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3:02-CV-01146 CARLOCK V. CAR QUEST SOUTHERN

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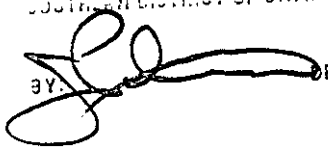
CMP.

1 ROY L. LANDERS, ESQ (#64920)
2 LAW OFFICES OF ROY L. LANDERS
3 7840 MISSION CENTER COURT, SUITE 101
4 SAN DIEGO, CALIFORNIA 92108
5 TELEPHONE (619) 296-7898
6 FACSIMILE (619) 296-5611

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CLERK OF COURT
SOUTHERN DISTRICT OF CALIFORNIA

Attorney for Plaintiff: GAYNOR CARLOCK

BY:  DEPUTY

8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

'02 CV 1146 J (LSP)

11 GAYNOR CARLOCK) Case No.:
12)
13 Plaintiff,) COMPLAINT FOR DAMAGES RE:
14 vs.) VIOLATION OF CIVIL RIGHTS ON
15) BASIS OF DISCRIMINATION IN
16 CAR QUEST SOUTHERN AUTO SUPPLY,) PUBLIC ACCOMMODATIONS; UNFAIR,
17 ERNEST PETERSON TRUSTEE, LEONE) UNLAWFUL AND FRAUDULENT BUSINESS
18 LINDEMULDER AND DOES 1-10,) PRACTICES; NEGLIGENT INFLECTION
19 Inclusive,) OF EMOTIONAL DISTRESS;
20) INTENTIONAL INFLECTION OF
21 Defendants.) EMOTIONAL DISTRESS; DEMAND FOR
22) JURY TRIAL
23)
24)
25)

26 I

27 JURISDICTION AND VENUE

28 1. (a) Jurisdiction of this action is invoked on the basis of 28
29 USC 1331 and 1343, 42 USC 12101-12102, 12181-12183 and 12201, et.
30 seq. Jurisdiction is also invoked pursuant to 42 USC 1981 [Civil
31 Rights Act of 1991], et seq, which is applicable to causes of
32 action where persons with disabilities have been denied their
33 civil rights and Title II, section 201, et. seq. of the 1964 Civil
34 Rights Act. Venue in the Southern Judicial District of California
35 in the United States District Court is in accord with 28. U.S.C.

1 section 1391(b) because a substantial part of plaintiff's claims
2 arose within the Judicial District of the United States District
3 Court of the Southern District of California.

4 (b) Supplemental Jurisdiction. The Judicial District of the
5 United States District Court of the Southern District of
6 California has supplemental jurisdiction over the state claims
7 alleged in this Complaint pursuant to 28 U.S.C. section 1367(a).
8 Supplemental jurisdiction is appropriate in this action on the
9 basis that all the causes of action or claims derived from federal
10 law and those arising under state law, as herein alleged, arose
11 from a common nucleus of operative facts. The common nucleus of
12 operative facts, include, but are not limited to, the incidents
13 whereby plaintiff was denied full and equal access to Defendant's
14 facilities, goods, and/or services in violation of both federal
15 and state laws when plaintiff attempted to enter, use, and/or exit
16 Defendant's facilities as described within this Complaint.
17 Further, due to this denial of full and equal access Plaintiff and
18 other person's with disabilities were injured. Based upon such
19 allegations the state actions, as stated herein, are so related to
20 the federal actions that they form part of the same case or
21 controversy, and the actions would ordinarily be expected to be
22 tried in one judicial proceeding.

23 **II**

24 **PARTIES**

25 2. Defendant, **CAR QUEST SOUTHERN AUTO SUPPLY** is and at all times
26 herein mentioned was a duly organized business, association, or
27 corporation duly authorized to exist and operate within the State
28 of California and County of San Diego and the owner, operator or

1 lessee of the premises located at **1300 Highland Avenue, San Diego,**
2 **California.**

3 3. Plaintiff is informed and believes and thereon alleges that
4 defendant **ERNEST PETERSON, ERNEST PETERSON TRUSTEE LEONE**
5 **LINDEMULDER,** are at all times herein were and are the owners and
6 controlling entity of the property, which is the subject of this
7 action and in some manner responsible for the violations of law as
8 alleged herein.

