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CENTRAL DIVISION

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

13 CHRIS LANGER,

14 Plaintiff,

15 v.

16 LAWRENCE SANFILIPPO as TRUSTEE of )  
17 the SANFILIPPO FAMILY TRUST, )  
18 dated September 1, 2000; PHYLLIS )  
19 SANFILIPPO as TRUSTEE of the )  
20 SANFILIPPO FAMILY TRUST, dated )  
21 September 1, 2000; PAUL E. MAX, )  
22 and DOES 1 through 10, inclusive )

23 Defendants.

) Case No.: **GIC 786032**  
)  
) **COMPLAINT FOR DAMAGES AND**  
) **INJUNCTIVE RELIEF FOR VIOLATIONS**  
) **OF: UNRUH CIVIL RIGHTS ACT;**  
) **CALIFORNIA'S DISABLED PERSON ACT;**  
) **NEGLIGENCE; CALIFORNIA'S UNFAIR**  
) **BUSINESS PRACTICE ACT.**

24 **DEMAND FOR JURY**

25 Plaintiff CHRIS LANGER, (hereinafter referred to as  
26 "Plaintiff") complains of LAWRENCE SANFILIPPO as TRUSTEE of the  
27 SANFILIPPO FAMILY TRUST, dated September 1, 2000; PHYLLIS SANFILIPPO  
28 as TRUSTEE of the SANFILIPPO FAMILY TRUST, dated September 1, 2000;  
PAUL E. MAX, and DOES 1 through 10, inclusive, (hereinafter referred  
to as "Defendants") and alleges as follows:

**INTRODUCTION:**

ORIGINAL  
ACCOUNTING

1           1. This is a Civil Rights action for discrimination against  
2 persons with physical disabilities, of which Plaintiff is a member  
3 of said class, for failure to remove architectural barriers  
4 structural in nature at Defendants' place of business, located at  
5 1130 Buenos Ave, San Diego, California, Parcel Number 436-301-04, a  
6 place of public accommodation; and for failure to modify practices  
7 and or policies in order to accommodate, thereby discriminatorily  
8 denying Plaintiff and the class of other similarly situated persons  
9 with physical disabilities access to, the full and equal enjoyment  
10 of, opportunity to participate in, and benefit from, the goods,  
11 facilities, services, and accommodations thereof.

12           2. Plaintiff seeks injunctive relief and damages for  
13 violations of civil rights and for damages flowing from such  
14 violations.

15 **PARTIES:**

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

18           4. Defendants, LAWRENCE SANFILIPPO as TRUSTEE of the SANFILIPPO  
19 FAMILY TRUST, dated September 1, 2000; PHYLLIS SANFILIPPO as TRUSTEE  
20 of the SANFILIPPO FAMILY TRUST, dated September 1, 2000; PAUL E.  
21 MAX, and DOES 1 through 10, inclusive (hereinafter alternatively  
22 referred to collectively as "Defendants"), are the owners and  
23 operators, lessors and/or lessees, or agents of the owners, lessors  
24 and/or lessees, and/or alter egos, franchisers and/or franchisees,  
25 of the building and/or buildings which constitute a public facility  
26 in and of itself, occupied by the above described defendants, and  
27 subject to the requirements of federal and state law requiring full  
28 and equal access to public accommodations and facilities.

1           5. Plaintiff does not know the true names of Defendants, their  
2 business capacities, their ownership connection to the property and  
3 business, or their relative responsibilities in causing the access  
4 violations herein complained of, and alleges a joint venture and  
5 common enterprise by all such Defendants. Plaintiff is informed and  
6 believes that each of the Defendants herein, including DOES 1  
7 through 10, inclusive, is responsible in some capacity for the  
8 events herein alleged, or is a necessary party for obtaining  
9 appropriate relief. Plaintiff will seek leave to amend when the true  
10 names, capacities, connections, and responsibilities of the  
11 Defendants and DOES 1 through 10, inclusive, are ascertained.

12 **PRELIMINARY FACTUAL ALLEGATIONS:**

13           6. Defendants are or were at the time of the incident the  
14 owners and operators, lessors and lessees of the public facility,  
15 located at 1130 Buenos Ave, San Diego, California, Parcel Number  
16 436-301-04. The public accommodation, its path of travel, parking,  
17 restrooms and its other facilities are each a "public accommodation  
18 or facility" subject to the requirements of state and federal law.  
19 On information and belief, each such facility has, since July 1,  
20 1970, undergone "alterations, structural repairs and additions,"  
21 each of which has subjected the public accommodations, and each of  
22 their facilities to handicapped access requirements per the  
23 Americans with Disabilities Act Access Guidelines (ADAAG) and Title  
24 24 of California's Code of Regulations.

