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**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SAN DIEGO**

**NONI GOTTI,**

**Plaintiff,**

v.

**CARLOS VASQUEZ; VASQUEZ  
FAMILY TRUST; FRONTIER  
MOTEL, L.P.; And DOES 1  
THROUGH 10, Inclusive**

**Defendants.**

Case No. 37-2008-00070672-CU-CR-SC

**CIVIL COMPLAINT:**  
**DISCRIMINATORY PRACTICES IN**  
**PUBLIC ACCOMMODATIONS**  
**[42 U.S.C. 12182(a) ET. SEQ; CIVIL**  
**CODE 51, 52, 54, 54.1, 54.3]**

**UNLIMITED CIVIL CASE -  
PERMANENT INJUNCTIVE RELIEF**

**NAMED DEFENDANTS AND NAMED PLAINTIFF**

1. Plaintiff is informed, believes and thereon alleges that Defendants are, and, at all times mentioned herein, were, a business or corporation or franchise organized and existing and/or doing business under the laws of the State of California. Plaintiff is informed and believes and thereon alleges that Defendants CARLOS VASQUEZ; VASQUEZ FAMILY TRUST; FRONTIER MOTEL, L.P. are the owner, operator, and/or lessor/lessee of the real property and the public accommodation located thereon at the Property Address: 149 CALLE PRIMERA, SAN YSIDRO, CA 92173; Assessor's Parcel Number: 666-371-10. Defendants CARLOS VASQUEZ; and VASQUEZ FAMILY TRUST C/O FRONTIER MOTEL are located at 149 CALLE PRIMERA, SAN YSIDRO, CA 92173. Defendant FRONTIER MOTEL, L.P. is located

1 at 149 CALLE PRIMERA, SAN YSIDRO, CA 92173-2004 or c/o Registered Agent: CARLOS  
2 VASQUEZ, located at 969 REEF DRIVE, SAN DIEGO, CA 92154.

3 2. The words Plaintiff and Plaintiffs as used herein specifically include NONI GOTTI.

4 3. Defendants Does 1 through 10, were at all times relevant herein subsidiaries, employees,  
5 employees, agents, of Defendants CARLOS VASQUEZ; VASQUEZ FAMILY TRUST;  
6 FRONTIER MOTEL, L.P.. Plaintiff is ignorant of the true names and capacities of Defendants  
7 sued herein as Does 1 through 10, inclusive, and therefore sues these Defendants by such  
8 fictitious names. Plaintiff will pray leave of the court to amend this complaint to allege the true  
9 names and capacities of the Does when ascertained.

10 4. Plaintiff is informed and believes, and thereon alleges, that Defendants and each of them  
11 herein were, at all times relevant to the action, the owner, lessor, lessee, franchiser, franchisee,  
12 general partner, limited partner, agent, employee, representing partner, or joint venturer of the  
13 remaining Defendants and were acting within the course and scope of that relationship. Plaintiff  
14 is further informed and believe, and thereon allege, that each of the Defendants herein gave  
15 consent to, ratified, and/or authorized the acts alleged herein to each of the remaining Defendants.

16  
17 **CONCISE SET OF FACTS**

18 5. Plaintiff NONI GOTTI (hereinafter "Plaintiff") has physical and mental impairments and  
19 due to these impairments she has successfully learned to walk with a service animal. Plaintiff  
20 said physical and mental impairments substantially limit one or more of the following major life  
21 activities including but not limited to: walking and clinical depression. Plaintiff has a long  
22 history of mental impairments. Plaintiff's doctor required her to travel with a service dog as a  
23 non-medicated treatment for her conditions. Defendants refused Plaintiff entrance due to the dog  
24 or have a policy prohibiting service dogs.

