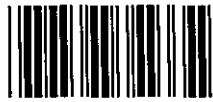
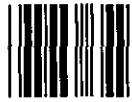


USDC SCAN INDEX SHEET



BJR 8/4/03 11:04
3:03-CV-01543 JONES V. ROBERTOS TACO SHOP
1
CMP.

1 LAW OFFICES OF ROY L. LANDERS
2 ROY L. LANDERS (BAR #64920)
3 7840 MISSION CENTER COURT, SUITE 101
4 SAN DIEGO, CALIFORNIA 92108
5 TELEPHONE (619) 296-7898
6 FACSIMILE (619) 296-5611

FILED

03 AUG -1 PM 2:44

CLERK U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY: *B. K...* DEPUTY

Attorney for Plaintiff, Dan Jones

7
8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

'03 CV 1543K POR

11 DAN JONES

12 Plaintiff,

13 vs.

14 ROBERTO'S TACO SHOP, RAUL
15 ROBLEDO AND DOES 1-10,
16 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

23 I

24 JURISDICTION AND VENUE

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

CR

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

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

27 //

28 //

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

II

PARTIES

2. Defendant, Roberto's Taco Shop is and at all times herein mentioned was a duly organized business or corporation duly authorized to exist and operate a business within the State of California and County of San Diego with its principle business located at 444 Broadway Chula Vista, CA. 91910.

3. Plaintiff is informed and believes and thereon alleges that defendant Raul Robledo is the owner, principal shareholder or partner in the operation of defendant Roberto's Taco Shop.

4. Plaintiff is informed and believes and thereon alleges that defendant Raul Robledo is the owner and/or landlord of the premises upon which defendant Roberto's Taco Shop is sited and as such is directly responsible for the violations of laws and the resulting injuries and damages to plaintiff as complained of in this complaint.

5. Plaintiff is ignorant of the defendants sued as Doe defendants herein and therefore sues them in their fictitious name as doe defendants. Plaintiff is informed and believes and thereon alleges that each doe defendant herein is in some manner responsible for the violation of the laws as complained of herein, for the discriminatory actions alleged and the resulting damages and injuries to plaintiff. On such information and believe plaintiff further alleges that each defendant herein in so doing the things complained of were acting as the agent, officer, director, owner, and or employee of each other.

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

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

5 **III**

6 **GENERAL ALLEGATIONS COMMON TO ALL CLAIMS**

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

13 8. On or about June 19, 2003 plaintiff attempted to enter the
14 subject premises of the defendant herein to purchase food,
15 beverage and/or services offered by defendant Roberto's Taco Shop.
16 When Plaintiff attempted to enter the restaurant facility he had
17 difficulty entering and using the facility premises because it
18 failed to comply with federal ADA Access Guidelines For Building
19 and Facilities [hereinafter "ADAAG"] and/or the State of
20 California's Title 24 Building Code Requirements.

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

24 (a) Lack of site entrance signage as required by CA Title 24
25 1129B.5.

26 (b) Lack of warning signage within disable parking access aisle
27 as required by CA Title 24 1129B.4.1&2.
28

- 1 (c) Lack of proper designated van accessible parking space as
2 required by ADAAG 4.1.2(5)(b) & CA Title 24 1129.B.4.2.
- 3 (d) Lack of designated disable parking stalls as required by
4 ADAAG 4.1.2(5)(a) & CA Title 24 1129B.1.
- 5 (e) Lack of proper signage as required by ADAAG 4.6.4 & CA title
6 24 1129B.4.2.
- 7 (f) Lack of proper disable parking space signage in violation of
8 ADAAG 4.6.4 & CA Title 24 1129B.5.
- 9 (g) Lack of proper seating facility in violation of ADAAG 5.1 &
10 CA Title 241104B.5.4; ADAAG 4.32.3 & Title 24 1122B.3; ADAAG
11 4.32.3 & CA Title 24 1122B.4; ADAAG 5.3 7 CA Title 24
12 1104B.5.4, ADAAG 5.4.
- 13 (h) Bathroom facility does not have proper signage in violation
14 of ADAAG 4.30.6 & CA Title 24 1117B.5.9; ADAAG 4.30.4 & CA
15 Title 24 1117B 5.6.1&2; ADAAG 4.1.2(7)(d) & CA Title 24
16 1117B5.1.1 & 5.6.3; CA Title 24 1117B.5.9; CA Title 24
17 1115B.5.
- 18 (i) Bathroom accessories are not at proper height in violation of
19 ADAAG 4.23.7 7 CA Title 24 1115B.92; ADAAG 4.19.6 & CA Title
20 24 1115B.9.1.2.
- 21 (j) Bathroom sink drain and hot water pipes are uncovered in
22 violation of ADAAG 4.24.6.

23 10. Based upon the above facts, Plaintiff has been discriminated
24 against and will continue to be discriminated against unless and
25 until Defendants are enjoined and forced to cease and desist from
26 continuing to discriminate against Plaintiff and others similarly
27 situated.

1 11. Pursuant to federal [ADA] and state law [California Title 24],
2 Defendants are required to remove barriers to its existing
3 facility. Defendants have been put on notice pursuant to the ADA
4 and the California Civil Code prior to the statutory effect of the
5 ADA on January 26, 1992 that Defendants had a duty to remove
6 barriers to persons with disabilities such as plaintiff.

7 Defendants also knew or should have known that individuals such as
8 plaintiff with a disability are not required to give notice to a
9 governmental agency prior to filing suit alleging Defendants'
10 failure to remove architectural barriers.

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

28

1 13. Plaintiff desires to return to Defendants' place of business
2 and utilize its facilities without being discriminated against in
3 the immediate future.

