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FEDERAL COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES

5 Attorney for Defendant EVERGREEN DYNASTY CORPORATION, a California
6 corporation, doing business as MANDARIN TOUCH RESTAURANT

8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

11 JAREK MOLSKI, an individual; and
12 **DISABILITY RIGHTS**
13 **ENFORCEMENT, EDUCATION)**
14 **SERVICES: HELPING YOU HELP**
15 **OTHERS**, a California public benefit
16 corporation,

14 Plaintiffs,

15 vs.

16 MANDARIN TOUCH
17 RESTAURANT; EVERGREEN
18 DYNASTY CORP., a California
19 corporation; and BRIAN McINERNEY
20 and KATHY S. McINERNEY as Joint
21 Tenants,

20 Defendants.

CASE NUMBER CV04-0450 ER (SHx)

Case Assigned for All Purposes to the
Honorable Edward Rafeedie

**NOTICE OF MOTION AND
MOTION FOR A PREFILING
ORDER PROHIBITING
VEXATIOUS LITIGANT FROM
FILING NEW LITIGATION
WITHOUT LEAVE OF COURT, TO
POST SECURITY, AND FOR
MONETARY SANCTIONS
PURSUANT TO FEDERAL RULES
OF CIVIL PROCEDURE RULE 11
AGAINST PLAINTIFF JAREK
MOLSKI AND HIS COUNSEL
THOMAS E. FRANKOVICH IN THE
SUM OF \$16,500.00**

Date: October 25, 2004
Time: 10:00 a.m.
Courtroom: 1
Place: 312 N. Spring Street
Los Angeles, CA 90012

Discovery Cut-Off: None Set
Motion Cut-Off: None Set
Trial Date: None Set

Date Action Filed: January 23, 2004

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BY [Signature] 012

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1 The present case is akin to the actions of the "Consumer Enforcement Watch
2 Corporation" which was formed by State Bar Disciplined Attorney Damien Trevor to create
3 a plaintiff for lawsuits that he filed against immigrant auto repair shops, nail salons, and
4 restaurants. "Consumer Enforcement" had no other business, and claimed standing to file
5 actions in California state courts "*on behalf of the general public*" under the private attorney
6 general provisions of the California Unfair Competition Law. [*California Business and*
7 *Professions Code §§17200. et seq.*] Lawyers at the Trevor Law Group, Damien Trevor and
8 Allan C. Hendrickson, riled California's automotive repair industry by filing 2,000 suits
9 against garage owners, accusing them of unfair business practices. The automotive industry
10 said the lawsuits were frivolous and intended to shake down business owners for quick cash
11 settlements. The suits accused garage owners of a variety of unfair business practices, from
12 failing to file government forms to passing off used parts as new.

13 The Trevor Law Group used a similar approach in lawsuits filed against restaurants
14 citing health code violations issued by the County of Los Angeles. The restaurant suits were
15 filed on behalf of "Helping Hands for the Blind," also claimed unfair business practices.
16 These shake-down actions of the Trevor Law Group led to charges, and ultimately voluntary
17 resignations with charges pending, by the State Bar of California against Damien Trevor and
18 Allan C. Hendrickson, and a finding by the State Bar that the actions of these two attorneys
19 posed irreparable injury to the public.

20 **THE ACTIVITIES OF MOLSKI REVEAL HIM**
21 **TO BE A "PROFESSIONAL PLAINTIFF"**

22 Just like the activities of the Trevor Law Group and its' "clients" the "Consumer
23 Enforcement" and "Helping Hands for the Blind" the Plaintiffs in the instant action,
24 MOLSKI and DISABILITY RIGHTS ENFORCEMENT, EDUCATION SERVICES:
25 HELPING YOU HELP OTHERS, a California public benefit corporation (hereinafter
26 referred to as "DREES"), targets restaurants, winerys, vineyards, bowling alleys, banks,
27 service stations, and other business establishments using alleged violations of the American
28 with Disabilities Act of 1990 ("ADA"), the California Disabled Persons Act ("DPA") [*Civil*

1 *Code § 54, et seq.*], California Health & Safety Code § 19955, et seq., the Unruh Civil
2 Rights Act [California Civil Code § 51, et. seq.], and the Unfair Business Practices Act
3 [*Business and Professions Code B&P Code § 17200, et seq.*]

4 Since 1998, MOLSKI, acting as an alleged "Private Sheriff" has filed TWO-
5 HUNDRED-SEVENTY-SIX (276) lawsuits in the United States District Court. MOLSKI
6 filed one (1) suit in 1998, seven (7) suits in 2001, twenty four (24) suits in 2002, one-
7 hundred-twenty-six (126) suits in 2003, and during the first six (6) months of 2004 he has
8 filed one-hundred-eighteen (118) lawsuits in Federal Court.

9 Of the TWO-HUNDRED-SEVENTY-SIX (276) lawsuits filed by MOLSKI, ONE-
10 HUNDRED-TEN (110) lawsuits have been filed against various Restaurants, FORTY-SIX
11 (46) lawsuits have been filed against various winerys and vineyards, TWENTY-EIGHT (28)
12 lawsuits have been filed against bowling alleys, THIRTY- ONE (31) lawsuits against banks,
13 TEN (10) lawsuits against service and automotive stations, and FIFTY-ONE (51) lawsuits
14 against other types of business establishments.

15 In the Complaints filed in these actions against Restaurants in particular by MOLSKI,
16 MOLSKI alleges violations of the ADA and analogous California law. MOLSKI alleges
17 alleged he was a "physically 'handicapped' " person who required use of a wheelchair for
18 mobility and was usually unable to enter the Restaurant. MOLSKI contends the Restaurant
19 failed and refused to provide disabled access to enter their restaurant and discriminated
20 against him in violation of the ADA and California law by owning, building, altering, and
21 maintaining facilities inaccessible to handicapped persons, and offering facilities and
22 services to the public which were blocked by architectural barriers, so that the facilities
23 could not be used by physically disabled persons, especially those in wheelchairs" In
24 addition, MOLSKI usually alleges that the Restaurants failed to provide handicapped
25 parking spaces, signage and that the restrooms are usually inaccessible to disabled persons.
26 MOLSKI then seeks general and punitive damages, daily damages of \$4,000.00 per day
27 from the date of the alleged visit to the Restaurant and until the Restaurant is brought into
28 compliance, injunctive relief, and attorney fees and costs for these alleged violations. In

1 many of the Complaints, there are precise measurements given concerning the alleged
2 deficiencies such that you are given the impression that MOLSKI hires people to revisit
3 these Restaurants and take precise measurements of the width of the bathrooms, toilets,
4 steps, entryways, etc. It is interesting to note that each of the Complaints is nearly identical
5 with the only change being the names of the Defendants and the alleged deficiencies.

6 Furthermore, a review of the Dockets in each of the TWO-HUNDRED-SEVENTY-
7 SIX cases filed by MOLSKI reveal that many of them have been settled. In fact, on
8 February 26, 2004, MOLSKI filed a Stipulation of Dismissal and Order Thereon in *Molski*
9 *v. Meridian Vineyards*, Case Number 2003CV-06056 and attached the settlement agreement
10 which provides for the payment of \$14,000 to MOLSKI and DREES; on April 7, 2004,
11 MOLSKI filed a Stipulation of Dismissal and Order Thereon in *Molski v. Jewel City Bowl*,
12 Case Number 2003CV-0620 and attached the settlement agreement which provides for the
13 payment of \$22,000 payable to "The Frankovich Group;" and on May 25, 2004, MOLSKI
14 filed a Stipulation of Dismissal and Order Thereon in *Molski v. Yang Chow Restaurant*,
15 Case Number 2003CV-01433, and attached the settlement agreement which provides for the
16 payment of \$25,000 to MOLSKI, DREES and Thomas E. Frankovich. MOLSKI is
17 apparently earning quite a lucrative living from merely filing a federal action against every
18 business establishment that crosses his path on any given day without ever having to actually
19 go to work.

