage, Handrails, Grab Bars, and  
17 Controls and Operating Mechanisms, Alarms, Detectable Warnings,  
18 Signage, and Telephones. Pursuant to 42 USC section  
19 12182(b)(2)(iv) and 28 CFR 36.304 Title III requires places of  
20 public accommodation to remove architectural barriers that are  
21 structural in nature within existing facilities. Failure to remove  
22 such barriers and disparate treatment against a person who has a  
23 known association with a person with a disability are forms of  
24 prohibited discrimination. Accordingly, Plaintiff was subjected to  
25 discrimination in violation of 42 USC 12182(b)(2)(A)(iv) and 42  
26 USC 12182(b)(2)(A)(iv) and 42 USC 12188.

27 //



1           **(a) Denial Of Full And Equal Access**

2 22. Plaintiff has been denied full and equal access to Defendants'  
3 goods services, facilities, privileges, advantages, or  
4 accommodations within a public accommodation owned, leased, and/or  
5 operated by Defendants in violation of California Civil Code  
6 Sections 54 and 54.1 and California Health and Safety Code Section  
7 19955. The actions of Defendants also violate the provisions of  
8 Title 24 of the State of California Building Codes with regard to  
9 accessibility for persons with disabilities by failing to provide  
10 access to Defendants facilities due to violations pertaining to  
11 accessible routes, ground and floor surfaces, parking and  
12 passenger loading zones, curb ramps, ramps, stairs, elevators,  
13 platform lifts (wheelchair lifts), windows, doors, toilet stalls,  
14 urinals, lavatories and mirrors, sinks, storage, handrails, grab  
15 bars, controls and operating mechanisms  
16 alarms, detectable warnings, signage and telephones.

17 23. On the above basis Plaintiff has been wrongfully discriminated  
18 against.

19           **(b) Failure To Modify Practices, Policies And Procedures**

20 24. Defendants have failed and refused and continue to fail and  
21 refuse to provide a reasonable alternative to allow plaintiff  
22 equal access to their facility by modifying their practices,  
23 policies, and procedures in that that they failed to have s  
24 scheme, plan, or design to assist Plaintiff and others similarly  
25 situated in entering and utilizing Defendants' goods or services  
26 as required by California Civil Code section 54 and 54.1.  
27 Accordingly Defendants have wrongfully discriminated against  
28 Plaintiff.

VII

THIRD CAUSE OF ACTION

**(Violation of The Unruh Civil Rights Act)**

25. Plaintiff realleges the allegations of the Second Cause of Action as though set forth fully herein.

26. Section 51(b) of the Cal. Civ. Code [The Unruh Civil Rights Act], provides in pertinent part:

"All persons within the jurisdiction of this state are free and equal, and no matter what their sex, race, color, religion, ancestry, national origin, disability, or medical condition is entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever."

27. Defendants have violated the provisions of Civ. Code 51 (b) by failing and refusing to provide free and equal access to Plaintiff to their facility on the same basis as other persons not disabled. By their failure to provide equal access to Plaintiff as herein alleged, Defendants have also violated 42 U.S.C. section 12182(b)(2)(A)(iv) as provided in Cal. Civ. Codes section 51(f).

28. By reason of their acts and denial of Plaintiff's civil rights Defendants also violated the provisions of Cal. Civ. Code section 52, which makes a person or entity in violation of Cal.Civ. Code 51 liable for the actual damages to a Plaintiff including treble damages where appropriate.

29. Defendants and each of them, at all times prior to and including January 2004, respectively and continuing to the present time, knew that persons with physical disabilities were denied

1 their rights of equal access to all portions of this public  
2 facility. Despite such knowledge, Defendants, and each of them,  
3 failed and refused to take steps to comply with the applicable  
4 access statutes and despite knowledge of the resulting problems  
5 and denial of civil rights suffered by Plaintiff and other  
6 similarly situated persons with disabilities.  
7

8 30. Defendants and each of them have failed and refused to take  
9 action to grant full and equal access to person with physical  
10 disabilities. Defendants have carried out a course of conduct of  
11 refusing to respond to, or correct complaints about unequal access  
12 and have refused to comply with their legal obligations to make  
13 the subject facility accessible pursuant the ADAAG and the  
14 California Building Code [Title 24 of the California Code of  
15 Regulations]. Such actions and continuing course of conduct by  
16 Defendants, and each of them, evidence despicable conduct in  
17 conscious disregard of the rights and/or safety of Plaintiff and  
18 those similarly situated and thus justify an award of treble  
19 damages pursuant to section 52(a) and 54.3(a) of the Cal.Civ. Code  
20 or alternatively an award of punitive damages in an appropriate  
21 amount.  
22  
23  
24

25 31. Plaintiff has suffered emotional and physical damage and  
26 continues to suffer such damages all in an amount to be determined  
27 at time of trial.  
28

1 32. Under the provisions of Cal. Civ. Code section 55 Plaintiff  
2 seeks an award of reasonable attorney's fees and costs as a result  
3 of having to bring this action. Plaintiff requests the court to  
4 award such fees in an appropriate amount.  
5

6 **VIII**

7 **FOURTH CAUSE OF ACTION**

8 **(Negligent Infliction of Emotional Distress)**

9 33. Plaintiff relleges the allegations of the Third Cause of  
10 Action as though set forth fully herein.  
11

