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3:03 CV-01587 DEGROOTE ESTATE V. LINENS & THINGS  
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SOUTHERN DISTRICT OF CALIFORNIA

BY:

DEPUTY

5 attorneys for Plaintiffs

8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA

03 CV 1587 W

NLS

10 ORGANIZATION FOR ACCESSIBLE  
11 RIGHTS IN THE NEW MILLENNIUM  
12 SUING ON BEHALF OF THE ESTATE  
13 OF WALTER LEE DEGROOTE,  
14 DOROTHY DEGROOTE, AND ITS  
15 MEMBERS; THE ESTATE OF WALTER  
LEE DEGROOTE; and DOROTHY  
DEGROOTE, An Individual,  
Plaintiffs,

v.

16 LINEN'S & THINGS - VILLA LA  
17 JOLLA DRIVE, LA JOLLA; LNT,  
18 INC.; MARSHALLS OF  
19 CALIFORNIA, LLC, d.b.a.  
MARSHALLS - VILLA LA JOLLA  
DRIVE, LA JOLLA; PICK UP STIX  
- VILLA LA JOLLA DRIVE, LA  
20 JOLLA; RECODO PROPERTIES,  
21 INC. f.k.a. PICK UP STIX,  
22 INC.; RALPHS GROCERY COMPANY  
23 - VILLA LA JOLLA DRIVE, LA  
24 JOLLA; RALPHS GROCERY  
25 COMPANY, INC.; STARBUCKS  
26 COFFEE #644; STARBUCKS  
CORPORATION; PIER I IMPORTS  
#1034; PIER 1 IMPORTS (U.S.),  
27 INC.; TRADER JOE'S - VILLA LA  
28 JOLLA DRIVE, LA JOLLA; TRADER  
JOE'S COMPANY, INC.; CHIPOLTE  
MEXICAN GRILL - VILLA LA  
JOLLA DRIVE, LA JOLLA;

Case No.:

CIVIL COMPLAINT:

DISCRIMINATORY PRACTICES IN  
PUBLIC ACCOMMODATIONS  
[42 U.S.C. 12182(a) ET. SEQ;  
CIVIL CODE 51, 52, 54, 54.1;  
HEALTH & SAFETY CODE 19995;  
BUSINESS & PROFESSIONS CODE  
17200 et. seq.]

NEGLIGENCE

[CIVIL CODE 1714(a), 2338,  
3333, 3294; EVIDENCE CODE  
669(a)]

DEMAND FOR JURY TRIAL

[F.R.Civ.P. rule 38(b); L.R.  
38.1

1 CHIPOLTE MEXICAN GRILL, INC.;

2 ROSS DRESS FOR LESS - VILLA

3 LA JOLLA DRIVE, LA JOLLA;

4 ROSS STORES, INC.; BROWN

5 GROUP RETAIL, INC., d.b.a.

6 FAMOUS FOOTWEAR - VILLA LA

7 JOLLA DRIVE, LA JOLLA; TAE UN

8 KANG d.b.a. SCHLOTSKY'S DELI

9 - VILLA LA JOLLA DRIVE, LA

10 JOLLA; HWA SUK KANG d.b.a.

11 SCHLOTSKY'S DELI - VILLA LA

12 JOLLA DRIVE, LA JOLLA; COST

13 PLUS WORLD MARKET - VILLA LA

14 JOLLA DRIVE, LA JOLLA; COST

15 PLUS, INC.; FINS MEXICAN FOOD

16 - VILLA LA JOLLA DRIVE, LA

17 JOLLA; BOLD MOVE, INC.; JAMBA

18 JUICE - VILLA LA JOLLA DRIVE,

19 LA JOLLA; JAMBA JUICE

20 COMPANY, INC.; CALIFORNIA

21 PIZZA KITCHEN - NOBEL DRIVE,

22 LA JOLLA; CALIFORNIA PIZZA

23 KITCHEN, INC.; 8650 VILLA LA

24 JOLLA, INC.; And DOES 1

25 THROUGH 10, Inclusive.

26 Defendants.

## 27 INTRODUCTION

28 Plaintiffs ORGANIZATION FOR ACCESSIBLE RIGHTS IN THE NEW

29 MILLENNIUM SUING ON BEHALF OF THE ESTATE OF WALTER LEE DEGROOTE,

30 DOROTHY DEGROOTE, AND ITS MEMBERS; THE ESTATE OF WALTER LEE

31 DEGROOTE; and DOROTHY DEGROOTE, **An** Individual, herein complain, y

32 filing this Civil Complaint in accordance with rule 8 of the

33 Federal Rules of Civil Procedure in the Judicial District of the

34 United States District Court of the Southern District of

35 California, that Defendants have in the past, and presently are,

1 engaging in discriminatory practices against individuals with  
2 disabilities, specifically including minorities with disabilities.  
3 Plaintiffs allege this civil action and others substantial similar  
4 thereto are necessary to compel access compliance because  
5 empirical research on the effectiveness of Title III of the  
6 Americans with Disabilities Act indicates the Title has failed to  
7 achieve full and equal access simply by the executive branch of  
8 the Federal Government funding and promoting voluntary compliance  
9 efforts. Further, empirical research shows when individuals with  
10 disabilities give actual notice of potential access problems to  
11 places of public accommodation without a federal civil rights  
12 civil action, the public accommodations do not remove the access  
13 barriers. Therefore, Plaintiffs make the following allegations in  
14 this federal civil rights action:

15  
16 **JURISDICTION AND VENUE**

17 1. The federal jurisdiction of this action is based on the  
18 Americans with Disabilities Act, 42 United States Code 12101-  
19 12102, 12181-12183 and 12201, et seq. Venue in the Judicial  
20 District of the United States District Court of the Southern  
21 District of California is in accordance with 28 U.S.C. § 1391(b)  
22 because a substantial part of Plaintiffs' claims arose within the  
23 Judicial District of the United States District Court of the  
24 Southern District of California.

25 **SUPPLEMENTAL JURISDICTION**

26 2. The Judicial District of the United States District Court of  
27 the Southern District of California has supplemental jurisdiction  
28 over the state claims as alleged in this Complaint pursuant to 28

1 U.S.C. § 1367(a). The reason supplemental jurisdiction is proper  
2 in this action is because all the causes of action or claims  
3 derived from federal law and those arising under state law, as  
4 herein alleged, arose from common nucleus of operative facts. The  
5 common nucleus of operative facts, include, but are not limited  
6 to, the incidents where deceased Plaintiff's Member WALTER LEE  
7 DEGROOTE and Plaintiff's Member and Plaintiff DOROTHY DEGROOTE  
8 were denied full and equal access to Defendants' facilities,  
9 goods, and/or services in violation of both federal and state laws  
10 when they attempted to enter, use, and/or exit Defendants'  
11 facilities as described within paragraphs 16 through 69 of this  
12 Complaint. Further, due to this denial of full and equal access  
13 deceased Plaintiff's Member WALTER LEE DEGROOTE, Plaintiff's  
14 Member and Plaintiff DOROTHY DEGROOTE, and other minorities with  
15 disabilities were injured. Based upon the said allegations the  
16 state actions, as stated herein, are so related to the federal  
17 actions that they form part of the same case or controversy, and  
18 the actions would ordinarily be expected to be tried in one  
19 judicial proceeding.  
20

21 **NAMED DEFENDANTS AND NAMED PLAINTIFFS**

22 3. Defendants are, and, at all times mentioned herein, were, a  
23 business or corporation or franchise organized and existing and/or  
24 doing business under the laws of the State of California.

25 Defendants LINEN'S & THINGS - VILLA LA JOLLA DRIVE, LA JOLLA;  
26 MARSHALLS OF CALIFORNIA, LLC, d.b.a. MARSHALLS - VILLA LA JOLLA  
27 DRIVE, LA JOLLA; PICK UP STIX - VILLA LA JOLLA DRIVE, LA JOLLA;  
28 RALPHS GROCERY COMPANY - VILLA LA JOLLA DRIVE, LA JOLLA; STARBUCKS

1 COFFEE #644; PIER I IMPORTS #1034; TRADER JOE'S - VILLA LA JOLLA  
2 DRIVE, LA JOLLA; CHIPOLTE MEXICAN GRILL - VILLA LA JOLLA DRIVE, LA  
3 JOLLA; ROSS DRESS FOR LESS - VILLA LA JOLLA DRIVE, LA JOLLA; BROWN  
4 GROUP RETAIL, INC., d.b.a. FAMOUS FOOTWEAR - VILLA LA JOLLA DRIVE,,  
5 LA JOLLA; TAE UN KANG d.b.a. SCHLOTSKY'S DELI - VILLA LA JOLLA  
6 DRIVE, LA JOLLA; HWA SUK KANG d.b.a. SCHLOTSKY'S DELI - VILLA LA  
7 JOLLA DRIVE, LA JOLLA; COST PLUS WORLD MARKET - VILLA LA JOLLA  
8 DRIVE, LA JOLLA; FINS MEXICAN FOOD - VILLA LA JOLLA DRIVE, LA  
9 JOLLA; JAMBA JUICE - VILLA LA JOLLA DRIVE, LA JOLLA; and  
10 CALIFORNIA PIZZA KITCHEN - NOBEL DRIVE, LA JOLLA, are businesses  
11 located in a community shopping center known as La Jolla Village  
12 Square Shopping Center.

