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03 SEP 11 11:00
SAN DIEGO COUNTY

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

11 **NONI GOTTI,**

12 **Plaintiff,**

13 **v.**

14 **PATTON PROPERTY HOLDINGS**
15 **INC; CALIFORNIA SMILES – CHRIS**
16 **D PATTON DDS; AND DOES 1**
17 **THROUGH 10, Inclusive,**
Defendants.

Case No.: 37-2008-00072975-CU-CR-SC

COMPLAINT

DISCRIMINATORY PRACTICES IN
PUBLIC ACCOMMODATIONS

[CIVIL CODE 51, 52, 54, 54.1, 54.3]

DEMAND FOR JURY TRIAL

UNLIMITED CIVIL CASE – AMOUNT
DEMANDED EXCEEDS \$25,000.00;
PERMANENT INJUNCTIVE RELIEF

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22 **INTRODUCTION**

23 1. Plaintiff herein complains, by filing this Civil Complaint in accordance with rules of Civil
24 Procedure in the Superior Court For The State Of California that Defendants have in the past, and
25 presently are, engaging in discriminatory practices against individuals with disabilities. This
26 Complaint refers to ADA but Plaintiff is not pleading substantially limited necessary for federal
27 jurisdiction. Any Defendant removing this case to federal court will be in violation of Rule 11.
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1 Plaintiff is a Serial Plaintiff and a champion of disability civil rights. A Serial Plaintiff enforces
2 federal and accessibility laws. Plaintiff alleges this civil action and others substantial similar
3 thereto are necessary to compel access compliance because empirical research on the effectiveness
4 of the access statutes indicates these laws have failed to achieve full and equal access simply by the
5 executive branches of the Government funding and promoting voluntary compliance efforts.

6 Further, empirical research shows when individuals with disabilities give actual notice of potential
7 access problems to places of public accommodation without a civil rights action, the public
8 accommodations do not remove the access barriers. Therefore, Plaintiff makes the following
9 allegations in this civil rights action:

10 2. The property 215 3RD AVE, CHULA VISTA, CA 91910-2710; Assessor's Parcel Number:
11 568-071-03 that is the subject of this action is located in the County.

12 3. Venue is proper in the County because a substantial part of Plaintiffs' claims arose within
13 SAN DIEGO County and the property that is the subject of this action is situated in the County.
14

15 **NAMED DEFENDANTS AND NAMED PLAINTIFF**

16 4. Defendants are, and, at all times mentioned herein, were, a business or corporation or
17 franchise organized and existing and/or doing business under the laws of the State of California.
18 Plaintiff is informed and believes and thereon alleges that Defendant PATTON PROPERTY
19 HOLDINGS INC c/o Registered Agent: CHRIS D. PATTON is located at 215 THIRD AVENUE,
20 CHULA VISTA, CA 91910 or 3253 MOUNT TAMI DR, SAN DIEGO, CA 92111-4634.
21 Defendant CALIFORNIA SMILES – CHRIS D PATTON DDS is located at 215 3rd Avenue,
22 Chula Vista, CA 91910.

23 5. The words Plaintiffs and Plaintiff as used herein specifically include all birth and other
24 names of named Plaintiff.

25 6. Defendants Does 1 through 10, were at all times relevant herein subsidiaries, employers,
26 employees, agents, of PATTON PROPERTY HOLDINGS INC; CALIFORNIA SMILES – CHRIS
27 D PATTON DDS. Plaintiff is ignorant of the true names and capacities of Defendants sued herein
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1 as Does 1 through 10, inclusive, and therefore sues these Defendants by such fictitious names.
2 Plaintiff will pray leave of the court to amend this complaint to allege the true names and capacities
3 of the Does when ascertained.

4 7. Plaintiff is informed and believes, and thereon alleges, that Defendants and each of them
5 herein were, at all times relevant to the action, the owner, lessor, lessee, franchiser, franchisee,
6 general partner, limited partner, agent, employee, representing partner, or joint venturer of the
7 remaining Defendants and were acting within the course and scope of that relationship. Plaintiff is
8 further informed and believes, and thereon alleges, that each of the Defendants herein gave consent
9 to, ratified, and/or authorized the acts alleged herein to each of the remaining Defendants.
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11 CONCISE SET OF FACTS

