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CLEARING COURT
SAN DIEGO COUNTY, CA BT

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02 001 New Civil \$227.50

Attorney for Plaintiff, CHRIS LANGER,

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

CHRIS LANGER,

Plaintiff,

v.

PAULA COBB as TRUSTEE of the
PAULA MOGAVERO TRUST, and DOES 1
through 10, inclusive

Defendants.

) Case No.: **GIC807502**
)
) **COMPLAINT FOR DAMAGES AND**
) **INJUNCTIVE RELIEF FOR VIOLATIONS**
) **OF: UNRUH CIVIL RIGHTS ACT;**
) **NEGLIGENCE; CALIFORNIA'S UNFAIR**
) **BUSINESS PRACTICE ACT.**
) **DEMAND FOR JURY**

Plaintiff CHRIS LANGER, (hereinafter referred to as
"Plaintiff") complains of PAULA COBB as TRUSTEE of the PAULA
MOGAVERO TRUST, and DOES 1 through 10, inclusive, (hereinafter
referred to as "Defendants") and alleges as follows:

INTRODUCTION:

1. This is a Civil Rights action for discrimination against
persons with physical disabilities, of which Plaintiff is a member
of said class, for failure to remove architectural barriers

3 and for failure to modify practices and or policies in order to
4 accommodate, thereby discriminatorily denying Plaintiff and the
5 class of other similarly situated persons with physical disabilities
6 access to, the full and equal enjoyment of, opportunity to
7 participate in, and benefit from, the goods, facilities, services,
8 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, PAULA COBB as TRUSTEE of the PAULA MOGAVERO
16 TRUST, and DOES 1 through 10, inclusive (hereinafter alternatively
17 referred to collectively as "Defendants"), are the owners and
18 operators, lessors and/or lessees, or agents of the owners, lessors
19 and/or lessees, and/or alter egos, franchisers and/or franchisees,
20 of the building and/or buildings which constitute a public facility
21 in and of itself, occupied by the above described defendants, and
22 subject to the requirements of federal and state law requiring full
23 and equal 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

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 12759 Poway Rd., Poway, 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: there was a lack
27 of properly configured disabled parking, and a lack of van
28 accessible designated disabled parking, in the vicinity of the front

3 Poway Liquor Store.

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

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

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

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

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

shall be liable for actual damages, up to three times actual damages--
out not less than \$4000 for each such offense, and any attorney's
fees incurred by the plaintiff.

Count One:

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

Count Two:

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

II. SECOND CAUSE OF ACTION: NEGLIGENCE
(On behalf of the Plaintiff and Against All Defendants)

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

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

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

to be determined by proof.

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

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

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

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

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

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

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

PRAYER:

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

1. For injunctive relief, compelling Defendants to comply with

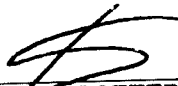
proof;

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

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

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


Dated: February 13, 2003 CENTER FOR DISABILITY ACCESS, LLP

By: 
MARK D. POTTER
RUSSELL C. HANDY
JAMES R. BOYD
Attorneys for Plaintiff

DEMAND FOR JURY TRIAL

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

Dated: February 13, 2003 CENTER FOR DISABILITY ACCESS, LLP

By: 
MARK D. POTTER
RUSSELL C. HANDY
JAMES R. BOYD
Attorneys for Plaintiff