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3:04-CV-01436 PINNOCK V. HIGHLAND CENTER

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BY:

U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
[Signature]
DEPUTY

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

MANTIC ASHANTI'S CAUSE, SUING
ON BEHALF OF THEODORE A.
PINNOCK AND ITS MEMBERS; and
THEODORE A. PINNOCK, An
Individual,

Plaintiffs,

v.

HIGHLAND CENTER; CARQUEST
AUTO PARTS a.k.a. AUTO PARTS
EXPRESS; TOTAL AUTOMOTIVE,
INC. d.b.a. CARQUEST AUTO
PARTS a.k.a. AUTO PARTS
EXPRESS; PLAZA NAILS; HANG
ANNIE TRINH NGUYEN d.b.a.
PLAZA NAILS; CONTINENTAL
CLEANERS & LAUNDRY; TOM'S
BARBER SHOP; AI TRAN d.b.a.
TOM'S BARBER SHOP; J & M
JEWELRY a.k.a. MIGUEL'S
JEWELRY; 99 CENTS ONLY STORES
a.k.a. 99 CENTS ONLY #101; 99
CENTS ONLY STORES, INC.
d.b.a. 99 CENTS ONLY STORES
a.k.a. 99 CENTS ONLY #101;
ERNEST E. PETERSON, TRUSTEE;
ERNEST E. PETERSON; And DOES
1 THROUGH 10, Inclusive

Defendants.

Case No. '04 CV 1436

WQH (NLS)

CIVIL COMPLAINT:
DISCRIMINATORY PRACTICES IN
PUBLIC ACCOMMODATIONS
[42 U.S.C. 12182(a) ET. SEQ;
CIVIL CODE 51, 52, 54, 54.1]

NEGLIGENCE
[CIVIL CODE 1714(a), 2338,
3333; EVIDENCE CODE 669(a)]

DEMAND FOR JURY TRIAL
[F.R.Civ.P. rule 38(b);
Civ.L.R. 38.1]

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INTRODUCTION

1
2 Plaintiffs MANTIC ASHANTI'S CAUSE SUING ON BEHALF OF THEODORE
3 A. PINNOCK AND ITS MEMBERS and THEODORE A. PINNOCK, An Individual,
4 herein complain, by filing this Civil Complaint in accordance with
5 rule 8 of the Federal Rules of Civil Procedure in the Judicial
6 District of the United States District Court of the Southern
7 District of California, that Defendants have in the past, and
8 presently are, engaging in discriminatory practices against
9 individuals with disabilities, specifically including minorities
10 with disabilities. Plaintiffs allege this civil action and others
11 substantial similar thereto are necessary to compel access
12 compliance because empirical research on the effectiveness of
13 Title III of the Americans with Disabilities Act indicates this
14 Title has failed to achieve full and equal access simply by the
15 executive branch of the Federal Government funding and promoting
16 voluntary compliance efforts. Further, empirical research shows
17 when individuals with disabilities give actual notice of potential
18 access problems to places of public accommodation without a
19 federal civil rights action, the public accommodations do not
20 remove the access barriers. Therefore, Plaintiffs make the
21 following allegations in this federal civil rights action:

JURISDICTION AND VENUE

22
23 1. The federal jurisdiction of this action is based on the
24 Americans with Disabilities Act, 42 United States Code 12101-
25 12102, 12181-12183 and 12201, et seq. Venue in the Judicial
26 District of the United States District Court of the Southern
27 District of California is in accordance with 28 U.S.C. § 1391(b)
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1 because a substantial part of Plaintiffs' claims arose within the
2 Judicial District of the United States District Court of the
3 Southern District of California.

4 **SUPPLEMENTAL JURISDICTION**

5 2. The Judicial District of the United States District Court of
6 the Southern District of California has supplemental jurisdiction
7 over the state claims as alleged in this Complaint pursuant to 28
8 U.S.C. § 1367(a). The reason supplemental jurisdiction is proper
9 in this action is because all the causes of action or claims
10 derived from federal law and those arising under state law, as
11 herein alleged, arose from common nucleus of operative facts. The
12 common nucleus of operative facts, include, but are not limited
13 to, the incidents where Plaintiff's Member Theodore A. Pinnock was
14 denied full and equal access to Defendants' facilities, goods,
15 and/or services in violation of both federal and state laws when
16 they attempted to enter, use, and/or exit Defendants' facilities
17 as described below within this Complaint. Further, due to this
18 denial of full and equal access, Theodore A. Pinnock and other
19 persons with disabilities were injured. Based upon the said
20 allegations, the state actions, as stated herein, are so related
21 to the federal actions that they form part of the same case or
22 controversy and the actions would ordinarily be expected to be
23 tried in one judicial proceeding.

24 **NAMED DEFENDANTS AND NAMED PLAINTIFFS**

25 3. Defendants are, and, at all times mentioned herein, were, a
26 business or corporation or franchise organized and existing and/or
27 doing business under the laws of the State of California.
28

1 Defendant HIGHLAND CENTER is a shopping center located at 1310-16
2 Highland Avenue, National City, California 91950 and 1320 Highland
3 Avenue, National City, California 91950. Plaintiffs are informed
4 and believe and thereon allege that Defendant ERNEST E. PETERSON,
5 TRUSTEE is the owner, operator, and/or lessor of the property
6 located at 1310-16 Highland Avenue, National City, California
7 91950, Assessor Parcel Number 560-050-04, and 1320 Highland
8 Avenue, National City, California 91950, Assessor Parcel Number
9 560-050-10. Defendant ERNEST E. PETERSON is located at 13722
10 Liggett Drive, San Diego, California 92106. Defendant CARQUEST
11 AUTO PARTS a.k.a. AUTO PARTS EXPRESS is located at 1300 Highland
12 Avenue, National City, California, 91950, within the shopping
13 center known as HIGHLAND CENTER. Plaintiffs are informed and
14 believe and thereon allege that Defendant TOTAL AUTOMOTIVE, INC.
15 is the owner, operator, and/or doing business as CARQUEST AUTO
16 PARTS a.k.a. AUTO PARTS EXPRESS. Defendant TOTAL AUTOMOTIVE, INC.
17 is located at 12764 Poway Road, Poway, California, 92064.
18 Defendant PLAZA NAILS is located at 1310 Highland Avenue, National
19 City, California, 91950, within the shopping center known as
20 HIGHLAND CENTER. Plaintiffs are informed and believe and thereon
21 allege that Defendant HANG ANNIE TRINH NGUYEN is the owner,
22 operator, and/or doing business as PLAZA NAILS. Defendant HANG
23 ANNIE TRINH NGUYEN is located at 5425 Faulconer Street, San Diego,
24 California, 92105. Defendant CONTINENTAL CLEANERS & LAUNDRY is
25 located at 1312 Highland Avenue, National City, California, 91950,
26 within the shopping center known as HIGHLAND CENTER. Defendant
27 TOM'S BARBER SHOP is located at 1314 Highland Avenue, National
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1 City, California, 91950, within the shopping center known as
2 HIGHLAND CENTER. Plaintiffs are informed and believe and thereon
3 allege that Defendant AI TRAN is the owner, operator, and/or doing
4 business as TOM'S BARBER SHOP. Defendant J & M JEWELRY a.k.a.
5 MIGUEL'S JEWELRY is located at 1316 Highland Avenue, National
6 City, California, 91950, within the shopping center known as
7 HIGHLAND CENTER. Defendant 99 CENTS ONLY STORES a.k.a. 99 CENTS
8 ONLY #101 is located at 1320 Highland Avenue, National City,
9 California, 91950, within the shopping center known as HIGHLAND
10 CENTER. Plaintiffs are informed and believe and thereon allege
11 that Defendant 99 CENTS ONLY STORES, INC. is the owner, operator,
12 and/or doing business as 99 CENTS ONLY STORES a.k.a. 99 CENTS ONLY
13 #101. Defendant 99 CENTS ONLY STORES, INC. is located at 4000
14 Union Pacific Avenue, Commerce, California, 90023. The words
15 "Plaintiffs" and "Plaintiff's Member" as used herein specifically
16 include the organization MANTIC ASHANTI'S CAUSE, its Members, its
17 member Theodore A. Pinnock and persons associated with its Members
18 who accompanied Members to Defendants' facilities, as well as
19 THEODORE A. PINNOCK, An Individual.

