

USDC SCAN INDEX SHEET




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3:05-CV-00607 HUBBARD V. VINE RIPE MARKET INC  
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LYNN HUBBARD, III, SBN 69773  
SCOTTLYNN J HUBBARD, IV, SBN 212970  
**LAW OFFICES OF LYNN HUBBARD**  
12 WILLIAMSBURG LANE  
CHICO, CA. 95926  
(530) 895-3252

Attorney for Plaintiffs

**FILED**  
05 MAR 28 AM 10:46  
CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
BY:  DEPUTY

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

LYNN J. AND BARBARA J.  
HUBBARD

Plaintiffs,

vs.

VINE RIPE MARKET, INC. dba  
VINE RIPE MARKET; SAICO  
GATEWAY CO, LLC; RANCHO  
LAS PALMAS CO, LLC.

Defendants,

No. **'05 CV 0607** BEN (BLM)  
**Plaintiffs' Complaint**

Hubbard v. Vine Ripe Market  
Plaintiffs' Complaint



1

1 I. SUMMARY

2 1. This is a civil rights action by plaintiffs Lynn J. and Barbara J.  
3 Hubbard (“the Hubbards”) for discrimination at the building, structure,  
4 facility, complex, property, land, development, and/or surrounding business  
5 complex known as:

6 Vine Ripe Market  
7 8191 Fletcher Parkway  
8 La Mesa, CA 91942  
9 (hereafter “the Store”)

10 2. The Hubbards seek exemplary damages, injunctive and  
11 declaratory relief, attorney fees and costs, against Vine Ripe Market, Inc.  
12 dba Vine Ripe Market; Saico Gateway Co, LLC; Rancho Las Palmas Co,  
13 LLC (collectively “Vine Ripe”) pursuant to the Americans with Disabilities  
14 Act of 1990,( 42 U.S.C. §§ 12101 et seq.), and related California statutes.

15 II. JURISDICTION

16 3. This Court has original jurisdiction under 28 U.S.C. §§ 1331  
17 and 1343 for ADA claims.

18 4. Supplemental jurisdiction for claims brought under parallel  
19 California law—arising from the same nucleus of operative facts—is  
20 predicated on 28 U.S.C. § 1367.

21 5. The Hubbards’ claims are authorized by 28 U.S.C. §§ 2201 and  
22 2202.

23 III. VENUE

24 6. All actions complained of herein take place within the  
25 jurisdiction of the United States District Court, Southern District of  
26 California, and venue is invoked pursuant to 28 U.S.C. § 1391(b), (c).

1 IV. PARTIES

2 7. Vine Ripe owns, operates, or leases the Store, and consists of a  
3 person (or persons), firm, or corporation.

4 8. The Hubbards have multiple conditions that affect one or more  
5 major life functions. The Hubbards require the use of motorized  
6 wheelchairs and a mobility-equipped vehicle, when traveling about in  
7 public. Consequently, the Hubbards are “physically disabled,” as defined  
8 by all applicable California and United States laws, and a member of the  
9 public whose rights are protected by these laws.

10 V. FACTS

11 9. The Store is a sales or retail establishment, open to the public,  
12 which is intended for nonresidential use and whose operation affects  
13 commerce.

14 10. The Hubbards visited the Store and encountered barriers (both  
15 physical and intangible) that interfered with—if not outright denied—their  
16 ability to use and enjoy the goods, services, privileges, and accommodations  
17 offered at the facility. To the extent known by the Hubbards, attached as  
18 Exhibit A to this complaint is a true and accurate list (with photos) of  
19 barriers that denied their access at the Store.

20 11. Notwithstanding that visit, the Hubbards were also deterred  
21 from visiting the Store, because they knew that the Store’s goods, services,  
22 facilities, privileges, advantages, and accommodations at the store were  
23 unavailable to physically disabled patrons (such as themselves). They still  
24 refuse to visit the Store because of the future threats of injury created by  
25 these barriers.

26 12. The Hubbards also encountered barriers at the Store, which  
27 violate state and federal law, but were unrelated to their disability; these

1 unrelated barriers were included within Exhibit A, as a courtesy to the  
2 defendants, so the defendants can avoid inadvertent acts of discrimination  
3 against the disabled. Nothing within this complaint, however, should be  
4 construed as an allegation that the Hubbards are seeking to remove barriers  
5 unrelated to their disability.

