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BY *[Signature]*
CLERK U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIF.
SAN DIEGO, CALIF.
2004 APR 16 AM 10:29

FILED

8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

10 WESTERN DIVISION

11 CV04-2661

R JWX

12 GAYNOR CARLOCK

) Case No.:

13 Plaintiff,

) COMPLAINT FOR DAMAGES RE:
) VIOLATION OF CIVIL RIGHTS ON
) BASIS OF DISCRIMINATION IN
) PUBLIC ACCOMMODATIONS; NEGLIGENT
) INFLECTION OF EMOTIONAL
) DISTRESS; INTENTIONAL INFLECTION
) OF EMOTIONAL
) DISTRESS; DECLARATORY RELIEF;
) DEMAND FOR JURY TRIAL

14 vs.

15 TOSCO CORPORATION, dba LESTER
16 UNION OIL SERVICE STATION AND
17 DOES 1-10 Inclusive,

18 Defendants.
19

20 I

21 JURISDICTION AND VENUE

22 1. (a) Jurisdiction of this action is invoked on the basis of 28
23 USC 1331 and 1343, 42 USC 12101-12102, 12181-12183 and 12201,
24 et. seq., which is applicable to causes of action where
25 persons with disabilities have been denied their civil
26 rights. Venue in the Central Judicial District of California
27 in the United States District Court is in accord with 28.

28 U.S.C. section

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Complaint for Damages - 1
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1 1391(b) because a substantial part of plaintiff's claims arose
2 within the Judicial District of the United States District Court
3 of the Central District of California.

4 (b) Supplemental Jurisdiction. The Judicial District of the
5 United States District Court of the Central District of California
6 has supplemental jurisdiction over the state claims alleged in
7 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 Tosco Corporation, dba Lester Union Oil Service
26 Station was and at all times herein mentioned was a duly organized
27 business, association, or corporation duly authorized to exist and
28 operate within the State of California and County of Los Angeles

1 and the owner, lessee, or tenant of the premises located at 5820
2 South Figueroa Street Los Angeles, California.

3 3. Plaintiff is informed and believes and thereon alleges that
4 defendant Tosco Corporation is also the owners and/or landlords of
5 the subject property upon which defendant business is sited.

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

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

22 III

23 GENERAL ALLEGATIONS COMMON TO ALL CLAIMS

24 6. Plaintiff is a male who is disabled and confined to a
25 wheelchair. He has no control over his lower extremities and must
26 use a wheelchair to transport himself and to affect the basic
27 necessities of his everyday existence. Plaintiff's disability
28 substantially limits one or more of life's major activities and

1 therefore he is disabled as defined under 42 USC
2 12102(2) (A) (B) (C).

3 7. On or about July 12, 2003 plaintiff patronized the premises of
4 defendants to utilize goods and/or services offered by defendants.
5 When Plaintiff attempted to gain access to the goods and/or
6 services offered by defendants he encountered access barriers
7 because the premises failed to comply with federal ADA Access
8 Guidelines For Building and Facilities [hereinafter "ADAAG"];
9 Department of Justice [DOJ] regulations at 28 CFR. 36.201; 36.304
10 and/or the State of California's Title 24 Building Code
11 Requirements.

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

- 15 (a) Lack of site entrance signage as required by Title 24
16 1129B.5
- 17 (b) Lack of access aisle (NO PARKING) warning sign as required
18 by Title 24 1129B.4.1&2.
- 19 (c) Lack of designated van accessible parking space as required
20 by ADAAG 4.1.2(5)(b) and Title 24 1129B.4.2.; ADAAG
21 4.1.2(5)(a) and Title 24 1129B.1.
- 22 (d) Lack of van accessible aisle as required by ADAAG 4.6.3 and
23 Title 24 1129B.4.2.
- 24 (e) No signage in accord with ADAAG 4.6.4 and Title 24 1129B.5.
- 25 (f) Facility lacks sufficient number of disabled parking stalls
26 as required by ADAAG 4.1.2(5)(a) and Title 24 1129B.1
- 27 (g) Lack of access aisle as required by Title 24 1129B.4.1

