

USDC SCAN INDEX SHEET



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3:03-CV-02009 JONES V. YU  
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FILED

03 OCT -9 PM 3:28

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

*[Signature]*

BY: DEPUTY

LAW OFFICES OF ROY L. LANDERS  
ROY L. LANDERS (BAR #64920)  
7840 MISSION CENTER COURT, SUITE 101  
SAN DIEGO, CALIFORNIA 92108  
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Attorney for Plaintiff, Dan Jones

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

DAN JONES

Plaintiff,

vs.

HO FAT YU dba JADE CHINESE  
RESTAURANT, JOHN J. HARRIS AND  
DOES 1-10 Inclusive,

Defendants.

Case No. **'03 CV 2009** *JH* RBB  
) COMPLAINT FOR DAMAGES RE:  
) VIOLATION OF CIVIL RIGHTS ON  
) BASIS OF DISCRIMINATION IN  
) PUBLIC ACCOMMODATIONS; UNFAIR,  
) UNLAWFUL AND FRAUDULENT BUSINESS  
) PRACTICES; NEGLIGENT INFLICTION  
) OF EMOTIONAL DISTRESS;  
) INTENTIONAL INFLICTION OF  
) EMOTIONAL DISTRESS; DEMAND FOR  
) JURY TRIAL

I

JURISDICTION AND VENUE

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

1

*CR*

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. Defendant, Ho Fat Yu, dba Jade Chinese Restaurant was and at  
25 all times herein mentioned was a duly organized business,  
26 association, or corporation duly authorized to exist and operate  
27 within the State of California and County of San Diego and the  
28

1 owner, lessee, or tenant of the premises located at 569 H Street  
2 Chula Vista, California.

3 3. Plaintiff is informed and believes and thereon alleges that  
4 defendant John J. Harris is the owner and/or landlord of the  
5 subject property upon which defendant business is sited.

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

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

### 22 III

#### 23 GENERAL ALLEGATIONS COMMON TO ALL CLAIMS

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

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

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

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

15 (a) Site entrance signage lacking as required by Title 24  
16 1129B.5

17 (b) Lack of NO PARKING warning sign as required by Title 24  
18 1129B4.1&2.

19 (c) Lack of proper van accessible aisle as required by a  
20 ADAAG 4.6.3 and Title 24 1129B.4.2.

21 (d) Lack of van accessible parking space as required by  
22 ADAAG 4.1.2(5) (b) and Title 24 1129B.4.2

23 (e) Lack of Parking space emblem - ADAAG 4.6.4 and Title 24  
24 1129B. 5.1&2.

25 (f) Lack of correct number of designated parking stalls as  
26 required by ADAAG 4.1.2(5) (a) and Title 24 1129B.1.

27 (g) Lack of regular access aisle as required by Title 24  
28 1129B.4.1.

- 1 (h) Lack of van accessible aisle per ADAAG 4.6.3 and Title  
2 24 1129B.4.2.; ADAAG 4.6.4.
- 3 (i) Threshold does not comply with ADAAG 4.1.3.8 and Title  
4 24 1133BH2.4.1.
- 5 (j) Lack of proper directional signage per ADAAG 4.30.7© and  
6 Title 24 1117B 5.1.1.1. & 5.3.
- 7 (k) Lack of wheelchair access to each type of functional  
8 activity as required by ADAAG 5.1 and Title 24  
9 1104B.5.3.
- 10 (l) Lack of bathroom proper directional signage ADAAG  
11 4.30.7(d) and title 24 1117B. 5.1.1.1 & 5.3
- 12 (m) Bathroom lacks international symbol of accessibility -  
13 ADAAG 4.30.6 and Title 24 1117B.5.9.
- 14 (n) Raised Braille characters are missing as required by  
15 ADAAG 4.30.6 and Title 24 1117B.5.9
- 16 (o) Wall mount signage does not comply with ADAAG  
17 4.1.2(7) (d) and Title 24 117B.5.1.1 & 5.6.3; 4.30.6 and  
18 Title 24 1117B.5.9.
- 19 (p) Door mount signage does not comply with Title 24  
20 1115B.5.
- 21 (q) Faucet fixtures do not comply with ADAAG 4.27.4 and  
22 Title 24 1508.1&2.
- 23 (r) Grab bars do not comply with ADAAG 4.17.6 and Title 24  
24 1115B.8.1; ADAAG 4.14.6.
- 25 (s) Water closet clearance space does not comply with ADAAG  
26 4.17.3 and Title 24 1115B.7.1.2.
- 27 (t) Accessories/fixtures do not comply with ADAAG 4.23.7 and  
28 title 24 1115B.9.2

- 1 (u) Coat hook height does not comply with ADAAG 4.2.5 and  
2 Title 24 1118B.4.1 and Title 1118B.4.1.
- 3 (v) Urinal rim height does not comply with ADAAG 4.18.2 and  
4 Title 24 1503.2.1.
- 5 (w) Toilet stall is not properly sized as required by ADAAG  
6 4.17.3 and Title 24 1115B.1.
- 7 (x) Bathroom hardware does not comply with ADAAG 4.13.9 and  
8 Title 24 1115B.7.1.4.
- 9 (y) Drain and hot water pipes are not insulated or covered  
10 as required by ADAAG 4.24.6.
- 11 (z) Kick plate does not comply with Title 24 1133B.2.6.