12 8. Plaintiff's birth name is Loraine Marquez. As a child she was called Noni Gotti. At 18
13 Plaintiff used her birth name in all documents of identity until 2000 when she legally changed her
14 name to Noni Gotti. Plaintiff has physical impairments of cervical back disease, which causes
15 severe pain without medication. Plaintiff said physical impairments limit one or more of the
16 following major life activities including but not limited to: long walking, jumping, leaning, opening
17 doors, lifting, balancing, cooking, cleaning and sexual activity. Without medication Plaintiff
18 cannot perform these activities. Plaintiff learned about her access rights in March 2008. Plaintiff
19 realized she could do something about all the access problems she was having. Now, Plaintiff is a
20 Serial Plaintiff as defined by **HOLLYNN D'LIL, Plaintiff-Appellant, v. BEST WESTERN
21 ENCINA LODGE & SUITES; ENCINA-PEPPER TREE LTD.; DAVID Z. WEBBER;
22 JEANETTE WEBBER; CECELIA E. VILLINES, Defendants-Appellees. No. 06-55516,
23 UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, 2008 U.S. App.
24 LEXIS 17168, November 5, 2007, Argued and Submitted, Pasadena, California, August 12,
25 2008, Filed**

26 9. In year 2008, Plaintiff knew that Defendants' public accommodation facilities were not
27 accessible. If Plaintiff patronized Defendants' facilities, Plaintiff would have been unable to use
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1 and/or would have had difficulty using the public accommodations' facilities including but not
2 limited to the facilities, as said facilities were not accessible because they failed to comply with
3 ADA Access Guidelines For Buildings and Facilities (hereafter referred to as "ADAAG" and
4 codified in 28 C.F.R. Part 36, App. A) and/or California's Title 24 Building Code Requirements.

5 10. Defendants failed to remove barriers to equal access within their public accommodation
6 facilities. The barriers are related to Plaintiff's impairments. The following examples of known
7 barriers to access are not an exhaustive list of the barriers to access that exist at Defendants'
8 facilities.

9 11. For example, the entrance doorknob is not a lever, counter exceeds 36 inches and has no
10 International symbol of accessibility at the entrance. Also, once in dental office there has stairs,
11 which lead to office (unless you go at the back alley).

12 12. Title III of the Americans with Disabilities Act (ADA), *42 U.S.C.S. § 12181 et seq.*,
13 provides that no individual shall be discriminated against on the basis of disability in the full and
14 equal enjoyment of any place of public accommodation. *42 U.S.C.S. § 12182(a)*. "Discrimination"
15 is defined as a failure to remove barriers where such removal is readily achievable or, where an
16 entity can demonstrate that the removal of a barrier is not readily achievable, a failure to make
17 accommodations available through alternative methods if such methods are readily achievable. *42*
18 *U.S.C.S. § 12182(b)(2)(iv)-(v)*. Title III provides for injunctive relief as the exclusive remedy for
19 private individuals seeking to enforce the law. *42 U.S.C.S. § 12188(a)(2)*. A disabled individual
20 who is currently deterred from patronizing a public accommodation due to a defendant's failure to
21 comply with the Americans with Disabilities Act (ADA), *42 U.S.C.S. § 12181 et seq.*, has suffered
22 "actual injury." Similarly, a plaintiff who is threatened with harm in the future because of existing
23 or imminently threatened non-compliance with the ADA suffers "imminent injury." With regard to
24 actions brought under Title III of the Americans with Disabilities Act (ADA), *42 U.S.C.S. § 12181*
25 *et seq.*, the actual injury rule in cases where the public accommodation being sued is far from the
26 plaintiff's home, courts have found actual or imminent injury sufficient to establish standing where
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1 a plaintiff demonstrates an intent to return to the geographic area where the accommodation is
2 located and a desire to visit the accommodation if it were made accessible. The United States Court
3 of Appeals for the Ninth Circuit has explicitly not required ADA plaintiffs to engage in the "futile
4 gesture" of visiting or returning to an inaccessible place of public accommodation in order to
5 satisfy the standing requirement. With regard to actions brought under Title III of the Americans
6 with Disabilities Act (ADA), 42 U.S.C.S. β 12181 et seq., the attempted use of past litigation to
7 prevent a litigant from pursuing a valid claim in federal court warrants a court's most careful
8 scrutiny. This is particularly true in the ADA context where the law's provision for injunctive relief
9 only removes the incentive for most disabled persons who are injured by inaccessible places of
10 public accommodation to bring suit. As a result, most ADA suits are brought by a small number of
11 private plaintiffs who view themselves as champions of the disabled. For the ADA to yield its
12 promise of equal access for the disabled, it may indeed be necessary and desirable for committed
13 individuals to bring serial litigation advancing the time when public accommodations will be
14 compliant with the ADA. Accordingly, courts must be particularly cautious about affirming
15 credibility determinations that rely on a plaintiff's past ADA litigation. HOLLYNN D'LIL,
16 Plaintiff-Appellant, v. BEST WESTERN ENCINA LODGE & SUITES; ENCINA-PEPPER TREE
17 LTD.; DAVID Z. WEBBER; JEANETTE WEBBER; CECELIA E. VILLINES, Defendants-
18 Appellees. No. 06-55516, UNITED STATES COURT OF APPEALS FOR THE NINTH
19 CIRCUIT, 2008 U.S. App. LEXIS 17168, November 5, 2007, Argued and Submitted, Pasadena,
20 California, August 12, 2008, Filed

