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3:03-CV-01490 COLLINS V. CASA GUADALAJARA INC

\*1\*

\*CMP.\*

ORIGINAL

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CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

Attorney for Plaintiff, JAMES COLLINS

BY: 

DEPUTY

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

JAMES COLLINS,

Plaintiff,

v.

CASA GUADALAJARA, INC., a  
CALIFORNIA CORPORATION, and DOES  
ONE through FIFTY, inclusive,

Defendants.

Case No.

03 CV 1480W POR

Civil Rights

COMPLAINT FOR INJUNCTIVE RELIEF  
AND DAMAGES: DENIAL OF CIVIL  
RIGHTS OF A DISABLED PERSON IN  
VIOLATION OF THE AMERICANS WITH  
DISABILITIES ACT OF 1990;  
VIOLATION OF CALIFORNIA'S CIVIL  
RIGHTS STATUTES

JURY TRIAL REQUESTED

Plaintiff JAMES COLLINS complains of CASA GUADALAJARA, INC., A  
CALIFORNIA CORPORATION, and DOES ONE to FIFTY, inclusive, and alleges as  
follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction of this action pursuant to 28 USC § 1331 for  
violations of the *Americans with Disabilities Act of 1990*, (42 USC § 12101, et seq.)  
Pursuant to pendant jurisdiction, attendant and related causes of action, arising from the  
same facts, are also brought under California law, including, but not limited to, violations of

1

1 **California Health & Safety Code** § 19955, et seq., including **California Code of**  
2 **Regulations**, Title 24, § 19959, **California Civil Code** §§ 51, 51.5, 52(a), 52.1, 54, 54.1,  
3 54.3 and 55.

4  
5 2. Venue is proper in this court pursuant to 28 **USC** § 1391(b) and is founded on  
6 the fact that the real property which is the subject of this action is located in this district, at  
7 San Diego, California, and that Plaintiff's causes of action arose in this district.

8 **INTRODUCTION**

9 3. **CASA GUADALAJARA** is located at 4105 Taylor Street, San Diego,  
10 California. Said restaurant is owned and operated by **CASA GUADALAJARA, INC., A**  
11 **CALIFORNIA CORPORATION**, and **DOES ONE to FIFTY, inclusive**.

12  
13 Defendants **CASA GUADALAJARA, INC., A CALIFORNIA CORPORATION**, and  
14 **DOES ONE to FIFTY, inclusive**, operates an establishment for services to the public and  
15 at which Defendants failed to provide barrier free access to said establishment in  
16 conformity with both Federal and California legal requirements. Further, Defendants failed  
17 to provide compliance as follows:

18 **EXTERIOR:**

19 1. There is not a complying path of travel from the public sidewalk  
20 to the restaurant entrance in violation of California Title 24 § 1127B.1,  
21 1127B.1.2, ADAAG 4.12.

22 **PARKING:**

23 1. There are 25-50 parking spaces in the front parking lot and more  
24 than 100 in the entire parking lot with only 3 accessible parking spaces in  
25 violation of California Title 24 § 1129B.1, Table 11B-6.

26 2. There in no van accessible parking space in violation of  
27 California Title 24 § 1129B.5.

28 3. The access aisles are not properly marked with 12" high letters  
showing "NO PARKING" in violation of California Title 24 § 1129.4.2, Fig. 11B-  
18B, ADAAG 4.6.3;

4. The surface slope in the parking lot exceeds 2% in violation of

1 California Title 24 § 1129B.4.4, ADAAG 4.6.3.

2 **INTERIOR:**

3 1. More than half of the interior dining area is on a sunken area,  
4 down 2 or more risers with no access in violation of California Title 24 §  
5 1120B.1.

6 2. Only 1 table is accessible to persons in wheelchairs and is  
7 placed in the least desirable area of the restaurant, normally used only by  
8 employees, in violation of California Title 24 § 1104B.5.4.

9 3. The Men's and Women's Restrooms are totally inaccessible to  
10 persons in wheelchairs, and an alternate Unisex restroom in the kitchen is  
11 offered to patrons when they complain of not being able to enter the restrooms  
12 used by the general public in violation of California Title 24 § 1115B.1.

13 4. The aisles through the Bar area to the Unisex restroom in the  
14 kitchen is less than 36" wide and requires patrons to get up and move their  
15 chairs to allow passage of a wheelchair in violation of California Title 24 §  
16 1104B.5.3, ADAAG 4.5.

17 5. There are 2 bars and both have counters 42" high in violation of  
18 California Title 24 § 1122B.4, ADAAG 5.2

19 6. There are 2 exterior patios which are accessible except the  
20 tables do not have complying knee space in violation of California Title 24 §  
21 1122b.4.

22 7. The path of travel to tables in the accessible level is not more  
23 than 48" wide with inaccessible booths in violation of California Title 24 §  
24 1108B.4.

25 Several of these violations interfered with Plaintiff's safe and barrier free access to  
26 the restaurant, and deter Plaintiff from returning in the future, as Plaintiff would have absent  
27 the barriers. As a legal result, Plaintiff **JAMES COLLINS** suffered violation of his civil rights  
28 to full and equal enjoyment of goods, services, facilities and privileges, and suffered  
embarrassment and humiliation.

29 **FACTUAL ALLEGATIONS**

30 4. Plaintiff **JAMES COLLINS** is, and at all times relevant to this Complaint was,  
31 a "physically handicapped person, "physically disabled person," and a "person with a

1 disability," as these terms are used under California law and under federal laws including,  
2 but not limited to, Title III of the **Americans with Disabilities Act of 1990**. (The terms  
3 "physically handicapped person," "physically disabled person," and a "person with a  
4 disability" will be used interchangeably throughout this Complaint.) Plaintiff is a "person  
5 with a disability," as defined by all applicable California and United State's laws. Plaintiff  
6 **JAMES COLLINS** is severely limited in the use of his legs and is wheelchair bound.

8       5. Defendants **CASA GUADALAJARA, INC., A CALIFORNIA**  
9 **CORPORATION, and DOES ONE to FIFTY, inclusive**, at all times relevant herein were  
10 and are the owners and operators; lessors and/or lessees, franchisers and/or franchisees,  
11 of public facilities known as the "**CASA GUADALAJARA**" located at San Diego, California,  
12 subject to the requirements of California state law requiring full and equal access to public  
13 facilities pursuant to **California Health & Safety Code § 19955, et seq., California Civil**  
14 **Code §§ 51, 51.5, 52(a), 52.1, 54, 54.1, 54.3 and 55**, and subject to Title III of the  
15 **Americans with Disabilities Act of 1990**, and to all other legal requirements referred to in  
16 this Complaint. Plaintiff does not know the relative responsibilities of defendants in the  
17 operation of the facilities herein complained of, and alleges a joint venture and common  
18 enterprise by all such defendants.