13  
14 4. Defendant LINEN'S & THINGS - VILLA LA JOLLA DRIVE, LA JOLLA,  
15 is located at 8657 Villa La Jolla Drive, La Jolla, California,  
16 92037. Plaintiffs are informed and believe and thereon allege that  
17 Defendant LNT, INC., is the owner, operator, and/or lessor of  
18 LINEN'S & THINGS - VILLA LA JOLLA DRIVE, LA JOLLA. Defendant LNT,  
19 INC., is located at 6 Brighton Road, Clifton, New Jersey, 07015.  
20 Defendant MARSHALLS OF CALIFORNIA, LLC, d.b.a. MARSHALLS - VILLA  
21 LA JOLLA DRIVE, LA JOLLA, is located at 770 Cochituate Road,  
22 Framingham, MA, 01701. The MARSHALLS - VILLA LA JOLLA DRIVE, LA  
23 JOLLA, store is located at 8657 Villa La Jolla Drive, Suite 111,  
24 La Jolla, California, 92037.

25 5. Defendant PICK UP STIX - VILLA LA JOLLA DRIVE, LA JOLLA, is  
26 located at 8707 Villa La Jolla Drive, La Jolla, California, 92037.  
27 Plaintiffs are informed and believe and thereon allege that  
28 Defendant RECODO PROPERTIES, INC. f.k.a. PICK UP STIX, INC., is

1 the owner, operator, and/or lessor of PICK UP STIX - VILLA LA  
2 JOLLA DRIVE, LA JOLLA. Defendant RECODO PROPERTIES, INC. f.k.a.  
3 PICK UP STIX, INC., is located at 1021 Calle Recodo, San Clemente,  
4 California, 92672. Defendant RALPHS GROCERY COMPANY - VILLA LA  
5 JOLLA DRIVE, LA JOLLA, is located at 8657 Villa La Jolla Drive, La  
6 Jolla, California, 92037. Plaintiffs are informed and believe and  
7 thereon allege that Defendant RALPHS GROCERY COMPANY, INC., is the  
8 owner, operator, and/or lessor of the RALPHS GROCERY COMPANY -  
9 VILLA LA JOLLA DRIVE, LA JOLLA. Defendant RALPHS GROCERY COMPANY,  
10 INC., is located at 1014 Vine Street, Cincinnati, OH, 45202.

11 6. Defendant STARBUCKS COFFEE #644 is located at 8657 Villa La  
12 Jolla Drive, La Jolla, California, 92037. Plaintiffs are informed  
13 and believe and thereon allege that Defendant STARBUCKS  
14 CORPORATION is the owner, operator, and/or lessor of the STARBUCKS  
15 COFFEE #644. Defendant STARBUCKS CORPORATION is located at 2401  
16 Utha Avenue South, Seattle, WA, 98134. Defendant PIER I IMPORTS  
17 #1034 is located at 8657 Villa La Jolla Drive, suite 221, La  
18 Jolla, California, 92037. Plaintiffs are informed and believe and  
19 thereon allege that Defendant PIER 1 IMPORTS (U.S.), INC., is the  
20 owner, operator, and/or lessor of PIER I IMPORTS #1034. Defendant  
21 PIER I IMPORTS (U.S.), INC., is located at 301 Commerce Street,  
22 Suite 600, Fort Worth, Texas, 76102.

23 7. Defendant TRADER JOE'S - VILLA LA JOLLA DRIVE, LA JOLLA, is  
24 located at 8657 Villa La Jolla Drive, La Jolla, California, 92037.  
25 Plaintiffs are informed and believe and thereon allege that  
26 Defendant TRADER JOE'S COMPANY, INC., is the owner, operator,  
27 and/or lessor of TRADER JOE'S - VILLA LA JOLLA DRIVE, LA JOLLA.  
28

1 Defendant TRADER JOE'S COMPANY, INC., is located at 800 South  
2 Shamrock Avenue, Monrovia, California, 91016. Defendant CHIPOLTE  
3 MEXICAN GRILL - VILLA LA JOLLA DRIVE, LA JOLLA, is located at 8657  
4 Villa La Jolla Drive, La Jolla, California, 92037. Plaintiffs are  
5 informed and believe and thereon allege that Defendant CHIPOLTE  
6 MEXICAN GRILL, INC., is the owner, operator, and/or lessor of the  
7 CHIPOLTE MEXICAN GRILL - VILLA LA JOLLA DRIVE, LA JOLLA.

8 Defendant CHIPOLTE MEXICAN GRILL, INC., is located at 1543 Wazee  
9 Street, Suite 200, Denver, CO, 80202.

10 Defendant ROSS DRESS FOR LESS - VILLA LA JOLLA DRIVE, LA  
11 JOLLA, is located at 8657 Villa La Jolla Drive, suite 135, La  
12 Jolla, California, 92037. Plaintiffs are informed and believe and  
13 hereon allege that Defendant ROSS STORES, INC., is the owner,  
14 operator, and/or lessor of ROSS DRESS FOR LESS - VILLA LA JOLLA  
15 DRIVE, LA JOLLA. Defendant ROSS STORES, INC., is located at 833  
16 Central Avenue, Newark, California, 94560. Defendant BROWN GROUP  
17 RETAIL, INC., d.b.a. FAMOUS FOOTWEAR - VILLA LA JOLLA DRIVE, LA  
18 JOLLA, is located at 8300 Maryland Avenue, St. Louis. MO, 63105  
19 and the FAMOUS FOOTWEAR - VILLA LA JOLLA DRIVE, LA JOLLA, store is  
20 located at 8657 Villa La Jolla Drive, La Jolla, California, 92037.

21 Defendants TAEUN KANG d.b.a. SCHLOTSKY'S DELI - VILLA LA  
22 JOLLA DRIVE, LA JOLLA; and HWA SUK KANG d.b.a. SCHLOTSKY'S DELI -  
23 VILLA LA JOLLA DRIVE, LA JOLLA are located at 8683 Park Run Road,  
24 San Diego, California, 92129, and the SCHLOTSKY'S DELI - VILLA LA  
25 JOLLA DRIVE, LA JOLLA, store is located at 8657 Villa La Jolla  
26 Drive, Suite 127, La Jolla, California, 92037. Defendant COST  
27 PLUS WORLD MARKET - VILLA LA JOLLA DRIVE, LA JOLLA, is located at  
28



1 8657 Villa La Jolla Drive, La Jolla, California, 92037.

2 Plaintiffs are informed and believe and thereon allege that  
3 Defendant COST PLUS, INC., is the owner, operator, and/or lessor  
4 of the COST PLUS WORLD MARKET - VILLA LA JOLLA DRIVE, LA JOLLA.  
5 Defendant COST PLUS, INC., is located at 200 4<sup>th</sup> Street, Oakland,  
6 California, 94607.

7 10. Defendant FINS MEXICAN FOOD - VILLA LA JOLLA DRIVE, LA  
8 JOLLA, is located at 8657 Villa La Jolla Drive, Suite 103, La  
9 Jolla, California, 92037. Plaintiffs are informed and believe and  
10 thereon allege that Defendant BOLD MOVE, INC., is the owner,  
11 operator, and/or lessor of FINS MEXICAN FOOD - VILLA LA JOLLA  
12 DRIVE, LA JOLLA. Defendant BOLD MOVE, INC., is located at 12150  
13 Bernardo Oaks Court, San Diego, California, 92128. Defendant  
14 JAMBA JUICE - VILLA LA JOLLA DRIVE, LA JOLLA, is located at 8657  
15 Villa La Jolla Drive, suite 101, La Jolla, California, 92037.  
16 Plaintiffs are informed and believe and thereon allege that  
17 Defendant JAMBA JUICE COMPANY, INC., is the owner, operator,  
18 and/or lessor of JAMBA JUICE - VILLA LA JOLLA DRIVE, LA JOLLA.  
19 Defendant JAMBA JUICE COMPANY, INC., is located at 1700 17<sup>th</sup>  
20 Street, San Francisco, California, 94103.

21 11. Defendant CALIFORNIA PIZZA KITCHEN - NOBEL DRIVE, LA JOLLA,  
22 is located at 3363 Nobel Drive, La Jolla, California, 92037.  
23 Plaintiffs are informed and believe and thereon allege that  
24 Defendant CALIFORNIA PIZZA KITCHEN, INC., is the owner, operator,  
25 and/or lessor of the CALIFORNIA PIZZA KITCHEN - NOBEL DRIVE, LA  
26 JOLLA. Defendant CALIFORNIA PIZZA KITCHEN, INC., is located at  
27 6053 West Century Boulevard, Los Angeles, California, 90045.  
28

1 12. Plaintiffs are informed and believe and thereon allege that  
2 Defendant 8650 VILLA LA JOLLA, INC., is the owner, operator,  
3 and/or lessor of the property located at 8657 Villa La Jolla  
4 Drive, La Jolla, California, 92037; 8677 Villa La Jolla Drive, La  
5 Jolla, California, 92037; 8707 Villa La Jolla Drive, La Jolla,  
6 California, 92037; and 3363 Nobel Drive, La Jolla, California,  
7 92037; Assessor Parcel Number 344-280-08-00, 244-280-18-00, 344-  
8 280-19-00. Defendant 8650 VILLA LA JOLLA, INC., is located at  
9 1801 Hermitage Boulevard, Suite 600, Tallahassee, Florida, 32308.