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

11 14. Plaintiff intends to return to Defendants' public accommodation facilities in the immediate
12 future. Plaintiff is presently deterred from returning due to their knowledge of the barriers to access
13 that exist at Defendants' facilities. Pursuant to federal and state law, Defendants are required to
14 remove barriers to their existing facilities. Further, Defendants had actual knowledge of their
15 barrier removal duties under the Americans with Disabilities Act and the Civil Code before January
16 26, 1992. Also, Defendants should have known that individuals with disabilities are not required to
17 give notice to a governmental agency before filing suit alleging Defendants failed to remove
18 architectural barriers.

19 15. Plaintiff believes and herein alleges Defendants' facilities have access violations not directly
20 experienced by Plaintiff which would preclude or limit access by Plaintiff and other persons with
21 disabilities, potentially including but not limited to violations of the ADA, ADA Accessibility
22 Guidelines (Codified in 28 C.F.R. Part 36, App. A) and Title 24 of the California Building Code.
23 Plaintiff alleges Defendants are required to utilize the ADA checklist for Readily Achievable
24 Barrier Removal approved by the United States Department of Justice and created by Adaptive
25 Environments.

26 16. Based on these facts, Plaintiff alleges he was discriminated against each time he patronized
27 Defendants' facilities. Plaintiff was extremely upset due to Defendants' conduct.
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1 **NOTICE**

2 17. Plaintiff is not required to provide notice to the defendants prior to filing a complaint.
3 Skaff v Meridien N. Am. Beverly Hills, LLC, 506 F.3d 832 (9th Cir. 2007), see also, Botosan v.
4 Paul McNally Realty, 216 F.3d 827, 832 (9th Cir 2000).

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6 **WHAT CLAIMS PLAINTIFF IS ALLEGING AGAINST EACH NAMED DEFENDANT**

7 18. PATTON PROPERTY HOLDINGS INC; CALIFORNIA SMILES – CHRIS D PATTON
8 DDS; and Does 1 through 10 will be referred to collectively hereinafter as “Defendants.”

9 19. Plaintiff aver that the Defendants are liable for the following claims as alleged below:

10 **DISCRIMINATORY PRACTICES IN PUBLIC ACCOMMODATIONS**

11 **FIRST CAUSE OF ACTION AGAINST ALL DEFENDANTS- Claims Under California’s**
12 **Incorporation Of The More Stringent Provisions Of The Americans With Disabilities Act Of**

13 **1990**

14 20. Based on the facts stated above, Defendants discriminated against Plaintiff on the basis of
15 disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or
16 accommodations of any place of public accommodation as Defendants own, lease (or lease to), or
17 operate a place of public accommodation in violation of 42 U.S.C. §12182 as long as this
18 provision is more stringent than Civil Code 51, 52 and 54.3 and this claim does not include the
19 substantially limiting part of the definition of disability under the Americans with Disabilities Act.

20 Based on the facts stated above, Defendants discriminated against Plaintiff directly, or through
21 contractual, licensing, or other arrangements, to a denial of the opportunity of the individual or
22 class to participate in or benefit from the goods, services, facilities, privileges, advantages, or
23 accommodations of an entity in violation of 42 U.S.C. §12182 as long as this provision is more
24 stringent than Civil Code 51, 52 and 54.3 and this claim does not include the substantially limiting
25 part of the definition of disability under the Americans with Disabilities Act. Based on the facts
26 stated above, Defendants discriminated against Plaintiff as it is discriminatory to afford an
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1 individual or class of individuals, on the basis of a disability or disabilities of such individual or
2 class, directly, or through contractual, licensing, or other arrangements with the opportunity to
3 participate in or benefit from a good, service, facility, privilege, advantage, or accommodation that
4 is not equal to that afforded to other individuals in violation of 42 U.S.C. §12182 as long as this
5 provision is more stringent than Civil Code 51, 52 and 54.3 and this claim does not include the
6 substantially limiting part of the definition of disability under the Americans with Disabilities Act.