6 13. Vine Ripe knew that these elements and areas of the Store were  
7 inaccessible, violate state and federal law, and interfere with (or deny)  
8 access to the physically disabled. Moreover, defendants have the financial  
9 resources to remove these barriers from the Store (without much difficulty  
10 or expense), and make the facility accessible to the physically disabled. To  
11 date, however, defendants refuse to either remove those barriers or seek an  
12 unreasonable hardship exemption to excuse non-compliance.

#### 13 VI. FIRST CLAIM

#### 14 **Americans with Disabilities Act of 1990**

#### 15 Denial of "Full and Equal" Enjoyment and Use

16 14. The Hubbards incorporate the allegations contained in  
17 paragraphs 1 through 7 for this claim.

18 15. Title III of the ADA holds as a 'general rule' that no individual  
19 shall be discriminated against on the basis of disability in the full and equal  
20 enjoyment (or use) of goods, services, facilities, privileges, and  
21 accommodations offered by any person who owns, operates, or leases a  
22 place of public accommodation. 42 U.S.C. § 12182(a).

23 16. Vine Ripe discriminated against the Hubbards by denying "full  
24 and equal enjoyment" and use of the goods, services, facilities, privileges or  
25 accommodations of The Store during each visit and each incident of  
26 deterrence.

1           Failure to Remove Architectural Barriers in an Existing Facility

2           17. The ADA specifically prohibits failing to remove architectural  
3 barriers, which are structural in nature, in existing facilities where such  
4 removal is readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv). The term  
5 “readily achievable” is defined as “easily accomplishable and able to be  
6 carried out without much difficulty or expense.” Id. § 12181(9).

7           18. When an entity can demonstrate that removal of a barrier is not  
8 readily achievable, a failure to make goods, services, facilities, or  
9 accommodations available through alternative methods is also specifically  
10 prohibited if these methods are readily achievable. Id. § 12182(b)(2)(A)(v).

11           19. Here, the Hubbards allege that Vine Ripe can easily remove the  
12 architectural barriers at the Store without much difficulty or expense, and  
13 that Vine Ripe violated the ADA by failing to remove those barriers, when  
14 it was readily achievable to do so.

15           20. In the alternative, if it was not “readily achievable” for Vine  
16 Ripe to remove the Store’s barriers, then Vine Ripe violated the ADA by  
17 failing to make the required services available through alternative methods,  
18 which are readily achievable.

19           Failure to Design and Construct an Accessible Facility

20           21. On information and belief, the Store was designed or  
21 constructed (or both) after January 26, 1992—independently triggering  
22 access requirements under Title III of the ADA.

23           22. The ADA also prohibits designing and constructing facilities  
24 for first occupancy after January 26, 1993, that aren’t readily accessible to,  
25 and usable by, individuals with disabilities when it was structurally  
26 practicable to do so. 42 U.S.C. § 12183(a)(1).

1           23. Here, Vine Ripe violated the ADA by designing or constructing  
2 (or both) the Store in a manner that was not readily accessible to the  
3 physically disabled public—including the Hubbards—when it was  
4 structurally practical to do so.<sup>1</sup>

5                           Failure to Make an Altered Facility Accessible

6           24. On information and belief, the Store was modified after  
7 January 26, 1992, independently triggering access requirements under the  
8 ADA.

9           25. The ADA also requires that facilities altered in a manner that  
10 affects (or could affect) its usability must be made readily accessible to  
11 individuals with disabilities to the maximum extent feasible. 42 U.S.C. §  
12 12183(a)(2). Altering an area that contains a facility's primary function also  
13 requires adding making the paths of travel, bathrooms, telephones, and  
14 drinking fountains serving that area accessible to the maximum extent  
15 feasible. Id.

16           26. Here, Vine Ripe altered the Store in a manner that violated the  
17 ADA and was not readily accessible to the physically disabled public—  
18 including the Hubbards—to the maximum extent feasible.

