

ORIGINAL

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*Issued Summons
of 1st Amended
Complaint*

**ENTERED ON ICMS
FEB 17 2003
CV**

2003 FEB 10 PM 12:10
CLERK OF DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

FILED

Attorney for Plaintiff, C. HUGH MARSH

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

C. HUGH MARSH,

Plaintiff,

v.

**EARL C. PETERSEN and DOLORES
PETERSEN, Individually and as Co-
Trustees of the PETERSEN LIVING
TRUST LTD, September 30, 1994, dba
GREENHOUSE CAFE; ROYCE R.
LEWELLEN as Trustee of the
LEWELLEN LIVING TRUST dated
October 7, 1982; and DOES ONE TO
TEN, inclusive,**

Defendants.

) **Case No. CV-03-780 JES VBKx**
)
) **Civil Rights** JSL
) **FIRST AMENDED**
) **COMPLAINT FOR INJUNCTIVE**
) **RELIEF AND DAMAGES: DENIAL**
) **OF CIVIL RIGHTS OF A DISABLED**
) **PERSON IN VIOLATION OF THE**
) **AMERICANS WITH DISABILITIES**
) **ACT OF 1990; VIOLATION OF**
) **CALIFORNIA'S CIVIL RIGHTS**
) **STATUTES**
) **JURY TRIAL REQUESTED**

Plaintiff **C. HUGH MARSH** complains of defendants **EARL C. PETERSEN and
DOLORES PETERSEN, Individually and as Co-Trustees of the PETERSEN
LIVING TRUST LTD, September 30, 1994, dba GREENHOUSE CAFE; ROYCE R.
LEWELLEN as Trustee of the LEWELLEN LIVING TRUST dated October 7, 1982;
and DOES ONE TO TEN, inclusive,** and alleges as follows:

(Handwritten mark)

1
2 **JURISDICTION AND VENUE**
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4 1. The Court has jurisdiction of this action pursuant to 28 *USC* § 1331 for
5 violations of the *Americans with Disabilities Act of 1990*, (42 *USC* § 12101, *et seq.*)
6 Pursuant to pendant jurisdiction, attendant and related causes of action, arising from the
7 same facts, are also brought under California law, including but not limited to violations of
8 *California Health & Safety Code* § 19955, *et seq.*, including *California Code of*
9 *Regulations*, Title 24, § 19959, *California Civil Code* §§ 51, 51.5, 52(a), 52.1, 54, 54.1,
10 54.3 and 55.
11
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13 2. Venue is proper in this court pursuant to 28 *USC* § 1391(b) and is founded on
14 the fact that the real property which is the subject of this action is located in this district, at
15 Solvang, California, and that Plaintiff's causes of action arose in this district.
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18 **INTRODUCTION**
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20 3. **GREENHOUSE CAFE** is located at 487 Atterdaag Road, Solvang,
21 California. Said restaurant is owned and operated by defendants **EARL C. PETERSEN**
22 **and DOLORES PETERSEN, Individually and as Co-Trustees of the PETERSEN**
23 **LIVING TRUST LTD, September 30, 1994, ROYCE R. LEWELLEN as Trustee of**
24 **the LEWELLEN LIVING TRUST dated October 7, 1982; and DOES ONE TO TEN,**
25 **inclusive.**
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27

28 Defendants **EARL C. PETERSEN and DOLORES PETERSEN, Individually**

1 profound example of Defendants and discourage owners, operators, franchisers and
2 franchisees of other public facilities from willful disregard of the rights of persons with
3 physical disabilities. Plaintiff does not know the financial worth of Defendants, or the
4 amount of punitive damages sufficient to accomplish the public purposes of *California*
5 *Civil Code* § 3294 and seeks leave to amend this Complaint when such facts are known.
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8 48. As a result of the actions and failure of Defendants, and each of them, and as
9 a result of the failure to provide proper accessible public facilities, Plaintiff **C. HUGH**
10 **MARSH** was denied his civil rights, including his right to full and equal access to public
11 facilities, was embarrassed and humiliated, suffered physical, psychological and mental
12 injuries and emotional distress, mental distress, mental suffering, mental anguish, which
13 includes shame, humiliation, embarrassment, anger, chagrin, disappointment and worry,
14 expectedly and naturally associated with a person with a physical disability being denied
15 access to a public accommodation.
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18 WHEREFORE, Plaintiff prays for damages as hereinafter stated.
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20 **III. THIRD CAUSE OF ACTION**
21 **VIOLATION OF CALIFORNIA'S CIVIL RIGHTS ACTS**
22 **(California Civil Code §§ 54, 54.1 and 54.3)**

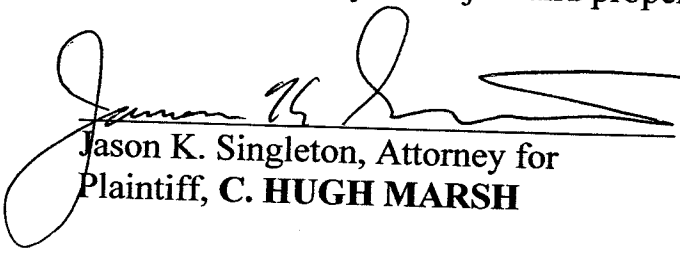
23 49. Plaintiff repleads and incorporates by reference as if fully set forth again
24 herein, the allegations contained in paragraphs 1 through 48 of this Complaint and
25 incorporates them herein as if separately repled.
26

27 50. The public facilities above-described constitute public facilities and public
28 accommodations within the meaning of *California Health & Safety Code* § 19955 *et seq.*

1 recoverable pursuant to the provisions of *California Civil Code* §§ 52, 54.3, and 55,
2 *California Code of Civil Procedure* § 1021.5, and *Americans with Disabilities Act of*
3 *1990* §308 of Title III; and
4

5 8. Grant such other and further relief as the court may deem just and proper.
6

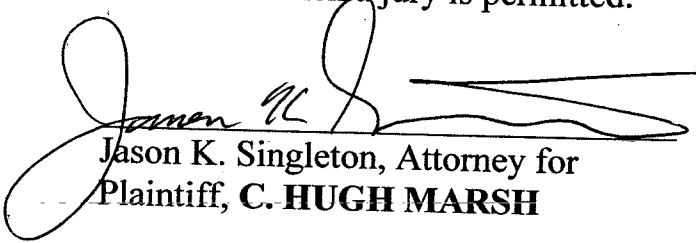
7 Dated: February 7, 2003


Jason K. Singleton, Attorney for
Plaintiff, **C. HUGH MARSH**

12 **REQUEST FOR JURY TRIAL**

13 Plaintiffs hereby request a jury for all claims for which a jury is permitted.
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15 Dated: February 7, 2003


Jason K. Singleton, Attorney for
Plaintiff, **C. HUGH MARSH**

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