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11 **UNITED STATES DISTRICT COURT**
12 **SOUTHERN DISTRICT OF CALIFORNIA**

13 **MANTIC ASHANTI'S CAUSE, SUING**
14 **ON BEHALF OF ITS MEMBERS AND**
15 **MEMBER NONI GOTTI; NONI**
16 **GOTTI**

17 **Plaintiffs,**

18 **v.**

19 **METROPOLITAN TRANSIT**
20 **DEVELOPMENT BOARD; And DOES**
21 **1 THROUGH 10, Inclusive**

22 **Defendants.**

Case No. 07cv0956 DMS (CAB)

FIRST AMENDED CIVIL
COMPLAINT:
DISCRIMINATORY PRACTICES IN
PUBLIC ACCOMMODATIONS
[42 U.S.C. 12182(a) ET. SEQ; CIVIL
CODE 51, 52, 54, 54.1]

DEMAND FOR JURY TRIAL
[F.R.Civ.P. rule 38(b)]

23 **JURISDICTION AND VENUE**

24 1. The federal jurisdiction of this action is based on the Americans with Disabilities
25 Act, 42 United States Code 12101-12102, 12181-12183 and 12201, et seq. Venue in the
26 Judicial District of the United States District Court of the Southern District of California
27 is in accordance with 28 U.S.C. § 1391(b) because a substantial part of Plaintiffs' claims
28 arose within the Judicial District of the United States District Court of the Southern
District of California.

SUPPLEMENTAL JURISDICTION

1 2. The Judicial District of the United States District Court of the Southern District of
2 California has supplemental jurisdiction over the state claims as alleged in this Complaint
3 pursuant to 28 U.S.C. § 1367(a). The reason supplemental jurisdiction is proper in this
4 action is because all the causes of action or claims derived from federal law and those
5 arising under state law, as herein alleged, arose from common nucleus of operative facts.
6 The common nucleus of operative facts, include, but are not limited to, the incidents
7 where Plaintiffs were denied full and equal access to Defendants' facilities, goods, and/or
8 services in violation of both federal and state laws when they attempted to enter, use,
9 and/or exit Defendants' facilities as described below within this Complaint. Further, due
10 to this denial of full and equal access, MANTIC ASHANTI'S CAUSE, SUING ON
11 BEHALF OF ITS MEMBERS and other persons with disabilities were injured. Based
12 upon the said allegations, the state actions, as stated herein, are so related to the federal
13 actions that they form part of the same case or controversy and the actions would
14 ordinarily be expected to be tried in one judicial proceeding.

15 **NAMED DEFENDANTS AND NAMED PLAINTIFF**

16 3. Defendants are, and, at all times mentioned herein, were, a business or
17 corporation or franchise organized and existing and/or doing business under the laws of
18 the State of California. Defendant METROPOLITAN TRANSIT DEVELOPMENT
19 BOARD is located at 1255 Imperial Avenue, San Diego, California.

20 4. The words "Plaintiffs" and "Plaintiff's Member" as used herein specifically
21 include the organization and MANTIC ASHANTI'S CAUSE , SUING ON BEHALF OF
22 ITS MEMBERS, MEMBER NONI GOTTI; and persons associated with its Members
23 who accompanied Members to Defendants' facilities. Defendants Does 1 through 10,
24 were at all times relevant herein subsidiaries, employers, employees, agents, of
25 Defendants. Plaintiffs are ignorant of the true names and capacities of Defendants sued
26 herein as Does 1 through 10, inclusive, and therefore sues these Defendants by such
27
28

1 fictitious names. Plaintiffs will pray leave of the court to amend this complaint to allege
2 the true names and capacities of the Does when ascertained.

3 5. Plaintiffs are informed and believe, and thereon allege, that Defendants and each
4 of them herein were, at all times relevant to the action, the owner, lessor, lessee,
5 franchiser, franchisee, general partner, limited partner, agent, employee, representing
6 partner, or joint venturer of the remaining Defendants and were acting within the course
7 and scope of that relationship. Plaintiffs are further informed and believe, and thereon
8 allege, that each of the Defendants herein gave consent to, ratified, and/or authorized the
9 acts alleged herein to each of the remaining Defendants.
10

11 **CONCISE SET OF FACTS**

12 6. Member NONI GOTTI uses a service animal due to her disability.