20 The most revealing and telling information disclosed by these Complaints, is that in
21 nearly all of them MOLSKI alleges that he somehow sustained personal injuries, usually to
22 his "upper extremities," because of the alleged architectural barriers. Of particular interest
23 is the fact that many of the Complaints allege the same date of personal injury by MOLSKI
24 which is demonstrated by the allegations in the following actions filed by MOLSKI:

25 **OTHER FEDERAL ACTIONS FILED BY MOLSKI**

26 **MOLSKI v. TACOS LUPITA - CASE NUMBER 2004CV-01852**

27 MOLSKI alleges in the Complaint that he was injured on May 19, 2003, when he
28 visited the "Tacos Lupita" Restaurant in the City of Morgan Hill, California, with his

1 “significant other Brygida Molski for the purposes of dining out.” [Appendix of Exhibits,
2 Volume 2, Exhibit “36”- Complaint, 8:1-3] “On or about May 19, 2003, plaintiff JAREK
3 MOLSKI entered the parking lot of TACOS LUPITA. Plaintiff discovered that there was
4 no handicapped accessible parking signage or accessible parking stalls. There was no van
5 accessible stall. At said time and place, plaintiff JAREK MOLSKI parked at a diagonal
6 angle so as to prevent being blocked in by other vehicles. At said time and place, plaintiff
7 JAREK MOLSKI proceeded to the primary entrance. The strike side of the entry door was
8 blocked by a brick planter. **Plaintiff JAREK MOLSKI struck his foot on the protruding**
9 **planter, causing bodily injury.** At said time and place, plaintiff JAREK MOLSKI also
10 struggled with the entry door due excessive door pressure. At said time and place, plaintiff
11 JAREK MOLSKI, once inside, approached the counter to order food. The counter was too
12 high to conduct business over. At said time and place, plaintiff had need to use a restroom.
13 Any accessible restroom would satisfy plaintiff’s needs. At said time and place, plaintiff
14 entered the men’s restroom. It was a single accommodation. It did not have any grab bars.
15 **At said time and place, plaintiff JAREK MOLSKI attempted a transfer using the toilet as**
16 **support and injured his shoulders in doing so.** [Appendix of Exhibits, Volume 2, Exhibit
17 “36”- Complaint, 8:4-21]

18 “Therefore, at said time and place, plaintiff JAREK MOLSKI, a person with a
19 disability, encountered the following inaccessible elements of the subject TACOS LUPITA
20 which constituted architectural barriers and a denial of the proper and legally-required access
21 to a public accommodation to persons with physical disabilities including, but not limited
22 to:

- 23 a. lack of directional signage to show accessible routes of travel i.e entrances;
- 24 b. lack of the requisite type and number of disabled parking stall(s);
- 25 c. lack of the requisite number of regular disabled parking stall(s);
- 26 d. lack of disabled van accessible parking stall(s);
- 27 e. lack of handicapped accessible parking signage;
- 28 f. lack of tow-a-way signage;

- 1 g. lack of an accessible entrance with no strike side clearance;
2 h. lack of handicapped accessible food/service counter;
3 i. lack of a handicapped-accessible women's public restroom;
4 j. lack of a handicapped-accessible men's public restroom;
5 k. lack of reduced door pressure throughout, and;
6 l. on personal knowledge, information and belief, other public facilities and elements
7 too numerous to list were improperly inaccessible for use by persons with physical
8 disabilities." [Appendix of Exhibits, Volume 2, Exhibit "36"- Complaint 9:1-18]

9 **MOLSKI v. EL 7 MARES RESTAURANT - CASE NUMBER 2004CV-01882**

10 MOLSKI alleges in the Complaint that he was injured on May 20, 2003, when he
11 visited the "El 7 Mares Restaurant" in the City of Gilroy, California, with his "significant
12 other Brygida Molski for the purposes of dining out." [Appendix of Exhibits, Volume 2,
13 Exhibit "37"- Complaint, 7:15-17] "On or about May 20, 2003, plaintiff JAREK MOLSKI
14 turned off Monterey Road into the driveway that leads to the rear of EL 7 MARES
15 RESTAURANT. At said time and place, plaintiff JAREK MOLSKI looked for but did not
16 see any handicapped accessible parking signs or a van accessible parking stall. There was
17 one faded regular handicapped parking stall for the whole lot. At said time and place,
18 plaintiff JAREK MOLSKI parked in such a fashion so as not to be blocked in by other
19 vehicles. At said time and place, plaintiff JAREK MOLSKI entered the EL 7 MARES
20 RESTAURANT .The ordering of food took place at a high counter which plaintiff had
21 difficulty with. At said time and place, plaintiff JAREK MOLSKI had a meal and then
22 needed to use a restroom. It did not matter whether it was a men's or women's restroom as
23 long as it was accessible. At said time and place, plaintiff attempted to use the men's
24 restroom. The stall had a rear grab bar and one side grab bar. The stall was too narrow for
25 a side transfer. The other side grab bar was missing and the toilet centerline was at 25.5
26 inches. **With this impermissible placement of the toilet and the missing grab bar, plaintiff**
27 **attempted a transfer and injured his shoulders in the process** At said time and place,
28 plaintiff attempted to use the lavatory but because it was built into a cabinet plaintiff was

1 unable to wash his hands. At said time and place, plaintiff JAREK MOLSKI was informed
2 by Brygida Molski that the women's restroom was also inaccessible." [Appendix of
3 Exhibits, Volume 2, Exhibit "37"- Complaint 7:18-27, 8:1-12]

4 "Therefore, at said time and place, plaintiff JAREK MOLSKI, a person with a
5 disability, encountered the following inaccessible elements of the subject EL 7 MARES
6 RESTAURANT which constituted architectural barriers and a denial of the proper and
7 legally- required access to a public accommodation to persons with physical disabilities
8 including, but not limited to:

- 9 a. lack of directional signage to show accessible routes of travel, i.e entrances;
- 10 b. lack of the requisite type and number of disabled parking stall(s);
- 11 c. lack of disabled van accessible parking stall(s);
- 12 d. lack of handicapped accessible parking signage;
- 13 e. lack of tow-a-way signage;
- 14 f. lack of handicapped accessible food/service counter;
- 15 g. lack of a handicapped-accessible women's public restroom;
- 16 h. lack of a handicapped-accessible men's public restroom, and;
- 17 i. on personal knowledge, information and belief, other public facilities and elements
18 too numerous to list were improperly inaccessible for use by persons with physical
19 disabilities." [Appendix of Exhibits, Volume 2, Exhibit "37"- Complaint 8:13-27]

20 **MOLSKI v. CASA DE FRUTA - CASE NUMBER 2004CV-01981**

21 MOLSKI alleges in the Complaint that he was injured on May 20, 2003, when he
22 visited the "Casa Medina" complex in the City of Hollister, California, with his "significant
23 other Brygida Molski for the purposes of wine tasting and shopping." [Appendix of
24 Exhibits, Volume 2, Exhibit "38"- Complaint, 7:23-25] "On or about May 20, 2003,
25 plaintiff JAREK MOLSKI entered the parking lot closest to CASA DE FRUTA's wine
26 emporium called Casa De Wine. Plaintiff JAREK MOLSKI looked for parking and found
27 that two parking stalls were marked for the disabled but neither were correctly striped.
28 Neither were van accessible. Plaintiff JAREK MOLSKI, being curious, drove around the

