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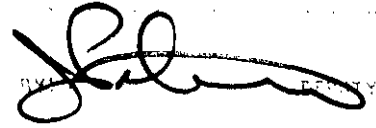
3:02-CV-00091 JONES V. CARLTON OAKS COUNTRY

1

CMP.

1 LAW OFFICES OF ROY L. LANDERS
2 ROY L. LANDERS (BAR #64920)
3 7840 MISSION CENTER COURT, SUITE 101
4 SAN DIEGO, CALIFORNIA 92108
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02 JUN 15 PM 2:19



Attorney for Plaintiff, Dan Jones

7
8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

11 DAN JONES
12 Plaintiff,

vs.

13 CARLTON OAKS COUNTRY CLUB,
14 CARLTON OAKS HOLDINGS, LLC.,
15 ENVIRONMENTAL TRUST INCORPORATED
AND DOES 1-10, Inclusive

16 Defendants.
17
18

) Case '02 CV 0091 (H) (LSP)
)
) COMPLAINT FOR DAMAGES RE:
) VIOLATION OF CIVIL RIGHTS ON
) BASIS OF DISCRIMINATION IN
) PUBLIC ACCOMMODATIONS; UNFAIR,
) UNLAWFUL AND FRAUDULENT BUSINESS
) PRACTICES; NEGLIGENT INFLECTION
) OF EMOTIONAL DISTRESS;
) INTENTIONAL INFLECTION OF
) EMOTIONAL DISTRESS; DEMAND FOR
) JURY TRIAL
)
)
)

19 I

20 JURISDICTION AND VENUE

21 1. (a) Jurisdiction of this action is invoked on the basis of 28
22 USC 1331 and 1343, 42 USC 12101-12102, 12181-12183 and 12201, et.
23 seq. Jurisdiction is also invoked pursuant to 42 USC 1981 [Civil
24 Rights Act of 1991], et seq, which is applicable to causes of
25 action where persons with disabilities have been denied their
26 civil rights. Venue in the Southern Judicial District of
27 California in the United States District Court is in accord with
28 28. U.S.C. section 1391(b) because a substantial part of

1 plaintiff's claims arose within the Judicial District of the
2 United States District Court of the Southern District of
3 California.

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

23 II

24 PARTIES

25 2. Defendant, Carlton Oaks Country Club is and at all times herein
26 mentioned was a duly organized business, association, or
27 corporation duly authorized to exist and operate within the State
28 of California and County of San Diego and the owner, lessee, or

1 tenant of the premises located at 5540 9200 Inwood Drive Santee,
2 California 92021.

3 3. Plaintiff is informed and believes and thereon alleges that
4 defendants Carlton Oaks Holdings, LLC and Environmental Trust
5 Incorporated are duly authorized business and/or corporate
6 entities authorized to conduct business within the State of
7 California and were at all times herein the owners, landlords and
8 also operators of Carlton Oaks Country Club.

9 4. Plaintiff is informed and believes and thereon alleges that
10 each of the named defendants herein operates a business and
11 or/facility of public accommodation as defined and described
12 within 42 USC 12181(7)(B) and (L) of the American with
13 Disabilities Act [ADA] and as such must comply with the ADA under
14 provisions of Title III therein.

15 5. Plaintiff is ignorant of the defendants sued as Does 1-10
16 herein, and therefore sues them in their fictitious names as Doe
17 defendants. Plaintiff is informed and believes and thereon alleges
18 that Does 1-10 are the owners, operators, lessees or tenants of
19 the subject property and each of the Doe defendants at all times
20 herein was acting as the agent and or representative of each other
21 and thereby are responsible in some manner for the injuries and
22 damages complained of herein. Plaintiff will seek leave of court
23 to amend this complaint to name Doe defendants when the same is
24 ascertained.

25 **III**

26 **GENERAL ALLEGATIONS COMMON TO ALL CLAIMS**

27 6. Plaintiff is disabled and confined to a wheelchair. He has no
28 control over his lower extremities and must use a wheelchair to

1 extremities and must use a wheelchair to transport himself and to
2 affect the basic necessities of his everyday existence.

