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SAN DIEGO COUNTY
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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 796832

13 Plaintiff,

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

14 v.

DEMAND FOR JURY

15 HIKMAT MANSOUR as TRUSTEE of THE)
16 HIKMAT AND MARY MANSOUR FAMILY)
TRUST, dated March 17, 1998; MARY)
17 MANSOUR as TRUSTEE of THE HIKMAT)
AND MARY MANSOUR FAMILY TRUST,)
18 dated March 17, 1998; HIKMAT)
MANSOUR, an individual, and DOES)
19 1 through 10, inclusive)

20 Defendants.

21
22 Plaintiff CHRIS LANGER, (hereinafter referred to as
23 "Plaintiff") complains of HIKMAT MANSOUR as TRUSTEE of THE HIKMAT
24 AND MARY MANSOUR FAMILY TRUST, dated March 17, 1998; MARY MANSOUR as
25 TRUSTEE of THE HIKMAT AND MARY MANSOUR FAMILY TRUST, dated March 17,
26 1998; HIKMAT MANSOUR, an individual, and DOES 1 through 10,
27 inclusive, (hereinafter referred to as "Defendants") and alleges as
28 follows:

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1 **INTRODUCTION:**

2 1. This is a Civil Rights action for discrimination against
3 persons with physical disabilities, of which Plaintiff is a member
4 of said class, for failure to remove architectural barriers
5 structural in nature at Defendants' place of business, located at
6 1096 Broadway, Chula Vista, California, a place of public
7 accommodation; and for failure to modify practices and or policies
8 in order to accommodate, thereby discriminatorily denying Plaintiff
9 and the class of other similarly situated persons with physical
10 disabilities access to, the full and equal enjoyment of, opportunity
11 to participate in, and benefit from, the goods, facilities,
12 services, and accommodations thereof.

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

16 **PARTIES:**

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

19 4. Defendants, HIKMAT MANSOUR as TRUSTEE of THE HIKMAT AND MARY
20 MANSOUR FAMILY TRUST, dated March 17, 1998; MARY MANSOUR as TRUSTEE
21 of THE HIKMAT AND MARY MANSOUR FAMILY TRUST, dated March 17, 1998;
22 HIKMAT MANSOUR, an individual, and DOES 1 through 10, inclusive
23 (hereinafter alternatively referred to collectively as
24 "Defendants"), are the owners and operators, lessors and/or lessees,
25 or agents of the owners, lessors and/or lessees, and/or alter egos,
26 franchisers and/or franchisees, of the building and/or buildings
27 which constitute a public facility in and of itself, occupied by the
28 above described defendants, and subject to the requirements of

1 federal and state law requiring full and equal access to public
2 accommodations and facilities.

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

14 **PRELIMINARY FACTUAL ALLEGATIONS:**

15 6. Defendants are or were at the time of the incident the
16 owners and operators, lessors and lessees of the public facility,
17 located at 1096 Broadway, Chula Vista, California. The public
18 accommodation, its path of travel, parking, restrooms and its other
19 facilities are each a "public accommodation or facility" subject to
20 the requirements of state and federal law. On information and
21 belief, each such facility has, since July 1, 1970, undergone
22 "alterations, structural repairs and additions," each of which has
23 subjected the public accommodations, and each of their facilities to
24 handicapped access requirements per the Americans with Disabilities
25 Act Access Guidelines (ADAAG) and Title 24 of California's Code of
26 Regulations.

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

1 customer at the subject public accommodation.

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

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

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

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

18 12. Defendants knew their facilities were inaccessible and
19 continued to maintain these facilities in an inaccessible condition
20 and in doing so, knowingly continued to violate and interfere with
21 the rights of disabled persons including Plaintiff. Such conduct by
22 defendants is despicable, and was carried on by defendant with a
23 willful and conscious disregard for the rights of disabled persons,
24 including Plaintiff.

25 13. Plaintiff would like to return and use the Defendants'
26 public accommodations but because of Defendants' violations,
27 Plaintiff and other persons with physical disabilities are unable to
28 use public facilities such as those owned and operated by Defendants

1 on a "full and equal" basis unless such facility is in compliance
2 with the provisions of the Americans with Disabilities Act
3 Accessibility Guidelines and state accessibility law as pled herein.
4 Plaintiff has, therefore, been deterred from returning and using the
5 Defendants' public accommodations.

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

28 **I. FIRST CAUSE OF ACTION: VIOLATION OF THE UNRUH CIVIL RIGHTS ACT**
(On behalf of Plaintiff and Against All Defendants) (Cal Civ S

1 51 et seq.)

2 15. Plaintiff repleads and incorporates by reference, as if
3 fully set forth again herein, the allegations contained in all prior
4 paragraphs of this complaint.