21       6. Defendants **CASA GUADALAJARA, INC., A CALIFORNIA**  
22 **CORPORATION, and DOES ONE to FIFTY, inclusive** (hereinafter alternatively referred to  
23 collectively as "defendants"), at all times relevant herein were and are owners, possessors,  
24 builders and keepers of the "**CASA GUADALAJARA**" in San Diego, California.

26       7. Defendants **CASA GUADALAJARA, INC., A CALIFORNIA**  
27 **CORPORATION, and DOES ONE to FIFTY, inclusive** are the owners and operators of  
28 the subject "**CASA GUADALAJARA**", at all times relevant to this Complaint. Plaintiff is

1 informed and believes that each of the defendants herein is the agent, employee or  
2 representative of each of the other defendants, and performed all acts and omissions  
3 stated herein within the scope of such agency or employment or representative capacity  
4 and is responsible in some manner for the acts and omissions of the other defendants in  
5 legally causing the damages complained of herein, and have approved or ratified each of  
6 the acts or omissions of each other defendant, as herein described.  
7

8       8.     Plaintiff **JAMES COLLINS** does not know the true names and capacities of  
9 Defendants **CASA GUADALAJARA, INC., A CALIFORNIA CORPORATION, and DOES**  
10 **ONE to FIFTY, inclusive**, their business capacities, their ownership connection to the  
11 property and business, nor their relative responsibilities in causing the access violations  
12 herein complained of, and alleges a joint venture and common enterprise by all such  
13 defendants. Plaintiff is informed and believes that each of the defendants herein, including  
14 **DOES ONE to FIFTY, inclusive**, is the agent, ostensible agent, master, servant, employer,  
15 employee, representative, franchiser, franchisee, joint venturer, partner, and associate, or  
16 such similar capacity, of each of the other defendants, and was at all times acting and  
17 performing, or failing to act or perform, with the authorization, consent, permission or  
18 ratification of each of the other defendants, and is responsible in some manner for the acts  
19 and omissions of the other defendants in legally causing the violations and damages  
20 complained of herein, and have approved or ratified each of the acts or omissions of each  
21 other defendant, as herein described. Plaintiff will seek leave to amend this Complaint  
22 when the true names, capacities, connections and responsibilities of Defendants **CASA**  
23 **GUADALAJARA, INC., A CALIFORNIA CORPORATION, and DOES ONE to FIFTY,**  
24 **inclusive**, are ascertained.  
25  
26  
27

28       9.     Plaintiff is informed and believes that all named defendants, including **DOES**

1 ONE to FIFTY, inclusive, conspired to commit the acts described herein, or alternatively,  
2 aided and abetted one another in the performance of the wrongful acts hereinafter alleged.

3 10. Defendants **CASA GUADALAJARA, INC., A CALIFORNIA**  
4 **CORPORATION, and DOES ONE to FIFTY, inclusive,** are the owners and operators of  
5 "CASA GUADALAJARA" restaurant, located at San Diego, California. This restaurant,  
6 including, but not limited to, parking spaces and access aisles and access routes, are each  
7 a part of a "public accommodation or facility" subject to the requirements of *California*  
8 *Health & Safety Code* § 19955, *et seq.*, and of *California Civil Code* §§ 51, 52(a), 54,  
9 54.1, *et seq.* On information and belief, this "CASA GUADALAJARA" was constructed  
10 after 1990 which has subjected the "CASA GUADALAJARA" to handicapped access  
11 requirements per *California Health & Safety Code* § 19959, and applicable portions of  
12 *California Code of Regulations*, Title 24, (the State Building Code).

13 11. On or about June 14, 2003, Plaintiff **JAMES COLLINS**, visited the "CASA  
14 **GUADALAJARA**" in San Diego, California, for the purpose of dining. Defendants **CASA**  
15 **GUADALAJARA, INC., A CALIFORNIA CORPORATION, and DOES ONE to FIFTY,**  
16 **inclusive,** interfered with Plaintiff's access to the "CASA GUADALAJARA" as set forth in  
17 Paragraph 3 above.

18 Said acts and omissions denied Plaintiff legal handicapped access to the "CASA  
19 **GUADALAJARA**" according to federal and state law.

20 12. Plaintiff encountered and/or is informed and believes that the following  
21 architectural barriers, which violate the requirements of the *California Code of*  
22 *Regulations* Title 24 and *ADAAG*, existed and continue to exist thereby denying Plaintiff  
23 and those similarly situated full and equal access to the subject public facility as set forth in  
24 Paragraph 3 above.

1 13. Defendants, and each of them, discriminated against Plaintiff **JAMES**  
2 **COLLINS** on the basis of his physical disability, and interfered with his access to the  
3 "**CASA GUADALAJARA**" establishment, in violation of both California law including, but  
4 not limited to, **California Civil Code** §§ 51, 51.5, 54, 54.1, and a violation of Title III, §302,  
5 the "Prohibition of Discrimination" provision and §503, the "Prohibition Against Retaliation  
6 or Coercion" provision of the **Americans with Disabilities Act of 1990**.

7  
8 14. As a result of the actions and failure to act of defendants, and each of them,  
9 and as a result of the failure to provide appropriate handicapped accessible entryways,  
10 paths of travel, and handicapped accommodations for restrooms, Plaintiff **JAMES**  
11 **COLLINS** suffered and will suffer a loss of his civil rights to full and equal access to public  
12 facilities, and further suffered and will suffer emotional distress, mental distress, mental  
13 suffering, mental anguish, which includes shame, humiliation, embarrassment, anger,  
14 chagrin, disappointment and worry, expectedly and naturally associated with a person with  
15 a physical disability being denied access to a public accommodation, all to his damages as  
16 prayed hereinafter in an amount within the jurisdiction of this court.  
17

18  
19 **I. FIRST CAUSE OF ACTION:**  
20 **VIOLATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990**  
**(42 USC §12101 et seq.)**

21 15. Plaintiff repleads and incorporates by reference, as if fully set forth again  
22 herein, the allegations contained in paragraphs 1 through 14 of this Complaint and  
23 incorporates them herein as if separately repled.

24 16. Pursuant to law, in 1990 the United States Congress made findings per 42  
25 **USC** § 12101 regarding persons with physical disabilities, finding that laws were needed to  
26 more fully protect 43 million Americans with one or more physical or mental disabilities;  
27 [that] historically society has tended to isolate and segregate individuals with disabilities;  
28

1 [that] such forms of discrimination against individuals with disabilities continue to be a  
2 serious and pervasive social problem; [that] the nation's proper goals regarding individuals  
3 with disabilities are to assure equality of opportunity, full participation, independent living  
4 and economic self-sufficiency for such individuals; [and that] the continuing existence of  
5 unfair and unnecessary discrimination and prejudice denies people with disabilities the  
6 opportunity to compete on an equal basis and to pursue those opportunities for which our  
7 free society is justifiably famous.