13 7. Each time NONI GOTTI attempts to Defendants' bus she is denied admittance
14 due to her animal or the drivers make unlawful inquiries as to her disability and the need
15 for said animal. For example, Plaintiff Gotti has had multiple problems with MTS as to
16 her service animal for which she documented. See Exhibit A. Further, on route 929 in
17 November, 2007, the driver asked for certification even though Plaintiff presented
18 service animal dog tags issued by the applicable government agency. On route 929 on
19 November 10, 2007, the driver asked for certification even though Plaintiff presented
20 service animal dog tags issued by the applicable government agency. On route 901 in
21 November, 2007, the driver asked for certification even though Plaintiff presented
22 service animal dog tags issued by the applicable government agency.
23

24 8. Plaintiff's Member and Plaintiff(s) have physical impairments because their
25 conditions affect one or more of the following body systems: neurological,
26 musculoskeletal, special sense organs, and/or cardiovascular. Further, Plaintiff's
27 Member and Plaintiff(s) said physical impairments substantially limits one or more of the
28 following major life activities: mental and walking. In addition, Plaintiff's Member and

1 Plaintiff(s) cannot perform one or more of the said major life activities in the manner,
2 speed, and duration when compared to the average person. Moreover, Plaintiff's
3 Member and Plaintiff(s) has a history of or has been classified as having a physical
4 impairment as required by 42 U.S.C. § 12102(2)(A).

5 9. Plaintiff's Members expressly intend to patronize the establishment and the
6 property that is the subject of this Complaint in the immediate future.

7 10. Plaintiff's Member was deterred from patronizing the facility.
8

9 **WHAT CLAIMS ARE PLAINTIFFS ALLEGING AGAINST EACH NAMED**
10 **DEFENDANT**

11 10. **METROPOLITAN TRANSIT DEVELOPMENT BOARD** and Does 1
12 through 10 will be referred to collectively hereinafter as "Defendants."

13 11. Plaintiffs aver that the Defendants are liable for the following claims as alleged
14 below:
15

16 **DISCRIMINATORY PRACTICES IN PUBLIC ACCOMMODATIONS**

17 **FIRST CAUSE OF ACTION AGAINST ALL DEFENDANTS- Claims Under The**
18 **Americans With Disabilities Act Of 1990**

19 **Claim I**

20
21 12. Based on the facts stated above, Defendants discriminated against Plaintiffs on the
22 basis of disability in the full and equal enjoyment of the goods, services, facilities,
23 privileges, advantages, or accommodations of any place of public accommodation as
24 Defendants own, lease (or lease to), or operate a place of public accommodation in
25 violation of 42 U.S.C. §12182.

26 **Claim II**

27 13. Based on the facts stated above, Defendants discriminated against Plaintiffs
28 directly, or through contractual, licensing, or other arrangements, to a denial of the

1 opportunity of the individual or class to participate in or benefit from the goods, services,
2 facilities, privileges, advantages, or accommodations of an entity in violation of 42
3 U.S.C. §12182.

4 Claim III

5 14. Based on the facts stated above, Defendants discriminated against Plaintiffs as it
6 is discriminatory to afford an individual or class of individuals, on the basis of a disability
7 or disabilities of such individual or class, directly, or through contractual, licensing, or
8 other arrangements with the opportunity to participate in or benefit from a good, service,
9 facility, privilege, advantage, or accommodation that is not equal to that afforded to other
10 individuals in violation of 42 U.S.C. §12182.

11 Claim IV

12 15. Based on the facts stated above, Defendants discriminated against Plaintiffs as it
13 is discriminatory to provide an individual or class of individuals, on the basis of a
14 disability or disabilities of such individual or class, directly, or through contractual,
15 licensing, or other arrangements with a good, service, facility, privilege, advantage, or
16 accommodation that is different or separate from that provided to other individuals.

17 Claim V

18 16. Based on the facts stated above, Defendants discriminated against Plaintiffs as
19 Defendants failed to afford to an individual with a disability in the most integrated
20 setting appropriate to the needs of the individual in violation of 42 U.S.C. §12182.

