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SAN DIEGO COUNTY

ACCOUNTING

1 CENTER FOR DISABILITY ACCESS, LLP  
MARK D. POTTER, ESQ., SBN 166317  
2 RUSSELL C. HANDY, ESQ., SBN 195058  
JAMES R. BOYD, ESQ., SBN175597  
3 STEVE WEDEL, ESQ. SBN 214908  
P.O. Box 34606  
4 San Diego, CA 92163-4606  
(619) 291-7593  
5 Fax: (619) 725-0720

6 Attorney for Plaintiff, CHRIS LANGER,  
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10 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 IN AND FOR THE COUNTY OF SAN DIEGO

12 CHRIS LANGER, ) Case No.: GIC 795948  
13 )  
14 Plaintiff, ) COMPLAINT FOR DAMAGES AND  
15 v. ) INJUNCTIVE RELIEF FOR VIOLATIONS  
16 ) OF: UNRUH CIVIL RIGHTS ACT;  
17 ) NEGLIGENCE; CALIFORNIA'S UNFAIR  
18 ) BUSINESS PRACTICE ACT.  
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ORIGINAL

21 Plaintiff CHRIS LANGER, (hereinafter referred to as  
22 "Plaintiff") complains of CARLOS RAMIREZ as TRUSTEE of the RAMIREZ  
23 FAMILY TRUST, dated May 23, 1995; ROSALIE RAMIREZ as TRUSTEE of the  
24 RAMIREZ FAMILY TRUST, dated May 23, 1995; CARLOS RAMIREZ, and  
25 Individual, and DOES 1 through 10, inclusive, (hereinafter referred  
26 to as "Defendants") and alleges as follows:

27 INTRODUCTION:

1           1. This is a Civil Rights action for discrimination against  
2 persons with physical disabilities, of which Plaintiff is a member  
3 of said class, for failure to remove architectural barriers  
4 structural in nature at Defendants' place of business, located at  
5 1719 Palm Ave., Imperial Beach, California, a place of public  
6 accommodation; and for failure to modify practices and or policies  
7 in order to accommodate, thereby discriminatorily denying Plaintiff  
8 and the class of other similarly situated persons with physical  
9 disabilities access to, the full and equal enjoyment of, opportunity  
10 to participate in, and benefit from, the goods, facilities,  
11 services, and accommodations thereof.

12           2. Plaintiff seeks injunctive relief and damages for  
13 violations of civil rights and for damages flowing from such  
14 violations.

15 **PARTIES:**

16           3. Plaintiff is a California resident with physical  
17 disabilities who uses a wheelchair to travel about in public.

18           4. Defendants, CARLOS RAMIREZ as TRUSTEE of the RAMIREZ FAMILY  
19 TRUST, dated May 23, 1995; ROSALIE RAMIREZ as TRUSTEE of the RAMIREZ  
20 FAMILY TRUST, dated May 23, 1995; CARLOS RAMIREZ, and Individual,  
21 and DOES 1 through 10, inclusive (hereinafter alternatively referred  
22 to collectively as "Defendants"), are the owners and operators,  
23 lessors and/or lessees, or agents of the owners, lessors and/or  
24 lessees, and/or alter egos, franchisers and/or franchisees, of the  
25 building and/or buildings which constitute a public facility in and  
26 of itself, occupied by the above described defendants, and subject  
27 to the requirements of federal and state law requiring full and  
28 equal access to public accommodations and facilities.

1           5. Plaintiff does not know the true names of Defendants, their  
2 business capacities, their ownership connection to the property and  
3 business, or their relative responsibilities in causing the access  
4 violations herein complained of, and alleges a joint venture and  
5 common enterprise by all such Defendants. Plaintiff is informed and  
6 believes that each of the Defendants herein, including DOES 1  
7 through 10, inclusive, is responsible in some capacity for the  
8 events herein alleged, or is a necessary party for obtaining  
9 appropriate relief. Plaintiff will seek leave to amend when the true  
10 names, capacities, connections, and responsibilities of the  
11 Defendants and DOES 1 through 10, inclusive, are ascertained.

12 **PRELIMINARY FACTUAL ALLEGATIONS:**

13           6. Defendants are or were at the time of the incident the  
14 owners and operators, lessors and lessees of the public facility,  
15 located at 1719 Palm Ave., Imperial Beach, California. The public  
16 accommodation, its path of travel, parking, restrooms and its other  
17 facilities are each a "public accommodation or facility" subject to  
18 the requirements of state and federal law. On information and  
19 belief, each such facility has, since July 1, 1970, undergone  
20 "alterations, structural repairs and additions," each of which has  
21 subjected the public accommodations, and each of their facilities to  
22 handicapped access requirements per the Americans with Disabilities  
23 Act Access Guidelines (ADAAG) and Title 24 of California's Code of  
24 Regulations.

25           7. On at least once occasion within the statutory period  
26 preceding the filing of this complaint, Plaintiff was an invitee and  
27 customer at the subject public accommodation.

