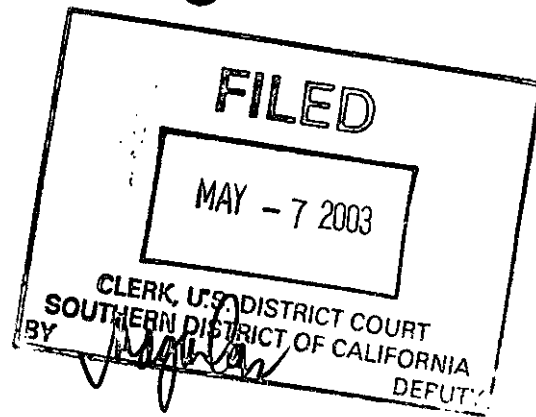


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3:03-CV-00919 JONES V. LONG JOHN SILVERS
1
CMP.

15928

1 ROY L. LANDERS (BAR #64920)
2 **LAW OFFICES OF ROY L. LANDERS**
3 7840 MISSION CENTER COURT, SUITE 101
4 SAN DIEGO, CALIFORNIA 92108
5 TELEPHONE (619) 296-7898
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7 Attorney for Plaintiff: **DAN JONES**



8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10 **03 CV 919 IEG LSP**

11 **DAN JONES**

12 **Plaintiff,**

13 **vs.**

14 **LONG JOHN SILVER'S, LONG JOHN**
15 **SILVER'S RESTAURANT, LONG JOHN**
16 **SILVER'S INC., AND DOES 1-10, Inclusive,**

17 **Defendants.**

Case No.:

**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**

18 I

19 **JURISDICTION AND VENUE**

20
21 1. (a) Jurisdiction of this action is invoked on the basis of 28 USC 1331 and 1343, 42 USC 12101-
22 12102, 12181-12183 and 12201, et. seq. Jurisdiction is also invoked pursuant to 42 USC 1981
23 [Civil Rights Act of 1991], et seq, which is applicable to causes of action where persons with
24 disabilities have been denied their civil rights and Title II, section 201, et. seq. of the 1964 Civil
25 Rights Act. Venue in the Southern Judicial District of California in the United States District Court
26 is in accord with 28. U.S.C. section 1391(b) because a substantial part of plaintiff's claims arose
27 within the Judicial District of the United States District Court of the Southern District of California.
28

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1 1-10 are the owners, operators, lessees or tenants of the subject property and each of the Doe
2 defendants at all times herein was acting as the agent and or representative of each other and
3 thereby are responsible in some manner for the injuries and damages complained of herein. Plaintiff
4 will seek leave of court to amend this complaint to name Doe defendants when the same is
5 ascertained.

6 **III**

7 **GENERAL ALLEGATIONS COMMON TO ALL CLAIMS**

8 6. Plaintiff is disabled and confined to a wheelchair. He has no control over his lower
9 extremities and must use a wheelchair to transport himself and to effect the basic necessities of his
10 everyday existence. Plaintiff's disability substantially limits one or more of life's major activities
11 and therefore he is disabled as defined under 42 USC 12102(2)(A)(B)(C).

12 7. On or about **MARCH 19, 2003** plaintiff attempted to enter the subject premises of the
13 defendants herein to utilize goods and/or services offered by defendants. When Plaintiff attempted
14 to enter said facility, plaintiff had difficulty entering and using the facility because it failed to
15 comply with Federal ADA Access Guidelines For Building and Facilities [hereinafter "ADAAG"]
16 and/or the State of California's Title 24 Building Code Requirements.

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

- 19 1. Improper Site Entrance Signage (Not Filled Out - Reclaim at:), (CA Title 24
20 1129B.5);
- 21 2. Improper Site Entrance Signage (Not Filled Out – Telephone number:), (CA
22 Title 24 1129B.5);
- 23 3. Improper Van Accessible Aisle Length, (ADAAG 4.6.3 & CA Title 24
24 1129B.4.2);
- 25 4. Improper Curb Ramp Location, (ADAAG 4.7.1);
- 26 5. No Curb Bumper/Stop, (CA Title 24 1129.B4.3);
- 27 6. No Seating – Dining, Banquet & Bar Facilities – (Min Requirement 5%),
28 (ADAAG 5.1 & CA Title 24 1104B.5.4);