4 **IV**

5 **FIRST CAUSE OF ACTION**

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

7 14. Plaintiff realleges the allegations in paragraphs 1 through 13
8 as though set forth fully herein.

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

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

21 16. Plaintiff has a physical impairment as alleged herein because
22 his condition affects one or more of the following body systems:
23 neurological, musculoskeletal, special sense organs, and/or
24 cardiovascular. Further, his physical impairments substantially
25 limits one or more of the following major life activities:
26 walking. In addition, Plaintiff cannot perform one or more of the
27 said major life activities in the manner speed, and duration when
28 compared to the average person. Moreover, Plaintiff has a history

1 of or has been classified as having a physical impairment as
2 required by 42 U.S.C. section 12102(2) (A).

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

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

28

1 12182(b)(2)(A)(ii)(iii); 42 USC 12182 (b)(2)(A)(iv); 42 USC 1981
2 and 42 USC 12188.

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

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

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

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

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

26 //

27 //

28

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

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

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

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

24 25. As a result of Defendants' actions Plaintiff was humiliated,
25 embarrassed and discouraged and upset emotionally and physically
26 and suffered damages according to proof.
27
28

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

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

9 **VI**

10 **THIRD CAUSE OF ACTION**

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

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

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

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

1 operating mechanisms, alarms, detectable warnings, signage and
2 telephones.

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

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

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

15 **VII**

16 **FOURTH CAUSE OF ACTION**

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

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

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

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

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

1 By its failure to provide equal access to Plaintiff as herein
2 alleged, Defendants have also violated 42 U.S.C. section
3 12182(b)(2)(A)(iv) as provided in Cal. Civ. Codes section 51(f).
4
5 35. By reason of their acts and denial of Plaintiff's civil rights
6 Defendants also violated the provisions of Cal. Civ. Code section
7 52, which makes a person or entity in violation of Cal.Civ. Code
8 51 liable for the actual damages to a Plaintiff including treble
9 damages where appropriate.

10
11 36. Defendants at all times prior to and including June 19, 2003,
12 respectively and continuing to the present time knew that persons
13 with physical disabilities were denied their rights of equal
14 access to all portions of this public facility. Despite such
15 knowledge, Defendants failed and refused to take steps to comply
16 with the applicable access statutes and despite knowledge of the
17 resulting problems and denial of civil rights suffered by
18 Plaintiff and others similarly situated persons with disabilities.

19
20 37. Defendants have failed and refused to take action to grant
21 full and equal access to persons with physical disabilities.

22 Defendants have carried out a course of conduct of refusing to
23 respond to, or correct complaints about unequal access and have
24 refused to comply with their legal obligation to make the subject
25 facility accessible pursuant to the ADAAG and the California
26 Building Code [Title 24 of the California Code of Regulations].
27

28 Such actions and continuing course of conduct by Defendants

1 evidence despicable conduct in conscious disregard of the rights
2 and/or safety of Plaintiff and those similarly situated and thus
3 justify an award of treble damages pursuant to section 52(a) and
4 54.3(a) of the Cal.Civ. Code or alternatively an award of punitive
5 damages in an appropriate amount.
6

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

10 39. Under the provisions of Cal. Civ. Code section 55 Plaintiff
11 seeks an award of reasonable attorney's fees and costs as a result
12 of having to bring this action. Plaintiff requests the court to
13 award such fees in an appropriate amount.
14

15 **VIII**

16 **FIFTH CAUSE OF ACTION**

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

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

20 41. California Business and Professions Code Section 17200 states
21 in pertinent part:

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

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

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

16
17
18
19 43. Defendant's acts are unlawful and unfair and are therefore in
20 violation of California Business and Professions Code section
21 17200.

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

1 45. 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 46. Plaintiff relleges the allegations of the Fourth Cause of
13 Action as though set forth fully herein.

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

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

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.
7

8 49. As a proximate result of the actions of Defendants Plaintiff
9 did suffer emotional and mental distress and pain and suffering
10 all in an amount to be determined at time of trial.
11

12 X

13 **SEVENTH CAUSE OF ACTION**

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

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

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

20 52. 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 53. Plaintiff seeks an award of punitive damages for this claim,
24 as the actions of Defendants are tantamount to outrageous conduct
25 and subjects them to exemplary damages.
26

27 **DEMAND FOR JURY**

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

1 WHEREFORE PLAINTIFF PRAYS:

2 1. For general damages according to proof;

3 2. For special damages according to proof;

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

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

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

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

13 7. For punitive damages according to proof;

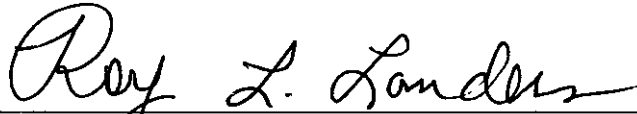
14 8. For a Jury Trial;

15 9. For costs of suit incurred herein and;

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

17 Respectfully submitted,

18 July 6, 2003



19 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 REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

DAN JONES

DEFENDANTS

ROBERTO'S TACO SHOP et al.

FILED
03 AUG - 1 PM 2:44
CLERK, U.S. DISTRICT COURT
OF CALIFORNIA

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

San Diego
County of Residence of First Listed
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

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

Attorneys (If Known)

03 CV 1543K POR

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 1 1 DEF
- Incorporated or Principal Place of Business In This State 4 4 DEF
- Citizen of Another State 2 2 DEF
- Incorporated and Principal Place of Business In Another State 5 5 DEF
- Citizen or Subject of a Foreign Country 3 3 DEF
- Foreign Nation 6 6 DEF

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"/> 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"/> 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"/> 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: 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 7-28-03 SIGNATURE OF ATTORNEY OF RECORD Roy L. Landers

RECEIPT # 96123 AMOUNT \$150 APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

CS 08/01/03