10 13. The words "Plaintiffs" and "Plaintiff" as used herein  
11 specifically include the ORGANIZATION FOR ACCESSIBLE RIGHTS IN THE  
12 YEW MILLENNIUM; ORGANIZATION FOR ACCESSIBLE RIGHTS IN THE NEW  
13 YILLENNIUM SUING ON BEHALF OF THE ESTATE OF WALTER LEE DEGROOTE,  
14 DOROTHY DEGROOTE, AND ITS MEMBERS; its Members; THE ESTATE OF  
15 WALTER LEE DEGROOTE; DOROTHY DEGROOTE; and persons associated with  
16 its Members who accompanied Members to Defendants' facilities.  
17 The words "Plaintiff's Members" and "Plaintiff's Member" as used  
18 ierein specifically include the ORGANIZATION FOR ACCESSIBLE RIGHTS  
19 IN THE NEW MILLENNIUM; ORGANIZATION FOR ACCESSIBLE RIGHTS IN THE  
20 YEW MILLENNIUM SUING ON BEHALF OF THE ESTATE OF WALTER LEE  
21 DEGROOTE, DOROTHY DEGROOTE, AND ITS MEMBERS; its Members; THE  
22 ESTATE OF WALTER LEE DEGROOTE; DOROTHY DEGROOTE; and persons  
23 associated with its Members who accompanied Members to Defendants'  
24 Eacilities.  
25

26 14. Defendants Does 1 through 10, were at all times relevant  
27 ierein subsidiaries, employers, employees, and/or agents of  
28 LINEN'S & THINGS - VILLA LA JOLLA DRIVE, LA JOLLA; LNT, INC.;

1 MARSHALLS OF CALIFORNIA, LLC, d.b.a. MARSHALLS - VILLA LA JOLLA  
2 DRIVE, LA JOLLA; PICK UP STIX - VILLA LA JOLLA DRIVE, LA JOLLA;  
3 RECODO PROPERTIES, INC. f.k.a. PICK UP STIX, INC.; RALPHS GROCERY  
4 COMPANY - VILLA LA JOLLA DRIVE, LA JOLLA; RALPHS GROCERY COMPANY,  
5 INC.; STARBUCKS COFFEE #644; STARBUCKS CORPORATION; PIER I IMPORTS  
6 #1034; PIER 1 IMPORTS (U.S.), INC.; TRADER JOE'S - VILLA LA JOLLA  
7 DRIVE, LA JOLLA; TRADER JOE'S COMPANY, INC.; CHIPOLTE MEXICAN  
8 GRILL - VILLA LA JOLLA DRIVE, LA JOLLA; CHIPOLTE MEXICAN GRILL,  
9 INC.; ROSS DRESS FOR LESS - VILLA LA JOLLA DRIVE, LA JOLLA; ROSS  
10 STORES, INC.; BROWN GROUP RETAIL, INC., d.b.a. FAMOUS FOOTWEAR -  
11 VILLA LA JOLLA DRIVE, LA JOLLA; TAE UN KANG d.b.a. SCHLOTSKY'S  
12 DELI - VILLA LA JOLLA DRIVE, LA JOLLA; HWA SUK KANG d.b.a.  
13 SCHLOTSKY'S DELI - VILLA LA JOLLA DRIVE, LA JOLLA; COST PLUS WORLD  
14 MARKET - VILLA LA JOLLA DRIVE, LA JOLLA; COST PLUS, INC.; FINS  
15 MEXICAN FOOD - VILLA LA JOLLA DRIVE, LA JOLLA; BOLD MOVE, INC.;  
16 JAMBA JUICE - VILLA LA JOLLA DRIVE, LA JOLLA; JAMBA JUICE COMPANY,  
17 INC.; CALIFORNIA PIZZA KITCHEN - NOBEL DRIVE, LA JOLLA; CALIFORNIA  
18 PIZZA KITCHEN, INC.; and/or 8650 VILLA LA JOLLA, INC. Plaintiffs  
19 are ignorant of the true names and capacities of Defendants sued  
20 herein as Does 1 through 10, inclusive, and therefore sues these  
21 Defendants by such fictitious names. Plaintiffs will pray leave  
22 of the court to amend this complaint to allege the true names and  
23 capacities of the Does when ascertained.

24  
25 15. Plaintiffs are informed and believe, and thereon allege, that  
26 Defendants and each of them herein were, at all times relevant to  
27 the action, the owner, franchisee, lessee, general partner,  
28 limited partner, agent, employee, representing partner, or joint

1 venturer of the remaining Defendants and were acting within the  
2 course and scope of that relationship. Plaintiffs are further  
3 informed and believe, and thereon allege, that each of the  
4 Defendants herein gave consent to, ratified, and/or authorized the  
5 acts alleged herein to each of the remaining Defendants.

6 CONCISE SET OF FACTS

7 16. Deceased Plaintiff's Member WALTER LEE DEGROOTE had a  
8 physical impairment and due to this impairment he had learned to  
9 successfully operate a wheelchair. Plaintiff's Member and  
10 Plaintiff DOROTHY DEGROOTE is the wife of deceased Plaintiff's  
11 Member WALTER LEE DEGROOTE and served in the capacity of caregiver  
12 to deceased Plaintiff's Member WALTER LEE DEGROOTE.

13 17. On August 11, 2002, deceased Plaintiff's Member WALTER LEE  
14 DEGROOTE and Plaintiff's Member and Plaintiff DOROTHY DEGROOTE  
15 went to Defendants' LINEN'S & THINGS - VILLA LA JOLLA DRIVE, LA  
16 JOLLA; MARSHALLS OF CALIFORNIA, LLC, d.b.a. MARSHALLS - VILLA LA  
17 JOLLA DRIVE, LA JOLLA; PICK UP STIX - VILLA LA JOLLA DRIVE, LA  
18 JOLLA; RALPHS GROCERY COMPANY - VILLA LA JOLLA DRIVE, LA JOLLA;  
19 STARBUCKS COFFEE #644; PIER I IMPORTS #1034; TRADER JOE'S - VILLA  
20 LA JOLLA DRIVE, LA JOLLA; CHIPOLTE MEXICAN GRILL - VILLA LA JOLLA  
21 DRIVE, LA JOLLA; ROSS DRESS FOR LESS - VILLA LA JOLLA DRIVE, LA  
22 JOLLA; BROWN GROUP RETAIL, INC., d.b.a. FAMOUS FOOTWEAR - VILLA LA  
23 JOLLA DRIVE, LA JOLLA; TAE UN KANG d.b.a. SCHLOTSKY'S DELI - VILLA  
24 LA JOLLA DRIVE, LA JOLLA; HWA SUK KANG d.b.a. SCHLOTSKY'S DELI -  
25 JILLA LA JOLLA DRIVE, LA JOLLA; COST PLUS WORLD MARKET - VILLA LA  
26 JOLLA DRIVE, LA JOLLA; FINS MEXICAN FOOD - VILLA LA JOLLA DRIVE,  
27 LA JOLLA; JAMBA JUICE - VILLA LA JOLLA DRIVE, LA JOLLA; and  
28

1 CALIFORNIA PIZZA KITCHEN - NOBEL DRIVE, LA JOLLA, establishments  
2 located within the La Jolla Village Square Shopping Center to  
3 utilize their goods and/or services.

4 18. When deceased Plaintiff's Member WALTER LEE DEGROOTE and  
5 Plaintiff's Member and Plaintiff DOROTHY DEGROOTE patronized the  
6 common areas in and around the La Jolla Village Square Shopping  
7 Center, in which Defendants LINEN'S & THINGS - VILLA LA JOLLA  
8 DRIVE, LA JOLLA; MARSHALLS OF CALIFORNIA, LLC, d.b.a. MARSHALLS -  
9 VILLA LA JOLLA DRIVE, LA JOLLA; PICK UP STIX - VILLA LA JOLLA  
10 DRIVE, LA JOLLA; RALPHS GROCERY COMPANY - VILLA LA JOLLA DRIVE, LA  
11 JOLLA; STARBUCKS COFFEE #644; PIER I IMPORTS #1034; TRADER JOE'S -  
12 VILLA LA JOLLA DRIVE, LA JOLLA; CHIPOLTE MEXICAN GRILL - VILLA LA  
13 JOLLA DRIVE, LA JOLLA; ROSS DRESS FOR LESS - VILLA LA JOLLA DRIVE,  
14 LA JOLLA; BROWN GROUP RETAIL, INC., d.b.a. FAMOUS FOOTWEAR - VILLA  
15 LA JOLLA DRIVE, LA JOLLA; TAE UN KANG d.b.a. SCHLOTSKY'S DELI -  
16 VILLA LA JOLLA DRIVE, LA JOLLA; HWA SUK KANG d.b.a. SCHLOTSKY'S  
17 DELI - VILLA LA JOLLA DRIVE, LA JOLLA; COST PLUS WORLD MARKET -  
18 VILLA LA JOLLA DRIVE, LA JOLLA; FINS MEXICAN FOOD - VILLA LA JOLLA  
19 DRIVE, LA JOLLA; JAMBA JUICE - VILLA LA JOLLA DRIVE, LA JOLLA; an  
20 CALIFORNIA PIZZA KITCHEN - NOBEL DRIVE, LA JOLLA, establishments  
21 are located, they had difficulty using the disabled parking,  
22 exterior path of travel, elevator, and entrance facilities at  
23 Defendants' establishment because they failed to comply with ADA  
24 Access Guidelines For Buildings and Facilities (hereafter referred  
25 to as "ADAAG") and/or California's Title 24 Building Code  
26 Requirements. Defendants failed to remove obstructions in the  
27 disabled parking, exterior path of travel, elevator, entrance, an  
28