21 Claim VI

22 17. Based on the facts stated above, Defendants discriminated against Plaintiffs as
23 Defendants utilized standards or criteria or methods of administration that have the effect
24 of discriminating on the basis of disability; or that perpetuate the discrimination of others
25 who are subject to common administrative control in violation of 42 U.S.C. §12182.

26 Claim VII

27 18. Based on the facts stated above, Defendants discriminated against Plaintiffs as it
28

1 is discriminatory to exclude or otherwise deny equal goods, services, facilities, privileges,
2 advantages, accommodations, or other opportunities to an individual or entity because of
3 the known disability of an individual with whom the individual or entity is known to have
4 a relationship or association in violation of 42 U.S.C. §12182. See Niece v. Fitzner 922 F.
5 Supp. 1208 (1996)

6 Claim VIII

7 19. Based on the facts stated above, Defendants discriminated against Plaintiffs as
8 Defendants engaged in the specific prohibitions as stated in 42 U.S.C. §12182.

9 Claim IX

10 20. Based on the facts stated above, Defendants discriminated against Plaintiffs as
11 Defendant failed to demonstrate that the removal of a barrier is not readily achievable,
12 and made such goods, services, facilities, privileges, advantages, or accommodations
13 available through alternative methods in a segregated manner in violation of 42 U.S.C.
14 §12182.

15 Claim X

16 21. Based on the facts stated above, Defendants discriminated against Plaintiffs as
17 Defendants altered the use of their establishment in a manner that affected or could have
18 affected the usability of the facility or part thereof and failed to make alterations in such a
19 manner that, to the maximum extent feasible, the altered portions of the facility are
20 readily accessible to and usable by individuals with disabilities, including individuals
21 who use wheelchairs in violation of 42 U.S.C. §12183.

22 22. WHEREFORE, Plaintiffs pray for judgment and relief as hereinafter set forth.
23

24 DEMAND FOR JUDGMENT FOR RELIEF:

25
26 A. For injunctive relief pursuant to 42 U.S.C. § 12188(a).

27 B. For attorneys fees pursuant to 42 U.S.C. § 1988, 42 U.S.C. § 12205.
28

1 C. A Jury Trial and;

2 D. For such other further relief as the court deems proper.

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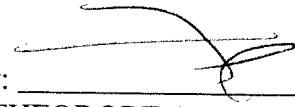
4 Respectfully submitted:

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PINNOCK & WAKEFIELD, A.P.C.

6 Dated: January 14, 2008

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By: 

THEODORE A. PINNOCK, ESQ.
Attorneys for Plaintiffs

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EXHIBIT A

THURSDAY JAN 5, 06
PALMDALE 6:55 PM
#2

I BOARDED THE BUS AT SAN YSIDRO BLVD. APPROXIMATELY
AT APPROXIMATELY 6:30 PM 20 MINUTES INTO THE BUS
DRIVER THE DRIVER STOPS THE BUS AND COMES TO
TO WHERE I'M SITTING AND ASKS ME HOW I GOT
THE DOG ON THE BUS. I TOLD HIM THREW THE FRONT
DOOR. HE SAID THE DOG WASNT ALLOWED I TOLD HIM
HE WAS A SERVICE DOG HE HAD HIS VEST AND LICENSE
ON HIM. THE BUS DRIVER SAID THE DOG NEEDED TO
BE CAGED. I TOLD HIM NO HE DOESNT HE IS A SERVICE
DOG. THEN I MENTIONED TO HIM I HAD A SIMILAR
INCIDENT EARLIER AND I SPOKE TO A SUPERVISOR
AND HE SAID THE VEST + LICENSE WERE FINE. I
TOLD THE DRIVER CALL A SUPERVISOR. THIS ALL
HAPPENED ABOUT 1 BLOCK BEFORE I GOT TO MY STOP.
WHEN I UNBOARDED THE DRIVER SAID "HEY I
SPOKE TO MY SUPERVISOR AND HE SAID YOU CANT
BRING THE DOG ~~WITH~~ ^{UNLESS} YOUR BLIND. ALL I
RESPONDED WAS THATS NOT TRUE. I WAS VERY
UPSET 3 INCIDENTS IN ONE DAY WAS TOO
MUCH EVEN IF I FILED A WRITTEN COMPLAINT
EARLIER I CALLED AND REPORTED BOTH
INCIDENTS I WAS TOLD SOMEONE WOULD
CONTACT ME IN 72 HOURS ITS BEEN OVER
1 WEEK AND NO ONE HAS CONTACTED ME.
PLEASE NOTE MY FRIEND WAITER TYRRE STEVENS