25 6. Plaintiff has physical and mental impairments because their conditions affect one or more  
26 of the following body systems: neurological, musculoskeletal, special sense organs, and/or  
27 cardiovascular. Further, Plaintiff said physical impairments substantially limits one or more of  
28 the following major life activities. In addition, Plaintiff cannot perform one or more of the said

1 major life activities in the manner, speed, and duration when compared to the average person.  
2 Moreover, Plaintiff has a history of or has been classified as having a physical impairment as  
3 required by 42 U.S.C. § 12102(2)(A).

4 7. On May 18, 2008, Plaintiff NONI GOTTI desired to visit Defendants' public  
5 accommodation facilities located at Property Address: 149 CALLE PRIMERA, SAN YSIDRO,  
6 CA 92173; Assessor's Parcel Number: 666-371-10 to utilize their goods and/or services. When  
7 Plaintiff NONI GOTTI desired to patronize Defendants' public accommodation facilities, she was  
8 unable to use and/or had difficulty using the public accommodations' facilities including but not  
9 limited to the barriers to access listed herein and said facilities were not accessible because they  
10 failed to comply with ADA Access Guidelines For Buildings and Facilities (hereafter referred to  
11 as "ADAAG" and codified in 28 C.F.R. Part 36, App. A) and/or California's Title 24 Building  
12 Code Requirements. Defendants failed to remove barriers to equal access within their public  
13 accommodation facilities as required.

14 8. Plaintiff NONI GOTTI personally experienced difficulty with said access barriers as listed  
15 herein to the present Complaint at Defendants' public accommodation facilities located on the  
16 Property and/or has knowledge of said access barriers and is presently deterred from accessing  
17 the public accommodation. Plaintiff alleges that these known barriers to access are not an  
18 exhaustive list of the barriers to access that exist at Defendants' facilities.

19 9. Defendants failed to provide auxiliary aids and services that are necessary to ensure equal  
20 access to the goods, services, privileges, or accommodations that it offers. Title 28, part 36.303  
21 of Code of Federal Regulations states:

22 (a) General. A public accommodation shall take those steps that may be necessary to ensure that  
23 no individual with a disability is excluded, denied services, segregated or otherwise treated  
24 differently than other individuals because of the absence of auxiliary aids and services, unless the  
25 public accommodation can demonstrate that taking those steps would fundamentally alter the  
26 nature of the goods, services, facilities, privileges, advantages, or accommodations being offered  
27 or would result in an undue burden, i.e., significant difficulty or expense.  
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1 (b) Examples. The term "auxiliary aids and services" includes:

2 (1) Qualified interpreters, notetakers, computer-aided transcription services, written  
3 materials, telephone handset amplifiers, assistive listening devices, assistive listening  
4 systems, telephones compatible with hearing aids, closed caption decoders, open and  
5 closed captioning, telecommunications devices for deaf persons (TDD's), videotext  
6 displays, or other effective methods of making aurally delivered materials available to  
7 individuals with hearing impairments;

8 (2) Qualified readers, taped texts, audio recordings, Brailled materials, large print  
9 materials, or other effective methods of making visually delivered materials available to  
10 individuals with visual impairments;

11 (3) Acquisition or modification of equipment or devices; and

12 (4) Other similar services and actions.

13 (c) Effective communication. A public accommodation shall furnish appropriate auxiliary aids  
14 and services where necessary to ensure effective communication with individuals with  
15 disabilities.

16 10. Plaintiff can prove these barriers as Plaintiff conducted a preliminary survey of  
17 Defendants' facility. Plaintiff specifically alleges that Defendants knew, to a substantial  
18 certainty, that the architectural barriers precluded equal access. First, Plaintiff will prove that  
19 Defendants had actual knowledge that the architectural barriers precluded equal access and that  
20 the noncompliance with ADAAG as to accessible entrances was intentional. Second, due to the  
21 abundance of ADA information and constant news covers of ADA lawsuits, Defendants had  
22 actual knowledge of the ADA and decided deliberately not to remove architectural barriers.  
23 Third, Defendants have no plans to remodel. Fourth, Defendants had actual knowledge of ADA  
24 given all the ADA public awareness campaigns, the abundance of free ADA information and the  
25 media's constant ADA coverage. Fifth, a human being acting for the defendants made a  
26 conscious decision as to how to proceed given the presence of the architectural barriers. Plaintiff  
27 alleges any alternative methods preclude integration of disabled patrons, as it requires them to use  
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1 second-class facilities. Also, expert testimony will show the facility contained inaccessible  
2 features. Plaintiff alleges businesses often state that they have few customers with disabilities.  
3 Plaintiff alleges such customers avoid patronizing inaccessible businesses and are deterred from  
4 patronizing such businesses.