28           8. During Plaintiff's visit, the subject public accommodation

1 exhibited various violations of the Americans with Disabilities Act  
2 Accessibility Guidelines ("ADAAG") and Title 24 of the California  
3 Code of Regulations including but not limited to: there was a lack  
4 of properly configured disabled parking; a lack of van accessible  
5 designated disabled parking.

6 9. On information and belief, other portions of the facility  
7 were improperly inaccessible for use by persons with physical  
8 disabilities.

9 10. On information and belief, the facilities continue to the  
10 date of filing this complaint to deny equal access to Plaintiff and  
11 other persons with physical disabilities.

12 11. As a result of the inaccessible facilities, Plaintiff was  
13 humiliated, embarrassed and frustrated, suffering emotional  
14 injuries. Moreover, as a result of the inaccessible facilities,  
15 Plaintiff, suffered bodily and physical injury.

16 12. Defendants knew their facilities were inaccessible and  
17 continued to maintain these facilities in an inaccessible condition  
18 and in doing so, knowingly continued to violate and interfere with  
19 the rights of disabled persons including Plaintiff. Such conduct by  
20 defendants is despicable, and was carried on by defendant with a  
21 willful and conscious disregard for the rights of disabled persons,  
22 including Plaintiff.

23 13. Plaintiff would like to return and use the Defendants'  
24 public accommodations but because of Defendants' violations,  
25 Plaintiff and other persons with physical disabilities are unable to  
26 use public facilities such as those owned and operated by Defendants  
27 on a "full and equal" basis unless such facility is in compliance  
28 with the provisions of the Americans with Disabilities Act

1 Accessibility Guidelines and state accessibility law as pled herein.  
2 Plaintiff has, therefore, been deterred from returning and using the  
3 Defendants' public accommodations.

4       14. Plaintiff is informed and believes and therefore alleges  
5 that Defendants and each of them (1) caused the subject improved  
6 real properties which constitute the subject public accommodation to  
7 be constructed, altered and maintained in such a manner that persons  
8 with physical disabilities were denied full and equal access to,  
9 within and throughout said improved real property(s); (2) that the  
10 Defendants have had actual and constructive notice that the  
11 facilities were not legally accessible to persons with disabilities;  
12 (3) that despite being informed of such effect on Plaintiff and  
13 other persons with physical disabilities due to the lack of  
14 accessible facilities, Defendants, and each of them, knowingly and  
15 willfully refused to take any steps to rectify the situation and to  
16 provide full and equal access for Plaintiff and other persons with  
17 physical disabilities to the subject public accommodation. Said  
18 defendants, and each of them, have continued such practices, in  
19 conscious disregard for the rights and safety of Plaintiff and other  
20 persons with physical disabilities. Said conduct, with knowledge of  
21 the effect it was and is having on Plaintiff and other persons with  
22 physical disabilities, constitutes despicable conduct in conscious  
23 disregard of the rights and safety of Plaintiff and of other  
24 similarly situated persons, justifying the imposition of punitive  
25 and exemplary damages per Civil Code section 3294.

26 **I. FIRST CAUSE OF ACTION: VIOLATION OF THE UNRUH CIVIL RIGHTS ACT**  
27 (On behalf of Plaintiff and Against All Defendants) (Cal Civ S  
28 51 et seq.)

15. Plaintiff repleads and incorporates by reference, as if

1 fully set forth again herein, the allegations contained in all prior  
2 paragraphs of this complaint.

3 16. California Civil Code § 52 provides that a party that  
4 discriminates against a plaintiff in violation of Civ. Code § 51  
5 shall be liable for actual damages, up to three times actual damages  
6 but not less than \$4000 for each such offense, and any attorney's  
7 fees incurred by the plaintiff.

8 **Count One:**

9 17. The Defendants have not ensured that their facilities  
10 comply with Title 24 of the California Code of Regulations, the  
11 California Building Code as it applies to physical access for  
12 persons with disabilities and failed to ensure that disabled persons  
13 have "full and equal accommodations, advantages, facilities,  
14 privileges, or services" to the facilities identified above.

15 **Count Two:**

16 18. The Defendants have not complied with the Americans with  
17 Disabilities Act of 1990.

18 **II. SECOND CAUSE OF ACTION: NEGLIGENCE**

19 (On behalf of the Plaintiff and Against All Defendants)

20 19. Plaintiff repleads and incorporates by reference, as if  
21 fully set forth again herein, the allegations contained in all prior  
22 paragraphs of this complaint.

23 20. Defendants had a duty to exercise ordinary care, i.e.,  
24 comply with the various accessibility laws and ensure that their  
25 property was safely configured.

26 21. Defendants failed to exercise ordinary care in that they  
27 failed to ensure that their facilities -- complied with the  
28

1 accessibility guidelines or that their facilities were configured to  
2 promote safe and effective use by persons with wheelchairs.