1 parking lots serving the coffee shop, candy shop, fruit stand, Casa DE Zoo, Casa De Choo
2 Choo and other buildings and took note that the whole CASA
3 DE FRUTA complex for the most part lacked handicapped accessible parking. For instance,
4 there were five parking spaces in the parking lot on the north side of Casa De Wine, none
5 were accessible. There were 100 stalls by the zoo, none of which were accessible. There
6 were 30-40 parking stalls next to Casa De Choo Choo, none of which were accessible. At
7 said time and place, plaintiff JAREK MOLSKI then drove back around to Casa De Wine.
8 There were 17 parking spaces next to the restaurant, none of which were accessible. Plaintiff
9 JAREK MOLSKI parked his vehicle and wheeled toward the entrance to Casa De Wine.
10 Plaintiff came to a sloped brick approach which measured from 7.3 percent to 10.4 percent.
11 The steepness of the slope made wheeling difficult. At said time and place, plaintiff JAREK
12 MOLSKI entered the wine shop only to discover that the tasting counter was too high as
13 were the ice cream, soft drink and coffee counter. Plaintiff JAREK MOLSKI sampled the
14 complimentary wine. At said time and place, plaintiff JAREK MOLSKI decided to use the
15 men's restroom. It did not matter to him whether it was a men's or a women's restroom, as
16 long as it was accessible. Plaintiff entered the men's restroom and attempted to use the
17 toilet without the use of a rear grab bar (apparently it was missing) and in the process of
18 transferring to and from the toilet suffered injury to his upper extremities. At said time
19 and place, plaintiff JAREK MOLSKI also attempted to use the other restroom elements but
20 as they were improperly placed, such as the lavatory, and plaintiff JAREK MOLSKI was
21 unable to use them. At said time and place, plaintiff JAREK MOLSKI left the Casa De
22 Wine and wheeled through the complex. Plaintiff JAREK MOLSKI had difficulty with the
23 sloped area on the south side of the general store which measured 14 to 16 percent. A sloped
24 area between the restaurant and general store had a 15 percent cross lope. The east entrance
25 to the restaurant had a slope between 10 and 12 percent. At said time and place, plaintiff
26 was informed that the women's restroom was also not accessible. At said time and place,
27 plaintiff JAREK MOLSKI is informed and believes that after May 1, 2004 defendants and
28 each of them built or are in the process of building a counter on the interior east side of said

1 building which does not comply with ADAAG.” [Appendix of Exhibits, Volume 2, Exhibit
2 “38”- Complaint 8:1-28, 9:1-10]

3 “Therefore, at said time and place, plaintiff JAREK MOLSKI, a person with a
4 disability, encountered the following inaccessible elements of the subject CASA DE
5 FRUTA complex which constituted architectural barriers and a denial of the proper and
6 legally-required access to a public accommodation to persons with physical disabilities
7 including, but not limited to:

- 8 a. lack of directional signage to show accessible routes of travel i.e. entrances and
9 parking;
- 10 b. lack of the requisite type and number of disabled parking stall(s);
- 11 c. lack of the requisite number of regular disabled parking stall(s);
- 12 d. lack of disabled van accessible parking stall(s);
- 13 e. lack of handicapped accessible parking signage;
- 14 f. lack of tow-a-way signage;
- 15 g. lack of an accessible entrance to Casa De Wine and other facilities as set forth
16 herein;
- 17 h. lack of handicapped counters in Casa De Wine;
- 18 i. lack of a handicapped-accessible women's public restroom in Casa De Wine;
- 19 j. lack of a handicapped-accessible men's public restroom in Casa De Wine;
- 20 k. lack of an accessible entrance to the Casa De Wine and other facilities as set forth
21 herein;
- 22 l. lack of an accessible counter in the Casa De Wine;
- 23 m. lack of accessible sloped areas to the coffee shop, general store and other areas
24 as stated herein, and;
- 25 n. on personal knowledge, information and belief, other public facilities and
26 elements too numerous to list were improperly inaccessible for use by persons with
27 physical disabilities.” [Appendix of Exhibits, Volume 2, Exhibit “38”- Complaint
28 9:11-26, 10:1-6]

1 which constituted architectural barriers and a denial of the proper and legally- required
2 access to a public accommodation to persons with physical disabilities including, but not
3 limited to:

- 4 a. lack of directional signage to show accessible routes of travel, i.e entrances;
- 5 b. lack of the requisite type and number of disabled parking stall(s);
- 6 c. lack of the requisite number of regular disabled parking stall(s);
- 7 d. lack of disabled van accessible parking stall(s);
- 8 e. lack of handicapped accessible parking signage;
- 9 f. lack of tow-a-way signage;
- 10 g. lack of an accessible entrance due to excessive door pressure;
- 11 h. lack of handicapped accessible wine tasting counter;
- 12 i. lack of a handicapped-accessible women's public restroom;
- 13 j. lack of a handicapped-accessible men's public restroom;
- 14 k. lack of reduced door pressure throughout, and;
- 15 l. on personal knowledge, information and belief, other public facilities and elements
16 too numerous to list were improperly inaccessible for use by persons with physical
17 disabilities." [Appendix of Exhibits, Volume 2, Exhibit "39"- Complaint 8:24-29,
18 9:1-14]

19 **MOLSKI v. KING AND I INVESTMENT GROUP**

20 **CASE NUMBER 2004CV-01943**

21 **MOLSKI alleges in the Complaint that he was injured on May 21, 2003, when he**
22 **visited the "King & I Thai Cuisine" Restaurant in the City of Morgan Hill, California, with**
23 **his "significant other Brygida Molski for the purposes of having a meal." [Appendix of**
24 **Exhibits, Volume 2, Exhibit "40"- Complaint, 7:24-26] "On or about May 21, 2003, plaintiff**
25 **JAREK MOLSKI, upon pulling into the parking lot, found that there were absolutely no**
26 **handicapped accessible parking stalls. There was no handicapped accessible signage. At**
27 **said time and place, plaintiff JAREK MOLSKI exited his vehicle and wheeled to the front**
28 **entrance. There was no signage to an accessible entrance. Plaintiff JAREK MOLSKI stared**

1 at a set of steps to the entry door. Plaintiff attempted to ascend the stairs with Brygida's help
2 but was unable to do so. At said time and place, plaintiff JAREK MOLSKI had Brygida
3 Molski enter the restaurant and purchase food to go. Plaintiff is informed and believes that
4 the men's and women's restrooms were not accessible. The toilets were too low, the stalls
5 were too small and there were no grab bars in either restroom. [Appendix of Exhibits,
6 Volume 2, Exhibit "40"- Complaint 8:1-12]

7 "Therefore, at said time and place, plaintiff JAREK MOLSKI, a person with a
8 disability, encountered the following inaccessible elements of the subject KING & I THAI
9 CUISINE, which constituted architectural barriers and a denial of the proper and legally
10 required access to a public accommodation to persons with physical disabilities including,
11 but not limited to:

- 12 a. lack of directional signage to show accessible routes of travel i.e. entrances;
- 13 b. lack of the requisite type and number of disabled parking stall(s);
- 14 c. lack of the requisite number of regular disabled parking stall(s);
- 15 d. lack of disabled van accessible parking stall(s);
- 16 e. lack of handicapped accessible parking signage;
- 17 f. lack of tow-a-way signage;
- 18 g. lack of an accessible entrance due to steps;
- 19 h. lack of an accessible dining area; 5% compliance requirement;
- 20 i. lack of a handicapped-accessible women's public restroom;
- 21 j. lack of a handicapped-accessible men's public restroom;
- 22 k. lack of reduced door pressure throughout, and;
- 23 l. on personal knowledge, information and belief, other public facilities and elements
24 too numerous to list were improperly inaccessible for use by persons with physical
25 disabilities." [Appendix of Exhibits, Volume 2, Exhibit "40"- Complaint 8:13-28,
26 9:1-2]

