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CLERK U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

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LAW OFFICES OF ROY L. LANDERS
ROY L. LANDERS (BAR #64920)
7840 MISSION CENTER COURT, SUITE 101
SAN DIEGO, CALIFORNIA 92108
TELEPHONE (619) 296-7898
FACSIMILE (619) 296-5611

Attorney for Plaintiff, Dan Jones

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

DAN JONES
Plaintiff,
vs.

HOLUALOA MISSION VALLEY EQ, LLC
AND DOES 1-10 Inclusive,
Defendants.

) Case No.: '03 CV 02333
) COMPLAINT FOR DAMAGES RE:
) VIOLATION OF CIVIL RIGHTS ON
) BASIS OF DISCRIMINATION IN
) PUBLIC ACCOMMODATIONS; UNFAIR,
) UNLAWFUL AND FRAUDULENT BUSINESS
) PRACTICES; NEGLIGENCE INFLICTION
) OF EMOTIONAL DISTRESS;
) INTENTIONAL INFLICTION OF
) EMOTIONAL DISTRESS; DEMAND FOR
) JURY TRIAL

J JMA

I

JURISDICTION AND VENUE

1. (a) Jurisdiction of this action is invoked on the basis of 28 USC 1331 and 1343, 42 USC 12101-12102, 12181-12183 and 12201, et. seq., which is applicable to causes of action where persons with disabilities have been denied their civil rights. Venue in the Southern Judicial District of California in the United States District Court is in accord with 28. U.S.C. section 1391(b) because a substantial part of plaintiff's claims arose within the

cl

1 Judicial District of the United States District Court of the
2 Southern District of California.

3 (b) Supplemental Jurisdiction. The Judicial District of the
4 United States District Court of the Southern District of
5 California has supplemental jurisdiction over the state claims
6 alleged in this Complaint pursuant to 28 U.S.C. section 1367(a).
7 Supplemental jurisdiction is appropriate in this action on the
8 basis that all the causes of action or claims derived from federal
9 law and those arising under state law, as herein alleged, arose
10 from a common nucleus of operative facts. The common nucleus of
11 operative facts, include, but are not limited to, the incidents
12 whereby plaintiff was denied full and equal access to Defendant's
13 facilities, goods, and/or services in violation of both federal
14 and state laws when plaintiff attempted to enter, use, and/or exit
15 Defendant's facilities as described within this Complaint.
16 Further, due to this denial of full and equal access Plaintiff and
17 other person's with disabilities were injured. Based upon such
18 allegations the state actions, as stated herein, are so related to
19 the federal actions that they form part of the same case or
20 controversy, and the actions would ordinarily be expected to be
21 tried in one judicial proceeding.

22 **II**

23 **PARTIES**

24 2. Defendant Holualoa Mission Valley EQ, LLC was and at all times
25 herein mentioned was a duly organized business, association, or
26 corporation duly authorized to exist and operate within the State
27 of California and County of San Diego and the owner, lessee, or
28

1 tenant of the premises located at 2635 Camino Del Rio So. San
2 Diego California.

3 3. Plaintiff is informed and believes and thereon alleges that
4 defendants Holualoa Mission Valley, EQ, LLC and Does 1-10 are the
5 owners and/or landlords of the subject property upon which
6 defendant business is sited.

7 4. Plaintiff is informed and believes and thereon alleges that
8 each of the named defendants herein operates a business and
9 or/facility of public accommodation as defined and described
10 within 42 USC 12181(7)(B)(E)(F) of the American with Disabilities
11 Act [ADA] and as such must comply with the ADA under provisions of
12 Title III therein.

13 5. Plaintiff is ignorant of the defendants sued as Does 1-10
14 herein, and therefore sues them in their fictitious names as Doe
15 defendants. Plaintiff is informed and believes and thereon alleges
16 that Does 1-10 are the owners, operators, lessees or tenants of
17 the subject property and each of the Doe defendants at all times
18 herein was acting as the agent and or representative of each other
19 and thereby are responsible in some manner for the injuries and
20 damages complained of herein. Plaintiff will seek leave of court
21 to amend this complaint to name Doe defendants when the same is
22 ascertained.