3 22. As the actual and proximate result of Defendants' failure  
4 to exercise ordinary care, Plaintiff suffered damages in an amount  
5 to be determined by proof.

6 23. Wherefore, Plaintiff prays for relief and damages and  
7 relief as hereinafter stated.

8 **III. THIRD CAUSE OF ACTION: VIOLATION OF CALIFORNIA'S UNFAIR**  
9 **BUSINESS PRACTICES ACT (On behalf of the Public and Against All**  
10 **Defendants) (Cal. Bus. & Prof. § 17200 et seq.)**

11 24. Plaintiff repleads and incorporates by reference, as if  
12 fully set forth again herein, the allegations contained in all prior  
13 paragraphs of this complaint.

14 25. In addition to the access violations described above,  
15 Defendants' facilities are in violation of California and Federal  
16 law in that they do not provide required access for disabled  
17 persons.

18 26. Defendants' acts and omissions alleged herein are a  
19 violation of both statutory requirements and public policy and,  
20 therefore, constitute a violation of Business and Professions Code  
21 sections 17200 et seq.

22 27. Plaintiff, on behalf of himself/herself and the general  
23 public, seeks injunctive relief requiring Defendants to remedy the  
24 disability access violations present at their facilities.

25 28. Wherefore, Plaintiff prays for relief and damages and  
26 relief as hereinafter stated.

27 **PRAYER:**

28 Wherefore, Plaintiff prays that this court award damages and

1 provide relief as follows:

2 1. For injunctive relief, compelling Defendants to comply with  
3 the Unruh Civil Rights Act.

4 2. General and Special damages in an amount to be determined by  
5 proof;

6 3. Reasonable attorneys' fees, litigation expenses and costs of  
7 suit, pursuant to Cal. Civ. Code §§ 52, and Cal. Civ. Proc. §  
8 1021.5;

9 4. For Punitive Damages pursuant to Cal. Civ. Code Section  
10 3294(c)(1);

11 5. For such other and further relief as the court may deem  
12 proper.

13 Dated: September 10, 2002 CENTER FOR DISABILITY ACCESS, LLP

14  
15 By: 

16 MARK D. POTTER  
17 RUSSELL C. HANDY  
18 JAMES R. BOYD  
Attorneys for Plaintiff

19 **DEMAND FOR JURY TRIAL**

20 Plaintiff hereby demands a jury for all claims for which a jury  
21 is permitted.

22  
23 Dated: September 10, 2002 CENTER FOR DISABILITY ACCESS, LLP

24  
25 By: 

26 MARK D. POTTER  
27 RUSSELL C. HANDY  
28 JAMES R. BOYD  
Attorneys for Plaintiff

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address)

TELEPHONE NO.:

Mark D. Potter SBN 1663... Center For Disability Access P.O. Box 34606 San Diego, CA. 92163-4606

(619)291-7593

FOR COURT USE ONLY

CIVIL FILED

2003 JAN 29 P 3:21

ATTORNEY FOR (Name): Chris Langer

Superior Court of the State of California In and For the County of San Diego

PLAINTIFF/PETITIONER: Chris Langer

DEFENDANT/RESPONDENT: Justa Nother Partnership

REQUEST FOR DISMISSAL

- Personal Injury, Property Damage, or Wrongful Death
Motor Vehicle
Other
Family Law
Eminent Domain
Other (specify): Civil

CASE NUMBER: GIC 795859

- A conformed copy will not be returned by the clerk unless a method of return is provided with the document. -

1. TO THE CLERK: Please dismiss this action as follows:

- (1) With prejudice (2) Without prejudice
(1) Complaint (2) Petition
(3) Cross-complaint filed by (name):
(4) Cross-complaint filed by (name):
(5) Entire action of all parties and all causes of action
(6) Other: (specify):

on (date):
on (date):

Date: 1-29-03

Mark D. Potter

TYPE OR PRINT NAME OF ATTORNEY PARTY WITHOUT ATTORNEY

SIGNATURE

Attorney or party without attorney for: Chris Langer

- Plaintiff/Petitioner
Defendant/Respondent
Cross-complainant

2. TO THE CLERK: Consent to the above dismissal is hereby given.\*\*

Date:

TYPE OR PRINT NAME OF ATTORNEY PARTY WITHOUT ATTORNEY

SIGNATURE

Attorney or party without attorney for:

- Plaintiff/Petitioner
Defendant/Respondent
Cross-complainant

To be completed by clerk

- Dismissal entered as requested on (date): JAN 29 2003
Dismissal entered on (date): as to only (name):
Dismissal not entered as requested for the following reasons (specify):
a. Attorney or party without attorney notified on (date): JAN 29 2003
b. Attorney or party without attorney not notified. Filing party failed to provide
a copy to conform means to return conformed copy

Date: JAN 29 2003

Clerk, by S. WICKER Deputy

REQUEST FOR DISMISSAL

ORIGINAL