12 9. Based upon the above facts, Plaintiff has been discriminated  
13 against and will continue to be discriminated against unless and  
14 until Defendants are enjoined and forced to cease and desist from  
15 continuing to discriminate against Plaintiff and others similarly  
16 situated.

17 10. Pursuant to federal [ADA], Title 28 CFR 36.201; 36.203;  
18 36.304; 36.305 and state law [California Title 24], Defendants are  
19 required to remove barriers to their existing facilities.  
20 Defendants have been put on notice pursuant to the ADA and  
21 California Civil Codes [51,52] prior to the statutory effect of  
22 the ADA on January 26, 1992 that Defendants and each of them had a  
23 duty to remove barriers to persons with disabilities such as  
24 plaintiff. Defendants also knew or should have known that  
25 individuals such as plaintiff with a disability are not required  
26 to give notice to a governmental agency prior to filing suit  
27 alleging Defendants' failure to remove architectural barriers.  
28

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

18 12. Plaintiff desires to return to Defendants' places of business  
19 and utilize their facilities without being discriminated against  
20 in the immediate future.

21 **IV**

22 **FIRST CAUSE OF ACTION**

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

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

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

27 14. Based on the facts asserted above Plaintiff has been denied  
28 full and equal access to Defendants' goods, services, facilities,



1 privileges, advantages, or accommodations. Defendant business is a  
2 public accommodation owned, leased and/or operated by Defendants  
3 and each of them. Defendants' existing facilities and/or services  
4 failed to provide full and equal access to Defendants' facility as  
5 required by 42 U.S.C. section 12182(a). Thus, Plaintiff was  
6 subjected to discrimination in violation of 42 U.S.C.  
7 12182(b)(2)(A)(ii)(iv) and 42 U.S.C. section 12188 because  
8 Plaintiff was denied equal access to Defendants' existing  
9 facilities.

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

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

21 16. Based upon the facts alleged herein, Plaintiff was denied  
22 full and equal access to Defendants' goods, services, facilities,  
23 privileges, advantages, or accommodations within a public  
24 accommodation owned leased, and/or operated by the named  
25 Defendants. Defendants individually and collectively failed to  
26 remove barriers as required by 42 U.S.C. 12182(a) and 28 CFR  
27 36.304. Plaintiff is informed and believes, and thus alleges that  
28

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

3 Space Allowance and Reach Ranges, Accessible Route, Protruding  
4 Objects, Ground and Floor Surfaces, Parking and Passenger Loading  
5 Zones, Curb Ramps, Ramps, Stairs, Elevators, Platform Lifts  
6 (Wheelchair Lifts), Windows, Doors, Entrances, Drinking Fountains  
7 and Water Coolers, Water Closets, Toilet Stalls, Urinals,  
8 Lavatories and Mirrors, Sinks, Storage, Handrails, Grab Bars, and  
9 Controls and Operating Mechanisms, Alarms, Detectable Warnings,  
10 Signage, and Telephones. Pursuant to 42 USC section  
11 12182(b)(2)(iv) and 28 CFR 36.304 Title III requires places of  
12 public accommodation to remove architectural barriers that are  
13 structural in nature within existing facilities. Failure to remove  
14 such barriers and disparate treatment against a person who has a  
15 known association with a person with a disability are forms of  
16 prohibited discrimination. Accordingly, Plaintiff was subjected to  
17 discrimination in violation of 42 USC 12182(b)(2)(A)(iv) and 42  
18 USC 12182(b)(2)(A)(iv) and 42 USC 12188.

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

20 17. Based on the facts alleged in this Complaint Defendants failed  
21 and refused to provide a reasonable alternative by modifying its  
22 practices, policies and procedures in that they failed to have a  
23 scheme, plan, or design to assist Plaintiff and/or others  
24 similarly situated in entering and utilizing Defendants' services,  
25 as required by 42 U.S.C. section 12188(a). Thus, Plaintiff was  
26 subjected to discrimination in violation of 42 U.S.C. section  
27 12182(b)(2)(A)(iv); 28 CFR 36.302 and 42 U.S.C. section 12188  
28

1 because Plaintiff was denied equal access to Defendants' existing  
2 facilities.