- 1 7. No Seating – Dining, Banquet & Bar Facilities – (Clear Space 30” x 48”
2 Min)), (ADAAG 4.2.4.1 & CA Title 24 1122B.3);
- 3 8. No Seating – Dining, Banquet & Bar Facilities – (Knee Space 27”H, 30”W,
4 19”D), (ADAAG 4.32.3 & CA Title 24 1122B.3);
- 5 9. No Seating – Dining, Banquet & Bar Facilities – (Table Height 28”-34”),
6 (ADAAG 4.32.4 & CA Title 24 1122B.4);
- 7 10. No Seating – Dining, Banquet & Bar Facilities – (Access Aisles Min Width
8 36”), (ADAAG 5.3 & CA Title 24 1104B.5.4);
- 9 11. No Seating – Dining, Banquet & Bar Facilities – (Equivalent Services &
10 Décor @ Accessible Seating), (ADAAG 5.4 & CA Title 24 1104B.5.4);
- 11 12. No Seating – Dining, Banquet & Bar Facilities – (Accessible Seating
12 Integrated w/General Seating), (ADAAG 5.4 & CA Title 24 1104B.5.4);
- 13 13. No Bathroom – International Symbol of Accessibility, (ADAAG 4.30.6 &
14 CA Title 24 1117B.5.9);
- 15 14. No Raised Braille Characters (Restroom Signage), (ADAAG 4.30.4 & CA
16 Title 24 1117B.5.6.1 & .2);
- 17 15. Improper Wall Mount Signage (Latch Side of Door) , (ADAAG 4.1.2(7)(d)
18 and CA Title 24 1117B.5.1.1 & .5.6.3);
- 19 16. Improper Wall Mount Signage (60 inches from the floor), (ADAAG 4.30.6 &
20 CA Title 24 1117B.5.9);
- 21 17. Improper Door Mount Signage (Men's & Women's), (CA Title 24 1115B.5);
- 22 18. Improper Faucet Fixtures (One Hand Operable), (ADAAG 4.27.4 & CA Title
23 24 1508.1 & .2);
- 24 19. Improper Faucets (Max 5 lb Force to Activate), (ADAAG 4.27.4 & CA Title
25 24 1508.1 & .2) ;
- 26 20. Improper Faucets (Lever-Type), (ADAAG 4.27.4 & CA Title 24 1508.1 &
27 .2);
- 28

21. Improper Water Closet Mounting/Location – Both Walls (Front-Transfer Stall), (ADAAG 4.23.4 & CA Title 24 1115B.7.1.4);
22. Improper Width Between Walls – Front Transfer Stall, (ADAAG 4.23.4 & CA Title 24 1115B.7.1.4);
23. Improper Accessories/Fixtures – Proper Height (Toilet Seat Covers), (ADAAG 4.23.7 & CA Title 24 1115B.9.2);
24. Improper Accessories/Fixtures – Proper Height (Paper Towel Operating Lever), (ADAAG 4.23.7 & CA Title 24 1115B.9.2);
25. Improper Mirror – Mounting Height, (ADAAG 4.19.6 & CA Title 24 1115B.9.1.2);
26. Improper Urinal Rim Height 17" Max, (ADAAG 4.18.2 & CA Title 24 1503.2.1);
27. Improper Flush Valve Urinal – Correct Height 44" Max, (ADAAG 4.18.4 & CA Title 24 1503.2.2);
28. Improper Toilet Stall – Proper Size, (ADAAG 4.17.3 & CA Title 24 1115B.1);
29. Improper Hardware – Opening Door Lock/Latch, (ADAAG 4.13.9 & CA Title 24 1115B.7.1.4);
30. Improper Hardware – Handle Inside/Outside Compartment Door, (ADAAG 4.13.9 & CA Title 24 1115B.7.1.4);
31. No Drain & Hot Water Pipes – Insulated or Covered, (ADAAG 4.24.6)

9. Plaintiff is informed and believes and thereon alleges that defendants' facility has in excess of **FIFTY (50) Violations** of ADAAG and/or Title 24 at their facility.

