

001/199

CIVIL 789226

2002 JUN 11 1:30

S
CLERK
S.

DH

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

10 Attorney for Plaintiff, CHRIS LANGER,

4884 01 07 GIC789226 06/11/02 10:06
02 001 New Civil \$199.00

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 SHAHRIR SOROURBAKSH; FAHMI
17 BAJOUA, and DOES 1 through 10,
18 inclusive

19 Defendants.

) Case No.: **GIC 789226**
)
) **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**

20 Plaintiff CHRIS LANGER, (hereinafter referred to as
21 "Plaintiff") complains of SHAHRIR SOROURBAKSH; FAHMI BAJOUA, and
22 DOES 1 through 10, inclusive, (hereinafter referred to as
23 "Defendants") and alleges as follows:

24 **INTRODUCTION:**

25 1. This is a Civil Rights action for discrimination against
26 persons with physical disabilities, of which Plaintiff is a member
27 of said class, for failure to remove architectural barriers
28

ORIGINAL

ACCEPTED

1 structural in nature at Defendants' place of business, located at
2 6802 El Cajon Blvd., 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, SHAHRIR SOROURBAKSH; FAHMI BAJOUA, and DOES 1
16 through 10, inclusive (hereinafter alternatively referred to
17 collectively as "Defendants"), are the owners and operators, lessors
18 and/or lessees, or agents of the owners, lessors and/or lessees,
19 and/or alter egos, franchisers and/or franchisees, of the building
20 and/or buildings which constitute a public facility in and of
21 itself, occupied by the above described defendants, and subject to
22 the requirements of federal and state law requiring full and equal
23 access to public accommodations and facilities.

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

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

7 **PRELIMINARY FACTUAL ALLEGATIONS:**

8 6. Defendants are or were at the time of the incident the
9 owners and operators, lessors and lessees of the public facility,
10 located at 6802 El Cajon Blvd., San Diego, California. The public
11 accommodation, its path of travel, parking, restrooms and its other
12 facilities are each a "public accommodation or facility" subject to
13 the requirements of state and federal law. On information and
14 belief, each such facility has, since July 1, 1970, undergone
15 "alterations, structural repairs and additions," each of which has
16 subjected the public accommodations, and each of their facilities to
17 handicapped access requirements per the Americans with Disabilities
18 Act Access Guidelines (ADAAG) and Title 24 of California's Code of
19 Regulations.

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

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

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

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

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

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

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

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

14 **I. FIRST CAUSE OF ACTION: VIOLATION OF THE UNRUH CIVIL RIGHTS ACT**
15 (On behalf of Plaintiff and Against All Defendants) (Cal Civ S
16 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
persons with disabilities and failed to ensure that disabled persons

1 have "full and equal accommodations, advantages, facilities,
2 privileges, or services" to the facilities identified above.

3 **Count Two:**

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

6
7 **II. SECOND CAUSE OF ACTION: VIOLATION OF CALIFORNIA'S DISABLED**
8 **PERSONS ACT, (On Behalf of Plaintiff and Against All**
9 **Defendants) (California Civil Code § 54 et seq.)**

10 18. 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 and incorporates them herein as if
13 separately repled.

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

18 **Count One:**

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

27 **Count Two:**

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

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

3
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
law in that they do not provide required access for disabled

1 persons.

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

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

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

11 **PRAYER:**

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

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

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


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

26 ///

27 ///

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


3 Dated: April 17, 2002 CENTER FOR DISABILITY ACCESS, LLP
4

5 By: 
6 _____
7 MARK D. POTTER
8 RUSSELL C. HANDY
9 JAMES R. BOYD
10 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 Dated: April 17, 2002 CENTER FOR DISABILITY ACCESS, LLP
15

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

040/196 (B)

1 **Michael G. Roddy, Esq., (Bar # 112526)**
2 **LASKERO & ASSOCIATES**
3 **101 West Broadway, Suite 825**
4 **San Diego, California 92101**
5 **(619) 696-7703\FAX: (619) 696-0663**

FILED
02 AUG 25 PM 4:10
CLERK OF SUPERIOR COURT
SAN DIEGO COUNTY, CA

Attorneys for Defendant, SHAHRIR SOROURBAKHS

2602 01 07 GIC789226 08/27/02 11:11
02 040 1st Paper Fee \$195.00

6
7
8 SUPERIOR COURT OF CALIFORNIA
9 COUNTY OF SAN DIEGO

10
11
12 CHRIS LANGER,)
13) CASE NO: GIC 789226
14 Plaintiff,) IC Judge: Linda B. Quinn
15 v.) Dept.: 74
16)
17 SHAHRIR SOROURBAKHS; FAHMI) ANSWER TO UNVERIFIED
18 BAJOUA, and DOES 1 through 10, inclusive,) COMPLAINT
19 Defendants.)
20)

21 COMES NOW, defendant, SHAHRIR SOROURBAKHS, and admits, denies and
22 alleges as follows:

23 Under the provisions of Section 431.30(d) of the California Code of Civil Procedure,
24 this answering defendant denies each and every and all of the allegations of plaintiff's
25 complaint, and the whole thereof; and denies that plaintiff has sustained damages in any sum
26 or sums alleged, or any sum at all.

27 //

2013 OCT 21 P 2:00

C

Joel C. Golden (SBN 47904)
2356 Moore Street, Suite 201
San Diego, CA 92110
(619) 294-7918 Fax: (619) 296-8229
Attorneys for Defendant FAHMI BAJOUA

*OK to file per
judge Duman*

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN DIEGO

CHRIS LANGER,)	CASE NO: GIC 789226
)	IC Judge: Linda B. Quinn
Plaintiff,)	Dept.: 74
)	
v.)	
)	DEFENDANT FAHMI
SHAHRIK SOROURBAKSH; FAHMI)	BAJOUA'S
BAJOUA, and DOES 1 through 10,)	ANSWER TO UNVERIFIED
inclusive,)	COMPLAINT
)	
)	
Defendants.)	

COMES NOW Defendant FAHMI BAJOUA through his attorney Joel C. Golden responding to Plaintiff's Complaint as follows:

Under the provisions of Section 431.30(d) of the California Code of Civil Procedure, this answering defendant denies each and every and all of the

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

CALENDAR NO.

NUMBER GIC789226	COMPLAINT DATE 06/10/02	HEARING DATE 01/28/03	HEARING TIME	DEPT 74	COURT USE ONLY
JUDGE/COMMISSIONER HON. LINDA B. QUINN			CLERK		
REPORTER			CSR #		
PLAINTIFF/PETITIONER CHRIS LANGER			DEFENDANT/RESPONDENT SHARIR SOROUBAKHSH, et al.		
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: 01/28/03



 JUDGE/COMMISSIONER OF THE SUPERIOR COURT