19                           Failure to Modify Existing Policies and Procedures

20           27. The ADA also requires reasonable modifications in policies,  
21 practices, or procedures, when necessary to afford such goods, services,  
22 facilities, or accommodations to individuals with disabilities, unless the  
23 entity can demonstrate that making such modifications would fundamentally  
24 alter their nature. 42 U.S.C. § 12182(b)(2)(A)(ii).

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28           <sup>1</sup> Nothing within complaint should be construed as a allegation that plaintiffs is bringing this  
          action as a private attorney general under either state or federal statutes.







1 Health and Safety Code or Government Code § 4450 (or both), and that the  
2 Store was not exempt under Health and Safety Code § 19956.

3 50. Vine Ripe's non-compliance with these requirements at the  
4 Store aggrieved (or potentially aggrieved) the Hubbards and other persons  
5 with physical disabilities. Accordingly, they seek injunctive relief and  
6 attorney fees pursuant to Health and Safety Code § 19953.

7 X. PRAYER FOR RELIEF

8 WHEREFORE, the Hubbards pray judgment against Vine Ripe for:

- 9 1. Injunctive relief, preventive relief, or any other relief the Court deems  
10 proper.
- 11 2. Declaratory relief that Vine Ripe violated the ADA for the purposes  
12 of Unruh Act or Disabled Persons Act damages.
- 13 3. Statutory minimum damages under either sections 52(a) or 54.3(a) of  
14 the California Civil Code (but not both) according to the proof.
- 15 4. Attorneys' fees, litigation expenses, and costs of suit.<sup>2</sup>
- 16 5. Interest at the legal rate from the date of the filing of this action.
- 17 6. Punitive damages pursuant to Civil Code § 3294.

18  
19 DATED: March 24, 2005

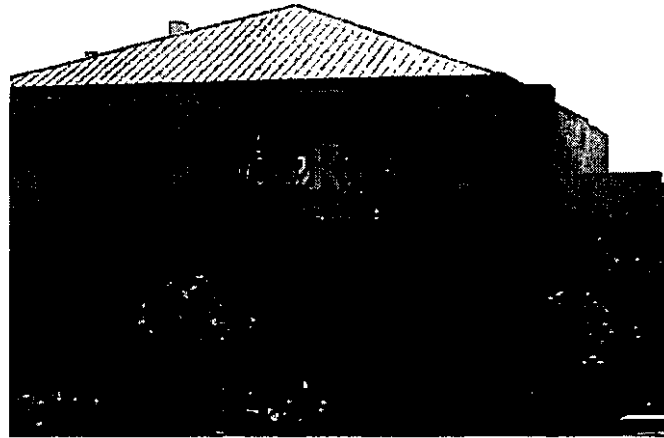
LAW OFFICES OF LYNN HUBBARD

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23 LYNN HUBBARD, III  
24 Attorney for the Hubbards

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28 <sup>2</sup> This includes attorneys' fees under California Code of Civil Procedure § 1021.5.





**PRELIMINARY SITE ACCESSIBILITY REPORT**

***Vine Ripe Market  
8191 Fletcher Parkway  
San Diego, California***

VINE RIPE MARKET  
8191 Fletcher Parkway  
San Diego, CA

DSA pg 2&3

1. Tow away sign posted at wrong height.

***SEE PHOTO No. 1***

1129 B  
Fig 21

2. Tow away sign has no phone number.

DOT #R100B

3. Tow away sign wrong color.

***SEE PHOTO No. 2***

1129B.5                      4.6.4

4. Incorrect parking signage. No separate van accessible sign.

***SEE PHOTO No. 3***

1129 B.4.1                      4.6.3

5. Incorrect parking space/access aisle dimensions.

1129 B.5.1&2                      4.6.4

6. Accessible parking space and access aisle not outlined white.

CVC 21 458(a)(3)(A)

7. Access aisle not striped in white.

1129B.4.1  
1129B.4.4                      4.6.3

8. Surface of parking space or access aisle exceeds 2.0% grade in any direction.

***SEE PHOTO No. 4***

1102 B.2.6                      4.3  
DSA pg 2D&3D

9. No accessible route of travel from parking. Stop signs not painted for crossing vehicular path.

***SEE PHOTO No. 5***

|                        |        |   |
|------------------------|--------|---|
| 1127 B.                | 36.304 | 10. No exterior route of travel from the property border. |
| 1127 B.                | 4.3.2  | 11. No exterior route of travel from parking.             |
| 1127 B. 3              |        | 12. No exterior route of travel signs.                    |
| 1124 B.3               | 4.5.3  | 13. Floor mats are not attached.                          |
| 1117 B.5<br>Fig 11 B-6 | 4.30   | 14. Entrance door has no ISA.                             |