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

28           8. During Plaintiff's visit, the subject public accommodation

1 exhibited various violations of the Americans with Disabilities Act  
2 Accessibility Guidelines ("ADAAG") and Title 24 of the California  
3 Code of Regulations including but not limited to: a lack of disabled  
4 accessible parking.

5 9. On information and belief, other portions of the facility  
6 were improperly inaccessible for use by persons with physical  
7 disabilities.

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

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

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

24 13. Plaintiff is informed and believes and therefore alleges  
25 that Defendants and each of them (1) caused the subject improved  
26 real properties which constitute the subject public accommodation to  
27 be constructed, altered and maintained in such a manner that persons  
28 with physical disabilities were denied full and equal access to,

1 within and throughout said improved real property(s); (2) that the  
2 Defendants have had actual and constructive notice that the  
3 facilities were not legally accessible to persons with disabilities;  
4 (3) that despite being informed of such effect on Plaintiff and  
5 other persons with physical disabilities due to the lack of  
6 accessible facilities, Defendants, and each of them, knowingly and  
7 willfully refused to take any steps to rectify the situation and to  
8 provide full and equal access for Plaintiff and other persons with  
9 physical disabilities to the subject public accommodation. Said  
10 defendants, and each of them, have continued such practices, in  
11 conscious disregard for the rights and safety of Plaintiff and other  
12 persons with physical disabilities. Said conduct, with knowledge of  
13 the effect it was and is having on Plaintiff and other persons with  
14 physical disabilities, constitutes despicable conduct in conscious  
15 disregard of the rights and safety of Plaintiff and of other  
16 similarly situated persons, justifying the imposition of punitive  
17 and exemplary damages per Civil Code section 3294.

18 **I. FIRST CAUSE OF ACTION: VIOLATION OF THE UNRUH CIVIL RIGHTS ACT**  
19 (On behalf of Plaintiff and Against All Defendants) (Cal Civ §  
20 51 et seq.)

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

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

**Count One:**

1           16. The Defendants have not ensured that their facilities  
2 comply with Title 24 of the California Code of Regulations, the  
3 California Building Code as it applies to physical access for  
4 persons with disabilities and failed to ensure that disabled persons  
5 have "full and equal accommodations, advantages, facilities,  
6 privileges, or services" to the facilities identified above.

7 **Count Two:**

8           17. The Defendants have not complied with the Americans with  
9 Disabilities Act of 1990.

10

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

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

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

22 **Count One:**

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

1 privileges to the facilities identified above.

2 Count Two:

3 21. The Defendants have not complied with the Americans with  
4 Disabilities Act of 1990.

5 22. Wherefore, Plaintiff prays for relief and damages as  
6 hereinafter stated.

7 **III. THIRD CAUSE OF ACTION: NEGLIGENCE**  
8 (On behalf of the Plaintiff and Against All Defendants)

9  
10 23. Plaintiff repleads and incorporates by reference, as if  
11 fully set forth again herein, the allegations contained in all prior  
12 paragraphs of this complaint.

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

16 25. Defendants failed to exercise ordinary care in that they  
17 failed to ensure that their facilities complied with the  
18 accessibility guidelines or that their facilities were configured to  
19 promote safe and effective use by persons with wheelchairs.

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

23 27. Wherefore, Plaintiff prays for relief and damages and  
24 relief as hereinafter stated.

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

28 28. Plaintiff repleads and incorporates by reference, as if  
fully set forth again herein, the allegations contained in all prior

1 paragraphs of this complaint.

2 29. In addition to the access violations described above,  
3 Defendants' facilities are in violation of California and Federal  
4 law in that they do not provide required access for disabled  
5 persons.

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

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

13 32. Wherefore, Plaintiff prays for relief and damages and  
14 relief as hereinafter stated.

15 **PRAYER:**

16 Wherefore, Plaintiff prays that this court award damages and  
17 provide relief as follows:

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

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

27 3. Reasonable attorneys' fees, litigation expenses and costs of  
28




1 suit, pursuant to Cal. Civ. Code §§ 52,55, and Cal. Civ. Proc. §  
2 1021.5;

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

5 Dated: March 26, 2002

CENTER FOR DISABILITY ACCESS, LLP


7  
8 By:   
9 MARK D. POTTER  
10 RUSSELL C. HANDY  
11 JAMES R. BOYD  
12 Attorneys for Plaintiff

11 DEMAND FOR JURY TRIAL

12 Plaintiff hereby demands a jury for all claims for which a jury  
13 is permitted.

14  
15 Dated: March 26, 2002

CENTER FOR DISABILITY ACCESS, LLP

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