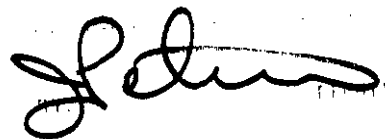




JPP 1/16/02 12:14  
3:02-CV-00093 JONES V. MT WOODSON GOLF CLUB  
\*1\*  
\*CMP.\*

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02 JUN 15 PM 2:31



Attorney for Plaintiff, Dan Jones

7  
8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA

10 '02 CV 00938TM (JFS)

11 DAN JONES ) Case No.:  
12 Plaintiff, )  
13 vs. ) COMPLAINT FOR DAMAGES RE:  
14 MT WOODSON GOLF CLUB, STEVE DAWE ) VIOLATION OF CIVIL RIGHTS ON  
15 AND DOES 1-10, Inclusive, ) BASIS OF DISCRIMINATION IN  
16 Defendants. ) PUBLIC ACCOMMODATIONS; UNFAIR,  
17 ) UNLAWFUL AND FRAUDULENT BUSINESS  
18 ) PRACTICES; NEGLIGENT INFLECTION  
19 ) OF EMOTIONAL DISTRESS;  
20 ) INTENTIONAL INFLECTION OF  
21 ) EMOTIONAL DISTRESS; DEMAND FOR  
22 ) JURY TRIAL  
23 )  
24 )  
25 )  
26 )  
27 )  
28 )

I

21 JURISDICTION AND VENUE

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

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7 Attorney for Plaintiff, Don Jones

8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA

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I

**JURISDICTION AND VENUE**

1. (a) Jurisdiction of this action is invoked on the basis of 28 USC 1331 and 1343, 42 USC 12101-12102, 12181-12183 and 12201, et. seq. Jurisdiction is also invoked pursuant to 42 USC 1981 [Civil Rights Act of 1991], et seq, which is applicable to causes of action where persons with disabilities have been denied their civil rights. Venue in the Southern Judicial District of California in the United States District Court is in accord with 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, Mt Woodson Golf 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 16422 North Woodson Dr. Ramona,  
2 California 92065.

3 3. Plaintiff is informed and believes and thereon alleges that  
4 defendant Steve Dawe is the owner and/or landlord of defendant Mt  
5 Woodson Golf Club.

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

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

### 22 III

#### 23 GENERAL ALLEGATIONS COMMON TO ALL CLAIMS

24 6. Plaintiff is disabled and confined to a wheelchair. He has no  
25 control over his lower extremities and must use a wheelchair to  
26 transport himself and to affect the basic necessities of his  
27 everyday existence. Plaintiff's disability substantially limits  
28

1 major activities and therefore he is disabled as defined under 42  
2 USC 12102(2) (A) (B) (C).

3 7. On or about November 19,2001 plaintiff attempted to enter the  
4 subject premises of the defendants herein to utilize goods and/or  
5 services offered by defendant Mt. Woodson Golf Club. When  
6 Plaintiff attempted to enter the commercial building he had  
7 difficulty entering and using the facility because it failed to  
8 comply with federal ADA Access Guidelines For Building and  
9 Facilities [hereinafter "ADAAG"] and/or the State of California's  
10 Title 24 Building Code Requirements.

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

14 (a) There is no entrance signage as required by California Title  
15 24 section 1129B.5 of the California Building Code.

16 (b) Designated disabled parking spaces are insufficient and in  
17 violation of ADAAG section 4.6 and California Title 24 1129B.1.

18 (c) No designated Van Accessible parking space as required by  
19 ADAAG 4.1.2(5) (b) and California Title 24 1129.B.4.2.

20 (d) Failure to provide shortest access travel route as required by  
21 ADAAG 4.1.3(2), 4.3.2(2) and California Title 24 1114B.1.2.

22 (e) Failure to provide adequate access aisle in violation of ADAAG  
23 4.6.3 and California Title 24 1112B.4.1.

24 (f) Failure to provide shortest travel route in violation of ADAAG  
25 4.6.2 and California Title 1129.B.4

26 (g) No access aisle provided as required by ADAAG 4.6.3 and  
27 California Title 24 1114B.1.2.