8  
9 17. Congress stated as its purpose in passing the ***Americans with Disabilities***  
10 ***Act of 1990 (42 USC § 12102)***:

11  
12 It is the purpose of this act (1) to provide a clear and comprehensive  
13 national mandate for the elimination of discrimination against individuals with  
14 disabilities; (2) to provide clear, strong, consistent, enforceable standards  
15 addressing discrimination against individuals with disabilities; (3) to ensure that  
16 the Federal government plays a central role in enforcing the standards  
17 established in this act on behalf of individuals with disabilities; and (4) to  
18 invoke the sweep of Congressional authority, including the power to enforce  
19 the 14th Amendment and to regulate commerce, in order to address the major  
20 areas of discrimination faced day to day by people with disabilities.

21 18. As part of the ***Americans with Disabilities Act of 1990***, Public Law 101-336  
22 (hereinafter the "ADA"), Congress passed "Title III - Public Accommodations and Services  
23 Operated by Private Entities" (42 USC § 12181 *et seq.*). Among the public  
24 accommodations identified for purposes of this title were "a bakery, restaurant, bar or other  
25 establishment serving food or drink, grocery store, clothing store, hardware store, shopping  
26 center or other sales or rental establishment."

27 19. Pursuant to 42 USC § 12182,

28 "No individual shall be discriminated against on the basis of disability in the full  
and equal enjoyment of the goods, services, facilities, privileges, advantages,  
or accommodations of any place of public accommodation by any person who  
owns, leases (or leases to), or operates a place of public accommodation."

20. Among the general prohibitions against discrimination were included in 42

1 **USC §12182(b)(1)(A)(i):**

2           **Denial of participation.** It shall be discriminatory to subject an  
3 individual or class of individuals on the basis of a disability or disabilities of  
4 such individual or class, directly, or through contractual, licensing, or other  
5 arrangements, to a denial of the opportunity of the individual or class to  
6 participate in or benefit from the goods, services, facilities, privileges,  
7 advantages, or accommodations of an entity.

8           21. Among the general prohibitions against discrimination were included in 42

9 **USC §12182(b)(1)(E):**

10           **Association** -- It shall be discriminatory to exclude or otherwise deny  
11 equal goods, services, facilities, privileges, advantages, accommodations, or  
12 other opportunities to an individual or entity because of the known disability of  
13 an individual with whom the individual or entity is known to have a relationship  
14 or association.

15           The acts of defendants set forth herein were a violation of Plaintiff's rights under the ADA,  
16 Public Law 101-336, and the regulations promulgated thereunder, 28 **CFR** Part 36 et seq.

17           22. Among the general prohibitions against discrimination were included in 42

18 **USC § 12182(b)(2)(A)(i) and 42 USC § 12182(b)(2)(A)(ii):**

19           **Discrimination.** For purposes of subsection (a), discrimination  
20 includes -

21           (i) the imposition or application of eligibility criteria that screen out or  
22 tend to screen out an individual with a disability or any class of individuals with  
23 disabilities from fully and equally enjoying any goods, services, facilities,  
24 privileges, advantages, or accommodations, unless such criteria can be shown  
25 to be necessary for the provision of the goods, services, facilities, privileges,  
26 advantages, or accommodations being offered;

27           (ii) a failure to make reasonable modifications in policies, practices, or  
28 procedures, when such modifications are necessary to afford such goods,  
services, facilities, privileges, advantages, or accommodations to individuals  
with disabilities, unless the entity can demonstrate that making such  
modifications would fundamentally alter the nature of such goods, services,  
facilities, privileges, advantages, or accommodations.

29           23. Plaintiff alleges that constructing the eligibility requirements, policies,  
practices and procedure for entry to the "**CASA GUADALAJARA**" facility by persons with

1 disabilities and their companions as established by the defendants can be simply modified  
2 to eliminate disparate and discriminatory treatment of persons with disabilities by properly  
3 constructing barrier free handicapped access for safe and full and equal enjoyment of the  
4 "CASA GUADALAJARA" as that enjoyed by other people.  
5

6 24. The specific prohibition against retaliation and coercion is included in the  
7 **Americans With Disabilities Act of 1990** § 503(b) and the *Remedies and Procedures* in §  
8 503(c):

9 (b) Interference, Coercion, or Intimidation. - It shall be unlawful to  
10 coerce, intimidate, threaten, or interfere with any individual in the exercise or  
11 enjoyment of, or on account of his or her having exercised or enjoyed, or on  
12 account of his or her having aided or encouraged any other individual in the  
13 exercise or enjoyment of, any right granted or protected by this Act.

14 (c) Remedies and Procedure. - The remedies and procedures available  
15 under sections 107, 203, and 308 of this Act shall be available to aggrieved  
16 persons for violations of subsections (a) and (b), with respect to Title I, Title II  
17 and Title III, respectively.

18 25. Among the specific prohibitions against discrimination were included, in 42  
19 **USC** § 12182(b)(2)(a)(iv), "A failure to remove architectural barriers, and communications  
20 barriers that are structural in nature, in existing facilities...where such removal is readily  
21 achievable;" and (v) "where and entity can demonstrate that the removal of a barrier under  
22 clause (iv) is not readily achievable, a failure to make such goods, services, facilities,  
23 privileges, advantages, or accommodations available through alternative methods if such  
24 methods are readily achievable." The acts of Defendants set forth herein were a violations  
25 of Plaintiff's rights under the "ADA," Public Law 101-336, and the regulations promulgated  
26 thereunder, 28 **CFR** Part 36, *et seq.*

27 26. The removal of the barriers complained of by Plaintiff as hereinabove alleged  
28 were at all times after 1990 "readily achievable." On information and belief, if the removal  
of all the barriers complained of here together were not "readily achievable," the removal of

1 each individual barrier complained of herein was "readily achievable."

