



NMC 6/30/03 14:26
3:03-CV-01263 JONES V. TACO BELL RESTAURANT
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CMP.

32242

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3 7840 MISSION CENTER COURT, SUITE 101
4 SAN DIEGO, CALIFORNIA 92108
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7 Attorney for Plaintiff: **DAN JONES**

FILED

03 JUN 27 PM 2:57

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

BY: 

DEPUTY

8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10 **DAN JONES**

11 **Plaintiff,**

12 **vs.**

13 **TACO BELL RESTAURANT, TACO BELL**
14 **CORPORATION, SUN COAST**
15 **VENTURES, LOTTES FAMILY TRUST,**
16 **AND DOES 1-10, Inclusive,**

17 **Defendants.**

Case No.:

'03 CV 1263 JM RBB

**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**

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20 **JURISDICTION AND VENUE**

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

1 and described within **42 USC 12181(7)(B)** of the American with Disabilities Act [ADA] and
2 as such must comply with the ADA under provisions of Title III therein.

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

10 **III**

11 **GENERAL ALLEGATIONS COMMON TO ALL CLAIMS**

12 6. Plaintiff is disabled and confined to a wheelchair. He has no control over his lower
13 extremities and must use a wheelchair to transport himself and to effect the basic
14 necessities of his everyday existence. Plaintiff's disability substantially limits one or more
15 of life's major activities and therefore he is disabled as defined under 42 USC
16 12102(2)(A)(B)(C).

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

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

- 25 1. Improper Site Entrance Signage (Not Filled Out - Reclaim at:), (CA
26 Title 24 1129B.5);
- 27 2. Improper Site Entrance Signage (Not Filled Out – Telephone
28 number:), (CA Title 24 1129B.5);

- 1 3. Improper Van Accessible Aisle, (ADAAG 4.6.3 & CA Title 24
- 2 1129B.4.2);
- 3 4. Improper Van Accessible Aisle Length, (ADAAG 4.6.3 & CA Title 24
- 4 1129B.4.2);
- 5 5. Improper Curb Ramp Location, (ADAAG 4.7.1);
- 6 6. No Curb Bumper/Stop, (CA Title 24 1129.B4.3);
- 7 7. Improper Walkway – Min Width 48", (CA Title 24 1133B.7.1.3);
- 8 8. No Seating – Dining, Banquet & Bar Facilities – (Min Requirement
- 9 5%), (ADAAG 5.1 & CA Title 24 1104B.5.4);
- 10 9. No Seating – Dining, Banquet & Bar Facilities – (Clear Space 30" x
- 11 48" Min)), (ADAAG 4.2.4.1 & CA Title 24 1122B.3);
- 12 10. No Seating – Dining, Banquet & Bar Facilities – (Knee Space 27"H,
- 13 30"W, 19"D), (ADAAG 4.32.3 & CA Title 24 1122B.3);
- 14 11. No Seating – Dining, Banquet & Bar Facilities – (Table Height 28"-34"
- 15), (ADAAG 4.32.4 & CA Title 24 1122B.4);
- 16 12. No Seating – Dining, Banquet & Bar Facilities – (Access Aisles Min
- 17 Width 36"), (ADAAG 5.3 & CA Title 24 1104B.5.4);
- 18 13. No Seating – Dining, Banquet & Bar Facilities – (Equivalent Services
- 19 & Décor @ Accessible Seating), (ADAAG 5.4 & CA Title 24
- 20 1104B.5.4);
- 21 14. No Seating – Dining, Banquet & Bar Facilities – (Accessible Seating
- 22 Integrated w/General Seating), (ADAAG 5.4 & CA Title 24
- 23 1104B.5.4);
- 24 15. No Bathroom – International Symbol of Accessibility, (ADAAG 4.30.6
- 25 & CA Title 24 1117B.5.9);
- 26 16. Improper Accessories/Fixtures – Proper Height (Paper Towel
- 27 Operating Lever), (ADAAG 4.23.7 & CA Title 24 1115B.9.2);
- 28 17. No Drain & Hot Water Pipes – Insulated or Covered, (ADAAG 4.24.6);

1 9. Plaintiff is informed and believes and thereon alleges that defendants' facility has in
2 excess of TWENTY (20) Violations of ADAAG and/or Title 24 at their facility.