28

1 (h) Improper bathroom directional signage in violation of ADAAG  
2 4.30.7(d) and California Title 24 1117B.5.1.1.1 and 5.3.  
3 (i) Ground and floor surface entrance route is improper in  
4 violation of ADAAG 4.5.1.  
5 (j) Bathroom lacks proper international symbol of access in  
6 violation of ADAAG 4.30.6 and California Title 24 1117B.5.9.  
7 (k) Failure to provide raised and Braille characters on latch side  
8 of restroom door in violation of ADAAG 4.30.4 and California Title  
9 24 1117B.5.6.1 &2.  
10 (l) Lavatories lack proper insulated covers in violation of ADAAG  
11 4.19.4, 4.24.6 and California Title 1504.2.2.  
12 (m) Lavatories lack proper knee clearance in violation of ADAAG  
13 4.19.2 and California Title 24 1504.2.1.  
14 (n) Accessories and fixtures are at improper height in violation  
15 of ADAAG 4.23.7 and California Title 24 1115B.92.  
16 (o) Improper hardware installed on toilet stall door in violation  
17 of ADAAG 4.13.9 and California Title 24 1115B.7.1.4.  
18 (p) Improper height of coat hook in violation of ADAAG 4.2.5 and  
19 California Title 24 1118B.4.1-B.6.  
20 (q) Lack of proper visual/audible emergency alarms in violation of  
21 ADAAG 4.28.2, 4.28.3 and California Title 24 1114B.2.4.  
22 9. Based upon the above facts, Plaintiff as been discriminated  
23 against and will continue to be discriminated against unless and  
24 until Defendants are enjoined and forced to cease and desist from  
25 continuing to discriminate against Plaintiff and others similarly  
26 situated.  
27 10. Pursuant to federal [ADA] and state law [California Title 24],  
28 Defendants are required to remove barriers to their existing

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

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

26 12. Plaintiff desires to return to Defendants' places of business  
27 and utilize their facilities without being discriminated against  
28 in the immediate future.



1 IV

2 FIRST CAUSE OF ACTION

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

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

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

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

18 15. Plaintiff has a physical impairment as alleged herein because  
19 his condition affects one or more of the following body systems:  
20 neurological, musculoskeletal, special sense organs, and/or  
21 cardiovascular. Further, his physical impairments substantially  
22 limits one or more of the following major life activities:  
23 walking. In addition, Plaintiff cannot perform one or more of the  
24 said major life activities in the manner speed, and duration when  
25 compared to the average person. Moreover, Plaintiff has a history  
26 of or has been classified as having a physical impairment as  
27 required by 42 U.S.C. section 12102(2) (A).

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

2 16. Based upon the facts alleged herein, Plaintiff was denied  
3 full and equal access to Defendants' goods, services, facilities,  
4 privileges, advantages, or accommodations within a public  
5 accommodation owned leased, and/or operated by the named  
6 Defendants. Defendants individually and collectively failed to  
7 remove barriers as required by 42 U.S.C. 12182(a). Plaintiff is  
8 informed and believes, and thus alleges that architectural  
9 barriers which are structural in nature exist at the following  
10 physical elements of Defendants' facilities:  
11 Space Allowance and Reach Ranges, Accessible Route, Protruding  
12 Objects, Ground and Floor Surfaces, Parking and Passenger Loading  
13 Zones, Curb Ramps, Ramps, Stairs, Elevators, Platform Lifts  
14 (Wheelchair Lifts), Windows, Doors, Entrances, Drinking Fountains  
15 and Water Coolers, Water Closets, Toilet Stalls, Urinals,  
16 Lavatories and Mirrors, Sinks, Storage, Handrails, Grab Bars, and  
17 Controls and Operating Mechanisms, Alarms, Detectable Warnings,  
18 Signage, and Telephones. Pursuant to 42 USC section  
19 12182(b)(2)(iv), Title III requires places of public accommodation  
20 to remove architectural barriers that are structural in nature  
21 within existing facilities. Failure to remove such barriers and  
22 disparate treatment against a person who has a known association  
23 with a person with a disability are forms of prohibited  
24 discrimination. Accordingly, Plaintiff was subjected to  
25 discrimination in violation of 42 USC 12182(b)(2)(A)(iv) and 42  
26 USC 12182 (b)(2)(A)(iv); 42 USC 1981 and 42 USC 12188.

