

USDC SCAN INDEX SHEET



GJM 10/17/03 14:35
3:03-CV-02008 JONES V. TACO BELL CORP
1
CMP.

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3 7840 MISSION CENTER COURT, SUITE 101
4 SAN DIEGO, CALIFORNIA 92108
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FILED
03 OCT -9 PM 3:21

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

DEPUTY

8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10
11 DAN JONES

12 Plaintiff,

13 vs.

14 TACO BELL CORP., ELLIOT
15 FEUERSTEIN, MIRA MESA SHOPPING
16 CENTER, LLC AND DOES 1-10
17 Inclusive,

18 Defendants.

) Case No. **'03 CV 2008 BTM (JMA)**
)
) COMPLAINT FOR DAMAGES RE:
) VIOLATION OF CIVIL RIGHTS ON
) BASIS OF DISCRIMINATION IN
) PUBLIC ACCOMMODATIONS; UNFAIR,
) UNLAWFUL AND FRAUDULENT BUSINESS
) PRACTICES; NEGLIGENT INFLECTION
) OF EMOTIONAL DISTRESS;
) INTENTIONAL INFLECTION OF
) EMOTIONAL DISTRESS; DEMAND FOR
) JURY TRIAL

19 I

20 JURISDICTION AND VENUE

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

1 Judicial District of the United States District Court of the
2 Southern District of California.

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

22 II

23 PARTIES

24 2. Defendants, Taco Bell Corp and Elliot Feuerstein, whom
25 plaintiff is informed and believes and thereon alleges operates
26 the alleged business in his behalf and others, were and at all
27 times herein mentioned were duly organized businesses,
28 associations, or corporations duly authorized to exist and operate

1 within the State of California and County of San Diego and the
2 owners, lessees, or tenants of the premises located at 8389 Mira
3 Mesa Blvd San Diego, California 92026.

4 3. Plaintiff is informed and believes and thereon alleges that
5 defendant Mira Mesa Shopping Center, LLC is the owners and/or
6 landlords of the subject property upon which defendant business is
7 sited.

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

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

24 **III**

25 **GENERAL ALLEGATIONS COMMON TO ALL CLAIMS**

26 6. Plaintiff is disabled and confined to a wheelchair. He has no
27 control over his lower extremities and must use a wheelchair to
28 transport himself and to affect the basic necessities of his

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

4 7. On or about August 30, 2003 plaintiff patronized the premises
5 of defendants to utilize goods and/or services offered by
6 defendants. When Plaintiff attempted to gain access to the goods
7 and/or services offered by defendants he encountered access
8 barriers because the premises failed to comply with federal ADA
9 Access Guidelines For Building and Facilities [hereinafter
10 "ADAAG"]; Department of Justice [DOJ] regulations at 28 CFR.
11 36.201; 36.304 and/or the State of California's Title 24 Building
12 Code Requirements.

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

- 16 (a) Site entrance is lacking as required by Title 24 1129B.5
- 17 (b) Site lacks NO PARKING signage as required by Title 24
18 1129B.4.1&2.
- 19 (c) Site lacks designated van accessible parking as required by
20 ADAAG 4.1.2(5) (b) and Title 24 1129B.4.2.; 4.6.3.; 4.6.4.
- 21 (d) Facility lacks van accessible aisle as required by ADAAG
22 4.6.3 and Title 24 1129B.4.2.
- 23 (e) Facility lacks parking space emblem as required by ADAAG
24 4.6.4 and Title 24 1129B.5.1&2
- 25 (f) Facility lacks installed signage as required by ADAAG 4.6.4
26 and Title 24 1129B.5.
- 27 (g) Additional signage is needed as required by ADAAG 4.6.4 and
28 Title 24 1129B.5.

- 1 (h) Facility designated disabled parking space does not have
2 signage at proper height in violation of ADAAG 4.6.4 and
3 Title 24 1129B.5.
- 4 (i) Lack of parking space emblem as required by ADAAG 4.6.4 and
5 Title 24 1129B.5.1.
- 6 (j) Dining facilities do not meet the requirements of ADAAG 5.1
7 and Title 24 1104B.5.4.; ADAAG 4.32.3; 4.32.4 and Title 24
8 1122B.4; ADAAG 5.3 and Title 24 1104B.5.4.; ADAAG 5.4.
- 9 (k) Bathroom lacks international symbol of accessibility as
10 required by ADAAG 4.30.6 and Title 24 1117B.5.9.
- 11 (l) Restroom signage does not have raised Braille characters as
12 required by ADAAG 4.30.4 and Title 24 1117B.5.6.1 & 2.
- 13 (m) Wall mount signage (latch side of door) does not comply
14 with ADAAG 4.1.2(7)(d) and Title 1117B.5.9.
- 15 (n) Bathroom hardware does not comply with ADAAG 4.13.9 and
16 Title 24 1133B.2.5.1.
- 17 (o) Drain and hot water pipes are not insulated as required by
18 ADAAG 4.24.6.
- 19 (p) Grab bars do not comply with ADAAG 4.17.6 and Title 24
20 1115B.5.9
- 21 (q) Water closet mounting location is improper and violates
22 Title 24 1115B.7.1.2.
- 23 (r) Accessories/fixtures do not comply with ADAAG 4.23.7 and
24 Title 24 1115B.9.2.
- 25 (s) Coat hook height is too high and violates ADAAG 4.2.5 and
26 Title 24 1118B.4.1 through B.6.
- 27 (t) Toilet stall is not properly sized as required by ADAAG
28 4.17.3 and Titel 24 1115B.1.

1 (u) Bathroom hardware does not meet requirements of ADAAG
2 4.13.9 and Title 24 1115B.7.1.4.