LENT ME HIS CELL PHONE I TRIED CALLING THE NON EMERGENCY POLICE DEPT TWICE UNFORTUNATLY I DIDNT GET THRU AND THE YOUNG MAN NEEDED HIS PHONE BACK I THANKED HIM AND ASKED HIM IF HE COULD PLEASE CALL AND ASK FOR AN OFFICER TO COME TO THE BUS. UNFORTUNATLY SOME PEOPLE DONT WANT TO GET INVOLVED AND I BELIEVE THE YOUNG MAN DIDNT CALL. AFTER WAITING 20 MINUTES OR SO THE DRIVER FINALLY CHOSE TO CALL A SUPERVISOR I COULD HEAR THE CONVERSATION. DRIVER STATED: A FEMALE ABOUT IN HER 30'S BOARDED THE BUS WITH A DOG AND REFUSES TO GET OFF. THE SUPERVISOR ASKED DOES SHE HAVE ANY KIND OF ID DOES THE DOG HAVE ANY ID, VEST ECT. THE DRIVER STRAIGHT OUT LIED AND SAID NO. SO THE BUS DRIVER SAID THAT IF I DIDNT GET OFF THE POLICE WILL COME AND BRING ME OFF THE BUS. I TOLD HIM FINE IM NOT DOING ANY WRONG IM LEGALLY DISABLED I HAVE ALL MY PAPER WORK ON THE DOG AND MYSELF IVE DONE NOTHING WRONG. I CONTINUED TO STAY SEATED AFTER 10 MINUTES OR SO THE SUPERVISOR CALLED AND ASKED IF I WAS STILL ON THE BUS THE DRIVER SAID YES. AGAIN THE SUPERVISOR ASKED AND SHE DOESNT HAVE ANY KIND OF DISABLED

ID, THE DOG ISN'T WEARING A VEST A LICENSE
ANYTHING THE DRIVER AGAIN SAID NO. THE CON-
VERSATION WAS THREW THE RADIO SO THE SUPERVISOR
COULDN'T HEAR ME AS I WAS TELLING THE DRIVER
THE DOG IS A SERVICE DOG HE IS WEARING A
VEST HE HAS A LICENSE. HE WOULDN'T PAY ATTENTION
TO ME. THE SUPERVISOR COULDN'T BELIEVE THAT
I WAS STILL ON THE BUS SO HE SAID HE WOULD
COME AGAIN AFTER WAITING SOME MORE, HE LATER
CALLED AND SAID HE COULDN'T COME. TO BRING
ME, THE DRIVER DROVE ME TO WHERE THE SUPERVISOR
WAS AT WHICH WAS A THE ^{IRIS} TROLLEY STATION. DURING
THE TIME THE DRIVER WAS TRANSPORTING ME TO
THE SUPERVISOR HE SAID I LOOKED AS IF I DIDN'T
HAVE ANYTHING WRONG WITH ME THAT THE DOG
WAS A MUTT AND THAT I WAS IGNORANT OF THE
DISABLED LAWS. I TOLD HIM THAT WASN'T TRUE
THAT IF THERE WAS ANY NEW LAWS THAT HAD
COME INTO EFFECT THIS YEAR I WOULD HAVE
KNOWN TO BE UP TO DATE WITH MY PAPERWORK ETC.
I MENTIONED TO HIM THAT HE HAD BEHAVIRED
VERY UNPROFESSIONALLY AND THAT I WAS GOING
TO REPORT HIM THAT HIS BEHAVIOR WAS VERY
INAPPROPRIATE IN WORKING WITH THE PUBLIC.
(AND WITH THE DISABLED)
HE SAID GO AHEAD I'M NOT GOING TO LOSE MY
JOB OVER THIS. THIS WHOLE TIME THE DRIVER