1 restroom facilities within the common areas of the La Jolla  
2 Village Square Shopping Center, in which Defendants LINEN'S &  
3 THINGS - VILLA LA JOLLA DRIVE, LA JOLLA; MARSHALLS OF CALIFORNIA,  
4 LLC, d.b.a. MARSHALLS - VILLA LA JOLLA DRIVE, LA JOLLA; PICK UP  
5 STIX - VILLA LA JOLLA DRIVE, LA JOLLA; RALPHS GROCERY COMPANY -  
6 VILLA LA JOLLA DRIVE, LA JOLLA; STARBUCKS COFFEE #644; PIER I  
7 IMPORTS #1034; TRADER JOE'S - VILLA LA JOLLA DRIVE, LA JOLLA;  
8 CHIPOLTE MEXICAN GRILL - VILLA LA JOLLA DRIVE, LA JOLLA; ROSS  
9 DRESS FOR LESS - VILLA LA JOLLA DRIVE, LA JOLLA; BROWN GROUP  
10 RETAIL, INC., d.b.a. FAMOUS FOOTWEAR - VILLA LA JOLLA DRIVE, LA  
11 JOLLA; TAE UN KANG d.b.a. SCHLOTSKY'S DELI - VILLA LA JOLLA DRIVE,  
12 LA JOLLA; HWA SUK KANG d.b.a. SCHLOTSKY'S DELI - VILLA LA JOLLA  
13 DRIVE, LA JOLLA; COST PLUS WORLD MARWT - VILLA LA JOLLA DRIVE, LA  
14 JOLLA; FINS MEXICAN FOOD - VILLA LA JOLLA DRIVE, LA JOLLA; JAMBA  
15 JUICE - VILLA LA JOLLA DRIVE, LA JOLLA; and CALIFORNIA PIZZA  
16 KITCHEN - NOBEL DRIVE, LA JOLLA, establishments are located.

17 19. Deceased Plaintiff's Member WALTER LEE DEGROOTE and  
18 Plaintiff's Member and Plaintiff DOROTHY DEGROOTE personally  
19 experienced difficulty with said access barriers within the common  
20 areas of the La Jolla Village Square Shopping Center, in which  
21 Defendants LINEN'S & THINGS - VILLA LA JOLLA DRIVE, LA JOLLA;  
22 MARSHALLS OF CALIFORNIA, LLC, d.b.a. MARSHALLS - VILLA LA JOLLA  
23 DRIVE, LA JOLLA; PICK UP STIX - VILLA LA JOLLA DRIVE, LA JOLLA;  
24 RALPHS GROCERY COMPANY - VILLA LA JOLLA DRIVE, LA JOLLA; STARBUCKS  
25 COFFEE #644; PIER I IMPORTS #1034; TRADER JOE'S - VILLA LA JOLLA  
26 DRIVE, LA JOLLA; CHIPOLTE MEXICAN GRILL - VILLA LA JOLLA DRIVE, LA  
27 JOLLA; ROSS DRESS FOR LESS - VILLA LA JOLLA DRIVE, LA JOLLA; BROWN  
28

1 GROUP RETAIL, INC., d.b.a. FAMOUS FOOTWEAR - VILLA LA JOLLA DRIVE,  
2 LA JOLLA; TAE UN KANG d.b.a. SCHLOTSKY'S DELI - VILLA LA JOLLA  
3 DRIVE, LA JOLLA; HWA SUK KANG d.b.a. SCHLOTSKY'S DELI - VILLA LA  
4 JOLLA DRIVE, LA JOLLA; COST PLUS WORLD MARKET - VILLA LA JOLLA  
5 DRIVE, LA JOLLA; FINS MEXICAN FOOD - VILLA LA JOLLA DRIVE, LA  
6 JOLLA; JAMBA JUICE - VILLA LA JOLLA DRIVE, LA JOLLA; and  
7 CALIFORNIA PIZZA KITCHEN - NOBEL DRIVE, LA JOLLA, establishments  
8 are located. For example, the parking garage signage on the south  
9 entrance to the parking garage states the parking garage has a  
10 maximum height of seven feet (7'), when the parking garage or  
11 structure should have a minimum height of eight feet two inches  
12 (8', 2"). At the northwest parking lot within the shopping  
13 center, there are two hundred ten (210) parking spaces, only six  
14 (6) of which are designate as disabled parking spaces. The  
15 northwest parking lot fails to have the required "Van Accessible"  
16 disabled parking space. Also, the northwest parking lot should  
17 have seven (7) disabled parking spaces, one (1) of which must be a  
18 "Van Accessible" disabled parking space, as previously stated.  
19  
20 20. Within the east parking lot, there are seven hundred seventy-  
21 five (775) parking spaces, only ten (10) of which are designated  
22 as disabled parking spaces. The east parking lot also fails to  
23 have any of the required "Van Accessible" disabled parking. The  
24 east parking lot should have sixteen (16) designated disabled  
25 parking spaces, two (2) of which must be "Van Accessible" disabled  
26 parking spaces. In the south parking lot, there are one hundred  
27 seventy-five (175) disabled parking spaces, only five (5) of which  
28 are designated as disabled parking spaces. The south parking lot

1 also fails to have any of the required "Van Accessible" disabled  
2 parking. The south parking lot should have six (6) designated  
3 disabled parking spaces, one (1) of which must be a "Van  
4 Accessible" disabled parking space.

5 21. Within the northwest parking lot, the designated disabled  
6 parking space that is in the southwest corner of the parking lot  
7 fails to have the proper disability signage. Also, within the  
8 northwest parking lot, the designated disabled parking space in  
9 the northeast corner of the parking lot fails to have the proper  
10 disability signage and fails to have the proper access aisle  
11 located on the passenger side of the disabled parking space.

12 22. Within the north parking lot, the west designated disabled  
13 parking space located near the Islands Fine Burgers and Drinks  
14 establishment has disability signage that is mounted too low.  
15 Within the north parking lot, near the RALPH'S GROCERY COMPANY -  
16 VILLA LA JOLLA DRIVE, LA JOLLA, east entrance, there are disabled  
17 parking spaces that fail to be accessible. The disabled parking  
18 space that is the farthest west has an existing curb ramp that  
19 impermissibly encroaches into the parking spaces' access aisle.  
20 Also, the third disabled parking space from the west, fails to  
21 have a proper access aisle located on the passenger side of the  
22 parking space.

23  
24 23. Within the east parking lot, near the CALIFORNIA PIZZA  
25 KITCHEN - NOBEL DRIVE, LA JOLLA, the east disabled parking spaces  
26 fails to have the required disability signage. The disabled  
27 parking space located near the ROSS DRESS FOR LESS - VILLA LA  
28 JOLLA DRIVE, LA JOLLA, has disability signage that is mounted too



1 low to be accessible. Also, an existing curb ramp impermissibly  
2 encroaches into the access aisle of this disabled parking space.  
3 **Also**, the northern-most disabled space near Ulta Salon fails to  
4 have the required disability signage.

5 :24. Within the south parking lot, near Home Life, the disabled  
6 parking spaces has disability signage that is mounted too low.

7 :25. There fails to be a safe and accessible exterior path of  
8 travel leading from the northeastern-most designated disabled  
9 parking space within the northwest parking lot to the  
10 establishments' entrances, as members of the disability community  
11 are forced to travel behind vehicles other than their own to reach  
12 the shopping centers' walkways.

13 :26. Within the north parking lot, near the RALPH'S GROCERY  
14 COMPANY - VILLA LA JOLLA DRIVE, LA JOLLA, establishment, there  
15 fail to be safe and accessible exterior paths of travel leading  
16 from the two (2) east disabled parking spaces and from the second  
17 and third disabled parking spaces from the west disabled parking  
18 spaces, as members of the disability community are forced to  
19 travel through vehicular traffic without the benefit of a marked  
20 and designated accessible route of travel. There also fails to be  
21 a safe and accessible exterior path of travel leading from the  
22 disabled parking space near PICK UP STIX - VILLA LA JOLLA DRIVE,  
23 LA JOLLA, as members of the disability community are forced to  
24 travel through vehicular traffic without the benefit of a marked  
25 and designated accessible route of travel.

26  
27 :27. Within the east parking lot, there fails to be a safe and  
28 accessible exterior path of travel leading from the designated

1 disabled parking space located in front of FIN'S MEXICAN FOOD -  
2 VILLA LA JOLLA DRIVE, LA JOLLA, as members of the disability  
3 community are forced to travel through vehicular traffic without  
4 the benefit of a marked and designated accessible route of travel  
5  
6 28. Within the south parking lot, there fails to be a safe and  
7 accessible exterior path of travel from the eastern-most  
8 designated disabled parking space, as members of the disability  
9 community are forced to travel through vehicular traffic without  
10 the benefit of a marked and designated accessible route of travel  
11  
12 29. There also fail to be safe and accessible exterior paths of  
13 travel throughout the shopping center. For example, there fails  
14 to be a safe and accessible exterior path of travel between the  
15 establishments within the La Jolla Village Square Shopping Center  
16 and the RALPH'S GROCERY COMPANY - VILLA LA JOLLA DRIVE, LA JOLLA,  
17 as members of the disability community are forced to travel  
18 through vehicular traffic to reach the other establishments withi  
19 the center without the benefit of a marked and designated  
20 accessible route of travel. There also fails to be a safe and  
21 accessible exterior path of travel to the car stereo installation  
22 area from the building walkway, as members of the disability  
23 community are forced to travel through vehicular traffic without  
24 the benefit of a marked and designated accessible route of travel  
25  
26 Throughout the common areas of the La Jolla Village Square  
27 Shopping Center, there fails to be the required disability  
28 directional signage to accessible paths of travel throughout the  
center.