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

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

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

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

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

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IV

FIRST CAUSE OF ACTION

(Violation of Civil Rights-American With Disabilities Act)

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

Claim 1: Denial of Full and Equal Access

16. Based on the facts asserted above Plaintiff has been denied full and equal access to Defendants' goods, services, facilities, privileges, advantages, or accommodations.

Defendant TACO BELL RESTAURANT is a public accommodation owned, leased and/or operated by Defendants and each of them. Defendants' existing facilities and/or services failed to provide full and equal access to Defendants' facility as required by 42 U.S.C.

Section 12182(a). Thus, Plaintiff was subjected to discrimination in violation of 42 U.S.C. 12182(b)(2)(A)(ii)(iv); 42 USC 1981 and 42 U.S.C. section 12188 because Plaintiff was denied equal access to Defendants' existing facilities.

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

Claim 2: Failure To Remove Architectural Barriers

18. Based upon the facts alleged herein, Plaintiff was denied full and equal access to Defendants' goods, services, facilities, privileges, advantages, or accommodations within a public accommodation owned leased, and/or operated by the named Defendants.

Defendants individually and collectively failed to remove barriers as required by 42 U.S.C. 12182(a). Plaintiff is informed and believes, and thus alleges that architectural barriers

1 which are structural in nature exist at the following physical elements of Defendants'
2 facilities:

3 Space Allowance and Reach Ranges, Accessible Route, Protruding Objects, Ground and
4 Floor Surfaces, Parking and Passenger Loading Zones, Curb Ramps, Ramps, Stairs,
5 Elevators, Platform Lifts (Wheelchair Lifts), Windows, Doors, Entrances, Drinking
6 Fountains and Water Coolers, Water Closets, Toilet Stalls, Urinals, Lavatories and Mirrors,
7 Sinks, Storage, Handrails, Grab Bars, and Controls and Operating Mechanisms, Alarms,
8 Detectable Warnings, Signage, and Telephones. Pursuant to 42 USC section
9 12182(b)(2)(iv), Title III requires places of public accommodation to remove architectural
10 barriers that are structural in nature within existing facilities. Failure to remove such
11 barriers and disparate treatment against a person who has a known association with a
12 person with a disability are forms of prohibited discrimination. Accordingly, Plaintiff was
13 subjected to discrimination in violation of 42 USC 12182(b)(2)(A)(iv) and 42 USC 12182
14 (b)(2)(A)(iv); 42 USC 1981 and 42 USC 12188.

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

16 19. Based on the facts alleged in this Complaint Defendants failed and refused to provide
17 a reasonable alternative by modifying its practices, policies and procedures in that they
18 failed to have a scheme, plan, or design to assist Plaintiff and/or others similarly situated in
19 entering and utilizing Defendants' services, as required by 42 U.S.C. section 12188(a).
20 Thus, Plaintiff was subjected to discrimination in violation of 42 U.S.C. section
21 12182(b)(2)(A)(iv); 42 U.S.C. 1981 and 42 U.S.C. section 12188 because Plaintiff was
22 denied equal access to Defendants' existing facilities.

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

26 21. Pursuant to the provisions of 42 USC 12188 plaintiff seeks injunctive relief and an
27 order directing defendants to cease and desist from discriminating against plaintiff and
28

1 others similarly situated and for an order that defendants comply with the Americans With
2 Disabilities Act forthwith.

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

5 V

6 **SECOND CAUSE OF ACTION**

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

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

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

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

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

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

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

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

3 VI

4 **THIRD CAUSE OF ACTION**

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

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

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

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

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

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

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

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VII

FOURTH CAUSE OF ACTION

(Violation of The Unruh Civil Rights Act)

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

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

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

35. 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. By their failure to provide equal access to Plaintiff as herein alleged, Defendants have also violated 42 U.S.C. section 12182(b)(2)(A)(iv) as provided in Cal. Civ. Codes section 51(f).

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

37. Defendants and each of them, at all times prior to and including MAY 16, 2003 respectively and continuing to the present time, knew that persons with physical disabilities were denied their rights of equal access to all portions of this public facility. Despite such knowledge, Defendants, and each of them, failed and refused to take steps to comply with the applicable access statutes and despite knowledge of the resulting problems and denial of civil rights suffered by Plaintiff and other similarly situated persons with disabilities.