28

- 1 (h) Lack of access route of travel as required by ADAAG
2 4.1.3(2) and Title 24 1114B.1.2.
- 3 (i) Lack of shortest route of travel per ADAAG 4.6.2
- 4 (j) Disable parking does not comply with Title 24 1129B.4.3
- 5 (k) Entrance lacks signage in accord with ADAAG 4.1.3(16) (b)
6 and Title 24 1127B.3.
- 7 (l) Disable parking stalls not correctly positioned as required
8 by Title 24 1129B.4.3
- 9 (m) Curb ramp location is improper under ADAAG 4.7.1
- 10 (n) Walkway does not comply with Title 24 1133B.7.1.3
- 11 (o) Threshold does not meet the requirements of ADAAG 4.1.3.8
12 and Title 24 1133B. 2.4.1
- 13 (p) Lack of wheelchair access to each type of functional
14 activity as required by ADAAG 5.1 and Title 24 1104B.5.3
- 15 (q) Door kick plate does not comply with Title 24 1133B.2.6.

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

21 10. Pursuant to federal [ADA], Title 28 CFR 36.201; 36.203;
22 36.304; 36.305 and state law [California Title 24], Defendants are
23 required to remove barriers to their existing facilities.

24 Defendants have been put on notice pursuant to the ADA and
25 California Civil Codes [51,52] prior to the statutory effect of
26 the ADA on January 26, 1992 that Defendants and each of them had a
27 duty to remove barriers to persons with disabilities such as
28 plaintiff. Defendants also knew or should have known that

1 individuals such as plaintiff with a disability are not required
2 to give notice to a governmental agency prior to filing suit
3 alleging Defendants' failure to remove architectural barriers.

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

21 12. Plaintiff desires to return to Defendants' places of business
22 and utilize their facilities without being discriminated against
23 in the immediate future.

24 IV

25 FIRST CAUSE OF ACTION

26 (Violation of Civil Rights-American With Disabilities Act)

27 13. Plaintiff realleges the allegations in paragraphs 1 through 12
28 as though set forth fully herein.

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

2 14. Based on the facts asserted above Plaintiff has been denied
3 full and equal access to Defendants' goods, services, facilities,
4 privileges, advantages, or accommodations. Defendant business is a
5 public accommodation owned, leased and/or operated by Defendants
6 and each of them. Defendants' existing facilities and/or services
7 failed to provide full and equal access to Defendants' facility as
8 required by 42 U.S.C. section 12182(a). Thus, Plaintiff was
9 subjected to discrimination in violation of 42 U.S.C.
10 12182(b) (2) (A) (ii) (iv) and 42 U.S.C. section 12188 because
11 Plaintiff was denied equal access to Defendants' existing
12 facilities.

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

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

24 16. Based upon the facts alleged herein, Plaintiff was denied
25 full and equal access to Defendants' goods, services, facilities,
26 privileges, advantages, or accommodations within a public
27 accommodation owned leased, and/or operated by the named
28 Defendants. Defendants individually and collectively failed to

1 remove barriers as required by 42 U.S.C. 12182(a) and 28 CFR
2 36.304. Plaintiff is informed and believes, and thus alleges that
3 architectural barriers which are structural in nature exist at the
4 following physical elements of Defendants' facilities:

5 Space Allowance and Reach Ranges, Accessible Route, Protruding
6 Objects, Ground and Floor Surfaces, Parking and Passenger Loading
7 Zones, Curb Ramps, Ramps, Stairs, Elevators, Platform Lifts
8 (Wheelchair Lifts), Windows, Doors, Entrances, Drinking Fountains
9 and Water Coolers, Water Closets, Toilet Stalls, Urinals,
10 Lavatories and Mirrors, Sinks, Storage, Handrails, Grab Bars, and
11 Controls and Operating Mechanisms, Alarms, Detectable Warnings,
12 Signage, and Telephones. Pursuant to 42 USC section
13 12182(b) (2) (iv) and 28 CFR 36.304 Title III requires places of
14 public accommodation to remove architectural barriers that are
15 structural in nature within existing facilities. Failure to remove
16 such barriers and disparate treatment against a person who has a
17 known association with a person with a disability are forms of
18 prohibited discrimination. Accordingly, Plaintiff was subjected to
19 discrimination in violation of 42 USC 12182(b) (2) (A) (iv) and 42
20 USC 12182 (b) (2) (A) (iv) and 42 USC 12188.