1 30. The east and west elevators fails to be accessible. At the  
2 east elevator, the hardware on the door to the emergency telephone  
3 system fails to be accessible, as the hardware requires tight  
4 grasping and/or twisting of the wrist to operate. This elevator  
5 fails to have Braille identifying the hall call button. Also, the  
6 east elevator fails to have the required audible signals  
7 distinguishing upward and downward elevator movement. At the west  
8 elevator, the hardware on the door to the emergency telephone  
9 system fails to be accessible, as the hardware requires tight  
10 grasping and/or twisting of the wrist to operate. This elevator  
11 also fails to have Braille identifying the hall call button.

12 31. At the east and north entrances to the enclosed interior of  
13 the La Jolla Village Square Shopping Center, there are unsecured  
14 mats on the inside of the entrance doors that pose hazards.

15 32. In addition to the violations personally experienced by  
16 Plaintiff's Member WALTER LEE DEGROOTE and Plaintiff's Member and  
17 Plaintiff DOROTHY DEGROOTE at Defendants' establishment,  
18 additional violations of federal and state disability laws exist  
19 within the common areas of the La Jolla Village Square Shopping  
20 Center in which Defendants' LINEN'S & THINGS - VILLA LA JOLLA  
21 DRIVE, LA JOLLA; MARSHALLS OF CALIFORNIA, LLC, d.b.a. MARSHALLS -  
22 VILLA LA JOLLA DRIVE, LA JOLLA; PICK UP STIX - VILLA LA JOLLA  
23 DRIVE, LA JOLLA; RALPHS GROCERY COMPANY - VILLA LA JOLLA DRIVE, LA  
24 JOLLA; STARBUCKS COFFEE #644; PIER I IMPORTS #1034; TRADER JOE'S -  
25 VILLA LA JOLLA DRIVE, LA JOLLA; CHIPOLTE MEXICAN GRILL - VILLA LA  
26 JOLLA DRIVE, LA JOLLA; ROSS DRESS FOR LESS - VILLA LA JOLLA DRIVE,  
27 LA JOLLA; BROWN GROUP RETAIL, INC., d.b.a. FAMOUS FOOTWEAR - VILLA  
28

1 LA JOLLA DRIVE, LA JOLLA; TAE UN KANG d.b.a. SCHLOTSKY'S DELI -  
2 VILLA LA JOLLA DRIVE, LA JOLLA; HWA SUK KANG d.b.a. SCHLOTSKY'S  
3 DELI - VILLA LA JOLLA DRIVE, LA JOLLA; COST PLUS WORLD MARKET -  
4 VILLA LA JOLLA DRIVE, LA JOLLA; FINS MEXICAN FOOD - VILLA LA JOLLA  
5 DRIVE, LA JOLLA; JAMBA JUICE - VILLA LA JOLLA DRIVE, LA JOLLA; and  
6 CALIFORNIA PIZZA KITCHEN - NOBEL DRIVE, LA JOLLA, establishments  
7 are located.. For example, the three (3) public pay telephone  
8 located under the escalator fails to have the required volume  
9 control. Also, the women's restroom entrance door within the  
10 common area of La Jolla Village Square fails to have the required  
11 three (3) second, three inch (3") delay when closing the door from  
12 a seventy degree (70°) angle. At the commode stall within this  
13 women's restroom, the interior hardware on the door fails to be  
14 accessible, as the hardware requires tight grasping and/or  
15 twisting of the wrist to operate. The commode stall door fails to  
16 be self-closing. Also, the flush valve mechanism on the commode  
17 is improperly mounted on the narrow side of the commode.

18 **33.** When deceased Plaintiff's Member WALTER LEE DEGROOTE and  
19 Plaintiff's Member and Plaintiff DOROTHY DEGROOTE patronized  
20 Defendants' LINEN'S & THINGS - VILLA LA JOLLA DRIVE, LA JOLLA,  
21 establishment, they had difficulty using the entrance and interior  
22 path of travel facilities at Defendants' establishment because  
23 they failed to comply with ADAAG and/or California's Title 24  
24 Building Code Requirements. Defendants failed to remove  
25 obstructions in the entrance and interior path of travel  
26 facilities within Defendants' LINEN'S & THINGS - VILLA LA JOLLA  
27 DRIVE, LA JOLLA, establishment.  
28

1 34. Deceased Plaintiff's Member WALTER LEE DEGROOTE and  
2 Plaintiff's Member and Plaintiff DOROTHY DEGROOTE personally  
3 experienced difficulty with said access barriers in Defendants'  
4 LINEN'S & THINGS - VILLA LA JOLLA DRIVE, LA JOLLA, establishment.  
5 For example, the entrance fails to have any of the required  
6 disability signage. The interior path of travel throughout the  
7 establishment fails to be accessible, as the interior path of  
8 travel fails to be the required thirty-six inches (36") in width  
9 in some areas. The interior of the store fails to have any  
10 disability signage offering assistance to disable patrons upon  
11 request. Further, there fails to be the required disability  
12 directional signage informing disabled patrons of the location of  
13 an accessible restroom.

14 35. When deceased Plaintiff's Member WALTER LEE DEGROOTE and  
15 Plaintiff's Member and Plaintiff DOROTHY DEGROOTE patronized  
16 Defendants' MARSHALLS OF CALIFORNIA, LLC, d.b.a. MARSHALLS - VILLA  
17 LA JOLLA DRIVE, LA JOLLA, establishment, they had difficulty using  
18 the entrance, interior path of travel, and restroom facilities at  
19 Defendants' establishment because they failed to comply with ADAAG  
20 and/or California's Title 24 Building Code Requirements.  
21 Defendants failed to remove obstructions in the entrance, interior  
22 path of travel, and restroom facilities within Defendants'  
23 MARSHALLS OF CALIFORNIA, LLC, d.b.a. MARSHALLS - VILLA LA JOLLA  
24 DRIVE, LA JOLLA, establishment.

25 36. Deceased Plaintiff's Member WALTER LEE DEGROOTE and  
26 Plaintiff's Member and Plaintiff DOROTHY DEGROOTE personally  
27 experienced difficulty with said access barriers in Defendants'  
28

1 MARSHALLS OF CALIFORNIA, LLC, d.b.a. MARSHALLS - VILLA LA JOLLA  
2 DRIVE, LA JOLLA, establishment. For example, the entrance fails to  
3 have the required disability signage. There is an unsecured mat  
4 on the interior side of the entrance door that poses a hazard.  
5 The interior path of travel throughout the store fails to be  
6 accessible, as the interior path of travel is less than the  
7 required thirty-six inches (36") in width in some areas.  
8 Specifically, the interior paths of travel leading to the men's  
9 fitting rooms fail to be accessible, as the interior paths of  
10 travel are less than the required thirty-six inches (36") in some  
11 areas. The store fails to have any disability signage offering  
12 assistance to disabled patrons upon request. There further fails  
13 to be any of the required disability signage informing disabled  
14 patrons of the existence and location of an accessible fitting  
15 room. The men's restroom entrance door fails to have the required  
16 disability signage.

17 37. In additional to the violations personally experienced by  
18 deceased Plaintiff's Member WALTER LEE DEGROOTE and Plaintiff's  
19 Member and Plaintiff DOROTHY DEGROOTE, additional violations of  
20 federal and state disability laws exist at Defendants' MARSHALLS  
21 OF CALIFORNIA, LLC, d.b.a. MARSHALLS - VILLA LA JOLLA DRIVE, LA  
22 JOLLA, establishment. For example, there fails to be the required  
23 disability signage on the women's restroom entrance door. Also,  
24 the women's restroom entrance door fails to have the required  
25 three (3) second and three inch (3") delay when closing the door  
26 from a seventy degree (70°) angle. The commode blocks the commode  
27 seat protective cover dispenser and the dispenser is mounted too  
28

1 high to be accessible. The lavatory sink faucet handles fail to  
2 be accessible, as the faucet handles require tight grasping and/or  
3 twisting of the wrist to operate. The operable parts of the  
4 feminine hygiene dispenser are mounted too high to be accessible.  
5 Further, the hardware on the feminine hygiene dispenser fails to  
6 be accessible, as the hardware requires tight grasping and/or  
7 twisting of the wrist to operate.

8 38. When deceased Plaintiff's Member WALTER LEE DEGROOTE and  
9 Plaintiff's Member and Plaintiff DOROTHY DEGROOTE patronized  
10 Defendants' PICK UP STIX - VILLA LA JOLLA DRIVE, LA JOLLA,  
11 establishment, they had difficulty using the entrance, interior  
12 path of travel, and public pay telephone facilities at Defendants'  
13 establishment because they failed to comply with ADAAG and/or  
14 California's Title 24 Building Code Requirements. Defendants  
15 failed to remove obstructions in the entrance, interior path of  
16 travel, and public pay telephone facilities within Defendants'  
17 PICK UP STIX - VILLA LA JOLLA DRIVE, LA JOLLA, establishment.

