

001/199.00

1 CENTER FOR DISABILITY ACCESS, LLP ✓
2 MARK D. POTTER, ESQ., SBN 166317
3 RUSSELL C. HANDY, ESQ., SBN 195058
4 JAMES R. BOYD, ESQ., SBN175597
5 STEVE WEDEL, ESQ. SBN 214908
6 P.O. Box 34606
7 San Diego, CA 92163-4606
8 (619) 291-7593
9 Fax: (619) 725-0720

R.F.

6 Attorney for Plaintiff, CHRIS LANGER,

9522 01 07 GIC786315 04/11/02 12:3
02 001 New CIVIL \$199.00

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

12 ✓ CHRIS LANGER,

) Case No.: GIC 786315

13 Plaintiff,

) COMPLAINT FOR DAMAGES AND
) INJUNCTIVE RELIEF FOR VIOLATIONS
) OF: UNRUH CIVIL RIGHTS ACT;
) CALIFORNIA'S DISABLED PERSON ACT;
) NEGLIGENCE; CALIFORNIA'S UNFAIR
14 BUSINESS PRACTICE ACT.

15 v.

16 VICTOR D.S. DHILLON as TRUSTEE of)
17 the DHILLON 1996 TRUST dated)
18 10/9/96; EVELYN M. DHILLON as)
19 TRUSTEE of the DHILLON 1996 TRUST)
dated 10/9/96; JOHN LAW, and DOES)
1 through 10, inclusive)

DEMAND FOR JURY

19 Defendants..)

20
21 Plaintiff CHRIS LANGER, (hereinafter referred to as
22 "Plaintiff") complains of VICTOR D.S. DHILLON as TRUSTEE of the
23 DHILLON 1996 TRUST dated 10/9/96; EVELYN M. DHILLON as TRUSTEE of
24 the DHILLON 1996 TRUST dated 10/9/96; JOHN LAW, and DOES 1 through
25 10, inclusive, (hereinafter referred to as "Defendants") and alleges
26 as follows:

27 INTRODUCTION:

28 1. This is a Civil Rights action for discrimination against

ORIGINAL

ACCOUNTING

1 persons with physical disabilities, of which Plaintiff is a member
2 of said class, for failure to remove architectural barriers
3 structural in nature at Defendants' place of business, located at
4 2604 5TH Ave., San Diego, California, a place of public
5 accommodation; and for failure to modify practices and or policies
6 in order to accommodate, thereby discriminatorily denying Plaintiff
7 and the class of other similarly situated persons with physical
8 disabilities access to, the full and equal enjoyment of, opportunity
9 to participate in, and benefit from, the goods, facilities,
10 services, and accommodations thereof.

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

14 **PARTIES:**

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

17 4. Defendants, VICTOR D.S. DHILLON as TRUSTEE of the DHILLON
18 1996 TRUST dated 10/9/96; EVELYN M. DHILLON as TRUSTEE of the
19 DHILLON 1996 TRUST dated 10/9/96; JOHN LAW, and DOES 1 through 10,
20 inclusive (hereinafter alternatively referred to collectively as
21 "Defendants"), are the owners and operators, lessors and/or lessees,
22 or agents of the owners, lessors and/or lessees, and/or alter egos,
23 franchisers and/or franchisees, of the building and/or buildings
24 which constitute a public facility in and of itself, occupied by the
25 above described defendants, and subject to the requirements of
26 federal and state law requiring full and equal access to public
27 accommodations and facilities.

28 5. Plaintiff does not know the true names of Defendants, their

1 business capacities, their ownership connection to the property and
2 business, or their relative responsibilities in causing the access
3 violations herein complained of, and alleges a joint venture and
4 common enterprise by all such Defendants. Plaintiff is informed and
5 believes that each of the Defendants herein, including DOES 1
6 through 10, inclusive, is responsible in some capacity for the
7 events herein alleged, or is a necessary party for obtaining
8 appropriate relief. Plaintiff will seek leave to amend when the true
9 names, capacities, connections, and responsibilities of the
10 Defendants and DOES 1 through 10, inclusive, are ascertained.

11 **PRELIMINARY FACTUAL ALLEGATIONS:**

12 6. Defendants are or were at the time of the incident the
13 owners and operators, lessors and lessees of the public facility,
14 located at 2604 5TH Ave., San Diego, California. The public
15 accommodation, its path of travel, parking, restrooms and its other
16 facilities are each a "public accommodation or facility" subject to
17 the requirements of state and federal law. On information and
18 belief, each such facility has, since July 1, 1970, undergone
19 "alterations, structural repairs and additions," each of which has
20 subjected the public accommodations, and each of their facilities to
21 handicapped access requirements per the Americans with Disabilities
22 Act Access Guidelines (ADAAG) and Title 24 of California's Code of
23 Regulations.