9 4. Plaintiff is informed and believes and thereon alleges that
10 each of the named defendants herein operates a business and
11 or/facility of public accommodation as defined and described
12 within **42 USC 12181 (7) (E) (F)** of the American with Disabilities Act
13 [ADA] and as such must comply with the ADA under provisions of
14 Title III therein.

15 5. Plaintiff is ignorant of the defendants sued as Does 1-10
16 herein, and therefore sues them in their fictitious names as Doe
17 defendants. Plaintiff is informed and believes and thereon alleges
18 that Does 1-10 are the owners, operators, lessees or tenants of
19 the subject property and each of the Doe defendants at all times
20 herein was acting as the agent and or representative of each other
21 and thereby are responsible in some manner for the injuries and
22 damages complained of herein. Plaintiff will seek leave of court
23 to amend this complaint to name Doe defendants when the same is
24 ascertained.

25 **III**

26 **GENERAL ALLEGATIONS COMMON TO ALL CLAIMS**

27 6. Plaintiff is disabled and confined to a wheelchair. He has no
28 control over his lower extremities and must use a wheelchair to

1 transport himself and to effect the basic necessities of his
2 everyday existence. Plaintiff's disability substantially limits
3 one or more of life's major activities and therefore he is
4 disabled as defined under 42 USC 12102(2)(A)(B)(C).

5 7. On or about **May 12, 2002** plaintiff attempted to enter the
6 subject premises of the defendants herein to utilize goods and/or
7 services offered by defendant **CAR QUEST SOUTHERN AUTO SUPPLY**. When
8 Plaintiff attempted to enter said facility, plaintiff had
9 difficulty entering and using said facility because it failed to
10 comply with Federal ADA Access Guidelines For Building and
11 Facilities [hereinafter "ADAAG"] and/or the State of California's
12 Title 24 Building Code Requirements.

13 8. The specific difficulty Plaintiff had in entering and utilizing
14 Defendants' facility and which amount to a violation of ADAAG and
15 Title 24 of the California Building Code are:

16 (a) Site entrance signage does not exist as required by Title 24
17 1129B.5.

18 (b) There is no van accessible parking space for the disabled as
19 required by ADAAG 4.1.2(5)(b) and Title 24 1129B.4.2.

20 (c) There is no van accessible aisle as required by ADAAG 4.6.3.
21 and Title 24 1129B.4.2.

22 (d) There are not the correct number of designated disabled
23 parking spaces at this facility which violates ADAAG 4.1.2(5)(a) &
24 CA Title 24 1129B.1.

25 (e) There is not a route of travel from any designated disabled
26 parking space to any accessible entrance which violates ADAAG
27 4.1.3(2), 4.3.2(2) and CA Title 24 1114B.1.2.

28

1 (f) There are no parking space emblems on the ground as required
2 by ADAAG 4.6.4 & CA Title 24 1129B.5.1 & 2.

3 (g) There are no kick plates on entry doors as required by CA
4 Title 24 1133B.2.6.

5 (h) The facility lacks the required visual/audible emergency
6 alarms as required by ADAAG 4.28.2, 4.28.3 and Title 24 1114B.2.4.

7 9. Plaintiff is informed and believes and thereon alleges that
8 defendants' facility has in excess of Thirty (30) violations of
9 ADAAG and/or Title 24 at their facility.

10 10. These violations are believed to have existed for a
11 significant period of time and with defendant's specific
12 knowledge.

13 11. Based upon the above facts, Plaintiff as been discriminated
14 against and will continue to be discriminated against unless and
15 until Defendants are enjoined and forced to cease and desist from
16 continuing to discriminate against Plaintiff and others similarly
17 situated.