***SEE PHOTO No. 6***

|                                |                               |  |
|--------------------------------|-------------------------------|--|
| 1122 B. 4                      | 4.30.7                        | 15. This location does not have an accessible check stand.   |
| 1122 B. 4<br>Fig 11B- 5D and F | 4.32.3                        | 16. Check out counter does not have a section 28 to 34 inches high and 36 inches wide and 24 inches deep maximum to accommodate a wheelchair occupant. |
| 1102 B<br>1114 B.1.2           | 4.3<br>4.3.3<br>Fig 7 (a & b) | 17. No accessible route through store. At least one aisle is less than 36 inches wide.   |
| 1117 B.1.1                     | 4.1.3(10) (a)                 | 18. Water fountain not hi-lo design.   |
| 1115 B.2.1.5.1                 | 4.15.5                        | 19. Water fountain does not have a 27 inch minimum knee clearance.   |

***SEE PHOTO No. 7***

|                              |                |   |
|------------------------------|----------------|---|
| 1114 B. 1.2                  |                | 20. No accessible route to the restroom.            |
| 1117 B. 5.4<br>1117 B. 5.1.3 | 4.1.2 (7) (d)  | 21. No directional signage to the restroom.         |
| 1117 B. 5.6.3                | 4.1.3 (16) (a) | 22. Restroom signs are not on the wall, latch side. |

- |                                |               |   |
|--------------------------------|---------------|---|
| 1117 B. 5.5.3                  | 4.30.4        | 23. Restroom door sign has no ISA, wall mounted, latch side.                        |
| 1117 B. 5.6.3                  | 4.30.4        | 24. Restroom door signs do not have a verbal description below the ISA, latch side. |
| 1115 B. 5                      | 4.30.4        | 25. Restroom door not identified in Braille, latch side.                            |
| 1117 B. 5.1.1<br>1117 B. 5.6.3 | 4.1.2 (7) (d) | 26. Restroom signs are not centered 60 inches from the floor, latch side.           |

***SEE PHOTO No. 8***

- |                                   |                  |  |
|-----------------------------------|------------------|--|
| 1115B. 7.1.4                      |                  | 27. Stall door not self closing.   |
| 1133 B. 2.4.2<br>Fig 11 B. - 26 A | 4.13.6<br>Fig 25 | 28. Clearance for side strike area on interior doors is not 18 inches on the pull side and 12 inches on the push side. |
| 1115B.7.1.4                       | 4.17.5           | 29. Outside stall door does not have accessible handle.  |

***SEE PHOTO No. 9***

- |               |        |  |
|---------------|--------|--|
| 1115 B. 7.1.4 |        | 30. Inside stall door does not have accessible handle. |
| 1115 B.7.1.4  |        | 31. Inside stall door handle not mounted below latch.  |
| 1117 B. 6.4   | 4.27.4 | 32. Coat hook 45 inches from the floor.                |

***SEE PHOTO No. 10***

- |                          |  |   |
|--------------------------|--|---|
| 1115B. 9 2<br>Fig 11B-1A |  | 33. Seat cover dispenser operable part 46 inches from floor, and mounted over the grab bar. |
|--------------------------|--|---|

