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ROBERT H. APPERT, State Bar Number 165303
Attorney At Law
1208 S. San Gabriel Boulevard
San Gabriel, California 91776
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Attorney for Defendant EVERGREEN DYNASTY CORPORATION, a California corporation,
doing business as MANDARIN TOUCH RESTAURANT

FILED
OCT 19 PM 2:12
U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

JAREK MOLSKI, an individual; and
**DISABILITY RIGHTS
ENFORCEMENT, EDUCATION
SERVICES: HELPING YOU HELP
OTHERS**, a California public benefit
corporation,

Plaintiffs,

vs.

**MANDARIN TOUCH RESTAURANT;
EVERGREEN DYNASTY CORP.**, a
California corporation; and **BRIAN
McINERNEY** and **KATHY S.
McINERNEY** as Joint Tenants,

Defendants.

CASE NUMBER CV04-0450 ER (SHx)
Case Assigned for All Purposes to the
Honorable Edward Rafeedie

**REPLY TO PLAINTIFF JAREK
MOLSKI'S OPPOSITION TO
DEFENDANT EVERGREEN DYNASTY
CORPORATION'S 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

OCT 20 2004
BY [Signature]

31

Defendant EVERGREEN DYNASTY CORPORATION, a California corporation, doing

1 business as MANDARIN TOUCH RESTAURANT [hereinafter referred to as “MANDARIN
2 TOUCH”] hereby submits his Reply to Plaintiff JAREK MOLSKI’s Opposition to
3 MANDARIN TOUCH’s Motion for an Order Prohibiting Plaintiff JAREK MOLSKI
4 [hereinafter referred to as “MOLSKI”] From Filing Any New Litigation in the Federal Courts
5 Without First Obtaining Leave of the Presiding Judge of the Court in which the litigation is
6 proposed to be filed, and to give security in such amount as the Court determines to be
7 appropriate to secure the payment of any costs, sanctions, or other amounts which may be
8 awarded against MOLSKI, and for sanctions pursuant to *FRCP Rule 11* as follows:

9 **1. MOLSKI IS NOTHING MORE THAN A PROFESSIONAL PLAINTIFF WHO**
10 **EARNES HIS LIVING BY SUING EVERYONE HE COMES INTO CONTACT**
11 **WITH ON A GIVEN DAY FOR ALLEGED MINOR VIOLATIONS OF THE ADA**

12 The Complaints filed by MOLSKI are very revealing as to the true motivations of
13 MOLSKI in flooding the Federal Courts with his alleged and purported grievances. MOLSKI
14 targets restaurants, wineries, banks, gas stations and bowling alleys. It is unclear as to why
15 MOLSKI targets bowling alleys or why he would even be inside one as MOLSKI claims that
16 he is a wheelchair bound quadriplegic and he certainly could not be on the premises for the
17 purposes of bowling. The only conclusion to be reached is that MOLSKI is certain to find
18 violations of the ADA and is certain to squeeze or extort money from the Defendants for these
19 alleged violations.

20 On **May 19, 2003**, MOLSKI visited the TACOS LUPITA Restaurant where he claims
21 he was injured when he allegedly struck his foot on the **planter** which blocked the front door.
22 On **May 11, 2004**, MOLSKI filed a Complaint in Federal Court against the TACOS LUPITA
23 Restaurant alleging violations of the (1) ADA, (2) the California Disabled Persons Act (DPA)
24 [*Civil Code § 54, et seq.*] (3) *Health & Safety Code § 19955, et seq.*, (4) the Unruh Civil
25 Rights Act, *Civil Code § 51*, (5) Unfair Business Practices, *Business & Professions Code §*
26 *17200, et seq.* In the Complaint MOLSKI alleges an inaccessible entrance due to planter and
27 excessive door pressure, inaccessible counter, inaccessible restroom facilities, lack of
28 disabled parking spaces, and lack of signage for the disabled parking spaces. In the Complaint,

1 MOLSKI seeks an injunction, special and general damages, \$4,000.00 in daily damages,
2 punitive damages, and attorney's fees and costs. [See Complaint filed in that certain action
3 entitled *Molski v. Tacos Lupita*, Case Number 2004CV-01852 attached as Exhibit "36" to the
4 Appendix of Exhibits, Volume 2.]