5 16. California Civil Code § 52 provides that a party that
6 discriminates against a plaintiff in violation of Civ. Code § 51
7 shall be liable for actual damages, up to three times actual damages
8 but not less than \$4000 for each such offense, and any attorney's
9 fees incurred by the plaintiff.

10 **Count One:**

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

17 **Count Two:**

18 18. The Defendants have not complied with the Americans with
19 Disabilities Act of 1990.

20 **II. SECOND CAUSE OF ACTION: NEGLIGENCE**

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

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

25 20. Defendants had a duty to exercise ordinary care, i.e.,
26 comply with the various accessibility laws and ensure that their
27 property was safely configured.

1 21. Defendants failed to exercise ordinary care in that they
2 failed to ensure that their facilities complied with the
3 accessibility guidelines or that their facilities were configured to
4 promote safe and effective use by persons with wheelchairs.

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

8 23. Wherefore, Plaintiff prays for relief and damages and
9 relief as hereinafter stated.

10 **III. THIRD CAUSE OF ACTION: VIOLATION OF CALIFORNIA'S UNFAIR**
11 **BUSINESS PRACTICES ACT (On behalf of the Public and Against All**
12 **Defendants) (Cal. Bus. & Prof. § 17200 et seq.)**

13 24. 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.

16 25. In addition to the access violations described above,
17 Defendants' facilities are in violation of California and Federal
18 law in that they do not provide required access for disabled
19 persons.

20 26. Defendants' acts and omissions alleged herein are a
21 violation of both statutory requirements and public policy and,
22 therefore, constitute a violation of Business and Professions Code
23 sections 17200 et seq.

24 27. Plaintiff, on behalf of himself/herself and the general
25 public, seeks injunctive relief requiring Defendants to remedy the
26 disability access violations present at their facilities.

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

1
2 **PRAYER:**

3 Wherefore, Plaintiff prays that this court award damages and
4 provide relief as follows:

5 1. For injunctive relief, compelling Defendants to comply with
6 the Unruh Civil Rights Act.

7 2. General and Special damages in an amount to be determined by
8 proof;

9 3. Reasonable attorneys' fees, litigation expenses and costs of
10 suit, pursuant to Cal. Civ. Code §§ 52, and Cal. Civ. Proc. §
11 1021.5;

12 4. For Punitive Damages pursuant to Cal. Civ. Code Section
13 3294(c)(1);

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


3 Dated: CENTER FOR DISABILITY ACCESS, LLP
4

5 By: 
6 MARK D. POTTER
7 RUSSELL C. HANDY
8 JAMES R. BOYD
Attorneys for Plaintiff

9 **DEMAND FOR JURY TRIAL**

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

12
13 Dated: September 18, 2002 CENTER FOR DISABILITY ACCESS, LLP
14

15 By: 
16 MARK D. POTTER
17 RUSSELL C. HANDY
18 JAMES R. BOYD
Attorneys for Plaintiff

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CENTRAL DIVISION
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7 Attorneys for Defendants,
8 Hikmat and Mary Mansour as Trustees of the Hikmat and Mary
9 Mansour Family Trust dated March 17, 1998 and
10 Hikmat Mansour, Individually

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11 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO
12 CENTRAL DIVISION

13 CHRIS LANGER,

14 Plaintiff,

15 v.

16 HIKMAT MANSOUR as TRUSTEE of
17 THE HIKMAT AND MARY MANSOUR
18 FAMILY TRUST, dated March 17, 1998;
19 MARY MANSOUR as TRUSTEE of THE
20 HIKMAT AND MARY MANSOUR
21 FAMILY TRUST, dated March 17, 1998;
22 HIKMAT MANSOUR, and individual and
23 DOES 1 through 10, inclusive,

24 Defendants.

CASE NO. GIC 796832

DEFENDANTS HIKMAT MANSOUR as
TRUSTEE of THE HIKMAT AND MARY
MANSOUR FAMILY TRUST, dated March
17, 1998; MARY MANSOUR as TRUSTEE
of THE HIKMAT AND MARY MANSOUR
FAMILY TRUST, dated March 17, 1998;
AND HIKMAT MANSOUR'S ANSWER
AND AFFIRMATIVE DEFENSES TO
PLAINTIFF'S UNVERIFIED COMPLAINT

Before the Honorable:
Judge William C. Pate

25 Defendants ¹Hikmat Mansour and ²Mary Mansour, as Trustees of the Hikmat and Mary
26 Mansour Family Trust dated March 17, 1998 and ³Hikmat Mansour, individually (hereafter "these
27 Defendants"), for themselves alone and severing themselves from any other Defendant herein,
28 appear and answer, respond, state, object and raise their affirmative defenses to the allegations
contained in Plaintiff's unverified complaint (the "Complaint"), as follows:

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