***SEE PHOTO No. 12***

4.17.3  
Fig 30

34. Toilet tissue dispenser leading edge is 44 inches from back wall, not 36 inches maximum.

***SEE PHOTO No. 13***

1133 B.8.6.1

4.4.1

35. Toilet tissue dispenser protrudes more than 4 inches from wall.

***SEE PHOTO No. 14***

1115 B. 2.1.2.1  
Fig 11 B. -D

36. Center of lavatory 9 inches from the wall not 18 inch minimum.

***SEE PHOTO No. 15***

1115 B.2.1.2.1  
Fig 11 B. -D

4.19.2  
Fig 31

37. Drainpipes under lavatory 9 inches from the wall not 6 inch maximum.

1115 B. 2.1.2.2

4.19.4

38. Hot water and drainpipes are not insulated.

***SEE PHOTO No. 16***

1115B.9.1.1  
1115 B.9.2

4.19.2

39. Towel dispenser operable part 52 inches from floor, not required 40 inches.

1102 B

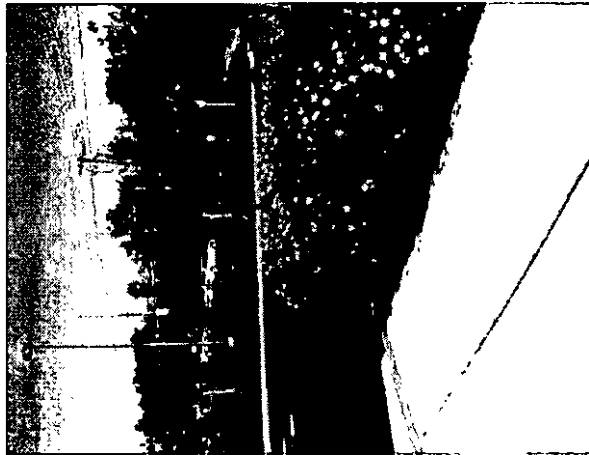
4.3

40. Trash can is an obstruction to towel dispenser.

***SEE PHOTO No. 17***

**THESE VIOLATIONS WERE FOUND IN THE WOMEN'S RESTROOM. ADDITIONAL VIOLATIONS MAY BE FOUND IN THE MEN'S RESTROOM.**

1.



2.



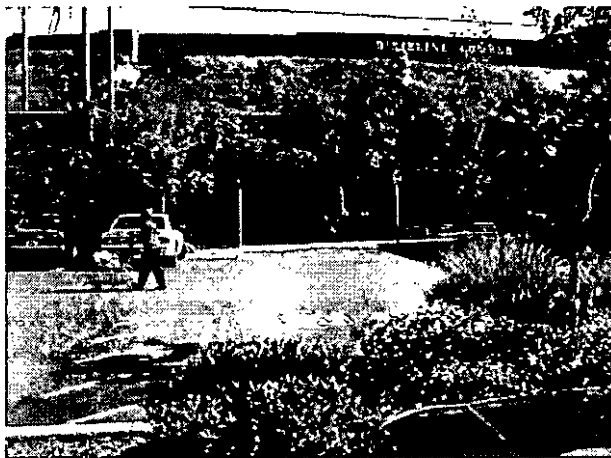
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4.



5.



6.