23 III

24 GENERAL ALLEGATIONS COMMON TO ALL CLAIMS

25 6. Plaintiff is disabled and confined to a wheelchair. He has no
26 control over his lower extremities and must use a wheelchair to
27 transport himself and to affect the basic necessities of his
28 everyday existence. Plaintiff's disability substantially limits

1 one or more of life's major activities and therefore he is
2 disabled as defined under 42 USC 12102(2) (A) (B) (C).

3 7. On or about September 30, 2003 plaintiff patronized the
4 premises of defendants to utilize goods and/or services offered by
5 defendant's tenants. When Plaintiff attempted to gain access to
6 the goods and/or services offered by defendant's tenants he
7 encountered access barriers because the premises failed to comply
8 with federal ADA Access Guidelines For Building and Facilities
9 [hereinafter "ADAAG"]; Department of Justice [DOJ] regulations at
10 28 CFR. 36.201; 36.304 and/or the State of California's Title 24
11 Building Code Requirements.

12 8. The specific difficulty Plaintiff had in entering and utilizing
13 Defendants' facility and which amount to a violation of ADAAG, DOJ
14 regulations and Title 24 of the California Building Code are:

- 15 (a) Site entrance is lacking as required by Title 24 1129B.5
- 16 (b) Site lacks NO PARKING signage as required by Title 24
17 1129B.4.1&2.
- 18 (c) Disable parking stall positioned incorrectly pursuant to
19 Title 24 1129B.4.3.
- 20 (d) Water closet does not comply with ADAAG 4.17.3 and Title 24
21 1115B.7.1.2
- 22 (e) Water closet mounting/location - both walls do not comply
23 with ADAAG 4.23.4 and title 24 1115B.7.1.4
- 24 (f) Accessories/fixtures are not at proper height - ADAAG
25 4.23.7 and Title 24 1115B.9.2
- 26 (g) Coat hook height does not comply with ADAAG 4.2.5 and Title
27 24 1118B.4.1 through B.6.

1 (h) Urinal rim height does not comply with ADAAG 4.18.2 and
2 Title 24 1503.2.1.

3 (i) Toilet Stall is not proper size as required by ADAAG 4.17.3
4 and Title 24 1115B.1.

5 (j) Bathroom hardware does not comply with ADAAG 4.13.9 and
6 Title 24 1115B.7.1.4.

7 (k) Drain and hot water pipes are not insulated or covered as
8 required by ADAAG 4.24.6.

9 9. Based upon the above facts, Plaintiff as been discriminated
10 against and will continue to be discriminated against unless and
11 until Defendants are enjoined and forced to cease and desist from
12 continuing to discriminate against Plaintiff and others similarly
13 situated.

14 10. Pursuant to federal [ADA], Title 28 CFR 36.201; 36.203;
15 36.304; 36.305 and state law [California Title 24], Defendants are
16 required to remove barriers to their existing facilities.

17 Defendants have been put on notice pursuant to the ADA and
18 California Civil Codes [51,52] prior to the statutory effect of
19 the ADA on January 26, 1992 that Defendants and each of them had a
20 duty to remove barriers to persons with disabilities such as
21 plaintiff. Defendants also knew or should have known that
22 individuals such as plaintiff with a disability are not required
23 to give notice to a governmental agency prior to filing suit
24 alleging Defendants' failure to remove architectural barriers.

25 11. Plaintiff believes and thereon allege that Defendants'
26 facilities, as described herein, have other access violations not
27 directly experienced by Plaintiff, which preclude or limit access
28 by others with disabilities, including, but not limited to, Space

1 Allowances, Reach Ranges, Accessible Routes, Protruding Objects,
2 Ground and Floor Surfaces, Parking and Passenger Loading Zones,
3 Curb Ramps, Ramps, Stairs, Elevators, Platform Lifts (Wheelchair
4 Lifts), Windows, Doors, Entrances, Drinking Fountains, and Water
5 Coolers, Water Closets, Toilet Stalls, Urinals, Lavatories and
6 Mirrors, Sinks, Storage, Handrails, Grab Bars, Telephones,
7 Controls and Operating Mechanisms, Alarms, Detectable Warnings and
8 Signage. Accordingly, Plaintiff alleges Defendants are required to
9 remove all architectural barriers, known or unknown. Also,
10 Plaintiff alleges Defendants are required to utilize the ADA
11 checklist for Readily Achievable Barrier Removal approved by the
12 United States Department of Justice and created by Adaptive
13 Environments.