18 12. Pursuant to federal [ADA] and state law [California Title 24],
19 Defendants are required to remove barriers to their existing
20 facilities. Defendants have been put on notice pursuant to the ADA
21 and the California Civil Code prior to the statutory effect of the
22 ADA on January 26, 1992 that Defendants and each of them had a
23 duty to remove barriers to persons with disabilities such as
24 plaintiff. Defendants also knew or should have known that
25 individuals such as plaintiff with a disability are not required
26 to give notice to a governmental agency prior to filing suit
27 alleging Defendants' failure to remove architectural barriers.

1 13. Plaintiff believes and thereon allege that Defendants'
2 facility, as described herein, have other access violations not
3 directly experienced by Plaintiff, which preclude or limit access
4 by others with disabilities, including, but not limited to, Space
5 Allowances, Reach Ranges, Accessible Routes, Protruding Objects,
6 Ground and Floor Surfaces, Parking and Passenger Loading Zones,
7 Curb Ramps, Ramps, Stairs, Elevators, Platform Lifts (Wheelchair
8 Lifts), Windows, Doors, Entrances, Drinking Fountains, and Water
9 Coolers, Water Closets, Toilet Stalls, Urinals, Lavatories and
10 Mirrors, Sinks, Storage, Handrails, Grab Bars, Telephones,
11 Controls and Operating Mechanisms, Alarms, Detectable Warnings and
12 Signage. Accordingly, Plaintiff alleges Defendants are required to
13 remove all architectural barriers, known or unknown. Also,
14 Plaintiff alleges Defendants are required to utilize the ADA
15 checklist for Readily Achievable Barrier Removal approved by the
16 United States Department of Justice and created by Adaptive
17 Environments.

18 14. Plaintiff desires to return to Defendants' place of business
19 and utilize their facilities without being discriminated against
20 in the immediate future.

21 **IV**

22 **FIRST CAUSE OF ACTION**

23 **(Violation of Civil Rights-American With Disabilities Act)**

24 15. Plaintiff realleges the allegations in paragraphs 1 through 14
25 as though set forth fully herein.

26 **Claim 1: Denial of Full and Equal Access**

27 16. Based on the facts asserted above Plaintiff has been denied
28 full and equal access to Defendants' goods, services, facilities,

1 privileges, advantages, or accommodations. Defendant **Burger King**
2 is a public accommodation owned, leased and/or operated by
3 Defendants and each of them. Defendants' existing facilities
4 and/or services failed to provide full and equal access to
5 Defendants' facility as required by 42 U.S.C. section 12182(a).
6 Thus, Plaintiff was subjected to discrimination in violation of 42
7 U.S.C. 12182(b)(2)(A)(ii)(iv); 42 USC 1981 and 42 U.S.C. section
8 12188 because Plaintiff was denied equal access to Defendants'
9 existing facilities.

10 17. Plaintiff has a physical impairment as alleged herein because
11 his condition affects one or more of the following body systems:
12 neurological, musculoskeletal, special sense organs, and/or
13 cardiovascular. Further, his physical impairments substantially
14 limits one or more of the following major life activities:
15 walking. In addition, Plaintiff cannot perform one or more of the
16 said major life activities in the manner speed, and duration when
17 compared to the average person. Moreover, Plaintiff has a history
18 of or has been classified as having a physical impairment as
19 required by 42 U.S.C. section 12102(2)(A).

20 **Claim 2: Failure To Remove Architectural Barriers**

21 18. Based upon the facts alleged herein, Plaintiff was denied
22 full and equal access to Defendants' goods, services, facilities,
23 privileges, advantages, or accommodations within a public
24 accommodation owned leased, and/or operated by the named
25 Defendants. Defendants individually and collectively failed to
26 remove barriers as required by 42 U.S.C. 12182(a). Plaintiff is
27 informed and believes, and thus alleges that architectural
28