5 11. The Plaintiff went to the property 149 CALLE PRIMERA, SAN YSIDRO. The property  
6 has no tow away disability signage at parking lot entrances, no signage for handicapped parking,  
7 and only 1 van sign. Also, the steps lack the slip resistance surface and rooms are not  
8 handicapped accessible.

9 12. Plaintiff intends to return to Defendants' public accommodation facilities in the immediate  
10 future. Plaintiff was deterred and is presently deterred from returning due to her knowledge of  
11 the barriers to access that exist at Defendants' facilities.

12 13. Pursuant to federal and state law, Defendants are required to remove barriers to their  
13 existing facilities. Further, Defendants had actual knowledge of their barrier removal duties  
14 under the Americans with Disabilities Act and the Civil Code before January 26, 1992. Also,  
15 Defendants should have known that individuals with disabilities are not required to give notice to  
16 a governmental agency before filing suit alleging Defendants failed to remove architectural  
17 barriers.

18 14. Plaintiff believes and herein alleges Defendants' facilities have access violations not  
19 directly experienced by Plaintiff which would preclude or limit access by Plaintiff potentially  
20 including but not limited to violations of the ADA, ADA Accessibility Guidelines (Codified in 28  
21 C.F.R. Part 36, App. A) and Title 24 of the California Building Code. Plaintiff alleges  
22 Defendants are required to utilize the ADA checklist for Readily Achievable Barrier Removal  
23 approved by the United States Department of Justice and created by Adaptive Environments.  
24 Plaintiff is entitled to injunctive relief to remove all barriers to access that are related to her  
25 disability even those barriers that are only known to exist but are not directly experienced by  
26 plaintiff. *Doran v 7-Eleven Inc*, 2007 U.S.App.Lexis 26143 (9<sup>th</sup> Cir 2007).

27 15. Based on these facts, Plaintiff alleges she was discriminated against each time he  
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1 patronized and/or was deterred from patronizing Defendants' facilities. Plaintiff was extremely  
2 upset due to Defendants' conduct.

3 16. Plaintiff is not required to provide notice to the defendants prior to filing a complaint  
4 and/or to recover attorney fees and costs. *Botosan v. Paul McNally Realty*, 216 F.3d 827, 832  
5 (9<sup>th</sup> Cir 2000). *Skaff v Meridien*, 2007 U.S. App. LEXIS 25516 (9<sup>th</sup> Cir 2007).

6 **WHAT CLAIMS ARE PLAINTIFF ALLEGING AGAINST EACH NAMED**

7 **DEFENDANT**

8 17. Defendants CARLOS VASQUEZ; VASQUEZ FAMILY TRUST; FRONTIER MOTEL,  
9 L.P. and Does 1 through 10 will be referred to collectively hereinafter as "Defendants."

10 18. Plaintiff avers that the Defendants are liable for the following claims as alleged below:

11 **DISCRIMINATORY PRACTICES IN PUBLIC ACCOMMODATIONS**

12 **FIRST CAUSE OF ACTION AGAINST ALL DEFENDANTS- Claims Under The Americans**

13 **With Disabilities Act Of 1990**

14 **Claim I**

15 19. Based on the facts stated above, Defendants discriminated against Plaintiff on the basis of  
16 disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages,  
17 or accommodations of any place of public accommodation as Defendants own, lease (or lease  
18 to), or operate a place of public accommodation in violation of 42 U.S.C. §12182.