18 39. Deceased Plaintiff's Member WALTER LEE DEGROOTE and  
19 Plaintiff's Member and Plaintiff DOROTHY DEGROOTE personally  
20 experienced difficulty with said access barriers in Defendants'  
21 PICK UP STIX - VILLA LA JOLLA DRIVE, LA JOLLA, establishment. For  
22 example, the entrance to the restaurant fails to have the required  
23 disability signage. Also, there is an unsecured mat on the  
24 interior side of the entrance door that poses a hazard. There is  
25 an unsecured mat in front of the self-service soda dispenser that  
26 poses a hazard. The restaurant fails to have any disability  
27 signage offering assistance to disabled patrons upon request. The  
28

1 public pay telephone fails to have the required volume control.

2 **40.** When deceased Plaintiff's Member WALTER LEE DEGROOTE and  
3 Plaintiff's Member and Plaintiff DOROTHY DEGROOTE patronized  
4 Defendants' RALPHS GROCERY COMPANY - VILLA LA JOLLA DRIVE, LA  
5 JOLLA, establishment, they had difficulty using the entrance,  
6 interior path of travel, and restroom facilities at Defendants'  
7 establishment because they failed to comply with ADAAG and/or  
8 California's Title 24 Building Code Requirements. Defendants  
9 failed to remove obstructions in the entrance, interior path of  
10 travel, and restroom facilities within Defendants' RALPHS GROCERY  
11 COMPANY - VILLA LA JOLLA DRIVE, LA JOLLA, establishment.

12 11. Deceased Plaintiff's Member WALTER LEE DEGROOTE and  
13 Plaintiff's Member and Plaintiff DOROTHY DEGROOTE personally  
14 experienced difficulty with said access barriers in Defendants'  
15 RALPHS GROCERY COMPANY - VILLA LA JOLLA DRIVE, LA JOLLA,  
16 establishment. For example, at the west entrance to the store,  
17 there fails to be the required disability signage. At the west  
18 entrance, there is an unsecured mat on the interior side of the  
19 entrance door that poses a hazard. At the east entrance to the  
20 store, there are unsecured mats on both the exterior and interior  
21 side of the entrance door that pose hazards. At the flower  
22 department within the store, there fails to be any disability  
23 signage offering assistance to disabled patrons upon request.  
24 Further, there is an unsecured mat in front of the guest services  
25 counter in the flower department that poses a hazard. The men's  
26 restroom entrance door fails to have the required disability  
27 signage.  
28



1 42. In addition to the violations personally experienced by  
2 deceased Plaintiff's Member WALTER LEE DEGROOTE and Plaintiff's  
3 Member and Plaintiff DOROTHY DEGROOTE, additional violations of  
4 federal and state disability laws exist at Defendants' RALPHS  
5 GROCERY COMPANY - VILLA LA JOLLA DRIVE, LA JOLLA, establishment.  
6 For example, the women's restroom entrance door fails to have the  
7 required disability signage. The commode stall entrance door  
8 within the women's restroom fails to be self-closing. Further,  
9 the exterior hardware on the commode stall entrance door fails to  
10 be accessible, as the hardware requires tight grasping and/or  
11 twisting of the wrist to operate. The commode blocks the commode  
12 seat protective cover dispensers and the dispenser is mounted too  
13 high to be accessible. The toilet paper dispenser is  
14 impermissibly mounted above the side grab bar.

15  
16 43. When deceased Plaintiff's Member WALTER LEE DEGROOTE and  
17 Plaintiff's Member and Plaintiff DOROTHY DEGROOTE patronized  
18 Defendants' STARBUCKS COFFEE #644, establishment, they had  
19 difficulty using the entrance, interior path of travel, and  
20 restroom facilities at Defendants' establishment because they  
21 failed to comply with ADAAG and/or California's Title 24 Building  
22 Code Requirements. Defendants failed to remove obstructions in  
23 the entrance, interior path of travel, and restroom facilities  
24 within Defendants' STARBUCKS COFFEE #644, establishment.

25 44. Deceased Plaintiff's Member WALTER LEE DEGROOTE and  
26 Plaintiff's Member and Plaintiff DOROTHY DEGROOTE personally  
27 experienced difficulty with said access barriers in Defendants'  
28 STARBUCKS COFFEE #644 establishment. For example, the entrance

1 fails to have the required disability signage. Also, there is an  
2 impermissible obstruction on the push side of the entrance door.  
3 There should be a smooth and uninterrupted surface on the bottom  
4 ten inches (10") of all doors that allow a door to be opened with  
5 a wheelchair footrest without creating a hazard. The interior  
6 paths of travel throughout the dining area and patio area fail to  
7 be accessible, as the interior paths of travel are less than the  
8 required thirty-six inches (36") in some areas. Within the store,  
9 there fails to be any disability signage offering assistance to  
10 disabled patrons upon request. The unisex restroom entrance door  
11 fails to have the required disability signage. Also, there is an  
12 obstruction on the push side of the unisex restroom entrance door.  
13 There should be a smooth and uninterrupted surface on the bottom  
14 ten inches (10") of all doors that allow a door.

15  
16 45. When deceased Plaintiff's Member WALTER LEE DEGROOTE and  
17 Plaintiff's Member and Plaintiff DOROTHY DEGROOTE patronized  
18 Defendants' PIER I IMPORTS #1034, establishment, they had  
19 difficulty using the entrance and interior path of travel  
20 facilities at Defendants' establishment because they failed to  
21 comply with ADAAG and/or California's Title 24 Building Code  
22 Requirements. Defendants failed to remove obstructions in the  
23 entrance and interior path of travel facilities within Defendants'  
24 PIER I IMPORTS #1034, establishment.

25 46. Deceased Plaintiff's Member WALTER LEE DEGROOTE and  
26 Plaintiff's Member and Plaintiff DOROTHY DEGROOTE personally  
27 experienced difficulty with said access barriers in Defendants'  
28 PIER I IMPORTS #1034 establishment. For example, on both the north

1 and east entrance doors, there fails to be the required disability  
2 signage. On the north entrance door, there is an impermissible  
3 obstruction on the push side of the entrance door. There should  
4 be a smooth and uninterrupted surface on the bottom ten inches  
5 (10") of all doors that allow a door. The interior path of travel  
6 throughout the store fails to be accessible, as the interior path  
7 of travel is less than the required thirty-six inches (36") in  
8 some areas. The store interior fails to have any disability  
9 signage informing disabled patrons that assistance is available  
10 upon request.

11  
12 17. When deceased Plaintiff's Member WALTER LEE DEGROOTE and  
13 Plaintiff's Member and Plaintiff DOROTHY DEGROOTE patronized  
14 CRADER JOE'S - VILLA LA JOLLA DRIVE, LA JOLLA, establishment, the  
15 had difficulty using the entrance and interior path of travel  
16 facilities at Defendants' establishment because they failed to  
17 comply with ADAAG and/or California's Title 24 Building Code  
18 Requirements. Defendants failed to remove obstructions in the  
19 entrance and interior path of travel facilities within Defendants'  
20 CRADER JOE'S - VILLA LA JOLLA DRIVE, LA JOLLA, establishment.

21 18. Deceased Plaintiff's Member WALTER LEE DEGROOTE and  
22 Plaintiff's Member and Plaintiff DOROTHY DEGROOTE personally  
23 experienced difficulty with said access barriers in Defendants'  
24 CRADER JOE'S - VILLA LA JOLLA DRIVE, LA JOLLA, establishment. For  
25 example, the entrance door fails to have the required disability  
26 signage. Also, there are unsecured mats on the exterior and  
27 interior sides of the entrance door that pose hazards. The  
28 interior path of travel throughout the store fails to be

1 accessible, as the interior path of travel is less than the  
2 required thirty-six inches (36") in some areas. The store  
3 interior fails to have disability signage informing disabled  
4 patrons that assistance is available upon request.

5 49. When deceased Plaintiff's Member WALTER LEE DEGROOTE and  
6 Plaintiff's Member and Plaintiff DOROTHY DEGROOTE patronized  
7 Defendants' CHIPOLTE MEXICAN GRILL - VILLA LA JOLLA DRIVE, LA  
8 JOLLA, establishment, they had difficulty using the entrance, bar,  
9 and public seating facilities at Defendants' establishment because  
10 they failed to comply with ADAAG and/or California's Title 24  
11 Building Code Requirements. Defendants failed to remove  
12 obstructions in the entrance, bar, and public seating facilities  
13 within Defendants' CHIPOLTE MEXICAN GRILL - VILLA LA JOLLA DRIVE,  
14 LA JOLLA, establishment.

15 50. Deceased Plaintiff's Member WALTER LEE DEGROOTE and  
16 Plaintiff's Member and Plaintiff DOROTHY DEGROOTE personally  
17 experienced difficulty with said access barriers in Defendants'  
18 CHIPOLTE MEXICAN GRILL - VILLA LA JOLLA DRIVE, LA JOLLA,  
19 establishment. For example, the entrance fails to have the  
20 required disability signage. The bar within the restaurant is too  
21 high to be accessible, as the bar is forty-two inches (42") above  
22 the finished floor. Additionally, the bar has six (6) fixed  
23 stools. There fails to be any accessible public seating at the  
24 bar. The restaurant fails to have any disability signage offering  
25 assistance to disabled patrons upon request.

