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3:02-CV-01147 JONES V. RENS  
\*1\*  
\*CMP.\*

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CLERK OF DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BY: *[Signature]* DEPUTY

Attorney for Plaintiff, DAN JONES

8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA

10 DAN JONES

) Case No. **02 CV 1147 H (JFS)**

11 Plaintiff,

) 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

12 vs.

13 LEE E. RENS, SANDRA H. RENS, LEE  
14 E. & SANDRA H. RENS FAMILY  
15 TRUST, AND DOES 1-10, Inclusive,

16 Defendants.

)  
)  
)

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 and Title II, section 201, et. seq. of the 1964 Civil  
27 Rights Act. Venue in the Southern Judicial District of California  
28 in the United States District Court is in accord with 28. U.S.C.

*CR*

1 section 1391(b) because a substantial part of plaintiff's claims  
2 arose within the Judicial District of the United States District  
3 Court of the Southern District of 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(s), **LEE E. & SANDRA H. RENS FAMILY TRUST** is and at  
26 all times herein mentioned were duly organized business,  
27 association, or corporation duly authorized to exist and operate  
28

1 within the State of California and County of San Diego and the  
2 owner, operator or lessee of the premises located at **8305 Vickers**  
3 **Street, San Diego, California.**

4 3. Plaintiff is informed and believes and thereon alleges that  
5 defendant **LEE E. & SANDRA H. RENS FAMILY TRUST**, are at all times  
6 herein was and is the **owners and controlling entity of the**  
7 **property, and also the commercial landlord of the subject**  
8 **property**, which is the subject of this action and in some manner  
9 responsible for the violations of law as alleged herein.

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

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

26 **III**

27 **GENERAL ALLEGATIONS COMMON TO ALL CLAIMS**

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

7 7. On or about **May 21, 2002** plaintiff attempted to enter the  
8 subject premises of the defendants herein to utilize goods and/or  
9 services offered by defendant(s) **lessees**. When Plaintiff attempted  
10 to enter said facility, plaintiff had difficulty entering and  
11 using said facility because it failed to comply with Federal ADA  
12 Access Guidelines For Building and Facilities [hereinafter  
13 "ADAAG"] and/or the State of California's Title 24 Building Code  
14 Requirements.

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

18 (a) Site entrance signage does not exist as required by Title 24  
19 1129B.5.

20 (b) There is no van accessible parking stall as required by ADAAG  
21 4.1.2(5)(b) & CA Title 24 1129B.4.2.

22 (c) There is no van accessible aisle as required by ADAAG 4.6.3 &  
23 CA Title 24 1129B.4.2.

24 (d) There is no designated disabled parking emblem on the ground  
25 as required by ADAAG 4.6.4 & CA Title 24 1129B.5.1 & .2.

26 (e) Bathroom lacks international symbol of accessibility as  
27 required by ADAAG 4.30.6 and Title 24 1117B.5.9.  
28

- 1 (f) The water closet does not have the required clear space in  
2 front of it as required by ADAAG 4.17.3 & CA Title 24 1115B.7.1.2.
- 3 (g) Bathroom accessories and fixtures are at improper height and  
4 in violation of ADAAG 4.23.7 and Title 24 1115B.9.2.
- 5 (h) The restroom side walls are not at the correct width as  
6 required by ADAAG 4.23.4.
- 7 (i) Toilet stall size is improper and in violation of ADAAG 4.17.3  
8 and Title 24 1115B.1.
- 9 (j) Restroom lacks proper raised Braille characters as required by  
10 ADAAG 4.30.4. and title 24 1117B.5.6.1.&2.
- 11 (k) Wall mount signage does not comply with ADAAG 4.1.2(7) and  
12 Title 24 1117B.5.1.1. & 5.6.3.
- 13 (l) Wall mount signage distance from floor is in violation of  
14 ADAAG 4.30.6 and Title 24 1117B.5.9.
- 15 (m) The facility lacks the required visual/audible emergency  
16 alarms as required by ADAAG 4.28.2, 4.28.3 and Title 24 1114B.2.4.
- 17 (n) The drain and hot water pipes lack insulation or is not  
18 configured to prevent contact and is in violation of ADAAG 4.24.6.
- 19 (o) The top of the urinal rim is higher than the required 17"  
20 maximum and is in violation of ADAAG 4.18.2 and CA Title 24  
21 1503.2.1.
- 22 (p) There is no kick plate at the entrance door as required by CA  
23 Title 24 1133B.2.6.
- 24 9. Plaintiff is informed and believes and thereon alleges that  
25 defendants' facility has in excess of Fifty (50) violations of  
26 ADAAG and/or Title 24 at their facility.
- 27
- 28