3 Plaintiff's disability substantially limits one or more of life's
4 major activities and therefore he is disabled as defined under 42
5 USC 12102(2)(A)(B)(C).

6 7. On or about November 21, 2001 plaintiff attempted to enter the
7 subject premises of the defendants herein to utilize goods and/or
8 services offered by defendant Carlton Oaks Country Club. When
9 Plaintiff attempted to enter the commercial building he had
10 difficulty entering and using the facility because it failed to
11 comply with federal ADA Access Guidelines For Building and
12 Facilities [hereinafter "ADAAG"] and/or the State of California's
13 Title 24 Building Code Requirements.

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

17 (a) There are inadequate directional signs to indicate access
18 route for persons with disabilities in violation of ADAAG
19 4.1.3(2); 4.3.2(2) and California Title 24 1114B.1.2.

20 (b) Incorrect number of designated disabled parking spaces in
21 violation of ADAAG 4.1.2(5)(a), 4.6 and California Title 24
22 1129B.1.

23 (c) In appropriate van accessible parking space in violation of
24 ADAAG 4.1.2(5)(b) and California Title 1129.B\$.2.

25 (d) Lack of proper visual access route to entry way in
26 violation of ADAAG 4.13.6; 4.6.3; 4.6.2, 4.14.1;
27 4.3.2(1)(2)(3)(4) and California Title 24 1114B.1.2,
28 1129B.4.3.

- 1 (e) Improper height disabled signage in violation of ADAAG
2 4.6.4 and California Title 24 1129B.5.
- 3 (f) Disabled signs are obstructed in violation of ADAAG 4.6.4
4 and California Title 24 1129B.5.
- 5 (g) Lack of proper directional signage information in violation
6 of ADAAG 4.30.1-4.30.7 and California Title 24 1117B.
7 5.1.1.1. & 5.6.3.
- 8 (h) Lack of or improper symbol for accessibility in violation
9 of ADAAG 4.1.2(7)(d), 4.30.6 and California Title 24
10 1117B.9, 1117B.5.1.1 & 5.6.3.
- 11 (i) Bathroom side grab bars are at improper extension in
12 violation of ADAAG 4.17.6 and California Title 24
13 1115B.8.1.
- 14 (j) Mirrors are at improper height in violation of ADAAG 4.19.6
15 and California Title 24 1115B.9.1.2.
- 16 (k) Operable parts are at improper lengths in violation of
17 ADAAG 4.23.7 and California Title 24 1115B.9.2.
- 18 (l) Fountain is at improper height in violation of ADAAG 4.15.3
19 and California Title 24 1507.3.3.
- 20 (m) Direction of travel level changes are improper in violation
21 of ADAAG 4.3.7 and California Title 24 1133B.7.3
- 22 (n) Abruptness of level changes is in violation of ADAAG 4.3.8
23 and California Title 24 1133B.7.1.
- 24 (o) No visual alarms in violation of ADAAG 4.28.2; 4.28.3 and
25 California Title 24 1114B.2.4.

26 9. Based upon the above facts, Plaintiff as been discriminated
27 against and will continue to be discriminated against unless and
28 until Defendants are enjoined and forced to cease and desist from

1 continuing to discriminate against Plaintiff and others similarly
2 situated.

3 10. Pursuant to federal [ADA] and state law [California Title 24],
4 Defendants are required to remove barriers to their existing
5 facilities. Defendants have been put on notice pursuant to the ADA
6 and the California Civil Code prior to the statutory effect of the
7 ADA on January 26, 1992 that Defendants and each of them had a
8 duty to remove barriers to persons with disabilities such as
9 plaintiff. Defendants also knew or should have known that
10 individuals such as plaintiff with a disability are not required
11 to give notice to a governmental agency prior to filing suit
12 alleging Defendants' failure to remove architectural barriers.