10. These violations are believed to have existed for a significant period of time and with defendant's specific knowledge.

11. Based upon the above facts, Plaintiff as been discriminated against and will continue to be discriminated against unless and until Defendants are enjoined and forced to cease and desist from continuing to discriminate against Plaintiff and others similarly situated.

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

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

19 14. Plaintiff desires to return to Defendants' places of business and utilize their facilities without
20 being discriminated against in the immediate future.

21 IV

22 FIRST CAUSE OF ACTION

23 (Violation of Civil Rights-American With Disabilities Act)

24 15. Plaintiff re-alleges the allegations in paragraphs 1 through 14 as though set forth fully herein.

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

26 16. Based on the facts asserted above Plaintiff has been denied full and equal access to Defendants'
27 goods, services, facilities, privileges, advantages, or accommodations. Defendant **LONG JOHN**
28 **SILVER'S RESTAURANT** is a public accommodation owned, leased and/or operated by

1 Defendants and each of them. Defendants' existing facilities and/or services failed to provide full
2 and equal access to Defendants' facility as required by 42 U.S.C. Section 12182(a). Thus, Plaintiff
3 was subjected to discrimination in violation of 42 U.S.C. 12182(b)(2)(A)(ii)(iv); 42 USC 1981 and
4 42 U.S.C. section 12188 because Plaintiff was denied equal access to Defendants' existing facilities.
5 17. Plaintiff has a physical impairment as alleged herein because his condition affects one or more
6 of the following body systems: neurological, musculoskeletal, special sense organs, and/or
7 cardiovascular. Further, his physical impairments substantially limits one or more of the following
8 major life activities: walking. In addition, Plaintiff cannot perform one or more of the said major
9 life activities in the manner speed, and duration when compared to the average person. Moreover,
10 Plaintiff has a history of or has been classified as having a physical impairment as required by 42
11 U.S.C. section 12102(2)(A).

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

13 18. Based upon the facts alleged herein, Plaintiff was denied full and equal access to Defendants'
14 goods, services, facilities, privileges, advantages, or accommodations within a public
15 accommodation owned leased, and/or operated by the named Defendants. Defendants individually
16 and collectively failed to remove barriers as required by 42 U.S.C. 12182(a). Plaintiff is informed
17 and believes, and thus alleges that architectural barriers which are structural in nature exist at the
18 following physical elements of Defendants' facilities:

19 Space Allowance and Reach Ranges, Accessible Route, Protruding Objects, Ground and Floor
20 Surfaces, Parking and Passenger Loading Zones, Curb Ramps, Ramps, Stairs, Elevators, Platform
21 Lifts (Wheelchair Lifts), Windows, Doors, Entrances, Drinking Fountains and Water Coolers,
22 Water Closets, Toilet Stalls, Urinals, Lavatories and Mirrors, Sinks, Storage, Handrails, Grab Bars,
23 and Controls and Operating Mechanisms, Alarms, Detectable Warnings, Signage, and Telephones.
24 Pursuant to 42 USC section 12182(b)(2)(iv), Title III requires places of public accommodation to
25 remove architectural barriers that are structural in nature within existing facilities. Failure to remove
26 such barriers and disparate treatment against a person who has a known association with a person
27 with a disability are forms of prohibited discrimination. Accordingly, Plaintiff was subjected to
28

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

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

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

10 20. As a result of the wrongful and discriminatory practices of defendants, plaintiff has suffered
11 actual damages consisting of special damages and general damages in an amount to be determined
12 at time of trial herein.

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

17 22. Under the provisions of 42 USC 12205 Plaintiff is entitled to an award of reasonable attorneys
18 fees and requests that the court grant such fees as are appropriate.

19 V

20 **SECOND CAUSE OF ACTION**

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

22 23. Plaintiff re-alleges the allegations of the First Cause of Action as though set forth fully herein.

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

1 making, entering into and enforcing contracts that plaintiff and others similarly situated may desire
2 to effect.

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

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

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

11 28. By reason of Defendants' actions Plaintiff was caused to incur costs and expenses of litigation,
12 including attorney's fees, to seek and redress his civil rights. Plaintiff therefore seeks an award of
13 costs and attorney's fees associated with the necessity of bringing this lawsuit.

