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Attorney for Plaintiff, CHRIS LANGER,

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF SAN DIEGO

**G I N 0 2 3 6 2 6**

CHRIS LANGER,	)	Case No. :GIC792360
	)	
Plaintiff,	)	COMPLAINT FOR DAMAGES AND
	)	INJUNCTIVE RELIEF FOR VIOLATIONS
v.	)	OF: UNRUH CIVIL RIGHTS ACT;
	)	CALIFORNIA'S DISABLED PERSON ACT;
LOIS R. MADSEN, Trustee Under	)	NEGLIGENCE; CALIFORNIA'S UNFAIR
Declaration of Trust dated April	)	BUSINESS PRACTICE ACT.
1, 1987; O.B.J., INC., and DOES 1	)	
through 10, inclusive	)	DEMAND FOR JURY
	)	
Defendants.	)	
	)	
	)	

Plaintiff CHRIS LANGER, (hereinafter referred to as "Plaintiff") complains of LOIS R. MADSEN, Trustee Under Declaration of Trust dated April 1, 1987; O.B.J., INC., and DOES 1 through 10, inclusive, (hereinafter referred to as "Defendants") and alleges as follows:

**INTRODUCTION:**

1. This is a Civil Rights action for discrimination against persons with physical disabilities, of which Plaintiff is a member

failure to remove architectural barriers  
Defendants' place of business, located at  
3 6056 El Tordo, Rancho Santa Fe, California, a place of public  
4 accommodation; and for failure to modify practices and or policies  
5 in order to accommodate, thereby discriminatorily denying Plaintiff  
6 and the class of other similarly situated persons with physical  
7 disabilities access to, the full and equal enjoyment of, opportunity  
8 to participate in, and benefit from, the goods, facilities,  
9 services, and accommodations thereof.

10 2. Plaintiff seeks injunctive relief and damages for  
11 violations of civil rights and for damages flowing from such  
12 violations.

13 **PARTIES:**

14 3. Plaintiff is a California resident with physical  
15 disabilities who uses a wheelchair to travel about in public.

16 4. Defendants, LOIS R. MADSEN, Trustee Under Declaration of  
17 Trust dated April 1, 1987; O.B.J., INC., and DOES 1 through 10,  
18 inclusive (hereinafter alternatively referred to collectively as  
19 "Defendants"), are the owners and operators, lessors and/or lessees,  
20 or agents of the owners, lessors and/or lessees, and/or alter egos,  
21 franchisers and/or franchisees, of the building and/or buildings  
22 which constitute a public facility in and of itself, occupied by the  
23 above described defendants, and subject to the requirements of  
24 federal and state law requiring full and equal access to public  
25 accommodations and facilities.

26 5. Plaintiff does not know the true names of Defendants, their  
27 business capacities, their ownership connection to the property and  
28 business, or their relative responsibilities in causing the access

ed of, and alleges a joint venture and  
each Defendants. Plaintiff is informed and  
3 believes that each of the Defendants herein, including DOES I  
4 through 10, inclusive, is responsible in some capacity for the  
5 events herein alleged, or is a necessary party for obtaining  
6 appropriate relief. Plaintiff will seek leave to amend when the true  
7 names, capacities, connections, and responsibilities of the  
8 Defendants and DOES 1 through 10, inclusive, are ascertained.

9 **PRELIMINARY FACTUAL ALLEGATIONS:**

10 6. Defendants are or were at the time of the incident the  
11 owners and operators, lessors and lessees of the public facility,  
12 located at 6056 El Tordo, Rancho Santa Fe, California. The public  
13 accommodation, its path of travel, parking, restrooms and its other  
14 facilities are each a "public accommodation or facility" subject to  
15 the requirements of state and federal law. On information and  
16 belief, each such facility has, since July 1, 1970, undergone  
17 "alterations, structural repairs and additions," each of which has  
18 subjected the public accommodations, and each of their facilities to  
19 handicapped access requirements per the Americans with Disabilities  
20 Act Access Guidelines (ADAAG) and Title 24 of California's Code of  
21 Regulations.

22 7. On at least once occasion within the statutory period  
23 preceding the filing of this complaint, Plaintiff was an invitee and  
24 customer at the subject public accommodation.