19 **Claim II**

20 20. Based on the facts stated above, Defendants discriminated against Plaintiff directly, or  
21 through contractual, licensing, or other arrangements, to a denial of the opportunity of the  
22 individual or class to participate in or benefit from the goods, services, facilities, privileges,  
23 advantages, or accommodations of an entity in violation of 42 U.S.C. §12182.

24 **Claim III**

25 21. Based on the facts stated above, Defendants discriminated against Plaintiff as it is  
26 discriminatory to afford an individual or class of individuals, on the basis of a disability or  
27 disabilities of such individual or class, directly, or through contractual, licensing, or other  
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1 arrangements with the opportunity to participate in or benefit from a good, service, facility,  
2 privilege, advantage, or accommodation that is not equal to that afforded to other individuals in  
3 violation of 42 U.S.C. §12182.

4 Claim IV

5 22. Based on the facts stated above, Defendants discriminated against Plaintiff as it is  
6 discriminatory to provide an individual or class of individuals, on the basis of a disability or  
7 disabilities of such individual or class, directly, or through contractual, licensing, or other  
8 arrangements with a good, service, facility, privilege, advantage, or accommodation that is  
9 different or separate from that provided to other individuals.

10 Claim V

11 23. Based on the facts stated above, Defendants discriminated against Plaintiff as Defendants  
12 failed to afford to an individual with a disability in the most integrated setting appropriate to  
13 the needs of the individual in violation of 42 U.S.C. §12182.

14 Claim VI

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

19 Claim VII

20 25. Based on the facts stated above, Defendants discriminated against Plaintiff as it is  
21 discriminatory to exclude or otherwise deny equal goods, services, facilities, privileges,  
22 advantages, accommodations, or other opportunities to an individual or entity because of the  
23 known disability of an individual with whom the individual or entity is known to have a  
24 relationship or association in violation of 42 U.S.C. §12182. See *Niece v. Fitzner* 922 F. Supp.  
25 1208 (1996)

26 Claim VIII

27 26. Based on the facts stated above, Defendants discriminated against Plaintiff as Defendants  
28

1 engaged in the specific prohibitions as stated in 42 U.S.C. §12182.

2 Claim IX

3 27. Based on the facts stated above, Defendants discriminated against Plaintiff as Defendant  
4 failed to demonstrate that the removal of a barrier is not readily achievable, and made such goods,  
5 services, facilities, privileges, advantages, or accommodations available through alternative  
6 methods in a segregated manner in violation of 42 U.S.C. §12182. Plaintiff is entitled to  
7 injunctive relief to remove all barriers to access that are related to his disability even those  
8 barriers that are only known to exist but are not directly experienced by plaintiff. *Doran v 7-*  
9 *Eleven Inc*, 2007 U.S.App.Lexis 26143 (9<sup>th</sup> Cir 2007).

10 Claim X

11 28. Based on the facts stated above, Defendants discriminated against Plaintiff as Defendants  
12 altered the use of their establishment in a manner that affected or could have affected the usability  
13 of the facility or part thereof and failed to make alterations in such a manner that, to the maximum  
14 extent feasible, the altered portions of the facility are readily accessible to and usable by  
15 individuals with disabilities in violation of 42 U.S.C. §12183.

16 29. WHEREFORE, Plaintiff pray for judgment and relief as hereinafter set forth.

17  
18 **SECOND CAUSE OF ACTION AGAINST ALL DEFENDANTS - CLAIMS UNDER**  
19 **CALIFORNIA ACCESSIBILITY LAWS**

20 **CLAIM I: Denial Of Full And Equal Access**

21 30. Based on the facts plead above and elsewhere in this complaint, Plaintiff was denied full  
22 and equal access to Defendants' goods, services, facilities, privileges, advantages, or  
23 accommodations within a public accommodation owned, leased, and/or operated by Defendants  
24 as required by Civil Code Sections 54 and 54.1.

