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CIVIL RIGHTS OFFICE  
DIVISION

2002 OCT 24 P 3:00

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

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02 001 New CIVIL \$1.50

6 Attorney for Plaintiff, CHRIS LANGER,

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02 175 Miscellaneous \$1.50

9  
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 798656**  
13 )  
14 Plaintiff, ) **COMPLAINT FOR DAMAGES AND**  
15 v. ) **INJUNCTIVE RELIEF FOR VIOLATIONS**  
16 ISAM P. HABEEB; NATIONAL CITY ) **OF: UNRUH CIVIL RIGHTS ACT;**  
PIZZA CORP, and DOES 1 through ) **NEGLIGENCE; CALIFORNIA'S UNFAIR**  
17 10, inclusive ) **BUSINESS PRACTICE ACT.**  
18 Defendants. ) **DEMAND FOR JURY**  
19 )

20 Plaintiff CHRIS LANGER, (hereinafter referred to as  
21 "Plaintiff") complains of ISAM P. HABEEB; NATIONAL CITY PIZZA CORP,  
22 and DOES 1 through 10, inclusive, (hereinafter referred to as  
23 "Defendants") and alleges as follows:

24 **INTRODUCTION:**

25 1. This is a Civil Rights action for discrimination against  
26 persons with physical disabilities, of which Plaintiff is a member  
27 of said class, for failure to remove architectural barriers  
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1 structural in nature at Defendants' place of business, located at  
2 702 Highland Ave., National City, California, a place of public  
3 accommodation; and for failure to modify practices and or policies  
4 in order to accommodate, thereby discriminatorily denying Plaintiff  
5 and the class of other similarly situated persons with physical  
6 disabilities access to, the full and equal enjoyment of, opportunity  
7 to participate in, and benefit from, the goods, facilities,  
8 services, and accommodations thereof.

9 2. Plaintiff seeks injunctive relief and damages for  
10 violations of civil rights and for damages flowing from such  
11 violations.

12 **PARTIES:**

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

15 4. Defendants, ISAM P. HABEEB; NATIONAL CITY PIZZA CORP, and  
16 DOES 1 through 10, inclusive (hereinafter alternatively referred to  
17 collectively as "Defendants"), are the owners and operators, lessors  
18 and/or lessees, or agents of the owners, lessors and/or lessees,  
19 and/or alter egos, franchisers and/or franchisees, of the building  
20 and/or buildings which constitute a public facility in and of  
21 itself, occupied by the above described defendants, and subject to  
22 the requirements of federal and state law requiring full and equal  
23 access to public accommodations and facilities.

24 5. Plaintiff does not know the true names of Defendants, their  
25 business capacities, their ownership connection to the property and  
26 business, or their relative responsibilities in causing the access  
27 violations herein complained of, and alleges a joint venture and  
28 common enterprise by all such Defendants. Plaintiff is informed and

1 believes that each of the Defendants herein, including DOES 1  
2 through 10, inclusive, is responsible in some capacity for the  
3 events herein alleged, or is a necessary party for obtaining  
4 appropriate relief. Plaintiff will seek leave to amend when the true  
5 names, capacities, connections, and responsibilities of the  
6 Defendants and DOES 1 through 10, inclusive, are ascertained.

7 **PRELIMINARY FACTUAL ALLEGATIONS:**

8         6. Defendants are or were at the time of the incident the  
9 owners and operators, lessors and lessees of the public facility,  
10 located at 702 Highland Ave., National City, California. The public  
11 accommodation, its path of travel, parking, restrooms and its other  
12 facilities are each a "public accommodation or facility" subject to  
13 the requirements of state and federal law. On information and  
14 belief, each such facility has, since July 1, 1970, undergone  
15 "alterations, structural repairs and additions," each of which has  
16 subjected the public accommodations, and each of their facilities to  
17 handicapped access requirements per the Americans with Disabilities  
18 Act Access Guidelines (ADAAG) and Title 24 of California's Code of  
19 Regulations.

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

23         8. During Plaintiff's visit, the subject public accommodation  
24 exhibited various violations of the Americans with Disabilities Act  
25 Accessibility Guidelines ("ADAAG") and Title 24 of the California  
26 Code of Regulations including but not limited to: Violation there  
27 was a lack of properly configured disabled parking; a lack of van  
28 accessible designated disabled parking;

1           9. On information and belief, other portions of the facility  
2 were improperly inaccessible for use by persons with physical  
3 disabilities.

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

7           11. As a result of the inaccessible facilities, Plaintiff was  
8 humiliated, embarrassed and frustrated, suffering emotional  
9 injuries. Moreover, as a result of the inaccessible facilities,  
10 Plaintiff, suffered bodily and physical injury.