3 18. As a result of the wrongful and discriminatory practices of  
4 defendants, plaintiff has suffered actual damages consisting of  
5 special damages and general damages in an amount to be determined  
6 at time of trial herein.

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

12 20. Under the provisions of 42 USC 12205 plaintiff is entitled to  
13 an award of reasonable attorneys fees and requests that the court  
14 grant such fees as are appropriate.

15 **VI**

16 **SECOND CAUSE OF ACTION**

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

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

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

21 22. Plaintiff has been denied full and equal access to Defendants'  
22 goods services, facilities, privileges, advantages, or  
23 accommodations within a public accommodation owned, leased, and/or  
24 operated by Defendants in violation of California Civil Code  
25 Sections 54 and 54.1 and California Health and Safety Code Section  
26 19955. The actions of Defendants also violate the provisions of  
27 Title 24 of the State of California Building Codes with regard to  
28 accessibility for persons with disabilities by failing to provide

1 access to Defendants facilities due to violations pertaining to  
2 accessible routes, ground and floor surfaces, parking and  
3 passenger loading zones, curb ramps, ramps, stairs, elevators,  
4 platform lifts (wheelchair lifts), windows, doors, toilet stalls,  
5 urinals, lavatories and mirrors, sinks, storage, handrails, grab  
6 bars, controls and operating mechanisms  
7 alarms, detectable warnings, signage and telephones.

8 23. On the above basis Plaintiff has been wrongfully discriminated  
9 against.

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

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

18 Accordingly Defendants have wrongfully discriminated against  
19 Plaintiff.

20 **VII**

21 **THIRD CAUSE OF ACTION**

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

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

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

27 "All persons within the jurisdiction of this state are  
28 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,

1 advantages, facilities, privileges, or services in all  
2 business establishments of every kind whatsoever."

3 27. Defendants have violated the provisions of Civ. Code 51 (b) by  
4 failing and refusing to provide free and equal access to Plaintiff  
5 to their facility on the same basis as other persons not disabled.  
6 By their failure to provide equal access to Plaintiff as herein  
7 alleged, Defendants have also violated 42 U.S.C. section  
8 12182(b) (2) (A) (iv) as provided in Cal. Civ. Codes section 51(f).  
9

10 28. By reason of their acts and denial of Plaintiff's civil rights  
11 Defendants also violated the provisions of Cal. Civ. Code section  
12 52, which makes a person or entity in violation of Cal.Civ. Code  
13 51 liable for the actual damages to a Plaintiff including treble  
14 damages where appropriate.  
15

16 29. Defendants and each of them, at all times prior to and  
17 including July 2003, respectively and continuing to the present  
18 time, knew that persons with physical disabilities were denied  
19 their rights of equal access to all portions of this public  
20 facility. Despite such knowledge, Defendants, and each of them,  
21 failed and refused to take steps to comply with the applicable  
22 access statutes and despite knowledge of the resulting problems  
23 and denial of civil rights suffered by Plaintiff and other  
24 similarly situated persons with disabilities.  
25  
26

27 30. Defendants and each of them have failed and refused to take  
28 action to grant full and equal access to person with physical

1 disabilities. Defendants have carried out a course of conduct of  
2 refusing to respond to, or correct complaints about unequal access  
3 and have refused to comply with their legal obligations to make  
4 the subject facility accessible pursuant the ADAAG and the  
5 California Building Code [Title 24 of the California Code of  
6 Regulations]. Such actions and continuing course of conduct by  
7 Defendants, and each of them, evidence despicable conduct in  
8 conscious disregard of the rights and/or safety of Plaintiff and  
9 those similarly situated and thus justify an award of treble  
10 damages pursuant to section 52(a) and 54.3(a) of the Cal.Civ. Code  
11 or alternatively an award of punitive damages in an appropriate  
12 amount.  
13  
14

15 31. Plaintiff has suffered emotional and physical damage and  
16 continues to suffer such damages all in an amount to be determined  
17 at time of trial.  
18

19 32. Under the provisions of Cal. Civ. Code section 55 Plaintiff  
20 seeks an award of reasonable attorney's fees and costs as a result  
21 of having to bring this action. Plaintiff requests the court to  
22 award such fees in an appropriate amount.  
23

24 **VIII**

25 **FOURTH CAUSE OF ACTION**

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

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

1 34. California Business and Professions Code Section 17200 states  
2 in pertinent part:

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

5 35. Defendants, as alleged herein, are in violation of the  
6 Americans With Disabilities Act and Title 24 of the California  
7 Building Code, in that they have denied equal access to their  
8 places of public accommodation to Plaintiff and others similarly  
9 situated to Plaintiff. Defendants have failed and refused and  
10 continue to refuse to comply with equal access laws all in  
11 violation of 42 USC 12181-12183; 28 CFR 36.304 and 42 USC 12188.  
12 In addition the complained of acts are in violation of California  
13 Civil Code Sections 51,52, 54,and 54.1,; California Health and  
14 Safety Code section 19955 all of which require Defendants to  
15 provide equal access to their facility to disabled persons such as  
16 plaintiff. Defendants are also in violation of the indicated  
17 statutes because of their failure to remove architectural  
18 barriers, which prevent equal access to their facility by disabled  
19 persons and because of their failure to modify their practices,  
20 policies and procedures to have a scheme, plan, or design to  
21 assist Plaintiff and others similarly situated to enter and  
22 utilize Defendants' services as required by the Unruh Act.  
23  
24 36. Defendants' acts are unlawful and unfair and are therefore in  
25 violation of California Business and Professions Code section  
26  
27  
28 17200.

1 37. Pursuant to the provisions of California Business and  
2 Professions Code section 17201 Plaintiff is a person as identified  
3 within said section and therefore allowed to bring this action on  
4 behalf of himself and the general public to effectuate California  
5 Business and Professions Code 17200 as provided for within  
6 Business and Professions Code section 17204.  
7

8 38. Thus, Plaintiff, under Bus & Prof. Code section 17200 seeks  
9 injunctive relief, on behalf of himself and the general public,  
10 requiring Defendants to remedy the disabled access violations  
11 present within Defendants' facility and that Defendants be ordered  
12 to cease and desist from continuing in noncompliance with disabled  
13 access statutes and regulations.  
14

15 **IX**

16 **FIFTH CAUSE OF ACTION**

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

18  
19 39. Plaintiff relleges the allegations of the Fourth Cause of  
20 Action as though set forth fully herein.

21 40. Defendants and each of them owed a duty to Plaintiff to make  
22 their facility accessible and to keep Plaintiff reasonably safe  
23 from known dangers and risks of harm. This duty arises by virtue  
24 of the legal duties proscribed by various federal and state  
25 statutes including, but not limited to, ADA, ADAAG, California  
26 Civil Code sections 51, 52, 54, 54.1 and Title 24 of the  
27 California Code of Regulations. Defendants had a duty of due care  
28



1 not to do or cause anything to happen that would subject Plaintiff  
2 to undue stress, embarrassment, chagrin, and discouragement.

3 41. Defendants breached their duty of care to Plaintiff by the  
4 actions and inaction complained of herein and as a result thereof  
5 Plaintiff was shocked, discouraged, embarrassed and outraged at  
6 the callousness and disregard of Defendants. Defendants knew or  
7 had reason to know that by denying Plaintiff equal access to their  
8 facility and failing and refusing to remove architectural  
9 barriers, Plaintiff would suffer emotional and/or mental distress  
10 because of such discrimination and disparate treatment. Defendants  
11 breached their duty of care to plaintiff by the perpetration of  
12 the acts outlined herein.

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

16  
17  
18  
19 **X**

20 **SIXTH CAUSE OF ACTION**

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

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

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

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

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

7 DEMAND FOR JURY

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

10 WHEREFORE PLAINTIFF PRAYS:

11 1. For general damages according to proof;

12 2. For special damages according to proof;

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

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

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

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

22 7. For punitive damages according to proof;

23 8. For a Jury Trial;

24 9. For costs of suit incurred herein and;

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

26 Respectfully submitted,

27 Dated: 9-21-03

28 Roy L. Sanders  
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 1977, 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.)

(a) **PLAINTIFFS**  
 DAN JONES

(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**  
 HO FAT YU et al.

**FILED**  
 03 OCT -9 PM 3:28  
 San Diego  
 CLERK U.S. DISTRICT COURT  
 SOUTHERN DISTRICT OF CALIFORNIA  
 (IN U.S. PLAINTIFF CASES ONLY)

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

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

Attorneys (If Known)  
 '03 CV 2009 JAH RBB

**I. 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

Citizen of Another State  2  2

Citizen or Subject of a Foreign Country  3  3

Incorporated or Principal Place of Business In This State  4  4

Incorporated and Principal Place of Business In Another State  5  5

Foreign Nation  6  6

**V. 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	<b>PERSONAL INJURY</b> <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 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <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)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<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		
<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 <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		

**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 [Signature]

FOR OFFICE USE ONLY

RECEIPT # 97850 AMOUNT 150.00 APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

10/9/03 #VB