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3:02-CV-00668 JONES V. DAKOTA INN  
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CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BY: *[Signature]* DEPUTY

1 LAW OFFICES OF ROY L. LANDERS  
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3 7840 MISSION CENTER COURT, SUITE 101  
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7 Attorney for Plaintiff, Dan Jones

8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA

10 DAN JONES

11 Plaintiff,

12 vs.

13 DAKOTA INN, LATIN HAIR  
14 CONNECTION, GENE BOWMAN REALTY,  
15 NORMAN J & ROLAND BOWMAN TRUST  
16 AND DOES 1-10, Inclusive,

17 Defendants

18 Case No

19 **02 CV**

20 **668**

21 **L(LSP)**

22 ) COMPLAINT FOR DAMAGES RE:  
23 ) VIOLATION OF CIVIL RIGHTS ON  
24 ) BASIS OF DISCRIMINATION IN  
25 ) PUBLIC ACCOMMODATIONS; UNFAIR,  
26 ) UNLAWFUL AND FRAUDULENT BUSINESS  
27 ) PRACTICES; NEGLIGENT INFLECTION  
28 ) OF EMOTIONAL DISTRESS;  
29 ) INTENTIONAL INFLECTION OF  
30 ) EMOTIONAL DISTRESS; DEMAND FOR  
31 ) JURY TRIAL

32 I

33 JURISDICTION AND VENUE

34 1. (a) Jurisdiction of this action is invoked on the basis of 28  
35 USC 1331 and 1343, 42 USC 12101-12102, 12181-12183 and 12201, et.  
36 seq. Jurisdiction is also invoked pursuant to 42 USC 1981 [Civil  
37 Rights Act of 1991], et seq, which is applicable to causes of  
38

*CP*

1 action where persons with disabilities have been denied their  
2 civil rights. Venue in the Southern Judicial District of  
3 California in the United States District Court is in accord with  
4 28. U.S.C. section 1391(b) because a substantial part of  
5 plaintiff's claims arose within the Judicial District of the  
6 United States District Court of the Southern District of  
7 California.

8 (b) Supplemental Jurisdiction. The Judicial District of the  
9 United States District Court of the Southern District of  
10 California has supplemental jurisdiction over the state claims  
11 alleged in this Complaint pursuant to 28 U.S.C. section 1367(a).  
12 Supplemental jurisdiction is appropriate in this action on the  
13 basis that all the causes of action or claims derived from federal  
14 law and those arising under state law, as herein alleged, arose  
15 from a common nucleus of operative facts. The common nucleus of  
16 operative facts, include, but are not limited to, the incidents  
17 whereby plaintiff was denied full and equal access to Defendants'  
18 facilities, goods, and/or services in violation of both federal  
19 and state laws when plaintiff attempted to enter, use, and/or exit  
20 Defendants' facilities as described with this Complaint. Further,  
21 due to this denial of full and equal access Plaintiff and other  
22 person's with disabilities were injured. Based upon such  
23 allegations the state actions, as stated herein, are so related to  
24 the federal actions that they form part of the same case or  
25 controversy, and the actions should be tried in one judicial  
26 proceeding.

27 //

28 //

1 II

2 PARTIES

3 2. Defendants Dakota Inn, Latin Hair Connection, and Gene Bowman  
4 Realty are and at all times herein mentioned were duly organized  
5 and operating business entities, partnerships, corporations or  
6 other legally recognized business operations duly authorized to  
7 exist and operate a business within the State of California and  
8 County of San Diego and Plaintiff is informed and believes and  
9 thereon alleges that said defendants are public accommodation  
10 businesses operating and existing upon a common parcel of land  
11 with addresses of 833 East 8<sup>th</sup> Street, 831 East 8<sup>th</sup> Street and 845  
12 East 8<sup>th</sup> Street in National City, California.

13 3. Plaintiff is informed and believes and thereon alleges that  
14 defendant Norma J. & Roland Bowman Trust was and is at all times  
15 herein the owner, landlord and/or operators of the businesses and  
16 owners of the real property, which is the subject of this action.

