

USDC SCAN INDEX SHEET



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3:04-CV-00635 RIVERA V. MOTEL 6 OPERATING LP

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

DP

DEPUTY

LAW OFFICES OF ROY L. LANDERS
ROY L. LANDERS (BAR #64920)
LaTOYA S. REDD (BAR # 218342)
7840 MISSION CENTER COURT, SUITE 101
SAN DIEGO, CALIFORNIA 92108
TELEPHONE (619) 296-7898
FACSIMILE (619) 296-5611

Attorney for Plaintiff, Ismael Rivera

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

'04 CV 00635 LAB (BLM)

ISMAEL RIVERA	)	Case No.:
)	
Plaintiff,	)	COMPLAINT FOR DAMAGES RE:
	)	VIOLATION OF CIVIL RIGHTS ON
vs.	)	BASIS OF DISCRIMINATION IN
MOTEL 6 OPERATING LP, dba MOTEL	)	PUBLIC ACCOMMODATIONS; NEGLIGENT
6 #1351; BHG PROPERTY, LLC; AND	)	INFLECTION OF EMOTIONAL
DOES 1-10 Inclusive,	)	DISTRESS; INTENTIONAL INFLECTION
	)	OF EMOTIONAL DISTRESS;
Defendants.	)	DECLARATORY RELIEF; 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

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JP

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 Motel 6 Operating LP, dba Motel 6 #1351 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 owners, lessees, or tenants of the premises located at 6117 Paseo
2 Del Norte Carlsbad, California 92009.

3 3. Plaintiff is informed and thereon alleges that defendant BHG
4 Property, LLC is the owner and/or landlord of the subject property
5 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)(A) 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 a male who is disabled and confined to a
25 wheelchair. He has no control over his lower extremities and must
26 use a wheelchair to transport himself and to affect the basic
27 necessities of his everyday existence. Plaintiff's disability
28 substantially limits one or more of life's major activities and

1 therefore he is disabled as defined under 42 USC
2 12102(2) (A) (B) (C).

3 7. On or about February 13, 2004 plaintiff patronized the premises
4 of defendants to utilize goods and/or services offered by
5 defendants. When Plaintiff attempted to gain access to the goods
6 and/or services offered by defendants he encountered access
7 barriers because the premises failed to comply with federal ADA
8 Access Guidelines For Building and Facilities [hereinafter
9 "ADAAG"]; Department of Justice [DOJ] regulations at 28 CFR.
10 36.201; 36.304 and/or the State of California's Title 24 Building
11 Code 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 does not exist as required by Title
16 24 1129B.5
- 17 (b) Site lacks NO PARKING signage as required by Title 24
18 1129B.4.1&2.
- 19 (c) Lack of van accessible parking as required by ADAAG
20 4.1.2(5) (a) (b) and Title 24 1129B.4.2
- 21 (d) Lack of van accessible aisle as required by ADAAG 4.6.3
- 22 (e) Lack of signage as required by ADAAG 4.6.4
- 23 (f) Facility lacks route of travel as required by ADAAG 4.6.2.
- 24 (g) Regular access aisle does not comply with Title 24
25 1129B.4.1.
- 26 (h) Faucet fixtures are not operable as required by ADAAG
27 4.27.4 and Title 24 1508.1&2.

- 1 (i) Grab bars do not comply with ADAAG 4.17.6 and Title 24
2 1115B.8.1.; ADAAG 4.14.6 and Title 24 1115B.8.1
- 3 (j) Water Closet mounting does not meet requirements of ADAAG
4 4.17.3 and Title 24 1115B.7.1.2
- 5 (k) Flush valve is not on correct side as required by ADAAG
6 4.16.5 and Title 24 1502.0.
- 7 (l) Toilet Stall is not properly sized per ADAAG 4.17.3 and
8 Title 24 1115B.1
- 9 (m) Hardware (door knobs) do not comply with ADAAG 4.13.9 and
10 Title 24 1133B.2.5.1.
- 11 (n) Drain and hot water pipes are not insulated as required by
12 ADAAG 4.24.6
- 13 (o) Bathing facilities do not meet minimum under ADA 4.23.8 and
14 Title 24 1115B.6.
- 15 (p) Bathing facilities do not meet requirement of ADA 4.20.2;
16 4.20.3 and Title 24 1115B.6.1.1.
- 17 (q) Bathing facilities are not compliant with Title 24
18 1115B.6.1.2.
- 19 (r) Bathing facilities are not compliant with ADA 4.20.4 and
20 Title 24 1115B.6.1.3
- 21 (s) Facility controls are not operable per ADA 4.27.4 and Title
22 24 1115B.6.1.4.; ADA 4.20.5 and Title 24 1115B.6.1.4.
- 23 (t) Shower spray unit does not comply with ADA 4.20.6 and Title
24 24 1115B.6.1.5
- 25 (u) Showers are not compliant with ADAAG 4.21.7; Title 24
26 1115B.6.2.2; Title 24 1115B.8.2-8.4
- 27 (v) Shower controls do not comply with ADA 4.27.4; Title 24
28 1115B.6.2.4.1