14 12. Plaintiff desires to return to Defendants' places of business
15 and utilize their facilities without being discriminated against
16 in the immediate future.

17 IV

18 FIRST CAUSE OF ACTION

19 (Violation of Civil Rights-American With Disabilities Act)

20 13. Plaintiff realleges the allegations in paragraphs 1 through 12
21 as though set forth fully herein.

22 **Claim 1: Denial of Full and Equal Access**

23 14. Based on the facts asserted above Plaintiff has been denied
24 full and equal access to Defendants' goods, services, facilities,
25 privileges, advantages, or accommodations. Defendant business is a
26 public accommodation owned, leased and/or operated by Defendants
27 and each of them. Defendants' existing facilities and/or services
28 failed to provide full and equal access to Defendants' facility as

1 required by 42 U.S.C. section 12182(a). Thus, Plaintiff was
2 subjected to discrimination in violation of 42 U.S.C.
3 12182(b)(2)(A)(ii)(iv) and 42 U.S.C. section 12188 because
4 Plaintiff was denied equal access to Defendants' existing
5 facilities.

6 15. Plaintiff has a physical impairment as alleged herein because
7 his condition affects one or more of the following body systems:
8 neurological, musculoskeletal, special sense organs, and/or
9 cardiovascular. Further, his physical impairments substantially
10 limits one or more of the following major life activities:
11 [walking]. In addition, Plaintiff cannot perform one or more of
12 the said major life activities in the manner speed, and duration
13 when compared to the average person. Moreover, Plaintiff has a
14 history of or has been classified as having a physical impairment
15 as required by 42 U.S.C. section 12102(2)(A).

16 **Claim 2: Failure To Remove Architectural Barriers**

17 16. Based upon the facts alleged herein, Plaintiff was denied
18 full and equal access to Defendants' goods, services, facilities,
19 privileges, advantages, or accommodations within a public
20 accommodation owned leased, and/or operated by the named
21 Defendants. Defendants individually and collectively failed to
22 remove barriers as required by 42 U.S.C. 12182(a) and 28 CFR
23 36.304. Plaintiff is informed and believes, and thus alleges that
24 architectural barriers which are structural in nature exist at the
25 following physical elements of Defendants' facilities:
26 Space Allowance and Reach Ranges, Accessible Route, Protruding
27 Objects, Ground and Floor Surfaces, Parking and Passenger Loading
28 Zones, Curb Ramps, Ramps, Stairs, Elevators, Platform Lifts

1 (Wheelchair Lifts), Windows, Doors, Entrances, Drinking Fountains
2 and Water Coolers, Water Closets, Toilet Stalls, Urinals,
3 Lavatories and Mirrors, Sinks, Storage, Handrails, Grab Bars, and
4 Controls and Operating Mechanisms, Alarms, Detectable Warnings,
5 Signage, and Telephones. Pursuant to 42 USC section
6 12182(b)(2)(iv) and 28 CFR 36.304 Title III requires places of
7 public accommodation to remove architectural barriers that are
8 structural in nature within existing facilities. Failure to remove
9 such barriers and disparate treatment against a person who has a
10 known association with a person with a disability are forms of
11 prohibited discrimination. Accordingly, Plaintiff was subjected to
12 discrimination in violation of 42 USC 12182(b)(2)(A)(iv) and 42
13 USC 12182 (b)(2)(A)(iv) and 42 USC 12188.

14 **Claim 3: Failure To Modify Practices, Policies And Procedures**

15 17. Based on the facts alleged in this Complaint Defendants failed
16 and refused to provide a reasonable alternative by modifying its
17 practices, policies and procedures in that they failed to have a
18 scheme, plan, or design to assist Plaintiff and/or others
19 similarly situated in entering and utilizing Defendants' services,
20 as required by 42 U.S.C. section 12188(a). Thus, Plaintiff was
21 subjected to discrimination in violation of 42 U.S.C. section
22 12182(b)(2)(A)(iv); 28 CFR 36.302 and 42 U.S.C. section 12188
23 because Plaintiff was denied equal access to Defendants' existing
24 facilities.