17 4. Plaintiff is ignorant of the names and capacities of defendants  
18 sued as Does 1-10 herein and therefore sues each of them in the  
19 fictitious name of Doe. Plaintiff is informed and believes and  
20 thereon believes that each Doe defendant is in some manner  
21 responsible for the incidents, actions and violations alleged  
22 within this complaint and in their capacity were at all times  
23 acting as the agent, employee, representative, owner, or  
24 franchisee of each named defendant herein. Plaintiff will seek  
25 leave to amend this complaint to name Doe defendants when the same  
26 is ascertained.

27 5. Plaintiff is informed and believes and thereon alleges that  
28 each of the named defendants herein operates a business and

1 or/facility of public accommodation as defined and described  
2 within 42 USC 12181(7) (B) (F) of the American with Disabilities Act  
3 [ADA] and as such must comply with the ADA under provisions of  
4 Title III therein.

5 **III**

6 **GENERAL ALLEGATIONS COMMON TO ALL CLAIMS**

7 6. Plaintiff is an African American male who is disabled and  
8 confined to a wheelchair. He has no control over his lower  
9 extremities and must use a wheelchair to transport himself and to  
10 effect the basic necessities of his everyday existence.

11 Plaintiff's disability substantially limits one or more of life's  
12 major activities [walking] and therefore he is disabled as defined  
13 under 42 USC 12102(2) (A) (B) (C).

14 7. On or about February 15, 2002 plaintiff attempted to enter the  
15 subject premises of the defendants herein to purchase food,  
16 beverage and/or services offered by defendants. When Plaintiff  
17 attempted to enter the facilities he had difficulty entering and  
18 using the facilities because they failed to comply with federal  
19 ADA Access Guidelines For Building and Facilities [hereinafter  
20 "ADAAG"] and/or the State of California's Title 24 Building Code  
21 Requirements.

22 8. The specific difficulty Plaintiff had in entering and utilizing  
23 Defendants' facilities and which amount to a violation of ADAAG  
24 and Title 24 of the California Building Code are:

25 (a) Property entrance site signage is improper and in violation of  
26 Title 24 1129B.5.

27 (b) There is no designated van accessible parking space as  
28 required by ADAAG 4.1.2(5) (b) and Title 24 1129B.4.2.

- 1 (c) There is no van accessible aisle as required by ADAAG 4.6.3 &  
2 Title 24 1129B.5.
- 3 (d) There is no accessible route of travel as required by ADAAG  
4 4.6.4 and Title 24 1129B.5.
- 5 (e) Bathroom facility lacks proper directional signage as required  
6 by ADAAG 4.30.7(d) and Title 24 1117B. 5.1.1.1. &5.3.
- 7 (f) Bathroom lacks proper international symbol of access as  
8 required by ADAAG 4.30.6 and Title 24 1117B.5.9.
- 9 (g) Bathroom facility lacks proper delineation of disability  
10 access for men and women as required by Title 24 1115B.5.
- 11 (h) Urinal is at improper height and in violation of ADAAG 4.18.3  
12 & Title 24 1115B.9.4.
- 13 (i) Toilet height is in violation of ADAAG 4.16.3 and Title 24  
14 1502.
- 15 (j) Bathroom grab bars are not at proper lengths as required by  
16 ADAAG 4.17.6.
- 17 (k) Bathroom water closet clearance is not sufficient and  
18 therefore in noncompliance with ADAAG 4.17.3 and Title 24 1115B.1.
- 19 (l) Bathroom accessories/fixtures are at improper height and in  
20 violation of ADAAG 4.23.7 and Title 24 1115B9.2.
- 21 (m) Toilet stall is at improper size and in violation of ADAAG  
22 4.17.3 and Title 24 1115B.1.
- 23 (o) Toilet room door handles are improper and in violation of  
24 ADAAG 4.13.9 and Title 24 1133B.2.5.1.
- 25 (p) Restroom lacks raised Braille characters as required by ADAAG  
26 4.30.4 and Title 24 1117B.5.6.1&2.
- 27 (q) Faucet fixtures are improper and violate ADAAG 4.27.4 and  
28 Title 24 1508.1 & 2.

1 (r) Bathroom counter lacks proper toe clearance for the wheelchair  
2 disabled in violation of ADAAG 4.19.4, 4.24.6 and Title 24  
3 1504.2.1.

4 (s) Bathroom counter drainpipes are exposed in violation of ADAAG  
5 4.19.4., 4.24.6 and Title 24 1504.2.2.

6 (t) Bathroom door widths are too close and in violation of ADAAG  
7 4.13.5 and Title 24 1115B.7.1.3.