27 //

28 //

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

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

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

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

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

24   **V**

25   **SECOND CAUSE OF ACTION**

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

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

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

13 23. Defendants, because they have individually and/or collectively  
14 denied plaintiff access to their premises, goods and services,  
15 have denied him the right to make, enter into or enforce a  
16 contract and therefor have violated the provisions of 42 U.S.C.  
17 1991 all to Plaintiff's damage in an amount to be determined at  
18 time of trial herein.

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

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

25 26. By reason of Defendants' actions Plaintiff was caused to incur  
26 costs and expenses of litigation, including attorney's fees, to  
27 seek and redress his civil rights. Plaintiff therefore seeks an  
28

1 award of costs and attorney's fees associated with the necessity  
2 of brining this lawsuit.

3 VI

4 THIRD CAUSE OF ACTION

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

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

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

9 28. Plaintiff has been denied full and equal access to Defendants'  
10 goods services, facilities, privileges, advantages, or  
11 accommodations within a public accommodation owned, leased, and/or  
12 operated by Defendants in violation of California Civil Code  
13 Sections 54 and 54.1; California Health and Safety Code Section  
14 19955 and California Government Code Section 12948. The actions of  
15 Defendants also violate the provisions of Title 24 of the State of  
16 California Building Codes with regard to accessibility for persons  
17 with disabilities by failing to provide access to Defendants  
18 facilities due to violations pertaining to accessible routes,  
19 ground and floor surfaces, parking and passenger loading zones,  
20 curb ramps, ramps, stairs, elevators, platform lifts (wheelchair  
21 lifts), windows, doors, toilet stalls, urinals, lavatories and  
22 mirrors, sinks, storage, handrails, grab bars, controls and  
23 operating mechanisms  
24 alarms, detectable warnings, signage and telephones.

25 29. On the above basis Plaintiff has been wrongfully discriminated  
26 against.

27 //

28 //

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

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

11                           **VII**

12                           **FOURTH CAUSE OF ACTION**

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

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

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

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

22 33. Defendants have violated the provisions of Civ. Code 51 (b) by  
23 failing and refusing to provide free and equal access to Plaintiff  
24 to their facility on the same basis as other persons not disabled.  
25 By their failure to provide equal access to Plaintiff as herein  
26 alleged, Defendants have also violated 42 U.S.C. section  
27 12182(b) (2) (A) (iv) as provided in Cal. Civ. Codes section 51(f).  
28

1 34. By reason of their acts and denial of Plaintiff's civil rights  
2 Defendants also violated the provisions of Cal. Civ. Code section  
3 52, which makes a person or entity in violation of Cal.Civ. Code  
4 51 liable for the actual damages to a Plaintiff including treble  
5 damages where appropriate.  
6

7 35. Defendants and each of them, at all times prior to and  
8 including November 2001, respectively and continuing to the  
9 present time, knew that persons with physical disabilities were  
10 denied their rights of equal access to all portions of this public  
11 facility. Despite such knowledge, Defendants, and each of them,  
12 failed and refused to take steps to comply with the applicable  
13 access statutes and despite knowledge of the resulting problems  
14 and denial of civil rights suffered by Plaintiff and other  
15 similarly situated persons with disabilities.  
16  
17

18 36. Defendants and each of them have failed and refused to take  
19 action to grant full and equal access to person with physical  
20 disabilities. Defendants have carried out a course of conduct of  
21 refusing to respond to, or correct complaints about unequal access  
22 and have refused to comply with their legal obligations to make  
23 the subject facility accessible pursuant the ADAAG and the  
24 California Building Code [Title 24 of the California Code of  
25 Regulations]. Such actions and continuing course of conduct by  
26 Defendants, and each of them, evidence despicable conduct in  
27 conscious disregard of the rights and/or safety of Plaintiff and  
28

1 those similarly situated and thus justify an award of treble  
2 damages pursuant to section 52(a) and 54.3(a) of the Cal.Civ. Code  
3 or alternatively an award of punitive damages in an appropriate  
4 amount.  
5

6 37. Plaintiff has suffered emotional and physical damage and  
7 continues to suffer such damages all in an amount to be determined  
8 at time of trial.