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

18           13. Plaintiff would like to return and use the Defendants'  
19 public accommodations but because of Defendants' violations,  
20 Plaintiff and other persons with physical disabilities are unable to  
21 use public facilities such as those owned and operated by Defendants  
22 on a "full and equal" basis unless such facility is in compliance  
23 with the provisions of the Americans with Disabilities Act  
24 Accessibility Guidelines and state accessibility law as pled herein.  
25 Plaintiff has, therefore, been deterred from returning and using the  
26 Defendants' public accommodations.

27           14. Plaintiff is informed and believes and therefore alleges  
28 that Defendants and each of them (1) caused the subject improved

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

21 **I. FIRST CAUSE OF ACTION: VIOLATION OF THE UNRUH CIVIL RIGHTS ACT**  
22 (On behalf of Plaintiff and Against All Defendants) (Cal Civ §  
23 51 et seq.)

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

27 16. California Civil Code § 52 provides that a party that  
28 discriminates against a plaintiff in violation of Civ. Code § 51  
shall be liable for actual damages, up to three times actual damages

1 but not less than \$4000 for each such offense, and any attorney's  
2 fees incurred by the plaintiff.

3 **Count One:**

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

10 **Count Two:**

11 18. The Defendants have not complied with the Americans with  
12 Disabilities Act of 1990.

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

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

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

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

21 21. Defendants failed to exercise ordinary care in that they  
22 failed to ensure that their facilities complied with the  
23 accessibility guidelines or that their facilities were configured to  
24 promote safe and effective use by persons with wheelchairs.

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

1           23. Wherefore, Plaintiff prays for relief and damages and  
2 relief as hereinafter stated.

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

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

9           25. In addition to the access violations described above,  
10 Defendants' facilities are in violation of California and Federal  
11 law in that they do not provide required access for disabled  
12 persons.

13           26. Defendants' acts and omissions alleged herein are a  
14 violation of both statutory requirements and public policy and,  
15 therefore, constitute a violation of Business and Professions Code  
16 sections 17200 et seq.

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

20           28. Wherefore, Plaintiff prays for relief and damages and  
21 relief as hereinafter stated.

22 **PRAYER:**

23           Wherefore, Plaintiff prays that this court award damages and  
24 provide relief as follows:

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

27           2. General and Special damages in an amount to be determined by  
28 proof;

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

4 4. For Punitive Damages pursuant to Cal. Civ. Code Section  
5 3294(c)(1);

6 5. For such other and further relief as the court may deem  
7 proper.

8 Dated: October 8, 2002

CENTER FOR DISABILITY ACCESS, LLP

9  
10 By: 

11 MARK D. POTTER  
12 RUSSELL C. HANDY  
13 JAMES R. BOYD  
Attorneys for Plaintiff

14 DEMAND FOR JURY TRIAL

15 Plaintiff hereby demands a jury for all claims for which a jury  
16 is permitted.

17  
18 Dated: October 8, 2002

CENTER FOR DISABILITY ACCESS, LLP

19  
20 By: 

21 MARK D. POTTER  
22 RUSSELL C. HANDY  
23 JAMES R. BOYD  
Attorneys for Plaintiff



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1 DOUGLAS H. BARKER ESQ. (SBN 94787)  
BARKER WALTERS, APLC  
2 444 West Beech Street, 4<sup>th</sup> Floor  
San Diego, CA 92101  
3 Tel: (619) 682-4040  
Fax: (619) 220-7056  
4

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5 Attorneys for Defendant  
ISAM P. HABEEB

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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 FOR THE COUNTY OF SAN DIEGO, CENTRAL DISTRICT

10 CHRIS LANGER

CASE NO. GIC 798656

11 Plaintiff,

**DEFENDANT ISAM P. HABEEB's  
ANSWER TO PLAINTIFF'S  
COMPLAINT**

12 v.

13 ISAM P. HABEEB, NATIONAL CITY PIZZA  
14 CORP., and DOES 1 through 10,  
inclusive

15 Defendant.  
16

17 Defendant ISAM P. HABEEB ("Defendant") answers the Complaint filed by plaintiff

18 CHRIS LANGER as follows:

19 Under the provisions of Code of Civil Procedure 431.30, Defendant answers and denies  
20 generally and specifically each, every, and all the allegations contained in the plaintiff's  
21 Complaint and the whole thereof. Defendant further denies that the plaintiff sustained any  
22 damages as alleged in any sum or sums, or at all, by reason of any act, breach, or omission on the  
23 part of this answering Defendant.  
24  
25  
26  
27

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