7 Based on the facts stated above, Defendants discriminated against Plaintiff as it is discriminatory
8 to provide an individual or class of individuals, on the basis of a disability or disabilities of such
9 individual or class, directly, or through contractual, licensing, or other arrangements with a good,
10 service, facility, privilege, advantage, or accommodation that is different or separate from that
11 provided to other individuals as long as this provision is more stringent than Civil Code 51, 52 and
12 54.3 and this claim does not include the substantially limiting part of the definition of disability
13 under the Americans with Disabilities Act. Based on the facts stated above, Defendants

14 discriminated against Plaintiff as Defendants failed to afforded to an individual with a disability in
15 the most integrated setting appropriate to the needs of the individual in violation of 42 U.S.C.

16 §12182 as long as this provision is more stringent than Civil Code 51, 52 and 54.3 and this claim
17 does not include the substantially limiting part of the definition of disability under the Americans
18 with Disabilities Act. Based on the facts stated above, Defendants discriminated against Plaintiff
19 as Defendants utilized standards or criteria or methods of administration that have the effect of
20 discriminating on the basis of disability; or that perpetuate the discrimination of others who are
21 subject to common administrative control in violation of 42 U.S.C. §12182 as long as this
22 provision is more stringent than Civil Code 51, 52 and 54.3 and this claim does not include the
23 substantially limiting part of the definition of disability under the Americans with Disabilities Act.

24 Based on the facts stated above, Defendants discriminated against Plaintiff as it is discriminatory
25 to exclude or otherwise deny equal goods, services, facilities, privileges, advantages,
26 accommodations, or other opportunities to an individual or entity because of the known disability
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1 of an individual with whom the individual or entity is known to have a relationship or association
2 in violation of 42 U.S.C. §12182 as long as this provision is more stringent than Civil Code 51, 52
3 and 54.3 and this claim does not include the substantially limiting part of the definition of
4 disability under the Americans with Disabilities Act. See *Niece v. Fitzner* 922 F. Supp. 1208
5 (1996). Based on the facts stated above, Defendants discriminated against Plaintiff as Defendants
6 engaged in the specific prohibitions as stated in 42 U.S.C. §12182 as long as this provision is more
7 stringent than Civil Code 51, 52 and 54.3 and this claim does not include the substantially limiting
8 part of the definition of disability under the Americans with Disabilities Act. Based on the facts
9 stated above, Defendants discriminated against Plaintiff as Defendant failed to demonstrate that the
10 removal of a barrier is not readily achievable, and made such goods, services, facilities, privileges,
11 advantages, or accommodations available through alternative methods in a segregated manner in
12 violation of 42 U.S.C. §12182 as long as this provision is more stringent than Civil Code 51, 52
13 and 54.3 and this claim does not include the substantially limiting part of the definition of disability
14 under the Americans with Disabilities Act. Plaintiff is entitled to injunctive relief to remove all
15 barriers to access that are related to his disability even those barriers that are only known to exist
16 but are not directly experienced by plaintiff. *Doran v 7-Eleven Inc*, 2007 U.S.App.Lexis 26143 (9th
17 Cir 2007). Based on the facts stated above, Defendants discriminated against Plaintiff as
18 Defendants altered the use of their establishment in a manner that affected or could have affected
19 the usability of the facility or part thereof and failed to make alterations in such a manner that, to
20 the maximum extent feasible, the altered portions of the facility are readily accessible to and usable
21 by individuals with disabilities in violation of 42 U.S.C. §12183 as long as this provision is more
22 stringent than Civil Code 51, 52 and 54.3 and this claim does not include the substantially limiting
23 part of the definition of disability under the Americans with Disabilities Act.
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26 **SECOND CAUSE OF ACTION AGAINST ALL DEFENDANTS - CLAIMS UNDER**
27 **CALIFORNIA ACCESSIBILITY LAWS**

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

2 21. Based on the facts plead above and elsewhere in this complaint, Plaintiff was denied full
3 and equal access to Defendants' goods, services, facilities, privileges, advantages, or
4 accommodations within a public accommodation owned, leased, and/or operated by Defendants as
5 required by Civil Code Sections 54 and 54.1. Defendants' facility violated California's Title 24
6 Accessible Building Code by failing to provide equal access to Defendants' facilities.