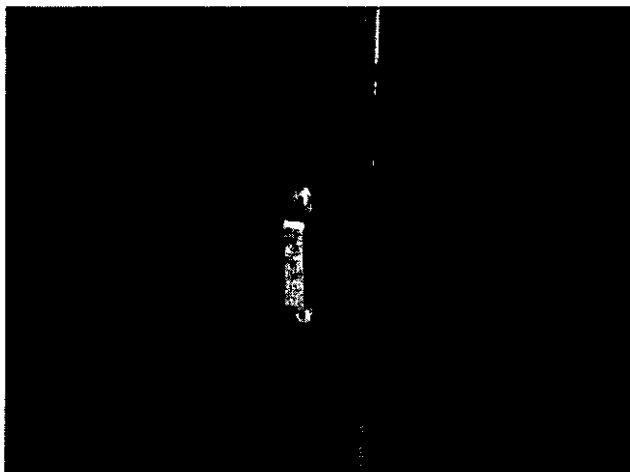
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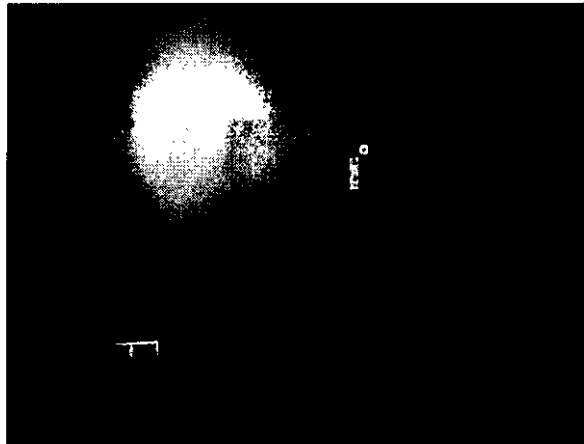
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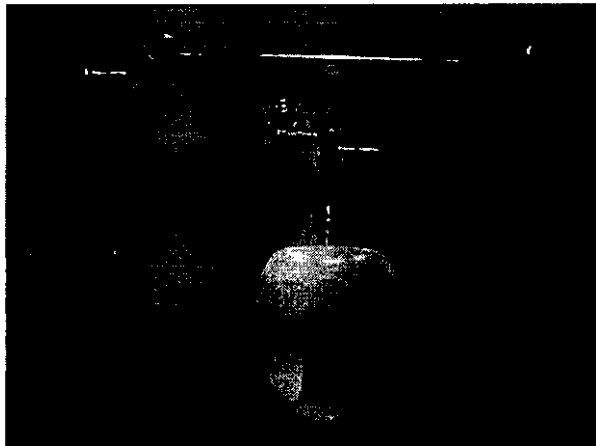
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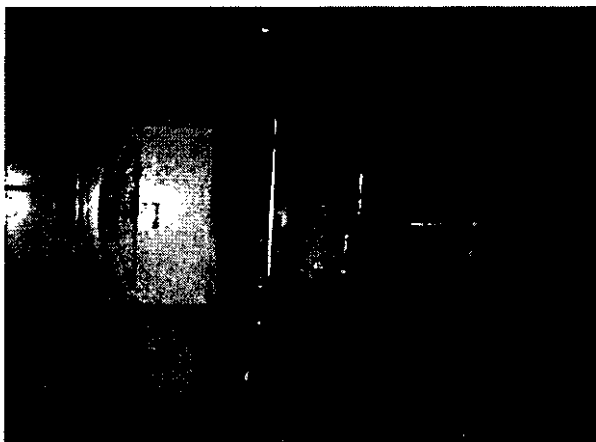
