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

13 **NONI GOTTI,**

14 **Plaintiff,**

15 v.

16 **SAM MANNEH; FADEL MANNEH;**  
17 **ST MARKS LIMITED PARTNERSHIP**  
18 **DBA ACTION CLEANERS &**  
19 **LAUNDRY; PRESIDIO VETERINARY**  
20 **HOSPITAL; And DOES 1 THROUGH**  
21 **10, Inclusive**

22 **Defendants.**

23 Case No. 37-2008-00089817-CU-CR-CTL

24 **CIVIL COMPLAINT:**  
25 **DISCRIMINATORY PRACTICES IN**  
26 **PUBLIC ACCOMMODATIONS**  
27 **[42 U.S.C. 12182(a) ET. SEQ; CIVIL**  
28 **CODE 51, 52, 54, 54.1, 54.3]**

**UNLIMITED CIVIL CASE –**  
**PERMANENT INJUNCTIVE RELIEF**

29 **NAMED DEFENDANTS AND NAMED PLAINTIFF**

30 1. Plaintiff is informed, believes and thereon alleges that Defendants are, and, at all times  
31 mentioned herein, were, a business or corporation or franchise organized and existing and/or  
32 doing business under the laws of the State of California. Plaintiff is informed and believes and  
33 thereon alleges that Defendants SAM MANNEH; FADEL MANNEH; ST MARKS LIMITED  
34 PARTNERSHIP DBA ACTION CLEANERS & LAUNDRY; PRESIDIO VETERINARY  
35 HOSPITAL are the owner, operator, and/or lessor/lessee of the real property and the public  
36 accommodation located thereon at the Property Address: 5425-35 LINDA VISTA RD, SAN  
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1 DIEGO, CA 92110-2403; Assessor's Parcel Number: 436-361-20. Defendant SAM MANNEH is  
2 located at 9507 VISTA SECUNDA, SAN DIEGO, CA 92129-2734. Defendant FADEL  
3 MANNEH is located at 9507 VISTA SECUNDA, SAN DIEGO, CA 92129-2734. Defendant ST  
4 MARKS LIMITED PARTNERSHIP DBA ACTION CLEANERS & LAUNDRY is located at  
5 5425 LINDA VISTA RD, SAN DIEGO, CA 92110-2403 or 1425 HAMILTON LN,  
6 ESCONDIDO, CA 92029-4316. Defendant PRESIDIO VETERINARY HOSPITAL is located at  
7 5427 Linda Vista Rd, San Diego, CA 92110-2403; (619) 297-0219.

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

9 3. Defendants Does 1 through 10, were at all times relevant herein subsidiaries, employers,  
10 employees, agents, of Defendants SAM MANNEH; FADEL MANNEH; ST MARKS LIMITED  
11 PARTNERSHIP DBA ACTION CLEANERS & LAUNDRY; PRESIDIO VETERINARY  
12 HOSPITAL. Plaintiff is ignorant of the true names and capacities of Defendants sued herein as  
13 Does 1 through 10, inclusive, and therefore sues these Defendants by such fictitious names.  
14 Plaintiff will pray leave of the court to amend this complaint to allege the true names and  
15 capacities of the Does when ascertained.

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

22 **CONCISE SET OF FACTS**

23 5. Plaintiff NONI GOTTI (hereinafter "Plaintiff") has physical and mental impairments and  
24 due to these impairments she has successfully learned to walk with a service animal. Plaintiff  
25 said physical and mental impairments substantially limit one or more of the following major life  
26 activities including but not limited to: walking and clinical depression. Plaintiff has a long  
27 history of mental impairments.  
28

1 6. Plaintiff has physical and mental impairments because their conditions affect one or more  
2 of the following body systems: neurological, musculoskeletal, special sense organs, and/or  
3 cardiovascular.

4 7. Further, Plaintiff said physical impairments substantially limits one or more of the  
5 following major life activities.

6 8. In addition, Plaintiff cannot perform one or more of the said major life activities in the  
7 manner, speed, and duration when compared to the average person. Moreover, Plaintiff has a  
8 history of or has been classified as having a physical impairment as required by 42 U.S.C. §  
9 12102(2)(A).

10 9. On July 11, 2008, Plaintiff NONI GOTTI desired to visit Defendants' public  
11 accommodation facilities located at Property Address: 5425-35 LINDA VISTA RD, SAN  
12 DIEGO, CA 92110-2403; Assessor's Parcel Number: 436-361-20 to utilize their goods and/or  
13 services. When Plaintiff NONI GOTTI desired to patronize Defendants' public accommodation  
14 facilities, she was unable to use and/or had difficulty using the public accommodations' facilities  
15 including but not limited to the barriers to access listed herein and said facilities were not  
16 accessible because they failed to comply with ADA Access Guidelines For Buildings and  
17 Facilities (hereafter referred to as "ADAAG" and codified in 28 C.F.R. Part 36, App. A) and/or  
18 California's Title 24 Building Code Requirements. Defendants failed to remove barriers to equal  
19 access within their public accommodation facilities as required.