2 27. Per 42 **USC** § 12181(9), "The term 'readily achievable' means easily  
3 accomplishable and able to be carried out without much difficulty or expense." The statute  
4 and attendant regulations define relative "expense" in relation to the total financial  
5 resources of the entities involved, including any "parent" companies. Plaintiff alleges that  
6 properly repairing each of the items that Plaintiff complains of herein is readily achievable,  
7 including, but not limited to, correcting and repairing the items set forth in Paragraph 3  
8 above.  
9

10 The changes needed to remove barriers to access for the disabled were and are  
11 "readily achievable" by the defendants under standards set forth under 42 **USC** § 12181 of  
12 the **Americans with Disabilities Act of 1990**. (Further, if it was not "readily achievable"  
13 for defendants to remove all such barriers, defendants have failed to make the required  
14 services available through alternative methods, although such methods are achievable as  
15 required by 42 **USC** §12181(b)(2)(a)(iv), (v).)  
16

17 28. Pursuant to the **Americans with Disabilities Act of 1990**, §308 (42 **USC** §  
18 12188 *et seq.*), Plaintiff is entitled to the remedies and procedures set forth in the **Civil**  
19 **Rights Act of 1964** §204(a), (42 **USC** § 2000a-3(a)), as Plaintiff is being subjected to  
20 discrimination on the basis of disability in violation of this title and/or Plaintiff has  
21 reasonable grounds for believing that he is about to be subjected to discrimination in  
22 violation of **Americans With Disabilities Act of 1990** §302. Plaintiff cannot return to or  
23 make use of the public facilities complained of herein for the purpose of entry and provision  
24 of goods and service so long as defendants continue to apply eligibility criteria, policies,  
25 practices and procedures to screen out and refuse to allow entry and service to persons  
26 with disabilities such as Plaintiff's.  
27  
28

1 29. Defendants', and each of their acts and omissions of failing to provide barrier  
2 free handicapped access for Plaintiff, were tantamount to interference, coercion or  
3 intimidation pursuant to **Americans With Disabilities Act of 1990** §503(b) (now 42 **USC** §  
4 12203):  
5

6 It shall be unlawful to coerce, intimidate, threaten, or interfere with any  
7 individual in the exercise or enjoyment of, or on account of his or her having  
8 encouraged any other individual in the exercise or enjoyment of, any right  
9 granted or protected by this Act.

10 30. Per **Americans With Disabilities Act of 1990** § 308(a)(1) (now 42 **USC** §  
11 12188), "Nothing in this section shall require a person with a disability to engage in a futile  
12 gesture if such person has actual notice that a person or organization covered by this title  
13 does not intend to comply with its provisions." Pursuant to this last section, Plaintiff, on  
14 information and belief, alleges that defendants have continued to violate the law and deny  
15 the rights of Plaintiff and other disabled persons to access this public accommodation for  
16 the purpose of lodging. Therefore, Plaintiff seeks injunctive relief pursuant to §308(a)(2),  
17 "...Where appropriate, injunctive relief shall also include requiring the provision of an  
18 auxiliary aid or service, modifications of a policy, or provision of alternative methods, to the  
19 extent required by this title."  
20

21 31. Plaintiff seeks relief pursuant to remedies set forth in § 204(a) of the **Civil**  
22 **Rights Act of 1964** (42 **USC** § 2000a-3(a), and pursuant to federal regulations adopted to  
23 implement the **Americans with Disabilities Act of 1990**, including, but not limited to, an  
24 order granting injunctive relief and attorneys' fees. Such attorneys' fees, "including  
25 litigation expenses and costs," are further specifically provided for by §505 of Title III.

26 Wherefore, Plaintiff prays for relief as hereinafter set forth.

27 ///

28 ///

1 **II. SECOND CAUSE OF ACTION**  
2 **BREACH OF STATUTORY PROTECTIONS FOR PERSONS**  
3 **WITH PHYSICAL DISABILITIES**  
4 **(California Health & Safety Code § 19955, et seq.)**

5 32. Plaintiff repleads and incorporates by reference, as if fully set forth again  
6 herein, the allegations contained in paragraphs 1 through 31 of this Complaint and  
7 incorporate them herein as if separately repled.

8 33. **California Health & Safety Code § 19955** provides in pertinent part:

9 The purpose of this part is to insure that public accommodations or  
10 facilities constructed in this state with private funds adhere to the provisions of  
11 Chapter 7 (commencing with Sec. 4450) of Division 5 of Title 1 of the  
12 *Government Code*. For the purposes of this part "public accommodation or  
13 facilities" means a building, structure, facility, complex, or improved area which  
14 is used by the general public and shall include auditoriums, hospitals, theaters,  
15 restaurants, hotels, motels, stadiums, and convention centers. When sanitary  
16 facilities are made available for the public, clients or employees in such  
17 accommodations or facilities, they shall be made available for the  
18 handicapped.

19 34. **California Health & Safety Code § 19956**, which appears in the same  
20 chapter as §19955, provides in pertinent part, "accommodations constructed in this state  
21 shall conform to the provisions of Chapter 7 (commencing with Sec. 4450) of Division 5 of  
22 Title 1 of the *Government Code*..." **California Health & Safety Code § 19956** was  
23 operative July 1, 1970, and is applicable to all public accommodations constructed or  
24 altered after that date. On information and belief, portions of "**CASA GUADALAJARA**"  
25 and/or of its buildings, were constructed and/or altered after July 1, 1970, and substantial  
26 portions of said building had alterations, structural repairs, and/or additions made to such  
27 public accommodations after July 1, 1970, thereby requiring said public accommodations  
28 and/or buildings to be subject to the requirements of Part 5.5, **California Health & Safety**  
**Code § 19955, et seq.**, upon such alteration, structural repairs or additions per **California**  
**Health & Safety Code § 19959.**

1           35. Pursuant to the authority delegated by **California Government Code § 4450,**  
2 **et seq.,** the State Architect promulgated regulations for the enforcement of these  
3 provisions. Effective January 1, 1982, Title 24 of the **California Administrative Code**  
4 adopted the California State Architect's Regulations and these regulations must be  
5 complied with as to any alterations and/or modifications of the "**CASA GUADALAJARA**"  
6 occurring after that date. Construction changes occurring prior to this date but after July 1,  
7 1970 triggered access requirements pursuant to the "ASA" requirements, the **American**  
8 **Standards Association Specifications, A117.1-1961.** On information and belief, at the  
9 time of the construction and modification of said building, all buildings and facilities covered  
10 were required to conform to each of the standards and specifications described in the  
11 **American Standards Association Specifications** and/or those contained in Title 24 of  
12 the **California Administrative Code,** (now known as Title 24, **California Code of**  
13 **Regulations.**)

14           36. Public facilities, such as "**CASA GUADALAJARA**" are public  
15 accommodations or facilities within the meaning of **California Health & Safety Code §**  
16 **19955, et seq.**

17           37. It is difficult or impossible for persons with physical disabilities who use  
18 wheelchairs, canes, walkers and service animals to travel about in public to use a  
19 restaurant with the defects set forth in Paragraph 3 above as required by Title 24 of the  
20 **California Code of Regulations** and the **Americans with Disabilities Act Access**  
21 **Guidelines (ADAAG).** Thus, when public accommodations fail to provide handicap  
22 accessible public facilities, persons with physical disabilities are unable to enter and use  
23 said facilities, and are denied full and equal access to and use of that facility that is enjoyed  
24 by other members of the general public.