#3

FRIDAY JAN. 13, 2006
BUS # 2606 2:45 PM
HST + BROADWAY
CITRUS HEIGHTS, CA

BOARDED THE BUS, BUS DRIVER SAID I COULDN'T BRING THE DOG ON BOARD. I POINTED OUT THE DOG WAS A SERVICE DOG THAT HE HAD HIS SERVICE DOG VEST ON AND HAD HIS SERVICE DOG LICENSE. HE STATED I NEEDED MORE DOCUMENTATION FOR THE DOG THAT ONLY IF I WERE BLIND THE DOG COULD BOARD THE BUS. I BOARDED THE BUS AND INFORMED THE BUS DRIVER I'VE HAD THIS HAPPEN BEFORE I FILED A COMPLAINT AND SPOKE TO A SUPERVISOR WHOM SAID AS LONG AS THE DOG HAS A VEST ITS FINE PLEASE CALL A SUPERVISOR. FROM MY SEAT I COULD HEAR THE BUS DRIVER ^{ON THE} RADIO RE THE SERVICE DOG I COULD ^{HEAR} THE SUPERVISOR SIDE OF THE CONVERSATION STATING AS LONG AS THE DOG HAS A VEST YOU'RE NOT TO HAVE ANY QUESTIONS. HE ALSO STATED RE HAVING A MEDICARE CARD, (WHICH I DO). DURING THIS INCIDENT WHILE THE DRIVER WAS CALLING THE SUPERVISOR HE GLANCE AT ME THREW THE MIRROR WHICH MADE ME FEEL VERY UNCOMFORTABLE AS I HAD COMMITTED A CRIME. MY FRIEND WALTER TYRRE STEVENS WAS ALSO WITH ME AND HE WITNESSED THIS INCIDENT. YOU MAY CONTACT HIM AT : 662-3468

#1

THURS. JAN 5, 2006
BUS # 2109 2:30 PM
SATURN + PALM AVE.

I BOARDED THE BUS THE DRIVER SAID I NEEDED PAPERWORK ON THE DOG. I POINTED OUT HIS SERVICE DOG VEST AND LICENSE. HE SAID HE NEEDED PAPERWORK FOR THE DOG. I TOLD THE DRIVER I'VE BEEN TRAVELING WITH MY DOG BEFORE AND I'VE NEVER HAD A PROBLEM. I BOARDED THE BUS TOOK A SEAT AND REQUESTED A SUPERVISOR. THE BUS DRIVER CHOSE NOT TO CALL ANYONE HE TURNED THE BUS OFF AND SAID HE WASNT GOING ANYWHERE. THE PASSENGERS GOT DISTURBED AT THIS TIME. HE KEPT SAYING I DIDNT HAVE THE PROPER IDENTIFICATION TO TRANSPORT THE DOG. I KEPT TELLING HIM RE THE VEST AND THE LICENSE AGAIN HE CHOSE TO NOT LISTEN TO ME. DURING THIS TIME I KEPT ASKING FOR A SUPERVISOR WHICH HE DIDNT CALL. THE BUS DRIVER INFORMED THE PASSENGERS THAT HE WASNT GOING ANYWHERE TO GET OFF AND BOARD THE NEXT BUSES. I STAYED SITTING DOWN WITH MY DOG AND A YOUNG MAN WHO HAD GOTTON OFF STAYED CLOSED BY THE DOOR TO SEE IF THE BUS WAS GONNA RESUME IN SERVICE. (THERE WERE A FEW OTHERS TO) I ASKED IF ANYONE HAD A CELL PHONE THAT YOUNG MAN