25 8. During Plaintiff's visit, the subject public accommodation  
26 exhibited various violations of the Americans with Disabilities Act  
27 Accessibility Guidelines ("ADAAG") and Title 24 of the California  
28 Code of Regulations including but not limited to: there was a lack

3 | dled parking; a lack of van accessible  
4 | ing; inaccessible public restroom  
5 | facilities; and inaccessible public paths of travel.

6 | 9. On information and belief, other portions of the facility  
7 | were improperly inaccessible for use by persons with physical  
8 | disabilities.

9 | 10. On information and belief, the facilities continue to the  
10 | date of filing this complaint to deny equal access to Plaintiff and  
11 | other persons with physical disabilities.

12 | 11. As a result of the inaccessible facilities, Plaintiff was  
13 | humiliated, embarrassed and frustrated, suffering emotional  
14 | injuries. Moreover, as a result of the inaccessible facilities,  
15 | Plaintiff, suffered bodily and physical injury.

16 | 12. Defendants knew their facilities were inaccessible and  
17 | continued to maintain these facilities in an inaccessible condition  
18 | and in doing so, knowingly continued to violate and interfere with  
19 | the rights of disabled persons including Plaintiff. Such conduct by  
20 | defendants is despicable, and was carried on by defendant with a  
21 | willful and conscious disregard for the rights of disabled persons,  
22 | including Plaintiff.

23 | 13. Plaintiff would like to return and use the Defendants'  
24 | public accommodations but because of Defendants' violations,  
25 | Plaintiff and other persons with physical disabilities are unable to  
26 | use public facilities such as those owned and operated by Defendants  
27 | on a "full and equal" basis unless such facility is in compliance  
28 | with the provisions of the Americans with Disabilities Act  
Accessibility Guidelines and state accessibility law as pled herein.  
Plaintiff has, therefore, been deterred from returning and using the

dations.

formed and believes and therefore alleges  
3 that Defendants and each of them (1) caused the subject improved  
4 real properties which constitute the subject public accommodation to  
5 be constructed, altered and maintained in such a manner that persons  
6 with physical disabilities were denied full and equal access to,  
7 within and throughout said improved real property(s); (2) that the  
8 Defendants have had actual and constructive notice that the  
9 facilities were not legally accessible to persons with disabilities;  
10 (3) that despite being informed of such effect on Plaintiff and  
11 other persons with physical disabilities due to the lack of  
12 accessible facilities, Defendants, and each of them, knowingly and  
13 willfully refused to take any steps to rectify the situation and to  
14 provide full and equal access for Plaintiff and other persons with  
15 physical disabilities to the subject public accommodation. Said  
16 defendants, and each of them, have continued such practices, in  
17 conscious disregard for the rights and safety of Plaintiff and other  
18 persons with physical disabilities. Said conduct, with knowledge of  
19 the effect it was and is having on Plaintiff and other persons with  
20 physical disabilities, constitutes despicable conduct in conscious  
21 disregard of the rights and safety of Plaintiff and of other  
22 similarly situated persons, justifying the imposition of punitive  
23 and exemplary damages per Civil Code section 3294.

24 **I. FIRST CAUSE OF ACTION: VIOLATION OF THE UNRUH CIVIL RIGHTS ACT**  
25 (On behalf of Plaintiff and Against All Defendants) (Cal Civ §  
26 51 et seq.)

27 15. Plaintiff repleads and incorporates by reference, as if  
28 fully set forth again herein, the allegations contained in all prior  
paragraphs of this complaint.

3 Civil Code § 52 provides that a party that  
4 plaintiff in violation of Civ. Code § 51  
5 shall be liable for actual damages, up to three times actual damages  
6 but not less than \$4000 for each such offense, and any attorney's  
7 fees incurred by the plaintiff.

8 **Count One:**

9 17. The Defendants have not ensured that their facilities  
10 comply with Title 24 of the California Code of Regulations, the  
11 California Building Code as it applies to physical access for  
12 persons with disabilities and failed to ensure that disabled persons  
13 have "full and equal accommodations, advantages, facilities,  
14 privileges, or services" to the facilities identified above.

15 **Count Two:**

16 18. The Defendants have not complied with the Americans with  
17 Disabilities Act of 1990.

18 **II. SECOND CAUSE OF ACTION: VIOLATION OF CALIFORNIA'S DISABLED  
19 PERSONS ACT, (On Behalf of Plaintiff and Against All  
20 Defendants) (California Civil Code § 54 et seq.)**

21 19. Plaintiff repleads and incorporates by reference as if  
22 fully set forth again herein, the allegations contained in all prior  
23 paragraphs of this complaint and incorporates them herein as if  
24 separately repled.