13 11. Plaintiff believes and thereon allege that Defendants'
14 facilities, as described herein, have other access violations not
15 directly experienced by Plaintiff, which preclude or limit access
16 by others with disabilities, including, but not limited to, Space
17 Allowances, Reach Ranges, Accessible Routes, Protruding Objects,
18 Ground and Floor Surfaces, Parking and Passenger Loading Zones,
19 Curb Ramps, Ramps, Stairs, Elevators, Platform Lifts (Wheelchair
20 Lifts), Windows, Doors, Entrances, Drinking Fountains, and Water
21 Coolers, Water Closets, Toilet Stalls, Urinals, Lavatories and
22 Mirrors, Sinks, Storage, Handrails, Grab Bars, Telephones,
23 Controls and Operating Mechanisms, Alarms, Detectable Warnings and
24 Signage. Accordingly, Plaintiff alleges Defendants are required to
25 remove all architectural barriers, known or unknown. Also,
26 Plaintiff alleges Defendants are required to utilize the ADA
27 checklist for Readily Achievable Barrier Removal approved by the
28

1 United States Department of Justice and created by Adaptive
2 Environments.

3 12. Plaintiff desires to return to Defendants' places of business
4 and utilize their facilities without being discriminated against
5 in the immediate future.

6 **IV**

7 **FIRST CAUSE OF ACTION**

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

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

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

12 14. Based on the facts asserted above Plaintiff has been denied
13 full and equal access to Defendants' goods, services, facilities,
14 privileges, advantages, or accommodations. Defendant Carlton Oaks
15 Country Club is a public accommodation owned, leased and/or
16 operated by Defendants and each of them. Defendants' existing
17 facilities and/or services failed to provide full and equal access
18 to Defendants' facility as required by 42 U.S.C. section 12182(a).
19 Thus, Plaintiff was subjected to discrimination in violation of 42
20 U.S.C. 12182(b)(2)(A)(ii)(iv); 42 USC 1981 and 42 U.S.C. section
21 12188 because Plaintiff was denied equal access to Defendants'
22 existing facilities.

23 15. Plaintiff has a physical impairment as alleged herein because
24 his condition affects one or more of the following body systems:
25 neurological, musculoskeletal, special sense organs, and/or
26 cardiovascular. Further, his physical impairments substantially
27 limits one or more of the following major life activities:
28 walking. In addition, Plaintiff cannot perform one or more of the

1 said major life activities in the manner speed, and duration when
2 compared to the average person. Moreover, Plaintiff has a history
3 of or has been classified as having a physical impairment as
4 required by 42 U.S.C. section 12102(2)(A).

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

6 16. Based upon the facts alleged herein, Plaintiff was denied
7 full and equal access to Defendants' goods, services, facilities,
8 privileges, advantages, or accommodations within a public
9 accommodation owned leased, and/or operated by the named
10 Defendants. Defendants individually and collectively failed to
11 remove barriers as required by 42 U.S.C. 12182(a). Plaintiff is
12 informed and believes, and thus alleges that architectural
13 barriers which are structural in nature exist at the following
14 physical elements of Defendants' facilities:
15 Space Allowance and Reach Ranges, Accessible Route, Protruding
16 Objects, Ground and Floor Surfaces, Parking and Passenger Loading
17 Zones, Curb Ramps, Ramps, Stairs, Elevators, Platform Lifts
18 (Wheelchair Lifts), Windows, Doors, Entrances, Drinking Fountains
19 and Water Coolers, Water Closets, Toilet Stalls, Urinals,
20 Lavatories and Mirrors, Sinks, Storage, Handrails, Grab Bars, and
21 Controls and Operating Mechanisms, Alarms, Detectable Warnings,
22 Signage, and Telephones. Pursuant to 42 USC section
23 12182(b)(2)(iv), Title III requires places of public accommodation
24 to remove architectural barriers that are structural in nature
25 within existing facilities. Failure to remove such barriers and
26 disparate treatment against a person who has a known association
27 with a person with a disability are forms of prohibited
28 discrimination. Accordingly, Plaintiff was subjected to

1 discrimination in violation of 42 USC 12182(b)(2)(A)(iv) and 42
2 USC 12182 (b)(2)(A)(iv); 42 USC 1981 and 42 USC 12188.

