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Clerk of the Superior Court

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By _____, Deputy

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7

ORIGINAL

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

12 CHRIS LANGER,

13 Plaintiff,

14 v.

15 THEODORE KNIGHT as TRUSTEE of the
16 THEODORE AND NANCY KNIGHT
REVOCABLE TRUST, under
17 declaration of trust dated
September 20, 1999; NANCY KNIGHT
18 as TRUSTEE of the THEODORE AND
NANCY KNIGHT REVOCABLE TRUST,
19 under declaration of trust dated
September 20, 1999; THI LAM YEN,
20 and DOES 1 through 10, inclusive

21 Defendants.

) Case No.: GIC 786732
)
) 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.

DEMAND FOR JURY

22
23 Plaintiff CHRIS LANGER, (hereinafter referred to as
24 "Plaintiff") complains of THEODORE KNIGHT as TRUSTEE of the THEODORE
25 AND NANCY KNIGHT REVOCABLE TRUST, under declaration of trust dated
26 September 20, 1999; NANCY KNIGHT as TRUSTEE of the THEODORE AND
27 NANCY KNIGHT REVOCABLE TRUST, under declaration of trust dated
28 September 20, 1999; THI LAM YEN, and DOES 1 through 10, inclusive,

(
1 (hereinafter referred to as "Defendants") and alleges as follows:

2 **INTRODUCTION:**

3 1. This is a Civil Rights action for discrimination against
4 persons with physical disabilities, of which Plaintiff is a member
5 of said class, for failure to remove architectural...barriers
6 structural in nature at Defendants' place of business, located at
7 4919 El Cajon Blvd., San Diego, California, a place of public
8 accommodation; and for failure to modify practices and or policies
9 in order to accommodate, thereby discriminatorily denying Plaintiff
10 and the class of other similarly situated persons with physical
11 disabilities access to, the full and equal enjoyment of, opportunity
12 to participate in, and benefit from, the goods, facilities,
13 services, and accommodations thereof.

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

17 **PARTIES:**

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

20 4. Defendants, THEODORE KNIGHT as TRUSTEE of the THEODORE AND
21 NANCY KNIGHT REVOCABLE TRUST, under declaration of trust dated
22 September 20, 1999; NANCY KNIGHT as TRUSTEE of the THEODORE AND
23 NANCY KNIGHT REVOCABLE TRUST, under declaration of trust dated
24 September 20, 1999; THI LAM YEN, and DOES 1 through 10, inclusive
25 (hereinafter alternatively referred to collectively as
26 "Defendants"), are the owners and operators, lessors and/or lessees,
27 or agents of the owners, lessors and/or lessees, and/or alter egos,
28 franchisers and/or franchisees, of the building and/or buildings

1 which constitute a public facility in and of itself, occupied by the
2 above described defendants, and subject to the requirements of
3 federal and state law requiring full and equal access to public
4 accommodations and facilities.

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

16 **PRELIMINARY FACTUAL ALLEGATIONS:**

17 6. Defendants are or were at the time of the incident the
18 owners and operators, lessors and lessees of the public facility,
19 located at 4919 El Cajon Blvd., San Diego, California. The public
20 accommodation, its path of travel, parking, restrooms and its other
21 facilities are each a "public accommodation or facility" subject to
22 the requirements of state and federal law. On information and
23 belief, each such facility has, since July 1, 1970, undergone
24 "alterations, structural repairs and additions," each of which has
25 subjected the public accommodations, and each of their facilities to
26 handicapped access requirements per the Americans with Disabilities
27 Act Access Guidelines (ADAAG) and Title 24 of California's Code of
28 Regulations.

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

4 8. During Plaintiff's visit, the subject public accommodation
5 exhibited various violations of the Americans with Disabilities Act
6 Accessibility Guidelines ("ADAAG") and Title 24 of the California
7 Code of Regulations including but not limited to: a lack of disabled
8 parking, including a lack of designated van accessible disabled
9 parking.

10 9. On information and belief, other portions of the facility
11 were improperly inaccessible for use by persons with physical
12 disabilities.

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

16 11. As a result of the inaccessible facilities, Plaintiff was
17 humiliated, embarrassed and frustrated, suffering emotional
18 injuries. Moreover, as a result of the inaccessible facilities,
19 Plaintiff, suffered bodily and physical injury.

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

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

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

25 14. 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 15. California Civil Code § 52 provides that a party that

1 discriminates against a plaintiff in violation of Civ. Code § 51
2 shall be liable for actual damages, up to three times actual damages
3 but not less than \$1000 for each such offense, and any attorney's
4 fees incurred by the plaintiff.

5 **Count One:**

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

12 **Count Two:**

13 17. The Defendants have not complied with the Americans with
14 Disabilities Act of 1990.

15

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

19 18. 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 and incorporates them herein as if
22 separately repled.

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

26 **Count One:**

27 20. The Defendants have not ensured that their facilities
28 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 have failed to ensure that disabled
3 persons have full and equal access to public accommodations and/or
4 other places that the general public is invited and that disabled
5 persons enjoy the same accommodations, advantages, facilities, and
6 privileges to the facilities identified above.

7 **Count Two:**

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

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

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

14 23. 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.

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

20 25. Defendants failed to exercise ordinary care in that they
21 failed to ensure that their facilities complied with the
22 accessibility guidelines or that their facilities were configured to
23 promote safe and effective use by persons with wheelchairs.

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

27 27. Wherefore, Plaintiff prays for relief and damages and
28

1 relief as hereinafter stated.

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

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

8 29. In addition to the access violations described above,
9 Defendants' facilities are in violation of California and Federal
10 law in that they do not provide required access for disabled
11 persons.

12 30. Defendants' acts and omissions alleged herein are a
13 violation of both statutory requirements and public policy and,
14 therefore, constitute a violation of Business and Professions Code
15 sections 17200 et seq.

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

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

21 **PRAYER:**

22 Wherefore, Plaintiff prays that this court award damages and
23 provide relief as follows:

24 1. For injunctive relief, compelling Defendants to comply with
25 the Unruh Civil Rights Act, and California's Disabled Person Act,
26 which order will include the removal of barriers and the
27 implementation of reasonable modifications in policies, practice,
28 eligibility criteria and procedures so as to afford full access to

1 the goods, services, facilities, privileges, advantages and
2 accommodations being offered.


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

5 3. Reasonable attorneys' fees, litigation expenses and costs of
6 suit, pursuant to Cal. Civ. Code §§ 52,55, and Cal. Civ. Proc. §
7 1021.5;

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

10 Dated: April 8, 2002

CENTER FOR DISABILITY ACCESS, LLP


11
12
13 By: 
14 MARK D. POTTER
15 RUSSELL C. HANDY
16 JAMES R. BOYD
17 Attorneys for Plaintiff

18 **DEMAND FOR JURY TRIAL**

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

21 Dated: April 8, 2002

CENTER FOR DISABILITY ACCESS, LLP

22
23 By: 
24 MARK D. POTTER
25 RUSSELL C. HANDY
26 JAMES R. BOYD
27 Attorneys for Plaintiff
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