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

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

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

19 13. Plaintiff believes and thereon allege that Defendants'  
20 facility, as described herein, have other access violations not  
21 directly experienced by Plaintiff, which preclude or limit access  
22 by others with disabilities, including, but not limited to, Space  
23 Allowances, Reach Ranges, Accessible Routes, Protruding Objects,  
24 Ground and Floor Surfaces, Parking and Passenger Loading Zones,  
25 Curb Ramps, Ramps, Stairs, Elevators, Platform Lifts (Wheelchair  
26 Lifts), Windows, Doors, Entrances, Drinking Fountains, and Water  
27 Coolers, Water Closets, Toilet Stalls, Urinals, Lavatories and  
28 Mirrors, Sinks, Storage, Handrails, Grab Bars, Telephones,

1 Controls and Operating Mechanisms, Alarms, Detectable Warnings and  
2 Signage. Accordingly, Plaintiff alleges Defendants are required to  
3 remove all architectural barriers, known or unknown. Also,  
4 Plaintiff alleges Defendants are required to utilize the ADA  
5 checklist for Readily Achievable Barrier Removal approved by the  
6 United States Department of Justice and created by Adaptive  
7 Environments.

8 14. Plaintiff desires to return to Defendants' place of business  
9 and utilize their facilities without being discriminated against  
10 in the immediate future.

11 **IV**

12 **FIRST CAUSE OF ACTION**

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

14 15. Plaintiff realleges the allegations in paragraphs 1 through 14  
15 as though set forth fully herein.

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

17 16. Based on the facts asserted above Plaintiff has been denied  
18 full and equal access to Defendants' goods, services, facilities,  
19 privileges, advantages, or accommodations. Defendant(s), **LEE E. &**  
20 **SANDRA H. RENS FAMILY TRUST and it's lessees, are public**  
21 accommodation(s) owned, leased and/or operated by Defendants and  
22 each of them. Defendants' existing facilities and/or services  
23 failed to provide full and equal access to Defendants' facility as  
24 required by 42 U.S.C. section 12182(a). Thus, Plaintiff was  
25 subjected to discrimination in violation of 42 U.S.C.  
26 12182(b)(2)(A)(ii)(iv); 42 USC 1981 and 42 U.S.C. section 12188  
27 because Plaintiff was denied equal access to Defendants' existing  
28 facilities.



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

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

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

21 Space Allowance and Reach Ranges, Accessible Route, Protruding  
22 Objects, Ground and Floor Surfaces, Parking and Passenger Loading  
23 Zones, Curb Ramps, Ramps, Stairs, Elevators, Platform Lifts  
24 (Wheelchair Lifts), Windows, Doors, Entrances, Drinking Fountains  
25 and Water Coolers, Water Closets, Toilet Stalls, Urinals,  
26 Lavatories and Mirrors, Sinks, Storage, Handrails, Grab Bars, and  
27 Controls and Operating Mechanisms, Alarms, Detectable Warnings,  
28 Signage, and Telephones. Pursuant to 42 USC section

1 12182(b)(2)(iv), Title III requires places of public accommodation  
2 to remove architectural barriers that are structural in nature  
3 within existing facilities. Failure to remove such barriers and  
4 disparate treatment against a person who has a known association  
5 with a person with a disability are forms of prohibited  
6 discrimination. Accordingly, Plaintiff was subjected to  
7 discrimination in violation of 42 USC 12182(b)(2)(A)(iv) and 42  
8 USC 12182 (b)(2)(A)(iv); 42 USC 1981 and 42 USC 12188.