12 34. Defendants and each of them owed a duty to Plaintiff to make  
13 their facility accessible and to keep Plaintiff reasonably safe  
14 from known dangers and risks of harm. This duty arises by virtue  
15 of the legal duties proscribed by various federal and state  
16 statutes including, but not limited to, ADA, ADAAG, California  
17 Civil Code sections 51, 52, 54, 54.1 and Title 24 of the  
18 California Code of Regulations. Defendants had a duty of due care  
19 not to do or cause anything to happen that would subject Plaintiff  
20 to undue stress, embarrassment, chagrin, and discouragement.  
21

22 35. Defendants breached their duty of care to Plaintiff by the  
23 actions and inaction complained of herein and as a result thereof  
24 Plaintiff was shocked, discouraged, embarrassed and outraged at  
25 the callousness and disregard of Defendants. Defendants knew or  
26 had reason to know that by denying Plaintiff equal access to their  
27 facility and failing and refusing to remove architectural  
28

1 barriers, Plaintiff would suffer emotional and/or mental distress  
2 because of such discrimination and disparate treatment. Defendants  
3 breached their duty of care to plaintiff by the perpetration of  
4 the acts outlined herein.  
5

6 36. As a proximate result of the actions of Defendants Plaintiff  
7 did suffer emotional and mental stress and pain and suffering all  
8 in an amount to be determined at time of trial.  
9

10 **IX**

11 **FIFTH CAUSE OF ACTION**

12 **(Intentional Infliction of Emotional Distress)**

13 37. Plaintiff realleges the allegations of the Fourth Cause of  
14 Action as though set forth fully herein.

15 38. The actions of Defendants and each of them are despicable,  
16 intentional and done with conscious disregard of the rights and  
17 safety of Plaintiff and as such should be regarded as outrageous.

18 39. As a proximate result of Defendants' actions Plaintiff has  
19 suffered severe emotional and mental distress all to his damage in  
20 an amount to be determined at time of trial.

21 40. Plaintiff seeks an award of punitive damages for this claim as  
22 the actions of Defendants are tantamount to outrageous conduct and  
23 subject them to exemplary damages.

24 **X**

25 **SIXTH CAUSE OF ACTION**

26 **(DECLARATORY RELIEF)**

27 41. Plaintiff realleges and incorporates by reference each and  
28 every allegation contained in paragraphs 1-40 of this complaint as  
though set forth fully herein.

1 42. An actual controversy now exists in that plaintiff is informed  
2 and believes and thereon alleges that defendants' premises are in  
3 violation of the disabled access laws of the State of California  
4 including, but not limited to, Civil Code Sections 51, et seq.,  
5 Section 52, et seq., Title 24 of the California Code of  
6 Regulations and Title III of the Americans with Disabilities Act  
7 and the Americans with Disabilities Access Guidelines (ADAAG).

8 43. A declaration of plaintiff's rights is necessary and  
9 appropriate in order for the parties to this action to know their  
10 respective rights and duties. Accordingly, the court should make a  
11 declaration of the rights of the parties.

12 **DEMAND FOR JURY**

13 44. Plaintiff respectfully requests that the claims made herein be  
14 heard and determined by a jury.

15 WHEREFORE PLAINTIFF PRAYS:

- 16 1. For general damages according to proof;
- 17 2. For special damages according to proof;
- 18 3. For damages pursuant to Cal. Civil Code section 52, in the  
19 amount of \$4,000 for each and every offense of California Civil  
20 Code section 51, Title 24 of the California Building Code and the  
21 Americans with Disabilities Act.
- 22 4. For Injunctive relief pursuant to 42 U.S.C. 12188(a) and  
23 California Business and Professions Code section 17200
- 24 5. For an award of attorney's fees pursuant to 42 U.S.C. 1988, 42  
25 U.S.C. 12205 and Cal. Civ. Code section 55;
- 26 6. For treble damages pursuant to Cal. Civ. Code 52 (a);
- 27 7. For punitive damages according to proof;
- 28 8. For a Jury Trial;



1 9. For costs of suit incurred herein and;

2 10. For such other and further relief as the court deems proper.

3 Respectfully submitted,

4 Dated: 2/26/04

Roy L. Sanders  
Attorney for Plaintiff, Ismael Rivera

5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

# CIVIL COVER SHEET

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

### (a) PLAINTIFFS

ISMAEL RIVERA

San Diego

(b) County of Residence of First Listed Plaintiff San Diego  
(EXCEPT IN U.S. PLAINTIFF CASES)

### DEFENDANTS

JC MANAGEMENT, INC., et al.

San Diego

County of Residence of First Listed San Diego  
(IN U.S. PLAINTIFF CASES ONLY)

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

### (c) Attorney's (Firm Name, Address, and Telephone Number)

Roy L. Landers (619)296-7898  
7840 Mission Center CT, Suite 101  
San Diego, CA 92108

### Attorneys (If Known)

'04 CV 0503 JM (BLM)  
DEPUTY

FILED

04 Mar 10 AM 10:48

SOUTHERN DISTRICT COURT

### II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

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

### III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

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

### IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	SOCIAL SECURITY	
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input checked="" type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSD Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

### V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

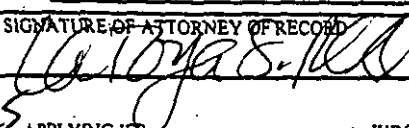
- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

### VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

42 USC 12101-12102, 12181-12183 and 12201, et seq.  
Discrimination on basis of disability (Public Accommodations)

### VII. REQUESTED IN COMPLAINT: DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

### VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE DOCKET NUMBER

DATE 2/27/04 SIGNATURE OF ATTORNEY OF RECORD 

FOR OFFICE USE ONLY RECEIPT # 101799 AMOUNT 150 MS APPLYING IFF \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_