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CLERK-SUPERIOR COURT  
SAN DIEGO COUNTY, CA

USA

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9 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 IN AND FOR THE COUNTY OF SAN DIEGO

GIC 806071

11 CHRIS LANGER, ) Case No.:  
12 )  
13 Plaintiff, )  
14 ) COMPLAINT FOR DAMAGES AND  
15 v. ) INJUNCTIVE RELIEF FOR VIOLATIONS  
16 ) OF: UNRUH CIVIL RIGHTS ACT;  
17 ) NEGLIGENCE; CALIFORNIA'S UNFAIR  
18 ) BUSINESS PRACTICE ACT.  
19 ) DEMAND FOR JURY  
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20 Plaintiff CHRIS LANGER, (hereinafter referred to as  
21 "Plaintiff") complains of MAGGIE BADDOUR, an individual; A. AKRA,  
22 dba Heidi's Liquor, and DOES 1 through 10, inclusive, (hereinafter  
23 referred to as "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

ACCOUNTING ORIGINAL

1 structural in nature at Defendants' place of business, located at  
2 980 Turquoise St., 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, MAGGIE BADDOUR, an individual; A. AKRA, dba  
16 Heidi's Liquor, and DOES 1 through 10, inclusive (hereinafter  
17 alternatively referred to collectively as "Defendants"), are the  
18 owners and operators, lessors and/or lessees, or agents of the  
19 owners, lessors and/or lessees, and/or alter egos, franchisers  
20 and/or franchisees, of the building and/or buildings which  
21 constitute a public facility in and of itself, occupied by the above  
22 described defendants; and subject to the requirements of federal and  
23 state law requiring full and equal access to public accommodations  
24 and facilities.

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

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

8 **PRELIMINARY FACTUAL ALLEGATIONS:**

9       6. Defendants are or were at the time of the incident the  
10 owners and operators, lessors and lessees of the public facility,  
11 located at 980 Turquoise St., San Diego, California. The public  
12 accommodation, its path of travel, parking, restrooms and its other  
13 facilities are each a "public accommodation or facility" subject to  
14 the requirements of state and federal law. On information and  
15 belief, each such facility has, since July 1, 1970, undergone  
16 "alterations, structural repairs and additions," each of which has  
17 subjected the public accommodations, and each of their facilities to  
18 handicapped access requirements per the Americans with Disabilities  
19 Act Access Guidelines (ADAAG) and Title 24 of California's Code of  
20 Regulations.

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

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

1 accessible designated disabled parking.

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

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

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

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

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

28 14. Plaintiff is informed and believes and therefore alleges

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

22 **I. FIRST CAUSE OF ACTION: VIOLATION OF THE UNRUH CIVIL RIGHTS ACT**  
23 (On behalf of Plaintiff and Against All Defendants) (Cal Civ S  
24 51 et seq.)

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

28 16. California Civil Code § 52 provides that a party that  
discriminates against a plaintiff in violation of Civ. Code § 51

1 shall be liable for actual damages, up to three times actual damages  
2 but not less than \$4000 for each such offense, and any attorney's  
3 fees incurred by the plaintiff.

4 Count One:

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

11 Count Two:

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

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

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

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

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

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

26 22. As the actual and proximate result of Defendants' failure  
27 to exercise ordinary care, Plaintiff suffered damages in an amount  
28

1 to be determined by proof.

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

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

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

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

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

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

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

23 **PRAYER:**

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

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

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

1 proof;

2 3. Reasonable attorneys' fees, litigation expenses and costs of  
3 suit, pursuant to Cal. Civ. Code §§ 52, and Cal. Civ. Proc. §  
4 1021.5;

5 4. For Punitive Damages pursuant to Cal. Civ. Code Section  
6 3294(c)(1);

7 5. For such other and further relief as the court may deem  
8 proper.

9 Dated: January 9, 2003

CENTER FOR DISABILITY ACCESS, LLP

10  
11 By: 

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

15 **DEMAND FOR JURY TRIAL**

16 Plaintiff hereby demands a jury for all claims for which a jury  
17 is permitted.

18  
19 Dated: January 9, 2003

CENTER FOR DISABILITY ACCESS, LLP

20  
21 By: 

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