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SAN DIEGO COUNTY, CA

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 805146**
13)
14 Plaintiff,) **COMPLAINT FOR DAMAGES AND**
15 v.) **INJUNCTIVE RELIEF FOR VIOLATIONS**
16) **OF: UNRUH CIVIL RIGHTS ACT;**
17 LATIF ZOURA; IKHLASS ZOURA; LEE) **NEGLIGENCE; CALIFORNIA'S UNFAIR**
18 ZOURA, and DOES 1 through 10,) **BUSINESS PRACTICE ACT.**
19 inclusive) **DEMAND FOR JURY**
20 Defendants.)

21 Plaintiff CHRIS LANGER, (hereinafter referred to as
22 "Plaintiff") complains of LATIF ZOURA; IKHLASS ZOURA; LEE ZOURA, and
23 DOES 1 through 10, inclusive, (hereinafter referred to as
24 "Defendants") and alleges as follows:

25 **INTRODUCTION:**

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

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1 structural in nature at Defendants' place of business, located at
2 3189 Main St., Chula Vista, 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, LATIF ZOURA; IKHLASS ZOURA; LEE ZOURA, and DOES
16 1 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 3189 Main St., Chula Vista, 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. Defendants knew their facilities were inaccessible and
12 continued to maintain these facilities in an inaccessible condition
13 and in doing so, knowingly continued to violate and interfere with
14 the rights of disabled persons including Plaintiff. Such conduct by
15 defendants is despicable, and was carried on by defendant with a
16 willful and conscious disregard for the rights of disabled persons,
17 including Plaintiff.

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

27 14. Plaintiff is informed and believes and therefore alleges
28 that Defendants and each of them (1) caused the subject improved

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

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

23 15. 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 16. 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

1 but not less than \$4000 for each such offense, and any attorney's
2 fees incurred by the plaintiff.

3 **Count One:**

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

10 **Count Two:**

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

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

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

15 19. 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.

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

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

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

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

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

6 24. 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 25. In addition to the access violations described above,
10 Defendants' facilities are in violation of California and Federal
11 law in that they do not provide required access for disabled
12 persons.

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

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

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

22 **PRAYER:**

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

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

27 2. General and Special damages in an amount to be determined by
28 proof;