8 (u) Facilities lack visual/audible emergency alarms as required by  
9 ADAAG 4.28.2, 4.28.3 and Title 24 1114B.2.4. Plaintiff is informed  
10 and believes that more than seventy (70) violations of ADAAG  
11 and/or Title 24 exist at this facility.

12 9. Based upon the above facts, Plaintiff has been discriminated  
13 against and will continue to be discriminated against unless and  
14 until Defendants are enjoined and forced to cease and desist from  
15 continuing to discriminate against Plaintiff and others similarly  
16 situated.

17 10. Pursuant to federal [ADA] and state law [California Title 24],  
18 Defendants are required to remove barriers to their existing  
19 facilities. Defendants have been put on notice pursuant to the ADA  
20 and the California Civil Code prior to the statutory effect of the  
21 ADA on January 26, 1992 that Defendants and each of them had a  
22 duty to remove barriers to persons with disabilities such as  
23 plaintiff. Defendants also knew or should have known that  
24 individuals such as plaintiff with a disability are not required  
25 to give notice to a governmental agency prior to filing suit  
26 alleging Defendant's failure to remove architectural barriers.

27 11. Plaintiff believes and thereon alleges that Defendants'  
28 facility, as described herein, has other access violations not

1 directly experienced by Plaintiff, which preclude or limit access  
2 by others with disabilities, including, but not limited to, Space  
3 Allowances, Reach Ranges, Accessible Routes, Protruding Objects,  
4 Ground and Floor Surfaces, Parking and Passenger Loading Zones,  
5 Curb Ramps, Ramps, Elevators, Platform Lifts (Wheelchair Lifts),  
6 Windows, Doors, Entrances, Drinking Fountains, and Water Coolers,  
7 Water Closets, Toilet Stalls, Urinals, Lavatories and Mirrors,  
8 Sinks, Storage, Handrails, Grab Bars, Telephones, Controls and  
9 Operating Mechanisms, Alarms, Detectable Warnings and Signage.  
10 Accordingly, Plaintiff alleges Defendants are required to remove  
11 all architectural barriers, known or unknown. Also, Plaintiff  
12 alleges Defendants are required to utilize the ADA checklist for  
13 Readily Achievable Barrier Removal approved by the United States  
14 Department of Justice and created by Adaptive Environments.

15 12. Plaintiff desires to return to Defendants' place of business  
16 and utilize their facilities without being discriminated against  
17 in the immediate future.

18 **IV**

19 **FIRST CAUSE OF ACTION**

20 **(Violation of Civil Rights-American With Disabilities Act)**

21 13. Plaintiff realleges the allegations in paragraphs 1 through 12  
22 as though set forth fully herein.

23 **Claim 1: Denial of Full and Equal Access**

24 14. Based on the facts asserted above Plaintiff has been denied  
25 full and equal access to Defendants' goods, services, facilities,  
26 privileges, advantages, or accommodations. Defendants are a public  
27 accommodation owned, leased and/or operated by Defendants named  
28 herein. Defendants' existing facilities and/or services failed to



1 provide full and equal access to Defendants' facilities as  
2 required by 42 U.S.C. section 12182(a). Thus, Plaintiff was  
3 subjected to discrimination in violation of 42 U.S.C.  
4 12182(b)(2)(A)(ii)(iv); 42 USC 1981 and 42 U.S.C. section 12188  
5 because Plaintiff was denied equal access to Defendants' existing  
6 facility.

7 15. Plaintiff has a physical impairment as alleged herein because  
8 his condition affects one or more of the following body systems:  
9 neurological, musculoskeletal, special sense organs, and/or  
10 cardiovascular. Further, his physical impairments substantially  
11 limits one or more of the following major life activities:  
12 walking. In addition, Plaintiff cannot perform one or more of the  
13 said major life activities in the manner speed, and duration when  
14 compared to the average person. Moreover, Plaintiff has a history  
15 of or has been classified as having a physical impairment as  
16 required by 42 U.S.C. section 12102(2)(A).