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

8 10. Pursuant to federal [ADA], Title 28 CFR 36.201; 36.203;
9 36.304; 36.305 and state law [California Title 24], Defendants are
10 required to remove barriers to their existing facilities.

11 Defendants have been put on notice pursuant to the ADA and
12 California Civil Codes [51,52] prior to the statutory effect of
13 the 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 11. Plaintiff believes and thereon allege that Defendants'
20 facilities, 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 12. Plaintiff desires to return to Defendants' places 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 13. Plaintiff realleges the allegations in paragraphs 1 through 12
15 as though set forth fully herein.

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

17 14. 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 business is a
20 public accommodation owned, leased and/or operated by Defendants
21 and each of them. Defendants' existing facilities and/or services
22 failed to provide full and equal access to Defendants' facility as
23 required by 42 U.S.C. section 12182(a). Thus, Plaintiff was
24 subjected to discrimination in violation of 42 U.S.C.
25 12182(b) (2) (A) (ii) (iv) and 42 U.S.C. section 12188 because
26 Plaintiff was denied equal access to Defendants' existing
27 facilities.

1 15. 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
7 the said major life activities in the manner speed, and duration
8 when compared to the average person. Moreover, Plaintiff has a
9 history of or has been classified as having a physical impairment
10 as required by 42 U.S.C. section 12102(2)(A).

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

12 16. 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) and 28 CFR
18 36.304. Plaintiff is informed and believes, and thus alleges that
19 architectural barriers which are structural in nature exist at the
20 following 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) and 28 CFR 36.304 Title III requires places of
2 public accommodation to remove architectural barriers that are
3 structural in nature within existing facilities. Failure to remove
4 such barriers and disparate treatment against a person who has a
5 known association with a person with a disability are forms of
6 prohibited 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) and 42 USC 12188.

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

10 17. 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); 28 CFR 36.302 and 42 U.S.C. section 12188
18 because Plaintiff was denied equal access to Defendants' existing
19 facilities.

20 18. 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 19. 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 20. 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 **VI**

5 **SECOND CAUSE OF ACTION**

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

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

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

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

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

27 //

28 //

1 28. 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 29. Defendants and each of them, at all times prior to and
8 including August 2003, respectively and continuing to the present
9 time, knew that persons with physical disabilities were denied
10 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 30. 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 31. 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
10 32. 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 **VIII**

15 **FOURTH CAUSE OF ACTION**

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

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

19 34. 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 35. 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; 28 CFR 36.304 and 42 USC 12188.
3 In 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 all of which require Defendants to
6 provide equal access to their facility to disabled persons such as
7 plaintiff. Defendants are also in violation of the indicated
8 statutes because of their failure to remove architectural
9 barriers, which prevent equal access to their facility by disabled
10 persons and because of their failure to modify their practices,
11 policies and procedures to have a scheme, plan, or design to
12 assist Plaintiff and others similarly situated to enter and
13 utilize Defendants' services as required by the Unruh Act.

14
15
16
17 36. Defendants' acts are unlawful and unfair and are therefore in
18 violation of California Business and Professions Code section
19 17200.

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

26
27 38. Thus, Plaintiff, under Bus & Prof. Code section 17200 seeks
28 injunctive relief, on behalf of himself and the general public,

1 requiring Defendants to remedy the disabled access violations
2 present within Defendants' facility and that Defendants be ordered
3 to cease and desist from continuing in noncompliance with disabled
4 access statutes and regulations.
5

6 **IX**

7 **FIFTH CAUSE OF ACTION**

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

9 39. Plaintiff relleges the allegations of the Fourth Cause of
10 Action as though set forth fully herein.
11

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

22 41. Defendants breached their duty of care to Plaintiff by the
23 actions and inaction complained of herein and as a result thereof
24 Plaintiff was shocked, discouraged, embarrassed and outraged at
25 the callousness and disregard of Defendants. Defendants knew or
26 had reason to know that by denying Plaintiff equal access to their
27 facility and failing and refusing to remove architectural
28

1 barriers, Plaintiff would suffer emotional and/or mental distress
2 because of such discrimination and disparate treatment. Defendants
3 breached their duty of care to plaintiff by the perpetration of
4 the acts outlined herein.

5
6 42. As a proximate result of the actions of Defendants Plaintiff
7 did suffer emotional and mental stress and pain and suffering all
8 in an amount to be determined at time of trial.

9
10 **X**

11 **SIXTH CAUSE OF ACTION**

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

13 43. Plaintiff realleges the allegations of the Fifth Cause of
14 Action as though set forth fully herein.

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

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

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

24 **DEMAND FOR JURY**

25 47. Plaintiff respectfully requests that the claims made herein be
26 heard and determined by a jury.

27 **WHEREFORE PLAINTIFF PRAYS:**

- 28
1. For general damages according to proof;
 2. For special damages according to proof;

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

14 Respectfully submitted,

15 Dated: 9-17-03


16 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

San Diego

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

(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

DEFENDANTS
TACO BELL CORP., et al.

FILED
03 OCT -9 PM 3:21

CLERK U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
San Diego
(IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys (If Known)

'03 CV 2008BTM (JMA)

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

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <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	CIVIL RIGHTS <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	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General Habeas Corpus: <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <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	SOCIAL SECURITY <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 SSD Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

42 USC 12101-12102, 12181-12183 and 12201, et seq.
Discrimination on basis of disability (Public Accommodations)

VII. REQUESTED IN COMPLAINT: **XX**

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ _____ CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE 10-8-03

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # 97851 AMOUNT 150.00 APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

10/9/03 VB