- 1 (w) Facility lacks fully accessible rooms in number required by
2 ADAAG 9.1.2 and Title 24 1111B.4.2
- 3 (x) Facility lacks sufficient number of accessible rooms per
4 ADAAG 9.1.2 and Title 24 1111B.4.2
- 5 (y) Facility lacks accessible rooms on route in the number
6 required by ADAAG 9.2.2 and Title 24 1111B.2.
- 7 (z) Lack of at least on bathtub or shower in each accessible
8 sleeping room deemed accessible - ADAAG 9.2.2(6)(e) and
9 Title 24 1111B.4.6.6.
- 10 (aa) Facility has ridged pool seat in violation of Title 24
11 1104B.4.3.4.1.2
- 12 (bb) Pool seat does not comply with Title 24 1104B. 4.3.4.1.3
- 13 (cc) Pool seat is not capable of unassisted operation as
14 required by Title 24 1104B.4.3.4.2
- 15 (dd) Pool seat does not meet capacity for 300 lbs as required by
16 Title 24 1104B.4.3.4.4.
- 17 (ee) Access to beds do not comply with ADA 9.2.2(1) and Title 24
18 1111B.4.3
- 19 (ff) Clear space to beds do not comply with Title 24 1111B.4.3
- 20 (gg) Shower seat is in violation of ADAAG 4.21.3
- 21 (hh) Shelving Height does not meet requirements of ADAAG 4.25
22 and Title 24 1118B.4.1
- 23 (ii) Controls on dispensers, receptacles do not meet
24 requirements of ADAAG 9.2.2(7) and Title 24 1111B.4.4.
- 25 (jj) Operating mechanisms do not meet requirements of ADAAG
26 4.27.4 and Title 24 1117B.6.3

27 9. Based upon the above facts, Plaintiff as been discriminated
28 against and will continue to be discriminated against unless and

1 until Defendants are enjoined and forced to cease and desist from
2 continuing to discriminate against Plaintiff and others similarly
3 situated.

4 10. Pursuant to federal [ADA], Title 28 CFR 36.201; 36.203;
5 36.304; 36.305 and state law [California Title 24], Defendants are
6 required to remove barriers to their existing facilities.

7 Defendants have been put on notice pursuant to the ADA and
8 California Civil Codes [51,52] prior to the statutory effect of
9 the ADA on January 26, 1992 that Defendants and each of them had a
10 duty to remove barriers to persons with disabilities such as
11 plaintiff. Defendants also knew or should have known that
12 individuals such as plaintiff with a disability are not required
13 to give notice to a governmental agency prior to filing suit
14 alleging Defendants' failure to remove architectural barriers.

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

1 checklist for Readily Achievable Barrier Removal approved by the
2 United States Department of Justice and created by Adaptive
3 Environments.

4 12. Plaintiff desires to return to Defendants' places of business
5 and utilize their facilities without being discriminated against
6 in the immediate future.

7 **IV**

8 **FIRST CAUSE OF ACTION**

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

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

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

13 14. Based on the facts asserted above Plaintiff has been denied
14 full and equal access to Defendants' goods, services, facilities,
15 privileges, advantages, or accommodations. Defendant business is a
16 public accommodation owned, leased and/or operated by Defendants
17 and each of them. Defendants' existing facilities and/or services
18 failed to provide full and equal access to Defendants' facility as
19 required by 42 U.S.C. section 12182(a). Thus, Plaintiff was
20 subjected to discrimination in violation of 42 U.S.C.
21 12182(b) (2) (A) (ii) (iv) and 42 U.S.C. section 12188 because
22 Plaintiff was denied equal access to Defendants' existing
23 facilities.