26 51. When deceased Plaintiff's Member WALTER LEE DEGROOTE and  
27 Plaintiff's Member and Plaintiff DOROTHY DEGROOTE patronized  
28

1 Defendants' ROSS DRESS FOR LESS - VILLA LA JOLLA DRIVE, LA JOLLA,  
2 establishment, they had difficulty using the entrance, interior  
3 path of travel, and restroom facilities at Defendants'  
4 establishment because they failed to comply with ADAAG and/or  
5 California's Title 24 Building Code Requirements. Defendants  
6 failed to remove obstructions in the entrance, interior path of  
7 travel, restroom, and fitting room facilities within Defendants'  
8 ROSS DRESS FOR LESS - VILLA LA JOLLA DRIVE, LA JOLLA,  
9 establishment.

10 52. Deceased Plaintiff's Member WALTER LEE DEGROOTE and  
11 Plaintiff's Member and Plaintiff DOROTHY DEGROOTE personally  
12 experienced difficulty with said access barriers in Defendants'  
13 ROSS DRESS FOR LESS - VILLA LA JOLLA DRIVE, LA JOLLA,  
14 establishment. For example, the entrance door fails to have the  
15 required disability signage. Also, there is an unsecured mat on  
16 the interior side of the entrance door that poses a hazard. The  
17 interior path of travel throughout the store fails to be  
18 accessible, as the interior path of travel is less than the  
19 required thirty-six inches (36") in some areas. This is  
20 particularly true for the interior path of travel leading to the  
21 men's fitting room within the store. The interior of the store  
22 fails to have any disability signage informing disabled patrons  
23 what assistance is available upon request. There fails to be any  
24 of the required disability directional signage directing disabled  
25 patrons to the location of an accessible restroom. The entrance  
26 door to the unisex restroom fails to have the required disability  
27 signage. The lavatory sink faucet handles within the unisex  
28

1 restroom fail to be accessible, as the handles require tight  
2 grasping and/or twisting of the wrist to operate.

3 53. In addition to the violations personally experienced by  
4 deceased Plaintiff's Member WALTER LEE DEGROOTE and Plaintiff's  
5 Member and Plaintiff DOROTHY DEGROOTE, additional violations of  
6 federal and state disability laws exist at Defendants' ROSS DRESS  
7 FOR LESS - VILLA LA JOLLA DRIVE, LA JOLLA, establishment. For  
8 example, the exterior hardware on the women's fitting room door  
9 fails to be accessible, as the hardware requires tight grasping  
10 and/or twisting of the wrist to operate.

11 54. When deceased Plaintiff's Member WALTER LEE DEGROOTE and  
12 Plaintiff's Member and Plaintiff DOROTHY DEGROOTE patronized  
13 Defendants' BROWN GROUP RETAIL, INC., d.b.a. FAMOUS FOOTWEAR -  
14 VILLA LA JOLLA DRIVE, LA JOLLA, establishment, they had difficult:  
15 using the entrance and interior path of travel facilities at  
16 Defendants' establishment because they failed to comply with ADAAC  
17 and/or California's Title 24 Building Code Requirements.

18 Defendants failed to remove obstructions in the entrance and  
19 interior path of travel facilities within Defendants' BROWN GROUP  
20 IETAIL, INC., d.b.a. FAMOUS FOOTWEAR - VILLA LA JOLLA DRIVE, LA.  
21 JOLLA, establishment.

22 55. Deceased Plaintiff's Member WALTER LEE DEGROOTE and  
23 Plaintiff's Member and Plaintiff DOROTHY DEGROOTE personally  
24 experienced difficulty with said access barriers in Defendants'  
25 BROWN GROUP RETAIL, INC., d.b.a. FAMOUS FOOTWEAR - VILLA LA JOLLA  
26 DRIVE, LA JOLLA, establishment. For example, the entrance to the  
27 store fails to have the required disability signage. Also, there  
28

1 is an unsecured mat on the interior side of the entrance door that  
2 poses a hazard. The interior path of travel throughout the store  
3 fails to be accessible, as the interior path of travel is less  
4 than the required thirty-six inches (36") in width in some areas.  
5 The store interior fails to have any disability signage informing  
6 disabled patrons that assistance is available upon request.

7 56. When deceased Plaintiff's Member WALTER LEE DEGROOTE and  
8 Plaintiff's Member and Plaintiff DOROTHY DEGROOTE patronized  
9 Defendants' TAE UN KANG d.b.a. SCHLOTSKY'S DELI - VILLA LA JOLLA  
10 DRIVE, LA JOLLA; and HWA SUK KANG d.b.a. SCHLOTSKY'S DELI - VILLA  
11 LA JOLLA DRIVE, LA JOLLA, establishment, they had difficulty using  
12 the entrance, interior path of travel, and customer service  
13 counter facilities at Defendants' establishment because they  
14 failed to comply with ADAAG and/or California's Title 24 Building  
15 Code Requirements. Defendants failed to remove obstructions in  
16 the entrance, interior path of travel, and customer service  
17 counter facilities within Defendants' TAE UN KANG d.b.a.  
18 SCHLOTSKY'S DELI - VILLA LA JOLLA DRIVE, LA JOLLA; and HWA SUK  
19 KANG d.b.a. SCHLOTSKY'S DELI - VILLA LA JOLLA DRIVE, LA JOLLA,  
20 establishment.

21 57. Deceased Plaintiff's Member WALTER LEE DEGROOTE and  
22 Plaintiff's Member and Plaintiff DOROTHY DEGROOTE personally  
23 experienced difficulty with said access barriers in Defendants'  
24 TAE UN KANG d.b.a. SCHLOTSKY'S DELI - VILLA LA JOLLA DRIVE, LA  
25 JOLLA; and HWA SUK KANG d.b.a. SCHLOTSKY'S DELI - VILLA LA JOLLA  
26 DRIVE, LA JOLLA, establishment. For example, the east entrance to  
27 the restaurant fails to have the required disability signage.  
28

1 There are also unsecured mats on the exterior and interior side of  
2 the east entrance door that pose hazards. The north entrance door  
3 to the restaurant fails to have the required disability signage.  
4 The customer service counter is too high to be accessible, as the  
5 counter is thirty-six inches (36") high. Also, the food pick-up  
6 counter is too high to be accessible, as the food pick-up counter  
7 is forty-six inches (46") high. There is an unsecured mat in  
8 front of the self-service soda dispenser that poses a hazard. The  
9 restaurant fails to have disability signage offering assistance to  
10 disabled patrons upon request.

11 58. When deceased Plaintiff's Member WALTER LEE DEGROOTE and  
12 Plaintiff's Member and Plaintiff DOROTHY DEGROOTE patronized  
13 Defendants' COST PLUS WORLD MARKET - VILLA LA JOLLA DRIVE, LA  
14 JOLLA, establishment, they had difficulty using the interior path  
15 of travel facilities at Defendants' establishment because they  
16 failed to comply with ADAAG and/or California's Title 24 Building  
17 Code Requirements. Defendants failed to remove obstructions in  
18 the interior path of travel facilities within Defendants' COST  
19 PLUS WORLD MARKET - VILLA LA JOLLA DRIVE, LA JOLLA, establishment.

20 59. Deceased Plaintiff's Member WALTER LEE DEGROOTE and  
Plaintiff's Member and Plaintiff DOROTHY DEGROOTE personally  
experienced difficulty with said access barriers in Defendants'  
COST PLUS WORLD MARKET - VILLA LA JOLLA DRIVE, LA JOLLA,  
establishment. For example, the interior path of travel throughout  
the store fails to be accessible, as the interior path of travel  
is less than the required thirty-six inches (36") in width in some  
areas.



1 60. When deceased Plaintiff's Member WALTER LEE DEGROOTE and  
2 Plaintiff's Member and Plaintiff DOROTHY DEGROOTE patronized  
3 Defendants' **FINS** MEXICAN FOOD - VILLA LA JOLLA DRIVE, LA JOLLA,  
4 establishment, they had difficulty using the entrance, customer  
5 service counter, and interior path of travel facilities at  
6 Defendants' establishment because they failed to comply with ADAAC  
7 and/or California's Title 24 Building Code Requirements.

8 Defendants failed to remove obstructions in the entrance, customer  
9 service counter, and interior path of travel facilities within  
10 Defendants' **FINS** MEXICAN FOOD - VILLA LA JOLLA DRIVE, LA JOLLA,  
11 establishment.

12 61. Deceased Plaintiff's Member WALTER LEE DEGROOTE and  
13 Plaintiff's Member and Plaintiff DOROTHY DEGROOTE personally  
14 experienced difficulty with said access barriers in Defendants'  
15 **FINS** MEXICAN FOOD - VILLA LA JOLLA DRIVE, LA JOLLA, establishment.  
16 For example, the entrance door fails to have the required  
17 disability signage. There is also an impermissible obstruction on  
18 the push side of the entrance door. There should be a smooth and  
19 uninterrupted surface on the bottom ten inches (10") of all doors  
20 that allow doors to be opened with a wheelchair footrest without  
21 creating a hazard. There is an unsecured mat on the exterior side  
22 of the entrance door that poses a hazard. The customer service  
23 counter is too high to be accessible, as the counter is forty  
24 inches (40") high. Also, the interior path of travel through the  
25 patio fails to be accessible, as the interior path of travel is  
26 less than the required thirty-six inches (36") in width in some  
27 areas. The restaurant fails to have any disability signage  
28

1 offering assistance to disabled patrons upon request.