5 On May 20, 2003, MOLSKI visited the RAPAZZINI WINERY where he claims he was
6 injured when he attempted to transfer to the **toilet** using the existing elements and severely
7 injured himself. On May 12, 2004, MOLSKI filed a Complaint in Federal Court against the
8 RAPAZZINI WINERY alleging violations of the (1) ADA, (2) the California Disabled Persons
9 Act (DPA) [*Civil Code § 54, et seq.*] (3) *Health & Safety Code § 19955, et seq.*, (4) the
10 Unruh Civil Rights Act, *Civil Code § 51*, (5) Unfair Business Practices, *Business &*
11 *Professions Code § 17200, et seq.*. In the Complaint MOLSKI alleges an inaccessible
12 entrance due to heavy door pressure, inaccessible counter, inaccessible restroom facilities,
13 lack of disabled parking spaces, and lack of signage for the disabled parking spaces. In the
14 Complaint, MOLSKI seeks an injunction, special and general damages, \$4,000.00 in daily
15 damages, punitive damages, and attorney's fees and costs. [See Complaint filed in that certain
16 action entitled *Molski v. Rapazzini Winery*, Case Number 2004CV-01881 attached as Exhibit
17 "39" to the Appendix of Exhibits, Volume 2.]

18 On May 20, 2003, *on the same day that MOLSKI visited the RAPAZZINI WINERY*,
19 MOLSKI also visited the EL 7 MARES RESTAURANT where he claims he was injured when
20 he attempted to transfer to the **toilet** using the existing elements and injured his shoulders.
21 On May 12, 2004, MOLSKI filed a Complaint in Federal Court against the EL 7 MARES
22 RESTAURANT alleging violations of the (1) ADA, (2) the California Disabled Persons Act
23 (DPA) [*Civil Code § 54, et seq.*] (3) *Health & Safety Code § 19955, et seq.*, (4) the Unruh
24 Civil Rights Act, *Civil Code § 51*, (5) Unfair Business Practices, *Business & Professions*
25 *Code § 17200, et seq.*. In the Complaint MOLSKI alleges an inaccessible counter,
26 inaccessible restroom facilities, lack of disabled parking spaces, and lack of signage for the
27 disabled parking spaces. In the Complaint, MOLSKI seeks an injunction, special and general
28 damages, \$4,000.00 in daily damages, punitive damages, and attorney's fees and costs. [See

1 Complaint filed in that certain action entitled *Molski v. El 7 Mares Restaurant*, Case Number
2 2004CV-01882 attached as Exhibit "37" to the Appendix of Exhibits, Volume 2.]

3 On **May 21, 2003**, MOLSKI visited the LONGHOUSE RESTAURANT where he claims
4 he was **injured in the bathroom** of the restaurant when he attempted to transfer to the **toilet**
5 and slipped in the process and in regaining his transfer position, suffered severe injury to his
6 upper extremities. On **May 18, 2004**, MOLSKI filed a Complaint in Federal Court against the
7 LONGHOUSE RESTAURANT alleging violations of the (1) ADA, (2) the California Disabled
8 Persons Act (DPA) [*Civil Code § 54, et seq.*] (3) *Health & Safety Code § 19955, et seq.*, (4)
9 the Unruh Civil Rights Act, *Civil Code § 51*, (5) Unfair Business Practices, *Business &*
10 *Professions Code § 17200, et seq.* In the Complaint, MOLSKI alleges an inaccessible
11 entrance due to heavy door pressure, inaccessible dining area, inaccessible restroom facilities,
12 lack of disabled parking spaces, and lack of signage for the disabled parking spaces. In the
13 Complaint, MOLSKI seeks an injunction, special and general damages, \$4,000.00 in daily
14 damages, punitive damages, and attorney's fees and costs. [See Complaint filed in that certain
15 action entitled *Molski v. Longhouse Restaurant*, Case Number 2004CV-0194217 attached
16 as Exhibit "42" to the Appendix of Exhibits, Volume 3.]