1           38. Plaintiff **JAMES COLLINS** and other similarly situated persons with physical  
2 disabilities whose physical conditions require the use of wheelchairs, canes, walkers and  
3 service animals are unable to use public facilities on a "full and equal" basis unless each  
4 such facility is in compliance with the provisions of the *California Health & Safety Code* §  
5 19955, *et seq.* Plaintiff is a member of that portion of the public whose rights are protected  
6 by the provisions of *California Health & Safety Code* § 19955, *et seq.*

8           39. The *California Health & Safety Code* was enacted "[t]o ensure that public  
9 accommodations or facilities constructed in this state with private funds adhere to the  
10 provisions of Chapter 7 (commencing with §4450) of Division 5 of Title 1 of the *Government*  
11 *Code.*" Such public accommodations are defined to include restaurants.

13           40. Plaintiff is further informed and believes that as of the date of filing this  
14 Complaint, Defendants have not made accessible the facilities at the subject restaurant as  
15 set forth in Paragraph 3 above.

16           41. Plaintiff **JAMES COLLINS** is informed and believes, and therefore alleges,  
17 that Defendants **CASA GUADALAJARA, INC., A CALIFORNIA CORPORATION, and**  
18 **DOES ONE to FIFTY, inclusive,** and each of them, caused the subject buildings  
19 constituting "**CASA GUADALAJARA**" to be constructed, altered and maintained in such a  
20 manner that persons with physical disabilities were denied full and equal access to, within  
21 and throughout said buildings and were denied full and equal use of said public facilities,  
22 and despite knowledge and actual and constructive notice to such Defendants that the  
23 configuration of the restaurant and/or buildings was in violation of the civil rights of persons  
24 with physical disabilities, such as Plaintiff. Such construction, modification, ownership,  
25 operation, maintenance and practices of such public facilities are in violation of law as  
26 stated in Part 5.5, *California Health & Safety Code* § 19955, *et seq.*, and elsewhere in the  
27  
28

1 laws of California.

2 42. On information and belief, the subject building constituting the public facilities  
3 of "**CASA GUADALAJARA**" denied full and equal access to Plaintiff and other persons  
4 with physical disabilities in other respects due to non-compliance with requirement of Title  
5 24 of the **California Code of Regulations** and **California Health & Safety Code** § 19955,  
6 *et seq.*

7  
8 43. The basis of Plaintiff's aforementioned information and belief is the various  
9 means upon which Defendants must have acquired such knowledge, including, but not  
10 limited to, this lawsuit, other access lawsuits, communications with operators of other  
11 restaurants and other property owners regarding denial access, communications with  
12 Plaintiff and other persons with disabilities, communications with other patrons who  
13 regularly visit there, communications with owners of other businesses, notices and  
14 advisories they obtained from governmental agencies through the mails, at seminars,  
15 posted bulletins, television, radio, public service announcements, or upon modification,  
16 improvement, alteration or substantial repair of the subject premises and other properties  
17 owned by these Defendants, newspaper articles and trade publications regarding the  
18 **Americans with Disabilities Act of 1990** and other access law, and other similar  
19 information. The scope and means of the knowledge of each defendant is within each  
20 defendant's exclusive control and cannot be ascertained except through discovery.  
21  
22

23 44. As a result of Defendants' acts and omissions in this regard, Plaintiff has  
24 been required to incur legal expenses and hire attorneys in order to enforce his civil rights  
25 and enforce provisions of the law protecting access for persons with physical disabilities  
26 and prohibiting discrimination against persons with physical disabilities, and to take such  
27 action both in his own interests and in order to enforce an important right affecting the  
28

1 public interest. Plaintiff, therefore, seeks damages in this lawsuit for recovery of all  
2 reasonable attorneys' fees incurred, pursuant to the provisions of the **California Code of**  
3 **Civil Procedure** § 1021.5. Plaintiff additionally seeks attorneys' fees pursuant to  
4 **California Health & Safety Code** § 19953 and **California Civil Code** §§ 54.3 and 55.  
5

6 45. Defendants, and each of them, at times prior to and including June 14, 2003,,  
7 and continuing to the present time, knew that persons with physical disabilities were denied  
8 their rights of equal access to all portions of this public facility. Despite such knowledge,  
9 Defendants failed and refused to take steps to comply with the applicable access statutes;  
10 and despite knowledge of the resulting problems and denial of civil rights thereby suffered  
11 by Plaintiff **JAMES COLLINS** and other similarly situated persons with disabilities, including  
12 the specific notices referred to in paragraph 43 of this Complaint. Defendants have failed  
13 and refused to take action to grant full and equal access to persons with physical  
14 disabilities in the respects complained of hereinabove. Defendants and each of them have  
15 carried out a course of conduct of refusing to respond to, or correct complaints about,  
16 denial of handicap access. Such actions and continuing course of conduct by Defendants,  
17 evidence despicable conduct in conscious disregard for the rights or safety of Plaintiff and  
18 of other similarly situated persons, justifying an award of exemplary and punitive damages  
19 pursuant to **California Civil Code** § 3294.  
20  
21

22 46. Defendants' actions have also been oppressive to persons with physical  
23 disabilities and of other members of the public, and have evidenced actual or implied  
24 malicious intent toward those members of the public, such as Plaintiff and other persons  
25 with physical disabilities who have been denied the proper access they are entitled to by  
26 law. Further, Defendants' refusals on a day-to-day basis to correct these problems  
27 evidence despicable conduct in conscious disregard for the rights of Plaintiff and other  
28

1 members of the public with physical disabilities.

2 47. Plaintiff prays for an award of punitive damages against Defendants, and  
3 each of them, pursuant to **California Civil Code** § 3294 in an amount sufficient to make a  
4 more profound example of Defendants and discourage owners, operators, franchisers and  
5 franchisees of other public facilities from willful disregard of the rights of persons with  
6 physical disabilities. Plaintiff does not know the financial worth of Defendants, or the  
7 amount of punitive damages sufficient to accomplish the public purposes of **California**  
8 **Civil Code** § 3294 and seeks leave to amend this Complaint when such facts are known.  
9

10 48. As a result of the actions and failure of Defendants, and each of them, and as  
11 a result of the failure to provide proper accessible public facilities, Plaintiff **JAMES**  
12 **COLLINS** was denied his civil rights, including his right to full and equal access to public  
13 facilities, was embarrassed and humiliated, suffered physical, psychological and mental  
14 injuries and emotional distress, mental distress, mental suffering, mental anguish, which  
15 includes shame, humiliation, embarrassment, anger, chagrin, disappointment and worry,  
16 expectedly and naturally associated with a person with a physical disability being denied  
17 access to a public accommodation.  
18  
19

20 WHEREFORE, Plaintiff prays for damages as hereinafter stated.

21 **III. THIRD CAUSE OF ACTION**  
22 **VIOLATION OF CALIFORNIA'S CIVIL RIGHTS ACTS**  
23 **(California Civil Code §§ 54, 54.1 and 54.3)**

24 49. Plaintiff repleads and incorporates by reference as if fully set forth again  
25 herein, the allegations contained in paragraphs 1 through 48 of this Complaint and  
26 incorporates them herein as if separately repled.