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

4 17. Based on the facts alleged in this Complaint Defendants failed
5 and refused to provide a reasonable alternative by modifying its
6 practices, policies and procedures in that they failed to have a
7 scheme, plan, or design to assist Plaintiff and/or others
8 similarly situated in entering and utilizing Defendants' services,
9 as required by 42 U.S.C. section 12188(a). Thus, Plaintiff was
10 subjected to discrimination in violation of 42 U.S.C. section
11 12182(b)(2)(A)(iv); 42 U.S.C. 1981 and 42 U.S.C. section 12188
12 because Plaintiff was denied equal access to Defendants' existing
13 facilities.

14 18. As a result of the wrongful and discriminatory practices of
15 defendants, plaintiff has suffered actual damages consisting of
16 special damages and general damages in an amount to be determined
17 at time of trial herein.

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

23 20. Under the provisions of 42 USC 12205 plaintiff is entitled to
24 an award of reasonably attorneys fees and requests that the court
25 grant such fees as are appropriate.

26 //

27 //

28

SECOND CAUSE OF ACTION**(Violation of Civil Rights 42 U.S.C. 1991)**

1
2
3
4 21. Plaintiff realleges the allegations of the First Cause of
5 Action as though set forth fully herein.

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

18 23. Defendants, because they have individually and/or collectively
19 denied plaintiff access to their premises, goods and services,
20 have denied him the right to make, enter into or enforce a
21 contract and therefor have violated the provisions of 42 U.S.C.
22 1991 all to Plaintiff's damage in an amount to be determined at
23 time of trial herein.

24 24. As a result of Defendants' actions Plaintiff was humiliated,
25 embarrassed and discouraged and upset emotionally and physically
26 and suffered damages according to proof.

1 25. The actions of the Defendants were intentional, outrageous and
2 done with reckless disregard of Plaintiff's rights and therefore
3 entitle him to an award of punitive damages.

4 26. By reason of Defendants' actions Plaintiff was caused to incur
5 costs and expenses of litigation, including attorney's fees, to
6 seek and redress his civil rights. Plaintiff therefore seeks an
7 award of costs and attorney's fees associated with the necessity
8 of brining this lawsuit.

9 **VI**

10 **THIRD CAUSE OF ACTION**

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

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

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

15 28. Plaintiff has been denied full and equal access to Defendants'
16 goods services, facilities, privileges, advantages, or
17 accommodations within a public accommodation owned, leased, and/or
18 operated by Defendants in violation of California Civil Code
19 Sections 54 and 54.1; California Health and Safety Code Section
20 19955 and California Government Code Section 12948. The actions of
21 Defendants also violate the provisions of Title 24 of the State of
22 California Building Codes with regard to accessibility for persons
23 with disabilities by failing to provide access to Defendants
24 facilities due to violations pertaining to accessible routes,
25 ground and floor surfaces, parking and passenger loading zones,
26 curb ramps, ramps, stairs, elevators, platform lifts (wheelchair
27 lifts), windows, doors, toilet stalls, urinals, lavatories and
28

1 mirrors, sinks, storage, handrails, grab bars, controls and
2 operating mechanisms
3 alarms, detectable warnings, signage and telephones.

4 29. On the above basis Plaintiff has been wrongfully discriminated
5 against.

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

7 30. Defendants have failed and refused and continue to fail and
8 refuse to provide a reasonable alternative to allow plaintiff
9 equal access to their facility by modifying their practices,
10 policies, and procedures in that that they failed to have s
11 scheme, plan, or design to assist Plaintiff and others similarly
12 situated in entering and utilizing Defendants' goods or services
13 as required by California Civil Code section 54 and 54.1.
14 Accordingly Defendants have wrongfully discriminated against
15 Plaintiff.

16 **VII**

17 **FOURTH CAUSE OF ACTION**

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

19 31. Plaintiff realleges the allegations of the Third Cause of
20 Action as though set forth fully herein.

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

23 "All persons within the jurisdiction of this state are
24 free and equal, and no matter what their sex, race, color,
25 religion, ancestry, national origin, disability, or medical
26 condition is entitled to the full and equal accommodations,
27 advantages, facilities, privileges, or services in all
28 business establishments of every kind whatsoever."