17 On **May 21, 2003**, *on the same day that MOLSKI visited the LONGHOUSE*
18 *RESTAURANT*, MOLSKI also visited the KING AND I THAI CUISINE Restaurant wherein
19 he claims that he had to take food to go because he could not get into the Restaurant
20 **[therefore no claim for personal injuries]**. On **May 18, 2004**, MOLSKI filed a Complaint
21 in Federal Court against the KING AND I THAI CUISINE Restaurant alleging violations of the
22 (1) ADA, (2) the California Disabled Persons Act (DPA) [*Civil Code § 54, et seq.*] (3) *Health*
23 *& Safety Code § 19955, et seq.*, (4) the Unruh Civil Rights Act, *Civil Code § 51*, (5) Unfair
24 Business Practices, *Business & Professions Code § 17200, et seq.* In the Complaint
25 MOLSKI alleges an inaccessible entrance due to heavy door pressure, inaccessible dining area,
26 inaccessible restroom facilities, lack of disabled parking spaces, and lack of signage for the
27 disabled parking spaces. In the Complaint, MOLSKI seeks an injunction, special and general
28 damages, \$4,000.00 in daily damages, punitive damages, and attorney's fees and costs. [See

1 Complaint filed in that certain action entitled *Molski v. King and I Investment Group*, Case
2 Number 2004CV-01943 attached as Exhibit "40" to the Appendix of Exhibits, Volume 2.]

3 On May 21, 2003, on the same day that **MOLSKI** visited the **LONGHOUSE**
4 **RESTAURANT and the KING AND I THAI CUISINE Restaurant**, MOLSKI also visited
5 CASA DE FRUTA store and coffee shop wherein he claims he was **injured in the bathroom**
6 of the coffee shop when he attempted to transfer to and from the **toilet** without the use of a
7 rear grab bar (apparently it was missing) and suffered severe injury to his upper extremities.
8 On May 20, 2004, MOLSKI filed a Complaint in Federal Court against the CASA DE FRUTA
9 store and coffee shop alleging violations of the (1) ADA, (2) the California Disabled Persons
10 Act (DPA) [*Civil Code § 54, et seq.*] (3) *Health & Safety Code § 19955, et seq.*, (4) the
11 Unruh Civil Rights Act, *Civil Code § 51*, (5) Unfair Business Practices, *Business &*
12 *Professions Code § 17200, et seq.* In the Complaint MOLSKI alleges an inaccessible
13 entrance, lack of handicapped counters, inaccessible restroom facilities, lack of accessible
14 sloped areas to the coffee shop, general store and other areas, lack of disabled parking spaces,
15 and lack of signage for the disabled parking spaces. In the Complaint, MOLSKI seeks an
16 injunction, special and general damages, \$4,000.00 in daily damages, punitive damages, and
17 attorney's fees and costs. [See Complaint filed in that certain action entitled *Molski v. Casa*
18 *De Fruta*, Case Number 2004CV-01981 attached as Exhibit "38" to the Appendix of Exhibits,
19 Volume 2.]

20 On May 21, 2003, on the same day that **MOLSKI** visited the **LONGHOUSE**
21 **RESTAURANT, the KING AND I THAI CUISINE Restaurant, and the CASA DE FRUTA**
22 **store and coffee shop**, MOLSKI also visited LA ROCHELLE WINERY wherein he claims he
23 was **injured in the bathroom** of the Winery when he attempted to use the **toilet** because he
24 became wedged in the bathroom stall and scraped and chaffed his hands
25 and suffered severe injury as a result thereof. On May 20, 2004, MOLSKI filed a Complaint
26 in Federal Court against LA ROCHELLE WINERY alleging violations of the (1) ADA, (2) the
27 California Disabled Persons Act (DPA) [*Civil Code § 54, et seq.*] (3) *Health & Safety Code*
28 *§ 19955, et seq.*, (4) the Unruh Civil Rights Act, *Civil Code § 51*, (5) Unfair Business

1 Practices, *Business & Professions Code § 17200, et seq.*. In the Complaint MOLSKI alleges
2 an inaccessible entrance, inaccessible counters, inaccessible restrooms, lack of disabled
3 parking spaces, and lack of signage for the disabled parking spaces. In the Complaint, MOLSKI
4 seeks an injunction, special and general damages, \$4,000.00 in daily damages, punitive
5 damages, and attorney's fees and costs. [See Complaint filed in that certain action entitled
6 *Molski v. La Rochelle Winery*, Case Number 2004CV-01985 attached as Exhibit "41" to the
7 Appendix of Exhibits, Volume 2.]