27 50. The public facilities above-described constitute public facilities and public  
28 accommodations within the meaning of **California Health & Safety Code** § 19955 *et seq.*

1 and were facilities to which members of the public are invited. The aforementioned acts  
2 and omissions of defendants, and each of them, constitute a denial of equal access to and  
3 use and enjoyment of these facilities by persons with disabilities, including Plaintiff **JAMES**  
4 **COLLINS**. Said acts and omissions are also in violation of provisions of Title 24 of the  
5 **California Code of Regulations**.

6  
7 51. The rights of Plaintiff, the entitlement of Plaintiff to full and equal access and  
8 the denial by defendants of such rights and entitlements are set forth in **California Civil**  
9 **Code §§ 54, 54.1 and 54.3**, to wit:

10  
11 Individuals with disabilities shall have the same right as the...general  
12 public to full and free use of the streets, highways, sidewalks, walkways, public  
13 buildings, public facilities, and other public places. **California Civil Code §**  
14 **54(a)**.

15  
16 Individuals with disabilities shall be entitled to full and equal access, as  
17 other members of the general public, to accommodations, advantages,  
18 facilities, and privileges of all common carriers, airplanes, motor vehicles,  
19 railroad trains, motor buses, streetcars, boats, or any other public  
20 conveyances or modes of transportation (whether private, public, franchised,  
21 licensed, contracted, or otherwise provided), telephone facilities, adoption  
22 agencies, private schools, hotels, lodging places, places of public  
23 accommodation, amusement or resort, and other places to which the general  
24 public is invited, subject only to the conditions and limitations established by  
25 law, or state or federal regulation, and applicable alike to all persons.  
26 **California Civil Code § 54.1(a)**.

27  
28 52. On or about June 14, 2003, Plaintiff **JAMES COLLINS** suffered violations of  
29 **California Civil Code §§ 54 and 54.1** in that he was denied full and equal enjoyment of the  
30 goods, services, facilities and privileges of said **CASA GUADALAJARA** by being denied  
31 access to all of the dining areas of the restaurant and inadequate restroom facilities for  
32 persons in a wheelchair, all as set forth in paragraph 3 above.

33  
34 Plaintiff was also denied full and equal access to other particulars, including, but not  
35 limited to, those described hereinabove. Plaintiff was also denied use of facilities that he  
36 was entitled to under Title III of the **Americans with Disabilities Act of 1990**.

1           53. As a result of the denial of full and equal enjoyment of the goods, services,  
2 facilities and privileges of defendants' **CASA GUADALAJARA** due to the acts and  
3 omissions of defendants, and each of them, in owning, operating and maintaining this  
4 subject public facility, Plaintiff suffered violations of his civil rights, including, but not limited  
5 to, rights under **California Civil Code** §§ 54, 54.1, and 54.3, and has and will suffer  
6 physical injury, emotional distress, mental distress, mental suffering, mental anguish, which  
7 includes shame, humiliation, embarrassment, anger, chagrin, disappointment and worry,  
8 expectedly and naturally associated with a disabled person's denial of full and equal  
9 enjoyment of goods, services, privileges, etc. all to his damages as prayed hereinafter in an  
10 amount within the jurisdiction of the court. Defendants' actions and omissions to act  
11 constituted discrimination against Plaintiff on the sole basis that Plaintiff was physically  
12 disabled.  
13  
14

15           54. Plaintiff seeks damages for the violation of his rights as a disabled person on  
16 or about June 14, 2003, according to proof, pursuant to **California Civil Code** § 54.3,  
17 including a trebling of all statutory and actual damages, general and special, available  
18 pursuant to **California Civil Code** § 54.3(a).  
19

20           55. As a result of defendants' acts and omissions in this regard, Plaintiff **JAMES**  
21 **COLLINS** has been required to incur legal expenses and hire attorneys in order to enforce  
22 his rights and enforce provisions of the law protecting the full and equal enjoyment of  
23 goods, services, facilities, privileges of public facilities by the disabled, and those  
24 individuals associated with or accompanied by a person with disabilities, and prohibiting  
25 discrimination against the disabled. Plaintiff, therefore, seeks recovery in this lawsuit for all  
26 reasonable attorneys' fees incurred pursuant to the provisions of **California Civil Code** §  
27 **54.3**. Additionally, Plaintiff's lawsuit is intended not only to obtain compensation for  
28

1 damages to Plaintiff, but also to compel the defendants to make their goods, services,  
2 facilities and privileges available and accessible to all members of the public with physical  
3 disabilities, justifying public interest attorneys' fees pursuant to the provisions of **California**  
4 **Code of Civil Procedure § 1021.5.**

5  
6 56. The acts and omissions of defendants in failing to provide the required  
7 accessible facilities subsequent to the enactment date and compliance date of the  
8 **Americans with Disabilities Act of 1990**, and refusal to make remedial modifications and  
9 alterations to its handicapped parking, handicapped signage, pathways, and other  
10 elements as hereinabove stated, after being notified by patrons before and after the time of  
11 Plaintiff's visit and injuries, on or about June 14, 2003, and all times prior thereto with the  
12 knowledge that persons with disabilities would enter defendants' premises, the reason  
13 given therefor, was an established policy, practice and procedure of refusing and denying  
14 entry, thereby denying lodging and other services to a person with disabilities and the  
15 companions thereof, evidence malice and oppression toward Plaintiff and other disabled  
16 persons.  
17

18  
19 57. Such despicable conduct, as that incorporated herein by reference and  
20 specifically set forth in Paragraph 11, was carried out by defendants with a willful and  
21 conscious disregard for the law and the rights of Plaintiff and of other disabled persons, and  
22 was oppressive in that such conduct subjected Plaintiff "to cruel and unjust hardship in  
23 conscious disregard" for the law and Plaintiff's rights, and justifies exemplary and punitive  
24 damages pursuant to **California Civil Code § 3294**, in amounts sufficient to make an  
25 example of defendants and to punish defendants and to carry out the purposes of  
26 **California Civil Code § 3294.**  
27

28 58. Defendants have failed to establish a nondiscriminatory criteria, policy,

1 practice and procedure for entry into said "CASA GUADALAJARA" as hereinabove  
2 described.

3  
4 59. As a result of defendants' continuing failure to provide for the full and equal  
5 enjoyment of goods, services, facilities and privileges of said "CASA GUADALAJARA" as  
6 hereinabove described, Plaintiff has continually been denied his rights to full and equal  
7 enjoyment of the subject restaurant, as it would be a "futile gesture" to attempt to patronize  
8 said "CASA GUADALAJARA" with the discriminatory policy in place as hereinabove  
9 described.