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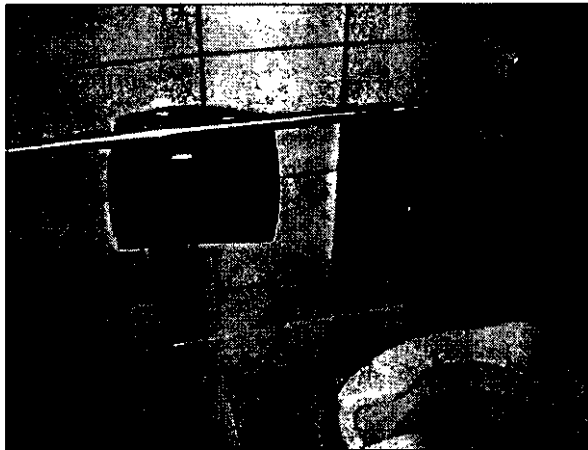
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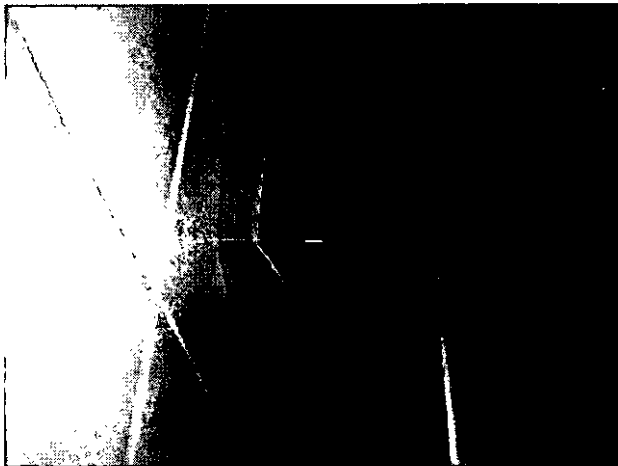
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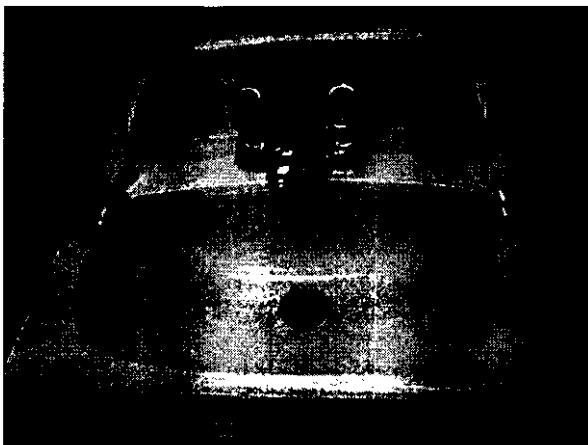
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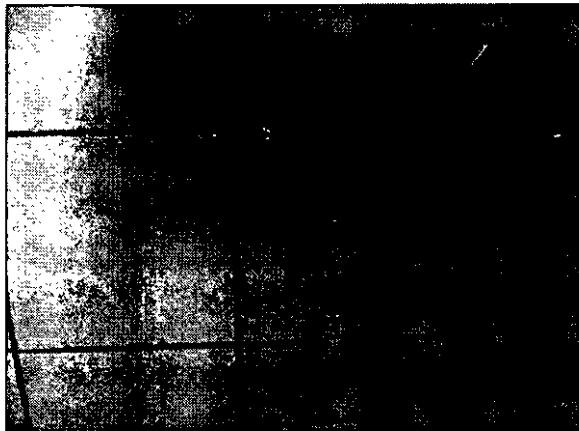
14.