25 18. As a result of the wrongful and discriminatory practices of
26 defendants, plaintiff has suffered actual damages consisting of
27 special damages and general damages in an amount to be determined
28 at time of trial herein.

1 19. Pursuant to the provisions of 42 USC 12188 plaintiff seeks
2 injunctive relief and an order directing defendants to cease and
3 desist from discriminating against plaintiff and others similarly
4 situated and for an order that defendants comply with the
5 Americans With Disabilities Act forthwith.

6 20. Under the provisions of 42 USC 12205 plaintiff is entitled to
7 an award of reasonably attorneys fees and requests that the court
8 grant such fees as are appropriate.

9 **VI**

10 **SECOND CAUSE OF ACTION**

11 **(Violation Of Civil Rights Under California Accessibility Laws)**

12 21. Plaintiff realleges the allegations of the First Cause of
13 Action as though set forth fully herein.

14 **(a) Denial Of Full And Equal Access**

15 22. Plaintiff has been denied full and equal access to Defendants'
16 goods services, facilities, privileges, advantages, or
17 accommodations within a public accommodation owned, leased, and/or
18 operated by Defendants in violation of California Civil Code
19 Sections 54 and 54.1 and California Health and Safety Code Section
20 19955. The actions of Defendants also violate the provisions of
21 Title 24 of the State of California Building Codes with regard to
22 accessibility for persons with disabilities by failing to provide
23 access to Defendants facilities due to violations pertaining to
24 accessible routes, ground and floor surfaces, parking and
25 passenger loading zones, curb ramps, ramps, stairs, elevators,
26 platform lifts (wheelchair lifts), windows, doors, toilet stalls,
27 urinals, lavatories and mirrors, sinks, storage, handrails, grab
28 bars, controls and operating mechanisms

1 alarms, detectable warnings, signage and telephones.

2 23. On the above basis Plaintiff has been wrongfully discriminated
3 against.

4 **(b) Failure To Modify Practices, Policies And Procedures**

5 24. Defendants have failed and refused and continue to fail and
6 refuse to provide a reasonable alternative to allow plaintiff
7 equal access to their facility by modifying their practices,
8 policies, and procedures in that that they failed to have s
9 scheme, plan, or design to assist Plaintiff and others similarly
10 situated in entering and utilizing Defendants' goods or services
11 as required by California Civil Code section 54 and 54.1.
12 Accordingly Defendants have wrongfully discriminated against
13 Plaintiff.

14 **VII**

15 **THIRD CAUSE OF ACTION**

16 **(Violation of The Unruh Civil Rights Act)**

17 25. Plaintiff realleges the allegations of the Second Cause of
18 Action as though set forth fully herein.

19 26. Section 51(b) of the Cal. Civ. Code [The Unruh Civil Rights
20 Act], provides in pertinent part:

21 "All persons within the jurisdiction of this state are
22 free and equal, and no matter what their sex, race, color,
23 religion, ancestry, national origin, disability, or medical
24 condition is entitled to the full and equal accommodations,
25 advantages, facilities, privileges, or services in all
26 business establishments of every kind whatsoever."

27 27. Defendants have violated the provisions of Civ. Code 51 (b) by
28 failing and refusing to provide free and equal access to Plaintiff
to their facility on the same basis as other persons not disabled.
By their failure to provide equal access to Plaintiff as herein

1 alleged, Defendants have also violated 42 U.S.C. section
2 12182(b)(2)(A)(iv) as provided in Cal. Civ. Codes section 51(f).
3
4 28. By reason of their acts and denial of Plaintiff's civil rights
5 Defendants also violated the provisions of Cal. Civ. Code section
6 52, which makes a person or entity in violation of Cal.Civ. Code
7 51 liable for the actual damages to a Plaintiff including treble
8 damages where appropriate.

9
10 29. Defendants and each of them, at all times prior to and
11 including September 2003, respectively and continuing to the
12 present time, knew that persons with physical disabilities were
13 denied their rights of equal access to all portions of this public
14 facility. Despite such knowledge, Defendants, and each of them,
15 failed and refused to take steps to comply with the applicable
16 access statutes and despite knowledge of the resulting problems
17 and denial of civil rights suffered by Plaintiff and other
18 similarly situated persons with disabilities.