20 4. Defendants Does 1 through 10, were at all times relevant
21 herein subsidiaries, employers, employees, agents, of HIGHLAND
22 CENTER; CARQUEST AUTO PARTS a.k.a. AUTO PARTS EXPRESS; TOTAL
23 AUTOMOTIVE, INC. d.b.a. CARQUEST AUTO PARTS a.k.a. AUTO PARTS
24 EXPRESS; PLAZA NAILS; HANG ANNIE TRINH NGUYEN d.b.a. PLAZA NAILS;
25 CONTINENTAL CLEANERS & LAUNDRY; TOM'S BARBER SHOP; AI TRAN d.b.a.
26 TOM'S BARBER SHOP; J & M JEWELRY a.k.a. MIGUEL'S JEWELRY; 99 CENTS
27 ONLY STORES a.k.a. 99 CENTS ONLY #101; 99 CENTS ONLY STORES, INC.
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1 d.b.a. 99 CENTS ONLY STORES a.k.a. 99 CENTS ONLY #101; ERNEST E.
2 PETERSON, TRUSTEE; and ERNEST E. PETERSON. Plaintiffs are
3 ignorant of the true names and capacities of Defendants sued
4 herein as Does 1 through 10, inclusive, and therefore sues these
5 Defendants by such fictitious names. Plaintiffs will pray leave
6 of the court to amend this complaint to allege the true names and
7 capacities of the Does when ascertained.

8 5. Plaintiffs are informed and believe, and thereon allege, that
9 Defendants and each of them herein were, at all times relevant to
10 the action, the owner, lessor, lessee, franchiser, franchisee,
11 general partner, limited partner, agent, employee, representing
12 partner, or joint venturer of the remaining Defendants and were
13 acting within the course and scope of that relationship.

14 Plaintiffs are further informed and believe, and thereon allege,
15 that each of the Defendants herein gave consent to, ratified,
16 and/or authorized the acts alleged herein to each of the remaining
17 Defendants.

18 **CONCISE SET OF FACTS**

19 6. Plaintiff MANTIC ASHANTI'S CAUSE is an organization that
20 advocates on the behalf of its members with disabilities when
21 their civil rights and liberties have been violated. Plaintiff's
22 member THEODORE A. PINNOCK is a member of Plaintiff Organization
23 and has an impairment in that he has Cerebral Palsy and due to
24 this impairment he has learned to successfully operate a
25 wheelchair.

26 7. On June 1, 2004, Plaintiff's member THEODORE A. PINNOCK went
27 to Defendants' HIGHLAND CENTER facilities to utilize their goods
28

1 and/or services. When Plaintiff's member patronized Defendants'
2 HIGHLAND CENTER facilities, he was unable to use and/or had
3 difficulty using the common area facilities such as the disabled
4 parking, access ramps, and exterior path of travel at the
5 Defendants' HIGHLAND CENTER establishment because they failed to
6 comply with ADA Access Guidelines For Buildings and Facilities
7 (hereafter referred to as "ADAAG") and/or California's Title 24
8 Building Code Requirements. Defendants failed to remove access
9 barriers within the disabled parking, access ramps, exterior path
10 of travel, and public pay telephone facilities of Defendants'
11 HIGHLAND CENTER establishment.

12 8. Plaintiff's Member personally experienced difficulty with
13 said access barriers in the common areas of the shopping center,
14 known as HIGHLAND CENTER. For example, the parking is
15 inaccessible, as there are five (5) entrances to the parking
16 facilities, two (2) of which fail to have the required disability
17 signage informing patrons they may be fined or their vehicle may
18 be towed if they unlawfully park in a disabled parking space. Two
19 (2) of the other entryways have signage, however they are worn out
20 and are therefore not compliant. The parking facility is
21 comprised of two hundred and sixty (260) parking spaces, seven (7)
22 of which are designated as disabled parking spaces. Two (2) of
23 the seven (7) disabled parking spaces (located between 99 CENTS
24 ONLY STORES a.k.a. 99 CENTS ONLY #101 and PLAZA NAILS) are
25 "regular" disabled parking spaces with signage that is located in
26 the path of travel and at a height of only 54". It is required
27 that if the sign is located in the path of travel, the bottom of
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1 the sign must be a minimum of eighty inches (80") high and a
2 minimum of thirty-six inches (36") when it is mounted on the wall.
3 The four (4) disabled spaces located adjacent to 99 CENTS ONLY
4 STORES a.k.a. 99 CENTS ONLY #101 are "van accessible" disabled
5 parking spaces with the impermissible encroachment of a ramp into
6 the access aisle and also fails to have the required signage. It
7 is required that disabled parking access aisles do not have any
8 encroachments. It is also required that all disabled parking
9 spaces have the proper signage. The disabled parking spaces fail
10 to meet the requirement that they are dispersed evenly throughout
11 shopping center.