25 **CLAIM II: Failure To Modify Practices, Policies And Procedures**

26 31. Based on the facts plead above and elsewhere herein this complaint, Defendants failed and  
27 refused to provide a reasonable alternative by modifying its practices, policies, and procedures in  
28 that they failed to have a scheme, plan, or design to assist Plaintiff and/or others similarly situated

1 in entering and utilizing Defendants' services as required by Civil Code § 54.1. Thus, Plaintiff  
2 was subjected to discrimination in violation of Civil Code § 54.1.

3 **CLAIM III: Violation Of The Unruh Act**

4 32. Based on the facts plead above and elsewhere herein this complaint and because  
5 Defendants violated the Civil Code § 51 by failing to comply with 42 United States Code §  
6 12182(b)(2)(A)(iv) and 42 U.S.C. § 12183(a)(2), Defendants did and continue to knowingly  
7 discriminate against Plaintiff and persons similarly situated in violation of Civil Code §§ 51, 52,  
8 and 54.1. Plaintiff alleges the access violations alleged here are so obvious as to implicate at least  
9 a prima facie case of discriminatory intent.

10 33. Based on the facts plead above, Claims I, II, and III of Plaintiffs' Second Cause Of  
11 Action above, and the facts elsewhere herein this complaint, Plaintiff will suffer irreparable harm  
12 unless Defendants are ordered to remove architectural, non-architectural, and communication  
13 barriers at Defendants' public accommodation. Plaintiff alleges that Defendants' discriminatory  
14 conduct is capable of repetition, and this discriminatory repetition adversely impacts Plaintiff and  
15 a substantial segment of the disability community. Plaintiff alleges there is a state and national  
16 public interest in requiring accessibility in places of public accommodation. Plaintiff has no  
17 adequate remedy at law to redress the discriminatory conduct of Defendants. Plaintiff desires to  
18 return to Defendants' places of business in the immediate future. Accordingly, the Plaintiff  
19 alleges that a structural or mandatory injunction is necessary to enjoin compliance with state civil  
20 rights laws enacted for the benefit of individuals with disabilities.

21 34. Wherefore, Plaintiff prays for damages and relief as hereinafter stated.  
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1 DEMAND FOR JUDGMENT FOR RELIEF:

- 2 A. For injunctive relief pursuant to 42 U.S.C. § 12188(a).  
3  
4 B. For general damages pursuant to Cal. Civil Code §§ 52 or 54.3;  
5  
6 C. For \$4,000 in damages pursuant to Cal. Civil Code § 52 for each and every offense of  
7 Civil Code § 51, Title 24 of the California Building Code, ADA, and ADA Accessibility  
8 Guidelines (Codified in 28 C.F.R. Part 36, App. A);  
9  
10 D. . In the alternative to the damages pursuant to Cal. Civil Code § 52 in Paragraph C above,  
11 for \$1,000 in damages pursuant to Cal. Civil Code § 54.3 for each and every offense of Civil  
12 Code § 54.1, Title 24 of the California Building Code, ADA, and ADA Accessibility Guidelines;  
13  
14 E. For treble damages pursuant to Cal. Civil Code §§ 52(a) or 54.3(a);  
15  
16 F. For attorneys fees pursuant to 42 U.S.C. § 1988, 42 U.S.C. § 12205, and Cal. Civil Code  
17 § 52; 54.3;  
18  
19 G. A Jury Trial and;  
20  
21 H. For such other further relief as the court deems proper.

22 Respectfully submitted:

23 Dated: May 19, 2008

24 PINNOCK & WAKEFIELD, A.P.C.

25 By: \_\_\_\_\_  
26 THEODORE A. PINNOCK, ESQ.  
27 DAVID C. WAKEFIELD, ESQ.  
28 Attorneys for Plaintiff