14 **VI**

15 **THIRD CAUSE OF ACTION**

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

17 29. Plaintiff re-alleges the allegations of the Second Cause of Action as though set forth fully
18 herein.

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

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

1 lifts), windows, doors, toilet stalls, urinals, lavatories and mirrors, sinks, storage, handrails, grab
2 bars, controls and operating mechanisms, alarms, detectable warnings, signage and telephones.

3 31. On the above basis Plaintiff has been wrongfully discriminated against.

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

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

11 **VII**

12 **FOURTH CAUSE OF ACTION**

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

14 33. Plaintiff re-alleges the allegations of the Third Cause of Action as though set forth fully herein.

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

16 "All persons within the jurisdiction of this state are
17 free and equal, and no matter what their sex, race, color,
18 religion, ancestry, national origin, disability, or medical
19 condition is entitled to the full and equal accommodations,
20 advantages, facilities, privileges, or services in all
21 business establishments of every kind whatsoever."

22 35. Defendants have violated the provisions of Civ. Code 51 (b) by
23 failing and refusing to provide free and equal access to Plaintiff to their facility on the same basis as
24 other persons not disabled. By their failure to provide equal access to Plaintiff as herein alleged,
25 Defendants have also violated 42 U.S.C. section 12182(b)(2)(A)(iv) as provided in Cal. Civ. Codes
26 section 51(f).

27 36. By reason of their acts and denial of Plaintiff's civil rights Defendants also violated the
28 provisions of Cal. Civ. Code section 52, which makes a person or entity in violation of Cal. Civ.
Code 51 liable in the amount of \$4,000 per violation of said statute.

1 37. Defendants and each of them, at all times prior to and including **MARCH 19, 2003** respectively
2 and continuing to the present time, knew that persons with physical disabilities were denied their
3 rights of equal access to all portions of this public facility. Despite such knowledge, Defendants,
4 and each of them, failed and refused to take steps to comply with the applicable access statutes and
5 despite knowledge of the resulting problems and denial of civil rights suffered by Plaintiff and other
6 similarly situated persons with disabilities.
7

8 38. Defendants and each of them have failed and refused to take action to grant full and equal
9 access to persons with physical disabilities. Defendants have carried out a course of conduct of
10 refusing to respond to, or correct complaints about unequal access and have refused to comply with
11 their legal obligations to make the subject facility accessible pursuant the ADAAG and the
12 California Building Code [Title 24 of the California Code of Regulations]. Such actions and
13 continuing course of conduct by Defendants, and each of them, evidence despicable conduct in
14 conscious disregard of the rights and/or safety of Plaintiff and those similarly situated and thus
15 justify an award of treble damages pursuant to section 52(a) and 54.3(a) of the Cal. Civ. Code or
16 alternatively an award of punitive damages in an appropriate amount.
17

18 39. Plaintiff has suffered emotional and physical damage and continues to suffer such damages all
19 in an amount to be determined at time of trial.
20

21 40. Under the provisions of Cal. Civ. Code section 55 Plaintiff seeks an award of reasonable
22 attorney's fees and costs as a result of having to bring this action. Plaintiff requests the court to
23 award such fees in an appropriate amount.
24

25 **VIII**
26 **FIFTH CAUSE OF ACTION**
27 **(Unfair And Unlawful Business Practice)**
28

41. Plaintiff re-alleges the allegations of the Fourth Cause of Action as though set forth fully herein.

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

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

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

16 44. Defendants' acts are unlawful and unfair and are therefore in violation of California Business
17 and Professions Code section 17200.

18 45. Pursuant to the provisions of California Business and Professions Code section 17201 Plaintiff
19 is a person as identified within said section and therefore allowed to bring this action on behalf of
20 himself and the general public to effectuate California Business and Professions Code 17200 as
21 provided for within Business and Professions Code section 17204.

22 46. Thus, Plaintiff, under Bus & Prof. Code section 17200 seeks injunctive relief, on behalf of
23 himself and the general public, requiring Defendants to remedy the disabled access violations
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1 present within Defendants' facility and that Defendants be ordered to cease and desist from
2 continuing in noncompliance with disabled access statutes and regulations.