12 9. The access ramps from the parking lot to the accessible
13 walkway are inaccessible, as they have an impermissible side slope
14 of up to twenty-five percent (25%), when they are required to be
15 no more than ten percent (10%). The width of the ramp from the
16 parking lot to the front entrance of CARQUEST AUTO PARTS a.k.a.
17 AUTO PARTS EXPRESS is inaccessible, as the width of the ramp is
18 only thirty-four inches (34"), when it is required to be at least
19 forty-eight inches (48") wide.

20 10. The exterior path of travel is inaccessible, as there is a
21 water fountain that fails to meet the requirement that it is
22 located completely within an alcove or is otherwise positioned so
23 that it does not encroach into pedestrian walkways.

24 11. In addition to the violations personally experienced by
25 Plaintiff's Member and Plaintiff THEODORE A. PINNOCK, additional
26 violations of federal and state disability laws exist at
27 Defendants' shopping center, known as HIGHLAND CENTER. For
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1 example, the public pay telephone is inaccessible, as it fail to
2 have the required volume control unit and the required signage.

3 12. On June 1, 2004, Plaintiff's member THEODORE A. PINNOCK went
4 to Defendants' HIGHLAND CENTER; CARQUEST AUTO PARTS a.k.a. AUTO
5 PARTS EXPRESS; PLAZA NAILS; CONTINENTAL CLEANERS & LAUNDRY; TOM'S
6 BARBER SHOP; J & M JEWELRY a.k.a. MIGUEL'S JEWERLY; and 99 CENTS
7 ONLY STORES a.k.a. 99 CENTS ONLY #101 facilities, which are all
8 located in the shopping center facility known as HIGHLAND CENTER
9 located at 1310-16 Highland Avenue, National City, California
10 91950 and 1320 Highland Avenue, National City, California 91950,
11 to utilize their goods and/or services.

12 13. When Plaintiff's member patronized Defendants' CARQUEST AUTO
13 PARTS a.k.a. AUTO PARTS EXPRESS facilities, he was unable to use
14 and/or had difficulty using the entrance and cashier/service
15 counter facilities at the Defendants' CARQUEST AUTO PARTS a.k.a.
16 AUTO PARTS EXPRESS establishment because they failed to comply
17 with ADA Access Guidelines For Buildings and Facilities (hereafter
18 referred to as "ADAAG") and/or California's Title 24 Building Code
19 Requirements. Defendants failed to remove access barriers within
20 the entrance and cashier/service counter facilities of Defendants'
21 CARQUEST AUTO PARTS a.k.a. AUTO PARTS EXPRESS establishment.

22 14. Plaintiff's member personally experienced difficulty with
23 said access barriers at Defendants' CARQUEST AUTO PARTS a.k.a.
24 AUTO PARTS EXPRESS facilities. For example, the entrance to the
25 Defendants establishment is inaccessible, as the front entrance
26 door fails to have the required disability signage. The
27 cashier/service counter is inaccessible, as it is forty-two inches
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1 (42") high, when it is required to be no more than thirty-four
2 inches (34").

3 15. When Plaintiff's member patronized Defendants' PLAZA NAILS
4 facilities, he was unable to use and/or had difficulty using the
5 entrance and counter facilities at the Defendants' PLAZA NAILS
6 establishment because they failed to comply with ADA Access
7 Guidelines For Buildings and Facilities (hereafter referred to as
8 "ADAAG") and/or California's Title 24 Building Code Requirements.
9 Defendants failed to remove access barriers within the entrance
10 and counter facilities of Defendants' PLAZA NAILS establishment.

11 16. Plaintiff's member personally experienced difficulty with
12 said access barriers at Defendants' PLAZA NAILS facilities. For
13 example, the entrance to the Defendants establishment is
14 inaccessible, as the front entrance door fails to have the
15 required smooth and uninterrupted surface on the bottom ten inches
16 (10") of the door that allows the door to be opened with a
17 wheelchair footrest without creating a hazard. The front entrance
18 also fails to have the required disability signage. The counter
19 is inaccessible, as it is forty-two inches (42") high, when it is
20 required to be no more than thirty-four inches (34").

21 17. When Plaintiff's member patronized Defendants' CONTINENTAL
22 CLEANERS & LAUNDRY facilities, he was unable to use and/or had
23 difficulty using the entrance facility at the Defendants'
24 CONTINENTAL CLEANERS & LAUNDRY establishment because they failed
25 to comply with ADA Access Guidelines For Buildings and Facilities
26 (hereafter referred to as "ADAAG") and/or California's Title 24
27 Building Code Requirements. Defendants failed to remove access
28

1 barriers within the entrance facility of Defendants' CONTINENTAL
2 CLEANERS & LAUNDRY establishment.

3 18. Plaintiff's member personally experienced difficulty with
4 said access barriers at Defendants' CONTINENTAL CLEANERS & LAUNDRY
5 facilities. For example, the entrance to the Defendants
6 establishment is inaccessible, as the front entrance door fails to
7 have the required smooth and uninterrupted surface on the bottom
8 ten inches (10") of the door that allows the door to be opened
9 with a wheelchair footrest without creating a hazard. The front
10 entrance also fails to have the required disability signage.

11 19. When Plaintiff's member patronized Defendants' TOM'S BARBER
12 SHOP facilities, he was unable to use and/or had difficulty using
13 the entrance and unisex restroom facilities at the Defendants'
14 TOM'S BARBER SHOP establishment because they failed to comply with
15 ADA Access Guidelines For Buildings and Facilities (hereafter
16 referred to as "ADAAG") and/or California's Title 24 Building Code
17 Requirements. Defendants failed to remove access barriers within
18 the entrance and unisex restroom facilities of Defendants' TOM'S
19 BARBER SHOP establishment.

20 20. Plaintiff's member personally experienced difficulty with
21 said access barriers at Defendants' TOM'S BARBER SHOP facilities.
22 For example, the entrance to the Defendants establishment is
23 inaccessible, as the front entrance door fails to have the
24 required smooth and uninterrupted surface on the bottom ten inches
25 (10") of the door that allows the door to be opened with a
26 wheelchair footrest without creating a hazard. The front entrance
27 also fails to have the required disability signage. The unisex
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1 restroom located inside the Defendants' TOM'S BARBER SHOP
2 restaurant is inaccessible. The unisex restroom door fails to
3 have the required disability signage. The restroom doorknob and
4 locking mechanism are inaccessible, as they require tight grasping
5 and/or twisting of the wrist to operate. The wheelchair turn
6 around space in the restroom is a mere twenty-five inches by
7 twenty inches (25"x 20"), when it is required to be at least sixty
8 inches (60") in diameter. The side grab bar and the rear grab bar
9 of the commode are only twenty-four inches (24") long, when the
10 rear grab bar is required to be a minimum of thirty-six inches
11 (36") long and the side grab bar is required to be at least forty-
12 two inches (42") long and extend a minimum of twenty-four inches
13 (24") beyond the front edge of the commode. The commode is only
14 fifteen inches (15") high, when it is required to be between
15 seventeen inches and nineteen inches (17"- 19") high. The
16 distance from the side edge of the commode to the far wall is only
17 twenty-seven inches (27"), when it is required to be at least
18 thirty-two inches (32"). The distance from the front edge of the
19 commode to the front wall is only twenty inches (20"), when it is
20 required to be at least forty-eight inches (48"). The toilet
21 paper dispenser is located thirty inches (30") from the front edge
22 of the commode, when it is required to be no more than twelve
23 inches (12") from the front edge of the commode. The hot water
24 and drainpipes underneath the lavatory fail to have the required
25 covering. The round lavatory faucet handles are inaccessible, as
26 they require tight grasping and/or twisting of the wrist to
27 operate. The paper towel dispenser is mounted at forty-five
28