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

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

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

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

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

4 V

5 **SECOND CAUSE OF ACTION**

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

7 23. Plaintiff realleges the allegations of the First Cause of  
8 Action as though set forth fully herein.

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

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

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

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

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

12 **VI**

13 **THIRD CAUSE OF ACTION**

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

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

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

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

1 curb ramps, ramps, stairs, elevators, platform lifts (wheelchair  
2 lifts), windows, doors, toilet stalls, urinals, lavatories and  
3 mirrors, sinks, storage, handrails, grab bars, controls and  
4 operating mechanisms, alarms, detectable warnings, signage and  
5 telephones.

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

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

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

16 Accordingly Defendants have wrongfully discriminated against  
17 Plaintiff.

18 **VII**

19 **FOURTH CAUSE OF ACTION**

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

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

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

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

1 35. Defendants have violated the provisions of Civ. Code 51 (b) by  
2 failing and refusing to provide free and equal access to Plaintiff  
3 to their facility on the same basis as other persons not disabled.  
4 By their failure to provide equal access to Plaintiff as herein  
5 alleged, Defendants have also violated 42 U.S.C. section  
6 12182(b)(2)(A)(iv) as provided in Cal. Civ. Codes section 51(f).  
7

8 36. By reason of their acts and denial of Plaintiff's civil rights  
9 Defendants also violated the provisions of Cal. Civ. Code section  
10 52, which makes a person or entity in violation of Cal.Civ. Code  
11 51 liable in the amount of \$4,000 per violation of said statute.  
12

13 37. Defendants and each of them, at all times prior to and  
14 including **MAY 21, 2002** respectively and continuing to the present  
15 time, knew that persons with physical disabilities were denied  
16 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 38. Defendants and each of them have failed and refused to take  
24 action to grant full and equal access to persons 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 and have refused to comply with their legal obligations to make  
28

1 the subject facility accessible pursuant to 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 39. 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 40. Under the provisions of Cal. Civ. Code section 55 Plaintiff  
16 seeks an award of reasonable attorney's fees and costs as a result  
17 of having to bring this action. Plaintiff requests the court to  
18 award such fees in an appropriate amount.  
19

20 **VIII**

21 **FIFTH CAUSE OF ACTION**

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

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

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

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

1 43. 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 44. Defendants' acts are unlawful and unfair and are therefore in  
21 violation of California Business and Professions Code section  
22 17200.

23 45. 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 46. 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  
17 47. Plaintiff relleges the allegations of the Fourth Cause of  
18 Action as though set forth fully herein.

19 48. 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 49. 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 50. 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 51. Plaintiff realleges the allegations of the Fourth Cause of  
21 Action as though set forth fully herein.

22 52. 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 53. 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 54. 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 55. 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 \$4,000 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 6/07/02

25   
Attorney for Plaintiff, DAN JONES

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

San Diego

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

DEFENDANTS

LEE E. RENS, SANDRA H. RENS, LEE E. & SANDRA H. RENS FAMILY TRUST, AND DOES 1-10, inclusive

San Diego PH 1:58

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys (Firm Name, Address, and Telephone Number) 02 CV 1147 H (JFS) JURY

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
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
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. NATURE OF SUIT (Place an "X" in One Box Only)

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, SOCIAL SECURITY, FEDERAL TAX SUITS, BANKRUPTCY, OTHER STATUTES.

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.)

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

(See instructions): JUDGE DOCKET NUMBER

DATE 6/11/02

SIGNATURE OF ATTORNEY OF RECORD [Signature]

FOR OFFICE USE ONLY RECEIPT # 83408 AMOUNT 150.00 APPLYING IFP JUDGE MAG. JUDGE

6/12/02 [Signature]