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

27 8. During Plaintiff's visit, the subject public accommodation
28 exhibited various violations of the Americans with Disabilities Act

1 Accessibility Guidelines ("ADAAG") and Title 24 of the California
2 Code of Regulations including but not limited to: inaccessible
3 public paths of travel; inaccessible public restroom facilities; and
4 a lack designated disabled 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**
Defendants) (California Civil Code § 54 et seq.)

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

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

21 Count One:

22 20. The Defendants have not ensured that their facilities
23 comply with Title 24 of the California Code of Regulations, the
24 California Building Code as it applies to physical access for
25 persons with disabilities and have failed to ensure that disabled
26 persons have full and equal access to public accommodations and/or
27 other places that the general public is invited and that disabled
28 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 23. Plaintiff repleads and incorporates by reference, as if
10 fully set forth again herein, the allegations contained in all prior
11 paragraphs of this complaint.

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

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

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

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

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

27 28. Plaintiff repleads and incorporates by reference, as if
28 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: April 1, 2002

CENTER FOR DISABILITY ACCESS, LLP

7
8 By: _____

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

10
11 DEMAND FOR JURY TRIAL

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

14
15 Dated: April 1, 2002

CENTER FOR DISABILITY ACCESS, LLP

16
17 By: _____

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

FILE OFFICE 200
CIVIL BUSINESS DIVISION
02 JUN -3 PM 4:08
SILBERG
CLERK SUPERIOR COURT
SAN DIEGO COUNTY, CA

1 John Law
2 In Pro Per
3 2604 Fifth Ave.
4 San Diego, CA 92103
5 Telephone (858) 232-6279

3235 01 09 GIC786315 06/04/02 13:40
02 040 1st Paper Fee \$196.00

8 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO
9 CENTRAL DIVISION
3235 01 09 06/04/02 13:40
02 040 1st Paper Fee \$2.00

11 CHRIS LANGER) Case No.: GIC 786315
12 Plaintiff,)
13 v.) DEFENDANT JOHN LAW'S ANSWER TO
14 VICTOR D.S. DHILLON as TRUSTEE of the) COMPLAINT OF CHRIS LANGER
15 DHILLON 1996 TRUST dated 10/9/96;)
16 EVEKTB M. DHILLON as TRUSTEE of the)
17 DHILLON 1996 TRUST dated 10/9/96;) DEPT: 60
18 JOHN LAW, and DOES 1 through 10,) JUDGE: WILLIAM C. PATE
inclusive,)
Defendants.)

19 (1)

20 Comes now Defendant JOHN LAW (hereinafter "defendant") to answer the
21 unverified Complaint of CHRIS LANGER as follows:

22 1. Under the provisions of California Code of Civil Procedure section
23 431.30, this answering Defendant denies generally and specifically each, every and all of
24 the allegations contained in the Complaint, and the whole thereof, including each and
25 every purported cause of action contained therein, and denies that the Complainant has or
26 will sustain damages in the sum or sums alleged or in any other sum.
27
28

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

CALENDAR NO.

NUMBER GIC786315	COMPLAINT DATE 04/08/02	HEARING DATE 01/27/03	HEARING TIME	DEPT 60	COURT USE ONLY
JUDGE/COMMISSIONER HON. WILLIAM C. PATE			CLERK		
REPORTER			CSR #		
PLAINTIFF/PETITIONER CHRIS LANGER			DEFENDANT/RESPONDENT VICTOR D S DHILLON		
The above matter came on for hearing with the below appearances for:					
<u>ATTORNEY OF RECORD</u>	<u>PHONE</u>	<u>APPEARANCE BY</u>			
_____	_____	_____			
_____	_____	_____			
_____	_____	_____			
(add'l signatures - use attached sheet)					

IT IS ORDERED AS FOLLOWS:

PURSUANT TO CRC 225 AND/OR SUPERIOR COURT RULES DIVISION II, RULE 5.14,
 AND THE NOTICE OF DISMISSAL PREVIOUSLY SERVED ON THE PARTIES BY THE COURT,
 THE ABOVE-ENTITLED CASE IS DISMISSED.

ESTIMATED TRIAL TIME: _____ day(s).

JURY / NON-JURY

Ordered dismissed with _____ without _____ prejudice.

IT IS SO ORDERED:

Dated: 01/27/03

William C. Pate

 JUDGE/COMMISSIONER OF THE SUPERIOR COURT