25 20. California Civil Code §55 provides that a person aggrieved  
26 under §54 of the Civil Code may bring an action to enjoin such  
27 violation and shall be entitled to recover reasonable attorney's  
28 fees.

29 **Count One:**

30 21. The Defendants have not ensured that their facilities

the California Code of Regulations, the  
as it applies to physical access for  
3 persons with disabilities and have failed to ensure that disabled  
4 persons have full and equal access to public accommodations and/or  
5 other places that the general public is invited and that disabled  
6 persons enjoy the same accommodations, advantages, facilities, and  
7 privileges to the facilities identified above.

8 **Count Two:**

9       22. The Defendants have not complied with the Americans with  
10 Disabilities Act of 1990.

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

13 **III. THIRD CAUSE OF ACTION: NEGLIGENCE**

14 (On behalf of the Plaintiff and Against All Defendants)

15       24. Plaintiff repleads and incorporates by reference, as if  
16 fully set forth again herein, the allegations contained in all prior  
17 paragraphs of this complaint.

18       25. Defendants had a duty to exercise ordinary care, i.e.,  
19 comply with the various accessibility laws and ensure that their  
20 property was safely configured.

21       26. Defendants failed to exercise ordinary care in that they  
22 failed to ensure that their facilities complied with the  
23 accessibility guidelines or that their facilities were configured to  
24 promote safe and effective use by persons with wheelchairs.

25       27. As the actual and proximate result of Defendants' failure  
26 to exercise ordinary care, Plaintiff suffered damages in an amount  
27 to be determined by proof.  
28

ff prays for relief and damages and

3 **IV. FOURTH CAUSE OF ACTION: VIOLATION OF CALIFORNIA'S UNFAIR**  
4 **BUSINESS PRACTICES ACT (On behalf of the Public and Against All**  
5 **Defendants) (Cal. Bus. & Prof. § 17200 et seq.)**

6 29. Plaintiff repleads and incorporates by reference, as if  
7 fully set forth again herein, the allegations contained in all prior  
8 paragraphs of this complaint.

9 30. In addition to the access violations described above,  
10 Defendants' facilities are in violation of California and Federal  
11 law in that they do not provide required access for disabled  
12 persons.

13 31. Defendants' acts and omissions alleged herein are a  
14 violation of both statutory requirements and public policy and,  
15 therefore, constitute a violation of Business and Professions Code  
16 sections 17200 et seq.

17 32. Plaintiff, on behalf of himself/herself and the general  
18 public, seeks injunctive relief requiring Defendants to remedy the  
19 disability access violations present at their facilities.

20 33. Wherefore, Plaintiff prays for relief and damages and  
21 relief as hereinafter stated.

22 **PRAYER:**

23 Wherefore, Plaintiff prays that this court award damages and  
24 provide relief as follows:

25 1. For injunctive relief, compelling Defendants to comply with  
26 the Unruh Civil Rights Act, and California's Disabled Person Act,  
27 which order will include the removal of barriers and the  
28 implementation of reasonable modifications in policies, practice,



1 procedures so as to afford full access to  
2 facilities, privileges, advantages and  
3 accommodations being offered.


4 2. General, Special and Penalty damages in an amount to be  
5 determined by proof;

6 3. Reasonable attorneys' fees, litigation expenses and costs of  
7 suit, pursuant to Cal. Civ. Code §§ 52,55, and Cal. Civ. Proc. §  
8 1021.5;

9 4. For Punitive Damages pursuant to Cal. Civ. Code Section  
10 3294(c)(1);

11 5. For such other and further relief as the court may deem  
12 proper.


13 Dated: May 20, 2002 CENTER FOR DISABILITY ACCESS, LLP

14  
15 By:   
16 MARK D. POTTER  
17 RUSSELL C. HANDY  
18 JAMES R. BOYD  
Attorneys for Plaintiff

19 DEMAND FOR JURY TRIAL ✓

20 Plaintiff hereby demands a jury for all claims for which a jury  
21 is permitted.

22  
23 Dated: May 20, 2002 CENTER FOR DISABILITY ACCESS, LLP

24  
25 By:   
26 MARK D. POTTER  
27 RUSSELL C. HANDY  
28 JAMES R. BOYD  
Attorneys for Plaintiff