17 **Claim 2: Failure To Remove Architectural Barriers**

18 16. Based upon the facts alleged herein, Plaintiff was denied full  
19 and equal access to Defendants' goods, services, facilities,  
20 privileges, advantages, or accommodations within a public  
21 accommodation owned leased, and/or operated by the named  
22 Defendants. Defendants individually and collectively failed to  
23 remove barriers as required by 42 U.S.C. 12182(a). Plaintiff is  
24 informed and believes, and thus alleges that architectural  
25 barriers which are structural in nature exist at the following  
26 physical elements of Defendants' facilities:  
27 Space Allowance and Reach Ranges, Accessible Route, Protruding  
28 Objects, Ground and Floor Surfaces, Parking and Passenger Loading

1 Zones, Curb Ramps, Ramps, Stairs, Elevators, Platform Lifts  
2 (Wheelchair Lifts), Windows, Doors, Entrances, Drinking Fountains  
3 and Water Coolers, Water Closets, Toilet Stalls, Urinals,  
4 Lavatories and Mirrors, Sinks, Storage, Handrails, Grab Bars, and  
5 Controls and Operating Mechanisms, Alarms, Detectable Warnings,  
6 Signage, and Telephones. Pursuant to 42 USC section  
7 12182(b)(2)(iv), Title III requires places of public accommodation  
8 to remove architectural barriers that are structural in nature  
9 within existing facilities. Failure to remove such barriers and  
10 disparate treatment against a person who has a known association  
11 with a person with a disability are forms of prohibited  
12 discrimination. Accordingly, Plaintiff was subjected to  
13 discrimination in violation of 42 USC 12182(b)(2)(A)(iv) and 42  
14 USC 12182(b)(2)(A)(iv); 42 USC 1981 and 42 USC 12188.

15 **Claim 3: Failure To Modify Practices, Policies And Procedures**

16 17. Based on the facts alleged in this Complaint Defendants failed  
17 and refused to provide a reasonable alternative by modifying its  
18 practices, policies and procedures in that they failed to have a  
19 scheme, plan, or design to assist Plaintiff and/or others  
20 similarly situated in entering and utilizing Defendants' services,  
21 as required by 42 U.S.C. section 12188(a). Thus, Plaintiff was  
22 subjected to discrimination in violation of 42 U.S.C. section  
23 12182(b)(2)(A)(iv); 42 U.S.C. 1981 and 42 U.S.C. section 12188  
24 because Plaintiff was denied equal access to Defendants' existing  
25 facilities.

26 18. As a result of the wrongful and discriminatory practices of  
27 defendants, plaintiff has suffered actual damages consisting of  
28

1 special damages and general damages in an amount to be determined  
2 at time of trial herein.

3 19. Pursuant to the provisions of 42 USC 12188 plaintiff seeks  
4 injunctive relief and an order directing defendants to cease and  
5 desist from discriminating against plaintiff and others similarly  
6 situated and for an order that defendants comply with the  
7 Americans With Disabilities Act forthwith.

8 20. Under the provisions of section 42 USC 12205 plaintiff is  
9 entitled to an award of reasonably attorneys fees and requests  
10 that the court grant such fees as are appropriate.

11 V

12 **SECOND CAUSE OF ACTION**

13 **(Violation of Civil Rights 42 U.S.C. 1991)**

14 21. Plaintiff realleges the allegations of the First Cause of  
15 Action as though set forth fully herein.

16 22. The provisions of 42 U.S.C. 1981 (As amended by the Civil  
17 Rights Act of 1991) provide that Plaintiff as a person with  
18 disabilities cannot be discriminated against with regard to the  
19 ability to enter into, to make or to enforce contracts. In  
20 enacting the Civil Rights Act of 1991 congress established a three  
21 tier system of remedies for a broad range of discretionary  
22 conduct, including violations of the Americans With Disabilities  
23 Act, wherein disabled individuals such as plaintiff are denied  
24 equal access to facilities they wish to conduct business in and  
25 therefore are precluded from making, entering into and enforcing  
26 contracts that plaintiff and others similarly situated may desire  
27 to effect.

1 23. Defendants, because they have individually and/or collectively  
2 denied plaintiff access to its premises, goods and services, have  
3 denied him the right to make, enter into or enforce a contract and  
4 therefore have violated the provisions of 42 U.S.C. 1991 all to  
5 Plaintiff's damage in an amount to be determined at time of trial  
6 herein.

7 24. As a result of Defendants' actions Plaintiff was humiliated,  
8 embarrassed and discouraged and upset emotionally and physically  
9 and suffered damage according to proof.