1 inches (45"), when it is required to be mounted no higher than
2 forty inches (40"). The unisex restroom fails to have the
3 required audible and visual alarm system.

4 21. When Plaintiff's member patronized Defendants' J & M JEWELRY
5 a.k.a. MIGUEL'S JEWERLY facilities, he was unable to use and/or
6 had difficulty using the entrance and counter facilities at the
7 Defendants' J & M JEWELRY a.k.a. MIGUEL'S JEWERLY establishment
8 because they failed to comply with ADA Access Guidelines For
9 Buildings and Facilities (hereafter referred to as "ADAAG") and/or
10 California's Title 24 Building Code Requirements. Defendants
11 failed to remove access barriers within the entrance and counter
12 facilities of Defendants' J & M JEWELRY a.k.a. MIGUEL'S JEWERLY
13 establishment.

14 22. Plaintiff's member personally experienced difficulty with
15 said access barriers at Defendants' J & M JEWELRY a.k.a. MIGUEL'S
16 JEWERLY facilities. For example, the entrance to the Defendants
17 establishment is inaccessible, as the front entrance door fails to
18 have the required smooth and uninterrupted surface on the bottom
19 ten inches (10") of the door that allows the door to be opened
20 with a wheelchair footrest without creating a hazard. The front
21 entrance also fails to have the required disability signage. The
22 cashier/service counter is inaccessible, as it is thirty-six
23 inches (36") high, when it is required to be no more than thirty-
24 four inches (34").

25 23. When Plaintiff's member patronized Defendants' 99 CENTS ONLY
26 STORES a.k.a. 99 CENTS ONLY #101 facilities, he was unable to use
27 and/or had difficulty using the entrance, interior path of travel,
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1 checkout aisle, and restroom facilities at the Defendants' 99
2 CENTS ONLY STORES a.k.a. 99 CENTS ONLY #101 establishment because
3 they failed to comply with ADA Access Guidelines For Buildings and
4 Facilities (hereafter referred to as "ADAAG") and/or California's
5 Title 24 Building Code Requirements. Defendants failed to remove
6 access barriers within the entrance, interior path of travel,
7 checkout aisle, and restroom facilities of Defendants' 99 CENTS
8 ONLY STORES a.k.a. 99 CENTS ONLY #101 establishment.

9 24. Plaintiff's member personally experienced difficulty with
10 said access barriers at Defendants' 99 CENTS ONLY STORES a.k.a. 99
11 CENTS ONLY #101 facilities. For example, the front entrance fails
12 to have the required disability signage. The interior path of
13 travel is inaccessible, as one of the aisles is as narrow as
14 thirty-six inches (36") with items displayed on both sides of the
15 aisle. It is required that aisles with items displayed on both
16 sides of the aisle must be at least forty-four inches (44") wide.
17 The checkout aisle fails to have the required disability signage.
18 The unisex restroom located inside the Defendants' 99 CENTS ONLY
19 STORES a.k.a. 99 CENTS ONLY #101 restaurant is inaccessible. The
20 unisex restroom door fails to have the required disability
21 signage. The pressure that is required to open the restroom door
22 is seven pounds (7 lbs.), when it is required to be no more than
23 five pounds (5 lbs.). The stall fails to have the required handles
24 on both sides of the door. The stall opens inward, when it is
25 required to open outward. The stall door fails to have the
26 required self-closing mechanism. The height of the commode seat
27 cover dispenser is forty-eight inches (48"), when it is required
28

1 to be no higher than forty inches (40"). The distance from the
2 centerline of the lavatory to the adjacent wall is only seventeen
3 inches (17"), when it is required to be at least eighteen inches
4 (18"). The hot water and drainpipes underneath the lavatory fail
5 to have the required covering. The unisex restroom fails to have
6 the required audible and visual alarm system.

7
8 25. Pursuant to federal and state law, Defendants are required to
9 remove barriers to their existing facilities. Further, Defendants
10 had actual knowledge of their barrier removal duties under the
11 Americans with Disabilities Act and the Civil Code before January
12 26, 1992. Also, Defendants should have known that individuals
13 with disabilities are not required to give notice to a
14 governmental agency before filing suit alleging Defendants failed
15 to remove architectural barriers.

16 26. Plaintiffs believe and herein allege Defendants' facilities
17 have access violations not directly experienced by Plaintiff's
18 Member which preclude or limit access by others with disabilities,
19 including, but not limited to, Space Allowance and Reach Ranges,
20 Accessible Route, Protruding Objects, Ground and Floor Surfaces,
21 Parking and Passenger Loading Zones, Curb Ramps, Ramps, Stairs,
22 Elevators, Platform Lifts (Wheelchair Lifts), Windows, Doors,
23 Entrances, Drinking Fountains and Water Coolers, Water Closets,
24 Toilet Stalls, Urinals, Lavatories and Mirrors, Sinks, Storage,
25 Handrails, Grab Bars, and Controls and Operating Mechanisms,
26 Alarms, Detectable Warnings, Signage, and Telephones. Accordingly,
27 Plaintiffs allege Defendants are required to remove all
28 architectural barriers, known or unknown. Also, Plaintiffs allege

1 Defendants are required to utilize the ADA checklist for Readily
2 Achievable Barrier Removal approved by the United States
3 Department of Justice and created by Adaptive Environments.