27 **MOLSKI v. LA ROCHELLE WINERY - CASE NUMBER 2004CV-01985**

28 MOLSKI alleges in the Complaint that he was injured on May 21, 2003, when he

1 visited the "La Rochelle Winery" in the City of San Jose, California, with his "significant
2 other Brygida Molski for the purposes of wine tasting." [Appendix of Exhibits, Volume 2,
3 Exhibit "41"- Complaint, 7:20-22] "On or about May 21, 2003, plaintiff JAREK MOLSKI
4 entered the parking lot of LA ROCHELLE WINERY only to discover that there was
5 virtually no handicapped accessible parking. There was only one parking stall marked as
6 accessible but it lacked aisle striping. There was no van accessible parking and no signage.
7 At said time and place, plaintiff approached the front door and saw that there was a two to
8 three percent slope and no level 60" pad. At said time and place, plaintiff entered the winery
9 and encountered a wine tasting counter which was much too high as allowed by the law. It
10 was approximately 46 inches in height. At said time and place, plaintiff JAREK MOLSKI
11 had need to use a restroom. It did not matter whether it was a men's or women's restroom
12 as long as it was accessible. Plaintiff JAREK MOLSKI went to the men's restroom and upon
13 approaching it, discovered that the women's restroom was not accessible due to a set of
14 stairs. Plaintiff jarek MOLSKI proceeded into the men's restroom and attempted to use one
15 of the two men's stalls. *However, as the clear door space was only 25 inches, plaintiff*
16 *JAREK MOLSKI became wedged, scraping and chaffing his hands.* Plaintiff JAREK
17 MOLSKI extricated himself and saw that most of the elements of the restroom (dispensers,
18 towels, mirror, lavatory) were not accessible. At said time and place, plaintiff JAREK
19 MOLSKI formed the opinion that to achieve access that defendants could make both
20 existing restrooms unisex and make the existing men's restroom accessible. At said time and
21 place, plaintiff also opined that defendants could ramp the entrance to the women's restroom
22 and then make both the men's and women's restroom accessible." [Appendix of Exhibits,
23 Volume 2, Exhibit "41"- Complaint 7:23-29, 8:1-18]

24 "Therefore, at said time and place, plaintiff JAREK MOLSKI, a person with a
25 disability, encountered the following inaccessible elements of the subject LA ROCHELLE
26 WINERY which constituted architectural barriers and a denial of the proper and legally-
27 required access to a public accommodation to persons with physical disabilities including,
28 but not limited to:

- 1 a. lack of directional signage to show accessible routes of travel i.e. entrances and to
2 restrooms;
- 3 b. lack of the requisite type and number of disabled parking stall(s);
- 4 c. lack of the requisite number of regular disabled parking stall(s);
- 5 d. lack of disabled van accessible parking stall(s);
- 6 e. lack of handicapped accessible parking signage;
- 7 f. lack of tow-a-way signage;
- 8 g. lack of an accessible entrance to the winery;
- 9 h. lack of handicapped accessible wine tasting counter;
- 10 i. lack of a handicapped-accessible women's public restroom;
- 11 j. lack of a handicapped-accessible men's public restroom, and;
- 12 k. on personal knowledge, information and belief, other public facilities and elements
13 too numerous to list were improperly inaccessible for use by persons with physical
14 disabilities." [Appendix of Exhibits, Volume 2, Exhibit "41"- Complaint 8:19-28,
15 9:1-7]

16 **MOLSKI v. LONGHOUSE RESTAURANT - CASE NUMBER 2004CV-01942**

17 MOLSKI alleges in the Complaint that he was injured on May 21, 2003, when he
18 visited the "Longhouse Restaurant" in the City of Gilroy, California, with "Brygida Molski
19 for the purposes of having dinner." [Appendix of Exhibits, Volume 2, Exhibit "42" -
20 Complaint, 7:24-26] "On or about May 21, 2003, plaintiff JAREK MOLSKI, upon driving
21 his vehicle into the parking lot of the LONGHOUSE RESTAURANT, discovered that while
22 there was marked handicapped accessible parking, it was not in fact accessible. There was
23 no van accessible parking and the alleged accessible parking had no accessible aisles. At
24 said time and place, plaintiff entered the restaurant through the front door. The door
25 pressure was non compliant. At said time and place, plaintiff JAREK MOLSKI entered the
26 restaurant dining room and found that there was no accessible seating. All of the dining
27 areas were composed of big booths. Plaintiff JAREK MOLSKI was forced to sit in the aisle.
28 At said time and place, plaintiff JAREK MOLSKI and Brygida Molski had dinner.

1 Afterwards plaintiff had need to use a restroom. It did not matter whether it was a men's or
2 women's restroom as long as it was accessible. At said time and place, plaintiff went to the
3 men's restroom serving the main dining area. There were no grab bars, the toilet was too low
4 and the stall was too small. At said time and place, plaintiff, in attempting to transfer to
5 the toilet, slipped in the process and in regaining his transfer position, suffered injury to
6 his upper extremities. At said time and place, plaintiff JAREK MOLSKI returned to his
7 table and then proceeded into the adjoining Beehive Lounge to have an alcoholic beverage.
8 Later, plaintiff JAREK MOLSKI needed to use a restroom. This time plaintiff JAREK
9 MOLSKI went to the men's room in the Beehive Lounge. Once again, plaintiff found that
10 the restroom was not accessible." [Appendix of Exhibits, Volume 2, Exhibit "42" -
11 Complaint 8:1-21]

12 "Therefore, at said time and place, plaintiff JAREK MOLSKI, a person with a
13 disability , encountered the following inaccessible elements of the subject LONGHOUSE
14 RESTAURANT which constituted architectural barriers and a denial of the proper and
15 legally- required access to a public accommodation to persons with physical disabilities
16 including, but not limited to:

- 17 a. lack of directional signage to show accessible routes of travel i.e. entrances;
- 18 b. lack of the requisite type and number of disabled parking stall(s);
- 19 c. lack of disabled van accessible parking stall(s);
- 20 d. lack of tow-a-way signage;
- 21 e. lack of an accessible entrance due to excessive door pressure;
- 22 f. lack of an accessible dining area; 5% compliance requirement;
- 23 g. lack of a handicapped-accessible women's public restroom in the dining area;
- 24 h. lack of a handicapped-accessible women's public restroom in the Beehive Lounge;
- 25 i. lack of a handicapped-accessible men's public restroom in the dining area;
- 26 j. lack of a handicapped-accessible men's public restroom in the Beehive Lounge,
- 27 and;
- 28 k. on personal knowledge, information and belief, other public facilities and elements

1 too numerous to list were improperly inaccessible for use by persons with physical
2 disabilities.” [Appendix of Exhibits, Volume 2, Exhibit “42” - Complaint 8:22-28,
3 9:1-12]