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

25 11. The Plaintiff went to the property and encountered access violations. For example, the  
26 Action Cleaners & Laundry has no International symbol of accessibility at the entrance and the  
27 entrance doorknob is not a lever. And the Presidio Veterinary Hospital has no International  
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1 symbol of accessibility at the entrance; the entrance doorknob is not a lever, there are loose mats  
2 and the counter exceeds 36 inches.

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

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

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

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

24 16. Plaintiff is not required to provide notice to the defendants prior to filing a complaint  
25 and/or to recover attorney fees and costs. *Botosan v. Paul McNally Realty*, 216 F.3d 827, 832  
26 (9<sup>th</sup> Cir 2000). *Skaff v Meridien*, 2007 U.S. App. LEXIS 25516 (9<sup>th</sup> Cir 2007).

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

1 **DEFENDANT**

2 17. Defendants SAM MANNEH; FADEL MANNEH; ST MARKS LIMITED  
3 PARTNERSHIP DBA ACTION CLEANERS & LAUNDRY; PRESIDIO VETERINARY  
4 HOSPITAL and Does 1 through 10 will be referred to collectively hereinafter as "Defendants."

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

6 **DISCRIMINATORY PRACTICES IN PUBLIC ACCOMMODATIONS**

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

8 **With Disabilities Act Of 1990**

9 **Claim I**

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

14 **Claim II**

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

19 **Claim III**

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

26 **Claim IV**

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

5 **Claim V**

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

9 **Claim VI**

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

14 **Claim VII**

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

21 **Claim VIII**

22 26. Based on the facts stated above, Defendants discriminated against Plaintiff as Defendants  
23 engaged in the specific prohibitions as stated in 42 U.S.C. §12182.

24 **Claim IX**

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

5 **Claim X**

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

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

12  
13 **SECOND CAUSE OF ACTION AGAINST ALL DEFENDANTS - CLAIMS UNDER**  
14 **CALIFORNIA ACCESSIBILITY LAWS**

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

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

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

21 31. Based on the facts plead above and elsewhere herein this complaint, Defendants failed and  
22 refused to provide a reasonable alternative by modifying its practices, policies, and procedures in  
23 that they failed to have a scheme, plan, or design to assist Plaintiff and/or others similarly situated  
24 in entering and utilizing Defendants' services as required by Civil Code § 54.1. Thus, Plaintiff  
25 was subjected to discrimination in violation of Civil Code § 54.1.

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

27 32. Based on the facts plead above and elsewhere herein this complaint and because  
28 Defendants violated the Civil Code § 51 by failing to comply with 42 United States Code §

1 12182(b)(2)(A)(iv) and 42 U.S.C. § 12183(a)(2). Defendants did and continue to knowingly  
2 discriminate against Plaintiff and persons similarly situated in violation of Civil Code §§ 51, 52,  
3 and 54.1. Plaintiff alleges the access violations alleged here are so obvious as to implicate at least  
4 a prima facie case of discriminatory intent.

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

16 34. Wherefore, Plaintiff prays for damages and relief as hereinafter stated.  
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24 **DEMAND FOR JUDGMENT FOR RELIEF:**

- 25  
26 A. For injunctive relief pursuant to 42 U.S.C. § 12188(a).  
27 B. For general damages pursuant to Cal. Civil Code §§ 52 or 54.3;  
28 C. For \$4,000 in damages pursuant to Cal. Civil Code § 52 for each and every offense of

1 Civil Code § 51, Title 24 of the California Building Code, ADA, and ADA Accessibility  
2 Guidelines (Codified in 28 C.F.R. Part 36, App. A):

3 D. In the alternative to the damages pursuant to Cal. Civil Code § 52 in Paragraph C above,  
4 for \$1,000 in damages pursuant to Cal. Civil Code § 54.3 for each and every offense of Civil  
5 Code § 54.1, Title 24 of the California Building Code, ADA, and ADA Accessibility Guidelines;

6 E. For treble damages pursuant to Cal. Civil Code §§ 52(a) or 54.3(a);

7  
8 F. For attorneys fees pursuant to 42 U.S.C. § 1988, 42 U.S.C. § 12205, and Cal. Civil Code  
9 § 52; 54.3;


10 G. A Jury Trial and;

11 H. For such other further relief as the court deems proper.

12 Respectfully submitted:

13 Dated: August 11, 2008

**PINNOCK & WAKEFIELD, A.P.C.**

14 By:  \_\_\_\_\_  
15 THEODORE A. PINNOCK, ESQ.  
16 DAVID C. WAKEFIELD, ESQ.  
17 Attorneys for Plaintiff  
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