4 27. Based on these facts, Plaintiffs allege Plaintiff's Member
5 and Plaintiff Theodore A. Pinnock was discriminated against each
6 time he patronized Defendants' establishments. Plaintiff's Member
7 and Plaintiff Theodore A. Pinnock was extremely upset due to
8 Defendants' conduct. Further, Plaintiff's Member and Plaintiff
9 THEODORE A. PINNOCK experienced pain in his legs, back, arms,
10 shoulders and wrists when he attempted to enter, use, and exit
11 Defendants' HIGHLAND CENTER; CARQUEST AUTO PARTS a.k.a. AUTO PARTS
12 EXPRESS; PLAZA NAILS; CONTINENTAL CLEANERS & LAUNDRY; TOM'S BARBER
13 SHOP; J & M JEWELRY a.k.a. MIGUEL'S JEWELRY; and 99 CENTS ONLY
14 STORES a.k.a. 99 CENTS ONLY #101 establishments.

15
16 **WHAT CLAIMS ARE PLAINTIFFS ALLEGING AGAINST EACH NAMED DEFENDANT**

17 28. HIGHLAND CENTER; CARQUEST AUTO PARTS a.k.a. AUTO PARTS
18 EXPRESS; TOTAL AUTOMOTIVE, INC. d.b.a. CARQUEST AUTO PARTS a.k.a.
19 AUTO PARTS EXPRESS; PLAZA NAILS; HANG ANNIE TRINH NGUYEN d.b.a.
20 PLAZA NAILS; CONTINENTAL CLEANERS & LAUNDRY; TOM'S BARBER SHOP; AI
21 TRAN d.b.a. TOM'S BARBER SHOP; J & M JEWELRY a.k.a. MIGUEL'S
22 JEWELRY; 99 CENTS ONLY STORES a.k.a. 99 CENTS ONLY #101; 99 CENTS
23 ONLY STORES, INC. d.b.a. 99 CENTS ONLY STORES a.k.a. 99 CENTS ONLY
24 #101; ERNEST E. PETERSON, TRUSTEE; ERNEST E. PETERSON; and Does 1
25 through 10 will be referred to collectively hereinafter as
26 "Defendants."

27 29. Plaintiffs aver that the Defendants are liable for the
28

1 following claims as alleged below:

2 DISCRIMINATORY PRACTICES IN PUBLIC ACCOMMODATIONS

3 FIRST CAUSE OF ACTION AGAINST ALL DEFENDANTS- Claims Under The
4 Americans With Disabilities Act Of 1990

5 CLAIM I AGAINST ALL DEFENDANTS: Denial Of Full And Equal
6 Access

7 30. Based on the facts plead at ¶¶ 6-27 above and elsewhere in
8 this complaint, Plaintiff's Member was denied full and equal
9 access to Defendants' goods, services, facilities, privileges,
10 advantages, or accommodations. Plaintiffs allege Defendants are a
11 public accommodation owned, leased and/or operated by Defendants.
12 Defendants' existing facilities and/or services failed to provide
13 full and equal access to Defendants' facility as required by 42
14 U.S.C. § 12182(a). Thus, Plaintiff's Member was subjected to
15 discrimination in violation of 42 United States Code
16 12182(b) (2) (A) (iv) and 42 U.S.C. § 12188 because Plaintiff's
17 Member was denied equal access to Defendants' existing facilities.

18 31. Plaintiff's member Theodore A. Pinnock has physical
19 impairments as alleged in ¶ 6 above because his conditions affect
20 one or more of the following body systems: neurological,
21 musculoskeletal, special sense organs, and/or cardiovascular.
22 Further, Plaintiff's member Theodore A. Pinnock's said physical
23 impairments substantially limits one or more of the following
24 major life activities: walking. In addition, Plaintiff's member
25 Theodore A. Pinnock cannot perform one or more of the said major
26 life activities in the manner, speed, and duration when compared
27 to the average person. Moreover, Plaintiff's member Theodore A.
28

1 Pinnock has a history of or has been classified as having a
2 physical impairment as required by 42 U.S.C. § 12102(2)(A).

3
4 **CLAIM II AGAINST ALL DEFENDANTS: Failure To Make Alterations In**
5 **Such A Manner That The Altered Portions Of The Facility Are**
6 **Readily Accessible And Usable By Individuals With Disabilities**

7 32. Based on the facts plead at ¶¶ 6-27 above and elsewhere in
8 this complaint, Plaintiff's Member Theodore A. Pinnock was denied
9 full and equal access to Defendants' goods, services, facilities,
10 privileges, advantages, or accommodations within a public
11 accommodation owned, leased, and/or operated by Defendants.
12 Defendants altered their facility in a manner that affects or
13 could affect the usability of the facility or a part of the
14 facility after January 26, 1992. In performing the alteration,
15 Defendants failed to make the alteration in such a manner that, to
16 the maximum extent feasible, the altered portions of the facility
17 are readily accessible to and usable by individuals with
18 disabilities, including individuals who use wheelchairs, in
19 violation of 42 U.S.C. §12183(a)(2).

20 33. Additionally, the Defendants undertook an alteration that
21 affects or could affect the usability of or access to an area of
22 the facility containing a primary function after January 26, 1992.
23 Defendants further failed to make the alterations in such a manner
24 that, to the maximum extent feasible, the path of travel to the
25 altered area and the bathrooms, telephones, and drinking fountains
26 serving the altered area, are readily accessible to and usable by
27 individuals with disabilities in violation 42 U.S.C. §12183(a)(2).

28 34. Pursuant to 42 U.S.C. §12183(a), this failure to make the
alterations in a manner that, to the maximum extent feasible, are

1 readily accessible to and usable by individuals with disabilities
2 constitutes discrimination for purposes of 42 U.S.C. §12183(a).
3 Therefore, Defendants discriminated against Plaintiff's Member
4 Theodore A. Pinnock in violation of 42 U.S.C. § 12182(a).

5 35. Thus, Plaintiff's Member Theodore A. Pinnock was subjected to
6 discrimination in violation of 42 U.S.C. § 12183(a), 42 U.S.C.
7 §12182(a) and 42 U.S.C. §12188 because said Member Theodore A.
8 Pinnock was denied equal access to Defendants' existing
9 facilities.