4 **MOLSKI v. PUMP N GO - CASE NUMBER 2004CV-01854**

5 MOLSKI alleges in the Complaint that he was injured on May 22, 2003, when he
6 visited the “Pump N Go” service station in the City of Morgan Hill, California, with his
7 “significant other Brygida Molski for the purposes of fueling his vehicle.” [Appendix of
8 Exhibits, Volume 2, Exhibit “43” - Complaint, 7:19-21] “On or about May 22, 2003,
9 plaintiff JAREK MOLSKI, upon pulling up to the gas pumps, noticed that there was no van
10 accessible parking. There was one irregular handicapped space. At said time and place,
11 plaintiff attempted to fuel his vehicle but the card reader was too high. Plaintiff JAREK
12 MOLSKI's companion fueled the vehicle. At said time and place, plaintiff JAREK
13 MOLSKI proceeded to the retail section of the PUMP N GO but was precluded by a two
14 inch concrete slab. At said time and place, plaintiff JAREK MOLSKI needed to use a
15 restroom. Plaintiff JAREK MOLSKI went to the men's restroom. At said time and place,
16 plaintiff had difficulty getting though the 28 inch clear door width. Once inside the men's
17 restroom, plaintiff JAREK MOLSKI found that there were no grab bars and the toilet was
18 low. **Plaintiff attempted to transfer to the toilet but slipped, injuring his upper extremities.**

19 At said time and place, plaintiff tried to use the lavatory but was unable as it was built into
20 a cabinet and was not accessible.” [Appendix of Exhibits, Volume 2, Exhibit “43” -
21 Complaint 7:22-26, 8:1-10]

22 “Therefore, at said time and place, plaintiff JAREK MOLSKI, a person with a
23 disability, encountered the following inaccessible elements of the subject PUMP N GO
24 which constituted architectural barriers and a denial of the proper and legally-required access
25 to a public accommodation to persons with physical disabilities including, but not limited
26 to:

- 27 a. lack of disabled van accessible parking stall(s);
28 b. lack of handicapped accessible parking signage;

- 1 c. lack of tow-a-way signage;
2 d. lack of an accessible entrance due to a two inch concrete pad;
3 e. lack of a handicapped-accessible women's public restroom;
4 f. lack of a handicapped-accessible men's public restroom;
5 g. lack of gas pump card reader at an accessible height, and;
6 h. on personal knowledge, information and belief, other public facilities and elements
7 too numerous to list were improperly inaccessible for use by persons with physical
8 disabilities." [Appendix of Exhibits, Volume 2, Exhibit "43" - Complaint 8:11-23]

9 **MOLSKI v. THE COVE RESTAURANT - CASE NUMBER 2004CV-01880**

10 MOLSKI alleges in the Complaint that he was injured on May 22, 2003, when he
11 visited the "The Cove" Restaurant in the City of Gilroy, California, with his "significant
12 other Brygida Molski for the purposes of having a meal." [Appendix of Exhibits, Volume
13 3, Exhibit "44" - Complaint, 7:14-16] "On or about May 22, 2003, plaintiff JAREK
14 MOLSKI pulled into the parking lot where THE COVE was located. There was no
15 handicapped accessible van parking or regular handicapped accessible parking. There was
16 no handicapped accessible parking signage. At said time and place, plaintiff took up two
17 parking spaces to keep from being blocked in. At said time and place, plaintiff JAREK
18 MOLSKI tried the entry door but the door pressure was too great at 11 lbs. At said time and
19 place, plaintiff went to the highest food counter he has ever experienced. The food counter
20 was so high he couldn't reach the top from his wheelchair. At said time and place, plaintiff,
21 after being served, had need to use a restroom. It did not matter if it was a men's restroom
22 or a women's restroom. At said time and place, plaintiff attempted to use the men's
23 restroom. The men's restroom was too narrow and defendants failed to install a rear grab bar.
24 In addition, defendants placed the toilet only fourteen and a half inches from the centerline.
25 **At said time and place, plaintiff attempted to transfer using only one grab bar, and as a**
26 **result injured his upper extremities.**" [Appendix of Exhibits, Volume 3, Exhibit "44" -
27 Complaint 7:17-28, 8:1-5]

28 "Therefore, at said time and place, plaintiff JAREK MOLSKI, a person with a

1 disability, encountered the following inaccessible elements of the subject THE COVE which
2 constituted architectural barriers and a denial of the proper and legally-required access to a
3 public accommodation to persons with physical disabilities including, but not limited to:

- 4 a. lack of directional signage to show accessible routes of travel, i.e. entrances;
- 5 b. lack of the requisite type and number of disabled parking stall(s);
- 6 c. lack of the requisite number of regular disabled parking stall(s);
- 7 d. lack of disabled van accessible parking stall(s);
- 8 e. lack of handicapped accessible parking signage;
- 9 f. lack of tow-a-way signage;
- 10 g. lack of an accessible entrance due to heavy door pressure;
- 11 h. lack of handicapped accessible food counter;
- 12 i. lack of a handicapped-accessible women's public restroom;
- 13 j. lack of a handicapped-accessible men's public restroom, and;
- 14 k. on personal knowledge, information and belief, other public facilities and elements
15 too numerous to list were improperly inaccessible for use by persons with physical
16 disabilities." [Appendix of Exhibits, Volume 3, Exhibit "44" - Complaint 8:6-21]

17 **MOLSKI v. CASA MEDINA - CASE NUMBER 2004CV-01947**

18 MOLSKI alleges in the Complaint that he was injured on May 22, 2003, when he
19 visited the "Casa Medina" winery in the City of San Juan Bautista, California, with his
20 "significant other Brygida Molski for the purposes of wine tasting and shopping."
21 [Appendix of Exhibits, Volume 3, Exhibit "45" - Complaint, 7:23-25] "On or about May 22,
22 2003, plaintiff JAREK MOLSKI parked his vehicle on the street and proceeded to CASA
23 MEDINA. At said time and place, plaintiff JAREK MOLSKI did not see any directional
24 signage to an accessible entrance. At said time and place, plaintiff JAREK MOLSKI saw
25 that there was a set of stairs at the front entrance and a set of stairs at the easterly side
26 entrance. Each set of stairs had seven to eight raisers. At said time and place, plaintiff
27 JAREK MOLSKI stared helplessly at the front stairs. The staircase was simply too high for
28 plaintiff JAREK MOLSKI to attempt to crawl or be pulled up. At said time and place,

1 plaintiff JAREK MOLSKI was informed by Brygida Molski that even if plaintiff JAREK
2 MOLSKI could have gained access, if he needed to use a restroom the existing restroom was
3 not accessible. At said time and place, plaintiff JAREK MOLSKI was informed of the non
4 complying elements of the restroom.” [Appendix of Exhibits, Volume 3, Exhibit “45” -
5 Complaint 7:26-27, 8:1-13]

6 “Therefore, at said time and place, plaintiff JAREK MOLSKI, a person with a
7 disability, encountered the following inaccessible elements of the subject CASA MEDINA
8 which constituted architectural barriers and a denial of the proper and legally-required access
9 to a public accommodation to persons with physical disabilities including, but not limited
10 to:

- 11 a. lack of directional signage to show accessible routes of travel i.e. entrances;
- 12 b. lack of an accessible entrance due to stairs;
- 13 c. lack of a handicapped-accessible unisex restroom, and;
- 14 d. on personal knowledge, information and belief, other public facilities and elements
15 too numerous to list were improperly inaccessible for use by persons with physical
16 disabilities.” [Appendix of Exhibits, Volume 3, Exhibit “45” - Complaint 8:14-22]