9 38. Under the provisions of Cal. Civ. Code section 55 Plaintiff  
10 seeks an award of reasonable attorney's fees and costs as a result  
11 of having to bring this action. Plaintiff requests the court to  
12 award such fees in an appropriate amount.  
13

#### 14 VIII

#### 15 FIFTH CAUSE OF ACTION

#### 16 (Unfair And Unlawful Business Practice)

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

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

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

23 41. Defendants, as alleged herein, are in violation of the  
24 Americans With Disabilities Act and Title 24 of the California  
25 Building Code, in that they have denied equal access to their  
26 places of public accommodation to Plaintiff and others similarly  
27 situated to Plaintiff. Defendants have failed and refused and  
28



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

15  
16  
17  
18 42. Defendants' acts are unlawful and unfair and are therefore in  
19 violation of California Business and Professions Code section  
20 17200.

21  
22 43. Pursuant to the provisions of California Business and  
23 Professions Code section 17201 Plaintiff is a person as identified  
24 within said section and therefore allowed to bring this action on  
25 behalf of himself and the general public to effectuate California  
26 Business and Professions Code 17200 as provided for within  
27 Business and Professions Code section 17204.  
28

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

8 **IX**

9 **SIXTH CAUSE OF ACTION**

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

11  
12 45. Plaintiff relleges the allegations of the Fourth Cause of  
13 Action as though set forth fully herein.

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

24 47. Defendants breached their duty of care to Plaintiff by the  
25 actions and inaction complained of herein and as a result thereof  
26 Plaintiff was shocked, discouraged, embarrassed and outraged at  
27 the callousness and disregard of Defendants. Defendants knew or  
28

1 had reason to know that by denying Plaintiff equal access to their  
2 facility and failing and refusing to remove architectural  
3 barriers, Plaintiff would suffer emotional and/or mental distress  
4 because of such discrimination and disparate treatment. Defendants  
5 breached their duty of care to plaintiff by the perpetration of  
6 the acts outlined herein.

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

12 X

13 **SEVENTH CAUSE OF ACTION**

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

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

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

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

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

26 **DEMAND FOR JURY**

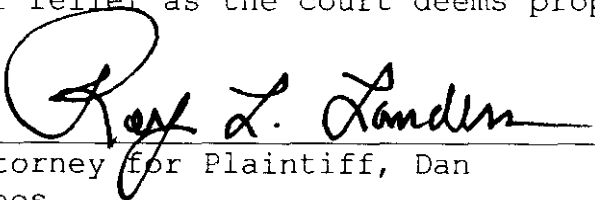
27 53. Plaintiff respectfully requests that the claims made herein be  
28 heard and determined by a jury.

WHEREFORE PLAINTIFF PRAYS:

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

16 Respectfully submitted,

17 1-11-02

18   
Attorney for Plaintiff, Dan  
Jones

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 SECOND PAGE OF THIS FORM.)

I (a) PLAINTIFFS

DAN JONES

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

San Diego

DEFENDANTS

MT. WOODSON GOLF CLUB, STEVE DAWES AND DOES 1-10, Inclusive.

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

San Diego

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

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

Roy L. Landers
7840 Mission Center Ct. Ste. 10
San Diego, California 92108
619-296-7898

ATTORNEYS (IF KNOWN)

'02 CV 0095 BTM (JPS)

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

- U.S. Government Plaintiff
Federal Question (U.S. Government Not a Party)
U.S. Government Defendant
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
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 US 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, PERSONAL INJURY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, BANKRUPTCY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories and checkboxes.

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

- Original Proceeding
Removal from State Court
Remanded from Appellate Court
Reinstated or Reopened
Transferred from another district (specify)
Multidistrict Litigation
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

January 14, 2002

SIGNATURE OF ATTORNEY OF RECORD

Handwritten signature of Roy L. Landers

Handwritten notes: 78539 - PD \$150