8 On **May 22, 2003**, MOLSKI visited the Pump N Go gas station where he claims he was
9 **injured in the bathroom** of the gas station when he attempted to transfer to the **toilet** but
10 slipped thereby injuring his upper extremities and causing severe bodily injury. On **May 11,**
11 **2004**, MOLSKI filed a Complaint in Federal Court against the Pump N Go gas station alleging
12 violations of the (1) ADA, (2) the California Disabled Persons Act (DPA) [*Civil Code § 54,*
13 *et seq.*] (3) *Health & Safety Code § 19955, et seq.*, (4) the Unruh Civil Rights Act, *Civil*
14 *Code § 51*, (5) Unfair Business Practices, *Business & Professions Code § 17200, et seq.*
15 In the Complaint MOLSKI alleges that Credit Card reader was too high, inaccessible entrance,
16 inaccessible counter, inaccessible restroom facilities, lack of disabled parking spaces, and lack
17 of signage for the disabled parking spaces. In the Complaint, MOLSKI seeks an injunction,
18 special and general damages, \$4,000.00 in daily damages, punitive damages, and attorney's fees
19 and costs. [See Complaint filed in that certain action entitled *Molski v. Pump N Go*, Case
20 Number 2004CV-01854 attached as Exhibit "43" to the Appendix of Exhibits, Volume 3.]

21 On **May 22, 2003**, ***on the same day that MOLSKI visited the Pump N Go gas station,***
22 he also visited THE COVE RESTAURANT where he claims he was **injured in the bathroom**
23 **[same as the PUMP N GO]** when he attempted to transfer to the **toilet** using only one grab bar
24 thereby injuring his upper extremities and causing severe bodily injury. On **May 12, 2004,**
25 MOLSKI filed a Complaint in Federal Court against THE COVE RESTAURANT alleging
26 violations of the (1) ADA, (2) the California Disabled Persons Act (DPA) [*Civil Code § 54,*
27 *et seq.*] (3) *Health & Safety Code § 19955, et seq.*, (4) the Unruh Civil Rights Act, *Civil*
28 *Code § 51*, (5) Unfair Business Practices, *Business & Professions Code § 17200, et seq.*

1 In the Complaint MOLSKI alleges an inaccessible entrance due to heavy door pressure,
2 inaccessible restroom facilities, lack of disabled parking spaces, and lack of signage for the
3 disabled parking spaces. In the Complaint, MOLSKI seeks an injunction, special and general
4 damages, \$4,000.00 in daily damages, punitive damages, and attorney's fees and costs. [See
5 Complaint filed in that certain action entitled *Molski v. The Cove Restaurant*, Case Number
6 2004CV-01880 attached as Exhibit "44" to the Appendix of Exhibits, Volume 3.]

7 On **May 22, 2003**, on the same day that MOLSKI visited the PUMP N GO gas station
8 and THE COVE RESTAURANT, he also visited the CASA MEDINA Restaurant wherein he
9 claims that he had to take food to go because he could not get into the Restaurant [therefore
10 no claim for personal injuries]. On **May 18, 2004**, MOLSKI filed a Complaint in Federal
11 Court against CASA MEDINA Restaurant alleging violations of the (1) ADA, (2) the California
12 Disabled Persons Act (DPA) [*Civil Code § 54, et seq.*] (3) *Health & Safety Code § 19955,*
13 *et seq.*, (4) the Unruh Civil Rights Act, *Civil Code § 51*, (5) Unfair Business Practices,
14 *Business & Professions Code § 17200, et seq.* In the Complaint MOLSKI alleges an
15 inaccessible entrance due to stairs, inaccessible restroom facilities, lack of directional signage
16 to show accessible routes of travel, i.e. entrances. In the Complaint, MOLSKI seeks an
17 injunction, special and general damages, \$4,000.00 in daily damages, punitive damages, and
18 attorney's fees and costs. [See Complaint filed in that certain action entitled *Molski v. Casa*
19 *Medina*, Case Number 2004CV-01947 attached as Exhibit "45" to the Appendix of Exhibits,
20 Volume 3.]