10 25. The actions of Defendants were intentional, outrageous and  
11 done with reckless disregard of Plaintiff's rights and therefore  
12 entitle him to an award of punitive damages.

13 26. By reason of Defendants' actions Plaintiff was caused to incur  
14 costs and expenses of litigation, including attorney's fees, to  
15 seek and redress his civil rights. Plaintiff therefore seeks an  
16 award of costs and attorney's fees associated with the necessity  
17 of brining this lawsuit.

18 **VI**

19 **THIRD CAUSE OF ACTION**

20 **(Violation Of Civil Rights Under California Accessibility Laws)**

21 27. Plaintiff realleges the allegations of the Second Cause of  
22 Action as though set forth fully herein.

23 **(a) Denial Of Full And Equal Access**

24 28. Plaintiff has been denied full and equal access to Defendants'  
25 goods, services, facilities, privileges, advantages, or  
26 accommodations within a public accommodation owned, leased, and/or  
27 operated by Defendants in violation of Civil Code Sections 54 and  
28 54.1; Health and Safety Code Section 19955 and California

1 Government Code Section 12948. The actions of Defendants also  
2 violate the provisions of Title 24 of State of California Building  
3 Codes with regard to accessibility for persons with disabilities  
4 by failing to provide access to Defendants' facilities due to  
5 violations pertaining to accessible routes, ground and floor  
6 surfaces, parking and passenger loading zones, curb ramps, ramps,  
7 stairs, elevators, platform lifts (wheelchair lifts), windows,  
8 doors, toilet stalls, urinals, lavatories and mirrors, sinks,  
9 storage, handrails, grab bars, controls and operating mechanisms  
10 alarms, detectable warnings, signage and telephones.

11 29. On the above basis Plaintiff has been wrongfully discriminated  
12 against.

13 **(b) Failure To Modify Practices, Policies And Procedures**

14 30. Defendants have failed and refused and continue to fail and  
15 refuse to provide a reasonable alternative to allow plaintiff  
16 equal access to their facility by modifying their practices,  
17 policies, and procedures in that that they failed to have a  
18 scheme, plan, or design to assist Plaintiff and others similarly  
19 situated in entering and utilizing Defendants' goods or services  
20 as required by California Civil Code section 54 and 54.1.  
21 Accordingly Defendants have wrongfully discriminated against  
22 Plaintiff.

23 **VII**

24 **FOURTH CAUSE OF ACTION**

25 **(Violation of The Unruh Civil Rights Act)**

26 31. Plaintiff realleges the allegations of the Third Cause of  
27 Action as though set forth fully herein.  
28

1 32. Section 51(b) of the Cal. Civ. Code [The Unruh Civil Rights  
2 Act], provides in pertinent part:

3 "All persons within the jurisdiction of this state are  
4 free and equal, and no matter what their sex, race, color,  
5 religion, ancestry, national origin, disability, or medical  
6 condition is entitled to the full and equal accommodations,  
7 advantages, facilities, privileges, or services in all  
8 business establishments of every kind whatsoever."

9 33. Defendants have violated the provisions of Civ. Code 51(b) by  
10 failing and refusing to provide free and equal access to Plaintiff  
11 to their facility on the same basis as other persons not disabled.

12 By its failure to provide equal access to Plaintiff as herein  
13 alleged, Defendants have also violated 42 U.S.C. section

14 12182(b) (2) (A) (iv) as provided in Cal. Civ. Codes section 51(f).

15 34. By reason of its acts and denial of Plaintiff's civil rights  
16 Defendants also violated the provisions of Cal. Civ. Code section  
17 52, which makes a person or entity in violation of Cal.Civ. Code  
18 51 liable for the actual damages to a Plaintiff including treble  
19 damages where appropriate and \$4000 per statutory violation.