1 barriers which are structural in nature exist at the following
2 physical elements of Defendants' facilities:
3 Space Allowance and Reach Ranges, Accessible Route, Protruding
4 Objects, Ground and Floor Surfaces, Parking and Passenger Loading
5 Zones, Curb Ramps, Ramps, Stairs, Elevators, Platform Lifts
6 (Wheelchair Lifts), Windows, Doors, Entrances, Drinking Fountains
7 and Water Coolers, Water Closets, Toilet Stalls, Urinals,
8 Lavatories and Mirrors, Sinks, Storage, Handrails, Grab Bars, and
9 Controls and Operating Mechanisms, Alarms, Detectable Warnings,
10 Signage, and Telephones. Pursuant to 42 USC section
11 12182(b)(2)(iv), Title III requires places of public accommodation
12 to remove architectural barriers that are structural in nature
13 within existing facilities. Failure to remove such barriers and
14 disparate treatment against a person who has a known association
15 with a person with a disability are forms of prohibited
16 discrimination. Accordingly, Plaintiff was subjected to
17 discrimination in violation of 42 USC 12182(b)(2)(A)(iv) and 42
18 USC 12182 (b)(2)(A)(iv); 42 USC 1981 and 42 USC 12188.

19 **Claim 3: Failure To Modify Practices, Policies And Procedures**

20 19. Based on the facts alleged in this Complaint Defendants failed
21 and refused to provide a reasonable alternative by modifying its
22 practices, policies and procedures in that they failed to have a
23 scheme, plan, or design to assist Plaintiff and/or others
24 similarly situated in entering and utilizing Defendants' services,
25 as required by 42 U.S.C. section 12188(a). Thus, Plaintiff was
26 subjected to discrimination in violation of 42 U.S.C. section
27 12182(b)(2)(A)(iv); 42 U.S.C. 1981 and 42 U.S.C. section 12188
28

1 because Plaintiff was denied equal access to Defendants' existing
2 facilities.

3 20. As a result of the wrongful and discriminatory practices of
4 defendants, plaintiff has suffered actual damages consisting of
5 special damages and general damages in an amount to be determined
6 at time of trial herein.

7 21. Pursuant to the provisions of 42 USC 12188 plaintiff seeks
8 injunctive relief and an order directing defendants to cease and
9 desist from discriminating against plaintiff and others similarly
10 situated and for an order that defendants comply with the
11 Americans With Disabilities Act forthwith.

12 22. Under the provisions of 42 USC 12205 plaintiff is entitled to
13 an award of reasonable attorneys fees and requests that the court
14 grant such fees as are appropriate.

15 **V**

16 **SECOND CAUSE OF ACTION**

17 **(Violation of Civil Rights 42 U.S.C. 1991)**

18 23. Plaintiff realleges the allegations of the First Cause of
19 Action as though set forth fully herein.

20 24. The provisions of 42 U.S.C. 1981 (As amended by the Civil
21 Rights Act of 1991) provide that Plaintiff as a person with
22 disabilities cannot be discriminated against with regard to the
23 ability to enter into, to make or to enforce contracts. In
24 enacting the Civil Rights Act of 1991 congress established a three
25 tier system of remedies for a broad range of discretionary
26 conduct, including violations of the Americans With Disabilities
27 Act, wherein disabled individuals such as plaintiff are denied
28 equal access to facilities they wish to conduct business in and

1 therefore are precluded from making, entering into and enforcing
2 contracts that plaintiff and others similarly situated may desire
3 to effect.

4 25. Defendants, because they have individually and/or collectively
5 denied plaintiff access to their premises, goods and services,
6 have denied him the right to make, enter into or enforce a
7 contract and therefor have violated the provisions of 42 U.S.C.
8 1991 all to Plaintiff's damage in an amount to be determined at
9 time of trial herein.

10 26. As a result of Defendants' actions Plaintiff was humiliated,
11 embarrassed and discouraged and upset emotionally and physically
12 and suffered damages according to proof.

13 27. The actions of the Defendants were intentional, outrageous and
14 done with reckless disregard of Plaintiff's rights and therefore
15 entitle him to an award of punitive damages.

