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CLERK-SUPERIOR COURT
SAN DIEGO COUNTY, CA
4000 GILBERT STREET, 12TH FLOOR
SAN DIEGO, CALIFORNIA 92161

J. A. 201/2275

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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.: *Gl* 803505

13 Plaintiff,

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

14 v.

15 HWAILEE LEE as TRUSTEE of the LEE)
16 FAMILY TRUST dated 6-11-99; LISA)
HEESON LEE as TRUSTEE of the LEE)
17 FAMILY TRUST dated 6-11-99; RITZ)
CAMERA CENTERS, INC., and DOES 1)
18 through 10, inclusive)

DEMAND FOR JURY

19 Defendants.)

20
21 Plaintiff CHRIS LANGER, (hereinafter referred to as
22 "Plaintiff") complains of HWAILEE LEE as TRUSTEE of the LEE FAMILY
23 TRUST dated 6-11-99; LISA HEESON LEE as TRUSTEE of the LEE FAMILY
24 TRUST dated 6-11-99; RITZ CAMERA CENTERS, INC., and DOES 1 through
25 10, inclusive, (hereinafter referred to as "Defendants") and alleges
26 as follows:

27 **INTRODUCTION:**

28 1. This is a Civil Rights action for discrimination against

ORIGINAL

1 persons with physical disabilities, of which Plaintiff is a member
2 of said class, for failure to remove architectural barriers
3 structural in nature at Defendants' place of business, located at
4 941 Pearl Street, La Jolla, California, a place of public
5 accommodation; and for failure to modify practices and or policies
6 in order to accommodate, thereby discriminatorily denying Plaintiff
7 and the class of other similarly situated persons with physical
8 disabilities access to, the full and equal enjoyment of, opportunity
9 to participate in, and benefit from, the goods, facilities,
10 services, and accommodations thereof.

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

14 **PARTIES:**

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

17 4. Defendants, HWAIL LEE as TRUSTEE of the LEE FAMILY TRUST
18 dated 6-11-99; LISA HEESON LEE as TRUSTEE of the LEE FAMILY TRUST
19 dated 6-11-99; RITZ CAMERA CENTERS, INC., and DOES 1 through 10,
20 inclusive (hereinafter alternatively referred to collectively as
21 "Defendants"), are the owners and operators, lessors and/or lessees,
22 or agents of the owners, lessors and/or lessees, and/or alter egos,
23 franchisers and/or franchisees, of the building and/or buildings
24 which constitute a public facility in and of itself, occupied by the
25 above described defendants, and subject to the requirements of
26 federal and state law requiring full and equal access to public
27 accommodations and facilities.

28 5. Plaintiff does not know the true names of Defendants, their

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

11 **PRELIMINARY FACTUAL ALLEGATIONS:**

12 6. Defendants are or were at the time of the incident the
13 owners and operators, lessors and lessees of the public facility,
14 located at 941 Pearl Street, La Jolla, California. The public
15 accommodation, its path of travel, parking, restrooms and its other
16 facilities are each a "public accommodation or facility" subject to
17 the requirements of state and federal law. On information and
18 belief, each such facility has, since July 1, 1970, undergone
19 "alterations, structural repairs and additions," each of which has
20 subjected the public accommodations, and each of their facilities to
21 handicapped access requirements per the Americans with Disabilities
22 Act Access Guidelines (ADAAG) and Title 24 of California's Code of
23 Regulations.

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

27 8. During Plaintiff's visit, the subject public accommodation
28 exhibited various violations of the Americans with Disabilities Act

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

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

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

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

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

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

1 Plaintiff has, therefore, been deterred from returning and using the
2 Defendants' public accommodations.

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

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

27 **15.** Plaintiff repleads and incorporates by reference,--as if
28 fully set forth again herein, the allegations contained in all prior

1 paragraphs of this complaint.

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

7 **Count One:**

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

14 **Count Two:**

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

17 **II. SECOND CAUSE OF ACTION: NEGLIGENCE**
18 (On behalf of the Plaintiff and Against All Defendants)

19 19. 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 20. Defendants had a duty to exercise ordinary care, i.e.,
23 comply with the various accessibility laws and ensure that their
24 property was safely configured.

25 21. Defendants failed to exercise ordinary care in that they
26 failed to ensure that their facilities complied with the
27 accessibility guidelines or that their facilities were configured to
28

1 promote safe and effective use by persons with wheelchairs.

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

5 23. Wherefore, Plaintiff prays for relief and damages and
6 relief as hereinafter stated.

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

10 24. 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.

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

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

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

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

26 **PRAYER:**

27 Wherefore, Plaintiff prays that this court award damages and
28 provide relief as follows:

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

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

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

8 4. For Punitive Damages pursuant to Cal. Civ. Code Section
9 3294(c)(1);

10 5. For such other and further relief as the court may deem
11 proper.

12 Dated: December 27, 2002

CENTER FOR DISABILITY ACCESS, LLP

13
14 By: 

15 MARK D. POTTER
16 RUSSELL C. HANDY
17 JAMES R. BOYD
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
22 Dated: December 27, 2002

CENTER FOR DISABILITY ACCESS, LLP

23
24 By: 

25 MARK D. POTTER
26 RUSSELL C. HANDY
27 JAMES R. BOYD
28 Attorneys for Plaintiff