21 On **May 23, 2003**, MOLSKI visited the CLONINGER CELLARS winery where he
22 claims he was injured by the gravel parking lot because he immediately hit rocks and holes,
23 which turned and twisted not only his wheelchair but his body causing serious bodily injury.
24 On **May 11, 2004**, MOLSKI filed a Complaint in Federal Court against the CLONINGER
25 CELLARS winery alleging violations of the (1) ADA, (2) the California Disabled Persons Act
26 (DPA) [*Civil Code § 54, et seq.*] (3) *Health & Safety Code § 19955, et seq.*, (4) the Unruh
27 Civil Rights Act, *Civil Code § 51*, (5) Unfair Business Practices, *Business & Professions*
28 *Code § 17200, et seq.* In the Complaint MOLSKI alleges the lack of a smooth hard packed

1 parking lot, lack of disabled parking spaces, and lack of signage for the disabled parking spaces.
2 In the Complaint, MOLSKI seeks an injunction, special and general damages, \$4,000.00 in
3 daily damages, punitive damages, and attorney's fees and costs. [See Complaint filed in that
4 certain action entitled *Molski v. Cloninger Cellars*, Case Number 2004CV-01853 attached
5 as Exhibit "46" to the Appendix of Exhibits, Volume 3.]

6 On May 23, 2003, on the same day that MOLSKI visited the **CLONINGER CELLARS**
7 **winery**, he also visited the TORO PETROLEUM gas station where he claims he was injured
8 in the **bathroom of the gas station** when he attempted a solo/leap transfer to the **toilet**, but
9 due to the missing grab bars he severely injured his upper extremities. On May 18, 2004,
10 MOLSKI filed a Complaint in Federal Court against the TORO PETROLEUM gas station
11 alleging violations of the (1) ADA, (2) the California Disabled Persons Act (DPA) [*Civil Code*
12 *§ 54, et seq.*] (3) *Health & Safety Code § 19955, et seq.*, (4) the Unruh Civil Rights Act,
13 *Civil Code § 51*, (5) Unfair Business Practices, *Business & Professions Code § 17200, et*
14 *seq.* In the Complaint MOLSKI alleges a lack of tow-a-way signage, and inaccessible
15 restroom facilities. In the Complaint, MOLSKI seeks an injunction, special and general
16 damages, \$4,000.00 in daily damages, punitive damages, and attorney's fees and costs. [See
17 Complaint filed in that certain action entitled *Molski v. Toro Petroleum*, Case Number
18 2004CV-0191 attached as Exhibit "47" to the Appendix of Exhibits, Volume 3.]

19 On May 23, 2003, on the same day that MOLSKI visited the **CLONINGER CELLARS**
20 **winery and the TORO PETROLEUM gas station**, he also visited ROY'S DRIVE-IN
21 Restaurant where he claims he was injured in the **bathroom of the restaurant** when he
22 attempted to use the **toilet** without grabs bars and experienced trauma to his shoulders. On
23 May 20, 2004, MOLSKI filed a Complaint in Federal Court against ROY'S DRIVE-IN
24 Restaurant alleging violations of the (1) ADA, (2) the California Disabled Persons Act (DPA)
25 [*Civil Code § 54, et seq.*] (3) *Health & Safety Code § 19955, et seq.*, (4) the Unruh Civil
26 Rights Act, *Civil Code § 51*, (5) Unfair Business Practices, *Business & Professions Code §*
27 *17200, et seq.* In the Complaint, MOLSKI alleges as inaccessible entrance, lack of a curb cut
28 to the sidewalk leading to the service center, lack of an accessible curb cut leading to the

1 restrooms, inaccessible restroom facilities, lack of disabled parking spaces, and lack of
2 signage for the disabled parking spaces. In the Complaint, MOLSKI seeks an injunction,
3 special and general damages, \$4,000.00 in daily damages, punitive damages, and attorney's fees
4 and costs. [See Complaint filed in that certain action entitled *Molski v. Roy's Drive-In*, Case
5 Number 2004CV-01983 attached as Exhibit "48" to the Appendix of Exhibits, Volume 3.]