3
4 **IX**

5 **SIXTH CAUSE OF ACTION**

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

7 47. Plaintiff re-alleges the allegations of the Fourth Cause of Action as though set forth fully herein.

8 48. Defendants and each of them owed a duty to Plaintiff to make their facility accessible and to
9 keep Plaintiff reasonably safe from known dangers and risks of harm. This duty arises by virtue of
10 the legal duties proscribed by various federal and state statutes including, but not limited to, ADA,
11 ADAAG, California Civil Code sections 51, 52, 54, 54.1 and Title 24 of the California Code of
12 Regulations. Defendants had a duty of due care not to do or cause anything to happen that would
13 subject Plaintiff to undue stress, embarrassment, chagrin, and discouragement.
14

15 49. Defendants breached their duty of care to Plaintiff by the actions and inaction complained of
16 herein and as a result thereof Plaintiff was shocked, discouraged, embarrassed and outraged at the
17 callousness and disregard of Defendants. Defendants knew or had reason to know that by denying
18 Plaintiff equal access to their facility and failing and refusing to remove architectural barriers,
19 Plaintiff would suffer emotional and/or mental distress because of such discrimination and disparate
20 treatment. Defendants breached their duty of care to plaintiff by the perpetration of the acts outlined
21 herein.
22

23 50. As a proximate result of the actions of Defendants Plaintiff did suffer emotional and mental
24 stress and pain and suffering all in an amount to be determined at time of trial.
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4 **SEVENTH CAUSE OF ACTION**

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

6 51. Plaintiff re-alleges the allegations of the Fourth Cause of Action as though set forth fully herein.

7 52. The actions of Defendants and each of them are despicable, intentional and done with conscious
8 disregard of the rights and safety of Plaintiff and as such should be regarded as outrageous.

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

11 54. Plaintiff seeks an award of punitive damages for this claim as the actions of Defendants are
12 tantamount to outrageous conduct and subject them to exemplary damages.

13 **DEMAND FOR JURY**

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

15 **WHEREFORE PLAINTIFF PRAYS:**

16 **1. For general damages according to proof;**

17 **2. For special damages according to proof;**

18 **3. For damages pursuant to Cal. Civil Code section 52, in the amount of \$4,000 for each and**
19 **every offense of California Civil Code section 51, Title 24 of the California Building Code and**
20 **the Americans With Disabilities Act.**

21 **4. For Injunctive relief pursuant to 42 U.S.C. 12188(a) and California Business and**
22 **Professions Code section 17200**

23 **5. For an award of attorney's fees pursuant to 42 U.S.C. 1988, 42 U.S.C. 1981, 42 U.S.C. 12205**
24 **and Cal. Civ. Code section 55;**

25 **6. For treble damages pursuant to Cal. Civ. Code 52 (a);**

26 **7. For punitive damages according to proof;**

27 **8. For a Jury Trial;**

28 **9. For costs of suit incurred herein and;**

1 **10. For such other and further relief as the court deems proper.**

2 **Respectfully submitted.**

3 DATED: 4-18-03

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Attorney for Plaintiff, DAN JONES

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CIVIL COVER SHEET

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

LONG JOHN SILVER'S, LONG JOHN SILVER'S RESTAURANT, LONG JOHN SILVER'S, INC., AND DOES 1-10, Inclusive. San Diego

San Diego

County of Residence of First Listed

San Diego

(EXCEPT IN U.S. PLAINTIFF CASES)

(IN U.S. PLAINTIFF CASES ONLY)

(b) County of Residence of First Listed Plaintiff

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

(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

DEPUTY (If Known)

'03 CV 919 IEG 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	PERSONAL INJURY <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	<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 PERSONAL PROPERTY <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 PROPERTY RIGHTS <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	
<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))	
			FEDERAL TAX SUITS		
			<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: xx

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

JUDGE _____ DOCKET NUMBER _____

DATE 4/30/03

SIGNATURE OF ATTORNEY OF RECORD

Roy L. Landers

FOR OFFICE USE ONLY

RECEIPT # 93789 AMOUNT 150 APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____