16 28. By reason of Defendants' actions Plaintiff was caused to incur
17 costs and expenses of litigation, including attorney's fees, to
18 seek and redress his civil rights. Plaintiff therefore seeks an
19 award of costs and attorney's fees associated with the necessity
20 of bringing this lawsuit.

21 **VI**

22 **THIRD CAUSE OF ACTION**

23 **(Violation Of Civil Rights Under California Accessibility Laws)**

24 29. Plaintiff realleges the allegations of the Second Cause of
25 Action as though set forth fully herein.

26 **(a) Denial Of Full And Equal Access**

27 30. Plaintiff has been denied full and equal access to Defendants'
28 goods services, facilities, privileges, advantages, or

1 accommodations within a public accommodation owned, leased, and/or
2 operated by Defendants in violation of California Civil Code
3 Sections 54 and 54.1; California Health and Safety Code Section
4 19955 and California Government Code Section 12948. The actions of
5 Defendants also violate the provisions of Title 24 of the State of
6 California Building Codes with regard to accessibility for persons
7 with disabilities by failing to provide access to Defendants
8 facilities due to violations pertaining to accessible routes,
9 ground and floor surfaces, parking and passenger loading zones,
10 curb ramps, ramps, stairs, elevators, platform lifts (wheelchair
11 lifts), windows, doors, toilet stalls, urinals, lavatories and
12 mirrors, sinks, storage, handrails, grab bars, controls and
13 operating mechanisms, alarms, detectable warnings, signage and
14 telephones.

15 31. On the above basis Plaintiff has been wrongfully discriminated
16 against.

17 **(b) Failure To Modify Practices, Policies And Procedures**

18 32. Defendants have failed and refused and continue to fail and
19 refuse to provide a reasonable alternative to allow plaintiff
20 equal access to their facility by modifying their practices,
21 policies, and procedures in that that they failed to have s
22 scheme, plan, or design to assist Plaintiff and others similarly
23 situated in entering and utilizing Defendants' goods or services
24 as required by California Civil Code section 54 and 54.1.
25 Accordingly Defendants have wrongfully discriminated against
26 Plaintiff.

27 **VII**

28 **FOURTH CAUSE OF ACTION**

1 (Violation of The Unruh Civil Rights Act)

2 33. Plaintiff realleges the allegations of the Third Cause of
3 Action as though set forth fully herein.

4 34. Section 51(b) of the Cal. Civ. Code [The Unruh Civil Rights
5 Act], provides in pertinent part:

6 "All persons within the jurisdiction of this state are
7 free and equal, and no matter what their sex, race, color,
8 religion, ancestry, national origin, disability, or medical
9 condition is entitled to the full and equal accommodations,
advantages, facilities, privileges, or services in all
business establishments of every kind whatsoever."

10 35. Defendants have violated the provisions of Civ. Code 51 (b) by
11 failing and refusing to provide free and equal access to Plaintiff
12 to their facility on the same basis as other persons not disabled.

13 By their failure to provide equal access to Plaintiff as herein
14 alleged, Defendants have also violated 42 U.S.C. section
15

16 12182(b)(2)(A)(iv) as provided in Cal. Civ. Codes section 51(f).

17 36. By reason of their acts and denial of Plaintiff's civil rights
18

19 Defendants also violated the provisions of Cal. Civ. Code section
20

21 52, which makes a person or entity in violation of Cal.Civ. Code
22

23 51 liable in the amount of \$4,000 per violation of said statute.

24 37. Defendants and each of them, at all times prior to and
25

26 including **May 12, 2002** respectively and continuing to the present
27

28 time, knew that persons with physical disabilities were denied
their rights of equal access to all portions of this public
facility. Despite such knowledge, Defendants, and each of them,
failed and refused to take steps to comply with the applicable

1 access statutes and despite knowledge of the resulting problems
2 and denial of civil rights suffered by Plaintiff and other
3 similarly situated persons with disabilities.

