

ORIGINAL

1 **JASON K. SINGLETON, State Bar # 166170**
2 **LAW OFFICES OF JASON K. SINGLETON**
3 **611 "L" Street, Suite "A"**
4 **Eureka, CA 95501**
5 **(707) 441-1177**
6 **FAX: 441-1533**

7 **Attorney for Plaintiff, FRED WILKIE**

FILED
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CLERK U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIF.
LOS ANGELES
BY [Signature]

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

10 **FRED WILKIE,**

11 **Plaintiff,**

12 **v.**

13 **G. BRUCE SHOMLER, SANDRA**
14 **SHOMLER dba SYCAMORE FARMS;**
15 **and DOES ONE TO TEN, inclusive,**

16 **Defendants.**

) **Case No. 03 - 873 ABC (MANx)**
)
) **Civil Rights**
) **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**

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20 **Plaintiff FRED WILKIE complains of defendants G. BRUCE SHOMLER;**
21 **SANDRA SHOMLER, dba SYCAMORE FARMS; and DOES ONE TO TEN,**
22 **inclusive, and alleges as follows:**

23
24 **JURISDICTION AND VENUE**

25
26 1. The Court has jurisdiction of this action pursuant to 28 *USC* § 1331 for
27 violations of the *Americans with Disabilities Act of 1990*, (42 *USC* § 12101, *et seq.*)

28 Pursuant to pendant jurisdiction, attendant and related causes of action, arising from the

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1 same facts, are also brought under California law, including but not limited to violations
2 of *California Health & Safety Code* § 19955, *et seq.*, including *California Code of*
3 *Regulations*, Title 24, § 19959, *California Civil Code* §§ 51, 51.5, 52(a), 52.1, 54, 54.1,
4 54.3 and 55.

6
7 2. Venue is proper in this court pursuant to 28 *USC* § 1391(b) and is founded
8 on the fact that the real property which is the subject of this action is located in this
9 district, at Paso Robles, California, and that Plaintiff's causes of action arose in this
10 district.

11 INTRODUCTION

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13 3. **SYCAMORE FARMS** is located at Route 1, box 49A, Highway 46 West,
14 Paso Robles, California. Said shopping facility is owned and operated by defendants **G.**
15 **BRUCE SHOMLER; SANDRA SHOMLER, dba SYCAMORE FARMS; and**
16 **DOES ONE TO TEN, inclusive.**

17
18 Defendants **G. BRUCE SHOMLER; SANDRA SHOMLER, dba SYCAMORE**
19 **FARMS; and DOES ONE TO TEN, inclusive**, operate an establishment for services to
20 the public and at which Defendants failed to provide barrier free access to said
21 establishment in conformity with both Federal and California legal requirements.

22
23 Further, Defendants failed to provide compliance as follows:

24 **A. Parking**

25
26 1. Tow-away Sign. A tow-away sign is not provided at each entrance to
27 the parking lot or adjacent to the accessible spaces in violation of
28

1 malicious intent toward those members of the public, such as Plaintiff and other persons
2 with physical disabilities who have been denied the proper access they are entitled to by
3 law. Further, Defendants' refusals on a day-to-day basis to correct these problems
4 evidence despicable conduct in conscious disregard for the rights of Plaintiff and other
5 members of the public with physical disabilities.
6

7
8 47. Plaintiff prays for an award of punitive damages against Defendants, and
9 each of them, pursuant to *California Civil Code* § 3294 in an amount sufficient to make a
10 more profound example of Defendants and discourage owners, operators, franchisers and
11 franchisees of other public facilities from willful disregard of the rights of persons with
12 physical disabilities. Plaintiff does not know the financial worth of Defendants, or the
13 amount of punitive damages sufficient to accomplish the public purposes of *California*
14 *Civil Code* § 3294 and seeks leave to amend this Complaint when such facts are known.
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16

17 48. As a result of the actions and failure of Defendants, and each of them, and as
18 a result of the failure to provide proper accessible public facilities, Plaintiff **FRED**
19 **WILKIE** was denied his civil rights, including his right to full and equal access to public
20 facilities, was embarrassed and humiliated, suffered physical, psychological and mental
21 injuries and emotional distress, mental distress, mental suffering, mental anguish, which
22 includes shame, humiliation, embarrassment, anger, chagrin, disappointment and worry,
23 expectedly and naturally associated with a person with a physical disability being denied
24 access to a public accommodation.
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28 WHEREFORE, Plaintiff prays for damages as hereinafter stated.

1 these damages be trebled;

2 4. Prejudgment interest on all compensatory damages;

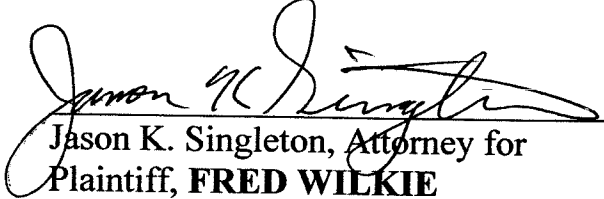
3
4 5. Punitive and exemplary damages pursuant to the standards and purposes of
5 *California Civil Code* § 3294;

6
7 6. Remedies and Procedures available under *Americans with Disabilities Act*
8 *of 1990* §§ 107, 203 and 308;

9
10 7. Award Plaintiff all litigation expenses, all costs of this proceeding and all
11 reasonable attorneys' fees as provided by law, including but not limited to those
12 recoverable pursuant to the provisions of *California Civil Code* §§ 52, 54.3, and 55,
13 *California Code of Civil Procedure* § 1021.5, and *Americans with Disabilities Act of*
14 *1990* §308 of Title III; and

15
16 8. Grant such other and further relief as the court may deem just and proper.

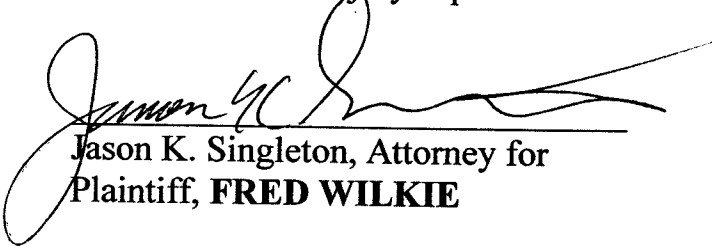
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18 Dated: January 29, 2003


Jason K. Singleton, Attorney for
Plaintiff, **FRED WILKIE**

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21 **REQUEST FOR JURY TRIAL**

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23 Plaintiff hereby requests a jury for all claims for which a jury is permitted.

24
25 Dated: January 29, 2003


Jason K. Singleton, Attorney for
Plaintiff, **FRED WILKIE**