

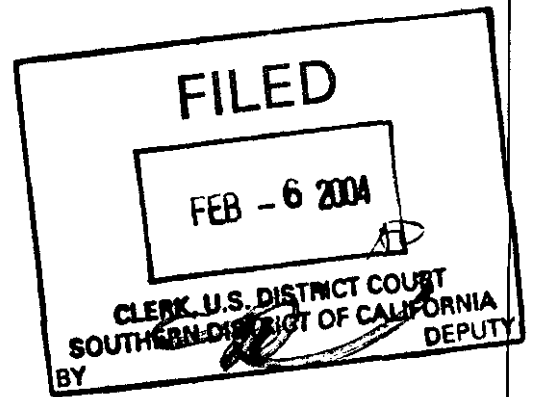
USDC SCAN INDEX SHEET



NMC 2/10/04 12:21
3:04-CV-00256 RIVERA V. M&N FOODS LLC
1
CMP.

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

7 Attorney for Plaintiff, Rivera, Ismael



8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10 ISMAEL RIVERA

11 Plaintiff,

12 vs.

13 M&N FOODS LLC, dba CARL'S JR.,
14 JOSEPH S. MATTINO, TRUSTEE OF
15 THE JOSEPH S. MATTINO Q-TIP
16 TRUST AND DOES 1-10 Inclusive,

17 Defendants.

18) Case No.: '04 CV 0256 LAB (NLS)

19)
20) COMPLAINT FOR DAMAGES RE:
21) VIOLATION OF CIVIL RIGHTS ON
22) BASIS OF DISCRIMINATION IN
23) PUBLIC ACCOMMODATIONS; NEGLIGENT
24) INFLECTION OF EMOTIONAL
25) DISTRESS; INTENTIONAL INFLECTION
26) OF EMOTIONAL DISTRESS;
27) DECLARATORY RELIEF; DEMAND FOR
28) JURY TRIAL

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. Defendant M&N Foods, LLC, dba Carl's Jr. was and at all times
25 herein mentioned was a duly organized business, association, or
26 corporation duly authorized to exist and operate within the State
27 of California and County of San Diego and the owner, lessee, or
28

1 tenant of the premises located at 4186 Oceanside, California
2 92056.

3 3. Plaintiff is informed and believes and thereon alleges that
4 defendant Joseph Mottino is the Trustee of the Joseph S. Mottino
5 Q-Tip Trust, which is the owner and/or landlord of the subject
6 property upon which defendant business is sited.

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

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

23 **III**

24 **GENERAL ALLEGATIONS COMMON TO ALL CLAIMS**

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

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

4 7. On or about November 18, 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 curb ramp location does not comply with ADAAG 4.7.1;
20 4.7.6.

21 (d) Facility seating does not comply with ADAAG 5.1 and Title
22 24 1104B.5.4; 4.2.4.1; 4.32.3&4; 5.3&4 and Title 24
23 1104B.5.4;1122B.3&4;

24 (e) Bathroom international symbol does not comply with ADAAG
25 4.30.6 and Title 24 1117B.5.9.

26 (f) Facility lacks raised Braille characters as required by
27 ADAAG 4.30.4 and Title 24 1117B.5.6.1&2.
28

- 1 (g) Wall mount signage (latch side) is lacking - ADAAG
2 4.1.2(7)(d) and Title 24 1117B5.1.1 and 5.6.3.
- 3 (h) Wall mount signage does not comply with 60-inch requirement
4 of ADAAG 4.30.6 and Title 24 1117B.5.9.
- 5 (i) Wall mount signage does not comply with ADAAG 4.1.2(7)(d)
6 and Title 24 1117B.5.1.1 & 5.6.3
- 7 (j) Accessories/fixtures are not at proper height as required
8 by ADAAG 4.23.7 & Title 24 1115B.9.2
- 9 (k) Hardware does not comply with ADAAG 4.13.9 and Title
10 1115B.7.1.4.
- 11 (l) Drain and hot water pipes are not insulated or covered as
12 required by ADAAG 4.24.6

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

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

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 November 2003, respectively and continuing to the
18 present time, knew that persons with physical disabilities were
19 denied 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 (Negligent Infliction of Emotional Distress)

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

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

11
12 35. Defendants breached their duty of care to Plaintiff by the
13 actions and inaction complained of herein and as a result thereof
14 Plaintiff was shocked, discouraged, embarrassed and outraged at
15 the callousness and disregard of Defendants. Defendants knew or
16 had reason to know that by denying Plaintiff equal access to their
17 facility and failing and refusing to remove architectural
18 barriers, Plaintiff would suffer emotional and/or mental distress
19 because of such discrimination and disparate treatment. Defendants
20 breached their duty of care to plaintiff by the perpetration of
21 the acts outlined herein.
22

23
24 36. As a proximate result of the actions of Defendants Plaintiff
25 did suffer emotional and mental stress and pain and suffering all
26 in an amount to be determined at time of trial.

27 //

IX

FIFTH CAUSE OF ACTION

(Intentional Infliction of Emotional Distress)

37. Plaintiff realleges the allegations of the Fourth Cause of Action as though set forth fully herein.

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

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

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

X

SIXTH CAUSE OF ACTION

(DECLARATORY RELIEF)

41. Plaintiff realleges and incorporates by reference each and every allegation contained in paragraphs 1-40 of this complaint as though set forth fully herein.

42. An actual controversy now exists in that plaintiff is informed and believes and thereon alleges that defendants' premises are in violation of the disabled access laws of the State of California including, but not limited to, Civil Code Sections 51, et seq., Section 52, et seq., Title 24 of the California Code of Regulations and Title III of the Americans with Disabilities Act and the Americans with Disabilities Access Guidelines (ADAAG).

1 43. A declaration of plaintiff's rights is necessary and
2 appropriate in order for the parties to this action to know their
3 respective rights and duties. Accordingly, the court should make a
4 declaration of the rights of the parties.

5 DEMAND FOR JURY

6 44. Plaintiff respectfully requests that the claims made herein be
7 heard and determined by a jury.

8 WHEREFORE PLAINTIFF PRAYS:

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

24 Respectfully submitted,

25 Dated: 1-31/04


Attorney for Plaintiff, Ismael Rivera

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing 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.)

(a) PLAINTIFFS

ISMAEL RIVERA

San Diego

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

DEFENDANTS

M & N FOODS LLC et al

FEB - 6 2004
San Diego

County of Residence of First Listed Defendant
NOTE: IN LAND CONDEMNATION CASES, USE THE COUNTY OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

Roy L. Landers (619)296-7898
7840 Mission Center CT, Suite 101
San Diego, CA 92108

Attorneys (If Known)

'04 CV 0256 LAB (NLS)

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"/> 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	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	
<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 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	<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 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: 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: 2/6/04
SIGNATURE OF ATTORNEY OF RECORD: Roy L. Landers

FOR OFFICE USE ONLY
RECEIPT # 110965 AMOUNT 150.00 APPLYING IT JUDGE MAG. JUDGE
2/9/04 10