24 15. Plaintiff has a physical impairment as alleged herein because
25 his condition affects one or more of the following body systems:
26 neurological, musculoskeletal, special sense organs, and/or
27 cardiovascular. Further, his physical impairments substantially
28 limits one or more of the following major life activities:

1 [walking]. In addition, Plaintiff cannot perform one or more of
2 the said major life activities in the manner speed, and duration
3 when compared to the average person. Moreover, Plaintiff has a
4 history of or has been classified as having a physical impairment
5 as required by 42 U.S.C. section 12102(2)(A).

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

7 16. Based upon the facts alleged herein, Plaintiff was denied
8 full and equal access to Defendants' goods, services, facilities,
9 privileges, advantages, or accommodations within a public
10 accommodation owned leased, and/or operated by the named
11 Defendants. Defendants individually and collectively failed to
12 remove barriers as required by 42 U.S.C. 12182(a) and 28 CFR
13 36.304. Plaintiff is informed and believes, and thus alleges that
14 architectural barriers which are structural in nature exist at the
15 following physical elements of Defendants' facilities:

16 Space Allowance and Reach Ranges, Accessible Route, Protruding
17 Objects, Ground and Floor Surfaces, Parking and Passenger Loading
18 Zones, Curb Ramps, Ramps, Stairs, Elevators, Platform Lifts
19 (Wheelchair Lifts), Windows, Doors, Entrances, Drinking Fountains
20 and Water Coolers, Water Closets, Toilet Stalls, Urinals,
21 Lavatories and Mirrors, Sinks, Storage, Handrails, Grab Bars, and
22 Controls and Operating Mechanisms, Alarms, Detectable Warnings,
23 Signage, and Telephones. Pursuant to 42 USC section
24 12182(b)(2)(iv) and 28 CFR 36.304 Title III requires places of
25 public accommodation to remove architectural barriers that are
26 structural in nature within existing facilities. Failure to remove
27 such barriers and disparate treatment against a person who has a
28 known association with a person with a disability are forms of

1 prohibited discrimination. Accordingly, Plaintiff was subjected to
2 discrimination in violation of 42 USC 12182(b)(2)(A)(iv) and 42
3 USC 12182 (b)(2)(A)(iv) and 42 USC 12188.

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

5 17. Based on the facts alleged in this Complaint Defendants failed
6 and refused to provide a reasonable alternative by modifying its
7 practices, policies and procedures in that they failed to have a
8 scheme, plan, or design to assist Plaintiff and/or others
9 similarly situated in entering and utilizing Defendants' services,
10 as required by 42 U.S.C. section 12188(a). Thus, Plaintiff was
11 subjected to discrimination in violation of 42 U.S.C. section
12 12182(b)(2)(A)(iv); 28 CFR 36.302 and 42 U.S.C. section 12188
13 because Plaintiff was denied equal access to Defendants' existing
14 facilities.

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

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

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

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VI

SECOND CAUSE OF ACTION

(Violation Of Civil Rights Under California Accessibility Laws)

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

(a) Denial Of Full And Equal Access

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

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

(b) Failure To Modify Practices, Policies And Procedures

24. Defendants have failed and refused and continue to fail and refuse to provide a reasonable alternative to allow plaintiff equal access to their facility by modifying their practices, policies, and procedures in that that they failed to have s

1 scheme, plan, or design to assist Plaintiff and others similarly
2 situated in entering and utilizing Defendants' goods or services
3 as required by California Civil Code section 54 and 54.1.
4 Accordingly Defendants have wrongfully discriminated against
5 Plaintiff.

6 **VII**

7 **THIRD CAUSE OF ACTION**

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

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

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

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

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

22 By their failure to provide equal access to Plaintiff as herein
23 alleged, Defendants have also violated 42 U.S.C. section
24 12182(b)(2)(A)(iv) as provided in Cal. Civ. Codes section 51(f).

25 28. By reason of their acts and denial of Plaintiff's civil rights
26 Defendants also violated the provisions of Cal. Civ. Code section
27 52, which makes a person or entity in violation of Cal.Civ. Code
28

1 51 liable for the actual damages to a Plaintiff including treble
2 damages where appropriate.