10 CLAIM III AGAINST ALL DEFENDANTS: **Failure To Remove**
11 **Architectural Barriers**

12 36. Based on the facts plead at ¶¶ 6-27 above and elsewhere in
13 this complaint, Plaintiff's Member was denied full and equal
14 access to Defendants' goods, services, facilities, privileges,
15 advantages, or accommodations within a public accommodation owned,
16 leased, and/or operated by Defendants. Defendants failed to
17 remove barriers as required by 42 U.S.C. § 12182(a). Plaintiffs
18 are informed, believe, and thus allege that architectural barriers
19 which are structural in nature exist within the following physical
20 elements of Defendants' facilities: Space Allowance and Reach
21 Ranges, Accessible Route, Protruding Objects, Ground and Floor
22 Surfaces, Parking and Passenger Loading Zones, Curb Ramps, Ramps,
23 Stairs, Elevators, Platform Lifts (Wheelchair Lifts), Windows,
24 Doors, Entrances, Drinking Fountains and Water Coolers, Water
25 Closets, Toilet Stalls, Urinals, Lavatories and Mirrors, Sinks,
26 Storage, Handrails, Grab Bars, and Controls and Operating
27 Mechanisms, Alarms, Detectable Warnings, Signage, and Telephones.
28

1 Title III requires places of public accommodation to remove
2 architectural barriers that are structural in nature to existing
3 facilities. [See, 42 United States Code 12182(b)(2)(A)(iv).]
4 Failure to remove such barriers and disparate treatment against a
5 person who has a known association with a person with a disability
6 are forms of discrimination. [See 42 United States Code
7 12182(b)(2)(A)(iv).] Thus, Plaintiff's Member was subjected to
8 discrimination in violation of 42 United States Code
9 12182(b)(2)(A)(iv) and 42 U.S.C. § 12188 because said Member was
10 denied equal access to Defendants' existing facilities.
11

12 **CLAIM IV AGAINST ALL DEFENDANTS: Failure To Modify Practices,**
Policies And Procedures

13 37. Based on the facts plead at ¶¶ 6-27 above and elsewhere in
14 this complaint, Defendants failed and refused to provide a
15 reasonable alternative by modifying its practices, policies and
16 procedures in that they failed to have a scheme, plan, or design
17 to assist Plaintiff's Member and/or others similarly situated in
18 entering and utilizing Defendants' services, as required by 42
19 U.S.C. § 12188(a). Thus, said Member was subjected to
20 discrimination in violation of 42 United States Code
21 12182(b)(2)(A)(iv) and 42 U.S.C. § 12188 because said Member was
22 denied equal access to Defendants' existing facilities.

23 38. Based on the facts plead at ¶¶ 6-27 above, Claims I, II, and
24 III of Plaintiffs' First Cause Of Action above, and the facts
25 elsewhere herein this complaint, Plaintiffs will suffer
26 irreparable harm unless Defendants are ordered to remove
27 architectural, non-architectural, and communication barriers at
28

1 Defendants' public accommodation. Plaintiffs allege that
2 Defendants' discriminatory conduct is capable of repetition, and
3 this discriminatory repetition adversely impacts Plaintiffs and a
4 substantial segment of the disability community. Plaintiffs
5 allege there is a national public interest in requiring
6 accessibility in places of public accommodation. Plaintiffs have
7 no adequate remedy at law to redress the discriminatory conduct of
8 Defendants. Plaintiff's Member desires to return to Defendants'
9 places of business in the immediate future. Accordingly, the
10 Plaintiffs allege that a structural or mandatory injunction is
11 necessary to enjoin compliance with federal civil rights laws
12 enacted for the benefit of individuals with disabilities.

13 39. WHEREFORE, Plaintiffs pray for judgment and relief as
14 hereinafter set forth.

15
16 **SECOND CAUSE OF ACTION AGAINST ALL DEFENDANTS - CLAIMS UNDER**
CALIFORNIA ACCESSIBILITY LAWS

17 **CLAIM I: Denial Of Full And Equal Access**

18 40. Based on the facts plead at ¶¶ 6-27 above and elsewhere in
19 this complaint, Plaintiff's Member was denied full and equal
20 access to Defendants' goods, services, facilities, privileges,
21 advantages, or accommodations within a public accommodation owned,
22 leased, and/or operated by Defendants as required by Civil Code
23 Sections 54 and 54.1. Defendants' facility violated California's
24 Title 24 Accessible Building Code by failing to provide access to
25 Defendants' facilities due to violations pertaining to the Space
26 Allowance and Reach Ranges, Accessible Route, Protruding Objects,
27 Ground and Floor Surfaces, Parking and Passenger Loading Zones,
28

1 Curb Ramps, Ramps, Stairs, Elevators, Platform Lifts (Wheelchair
2 Lifts), Windows, Doors, Entrances, Drinking Fountains and Water
3 Coolers, Water Closets, Toilet Stalls, Urinals, Lavatories and
4 Mirrors, Sinks, Storage, Handrails, Grab Bars, and Controls and
5 Operating Mechanisms, Alarms, Detectable Warnings, Signage, and
6 Telephones.

7 41. These violations denied Plaintiff's Member full and equal
8 access to Defendants' facility. Thus, said Member was subjected
9 to discrimination pursuant to Civil Code §§ 51, 52, and 54.1
10 because Plaintiff's Member was denied full, equal and safe access
11 to Defendants' facility, causing severe emotional distress.

12 CLAIM II: Failure To Modify Practices, Policies And Procedures

13 42. Based on the facts plead at ¶¶ 6-27 above and elsewhere
14 herein this complaint, Defendants failed and refused to provide a
15 reasonable alternative by modifying its practices, policies, and
16 procedures in that they failed to have a scheme, plan, or design
17 to assist Plaintiff's Member and/or others similarly situated in
18 entering and utilizing Defendants' services as required by Civil
19 Code § 54.1. Thus, said Member was subjected to discrimination in
20 violation of Civil Code § 54.1.

21 CLAIM III: Violation Of The Unruh Act

22 43. Based on the facts plead at ¶¶ 6-27 above and elsewhere
23 herein this complaint and because Defendants violated the Civil
24 Code § 51 by failing to comply with 42 United States Code §
25 12182(b)(2)(A)(iv) and 42 U.S.C. § 12183(a)(2), Defendants did and
26 continue to discriminate against Plaintiff's Member and persons
27 similarly situated in violation of Civil Code §§ 51, 52, and 54.1.
28

1 44. Based on the facts plead at ¶¶ 6-27 above, Claims I, II, and
2 III of Plaintiffs' Second Cause Of Action above, and the facts
3 elsewhere herein this complaint, Plaintiffs will suffer
4 irreparable harm unless Defendants are ordered to remove
5 architectural, non-architectural, and communication barriers at
6 Defendants' public accommodation. Plaintiffs allege that
7 Defendants' discriminatory conduct is capable of repetition, and
8 this discriminatory repetition adversely impacts Plaintiffs and a
9 substantial segment of the disability community. Plaintiffs
10 allege there is a state and national public interest in requiring
11 accessibility in places of public accommodation. Plaintiffs have
12 no adequate remedy at law to redress the discriminatory conduct of
13 Defendants. Plaintiff's Member desires to return to Defendants'
14 places of business in the immediate future. Accordingly, the
15 Plaintiffs allege that a structural or mandatory injunction is
16 necessary to enjoin compliance with state civil rights laws
17 enacted for the benefit of individuals with disabilities.

