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FILED  
JUN 14 11 07 AM '07  
CLERK OF SUPERIOR COURT  
SAN DIEGO, CALIFORNIA

6 Attorney for Plaintiff, CHRIS LANGER,  
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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 758656**  
13 )  
14 Plaintiff, ) **COMPLAINT FOR DAMAGES AND**  
15 v. ) **INJUNCTIVE RELIEF FOR VIOLATIONS**  
16 THE ROBERT & HELEN HOE FAMILY ) **OF: UNRUH CIVIL RIGHTS ACT;**  
LIMITED PARTNERSHIP; M COHEN & ) **CALIFORNIA'S DISABLED PERSON ACT;**  
17 ASSOCIATES, INC., and DOES 1 ) **NEGLIGENCE; CALIFORNIA'S UNFAIR**  
through 10, inclusive ) **BUSINESS PRACTICE ACT.**  
18 Defendants. ) **DEMAND FOR JURY**  
19 )

20  
21 Plaintiff CHRIS LANGER, (hereinafter referred to as  
22 "Plaintiff") complains of THE ROBERT & HELEN HOE FAMILY LIMITED  
23 PARTNERSHIP; M COHEN & ASSOCIATES, INC., and DOES 1 through 10,  
24 inclusive, (hereinafter referred to as "Defendants") and alleges as  
25 follows:

26 **INTRODUCTION:**

27 1. This is a Civil Rights action for discrimination against  
28 persons with physical disabilities, of which Plaintiff is a member

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1 of said class, for failure to remove architectural barriers  
2 structural in nature at Defendants' place of business, located at  
3 5079 El Cajon Blvd., San Diego, California, a place of public  
4 accommodation; and for failure to modify practices and or policies  
5 in order to accommodate, thereby discriminatorily denying Plaintiff  
6 and the class of other similarly situated persons with physical  
7 disabilities access to, the full and equal enjoyment of, opportunity  
8 to participate in, and benefit from, the goods, facilities,  
9 services, and accommodations thereof.

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

13 **PARTIES:**

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

16 4. Defendants, THE ROBERT & HELEN HOE FAMILY LIMITED  
17 PARTNERSHIP; M COHEN & ASSOCIATES, INC., and DOES 1 through 10,  
18 inclusive (hereinafter alternatively referred to collectively as  
19 "Defendants"), are the owners and operators, lessors and/or lessees,  
20 or agents of the owners, lessors and/or lessees, and/or alter egos,  
21 franchisers and/or franchisees, of the building and/or buildings  
22 which constitute a public facility in and of itself, occupied by the  
23 above described defendants, and subject to the requirements of  
24 federal and state law requiring full and equal access to public  
25 accommodations and facilities.

26 5. Plaintiff does not know the true names of Defendants, their  
27 business capacities, their ownership connection to the property and  
28 business, or their relative responsibilities in causing the access

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

9 **PRELIMINARY FACTUAL ALLEGATIONS:**

10 6. Defendants are or were at the time of the incident the  
11 owners and operators, lessors and lessees of the public facility,  
12 located at 5079 El Cajon Blvd., San Diego, California. The public  
13 accommodation, its path of travel, parking, restrooms and its other  
14 facilities are each a "public accommodation or facility" subject to  
15 the requirements of state and federal law. On information and  
16 belief, each such facility has, since July 1, 1970, undergone  
17 "alterations, structural repairs and additions," each of which has  
18 subjected the public accommodations, and each of their facilities to  
19 handicapped access requirements per the Americans with Disabilities  
20 Act Access Guidelines (ADAAG) and Title 24 of California's Code of  
21 Regulations.

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

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

1 of properly configured disabled parking, a lack of van accessible  
2 designated disabled parking.

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

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

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

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

22 13. Plaintiff is informed and believes and therefore alleges  
23 that Defendants and each of them (1) caused the subject improved  
24 real properties which constitute the subject public accommodation to  
25 be constructed, altered and maintained in such a manner that persons  
26 with physical disabilities were denied full and equal access to,  
27 within and throughout said improved real property(s); (2) that the  
28 Defendants have had actual and constructive notice that the

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

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

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

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

27 **Count One:**

28 16. The Defendants have not ensured that their facilities  
comply with Title 24 of the California Code of Regulations, the

1 California Building Code as it applies to physical access for  
2 persons with disabilities and failed to ensure that disabled persons  
3 have "full and equal accommodations, advantages, facilities,  
4 privileges, or services" to the facilities identified above.

5 Count Two:

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

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

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

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

20 Count One:

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

Count Two:

1           21. The Defendants have not complied with the Americans with  
2 Disabilities Act of 1990.

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

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

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

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

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

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

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

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

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

28           29. In addition to the access violations described above,

1 Defendants' facilities are in violation of California and Federal  
2 law in that they do not provide required access for disabled  
3 persons.