3 29. Defendants and each of them, at all times prior to and
4 including February 2004, respectively and continuing to the
5 present time, knew that persons with physical disabilities were
6 denied their rights of equal access to all portions of this public
7 facility. Despite such knowledge, Defendants, and each of them,
8 failed and refused to take steps to comply with the applicable
9 access statutes and despite knowledge of the resulting problems
10 and denial of civil rights suffered by Plaintiff and other
11 similarly situated persons with disabilities.
12

13 30. Defendants and each of them have failed and refused to take
14 action to grant full and equal access to person with physical
15 disabilities. Defendants have carried out a course of conduct of
16 refusing to respond to, or correct complaints about unequal access
17 and have refused to comply with their legal obligations to make
18 the subject facility accessible pursuant the ADAAG and the
19 California Building Code [Title 24 of the California Code of
20 Regulations]. Such actions and continuing course of conduct by
21 Defendants, and each of them, evidence despicable conduct in
22 conscious disregard of the rights and/or safety of Plaintiff and
23 those similarly situated and thus justify an award of treble
24 damages pursuant to section 52(a) and 54.3(a) of the Cal.Civ. Code
25
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1 or alternatively an award of punitive damages in an appropriate
2 amount.

3 31. Plaintiff has suffered emotional and physical damage and
4 continues to suffer such damages all in an amount to be determined
5 at time of trial.
6

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

12 **VIII**

13 **FOURTH CAUSE OF ACTION**

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

15 33. Plaintiff relleges the allegations of the Third Cause of
16 Action as though set forth fully herein.
17

18 34. Defendants and each of them owed a duty to Plaintiff to make
19 their facility accessible and to keep Plaintiff reasonably safe
20 from known dangers and risks of harm. This duty arises by virtue
21 of the legal duties proscribed by various federal and state
22 statutes including, but not limited to, ADA, ADAAG, California
23 Civil Code sections 51, 52, 54, 54.1 and Title 24 of the
24 California Code of Regulations. Defendants had a duty of due care
25 not to do or cause anything to happen that would subject Plaintiff
26 to undue stress, embarrassment, chagrin, and discouragement.
27
28

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

13 36. 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 **IX**

18 **FIFTH CAUSE OF ACTION**

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

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

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

25 39. As a proximate result of Defendants' actions Plaintiff has
26 suffered severe emotional and mental distress all to his damage in
27 an amount to be determined at time of trial.
28

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

4 X

5 **SIXTH CAUSE OF ACTION**

6 **(DECLARATORY RELIEF)**

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

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

17 43. A declaration of plaintiff's rights is necessary and
18 appropriate in order for the parties to this action to know their
19 respective rights and duties. Accordingly, the court should make a
20 declaration of the rights of the parties.

21 **DEMAND FOR JURY**

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

24 WHEREFORE PLAINTIFF PRAYS:

- 25 1. For general damages according to proof;
26 2. For special damages according to proof;
27 3. For damages pursuant to Cal. Civil Code section 52, in the
28 amount of \$4,000 for each and every offense of California Civil

1 Code section 51, Title 24 of the California Building Code and the
2 Americans with Disabilities Act.

3 4. For Injunctive relief pursuant to 42 U.S.C. 12188(a).

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

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

7 7. For punitive damages according to proof;

8 8. For a Jury Trial;

9 9. For costs of suit incurred herein and;

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

11 Respectfully submitted,

12 Dated: 3/24/04

Ray L. Sanders
13 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 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.)

(a) PLAINTIFFS
 ISMAEL RIVERA,
 San Diego

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

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

DEFENDANTS **FILED**
 MOTEL 6 OPERATING LP, et al.
 04 MAR 29 PM 5:00

County of Residence of First Listed Defendant San Diego
 (IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys (If Known)
'04 CV 00635 LAB (BLM)

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

1 U.S. Government Plaintiff

3 Federal Question (U.S. Government Not a Party)

2 U.S. Government Defendant

4 Diversity (Indicate Citizenship of Parties in Item III)

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

Citizen of This State 1 1 DEF

Incorporated or Principal Place of Business in This State 4 4 DEF

Citizen of Another State 2 2 DEF

Incorporated and Principal Place of Business in Another State 5 5 DEF

Citizen or Subject of a Foreign Country 3 3 DEF

Foreign Nation 6 6 DEF

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

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	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 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<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 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			

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

VIII. RELATED CASE(S) IF ANY: _____ (See instructions):
 JUDGE _____ DOCKET NUMBER _____

DATE 3/26/04 SIGNATURE OF ATTORNEY OF RECORD [Signature]

FOR OFFICE USE ONLY
 RECEIPT # 102283 AMOUNT 150- APPLYING IFP MS JUDGE _____ MAG. JUDGE _____