1 38. Defendants and each of them have failed and refused to take action to grant full and
2 equal access to persons with physical disabilities. Defendants have carried out a course of
3 conduct of refusing to respond to, or correct complaints about unequal access and have
4 refused to comply with their legal obligations to make the subject facility accessible
5 pursuant the ADAAG and the California Building Code [Title 24 of the California Code of
6 Regulations]. Such actions and continuing course of conduct by Defendants, and each of
7 them, evidence despicable conduct in conscious disregard of the rights and/or safety of
8 Plaintiff and those similarly situated and thus justify an award of treble damages pursuant
9 to section 52(a) and 54.3(a) of the Cal. Civ. Code or alternatively an award of punitive
10 damages in an appropriate amount.
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13 39. Plaintiff has suffered emotional and physical damage and continues to suffer such
14 damages all in an amount to be determined at time of trial.
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16 40. Under the provisions of Cal. Civ. Code section 55 Plaintiff seeks an award of
17 reasonable attorney's fees and costs as a result of having to bring this action. Plaintiff
18 requests the court to award such fees in an appropriate amount.
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20 VIII

21 FIFTH CAUSE OF ACTION

22 (Unfair And Unlawful Business Practice)

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

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

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

28 43. Defendants, as alleged herein, are in violation of the Americans With Disabilities Act
and Title 24 of the California Building Code, in that they have denied equal access to their

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

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14 44. Defendants' acts are unlawful and unfair and are therefore in violation of California
15 Business and Professions Code section 17200.
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17 45. Pursuant to the provisions of California Business and Professions Code section 17201
18 Plaintiff is a person as identified within said section and therefore allowed to bring this
19 action on behalf of himself and the general public to effectuate California Business and
20 Professions Code 17200 as provided for within Business and Professions Code section
21 17204.
22

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

SIXTH CAUSE OF ACTION

(Negligent Infliction of Emotional Distress)

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

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

15 49. Defendants breached their duty of care to Plaintiff by the actions and inaction
16 complained of herein and as a result thereof Plaintiff was shocked, discouraged,
17 embarrassed and outraged at the callousness and disregard of Defendants. Defendants
18 knew or had reason to know that by denying Plaintiff equal access to their facility and
19 failing and refusing to remove architectural barriers, Plaintiff would suffer emotional and/or
20 mental distress because of such discrimination and disparate treatment. Defendants
21 breached their duty of care to plaintiff by the perpetration of the acts outlined herein.
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23 50. As a proximate result of the actions of Defendants Plaintiff did suffer emotional and
24 mental stress and pain and suffering all in an amount to be determined at time of trial.
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3 **SEVENTH CAUSE OF ACTION**

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

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

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

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

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

15 **DEMAND FOR JURY**

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

18 **WHEREFORE PLAINTIFF PRAYS:**

- 19 **1. For general damages according to proof;**
20 **2. For special damages according to proof;**
21 **3. For damages pursuant to Cal. Civil Code section 52, in the amount of \$4,000 for**
22 **each and every offense of California Civil Code section 51, Title 24 of the California**
23 **Building Code and the Americans With Disabilities Act.**
24 **4. For Injunctive relief pursuant to 42 U.S.C. 12188(a) and California Business and**
25 **Professions Code section 17200**
26 **5. For an award of attorney's fees pursuant to 42 U.S.C. 1988, 42 U.S.C. 1981, 42**
27 **U.S.C. 12205 and Cal. Civ. Code section 55;**
28 **6. For treble damages pursuant to Cal. Civ. Code 52 (a);**

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

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

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

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

5 **Respectfully submitted.**

6 DATED: 6-16-03

Ray L. Sanders

Attorney for Plaintiff, DAN JONES

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CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

DAN JONES

DEFENDANTS

TACO BELL RESTAURANT et al.

03 JUN 27 PM 2:56

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

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
County of Residence of First Listed Plaintiff

San Diego

(IN U.S. PLAINTIFF CASES ONLY)

BY:

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

(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 1263 JM RBB

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

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|--------------------------------|---|----------------------------|--------------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | DEF <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | DEF <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

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

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of <input type="checkbox"/> 154 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	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	SOCIAL SECURITY	FEDERAL TAX SUITS
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input checked="" type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<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: X

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 06/26/03 SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY
RECEIPT # 95220 AMOUNT 150.00 APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

6/27/03 VB