6 On **June 7, 2003**, MOLSKI visited the GEORIS WINERY where he claims he was
7 injured in the **bathroom of the winery** when he attempted to transfer to the **toilet** without the
8 use of grab bars which caused trauma and severe injury to his upper extremities. On **June 2,**
9 **2004**, MOLSKI filed a Complaint in Federal Court against the GEORIS WINERY alleging
10 violations of the (1) ADA, (2) the California Disabled Persons Act (DPA) [*Civil Code § 54,*
11 *et seq.*] (3) *Health & Safety Code § 19955, et seq.*, (4) the Unruh Civil Rights Act, *Civil*
12 *Code § 51*, (5) Unfair Business Practices, *Business & Professions Code § 17200, et seq.*
13 In the Complaint, MOLSKI alleges a lack of directional signage to show accessible routes of
14 travel, i.e. entrances, inaccessible entrance due to a makeshift ramp, inaccessible counters,
15 inaccessible restrooms, lack of disabled parking spaces, and lack of signage for the disabled
16 parking spaces. In the Complaint, MOLSKI seeks an injunction, special and general damages,
17 \$4,000.00 in daily damages, punitive damages, and attorney's fees and costs. [See Complaint
18 filed in that certain action entitled *Molski v. Georis Winery*, Case Number 2004CV-02118
19 attached as Exhibit "49" to the Appendix of Exhibits, Volume 3.]

20 On **June 7, 2003**, *on the same day that MOLSKI visited the GEORIS WINERY*, he
21 also visited the HELLER ESTATES Winery where he claims he was injured in the **bathroom**
22 **of the Winery** when he attempted to transfer to the **toilet** without the use of grab bars which
23 caused trauma and severe injury to plaintiff's upper extremities. On **June 2, 2004**, MOLSKI
24 filed a Complaint in Federal Court against HELLER ESTATES Winery alleging violations of
25 the (1) ADA, (2) the California Disabled Persons Act (DPA) [*Civil Code § 54, et seq.*] (3)
26 *Health & Safety Code § 19955, et seq.*, (4) the Unruh Civil Rights Act, *Civil Code § 51*, (5)
27 Unfair Business Practices, *Business & Professions Code § 17200, et seq.* In the Complaint,
28 MOLSKI alleges a lack of directional signage to show accessible routes of travel, i.e.

1 entrances, inaccessible entrance due to a makeshift ramp, inaccessible counters, inaccessible
2 restrooms, lack of disabled parking spaces, and lack of signage for the disabled parking spaces.
3 In the Complaint, MOLSKI seeks an injunction, special and general damages, \$4,000.00 in
4 daily damages, punitive damages, and attorney's fees and costs. [See Complaint filed in that
5 certain action entitled *Molski v. Heller Estates, Inc.*, Case Number 2004CV-02164 attached
6 as Exhibit "50" to the Appendix of Exhibits, Volume 3.]

7 On **June 8, 2004**, MOLSKI visited the COOPER-GARROD ESTATE VINEYARDS
8 Winery where he claims he was injured by the gravel parking lot because he immediately hit
9 rocks, ruts and holes, which rocked and jostled him in his wheelchair causing severe injury to
10 his upper extremities. On **June 7, 2004**, MOLSKI filed a Complaint in Federal Court against
11 the COOPER-GARROD ESTATE VINEYARDS Winery alleging violations of the (1) ADA,
12 (2) the California Disabled Persons Act (DPA) [*Civil Code § 54, et seq.*] (3) *Health & Safety*
13 *Code § 19955, et seq.*, (4) the Unruh Civil Rights Act, *Civil Code § 51*, (5) Unfair Business
14 Practices, *Business & Professions Code § 17200, et seq.*. In the Complaint, MOLSKI alleges
15 a lack of directional signage to show accessible routes of travel, i.e. entrances and parking
16 areas, inaccessible counters, inaccessible restrooms, lack of disabled parking spaces, lack of
17 signage for the disabled parking spaces, and lack of level, hard parked parking lot. In the
18 Complaint, MOLSKI seeks an injunction. special and general damages, \$4,000.00 in daily
19 damages, punitive damages, and attorney's fees and costs. [See Complaint filed in that certain
20 action entitled *Molski v. Cooper-Garrod Estate Vineyards*, Case Number 2004CV-02226
21 attached as Exhibit "51" to the Appendix of Exhibits, Volume 3.]