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

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

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

13 **PRAYER:**

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

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

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

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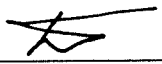
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3. Reasonable attorneys' fees, litigation expenses and costs of suit, pursuant to Cal. Civ. Code §§ 52,55, and Cal. Civ. Proc. § 1021.5;

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

Dated: April 9, 2002

CENTER FOR DISABILITY ACCESS, LLP

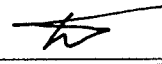
By:   
MARK D. POTTER  
RUSSELL C. HANDY  
JAMES R. BOYD  
Attorneys for Plaintiff

DEMAND FOR JURY TRIAL

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

Dated: April 9, 2002

CENTER FOR DISABILITY ACCESS, LLP

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

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P 3:50

Attorneys for Defendants  
THE ROBERT & HELEN HOE FAMILY  
LIMITED PARTNERSHIP, and  
M. COHEN & ASSOCIATES, INC. (2)

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SAN DIEGO**

CHRIS LANGER, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
THE ROBERT & HELEN HOE )  
FAMILY )  
LIMITED PARTNERSHIP; and )  
M. COHEN & ASSOCIATES, INC. and )  
DOES 1 through 10, Inclusive, )  
 )  
Defendants. )

CASE NO. GIC 786656.  
  
ANSWER TO COMPLAINT BY  
DEFENDANTS THE ROBERT & HELEN  
HOE FAMILY LIMITED PARTNERSHIP;  
and M. COHEN & ASSOCIATES, INC.  
  
I/C Judge: Linda B. Quinn  
Dept.: 74.  
  
[Complaint Filed April 16, 2002]

TO THE PLAINTIFF CHRIS LANGER and to HIS ATTORNEY OF RECORD:  
COME NOW Defendants THE ROBERT & HELEN HOE FAMILY LIMITED  
PARTNERSHIP; and M. COHEN & ASSOCIATES, INC. ("Defendants"), severing themselves  
from all other Defendants, answer the Complaint on file herein as follows:

Defendants, in answer to the Unverified Complaint on file herein, and by virtue of the  
provision of Section 431.30(d) of the Code of Civil Procedure, now file their General Denial to  
the Unverified Complaint. In answering all the allegations in the Unverified Complaint, these  
answering Defendants generally and specifically deny each and every allegation thereof, AND  
BY WAY OF DEFENSE TO SAID COMPLAINT ALLEGE:

///

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address):  
Mark D. Potter, SBN 16631, (619) 291-7593  
Center for Disability Access, LLP  
P.O. Box 34606  
San Diego, CA 92101

TELEPHONE NO:  
(619) 291-7593

FOR COURT USE ONLY  
FILED  
CIVIL JUSTICE OFFICE 10  
DIVISION  
OCT 31 P 3:24  
COURT  
CA

ATTORNEY FOR (Name): Chris Langer  
Insert name of court and name of judicial district and branch court, if any:  
Superior Court of the State of California  
County of San Diego

PLAINTIFF/PETITIONER: Chris Langer  
DEFENDANT/RESPONDENT: The Robert & Helen Hoe Family  
Limited Partnership, et al.

REQUEST FOR DISMISSAL  
 Personal Injury, Property Damage, or Wrongful Death  
 Motor Vehicle  Other  
 Family Law  
 Eminent Domain  
 Other (specify): Civil

CASE NUMBER:  
GIC 786656

- A conformed copy will not be returned by the clerk unless a method of return is provided with the document. -

1. TO THE CLERK: Please dismiss this action as follows:  
a. (1)  With prejudice (2)  Without prejudice  
b. (1)  Complaint (2)  Petition  
(3)  Cross-complaint filed by (name):  
(4)  Cross-complaint filed by (name):  
(5)  Entire action of all parties and all causes of action  
(6)  Other: (specify):\*

on (date):  
on (date):

Date:  
Mark D. Potter  
TYPE OR PRINT NAME OF  ATTORNEY  PARTY WITHOUT ATTORNEY

(SIGNATURE)  
Attorney or party without attorney for: Chris Langer  
 Plaintiff/Petitioner  Defendant/Respondent  
 Cross-complainant

2. TO THE CLERK: Consent to the above dismissal is hereby given.\*\*  
Date:

TYPE OR PRINT NAME OF  ATTORNEY  PARTY WITHOUT ATTORNEY  
\* If a cross-complaint or Response (Family Law) seeking affirmative relief is on file, the attorney for the cross-complainant (respondent) must sign this consent, if required by Code of Civil Procedure section 58111.

(SIGNATURE)  
Attorney or party without attorney for:  
 Plaintiff/Petitioner  Defendant/Respondent  
 Cross-complainant

- (To be completed by clerk)  
3.  Dismissal entered as requested on (date): OCT 31 2002  
4.  Dismissal entered on (date): as to only (name):  
5.  Dismissal not entered as requested for the following reasons (specify):  
6.  a. Attorney or party without attorney notified on (date): OCT 31 2002  
b. Attorney or party without attorney not notified. Filing party failed to provide  
 a copy to conform  means to return conformed copy

Date: OCT 31 2002 Clerk, by J. CURRY Deputy

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