10  
11 60. The acts and omissions of defendants as complained of herein in failing to  
12 provide the required accessible facilities subsequent to the enactment date and compliance  
13 date of the *Americans with Disabilities Act of 1990* and refusal to make remedial  
14 modifications and alternations to the architectural barriers as stated herein and in failing to  
15 establish practices, policies and procedures to allow safe access by persons who are  
16 disabled are continuing on a day-to-day basis to have the effect of wrongfully and willfully  
17 excluding Plaintiff and other members of the public who are physically disabled, from full  
18 and equal enjoyment of the subject "CASA GUADALAJARA" as hereinabove described.  
19 Such acts and omissions are the continuing cause of humiliation and mental and emotional  
20 suffering of Plaintiff in that these actions continue to treat Plaintiff as an inferior and second  
21 class citizen and serve to discriminate against him on the sole basis that he is a physically  
22 disabled. Plaintiff is unable, so long as such acts and omissions of defendants continue, to  
23 achieve full and equal enjoyment of the goods and services of said "CASA  
24 GUADALAJARA" as described hereinabove. The acts of defendants have legally caused  
25 and will continue to cause irreparable injury to Plaintiff if not enjoined by this court.  
26  
27

28 61. Wherefore, Plaintiff asks this court to preliminarily and permanently enjoin any

1 continuing refusal by defendants to permit entry to said "CASA GUADALAJARA" and to  
2 serve Plaintiff or others similarly situated, and to require defendants to comply forthwith  
3 with the applicable statutory requirements relating to the full and equal enjoyment of goods  
4 and services as described hereinabove for disabled persons. Such injunctive relief is  
5 provided by **California Civil Code § 55**. Plaintiff further requests that the court award  
6 statutory costs and attorneys' fees to Plaintiff pursuant to **California Civil Code § 55** and  
7 **California Code of Civil Procedure § 1021.5**, all as hereinafter prayed for.  
8

9 WHEREFORE, Plaintiff prays for compensatory damages, reasonable attorneys'  
10 fees and costs of suit, as allowed by statute and according to proof, and appropriate  
11 exemplary damages.  
12

13 **IV. FOURTH CAUSE OF ACTION**  
14 **VIOLATIONS OF UNRUH CIVIL RIGHTS ACT**  
15 **(California Civil Code §§ 51 and 51.5)**

16 62. Plaintiff repleads and incorporates by reference, as if fully set forth again  
17 herein, the allegations contained in paragraphs 1 through 61 of this Complaint and  
18 incorporates them herein as if separately repled.

19 63. Defendants' acts and omissions as specified with regard to the discriminatory  
20 treatment of Plaintiff **JAMES COLLINS** on the basis of his physical disabilities, have been  
21 in violation of **California Civil Code §§ 51 and 51.5**, the **Unruh Civil Rights Act**, and have  
22 denied to Plaintiff his rights to "full and equal accommodations, advantages, facilities,  
23 privileges or services in all business establishments of every kind whatsoever."

24 64. **California Civil Code § 51** also provides that "[a] violation of the right of any  
25 individual under the **Americans with Disabilities Act of 1990** (Public Law 101-336) shall  
26 also constitute a violation of this section."  
27

28 65. **California Civil Code § 51.5** also provides that

1 "[n]o business establishment of any kind whatsoever shall discriminate  
2 against, boycott, or blacklist, refuse to buy from, sell to, or trade with any  
3 person in this state because of the race, creed, religion, color, national origin,  
4 sex, disability of the person or of the person's partners, members,  
5 stockholders, directors, officers, managers, superintendents, agents,  
6 employees, business associates, suppliers, or customers."

7 66. As a result of the violation of Plaintiff's civil rights protected by *California*  
8 *Civil Code* §§ 51 and, 51.5, Plaintiff is entitled to the rights and remedies of *California*  
9 *Civil Code* § 52, including a trebling of actual damages (defined by *California Civil Code*  
10 § 52(h) to mean "special and general damages"), as well as reasonable attorneys' fees and  
11 costs, as allowed by statute, according to proof. Further, pursuant to paragraphs 11, 12,  
12 13, 35 and 43, Plaintiff seeks appropriate exemplary damages under *California Civil Code*  
13 § 3294.

14 WHEREFORE, Plaintiff prays that this court award damages and provide relief as  
15 follows:

#### 16 PRAYER FOR RELIEF

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

18 1. Grant injunctive relief requiring that defendants establish a non-discriminatory  
19 criteria policy, practice and procedure permitting entry into the **CASA GUADALAJARA** in  
20 San Diego, California, for the receipt of food and beverage service according to *California*  
21 *Civil Code* §§ 51, 51.5, 52, 54, 54.1, 54.3, *et seq.*, and Title III of the *Americans with*  
22 *Disabilities Act of 1990*, and grant injunctive relief requiring that Defendants repair and  
23 render safe to handicapped persons, and otherwise make handicapped-accessible, all  
24 public areas of the restaurant, and make such facilities "readily accessible to and usable by  
25 individuals with disabilities," according to the standards of Title 24 of the *California*  
26 *Administrative Code*, *California Health & Safety Code* § 19955 *et seq.*, and Title III of  
27 the *Americans with Disabilities Act of 1990* and the standards of *ADAAG*; and  
28

1 prohibiting operation of the **CASA GUADALAJARA**, located in San Diego, California, as a  
2 public facility until Defendants provide full and equal enjoyment of goods and services as  
3 described hereinabove to physically disabled persons, including Plaintiff;

4  
5 2. General damages according to proof;

6 3. Statutory and "actual" damages, including general damages and special  
7 damages, according to proof, pursuant to **California Civil Code** §§ 52, and 54.3, and that  
8 these damages be trebled;

9 4. Prejudgment interest on all compensatory damages;

10 5. Punitive and exemplary damages pursuant to the standards and purposes of  
11 **California Civil Code** § 3294;

12 6. Remedies and Procedures available under **Americans with Disabilities Act**  
13 **of 1990** §§ 107, 203 and 308;

14 7. Award Plaintiff all litigation expenses, all costs of this proceeding and all  
15 reasonable attorneys' fees as provided by law, including, but not limited to, those  
16 recoverable pursuant to the provisions of **California Civil Code** §§ 52, 54.3, and 55,  
17 **California Code of Civil Procedure** § 1021.5, and **Americans with Disabilities Act of**  
18 **1990** §308 of Title III; and;

19 8. Grant such other and further relief as the court may deem just and proper.