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

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

1 12182(b)(2)(A)(iv); 28 CFR 36.302 and 42 U.S.C. section 12188
2 because Plaintiff was denied equal access to Defendants' existing
3 facilities.

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

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

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

16 **VI**

17 **SECOND CAUSE OF ACTION**

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

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

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

22 22. Plaintiff has been denied full and equal access to Defendants'
23 goods services, facilities, privileges, advantages, or
24 accommodations within a public accommodation owned, leased, and/or
25 operated by Defendants in violation of California Civil Code
26 Sections 54 and 54.1; California Health and Safety Code Section
27 19955 and California Government Code Section 12948. The actions of
28 Defendants also violate the provisions of Title 24 of the State of

1 California Building Codes with regard to accessibility for persons
2 with disabilities by failing to provide access to Defendants
3 facilities due to violations pertaining to accessible routes,
4 ground and floor surfaces, parking and passenger loading zones,
5 curb ramps, ramps, stairs, elevators, platform lifts (wheelchair
6 lifts), windows, doors, toilet stalls, urinals, lavatories and
7 mirrors, sinks, storage, handrails, grab bars, controls and
8 operating mechanisms
9 alarms, detectable warnings, signage and telephones.

10 23. On the above basis Plaintiff has been wrongfully discriminated
11 against.

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

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

22 **VII**

23 **THIRD CAUSE OF ACTION**

24 **(Violation of The Unruh Civil Rights Act)**

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

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

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

7 27. Defendants have violated the provisions of Civ. Code 51 (b) by
8 failing and refusing to provide free and equal access to Plaintiff
9 to their facility on the same basis as other persons not disabled.
10 By their failure to provide equal access to Plaintiff as herein
11 alleged, Defendants have also violated 42 U.S.C. section
12 12182(b)(2)(A)(iv) as provided in Cal. Civ. Codes section 51(f).

13 28. By reason of their acts and denial of Plaintiff's civil rights
14 Defendants also violated the provisions of Cal. Civ. Code section
15 52, which makes a person or entity in violation of Cal.Civ. Code
16 51 liable for the actual damages to a Plaintiff including treble
17 damages where appropriate.

18 29. Defendants and each of them, at all times prior to and
19 including July 2003, respectively and continuing to the present
20 time, knew that persons with physical disabilities were denied
21 their rights of equal access to all portions of this public
22 facility. Despite such knowledge, Defendants, and each of them,
23 failed and refused to take steps to comply with the applicable
24 access statutes and despite knowledge of the resulting problems
25 and denial of civil rights suffered by Plaintiff and other
26 similarly situated persons with disabilities.
27
28

1 30. Defendants and each of them have failed and refused to take
2 action to grant full and equal access to person with physical
3 disabilities. Defendants have carried out a course of conduct of
4 refusing to respond to, or correct complaints about unequal access
5 and have refused to comply with their legal obligations to make
6 the subject facility accessible pursuant the ADAAG and the
7 California Building Code [Title 24 of the California Code of
8 Regulations]. Such actions and continuing course of conduct by
9 Defendants, and each of them, evidence despicable conduct in
10 conscious disregard of the rights and/or safety of Plaintiff and
11 those similarly situated and thus justify an award of treble
12 damages pursuant to section 52(a) and 54.3(a) of the Cal.Civ. Code
13 or alternatively an award of punitive damages in an appropriate
14 amount.
15
16
17

18 31. Plaintiff has suffered emotional and physical damage and
19 continues to suffer such damages all in an amount to be determined
20 at time of trial.

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

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27 //

VIII

FOURTH CAUSE OF ACTION

(Unfair And Unlawful Business Practice)

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

34. California Business and Professions Code Section 17200 states in pertinent part:

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

35. Defendants, as alleged herein, are in violation of the Americans With Disabilities Act and Title 24 of the California Building Code, in that they have denied equal access to their places of public accommodation to Plaintiff and others similarly situated to Plaintiff. Defendants have failed and refused and continue to refuse to comply with equal access laws all in violation of 42 USC 12181-12183; 28 CFR 36.304 and 42 USC 12188. In addition the complained of acts are in violation of California Civil Code Sections 51, 52, 54, and 54.1,; California Health and Safety Code section 19955 all of which require Defendants to provide equal access to their facility to disabled persons such as plaintiff. Defendants are also in violation of the indicated statutes because of their failure to remove architectural barriers, which prevent equal access to their facility by disabled persons and because of their failure to modify their practices, policies and procedures to have a scheme, plan, or design to

1 assist Plaintiff and others similarly situated to enter and
2 utilize Defendants' services as required by the Unruh Act.