22 As the Court can clearly see, MOLSKI claims the same injuries to the same parts of his
23 body in every Complaint, and in almost all instances he claims to injure himself using the
24 toilet. In addition, by the dates listed in the Complaints as the date of injury, it is clear that
25 every place MOLSKI visits in a single day is a target and will most likely be sued as a
26 Defendant in Federal Court nearly one year after the claimed incident. This conduct on the part
27 of MOLSKI is outrageous and egregious. The Federal Courts are being used as the vehicle for
28 MOLSKI to earn a living to squeeze money from every unsuspecting restaurant owner, winery,

1 bank, gas station who receives an unfortunate visit from MOLSKI. This is nothing more than
2 legal extortion.

3 In the instant action, conditions should be imposed on MOLSKI before he is allowed
4 to file any subsequent action in federal court. MOLSKI has filed THREE-HUNDRED-
5 THIRTY-FOUR (334) lawsuits in the federal courts since 1998, with one suit filed in 1998,
6 seven (7) suits in 2001, twenty four (24) suits in 2002, one-hundred-twenty-six (126) suits in
7 2003, and an additional ONE-HUNDRED-SEVENTY-FIVE (175) from January 2, 2004
8 through September 14, 2004. [See Exhibit "A" attached to the Declaration of Robert H. Appert
9 filed concurrently herewith, and Appendix of Exhibits, Volume 1, Exhibit "1."] This conduct
10 evidences an abuse of the judicial system such that MOLSKI should be deemed a vexatious
11 litigant.

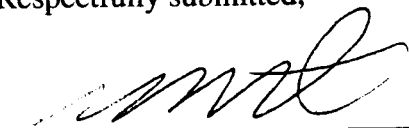
12 In this case, MANDARIN TOUCH has made an adequate showing for the Court to issue
13 the prefiling order. MANDARIN TOUCH has provided the Court with a listing of all cases,
14 including the case name, case number and date filed. Furthermore, MANDARIN TOUCH has
15 also detailed for the Court the THIRTY-ONE (31) cases out of TWO-HUNDRED-SEVENTY
16 SIX filed which have been decided adversely to MOLSKI. FIVE (5) out of the THIRTY-ONE
17 (31) cases were dismissed by the Court for lack of prosecution, and THREE (3) out of the
18 THIRTY-ONE (31) cases were dismissed by the Court for MOLSKI's violation of Court
19 Orders. [See Appendix of Exhibits, Volume 1, Exhibits "2" through "32" which are made a part
20 hereof by this reference.]

21 In the instant action, MOLSKI should be deemed a vexatious litigant subject to a pre-
22 filing order because he has filed THREE-HUNDRED-THIRTY-FOUR (334) lawsuits in the
23 federal courts since 1998, with one suit filed in 1998, seven (7) suits in 2001, twenty four
24 (24) suits in 2002, one-hundred-twenty-six (126) suits in 2003, and an additional ONE-
25 HUNDRED-SEVENTY FIVE (175) from January 2, 2004 through September 14, 2004. Based
26 on MOLSKI's history as a prolific litigant who consistently fails to meet deadlines [see
27 Appendix of Exhibits, Volume 1, Exhibits "2" through "32" which are made a part hereof by this
28 reference, detailing the suits dismissed by the Federal Court for lack of prosecution and for

1 the Court determines to be appropriate, and for sanctions in the sum of \$16,500.00 pursuant
2 to *Rule 11* against MOLSKI and his counsel, Thomas E. Frankovich, jointly and
3 severally.

4 DATED: October 19, 2004

5 Respectfully submitted,



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

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