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6 Attorney for Plaintiff, CHRIS LANGER,

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

12 CHRIS LANGER, ) Case No.: **GIC 792783**  
13 )  
14 Plaintiff, ) **COMPLAINT FOR DAMAGES AND**  
15 v. ) **INJUNCTIVE RELIEF FOR VIOLATIONS**  
16 ) **OF: UNRUH CIVIL RIGHTS ACT;**  
17 ZACK P. THEODORELOS, as TRUSTEE ) **CALIFORNIA'S DISABLED PERSON ACT;**  
18 of THE THEODORELOS FAMILY TRUST ) **NEGLIGENCE; CALIFORNIA'S UNFAIR**  
19 dated October 10, 2002; ELIZABETH ) **BUSINESS PRACTICE ACT.**  
20 R. THEODORELOS, as TRUSTEE of THE ) **DEMAND FOR JURY**  
THEODORELOS FAMILY TRUST dated )  
October 10, 2002; WISAM CHOLAGH, )  
and DOES 1 through 10, inclusive )  
Defendants.

21 Plaintiff CHRIS LANGER, (hereinafter referred to as  
22 "Plaintiff") complains of ZACK P. THEODORELOS, as TRUSTEE of THE  
23 THEODORELOS FAMILY TRUST dated October 10, 2002; ELIZABETH R.  
24 THEODORELOS, as TRUSTEE of THE THEODORELOS FAMILY TRUST dated  
25 October 10, 2002; WISAM CHOLAGH, and DOES 1 through 10, inclusive,  
26 (hereinafter referred to as "Defendants") and alleges as follows:

27 INTRODUCTION:  
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ORIGINAL

ACCOUNTING

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structural in nature at Defendants' place of business, located at 3981 Eagle Street, San Diego, California (APN # 444-622-01), a place of public accommodation; and for failure to modify practices and or policies in order to accommodate, thereby discriminatorily denying Plaintiff and the class of other similarly situated persons with physical disabilities access to, the full and equal enjoyment of, opportunity to participate in, and benefit from, the goods, facilities, services, and accommodations thereof.

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

PARTIES:

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

4. Defendants, ZACK P. THEODORELOS, as TRUSTEE of THE THEODORELOS FAMILY TRUST dated October 10, 2002; ELIZABETH R. THEODORELOS, as TRUSTEE of THE THEODORELOS FAMILY TRUST dated October 10, 2002; WISAM CHOLAGH, and DOES 1 through 10, inclusive (hereinafter alternatively referred to collectively as "Defendants"), are the owners and operators, lessors and/or lessees, or agents of the owners, lessors and/or lessees, and/or alter egos, franchisers and/or franchisees, of the building and/or buildings which constitute a public facility in and of itself, occupied by the above described defendants, and subject to the requirements of federal and state law requiring full and equal access to public

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

13 **PRELIMINARY FACTUAL ALLEGATIONS:**

14         6. Defendants are or were at the time of the incident the  
15 owners and operators, lessors and lessees of the public facility,  
16 located at 3981 Eagle Street, San Diego, California (APN # 444-622-  
17 01). The public accommodation, its path of travel, parking,  
18 restrooms and its other facilities are each a "public accommodation  
19 or facility" subject to the requirements of state and federal law.  
20 On information and belief, each such facility has, since July 1,  
21 1970, undergone "alterations, structural repairs and additions,"  
22 each of which has subjected the public accommodations, and each of  
23 their facilities to handicapped access requirements per the  
24 Americans with Disabilities Act Access Guidelines (ADAAG) and Title  
25 24 of California's Code of Regulations.

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

3 Accessibility Guidelines ("ADAAG") and Title 24 of the California  
4 Code of Regulations including but not limited to: there was a lack  
5 of properly configured disabled parking; and a lack of van  
6 accessible designated disabled parking.

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

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

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

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

26 13. Plaintiff is informed and believes and therefore alleges  
27 that Defendants and each of them (1) caused the subject improved  
28 real properties which constitute the subject public accommodation to

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

20 **I. FIRST CAUSE OF ACTION: VIOLATION OF THE UNRUH CIVIL RIGHTS ACT**  
21 **(On behalf of Plaintiff and Against All Defendants) (Cal Civ §**  
22 **51 et seq.)**

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

26 15. California Civil Code § 52 provides that a party that  
27 discriminates against a plaintiff in violation of Civ. Code § 51  
28 shall be liable for actual damages, up to three times actual damages  
but not less than \$4000 for each such offense, and any attorney's

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

9 Count Two:

10 17. The Defendants have not complied with the Americans with  
11 Disabilities Act of 1990.

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

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

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

23 Count One:

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

3 privileges to the facilities identified above.

4 **Count Two:**

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

7 22. Wherefore, Plaintiff prays for relief and damages as  
8 hereinafter stated.

9 **III. THIRD CAUSE OF ACTION: NEGLIGENCE**

10 (On behalf of the Plaintiff and Against All Defendants)

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

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

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

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

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

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

3 paragraphs of this complaint.

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

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

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

15 32. Wherefore, Plaintiff prays for relief and damages and  
16 relief as hereinafter stated.

17 **PRAYER :**

18 Wherefore, Plaintiff prays that this court award damages and  
19 provide relief as follows:

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

27 2. General, Special and Penalty damages in an amount to be  
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3 uit, pursuant to Cal. Civ. Code §§ 52,55, and Cal. Civ. Proc. §  
4 021.5;

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

7 Dated: May 9, 2002

CENTER FOR DISABILITY ACCESS, LLP

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By: 

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

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**DEMAND FOR JURY TRIAL**

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Plaintiff hereby demands a jury for all claims for which a jury  
15 s permitted.

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Dated: May 9, 2002

CENTER FOR DISABILITY ACCESS, LLP

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By: 

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

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