20 35. Defendants, at all times prior to and including February 14,  
21 2002, respectively and continuing to the present time, knew that  
22 persons with physical disabilities were denied their rights of  
23 equal access to all portions of this public facility. Despite such  
24 knowledge, Defendants failed and refused to take steps to comply  
25 with the applicable access statutes and despite knowledge of the  
26 resulting problems and denial of civil rights suffered by  
27 Plaintiff and other similarly situated persons with disabilities.  
28

1 36. Defendants have failed and refused to take action to grant  
2 full and equal access to persons with physical disabilities.  
3 Defendants have carried out a course of conduct of refusing to  
4 respond to, or correct complaints about unequal access and has  
5 refused to comply with its legal obligation to make the subject  
6 facility accessible pursuant to the ADAAG and the California  
7 Building Code [Title 24 of the California Code of Regulations].  
8 Such actions and continuing course of conduct by Defendants  
9 evidence despicable conduct in conscious disregard of the rights  
10 and/or safety of Plaintiff and those similarly situated and thus  
11 justify an award of treble damages pursuant to section 52(a) and  
12 54.3(a) of the Cal.Civ. Code or alternatively an award of punitive  
13 damages in an appropriate amount.  
14

15  
16 37. Plaintiff has suffered emotional and physical damage and  
17 continues to suffer such damages all in an amount to be determined  
18 at time of trial.  
19

20 38. Under the provisions of Cal. Civ. Code section 55 Plaintiff  
21 seeks an award of reasonable attorney's fees and costs as a result  
22 of having to bring this action. Plaintiff requests the court to  
23 award such fees in an appropriate amount.  
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VIII

FIFTH CAUSE OF ACTION

**(Unfair And Unlawful Business Practice)**

39. Plaintiff realleges the allegations of the Fourth Cause of Action as though set forth fully herein.

40. California Business and Professions Code Section 17200 states in pertinent part:

"As used in this chapter, unfair competition shall mean and include any unlawful, unfair or fraudulent business act..."

41. Defendants, as alleged herein, are in violation of the Americans With Disabilities Act and Title 24 of the California Building Code, in that it has denied equal access to their place of public accommodation to Plaintiff and others similarly situated to Plaintiff. Defendants have failed and refused and continue to refuse to comply with equal access laws all in violation of 42 USC 12181-12183; 42 USC 1981; and 42 USC 12188. In addition the complained of acts are in violation of California Civil Code Sections 51, 52, 54, and 54.1,; California Health and Safety Code section 19955 and California Government Code section 12948 all of which require Defendants to provide equal access to its facility to disabled persons such as plaintiff. Defendants are also in violation of the indicated statutes because of their failure to remove architectural barriers, which prevent equal access to its facility by disabled persons and because of its failure to modify its practices, policies and procedures to have a scheme, plan, or



1 design to assist Plaintiff and others similarly situated to enter  
2 and utilize Defendants' services as required by the Unruh Act.

3 42. Defendant's acts are unlawful and unfair and are therefore in  
4 violation of California Business and Professions Code section  
5 17200.  
6

7 43. Pursuant to the provisions of California Business and  
8 Professions Code section 17201 Plaintiff is a person as identified  
9 within said section and therefore allowed to bring this action on  
10 behalf of himself and the general public to effectuate California  
11 Business and Professions Code 17200 as provided for within  
12 Business and Professions Code section 17204.  
13

14 44. Thus, Plaintiff, under Bus & Prof. Code section 17200 seeks  
15 injunctive relief, on behalf of himself and the general public,  
16 requiring Defendants to remedy the disabled access violations  
17 present within Defendants' facility and that Defendants be ordered  
18 to cease and desist from continuing in noncompliance with disabled  
19 access statutes and regulations.  
20

21 **IX**

22 **SIXTH CAUSE OF ACTION**

23 **(Negligent Infliction of Emotional Distress)**

24  
25 45. Plaintiff relleges the allegations of the Fourth Cause of  
26 Action as though set forth fully herein.

27 46. Defendants owe a duty to Plaintiff to make its facility  
28 accessible and to keep Plaintiff reasonably safe from known

1 dangers and risks of harm. This duty arises by virtue of the legal  
2 duties proscribed by various federal and state statutes including,  
3 but not limited to, ADA, ADAAG, California Civil Code sections 51,  
4 52, 54, 54.1 and Title 24 of the California Code of Regulations.  
5 Defendants had a duty of due care not to do or cause anything to  
6 happen that would subject Plaintiff to undue stress,  
7 embarrassment, chagrin, and discouragement.  
8

9 47. Defendants breached their duty of care to Plaintiff by the  
10 actions and inaction complained of herein and as a result thereof  
11 Plaintiff was shocked, discouraged, embarrassed and outraged at  
12 the callousness and disregard of Defendants. Defendants knew or  
13 had reason to know that by denying Plaintiff equal access to their  
14 facility and failing and refusing to remove architectural  
15 barriers, Plaintiff would suffer emotional and/or mental distress  
16 because of such discrimination and disparate treatment. Defendants  
17 breached their duty of care to plaintiff by the perpetration of  
18 the acts outlined herein.  
19