SPOKE TO ME IN SPANISH THAT I HAD TO ASK DO YOU EVEN SPEAK ENGLISH BECAUSE ALL YOU'VE SPOKEN TO ME HAS BEEN IS SPANISH. THE DRIVER MADE A RACIST REMARK STATING WELL YOU LOOK INDIAN THAT WHY I SPOKE TO YOU IN SPANISH. ONCE I ARRIVED AT THE SUPERVISOR'S WHEREABOUTS I IMMEDIATELY GOT OFF THE BUS AND WENT TO THE SUPERVISOR. ^(MARTIN SALCEDO) THE SUPERVISOR WAS IN DISBELIEF WHEN HE SAW THE DOG HE TOLD THE BUS DRIVER WHEN YOU SEE A DOG WITH A VEST YOU LET THEM ON THE BUS. ALL THE DRIVER SAID WAS "O I DIDNT KNOW AND LEFT. THE SUPERVISOR WAS VERY APOLOGETIC OVER + OVER AGAIN. HE KEPT TELLING ME I KEPT ASKING HIM DOES SHE HAVE AN ID DOES THE DOG HAVE A VEST + HE KEPT SAYING NO, NO NO. I TOLD HIM I KNOW I COULD HEAR YOUR SIDE OF THE CONVERSATION OVER THE RADIO. I MENTIONED TO THE SUPERVISOR HOW UPSET I WAS AND I WAS GOING TO FILE A COMPLAINT HE GAVE ME THE FORMS AND ALLOWED ME TO SIT IN HIS CAR TO WRITE MY COMPLAINT. I WROTE UP MY COMPLAINT AND I REQUESTED THE DRIVER BE SUSPENDED/ REPRIMANDED. THE SUPERVISOR SAID HE WAS GOING TO REQUEST HE BE RETRAINED. AGAIN THE SUPERVISOR WAS

VERY APOLOGETIC AND INFORMED ME THAT HE WAS AT THE IRIS TROLLEY STATION ON THURSDAYS / FRIDAYS, IF I EVER NEEDED ANYTHING. HE DID GIVE ME A TRANSFER FOR I HAD TO ASK HIM FOR ONE FOR MY TROLLEY TICKET HAD EXPIRED DUE TO ALL THESE INCIDENTS. + ^{UNECESSARY} DELAYS. I CONTINUED TO MY DESTINATION ON THE TROLLEY THE BUS SYSTEM HAS LEFT ME WITH THIS BITTER EXPERIENCE. AS IT IS PUBLIC TRANSPORTATION IS HIDEOUS TO ME I LOATHE PUBLIC TRANSPORTATION I GET ANXIETY ^{AND PANIC ATTACKS (ITS OVERWHELMING FOR ME)} ~~AT~~ IT'S VERY HARD FOR ME. THE SERIOUSNESS OF THIS IS THAT IVE RENTED ^(WHICH TAKES ALL OF MY MONEY I AM ON A FIXED INCOME.) CARS BEFORE IF NOT I DONT DO THINGS SUCH AS ATTEND MY DR. APPOINTMENTS, GO GROCERY SHOPPING ECT. I WAS MAKING SOME PROGRESS SLOW BUT GETTING AROUND SOME. I WAS EVEN GONNA TRY AND ATTEND SCHOOL I GOT A RIDE TO ENROLL AND I HAD 1 WEEK AND A HALF TO GO AND ENROLL FOR HELP WITH MY TUITION / BOOKS AGAIN I HADNT GONE DUE TO KNOWING I HAD TO GO ON THE BUS. ~~NOT~~ DUE TO MY PHO BIA. MAYBE I WOULD HAVE GONE MAYBE NOT. NOW I HAVE A SET BACK AND AM NOT GOING TO MAKE IT AT ALL. PLEASE NOTE I GET PAID ON THE 1ST AND IT WAS THE FIFTH AGAIN DUE TO HAVING

PERSONAL ISSUES WITH PUBLIC TRANSPORTATION
I WAITED TO THE LAST MOMENT. I ~~KNOW~~
CRINGE WHENEVER I SEE A BUS. I FEEL A LITTLE
MORE COMFORTABLE ON THE TROLLEY FOR LESS HARRASSME
HOWEVER THERE IS A BUS STOP RIGHT IN FRONT OF
MY HOME AND INSTEAD I ^{WOULD} HAVE TO WALK 20 MIN.
TO GET TO THE TROLLEY AND THEN SOME WHICH IS
TRULY UNNECESSARY. IF I WERE TO HAVE TO TRAVEL
ON PUBLIC TRANSPORTATION.