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SAN DIEGO COUNTY, CA

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9  
10 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 IN AND FOR THE COUNTY OF SAN DIEGO

GIC 805422

12 CHRIS LANGER, ) Case No.:  
13 )  
14 Plaintiff, ) **COMPLAINT FOR DAMAGES AND**  
15 v. ) **INJUNCTIVE RELIEF FOR VIOLATIONS**  
16 KURIAKI TAVLARIDIS as TRUSTEE of ) **OF: UNRUH CIVIL RIGHTS ACT;**  
the TAVLARIDIS SEPARATE PROPERTY ) **NEGLIGENCE; CALIFORNIA'S UNFAIR**  
17 TRUST dated 6-21-01; ALEJANDRO ) **BUSINESS PRACTICE ACT.**  
LARA, and DOES 1 through 10, ) **DEMAND FOR JURY**  
18 inclusive )  
19 Defendants. )

20  
21 Plaintiff CHRIS LANGER, (hereinafter referred to as  
22 "Plaintiff") complains of KURIAKI TAVLARIDIS as TRUSTEE of the  
23 TAVLARIDIS SEPARATE PROPERTY TRUST dated 6-21-01; ALEJANDRO LARA,  
24 and DOES 1 through 10, inclusive, (hereinafter referred to as  
25 "Defendants") and alleges as follows:

26 **INTRODUCTION:**

27 1. This is a Civil Rights action for discrimination against  
28 persons with physical disabilities, of which Plaintiff is a member

ORIGINAL

1 of said class, for failure to remove architectural barriers  
2 structural in nature at Defendants' place of business, located at  
3 3973 Mission Blvd, San Diego, California, a place of public  
4 accommodation; and for failure to modify practices and or policies  
5 in order to accommodate, thereby discriminatorily denying Plaintiff  
6 and the class of other similarly situated persons with physical  
7 disabilities access to, the full and equal enjoyment of, opportunity  
8 to participate in, and benefit from, the goods, facilities,  
9 services, and accommodations thereof.

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

13 **PARTIES:**

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

16 4. Defendants, KURIAKI TAVLARIDIS as TRUSTEE of the TAVLARIDIS  
17 SEPARATE PROPERTY TRUST dated 6-21-01; ALEJANDRO LARA, and DOES 1  
18 through 10, inclusive (hereinafter alternatively referred to  
19 collectively as "Defendants"), are the owners and operators, lessors  
20 and/or lessees, or agents of the owners, lessors and/or lessees,  
21 and/or alter egos, franchisers and/or franchisees, of the building  
22 and/or buildings which constitute a public facility in and of  
23 itself, occupied by the above described defendants, and subject to  
24 the requirements of federal and state law requiring full and equal  
25 access to public accommodations and facilities.

26 5. Plaintiff does not know the true names of Defendants, their  
27 business capacities, their ownership connection to the property and  
28 business, or their relative responsibilities in causing the access

1 violations herein complained of, and alleges a joint venture and  
2 common enterprise by all such Defendants. Plaintiff is informed and  
3 believes that each of the Defendants herein, including DOES 1  
4 through 10, inclusive, is responsible in some capacity for the  
5 events herein alleged, or is a necessary party for obtaining  
6 appropriate relief. Plaintiff will seek leave to amend when the true  
7 names, capacities, connections, and responsibilities of the  
8 Defendants and DOES 1 through 10, inclusive, are ascertained.

9 **PRELIMINARY FACTUAL ALLEGATIONS:**

10 6. Defendants are or were at the time of the incident the  
11 owners and operators, lessors and lessees of the public facility,  
12 located at 3973 Mission Blvd, San Diego, California. The public  
13 accommodation, its path of travel, parking, restrooms and its other  
14 facilities are each a "public accommodation or facility" subject to  
15 the requirements of state and federal law. On information and  
16 belief, each such facility has, since July 1, 1970, undergone  
17 "alterations, structural repairs and additions," each of which has  
18 subjected the public accommodations, and each of their facilities to  
19 handicapped access requirements per the Americans with Disabilities  
20 Act Access Guidelines (ADAAG) and Title 24 of California's Code of  
21 Regulations.

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

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

1 of properly configured disabled parking; and a lack of van  
2 accessible designated disabled parking.

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

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

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

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

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

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

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

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

28           16. California Civil Code § 52 provides that a party that

1 discriminates against a plaintiff in violation of Civ. Code § 51  
2 shall be liable for actual damages, up to three times actual damages  
3 but not less than \$4000 for each such offense, and any attorney's  
4 fees incurred by the plaintiff.

5 **Count One:**

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

12 **Count Two:**

13 18. The Defendants have not complied with the Americans with  
14 Disabilities Act of 1990.

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

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

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

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

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

27 22. As the actual and proximate result of Defendants' failure  
28

1 to exercise ordinary care, Plaintiff suffered damages in an amount  
2 to be determined by proof.

3 23. Wherefore, Plaintiff prays for relief and damages and  
4 relief as hereinafter stated.

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

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

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

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

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

22 28. Wherefore, Plaintiff prays for relief and damages and  
23 relief as hereinafter stated.

24 **PRAYER:**

25 Wherefore, Plaintiff prays that this court award damages and  
26 provide relief as follows:

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

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

3           3. Reasonable attorneys' fees, litigation expenses and costs of  
4 suit, pursuant to Cal. Civ. Code §§ 52, and Cal. Civ. Proc. §  
5 1021.5;

6           4. For Punitive Damages pursuant to Cal. Civ. Code Section  
7 3294(c)(1);

8           5. For such other and further relief as the court may deem  
9 proper.

10 Dated: December 27, 2002

CENTER FOR DISABILITY ACCESS, LLP

11  
12 By: 

13 \_\_\_\_\_  
14 MARK D. POTTER  
15 RUSSELL C. HANDY  
16 JAMES R. BOYD  
17 Attorneys for Plaintiff

18 **DEMAND FOR JURY TRIAL**

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

21 Dated: December 27, 2002

CENTER FOR DISABILITY ACCESS, LLP

22 By: 

23 \_\_\_\_\_  
24 MARK D. POTTER  
25 RUSSELL C. HANDY  
26 JAMES R. BOYD  
27 Attorneys for Plaintiff  
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