4
5 38. Defendants and each of them have failed and refused to take
6 action to grant full and equal access to persons with physical
7 disabilities. Defendants have carried out a course of conduct of
8 refusing to respond to, or correct complaints about unequal access
9 and have refused to comply with their legal obligations to make
10 the subject facility accessible pursuant to the ADAAG and the
11 California Building Code [Title 24 of the California Code of
12 Regulations]. Such actions and continuing course of conduct by
13 Defendants, and each of them, evidence despicable conduct in
14 conscious disregard of the rights and/or safety of Plaintiff and
15 those similarly situated and thus justify an award of treble
16 damages pursuant to section 52(a) and 54.3(a) of the Cal.Civ. Code
17 or alternatively an award of punitive damages in an appropriate
18 amount.
19
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21 39. Plaintiff has suffered emotional and physical damage and
22 continues to suffer such damages all in an amount to be determined
23 at time of trial.
24

25 40. Under the provisions of Cal. Civ. Code section 55 Plaintiff
26 seeks an award of reasonable attorney's fees and costs as a result
27 of having to bring this action. Plaintiff requests the court to
28 award such fees in an appropriate amount.

1 VIII

2 FIFTH CAUSE OF ACTION

3 (Unfair And Unlawful Business Practice)

4 41. Plaintiff realleges the allegations of the Fourth Cause of
5 Action as though set forth fully herein.

6 42. California Business and Professions Code Section 17200 states
7 in pertinent part:

8 "As used in this chapter, unfair competition shall mean and
9 include any unlawful, unfair or fraudulent business act..."

10 43. Defendants, as alleged herein, are in violation of the
11 Americans With Disabilities Act and Title 24 of the California
12 Building Code, in that they have denied equal access to their
13 places of public accommodation to Plaintiff and others similarly
14 situated to Plaintiff. Defendants have failed and refused and
15 continue to refuse to comply with equal access laws all in
16 violation of 42 USC 12181-12183; 42 USC 1981; and 42 USC 12188. In
17 addition the complained of acts are in violation of California
18 Civil Code Sections 51, 52, 54, and 54.1, California Health and
19 Safety Code section 19955 and California Government Code section
20 12948 all of which require Defendants to provide equal access to
21 their facility to disabled persons such as plaintiff. Defendants
22 are also in violation of the indicated statutes because of their
23 failure to remove architectural barriers, which prevent equal
24 access to their facility by disabled persons and because of their
25 failure to modify their practices, policies and procedures to have
26
27
28

1 a scheme, plan, or design to assist Plaintiff and others similarly
2 situated to enter and utilize Defendants' services as required by
3 the Unruh Act.

4
5 44. Defendants' acts are unlawful and unfair and are therefore in
6 violation of California Business and Professions Code section
7 17200.

8
9 45. Pursuant to the provisions of California Business and
10 Professions Code section 17201 Plaintiff is a person as identified
11 within said section and therefore allowed to bring this action on
12 behalf of himself and the general public to effectuate California
13 Business and Professions Code 17200 as provided for within
14 Business and Professions Code section 17204.

15
16 46. Thus, Plaintiff, under Bus & Prof. Code section 17200 seeks
17 injunctive relief, on behalf of himself and the general public,
18 requiring Defendants to remedy the disabled access violations
19 present within Defendants' facility and that Defendants be ordered
20 to cease and desist from continuing in noncompliance with disabled
21 access statutes and regulations.

