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10 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 IN AND FOR THE COUNTY OF SAN DIEGO

12 CHRIS LANGER, ) Case No.: GIC 785977  
13 )  
14 Plaintiff, ) COMPLAINT FOR DAMAGES AND  
15 v. ) INJUNCTIVE RELIEF FOR VIOLATIONS  
16 MATTHEW C. STRAUSS; IRIS L. ) OF: UNRUH CIVIL RIGHTS ACT;  
STRAUSS; FUTURE ENTERPRISE TRUST, ) CALIFORNIA'S DISABLED PERSON ACT;  
and DOES 1 through 10, inclusive ) NEGLIGENCE; CALIFORNIA'S UNFAIR  
17 ) BUSINESS PRACTICE ACT.  
18 Defendants. ) DEMAND FOR JURY  
19 )  
20 )  
21 )  
22 )  
23 )  
24 )  
25 )

26 Plaintiff CHRIS LANGER, (hereinafter referred to as  
27 "Plaintiff") complains of MATTHEW C. STRAUSS; IRIS L. STRAUSS;  
28 FUTURE ENTERPRISE TRUST, and DOES 1 through 10, inclusive,  
(hereinafter referred to as "Defendants") and alleges as follows:

INTRODUCTION:

1. This is a Civil Rights action for discrimination against persons with physical disabilities, of which Plaintiff is a member of said class, for failure to remove architectural barriers

ORIGINAL  
ACCOUNTING

1 structural in nature at Defendants' place of business, located at  
2 3780 Hancock Street # A, San Diego, California, a place of public  
3 accommodation; and for failure to modify practices and or policies  
4 in order to accommodate, thereby discriminatorily denying Plaintiff  
5 and the class of other similarly situated persons with physical  
6 disabilities access to, the full and equal enjoyment of, opportunity  
7 to participate in, and benefit from, the goods, facilities,  
8 services, and accommodations thereof.

9 2. Plaintiff seeks injunctive relief and damages for  
10 violations of civil rights and for damages flowing from such  
11 violations.

12 **PARTIES:**

13 3. Plaintiff is a California resident with physical  
14 disabilities who uses a wheelchair to travel about in public.

15 4. Defendants, MATTHEW C. STRAUSS; IRIS L. STRAUSS; FUTURE  
16 ENTERPRISE TRUST, and DOES 1 through 10, inclusive (hereinafter  
17 alternatively referred to collectively as "Defendants"), are the  
18 owners and operators, lessors and/or lessees, or agents of the  
19 owners, lessors and/or lessees, and/or alter egos, franchisers  
20 and/or franchisees, of the building and/or buildings which  
21 constitute a public facility in and of itself, occupied by the above  
22 described defendants, and subject to the requirements of federal and  
23 state law requiring full and equal access to public accommodations  
24 and facilities.

25 5. Plaintiff does not know the true names of Defendants, their  
26 business capacities, their ownership connection to the property and  
27 business, or their relative responsibilities in causing the access  
28 violations herein complained of, and alleges a joint venture and

1 common enterprise by all such Defendants. Plaintiff is informed and  
2 believes that each of the Defendants herein, including DOES 1  
3 through 10, inclusive, is responsible in some capacity for the  
4 events herein alleged, or is a necessary party for obtaining  
5 appropriate relief. Plaintiff will seek leave to amend when the true  
6 names, capacities, connections, and responsibilities of the  
7 Defendants and DOES 1 through 10, inclusive, are ascertained.

8 **PRELIMINARY FACTUAL ALLEGATIONS:**

9       6. Defendants are or were at the time of the incident the  
10 owners and operators, lessors and lessees of the public facility,  
11 located at 3780 Hancock Street # A, San Diego, California. The  
12 public accommodation, its path of travel, parking, restrooms and its  
13 other facilities are each a "public accommodation or facility"  
14 subject to the requirements of state and federal law. On information  
15 and belief, each such facility has, since July 1, 1970, undergone  
16 "alterations, structural repairs and additions," each of which has  
17 subjected the public accommodations, and each of their facilities to  
18 handicapped access requirements per the Americans with Disabilities  
19 Act Access Guidelines (ADAAG) and Title 24 of California's Code of  
20 Regulations.

21       7. On at least once occasion within the statutory period  
22 preceding the filing of this complaint, Plaintiff was an invitee and  
23 customer at the subject public accommodation.