19
20 30. Defendants and each of them have failed and refused to take
21 action to grant full and equal access to person with physical
22 disabilities. Defendants have carried out a course of conduct of
23 refusing to respond to, or correct complaints about unequal access
24 and have refused to comply with their legal obligations to make
25 the subject facility accessible pursuant the ADAAG and the
26 California Building Code [Title 24 of the California Code of
27 Regulations]. Such actions and continuing course of conduct by
28

1 Defendants, and each of them, evidence despicable conduct in
2 conscious disregard of the rights and/or safety of Plaintiff and
3 those similarly situated and thus justify an award of treble
4 damages pursuant to section 52(a) and 54.3(a) of the Cal.Civ. Code
5 or alternatively an award of punitive damages in an appropriate
6 amount.
7

8 31. Plaintiff has suffered emotional and physical damage and
9 continues to suffer such damages all in an amount to be determined
10 at time of trial.
11

12 32. Under the provisions of Cal. Civ. Code section 55 Plaintiff
13 seeks an award of reasonable attorney's fees and costs as a result
14 of having to bring this action. Plaintiff requests the court to
15 award such fees in an appropriate amount.
16

17 VIII

18 FOURTH CAUSE OF ACTION

19 (Unfair And Unlawful Business Practice)

20 33. Plaintiff realleges the allegations of the Third Cause of
21 Action as though set forth fully herein.

22 34. California Business and Professions Code Section 17200 states
23 in pertinent part:

24 "As used in this chapter, unfair competition shall mean and
25 include any unlawful, unfair or fraudulent business act..."

26 35. Defendants, as alleged herein, are in violation of the
27 Americans With Disabilities Act and Title 24 of the California
28 Building Code, in that they have denied equal access to their

1 places of public accommodation to Plaintiff and others similarly
2 situated to Plaintiff. Defendants have failed and refused and
3 continue to refuse to comply with equal access laws all in
4 violation of 42 USC 12181-12183; 28 CFR 36.304 and 42 USC 12188.
5 In addition the complained of acts are in violation of California
6 Civil Code Sections 51,52, 54,and 54.1,; California Health and
7 Safety Code section 19955 all of which require Defendants to
8 provide equal access to their facility to disabled persons such as
9 plaintiff. Defendants are also in violation of the indicated
10 statutes because of their failure to remove architectural
11 barriers, which prevent equal access to their facility by disabled
12 persons and because of their failure to modify their practices,
13 policies and procedures to have a scheme, plan, or design to
14 assist Plaintiff and others similarly situated to enter and
15 utilize Defendants' services as required by the Unruh Act.

16
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19 36. Defendants' acts are unlawful and unfair and are therefore in
20 violation of California Business and Professions Code section
21 17200.

22
23 37. Pursuant to the provisions of California Business and
24 Professions Code section 17201 Plaintiff is a person as identified
25 within said section and therefore allowed to bring this action on
26 behalf of himself and the general public to effectuate California
27 Business and Professions Code 17200 as provided for within
28 Business and Professions Code section 17204.

1 38. Thus, Plaintiff, under Bus & Prof. Code section 17200 seeks
2 injunctive relief, on behalf of himself and the general public,
3 requiring Defendants to remedy the disabled access violations
4 present within Defendants' facility and that Defendants be ordered
5 to cease and desist from continuing in noncompliance with disabled
6 access statutes and regulations.
7

8 **IX**

9 **FIFTH CAUSE OF ACTION**

10 **(Negligent Infliction of Emotional Distress)**

11
12 39. Plaintiff relleges the allegations of the Fourth Cause of
13 Action as though set forth fully herein.