18
19 45. Wherefore, Plaintiffs pray for damages and relief as
20 hereinafter stated.

21 **Treble Damages Pursuant To Claims I, II, III Under The California
22 Accessibility Laws**

23 46. Defendants, each of them respectively, at times prior to and
24 including, the month of June, 2004, and continuing to the present
25 time, knew that persons with physical disabilities were denied
26 their rights of equal access to all portions of this public
27 facility. Despite such knowledge, Defendants, and each of them,
28 failed and refused to take steps to comply with the applicable
access statutes; and despite knowledge of the resulting problems

1 and denial of civil rights thereby suffered by Plaintiff's Member
2 THEODORE A. PINNOCK and other similarly situated persons with
3 disabilities. Defendants, and each of them, have failed and
4 refused to take action to grant full and equal access to persons
5 with physical disabilities in the respects complained of
6 hereinabove. Defendants, and each of them, have carried out a
7 course of conduct of refusing to respond to, or correct complaints
8 about, denial of disabled access and have refused to comply with
9 their legal obligations to make Defendants' HIGHLAND CENTER;
10 CARQUEST AUTO PARTS a.k.a. AUTO PARTS EXPRESS; PLAZA NAILS;
11 CONTINENTAL CLEANERS & LAUNDRY; TOM'S BARBER SHOP; J & M JEWELRY
12 a.k.a. MIGUEL'S JEWELRY; and 99 CENTS ONLY STORES a.k.a. 99 CENTS
13 ONLY #101 facilities accessible pursuant to the Americans With
14 Disability Act Access Guidelines (ADAAG) and Title 24 of the
15 California Code of Regulations (also known as the California
16 Building Code). Such actions and continuing course of conduct by
17 Defendants, and each of them, evidence despicable conduct in
18 conscious disregard of the rights and/or safety of Plaintiff's
19 Member and of other similarly situated persons, justifying an
20 award of treble damages pursuant to sections 52(a) and 54.3(a) of
21 the California Civil Code.

22
23 47. Defendants', and each of their, actions have also been
24 oppressive to persons with physical disabilities and of other
25 members of the public, and have evidenced actual or implied
26 malicious intent toward those members of the public, such as
27 Plaintiff's Member and other persons with physical disabilities
28 who have been denied the proper access to which they are entitled

1 by law. Further, Defendants', and each of their, refusals on a
2 day-to-day basis to correct these problems evidence despicable
3 conduct in conscious disregard for the rights of Plaintiff's
4 Member THEODORE A. PINNOCK and other members of the public with
5 physical disabilities.

6 48. Plaintiffs pray for an award of treble damages against
7 Defendants, and each of them, pursuant to California Civil Code
8 sections 52(a) and 54.3(a), in an amount sufficient to make a more
9 profound example of Defendants and encourage owners, lessors, and
10 operators of other public facilities from willful disregard of the
11 rights of persons with disabilities. Plaintiffs do not know the
12 financial worth of Defendants, or the amount of damages sufficient
13 to accomplish the public purposes of section 52(a) of the
14 California Civil Code and section 54.3 of the California Civil
15 Code.

16 49. Wherefore, Plaintiffs pray for damages and relief as
17 hereinafter stated.

18 PLAINTIFF THEODORE A. PINNOCK'S THIRD CAUSE OF ACTION AGAINST ALL
19 DEFENDANTS- Negligence as to Plaintiff THEODORE A. PINNOCK only

20 50. Based on the facts plead at ¶¶ 6-27 above and elsewhere in
21 this complaint, Defendants owed Plaintiff Theodore A. Pinnock a
22 statutory duty to make their facility accessible and owed
23 Plaintiff Theodore A. Pinnock a duty to keep Plaintiff Theodore A.
24 Pinnock reasonably safe from known dangers and risks of harm.
25 This said duty arises by virtue of legal duties proscribed by
26 various federal and state statutes including, but not limited to,
27 ADA, ADAAG, Civil Code 51, 52, 54, 54.1 and Title 24 of the
28

1 California Administrative Code and applicable 1982 Uniform
2 Building Code standards as amended.

3 51. Title III of the ADA mandates removal of architectural
4 barriers and prohibits disability discrimination. As well,
5 Defendants' facility, and other goods, services, and/or facilities
6 provided to the public by Defendants are not accessible to and
7 usable by persons with disabilities as required by Health and
8 Safety Code § 19955 which requires private entities to make their
9 facility accessible before and after remodeling, and to remove
10 architectural barriers.

11 52. Therefore, Defendants engaged in discriminatory conduct in
12 that they failed to comply with known duties under the ADA, ADAAG,
13 Civil Code 51, 52, 54, 54.1, 54.3, ADAAG, and Title 24, and knew
14 or should have known that their acts of nonfeasance would cause
15 Plaintiff THEODORE A. PINNOCK emotional, bodily and personal
16 injury. Plaintiff THEODORE A. PINNOCK alleges that there was
17 bodily injury in this matter because when Plaintiff THEODORE A.
18 PINNOCK attempted to enter, use, and exit Defendants'
19 establishment, Plaintiff THEODORE A. PINNOCK experienced pain in
20 his legs, back, arms, shoulders, and wrists. Plaintiffs further
21 allege that such conduct was done in reckless disregard of the
22 probability of said conduct causing Plaintiff THEODORE A. PINNOCK
23 to suffer bodily or personal injury, anger, embarrassment,
24 depression, anxiety, mortification, humiliation, distress, and
25 fear of physical injury. Plaintiff THEODORE A. PINNOCK, An
26 Individual, alleges that such conduct caused THEODORE A. PINNOCK,
27 An Individual, to suffer the injuries of mental and emotional
28

1 distress, including, but not limited to, anger, embarrassment,
2 depression, anxiety, mortification, humiliation, distress, and
3 fear of physical injury. Plaintiff THEODORE A. PINNOCK, An
4 Individual, additionally alleges that such conduct caused THEODORE
5 A. PINNOCK, An Individual, to suffer damages as a result of these
6 injuries.

7 53. Wherefore, Plaintiffs pray for damages and relief as
8 hereinafter stated.