24       8. During Plaintiff's visit, the subject public accommodation  
25 exhibited various violations of the Americans with Disabilities Act  
26 Accessibility Guidelines ("ADAAG") and Title 24 of the California  
27 Code of Regulations including but not limited to: inaccessible  
28 public paths of travel; a lack of designated disabled parking; and a

1 lack of designated van accessible disabled parking.

2 9. On information and belief, other portions of the facility  
3 were improperly inaccessible for use by persons with physical  
4 disabilities.

5 10. On information and belief, the facilities continue to the  
6 date of filing this complaint to deny equal access to Plaintiff and  
7 other persons with physical disabilities.

8 11. As a result of the inaccessible facilities, Plaintiff was  
9 humiliated, embarrassed and frustrated, suffering emotional  
10 injuries. Moreover, as a result of the inaccessible facilities,  
11 Plaintiff, suffered bodily and physical injury.

12 12. Plaintiff would like to return and use the Defendants'  
13 public accommodations but because of Defendants' violations,  
14 Plaintiff and other persons with physical disabilities are unable to  
15 use public facilities such as those owned and operated by Defendants  
16 on a "full and equal" basis unless such facility is in compliance  
17 with the provisions of the Americans with Disabilities Act  
18 Accessibility Guidelines and state accessibility law as pled herein.  
19 Plaintiff has, therefore, been deterred from returning and using the  
20 Defendants' public accommodations.

21 13. Plaintiff is informed and believes and therefore alleges  
22 that--Defendants--and--each of them--(1) caused the subject improved  
23 real properties which constitute the subject public accommodation to  
24 be constructed, altered and maintained in such a manner that persons  
25 with physical disabilities were denied full and equal access to,  
26 within and throughout said improved real property(s); (2) that the  
27 Defendants have had actual and constructive notice--that--the  
28 facilities were not legally accessible to persons with disabilities;

1 (3) that despite being informed of such effect on Plaintiff and  
2 other persons with physical disabilities due to the lack of  
3 accessible facilities, Defendants, and each of them, knowingly and  
4 willfully refused to take any steps to rectify the situation and to  
5 provide full and equal access for Plaintiff and other persons with  
6 physical disabilities to the subject public accommodation. Said  
7 defendants, and each of them, have continued such practices, in  
8 conscious disregard for the rights and safety of Plaintiff and other  
9 persons with physical disabilities. Said conduct, with knowledge of  
10 the effect it was and is having on Plaintiff and other persons with  
11 physical disabilities, constitutes despicable conduct in conscious  
12 disregard of the rights and safety of Plaintiff and of other  
13 similarly situated persons, justifying the imposition of punitive  
14 and exemplary damages per Civil Code section 3294.

15 **I. FIRST CAUSE OF ACTION: VIOLATION OF THE UNRUH CIVIL RIGHTS ACT**  
16 (On behalf of Plaintiff and Against All Defendants) (Cal Civ §  
51 et seq.)

17 14. Plaintiff repleads and incorporates by reference, as if  
18 fully set forth again herein, the allegations contained in all prior  
19 paragraphs of this complaint.

20 15. California Civil Code § 52 provides that a party that  
21 discriminates against a plaintiff in violation of Civ. Code § 51  
22 shall be liable for actual damages, up to three times actual damages  
23 but not less than \$1000 for each such offense, and any attorney's  
24 fees incurred by the plaintiff.

25 **Count One:**

26 16. The Defendants have not ensured that their facilities  
27 comply with Title 24 of the California Code of Regulations, the  
28 California Building Code as it applies to physical access for

1 persons with disabilities and failed to ensure that disabled persons  
2 have "full and equal accommodations, advantages, facilities,  
3 privileges, or services" to the facilities identified above.

4 Count Two:

5 17. The Defendants have not complied with the Americans with  
6 Disabilities Act of 1990.

7  
8 **II. SECOND CAUSE OF ACTION: VIOLATION OF CALIFORNIA'S DISABLED**  
9 **PERSONS ACT, (On Behalf of Plaintiff and Against All**  
10 **Defendants) (California Civil Code § 54 et seq.)**

11 18. Plaintiff repleads and incorporates by reference as if  
12 fully set forth again herein, the allegations contained in all prior  
13 paragraphs of this complaint and incorporates them herein as if  
14 separately repled.