17 **MOLSKI v. CLONINGER CELLARS - CASE NUMBER 2004CV-01853**

18 MOLSKI alleges in the Complaint that he was injured on May 23, 2003, when he
19 visited the “Cloninger Cellars” winery in the City of Gonzales, California, with his
20 “significant other Brygida Molski for the purposes of wine tasting.” [Appendix of Exhibits,
21 Volume 3, Exhibit “46” - Complaint, 7:15-17] “On or about May 23, 2003, plaintiff JAREK
22 MOLSKI drove into the parking lot of CLONINGER CELLARS. It was a gravel lot with
23 no hard smooth surfaces. There was a sole handicapped accessible parking sign but no
24 designation on the surface of the lot. At said time and place, plaintiff exited his vehicle and
25 immediately hit rocks and holes, which turned and twisted not only his wheelchair but his
26 body. At times the chair lunged forward, stopping instantly upon hitting a large rock or
27 depression. This caused injury to the plaintiff. At said time and place, plaintiff JAREK
28 MOLSKI entered the cellars, tasted wine and was about to leave when he needed to use the

1 restroom. At said time and place, plaintiff JAREK MOLSKI went to a restroom which was
2 large enough in size to be handicapped accessible. Unfortunately, defendants placed a
3 lavatory within a cabinet which took the required clear space necessary for the toilet.
4 Plaintiff could not use the toilet. At said time and place, plaintiff attempted to use the
5 lavatory but couldn't as the cabinet blocked his reach." [Appendix of Exhibits, Volume 3,
6 Exhibit "46" - Complaint 7:18-26; 8:1-6]

7 "Therefore, at said time and place, plaintiff JAREK MOLSKI, a person with a
8 disability, encountered the following inaccessible elements of the subject CLONINGER
9 CELLARS which constituted architectural barriers and a denial of the proper and legally-
10 required access to a public accommodation to persons with physical disabilities including,
11 but not limited to:

- 12 a. lack of a smooth hard packed parking lot;
- 13 b. lack of directional signage to show accessible routes of travel, i.e. entrances;
- 14 c. lack of the requisite type and number of disabled parking stall(s);
- 15 d. lack of the requisite number of regular disabled parking stall(s);
- 16 e. lack of disabled van accessible parking stall(s);
- 17 f. lack of (proper) disabled parking signage;
- 18 g. lack of tow-a-way signage;
- 19 h. lack of a handicapped-accessible women's public restroom;
- 20 i. lack of a handicapped-accessible men's public restroom;
- 21 j. lack of a hard-pack path of travel to the main entry, and;
- 22 k. on personal knowledge, information and belief, other public facilities and elements
23 too numerous to list were improperly inaccessible for use by persons with physical
24 disabilities." [Appendix of Exhibits, Volume 3, Exhibit "46" - Complaint 8:7-24]

25 **MOLSKI v. TORO PETROLEUM - CASE NUMBER 2004CV-01941**

26 MOLSKI alleges in the Complaint that he was injured on May 23, 2003, when he
27 visited the "Gonzales Unocal 76" service station in the City of Gonzales, California, with
28 his "significant other Brygida Molski for the purposes of fueling his vehicle and using the

1 restroom.” [Appendix of Exhibits, Volume 3, Exhibit “47” - Complaint, 7:20-22] “On or
2 about May 23,2003, plaintiff JAREK MOLSKI entered the men's restroom. The footprint
3 of the restroom was large enough to provide for a handicapped accessible restroom.
4 However, this restroom had no accessible elements. At said time and place, plaintiff JAREK
5 MOLSKI asked Brygida Molski to use the women's restroom in the event that it was
6 accessible. Brygida Molski opened the door and plaintiff JAREK MOLSKI saw that it in
7 fact was just as inaccessible as the men’s restroom. At said time and place, plaintiff JAREK
8 MOLSKI returned to the men's restroom which did not have any grab bars, nor were any
9 other restroom elements accessible such as the toilet, "P" traps, seat dispenser and mirror.
10 *At said time and place, plaintiff JAREK MOLSKI attempted a solo/leap transfer to the*
11 *toilet but due to the missing grab bars injured his upper extremities in the process.*”

12 [Appendix of Exhibits, Volume 3, Exhibit “47” - Complaint 7:23-28, 8:1-5]

13 “Therefore, at said time and place, plaintiff JAREK MOLSKI, a person with a
14 disability, encountered the following inaccessible elements of the subject UNOCAL 76
15 which constituted architectural barriers and a denial of the proper and legally-required access
16 to a public accommodation to persons with physical disabilities including, but not limited
17 to:

- 18 a. lack of tow-a-way signage;
- 19 b. lack of a handicapped-accessible women's public restroom;
- 20 c. lack of a handicapped-accessible men's public restroom, and;
- 21 d. on personal knowledge, information and belief, other public facilities and elements
22 too numerous to list were improperly inaccessible for use by persons with physical
23 disabilities.” [Appendix of Exhibits, Volume 3, Exhibit “47” - Complaint 8:6-14]

24 **MOLSKI v. ROY’S DRIVE-IN - CASE NUMBER 2004CV-01983**

25 MOLSKI alleges in the Complaint that he was injured on May 23, 2003, when he
26 visited “Roy’s Drive-In” Restaurant in the City of Salinas, California, with “Brygida Molski
27 for the purposes of purchasing a meal.” [Appendix of Exhibits, Volume 3, Exhibit “48” -
28 Complaint, 7:11-13] “On or about May 23, 2003, plaintiff JAREK MOLSKI entered the

1 parking lot of the subject establishment and found that there was no van accessible parking,
2 no regular accessible parking and no signs designating parking for the disabled. At said time
3 and place, plaintiff took up two parking spaces to allow him to exit and re-enter his vehicle
4 without being blocked by another vehicle. At said time and place, JAREK MOLSKI found
5 that he could not access the service window because of a six inch high sidewalk in front of
6 the building. Plaintiff JAREK MOLSKI had Brygida Molski order his meal for him. At said
7 time and place, plaintiff JAREK MOLSKI needed to use a restroom. It did not matter
8 whether it was the men's or the women's restroom as long as it was accessible. At said time
9 and place, plaintiff attempted to use the men's restroom and struggled to get up and onto a
10 six inch high sidewalk. At said time and place, plaintiff jarek MOLSKI became caught in
11 the restroom door as it only had 28 inches of clear space. Once inside plaintiff JAREK
12 MOLSKI attempted to use the toilet without grab bars and experienced trauma to his
13 shoulders. At said time and place, plaintiff JAREK MOLSKI wheeled off the sidewalk,
14 further aggravating his shoulders." [Appendix of Exhibits, Volume 3, Exhibit "48" -
15 Complaint 7:14-28, 8:1-2]

16 "Therefore, at said time and place, plaintiff JAREK MOLSKI, a person with a
17 disability , encountered the following inaccessible elements of the subject drive-in, which
18 constituted architectural barriers and a denial of the proper and legally-required access to a
19 public accommodation to persons with physical disabilities including, but not limited to:

- 20 a. lack of directional signage to show accessible routes of travel i.e. entrances;
- 21 b. lack of the requisite type and number of disabled parking stall(s);
- 22 c. lack of the requisite number of regular disabled parking stall(s);
- 23 d. lack of disabled van accessible parking stall(s);
- 24 e. lack of handicapped accessible parking signage;
- 25 f. lack of tow-a-way signage;
- 26 g. lack of a curb cut to the sidewalk leading to the service center;
- 27 h. lack of an accessible curb cut leading to the restrooms;
- 28 i. lack of a handicapped-accessible women's public restroom;

1 j. lack of a handicapped-accessible men's public restroom, and;
2 k. on personal knowledge, information and belief, other public facilities and elements
3 too numerous to list were improperly inaccessible for use by persons with physical
4 disabilities." [Appendix of Exhibits, Volume 3, Exhibit "48" - Complaint 8:3-19]