20  
21 Dated: July 17, 2003

22  
23   
24 Jason K. Singleton, Attorney for  
25 Plaintiff, **JAMES COLLINS**

26 **REQUEST FOR JURY TRIAL**

27 Plaintiff hereby requests a jury for all claims for which a jury is permitted.

28 Dated: July 17, 2003

29   
30 Jason K. Singleton, Attorney for  
31 Plaintiff, **JAMES COLLINS**

# SINGLETON LAW GROUP

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July 17, 2003

Diane G. Powers, Agent  
Casa Guadalajara, Inc.  
2754 Calhoun Street  
San Diego, CA 92110

**RE: JAMES COLLINS vs CASA GUADALAJARA**  
USDC Southern District of California  
Action: Discriminatory Denial of Access to Person with a Disability  
Subject: Settlement

To Whom It May Concern:

You are being served with a Summons and Complaint for discriminatorily denying access to a person with a disability. Specifically, failure to provide proper and complete access and accommodations to persons with disabilities as set forth in the attached list of violations in clear violation of state discrimination statutes and/or under the Americans with Disabilities Act of 1990. We trust that if you are merely the agent, you will forward this letter to your principal(s). For purposes of this letter, we will address you as the principal. Your failure to allow access deprived our client of the full use, enjoyment of goods, services and opportunities of your public accommodation.

Please read the Complaint. The "Factual Allegations" section sets forth the acts of discrimination. The First and Second Causes of Action clearly set forth the federal and state laws that were violated. The reading of these sections will give you a pristine view and understanding of what this lawsuit is all about. Once you have retained counsel, we will not be able to communicate with you directly. That is why we are taking this opportunity to discuss our position on this action and to call attention to certain issues that you should be aware of:

1. This action is filed in the Federal District Court.
2. The action seeks:
  - Injunctive Relief
  - Compensatory Damages
  - Attorney's fees and costs

3. **Injunctive Relief:** Plaintiff(s) seeks an order from this court to issue a mandatory injunction compelling you to make modifications to your practices and procedures of denying access to persons with disabilities by failure to provide proper and completely accessible rooms.
4. **Compensatory Damages:** Monetary damages (money) are sought on behalf of the plaintiff for distress brought about by the acts of discrimination. This is a state cause of action.
5. **Attorney's fees, costs and litigation expenses** are provided both under state and federal law. If the plaintiff prevails, these costs and litigation expenses will be awarded against you.
6. **Insurance Coverage:** Insurance may be available to you for this claim.  
**CAVEAT/BEWARE:**
  - i. Your insurance company may deny coverage.
  - ii. Your insurance company may defend you under a "Reservation of Rights." That means your insurance company will provide a defense for you (hire attorneys on your behalf) but reserve the issue as to whether they are obligated to pay the claim. Coverage is generally extended to claims that pertain to "personal/bodily injury," possibly emotional distress. Generally, insurance will not cover attorneys' fees and costs that you may be ordered to pay. Too often defendants believe or are led to believe that their insurance companies will pay the plaintiff's attorney's fees. This is generally not true. **You will be responsible for paying our fees, should we prevail.** Simply put, if you receive a "Reservation of Rights" letter, you may still be financially responsible to pay compensatory damages and plaintiff's attorneys' fees and costs. We urge you in this instance, to seek independent counsel, and not rely upon insurance defense attorneys, to determine your rights and your exposure.
7. **Defense Billing:** Once defense attorneys respond to, or answer the complaint, the vast majority, rather than attempt to settle the action, embark on a "billing" exercise. Simply put, the defense attorneys want to sufficiently "bill it" before they get realistic about the settlement. This may cost you a significant amount of money that could be better spent on the remedial work and settlement of the action. Keep in mind, the more work your attorneys force on us, the more work we must do. The more work we do is just that much more money you may be responsible for.

The bottom line is that we believe we have an airtight case. We do not want to see you waste your money on needless litigation. We want access agreed to now, not later. In

essence, we are making a demand that within ninety days you take those remedial measures necessary to address those acts of discrimination raised in our complaint. This will also require you to implement a written policy and procedure guideline of nondiscrimination prepared by or approved by our office for you to adopt. Further, the injunctive relief sought will require you to modify your handicapped parking spaces, access routes, and room accessibility to comply with the A.D.A. Lastly, the injunctive relief set forth will be encompassed in a consent decree.

We suggest that you hire attorneys well experienced in the Unruh Civil Rights Act and other related state laws, as well as the Americans with Disabilities Act of 1990. This will inure to your benefit. Otherwise, you may receive misguided advice.

You may have your attorneys contact us immediately if you wish to resolve all aspects of the action. In the alternative, we suggest that you direct your attorneys to contact us and schedule a settlement conference with a magistrate judge, as soon as they respond/answer the complaint. We urge you to direct them to seek a stay on discovery pending settlement negotiations. This will save you a significant amount of money while we discuss a complete resolution of the action.

If you do not follow our suggestions or requests, which is your choice, we understand. We can then rest assured that you received our message on how this case could efficiently and cost-effectively be resolved at this stage in the litigation. It will also serve as a reminder to you later in the litigation that we gave you the earliest opportunity to settle the action before the cost of litigation started to rise, or as some may say, skyrocket.

We hope you accept this letter as friendly advice. We find all too often that many defendants are not properly advised as to their position in the litigation, insurance coverage issues, injunctive relief sought, damages, attorneys' fees, and the use of an early settlement conference to resolve the matter.

Defendants that do not consider an early settlement eventually face the hard reality that the modifications to their policies and procedures will have to be made, remedial work undertaken, compensatory damages paid, and that attorneys' fees and costs have risen substantially. That is why we have taken this opportunity to explain to you our position so you can make a sound decision as to the course you wish to take – that being either to consider early settlement discussions or to litigate the matter. If you wish to entertain settlement now, have your attorneys contact us. I remain,

Sincerely yours,



Jason K. Singleton

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and 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 SECOND PAGE OF THIS FORM.)

ORIGINAL

I (a) PLAINTIFFS

JAMES COLLINS

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF RIVERSIDE (EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANTS

CASA GUADALAJARA, INC., a California corporation, and DOES ONE through FIFTY, inclusive

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED BY: DEPUTY

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

JASON K. SINGLETON SINGLETON LAW GROUP 611 "L" Street, Suite A Eureka, CA 95501 (707) 441-1177

ATTORNEYS (IF KNOWN)

'03 CV 1490 W POR

II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)

- 1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
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
Citizen of Another State
Citizen or Subject of a Foreign Country
Incorporated or Principal Place of Business in This State
Incorporated and Principal Place of Business in Another State
Foreign Nation

IV. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY).

28 USC §1331, Violations of the Americans with Disabilities Act (42 USC §12101, et seq.)

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, BANKRUPTCY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories and checkboxes.

VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

- 1 Original Proceeding
2 Removal 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

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER fr.c.p. 23

DEMAND \$ 75,000.00

Check YES only if demanded in complaint: JURY DEMAND: YES NO

VIII. RELATED CASE(S) IF ANY (See Instructions):

JUDGE

Docket Number

DATE July 17, 2003

SIGNATURE OF ATTORNEY OF RECORD

#095966 \$150.00 MLD