33. Defendants have violated the provisions of Civ. Code 51 (b) by

1 failing and refusing to provide free and equal access to Plaintiff
2 to their facility on the same basis as other persons not disabled.

3 By their failure to provide equal access to Plaintiff as herein
4 alleged, Defendants have also violated 42 U.S.C. section
5

6 12182(b)(2)(A)(iv) as provided in Cal. Civ. Codes section 51(f).

7 34. By reason of their acts and denial of Plaintiff's civil rights

8 Defendants also violated the provisions of Cal. Civ. Code section

9 52, which makes a person or entity in violation of Cal.Civ. Code

10 51 liable for the actual damages to a Plaintiff including treble

11 damages where appropriate.
12

13 35. Defendants and each of them, at all times prior to and

14 including November 2001, respectively and continuing to the

15 present time, knew that persons with physical disabilities were

16 denied their rights of equal access to all portions of this public

17 facility. Despite such knowledge, Defendants, and each of them,

18 failed and refused to take steps to comply with the applicable

19 access statutes and despite knowledge of the resulting problems

20 and denial of civil rights suffered by Plaintiff and other

21 similarly situated persons with disabilities.
22

23 36. Defendants and each of them have failed and refused to take

24 action to grant full and equal access to person with physical

25 disabilities. Defendants have carried out a course of conduct of

26 refusing to respond to, or correct complaints about unequal access
27

28 and have refused to comply with their legal obligations to make

1 the subject facility accessible pursuant the ADAAG and the
2 California Building Code [Title 24 of the California Code of
3 Regulations]. Such actions and continuing course of conduct by
4 Defendants, and each of them, evidence despicable conduct in
5 conscious disregard of the rights and/or safety of Plaintiff and
6 those similarly situated and thus justify an award of treble
7 damages pursuant to section 52(a) and 54.3(a) of the Cal.Civ. Code
8 or alternatively an award of punitive damages in an appropriate
9 amount.
10

11
12 37. Plaintiff has suffered emotional and physical damage and
13 continues to suffer such damages all in an amount to be determined
14 at time of trial.

15
16 38. Under the provisions of Cal. Civ. Code section 55 Plaintiff
17 seeks an award of reasonable attorney's fees and costs as a result
18 of having to bring this action. Plaintiff requests the court to
19 award such fees in an appropriate amount.

20
21 **VIII**

22 **FIFTH CAUSE OF ACTION**

23 **(Unfair And Unlawful Business Practice)**

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

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

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

1 41. Defendants, as alleged herein, are in violation of the
2 Americans With Disabilities Act and Title 24 of the California
3 Building Code, in that they have denied equal access to their
4 places of public accommodation to Plaintiff and others similarly
5 situated to Plaintiff. Defendants have failed and refused and
6 continue to refuse to comply with equal access laws all in
7 violation of 42 USC 12181-12183; 42 USC 1981; and 42 USC 12188. In
8 addition the complained of acts are in violation of California
9 Civil Code Sections 51, 52, 54, and 54.1,; California Health and
10 Safety Code section 19955 and California Government Code section
11 12948 all of which require Defendants to provide equal access to
12 their facility to disabled persons such as plaintiff. Defendants
13 are also in violation of the indicated statutes because of their
14 failure to remove architectural barriers, which prevent equal
15 access to their facility by disabled persons and because of their
16 failure to modify their practices, policies and procedures to have
17 a scheme, plan, or design to assist Plaintiff and others similarly
18 situated to enter and utilize Defendants' services as required by
19 the Unruh Act.

20 42. Defendants' acts are unlawful and unfair and are therefore in
21 violation of California Business and Professions Code section
22 17200.