5 **MOLSKI v. GEORIS WINERY - CASE NUMBER 2004CV-02118**

6 MOLSKI alleges in the Complaint that he was injured on **June 7, 2003**, when he
7 visited the "Georis Winery" in the City of Carmel Valley, California, with his "significant
8 other Brygida Molski for the purposes of wine tasting." [Appendix of Exhibits, Volume 3,
9 Exhibit "49" - Complaint, 7:19-21] "On or about June 7, 2003, plaintiff JAREK MOLSKI
10 parked outside GEORIS WINERY on the street. At said time and place, plaintiff JAREK
11 MOLSKI wheeled into the GEORIS WINERY to the wine tasting counter. The counter was
12 too high for use by the plaintiff. At said time and place, plaintiff JAREK MOLSKI after
13 wine tasting, needed to use a restroom. Plaintiff JAREK MOLSKI went to the men's
14 restroom. The threshold was high and the toilet was blocked due to the fact that defendants
15 built a small wall between it and the urinal. Defendants also failed to provide grab bars. At
16 said time and place, plaintiff attempted a transfer to the toilet without the use of grab bars
17 which caused trauma to plaintiff's upper extremities. At said time and place, plaintiff
18 JAREK MOLSKI was informed that the women's restroom was not accessible either."
19 [Appendix of Exhibits, Volume 3, Exhibit "49" - Complaint 7:22-25; 8:1-8]

20 "Therefore, at said time and place, plaintiff JAREK MOLSKI, a person with a
21 disability, encountered the following inaccessible elements of the subject GEORIS
22 WINERY which constituted architectural barriers and a denial of the proper and legally-
23 required access to a public accommodation to persons with physical disabilities including,
24 but not limited to:

- 25 a. lack of directional signage to show accessible routes of travel i.e. entrances;
26 b. lack of handicapped accessible wine counter;
27 c. lack of a handicapped-accessible men's public restroom;
28 d. lack of a handicapped-accessible women's public restroom, and;

1 e. on personal knowledge, information and belief, other public facilities and elements
2 too numerous to list were improperly inaccessible for use by persons with physical
3 disabilities.” [Appendix of Exhibits, Volume 3, Exhibit “49” - Complaint 8:9-19]

4 **MOLSKI v. HELLER ESTATES, INC. - CASE NUMBER 2004CV-02164**

5 MOLSKI alleges in the Complaint that he was injured on June 7, 2003, when he
6 visited the “Heller Estate” winery in the City of Carmel Valley, California, with his
7 “significant other Brygida Molski for the purposes of wine tasting.” [Appendix of Exhibits,
8 Volume 3, Exhibit “50” - Complaint, 9:1-3] “On or about June 7,2003 plaintiff JAREK
9 MOLSKI, upon entering the parking lot, discovered that there was no handicapped
10 accessible parking. There was no handicapped parking signage, no handicapped van
11 accessible parking stall and no regular handicapped parking. This parking situation existed
12 both in the front and the rear parking lots. Plaintiff JAREK MOLSKI took up two parking
13 spaces so as to not be blocked in. At said time and place, plaintiff entered the rear of the
14 winery on an unstable make-shift ramp. At said time and place, plaintiff, once inside,
15 wished to taste wine. The wine tasting counter was too high for plaintiff JAREK MOLSKI
16 to leisurely use. At said time and place, plaintiff JAREK MOLSKI went to the unisex
17 restroom which was not accessible. It lacked a side and rear grab bar and was missing other
18 accessible elements. At said time and place, plaintiff JAREK MOLSKI attempted a
19 transfer from his wheelchair and slipped in the process, striking the side of the side of the
20 toilet and causing trauma to plaintiff's upper extremities.” [Appendix of Exhibits, Volume
21 3, Exhibit “50” - Complaint 9:7-21]

22 “Therefore, at said time and place, plaintiff jarek MOLSKI, a person with a disability,
23 encountered the following inaccessible elements of the subject HELLER ESTATE which
24 constituted architectural barriers and a denial of the proper and legally-required access to a
25 public accommodation to persons with physical disabilities including, but not limited to:

- 26 a. lack of directional signage to show accessible routes of travel i.e. entrances and
27 accessible parking;
28 b. lack of the requisite type and number of disabled parking stall(s);

- 1 c. lack of the requisite number of regular disabled parking stall(s);
2 d. lack of disabled van accessible parking stall(s);
3 e. lack of handicapped accessible parking signage;
4 f. lack of tow-a-way signage;
5 g. lack of an accessible entrance due to a makeshift ramp;
6 h. lack of handicapped accessible wine tasting counter;
7 i. lack of a handicapped-accessible unisex public restroom, and;
8 j. on personal knowledge, information and belief, other public facilities and elements
9 too numerous to list were improperly inaccessible for use by persons with physical
10 disabilities.” [Appendix of Exhibits, Volume 3, Exhibit “50” - Complaint 9:22-26,
11 10:1-11]

12 **MOLSKI v. COOPER-GARROD ESTATE VINEYARDS**

13 **CASE NUMBER 2004CV-02226**

14 MOLSKI alleges in the Complaint that he was injured on **June 8, 2003**, when he
15 visited the “Cooper-Garrod Estate Vineyards” in the City of Saratoga, California, with his
16 “significant other Brygida Molski for the purposes of wine tasting.” [Appendix of Exhibits,
17 Volume 3, Exhibit “51” - Complaint, 7:16-18] “On or about June 8, 2003, plaintiff JAREK
18 MOLSKI turned off into the entrance to the COOPER-GARROD ESTATE VINEYARDS.
19 There was inadequate directional signage to an accessible parking area. At said time and
20 place, plaintiff JAREK MOLSKI found that although there was one small directional sign
21 regarding handicapped parking, there in fact was no handicapped accessible parking. The
22 only thing that existed was another 6"x6" international symbol which was nailed to a 4x4
23 post. There was no disabled van accessible parking and there was no regular handicapped
24 parking. There was no handicapped parking signs. Further, the parking surface was uneven
25 composed of dirt and gravel with pot holes and ruts. At said time and place, plaintiff used
26 the lift and gained access to the wood deck and then entered the wine tasting room and
27 sampled wine. The only problem was that the wine tasting counter was too high; at
28 approximately 42" from the floor. At said time and place, plaintiff JAREK MOLSKI needed

1 to use an accessible restroom. Plaintiff noticed that there were two restrooms. One was a
2 women's restroom which was not accessible. The other restroom had no designation just the
3 international symbol of accessibility .Plaintiff JAREK MOLSKI struggled with improperly
4 placed grab bars, a low toilet and a door only 29" wide. At said time and place, plaintiff
5 JAREK MOLSKI in the process of wheeling and traversing the rutted gravel parking lot
6 to and from vehicle hit holes, ruts and rocks which rocked and jostled him in his
7 wheelchair causing injury to his upper extremities" [Appendix of Exhibits, Volume 3,
8 Exhibit "51" - Complaint 7:19-27; 8:1-11]

9 "Therefore, at said time and place, plaintiff JAREK MOLSKI, a person with a
10 disability, encountered the following inaccessible elements of the subject COOPER-
11 GARROD ESTATE VINEYARDS which constituted architectural barriers and a denial of
12 the proper and legally-required access to a public accommodation to persons with physical
13 disabilities including, but not limited to:

- 14 a. lack of directional signage to show accessible routes of travel i.e entrances and
- 15 parking areas;
- 16 b. lack of the requisite type and number of disabled parking stall(s);
- 17 c. lack of the requisite number of regular disabled parking stall(s);
- 18 d. lack of disabled van accessible parking stall(s);
- 19 e. lack of handicapped accessible parking "signage;"
- 20 f. lack of tow-a-way signage;
- 21 g. lack of handicapped accessible wine counter;
- 22 h. lack of a handicapped-accessible women's public restroom;
- 23 i. lack of a handicapped-accessible men's public restroom;
- 24 j. lack of the requisite number of restrooms by classification;
- 25 k. lack of level, hard-packed parking lot;
- 26 l. on personal knowledge, information and belief, other public facilities and elements
- 27 too numerous to list were improperly inaccessible for use by persons with physical
- 28 disabilities." [Appendix of Exhibits, Volume 3, Exhibit "51" - Complaint 8:12-27;