20 48. As a proximate result of the actions of Defendants Plaintiff  
21 did suffer emotional and mental distress and pain and suffering  
22 all in an amount to be determined at time of trial.  
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SEVENTH CAUSE OF ACTION

**(Intentional Infliction of Emotional Distress)**

49. Plaintiff realleges the allegations of the Fourth Cause of Action as though set forth fully herein.

50. The actions of Defendants are despicable, intentional and done with conscious disregard of the rights and safety of Plaintiff and as such should be regarded at outrageous.

51. As a proximate result of Defendants' actions Plaintiff has suffered severe emotional and mental distress all to his damage in an amount to be determined at time of trial.

52. Plaintiff seeks an award of punitive damages for this claim as the actions of Defendants are tantamount to outrageous conduct and subject it to exemplary damages.

DEMAND FOR JURY

53. Plaintiff respectfully requests that the claims made herein be heard and determined by a jury.

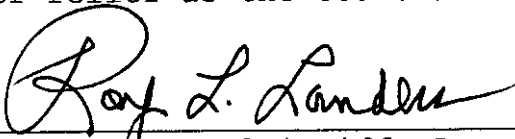
WHEREFORE PLAINTIFF PRAYS:

1. For general damages according to proof;
2. For special damages according to proof;
3. For damages pursuant to Cal. Civil Code section 52, in the amount of \$4,000 for each and every offense of California Civil Code section 51, Title 24 of the California Building Code and the Americans With Disabilities Act.
4. For Injunctive relief pursuant to 42 U.S.C. 12188(a) and California Business and Professions Code section 17200

- 1 5. For an award of attorney's fees pursuant to 42 U.S.C. 1988, 42
- 2 U.S.C. 1981, 42 U.S.C. 12205 and Cal. Civ. Code section 55;
- 3 6. For treble damages pursuant to Cal. Civ. Code 52 (a);
- 4 7. For punitive damages according to proof;
- 5 8. For a Jury Trial;
- 6 9. For costs of suit incurred herein and;
- 7 10. For such other and further relief as the court deems proper.

8 Respectfully submitted,

9 3-23-02

  
\_\_\_\_\_  
Attorney for Plaintiff, Dan Jones

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**I. (a) PLAINTIFFS**

DAN JONES

San Diego

(b) County of Residence of First Listed Plaintiff San Diego  
 (EXCEPT IN U.S. PLAINTIFF CASES)

**DEFENDANTS** DAKOTA INN, LATIN-HAIR CONNECTION, GENE BOWMAN REALTY, NORMAN J & ROLAND BOWMAN TRUST AND DOES 1-10 Inclusive  
 San Diego  
 County of Residence of First Listed. (IN U.S. PLAINTIFF CASES ONLY)  
 NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

CLERK, U.S. DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA  
 DEPUTY  
 BY: **02 CV 668 L (LSP)**

(c) Attorney's (Firm Name, Address, and Telephone Number)  
 Roy L. Landers (619) 296-7898  
 7840 Mission Center CT, Suite 101  
 San Diego, CA 92108

Attorneys (If Known) **02 CV 668 L (LSP)**

**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)

- |   |                            |                            |   |                            |                            |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	SOCIAL SECURITY	FEDERAL TAX SUITS
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input checked="" type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

**V. ORIGIN** (PLACE AN "X" IN ONE BOX ONLY)

- 1 Original Proceeding
- 2 Removed 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

**VI. CAUSE OF ACTION** (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

42 USC 12101-12102, 12181-12183 and 12201, et seq.  
 Discrimination on basis of disability (Public Accommodations)

**VII. REQUESTED IN COMPLAINT:**  DEMAND \$  CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23  CHECK YES only if demanded in complaint: JURY DEMAND:  Yes  No

**VIII. RELATED CASE(S) IF ANY** (See instructions): JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

DATE 4-4-02 SIGNATURE OF ATTORNEY OF RECORD Roy L. Landers

FOR OFFICE USE ONLY  
 RECEIPT # 081265 AMOUNT \$15000 APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_