7 22. These violations denied Plaintiff full and equal access to Defendants' facility. Thus, Plaintiff
8 was subjected to discrimination pursuant to Civil Code §§ 51, 52, and 54.1 because Plaintiff was
9 denied full, equal and safe access to Defendants' facility, causing severe emotional distress.

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

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

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

17 24. Based on the facts plead at ¶¶ 8 - 15 above and elsewhere herein this complaint and because
18 Defendants violated the Civil Code § 51 by failing to comply with 42 United States Code §
19 12182(b)(2)(A)(iv) and 42 U.S.C. § 12183(a)(2), Defendants did and continue to discriminate
20 against Plaintiff and persons similarly situated in violation of Civil Code §§ 51, 52, and 54.1.

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

5 26. Wherefore, Plaintiff prays for damages and relief as hereinafter stated.
6

7 **Treble Damages Pursuant To Claims I, II, III Under The California Accessibility Laws**

8 27. Defendants, each of them respectively, at times prior to and including the day Plaintiff
9 patronized Defendants' facilities, and continuing to the present time, knew that persons with
10 physical disabilities were denied their rights of equal access to all portions of this public facility.
11 Despite such knowledge, Defendants, and each of them, failed and refused to take steps to comply
12 with the applicable access statutes; and despite knowledge of the resulting problems and denial of
13 civil rights thereby suffered by Plaintiff and other similarly situated persons with disabilities.
14 Defendants, and each of them, have failed and refused to take action to grant full and equal access
15 to persons with physical disabilities in the respects complained of hereinabove. Defendants, and
16 each of them, have carried out a course of conduct of refusing to respond to, or correct complaints
17 about, denial of disabled access and have refused to comply with their legal obligations to make
18 Defendants' public accommodation facilities accessible pursuant to the Americans With Disability
19 Act Access Guidelines (ADAAG) and Title 24 of the California Code of Regulations (also known
20 as the California Building Code). Such actions and continuing course of conduct by Defendants,
21 and each of them, evidence despicable conduct in conscious disregard of the rights and/or safety of
22 Plaintiff and of other similarly situated persons, justifying an award of treble damages pursuant to
23 sections 52(a) and 54.3(a) of the California Civil Code.

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

4 29. Plaintiff prays for an award of treble damages against Defendants, and each of them,
5 pursuant to California Civil Code sections 52(a) and 54.3(a), in an amount sufficient to make a
6 more profound example of Defendants and encourage owners, lessors/lessees, and operators of
7 other public facilities from willful disregard of the rights of persons with disabilities. Plaintiff does
8 not know the financial worth of Defendants, or the amount of damages sufficient to accomplish the
9 public purposes of section 52(a) of the California Civil Code and section 54.3 of the California
10 Civil Code.

11 30. Wherefore, Plaintiff prays for damages and relief as hereinafter stated.

12 **DEMAND FOR JUDGMENT FOR RELIEF:**

13 A. For general damages pursuant to Cal. Civil Code §§ 52 or 54.3;

14 B. For \$4,000 in damages pursuant to Cal. Civil Code § 52 for each and every offense of Civil
15 Code § 51, Title 24 of the California Building Code, ADA, and ADA Accessibility Guidelines
16 (Codified in 28 C.F.R. Part 36, App. A);

17 C. In the alternative to the damages pursuant to Cal. Civil Code § 52 in Paragraph B above, for
18 \$1,000 in damages pursuant to Cal. Civil Code § 54.3 for each and every offense of Civil Code §
19 54.1, Title 24 of the California Building Code, ADA, and ADA Accessibility Guidelines;

20 D. For injunctive relief pursuant to 42 U.S.C. § 12188(a), Civil Code sections 52 and 54.3.

21 Plaintiff requests this Court enjoin Defendants to remove all architectural and communication
22 barriers in, at, or on their facilities including without limitation violations of the ADA, ADA
23 Accessibility Guidelines and Title 24 of the California Building Code;

24 E. For attorneys' fees pursuant to 42 U.S.C. § 1988, 42 U.S.C. § 12205, and Cal. Civil Code §§
25 52, 54.3;

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

27 G. A Jury Trial and;
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H. For such other further relief as the court deems proper.

Respectfully submitted:

PINNOCK & WAKEFIELD, APC

Dated: September 10, 2008

By: 
THEODORE A. PINNOCK, ESQ.
DAVID C. WAKEFIELD, ESQ.
Attorneys for Plaintiff