1 9:1-2]

2 Therefore, Plaintiff claims to have sustained personal injuries because of architectural
3 barriers on May 19, 2003 at Taco Lupita in Morgan Hill, California; on May 20, 2003 at
4 El 7 Mares Restaurant in the City of Gilroy, California; on May 20, 2003 at the "Casa
5 Medina" complex in the City of Hollister, California; on May 20, 2003 at the "Rapazzini
6 Winery" in the City of Gilroy, California, on May 21, 2003 at the "King & I Thai Cuisine"
7 Restaurant in the City of Morgan Hill, California; on May 21, 2003 at the "La Rochelle
8 Winery" in the City of San Jose, California; on May 21, 2003 at the "Longhouse
9 Restaurant" in the City of Gilroy, California; on May 22, 2003 at the "Pump N Go" service
10 station in the City of Morgan Hill, California; on May 22, 2003 at the "The Cove"
11 Restaurant in the City of Gilroy, California; on May 22, 2003 at the "Casa Medina" winery
12 in the City of San Juan Bautista, California; on May 23, 2003 at the "Cloninger Cellars"
13 winery in the City of Gonzales, California; on May 23, 2003 at the "Gonzales Unocal 76"
14 service station in the City of Gonzales, California; on May 23, 2003 at "Roy's Drive-In"
15 Restaurant in the City of Salinas, California, on June 7, 2003 at the "Georis Winery" in the
16 City of Carmel Valley, California; on June 7, 2003 at the "Heller Estate" winery in the City
17 of Carmel Valley, California; and on June 8, 2003 at the "Cooper-Garrod Estate Vineyards"
18 in the City of Saratoga, California. [The Court should note that the other Complaints detailed
19 herein which were filed in other Federal Actions were the only Complaints that were
20 accessible through PACER - Moving Party is informed and believes that the other
21 Complaints to which it did not have online access are similar in nature.]

22 Each of these alleged injuries resulted in MOLSKI filing suit against the owners,
23 landlords and tenants of each of these business establishments and seeking damages,
24 injunctive relief and attorney's fees and costs from each named Defendant therein. Each of
25 these cumulative and frivolous lawsuits was filed by Thomas E. Frankovich of Thomas E.
26 Frankovich, a professional law corporation, on behalf of MOLSKI.

27 THE INSTANT ACTION

28 In the present action, MOLSKI alleges in the Complaint that he was injured on

1 January 25, 2003, when he visited the "Mandarin Touch Restaurant" in the City of
2 Solvang, California, with his "grandmother Stephania Kopera, for purposes of having
3 Mandarin Chinese dinner." [Complaint, 7:20-22] "On or about January 25, 2003, plaintiff
4 JAREK MOLSKI after finishing dinner had need to use a restroom. It did not matter
5 whether it was a men's or women's restroom. At said time and place, plaintiff JAREK
6 MOLSKI tried to use the men's restroom. The exterior door to the restroom was quite
7 narrow. Plaintiff JAREK MOLSKI passed through it but could not access the men's
8 restroom because the clear space was only 22 inches. Plaintiff JAREK MOLSKI then
9 exited, but due to defendant's negligent maintenance of said restroom, plaintiff got his
10 hand caught in the exterior door causing trauma to it." [Complaint, 7:23-27, 8:1-2]

11 "Therefore, at said time and place, plaintiff JAREK MOLSKI, a person with a
12 disability, encountered the following inaccessible elements of THE MANDARIN TOUCH
13 RESTAURANT which constituted architectural barriers and a denial of the proper and
14 legally-required access to a public accommodation to persons with physical disabilities
15 including, but not limited to:

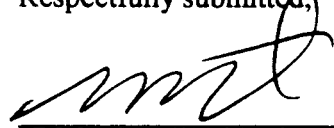
- 16 a. lack of a handicapped-accessible women's public restroom;
17 b. lack of a handicapped-accessible men's public restroom;
18 c. On personal knowledge, information and belief, other public facilities and
19 elements too numerous to list were improperly inaccessible for use by persons with
20 physical disabilities."

21 As the Court can clearly see, the allegations in the instant action are nearly identical
22 with the facts alleged in each of the above-detailed other federal actions filed by MOLSKI.
23 Defendant MANDARIN TOUCH contends that MOLSKI is a vexatious litigant in that the
24 filings by MOLSKI show a pattern of harassment of the Federal Courts and against
25 Restaurants, of which Defendant MANDARIN TOUCH is a member. A pattern of
26 harassment is shown when the filings of similar types of actions constitutes an intent to
27 harass the Defendant or the Court. As noted above, MOLSKI has repeatedly asserted the
28 same or similar facts in each of the filings. Thus, the sheer number and content of the

1 Complaints indicates an intent to harass. To preclude future harassment against Defendant
2 MANDARIN TOUCH and other unknown Defendant RESTAURANTS, a pre-filing order
3 preventing MOLSKI from filing similar actions in the future is merited, and the imposition
4 of monetary sanctions under *Rule 11* is mandated against MOLSKI and his counsel, Thomas
5 E. Frankovich, jointly and severally, in the amount of \$16,500.00.

6 DATED: September 24, 2004

7 Respectfully submitted,

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9 

10 ROBERT H. APPERT
11 Attorney for Defendant
12 EVERGREEN DYNASTY
13 CORPORATION, a California corporation,
14 doing business as MANDARIN TOUCH
15 RESTAURANT

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1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

3 I am employed in the County of Los Angeles, State of California. I am over the age
4 of eighteen (18) years and not a party to the within pending action. My business address is
5 1208 S. San Gabriel Boulevard, San Gabriel, California 91776.

6 On September 24, 2004, I served the foregoing document described as NOTICE OF
7 MOTION AND MOTION FOR A PREFILING ORDER PROHIBITING
8 VEXATIOUS LITIGANT FROM FILING NEW LITIGATION WITHOUT LEAVE
9 OF COURT, TO POST SECURITY, AND FOR MONETARY SANCTIONS
10 PURSUANT TO FEDERAL RULES OF CIVIL PROCEDURE RULE 11 AGAINST
11 PLAINTIFF JAREK MOLSKI AND HIS COUNSEL THOMAS E. FRANKOVICH
12 IN THE SUM OF \$16,500.00 upon the interested parties in this action addressed as
13 follows:

14 THOMAS E. FRANKOVICH, ESQ.
15 THOMAS E. FRANKOVICH, A.P.C.
16 2806 Van Ness Avenue
17 San Francisco, CA 94109
18 Tel (415) 674-8600
19 Fax (415) 674-9900

Attorney for Plaintiffs

18 ALAN H. BOON, ESQ.
19 BERGER KAHN, ALC
20 P.O. Box 19694
21 Irvine, CA 92623-9694
22 Tel (949) 474-1880
23 Fax (949) 474-7265

Attorneys for Defendants
BRIAN McINERNEY and
KATHY S. McINERNEY

21 (X) **By Mail:** I placed such envelope with postage thereon fully prepaid in the United
22 States Mail at San Gabriel, California.

23 () **By Personal Service:** I caused such envelope to be hand delivered to each of the
24 addressees.

25 Executed on September 24, 2004, at San Gabriel, California.

26 I declare under penalty of perjury that the foregoing is true and correct.

27
28 
LISA CHEN