22
23 **IX**

24 **SIXTH CAUSE OF ACTION**

25 **(Negligent Infliction of Emotional Distress)**

26 47. Plaintiff relleges the allegations of the Fourth Cause of
27 Action as though set forth fully herein.
28

1 48. Defendants and each of them owed a duty to Plaintiff to make
2 their facility accessible and to keep Plaintiff reasonably safe
3 from known dangers and risks of harm. This duty arises by virtue
4 of the legal duties proscribed by various federal and state
5 statutes including, but not limited to, ADA, ADAAG, California
6 Civil Code sections 51, 52, 54, 54.1 and Title 24 of the
7 California Code of Regulations. Defendants had a duty of due care
8 not to do or cause anything to happen that would subject Plaintiff
9 to undue stress, embarrassment, chagrin, and discouragement.
10

11
12 49. Defendants breached their duty of care to Plaintiff by the
13 actions and inaction complained of herein and as a result thereof
14 Plaintiff was shocked, discouraged, embarrassed and outraged at
15 the callousness and disregard of Defendants. Defendants knew or
16 had reason to know that by denying Plaintiff equal access to their
17 facility and failing and refusing to remove architectural
18 barriers, Plaintiff would suffer emotional and/or mental distress
19 because of such discrimination and disparate treatment. Defendants
20 breached their duty of care to plaintiff by the perpetration of
21 the acts outlined herein.
22

23
24 50. As a proximate result of the actions of Defendants Plaintiff
25 did suffer emotional and mental stress and pain and suffering all
26 in an amount to be determined at time of trial.
27

28
X

SEVENTH CAUSE OF ACTION

1 **(Intentional Infliction of Emotional Distress)**

2 51. Plaintiff realleges the allegations of the Fourth Cause of
3 Action as though set forth fully herein.

4 52. The actions of Defendants and each of them are despicable,
5 intentional and done with conscious disregard of the rights and
6 safety of Plaintiff and as such should be regarded as outrageous.

7 53. As a proximate result of Defendants' actions Plaintiff has
8 suffered severe emotional and mental distress all to his damage in
9 an amount to be determined at time of trial.

10 54. Plaintiff seeks an award of punitive damages for this claim as
11 the actions of Defendants are tantamount to outrageous conduct and
12 subject them to exemplary damages.

13 **DEMAND FOR JURY**

14 55. Plaintiff respectfully requests that the claims made herein be
15 heard and determined by a jury.

16 WHEREFORE PLAINTIFF PRAYS:

- 17 1. For general damages according to proof;
- 18 2. For special damages according to proof;
- 19 3. For damages pursuant to Cal. Civil Code section 52, in the
20 amount of \$4,000 for each and every offense of California Civil
21 Code section 51, Title 24 of the California Building Code and the
22 Americans With Disabilities Act.
- 23 4. For Injunctive relief pursuant to 42 U.S.C. 12188(a) and
24 California Business and Professions Code section 17200
- 25 5. For an award of attorney's fees pursuant to 42 U.S.C. 1988, 42
26 U.S.C. 1981, 42 U.S.C. 12205 and Cal. Civ. Code section 55;
- 27 6. For treble damages pursuant to Cal. Civ. Code 52 (a);
- 28 7. For punitive damages according to proof;

- 1 8. For a Jury Trial;
2 9. For costs of suit incurred herein and;
3 10. For such other and further relief as the court deems proper.

4 Respectfully submitted.

5 6/7/02

6 Ray L. Sanders
7 Attorney for Plaintiff, GAYNOR CARLOCK
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The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

GAYNOR CARLOCK

San Diego

(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANTS

CAR QUEST SOUTHERN AUTO SUPPLY, ERNEST PETERSON TRUSTEE LEONE LINDEMULDER AND DOES Inclusive, San Diego

County of Residence of First Listed: (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

Roy L. Landers (619) 296-7898 7840 Mission Center CT, Suite 101 San Diego, CA 92108

Attorneys (If Known)

02 CV 1146 J (LSP)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, SOCIAL SECURITY, FEDERAL TAX SUITS, BANKRUPTCY, OTHER STATUTES. Includes various legal categories like Insurance, Real Estate, Personal Injury, etc.

V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from another district (specify), 6 Multidistrict Litigation, 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

42 USC 12101-12102, 12181-12183 and 12201, et seq. Discrimination on basis of disability (Public Accommodations)

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE 5-11-02 SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY RECEIPT # 83409 AMOUNT 150.00 APPLYING IFP JUDGE MAG. JUDGE 6/12/02