15.



16.



17.



# CIVIL COVER SHEET

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

### I. (a) PLAINTIFFS

LYNN J HUBBARD and BARBARA J. HUBBARD  
**ORIGINAL**

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF San Diego  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)  
  
Lynn Hubbard, III, Esq.  
Law Offices of Lynn Hubbard, 12 Williamsburg Lane,  
Chico, CA 95926

### DEFENDANTS

05 MAR 28 AM 10:45

VINE RIPE MARKET, INC. dba VINE RIPE MARKET; SAICO  
GATEWAY CO, LLC; RANCHO LAS PALMAS CO, LLC  
SOUTHERN DISTRICT OF CALIFORNIA

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT SD DEPUTY  
(IN U.S. PLAINTIFF CASES ONLY)  
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

ATTORNEYS (IF KNOWN)  
**05 CV 0607 BEN (BLM)**

### II. 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)

- |   |                            |                            |   |                            |                            |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
|   | PTF                        | DEF                        |   | PTF                        | DEF                        |
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

### VI. 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

### V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

| CONTRACT  | TORTS  |   | FORFEITURE/PENALTY   | BANKRUPTCY   | OTHER STATUTES   |
|---|--|---|--|--|--|
| <input type="checkbox"/> 110 Insurance  | <input type="checkbox"/> 310 Airplane                          | <input type="checkbox"/> 302 Personal Injury - Med. Malpractice         | <input type="checkbox"/> 610 Agriculture                                 | <input type="checkbox"/> 422 Appeal 28 USC 158                   | <input type="checkbox"/> 400 State Reapportionment                                     |
| <input type="checkbox"/> 120 Marine   | <input type="checkbox"/> 315 Airplane Product Liability        | <input type="checkbox"/> 305 Personal Injury - Product Liability        | <input type="checkbox"/> 620 Other Food & Drug                           | <input type="checkbox"/> 423 Withdrawal 28 USC 157               | <input type="checkbox"/> 410 Antitrust   |
| <input type="checkbox"/> 130 Miller Act   | <input type="checkbox"/> 320 Assault, Libel & Slander          | <input type="checkbox"/> 308 Asbestos Personal Injury Product Liability | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 | <b>PROPERTY RIGHTS</b>   |  |
| <input type="checkbox"/> 140 Negotiable Instrument                                | <input type="checkbox"/> 330 Federal Employers' Liability      | <b>LABOR</b>  |  | <b>SOCIAL SECURITY</b>   |  |
| <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment    | <input type="checkbox"/> 340 Marine                            | <input type="checkbox"/> 370 Other Fraud                                | <input type="checkbox"/> 630 Liquor Laws                                 | <input type="checkbox"/> 820 Copyrights                          | <input type="checkbox"/> 460 Deportation   |
| <input type="checkbox"/> 151 Medicare Act   | <input type="checkbox"/> 345 Marine Product Liability          | <input type="checkbox"/> 371 Truth in Lending                           | <input type="checkbox"/> 640 R.R. & Truck                                | <input type="checkbox"/> 830 Patent                              | <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations            |
| <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) | <input type="checkbox"/> 350 Motor Vehicle                     | <input type="checkbox"/> 380 Other Personal Property Damage             | <input type="checkbox"/> 650 Airline Regs.                               | <input type="checkbox"/> 840 Trademark                           | <input type="checkbox"/> 810 Selective Service   |
| <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits        | <input type="checkbox"/> 355 Motor Vehicle Product Liability   | <input type="checkbox"/> 385 Property Damage Product Liability          | <input type="checkbox"/> 660 Occupational Safety/Health                  | <b>FEDERAL TAX SUITS</b>   |  |
| <input type="checkbox"/> 160 Stockholders' Suits                                  | <input type="checkbox"/> 360 Other Personal Injury             | <b>LABOR</b>  |  | <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) | <input type="checkbox"/> 850 Securities/Commodities/Exchange                           |
| <input type="checkbox"/> 190 Other Contract                                       | <b>CIVIL RIGHTS</b>  |   | <input type="checkbox"/> 710 Fair Labor Standards Act                    | <input type="checkbox"/> 881 HIA (1395ff)                        | <input type="checkbox"/> 875 Customer Challenge 12 USC 3410                            |
| <input type="checkbox"/> 195 Contract Product Liability                           | <input type="checkbox"/> 441 Voting                            | <b>PRISONER PETITIONS</b>   | <input type="checkbox"/> 720 Labor/Mgmt. Relations                       | <input type="checkbox"/> 882 Black Lung (923)                    | <input type="checkbox"/> 891 Agricultural Acts   |
| <b>REAL PROPERTY</b>  | <input type="checkbox"/> 442 Employment Housing/Accommodations | <input type="checkbox"/> 510 Motions to Vacate Sentence                 | <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act      | <input type="checkbox"/> 883 DIWC/DIWW (405(g))                  | <input type="checkbox"/> 892 Economic Stabilization Act                                |
| <input type="checkbox"/> 210 Land Condemnation                                    | <input type="checkbox"/> 444 Welfare                           | <b>HABEAS CORPUS:</b>   | <input type="checkbox"/> 740 Railway Labor Act                           | <input type="checkbox"/> 884 SSID Title XVI                      | <input type="checkbox"/> 893 Environmental Matters                                     |
| <input type="checkbox"/> 220 Foreclosure  | <input checked="" type="checkbox"/> 440 Other Civil Rights     | <input type="checkbox"/> 530 General                                    | <input type="checkbox"/> 790 Other Labor Litigation                      | <input type="checkbox"/> 885 RSI (405(g))                        | <input type="checkbox"/> 894 Energy Allocation Act                                     |
| <input type="checkbox"/> 230 Rent Lease & Ejectment                               |  | <input type="checkbox"/> 535 Death Penalty                              | <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act                | <b>FEDERAL TAX SUITS</b>   |  |
| <input type="checkbox"/> 240 Torts to Land  |  | <input type="checkbox"/> 540 Mandamus & Other                           |  | <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609       | <input type="checkbox"/> 895 Freedom of Information Act                                |
| <input type="checkbox"/> 245 Tort Product Liability                               |  | <input type="checkbox"/> 550 Civil Rights                               |  |  | <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice |
| <input type="checkbox"/> 290 All Other Real Property                              |  | <input type="checkbox"/> 555 Prison Condition                           |  |  | <input type="checkbox"/> 890 Other Statutory Actions                                   |

### VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL UNLESS DIVERSITY.)

42 U.S.C. Section 12101, et seq.  
Ongoing violations of the ADA Construction Standards

### VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMAND \$** Excess \$75,000.00 **CHECK YES only if demanded in complaint:**  
**JURY DEMAND:**  YES  NO

### VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

DATE: March 24, 2005 SIGNATURE OF ATTORNEY OF RECORD:

### FOR OFFICE USE ONLY

RECEIPT # 112266 AMOUNT \$250.00 APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_