14 40. Defendants and each of them owed a duty to Plaintiff to make
15 their facility accessible and to keep Plaintiff reasonably safe
16 from known dangers and risks of harm. This duty arises by virtue
17 of the legal duties proscribed by various federal and state
18 statutes including, but not limited to, ADA, ADAAG, California
19 Civil Code sections 51, 52, 54, 54.1 and Title 24 of the
20 California Code of Regulations. Defendants had a duty of due care
21 not to do or cause anything to happen that would subject Plaintiff
22 to undue stress, embarrassment, chagrin, and discouragement.
23

24
25 41. Defendants breached their duty of care to Plaintiff by the
26 actions and inaction complained of herein and as a result thereof
27 Plaintiff was shocked, discouraged, embarrassed and outraged at
28 the callousness and disregard of Defendants. Defendants knew or

1 had reason to know that by denying Plaintiff equal access to their
2 facility and failing and refusing to remove architectural
3 barriers, Plaintiff would suffer emotional and/or mental distress
4 because of such discrimination and disparate treatment. Defendants
5 breached their duty of care to plaintiff by the perpetration of
6 the acts outlined herein.
7

8 42. As a proximate result of the actions of Defendants Plaintiff
9 did suffer emotional and mental stress and pain and suffering all
10 in an amount to be determined at time of trial.
11

12 X

13 **SIXTH CAUSE OF ACTION**

14 **(Intentional Infliction of Emotional Distress)**

15 43. Plaintiff realleges the allegations of the Fifth Cause of
16 Action as though set forth fully herein.

17 44. The actions of Defendants and each of them are despicable,
18 intentional and done with conscious disregard of the rights and
19 safety of Plaintiff and as such should be regarded as outrageous.

20 45. As a proximate result of Defendants' actions Plaintiff has
21 suffered severe emotional and mental distress all to his damage in
22 an amount to be determined at time of trial.

23 46. Plaintiff seeks an award of punitive damages for this claim as
24 the actions of Defendants are tantamount to outrageous conduct and
25 subject them to exemplary damages.

26 **DEMAND FOR JURY**

27 47. Plaintiff respectfully requests that the claims made herein be
28 heard and determined by a jury.

WHEREFORE PLAINTIFF PRAYS:

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1. For general damages according to proof;
2. For special damages according to proof;
3. For damages pursuant to Cal. Civil Code section 52, in the amount of \$4,000 for each and every offense of California Civil Code section 51, Title 24 of the California Building Code and the Americans With Disabilities Act.
4. For Injunctive relief pursuant to 42 U.S.C. 12188(a) and California Business and Professions Code section 17200
5. For an award of attorney's fees pursuant to 42 U.S.C. 1988, 42 U.S.C. 12205 and Cal. Civ. Code section 55;
6. For treble damages pursuant to Cal. Civ. Code 52 (a);
7. For punitive damages according to proof;
8. For a Jury Trial;
9. For costs of suit incurred herein and;
10. For such other and further relief as the court deems proper.

Respectfully submitted,

Dated: 10/27/03

Ray L. Sanders
Attorney for Plaintiff, Dan Jones

CIVIL COVER SHEET

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 Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

(a) PLAINTIFFS

DAN JONES

DEFENDANTS

HOLUALOA MISSION VALLEY 20, LLC et al.,
03 NOV 24 11 2: 20

(b) County of Residence of First Listed Plaintiff

San Diego

(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed

San Diego

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

Roy L. Landers (619) 296-7898
7840 Mission Center CT, Suite 101
San Diego, CA 92108

Attorneys (If Known)

03 CV 02333 J JMA

BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant 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)

- DEF DEF
- Citizen of This State 1 1 Incorporated or Principal Place of Business In This State 4 4
- Citizen of Another State 2 2 Incorporated and Principal Place of Business In Another State 5 5
- Citizen or Subject of a Foreign Country 3 3 Foreign Nation 6 6

7. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
110 Insurance 120 Marine 130 Miller Act 140 Negotiable Instrument 150 Recovery of Overpayment & Enforcement of 151 Medicare Act 152 Recovery of Defaulted Student Loans (Excl. Veterans) 153 Recovery of Overpayment of Veteran's Benefits 160 Stockholders' Suits 190 Other Contract 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY 210 Land Condemnation 220 Foreclosure 230 Rent Lease & Ejectment 240 Torts to Land 245 Tort Product Liability 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input checked="" type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSDI Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- 1 Original Proceeding 2 Removed 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

I. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

42 USC 12101-12102, 12181-12183 and 12201, et seq.
Discrimination on basis of disability (Public Accommodations)

II. REQUESTED IN COMPLAINT: X

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

III. RELATED CASE(S) IF ANY (See instructions):

JUDGE

E

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # 99007 AMOUNT \$150 APPLYING IFP JUDGE MAG. JUDGE

CB 11/24/03