9 DEMAND FOR JUDGMENT FOR RELIEF:

10 A. For general damages pursuant to Cal. Civil Code §§ 52, 54.3,
11 3281, and 3333;

12 B. For \$4,000 in damages pursuant to Cal. Civil Code § 52 for
13 each and every offense of Civil Code § 51, Title 24 of the
14 California Building Code, ADA, and ADA Accessibility Guidelines;

15 C. In the alternative to the damages pursuant to Cal. Civil
16 Code § 52 in Paragraph B above, for \$1,000 in damages pursuant to
17 Cal. Civil Code § 54.3 for each and every offense of Civil Code §
18 54.1, Title 24 of the California Building Code, ADA, and ADA
19 Accessibility Guidelines;

20 D. For injunctive relief pursuant to 42 U.S.C. § 12188(a) and
21 Cal. Civil Code § 55. Plaintiffs request this Court enjoin
22 Defendants to remove all architectural barriers in, at, or on
23 their facilities related to the following: Space Allowance and
24 Reach Ranges, Accessible Route, Protruding Objects, Ground and
25 Floor Surfaces, Parking and Passenger Loading Zones, Curb Ramps,
26 Ramps, Stairs, Elevators, Platform Lifts (Wheelchair Lifts),
27 Windows, Doors, Entrances, Drinking Fountains and Water Coolers,
28 Water Closets, Toilet Stalls, Urinals, Lavatories and Mirrors,

1 Sinks, Storage, Handrails, Grab Bars, and Controls and Operating
2 Mechanisms, Alarms, Detectable Warnings, Signage, and Telephones.

3 E. For attorneys' fees pursuant to 42 U.S.C. § 1988, 42 U.S.C.
4 § 12205, and Cal. Civil Code § 55;

5 F. For treble damages pursuant to Cal. Civil Code §§ 52(a),
6 and 54.3(a);

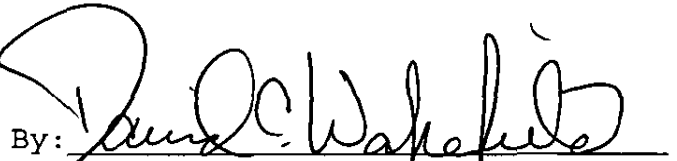
7 G. A Jury Trial and;

8 H. For such other further relief as the court deems proper.

9 Respectfully submitted:

10 PINNOCK & WAKEFIELD, A.P.C.

11
12 Dated: July 16, 2004

13 By: 

14 MICHELLE L. WAKEFIELD, ESQ.
15 DAVID C. WAKEFIELD, ESQ.
16 Attorneys for Plaintiffs
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The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

I (a) PLAINTIFFS
MANTIC ASHANTI'S CAUSE, SUING ON BEHALF OF
THEODORE A. PINNOCK AND ITS MEMBERS; And
THEODORE A. PINNOCK, An Individual

DEFENDANTS

Please See Attachment to Civil Cover Sheet
04 JUL 19 AM 8:37

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF San Diego
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT (IN U.S. PLAINTIFF CASES ONLY) San Diego
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)
Michelle L. Wakefield, Esq. SBN: 200424
David C. Wakefield, Esq. SBN: 185736
Pinnock & Wakefield, A.P.C.; 3033 Fifth Avenue, Suite 410
San Diego, CA 92103
Telephone: (619) 858-3671; Facsimile: (619) 858-3646

ATTORNEYS (IF KNOWN)
'04 CV 1436 WQH (NLS)

II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) (For Diversity Cases Only)

- Citizen of This State 1 1 Incorporated or Principal Place of Business in This State 4 4
- Citizen of Another State 2 2 Incorporated and Principal Place of Business in Another State 5 5
- Citizen or Subject of a Foreign Country 3 3 Foreign Nation 6 6

IV. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY).

42 U.S.C. Sections 12101-12102, 12181-12183, and 12201, Et. Seq.

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 810 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reappointment
<input type="checkbox"/> Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury-Medical Malpractice	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury-Product Liability	<input type="checkbox"/> 625 Drug Related Seizure Of Property 21 USC 881	PROPERTY RIGHTS	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 620 Copyrights	<input type="checkbox"/> 450 Commerce/ICC Rates/etc.
<input type="checkbox"/> 150 Recovery of overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	PERSONAL PROPERTY	<input type="checkbox"/> 640 RR & Truck	<input type="checkbox"/> 630 Patent	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 650 Airline Regs	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 660 Occupational Safety/Health	SOCIAL SECURITY	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 153 Recovery of Overpayment of Veterans Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 680 Other	<input type="checkbox"/> 861 HIA (1395b)	<input type="checkbox"/> 850 Securities/Commodities Exchange
<input type="checkbox"/> 160 Stockholders Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 385 Property Damage Product Liability	LABOR	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 875 Customer Challenge 12 USC
<input type="checkbox"/> Other Contract	<input type="checkbox"/> 360 Other Personal Injury		<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 863 DIWC/DIMW (405(g))	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 185 Contract Product Liability	CIVIL RIGHTS	PRISONER PETITIONS	<input type="checkbox"/> 720 Labor/Mgmt Relations	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 892 Economic Stabilization Act
REAL PROPERTY	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus	<input type="checkbox"/> 730 Labor/Mgmt Reporting & Disclosure Act	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 530 General	<input type="checkbox"/> 740 Railway Labor Act	FEDERAL TAX SUITS	<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 536 Death Penalty	<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 230 Rent Lease & Electment	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 240 Tort to Land	<input checked="" type="checkbox"/> 440 Other CMI Rights	<input type="checkbox"/> 550 Civil Rights			<input type="checkbox"/> 950 Constitutionality of State
<input type="checkbox"/> 245 Tort Product Liability		<input type="checkbox"/> 555 Prisoner Conditions			<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 290 All Other Real Property					

VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

- 1 Original Proceeding
- 2 Removal from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER fr.c.p. 23

DEMAND \$

To Be Determined At Trial

Check YES only if demanded in complaint:

JURY DEMAND: YES NO

VIII. RELATED CASE(S) IF ANY (See Instructions):

JUDGE

Docket Number

DATE July 16, 2004

SIGNATURE OF ATTORNEY OF RECORD

David C. Wakefield
105505 150⁰⁰ - 7/19/04

Attachment to Civil Cover Sheet

Defendants: HIGHLAND CENTER; CARQUEST AUTO PARTS a.k.a. AUTO PARTS EXPRESS; TOTAL AUTOMOTIVE, INC. d.b.a. CARQUEST AUTO PARTS a.k.a. AUTO PARTS EXPRESS; PLAZA NAILS; HANG ANNIE TRINH NGUYEN d.b.a. PLAZA NAILS; CONTINENTAL CLEANERS & LAUNDRY; TOM'S BARBER SHOP; AI TRAN d.b.a. TOM'S BARBER SHOP; J & M JEWELRY a.k.a. MIGUEL'S JEWELRY; 99 CENTS ONLY STORES a.k.a. 99 CENTS ONLY #101; 99 CENTS ONLY STORES, INC. d.b.a. 99 CENTS ONLY STORES a.k.a. 99 CENTS ONLY #101; ERNEST E. PETERSON, TRUSTEE; ERNEST E. PETERSON; And DOES 1 THROUGH 10, Inclusive.