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

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

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

21 **IX**

22 **FIFTH CAUSE OF ACTION**

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

24 39. Plaintiff relleges the allegations of the Fourth Cause of
25 Action as though set forth fully herein.
26

27 40. Defendants and each of them owed a duty to Plaintiff to make
28 their facility accessible and to keep Plaintiff reasonably safe

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

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

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

25 //

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27 //

28

SIXTH CAUSE OF ACTION

(Intentional Infliction of Emotional Distress)

43. Plaintiff realleges the allegations of the Fifth Cause of Action as though set forth fully herein.

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

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

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

WHEREFORE PLAINTIFF PRAYS:

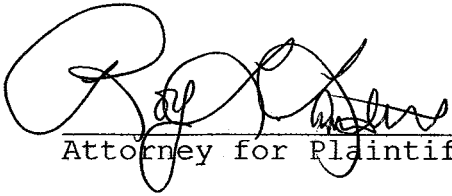
1. For general damages according to proof;
2. For special damages according to proof;
3. For damages pursuant to Cal. Civil Code section 52, in the amount of \$4,000 for each and every offense of California Civil Code section 51, Title 24 of the California Building Code and the Americans With Disabilities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

1 9. For costs of suit incurred herein and;

2 10. For such other and further relief as the court deems proper.

3 Respectfully submitted,

4
5 Dated: 4/13/04

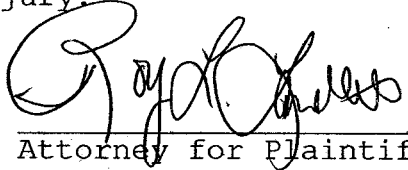


6 Attorney for Plaintiff, Gaynor Carlock

7
8 **DEMAND FOR JURY TRIAL**

9 Plaintiff respectfully requests that the claims made herein be
10 heard and determined by a jury.

11
12 Dated: 4/13/04



13 Attorney for Plaintiff, Gaynor Carlock

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closed

ORIGINAL

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7 Attorney for Plaintiff Gaynor Carlock

FILED
CLERK, U.S. DISTRICT COURT
OCT 25 2004
CENTRAL DISTRICT OF CALIFORNIA
DEPUTY
BY *W*

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8 11440 West Bernardo Court, Suite 204
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10 Telephone: (858) 487-2728
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12 Attorney for Defendant Tosco Corporation

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CLERK, U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

BY *W*

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

15 GAYNOR CARLOCK,
16 Plaintiff,
17 v.
18 TOSCO CORPORATION, dba
19 LESTER UNION OIL SERVICE
20 STATION and DOES 1 through 10,
21 inclusive,
22 Defendants.

Case No. CV 04-2661 R (JWJx)

**STIPULATION OF DISMISSAL
WITH PREJUDICE AND ORDER
THEREON**

[FED.R.CIV.P. 41(a)(1)]

DOCKETED ON CM
OCT 26 2004
BY *net* 072

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1 IT IS HEREBY STIPULATED by and between the parties in this action,, through
2 their designated counsel of record, that pursuant to Federal Rules of Civil Procedure
3 Rule 41(a)(1) the above-captioned action be dismissed with prejudice as to all claims
4 and all Defendants, each party to bear its own attorney's fees and costs.

5 ROY L. LANDERS ATTORNEY AT LAW

6
7 Dated: October 10, 2004

8 BY: 

Roy L. Landers, Esq.
Attorney for Plaintiff Gaynor Carlock

9
10 Dated: October 6, 2004

11 STEPHEN THOMAS ERB, APC

12 By: 

Stephen Thomas Erb, Esq.
Attorney for Defendant
Tosco Corporation

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14
15
16 **ORDER**

17 Pursuant to the Stipulation of the parties hereto,

18 IT IS ORDERED that the above-captioned action be and is hereby DISMISSED
19 with prejudice as to all claim and all Defendants.

20
21 Dated: Oct. 25, 2004


22 Judge, United States District Court