23 43. Pursuant to the provisions of California Business and
24 Professions Code section 17201 Plaintiff is a person as identified
25
26
27
28

1 within said section and therefore allowed to bring this action on
2 behalf of himself and the general public to effectuate California
3 Business and Professions Code 17200 as provided for within
4 Business and Professions Code section 17204.
5

6 44. Thus, Plaintiff, under Bus & Prof. Code section 17200 seeks
7 injunctive relief, on behalf of himself and the general public,
8 requiring Defendants to remedy the disabled access violations
9 present within Defendants' facility and that Defendants be ordered
10 to cease and desist from continuing in noncompliance with disabled
11 access statutes and regulations.
12

13 IX

14 SIXTH CAUSE OF ACTION

15 (Negligent Infliction of Emotional Distress)

16 45. Plaintiff relleges the allegations of the Fourth Cause of
17 Action as though set forth fully herein.
18

19 46. Defendants and each of them owed a duty to Plaintiff to make
20 their facility accessible and to keep Plaintiff reasonably safe
21 from known dangers and risks of harm. This duty arises by virtue
22 of the legal duties proscribed by various federal and state
23 statutes including, but not limited to, ADA, ADAAG, California
24 Civil Code sections 51, 52, 54, 54.1 and Title 24 of the
25 California Code of Regulations. Defendants had a duty of due care
26 not to do or cause anything to happen that would subject Plaintiff
27 to undue stress, embarrassment, chagrin, and discouragement.
28

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

13 48. As a proximate result of the actions of Defendants Plaintiff
14 did suffer emotional and mental stress and pain and suffering all
15 in an amount to be determined at time of trial.
16

17 **X**

18 **SEVENTH CAUSE OF ACTION**

19 **(Intentional Infliction of Emotional Distress)**

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

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

25 51. As a proximate result of Defendants' actions Plaintiff has
26 suffered severe emotional and mental distress all to his damage in
27 an amount to be determined at time of trial.
28

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

4 DEMAND FOR JURY

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

7 WHEREFORE PLAINTIFF PRAYS:

- 8 1. For general damages according to proof;
- 9 2. For special damages according to proof;
- 10 3. For damages pursuant to Cal. Civil Code section 52, in the
11 amount of \$1,000 for each and every offense of California Civil
12 Code section 51, Title 24 of the California Building Code and the
13 Americans With Disabilities Act.
- 14 4. For Injunctive relief pursuant to 42 U.S.C. 12188(a) and
15 California Business and Professions Code section 17200
- 16 5. For an award of attorney's fees pursuant to 42 U.S.C. 1988, 42
17 U.S.C. 1981, 42 U.S.C. 12205 and Cal. Civ. Code section 55;
- 18 6. For treble damages pursuant to Cal. Civ. Code 52 (a);
- 19 7. For punitive damages according to proof;
- 20 8. For a Jury Trial;
- 21 9. For costs of suit incurred herein and;
- 22 10. For such other and further relief as the court deems proper.

23 Respectfully submitted,

24 1/11/01

25 Ray L. Sanders
Attorney for Plaintiff, Dan
26 Jones
27
28

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 REVERSE OF THE FORM.)

I (a) PLAINTIFFS

DAN JONES

DEFENDANTS

CARLTON OAKS COUNTRY CLUB, CARLTON OAKS HOLDINGS, LLC., ENVIRONMENTAL TRUST INCORPORATED AND DOES 1-10, Inclusive.

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

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT San Diego (IN U.S. PLAINTIFF CASES ONLY) COUNTY

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Roy L. Landers 7840 Mission Center Ct. Ste. 101 San Diego, California 92108 619-296-7898

ATTORNEYS (IF KNOWN)

'02 CV 0091 H (LSP)

II. BASIS OF JURISDICTION

(PLACE AN X IN ONE BOX ONLY)

- 1 U.S. Government Plaintiff
Federal Question
2 U.S. Government Defendant
4 Diversity

III. CITIZENSHIP OF PRINCIPAL PARTIES

(For Diversity Cases Only)

(PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
Incorporated or Principal Place of Business in This State
Incorporated and Principal Place of Business in Another State
Foreign Nation

IV. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A 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)

V. NATURE OF SUIT

(PLACE AN X IN ONE BOX ONLY)

Table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, SOCIAL SECURITY, FEDERAL TAX SUITS, BANKRUPTCY, PROPERTY RIGHTS, OTHER STATUTES.

VI. 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

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

Check YES only if demanded in complaint: JURY DEMAND: YES NO

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

1-14-02

Roy L. Landers

UNITED STATES DISTRICT COURT

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