15 19. California Civil Code §55 provides that a person aggrieved  
16 under §54 of the Civil Code may bring an action to enjoin such  
17 violation and shall be entitled to recover reasonable attorney's  
18 fees.

19 Count One:

20 20. The Defendants have not ensured that their facilities  
21 comply with Title 24 of the California Code of Regulations, the  
22 California Building Code as it applies to physical access for  
23 persons with disabilities and have failed to ensure that disabled  
24 persons have full and equal access to public accommodations and/or  
25 other places that the general public is invited and that disabled  
26 persons enjoy the same accommodations, advantages, facilities, and  
27 privileges to the facilities identified above.

28 Count Two:

21. The Defendants have not complied with the Americans with

1 Disabilities Act of 1990.

2 22. Wherefore, Plaintiff prays for relief and damages as  
3 hereinafter stated.

4 **III. THIRD CAUSE OF ACTION: NEGLIGENCE**

5 (On behalf of the Plaintiff and Against All Defendants)

6 23. Plaintiff repleads and incorporates by reference, as if  
7 fully set forth again herein, the allegations contained in all prior  
8 paragraphs of this complaint.

9 24. Defendants had a duty to exercise ordinary care, i.e.,  
10 comply with the various accessibility laws and ensure that their  
11 property was safely configured.

12 25. Defendants failed to exercise ordinary care in that they  
13 failed to ensure that their facilities complied with the  
14 accessibility guidelines or that their facilities were configured to  
15 promote safe and effective use by persons with wheelchairs.

16 26. As the actual and proximate result of Defendants' failure  
17 to exercise ordinary care, Plaintiff suffered damages in an amount  
18 to be determined by proof.

19 27. Wherefore, Plaintiff prays for relief and damages and  
20 relief as hereinafter stated.

21 **IV. FOURTH CAUSE OF ACTION: VIOLATION OF CALIFORNIA'S UNFAIR**  
22 **BUSINESS PRACTICES ACT** (On behalf of the Public and Against All  
23 Defendants) (Cal. Bus. & Prof. § 17200 et seq.)

24 28. Plaintiff repleads and incorporates by reference, as if  
25 fully set forth again herein, the allegations contained in all prior  
26 paragraphs of this complaint.

27 29. In addition to the access violations described above,  
28 Defendants' facilities are in violation of California and Federal

1 law in that they do not provide required access for disabled  
2 persons.

3 30. Defendants' acts and omissions alleged herein are a  
4 violation of both statutory requirements and public policy and,  
5 therefore, constitute a violation of Business and Professions Code  
6 sections 17200 et seq.

7 31. Plaintiff, on behalf of himself/herself and the general  
8 public, seeks injunctive relief requiring Defendants to remedy the  
9 disability access violations present at their facilities.

10 32. Wherefore, Plaintiff prays for relief and damages and  
11 relief as hereinafter stated.

12 **PRAYER:**

13 Wherefore, Plaintiff prays that this court award damages and  
14 provide relief as follows:

15 1. For injunctive relief, compelling Defendants to comply with  
16 the Unruh Civil Rights Act, and California's Disabled Person Act,  
17 which order will include the removal of barriers and the  
18 implementation of reasonable modifications in policies, practice,  
19 eligibility criteria and procedures so as to afford full access to  
20 the goods, services, facilities, privileges, advantages and  
21 accommodations being offered.

22 2. General, Special and Penalty damages in an amount to be  
23 determined by proof;

24 3. Reasonable attorneys' fees, litigation expenses and costs of  
25 suit, pursuant to Cal. Civ. Code §§ 52,55, and Cal. Civ. Proc. §  
26 1021.5;

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1           4. For such other and further relief as the court may deem  
2 proper.

3 Dated: March 19, 2002

CENTER FOR DISABILITY ACCESS, LLP

5  
6 By: 

MARK D. POTTER  
RUSSELL C. HANDY  
JAMES R. BOYD  
Attorneys for Plaintiff

8  
9 DEMAND FOR JURY TRIAL

10           Plaintiff hereby demands a jury for all claims for which a jury  
11 is permitted.

12  
13 Dated: March 19, 2002

CENTER FOR DISABILITY ACCESS, LLP

14  
15 By: 

16 MARK D. POTTER  
17 RUSSELL C. HANDY  
18 JAMES R. BOYD  
19 Attorneys for Plaintiff  
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