2 62. When deceased Plaintiff's Member WALTER LEE DEGROOTE and  
3 Plaintiff's Member and Plaintiff DOROTHY DEGROOTE patronized  
4 Defendants' JAMBA JUICE - VILLA LA JOLLA DRIVE, LA JOLLA,  
5 establishment, they had difficulty using the entrance, interior  
6 path of travel, and restroom facilities at Defendants'  
7 establishment because they failed to comply with ADAAG and/or  
8 California's Title 24 Building Code Requirements. Defendants  
9 failed to remove obstructions in the entrance, interior path of  
10 travel, and restroom facilities within Defendants' JAMBA JUICE -  
11 VILLA LA JOLLA DRIVE, LA JOLLA, establishment.

12 63. Deceased Plaintiff's Member WALTER LEE DEGROOTE and  
13 Plaintiff's Member and Plaintiff DOROTHY DEGROOTE personally  
14 experienced difficulty with said access barriers in Defendants'  
15 JAMBA JUICE - VILLA LA JOLLA DRIVE, LA JOLLA, establishment. For  
16 example, the entrance fails to have the required disability  
17 signage. There is also an impermissible obstruction on the push  
18 side of the entrance door. There should be a smooth and  
19 uninterrupted surface on the bottom ten inches (10") of all doors  
20 that allow doors to be opened with a wheelchair footrest without  
21 creating a hazard. There is an unsecured mat on the interior side  
22 of the entrance door that poses a hazard. There is also an  
23 unsecured mat in front of the customer service counter that poses  
24 a hazard. The store fails to have any disability signage offering  
25 assistance to disabled patrons upon request. The interior path of  
26 travel throughout the patio fails to be accessible, as the  
27 interior path of travel is less than the required thirty-six  
28

1 inches (36") in width in some areas. The unisex restroom entrance  
2 door fails to have the required disability signage. There is an  
3 impermissible obstruction on the push side of the unisex restroom  
4 entrance door. There should be a smooth and uninterrupted surface  
5 on the bottom ten inches (10") of all doors that allow doors to be  
6 opened with a wheelchair footrest without creating a hazard. The  
7 lavatory sink faucet handles within the unisex restroom fail to be  
8 accessible, as the handles require tight grasping and/or twisting  
9 of the wrist to operate.

10 64. When deceased Plaintiff's Member WALTER LEE DEGROOTE and  
11 Plaintiff's Member and Plaintiff DOROTHY DEGROOTE patronized  
12 Defendants' CALIFORNIA PIZZA KITCHEN - NOBEL DRIVE, LA JOLLA,  
13 establishment, they had difficulty using the facilities at  
14 Defendants' establishment because they failed to comply with ADAAG  
15 and/or California's Title 24 Building Code Requirements.  
16 Defendants failed to remove obstructions in the facilities within  
17 Defendants' CALIFORNIA PIZZA KITCHEN - NOBEL DRIVE, LA JOLLA,  
18 establishment.

19 55. Deceased Plaintiff's Member WALTER LEE DEGROOTE and  
20 Plaintiff's Member and Plaintiff DOROTHY DEGROOTE personally  
21 experienced difficulty with said access barriers in Defendants'  
22 CALIFORNIA PIZZA KITCHEN - NOBEL DRIVE, LA JOLLA, establishment.  
23 For example, the entrance fails to have the required disability  
24 signage. The restaurant interior fails to have any disability  
25 signage offering assistance to disabled patrons upon request.

26 56. Based on these facts, Plaintiffs allege deceased Plaintiff's  
27 Member WALTER LEE DEGROOTE and Plaintiff's Member and Plaintiff  
28

1 DOROTHY DEGROOTE were discriminated against each time they  
2 patronized Defendants' establishment.

3 67. Pursuant to federal and state law, Defendants are required  
4 to remove barriers to their existing facilities. Further,  
5 Defendants had actual knowledge of their barrier removal duties  
6 under the Americans with Disabilities Act and the Civil Code  
7 before January 26, 1992. Also, Defendants should have known that  
8 individuals with disabilities are not required to give notice to a  
9 governmental agency before filing suit alleging Defendants failed  
10 to remove architectural barriers. Plaintiffs believes and herein  
11 allege Defendants' facilities have access violations not directly  
12 experienced by deceased Plaintiff's Member WALTER LEE DEGROOTE and  
13 Plaintiff's Member and Plaintiff DOROTHY DEGROOTE which preclude  
14 or limit access by others with disabilities, including, but not  
15 limited to, Space Allowance and Reach Ranges, Accessible Route,  
16 Protruding Objects, Ground and Floor Surfaces, Parking and  
17 Passenger Loading Zones, Curb Ramps, Ramps, Stairs, Elevators,  
18 Platform Lifts (Wheelchair Lifts), Windows, Doors, Entrances,  
19 kinking Fountains and Water Coolers, Water Closets, Toilet  
20 Stalls, Urinals, Lavatories and Mirrors, Sinks, Storage,  
21 Handrails, Grab Bars, and Controls and Operating Mechanisms,  
22 Alarms, Detectable Warnings, Signage, and Telephones. Accordingly,  
23 Plaintiffs allege Defendants are required to remove all  
24 architectural barriers, known or unknown. Also, Plaintiffs allege  
25 Defendants are required to utilize the ADA checklist for Readily  
26 Achievable Barrier Removal approved by the United States  
27 Department of Justice and created by Adaptive Environments.  
28

1 68. Plaintiffs and Plaintiff's Member and Plaintiff DOROTHY  
2 DEGROOTE desire to return to Defendants' place of business in the  
3 immediate future.

4 69. Deceased Plaintiff's Member WALTER LEE DEGROOTE and  
5 Plaintiff's Member and Plaintiff DOROTHY DEGROOTE WERE extremely  
6 upset due to Defendants' conduct. Further, deceased Plaintiff's  
7 Member WALTER LEE DEGROOTE experienced pain in his legs, back,  
8 arms, shoulders and wrists when he attempted to enter, use, and  
9 exit Defendants' establishment.

10 WHAT CLAIMS ARE PLAINTIFFS ALLEGING AGAINST EACH NAMED DEFENDANT

11 70. LINEN'S & THINGS - VILLA LA JOLLA DRIVE, LA JOLLA; LNT, INC.,  
12 MARSHALLS OF CALIFORNIA, LLC, d.b.a. MARSHALLS - VILLA LA JOLLA  
13 DRIVE, LA JOLLA; PICK UP STIX - VILLA LA JOLLA DRIVE, LA JOLLA;  
14 RECODO PROPERTIES, INC. f.k.a. PICK UP STIX, INC.; RALPHS GROCERY  
15 COMPANY - VILLA LA JOLLA DRIVE, LA JOLLA; RALPHS GROCERY COMPANY,  
16 INC.; STARBUCKS COFFEE #644; STARBUCKS CORPORATION; PIER I IMPORTS  
17 #1034; PIER 1 IMPORTS (U.S.), INC.; TRADER JOE'S - VILLA LA JOLLA  
18 DRIVE, LA JOLLA; TRADER JOE'S COMPANY, INC.; CHIPOLTE MEXICAN  
19 GRILL - VILLA LA JOLLA DRIVE, LA JOLLA; CHIPOLTE MEXICAN GRILL,  
20 INC.; ROSS DRESS FOR LESS - VILLA LA JOLLA DRIVE, LA JOLLA; ROSS  
21 STORES, INC.; BROWN GROUP RETAIL, INC., d.b.a. FAMOUS FOOTWEAR -  
22 VILLA LA JOLLA DRIVE, LA JOLLA; TAE UN KANG d.b.a. SCHLOTSKY'S  
23 DELI - VILLA LA JOLLA DRIVE, LA JOLLA; HWA SUK KANG d.b.a.  
24 SCHLOTSKY'S DELI - VILLA LA JOLLA DRIVE, LA JOLLA; COST PLUS WORL  
25 MARKET - VILLA LA JOLLA DRIVE, LA JOLLA; COST PLUS, INC.; FINS  
26 MEXICAN FOOD - VILLA LA JOLLA DRIVE, LA JOLLA; BOLD MOVE, INC.;  
27 JAMBA JUICE - VILLA LA JOLLA DRIVE, LA JOLLA; JAMBA JUICE COMPANY,  
28

1 INC.; CALIFORNIA PIZZA KITCHEN - NOBEL DRIVE, LA JOLLA; CALIFORNIA  
2 PIZZA KITCHEN, INC.; 8650 VILLA LA JOLLA, INC.; and DOES 1 THROUGH  
3 10, Inclusive, are hereinafter referred to as "Defendants."

4 71. Plaintiffs aver that the Defendants are liable for the  
5 following claims as alleged below:  
6

7 **DISCRIMINATORY PRACTICES IN PUBLIC ACCOMMODATIONS**

8 **FIRST CAUSE OF ACTION AGAINST ALL DEFENDANTS- Claims Under The**  
9 **Americans With Disabilities Act Of 1990**  
10

11 **CLAIM I: Denial Of Full And Equal Access**

12 72. Based on the facts plead at ¶¶ 16 - 69 above and elsewhere  
13 in this complaint, deceased Plaintiff's Member WALTER LEE DEGROOTE  
14 and Plaintiff's Member and Plaintiff DOROTHY DEGROOTE were denied  
15 full and equal access to Defendants' goods, services, facilities,  
16 privileges, advantages, or accommodations. Plaintiffs allege  
17 Defendants are a public accommodation owned, leased and/or  
18 operated by Defendants. Defendants' existing facilities and/or  
19 services failed to provide full and equal access to Defendants'  
20 facility as required by 42 U.S.C. § 12182(a). Thus, deceased  
21 Plaintiff's Member WALTER LEE DEGROOTE and Plaintiff's Member and  
22 Plaintiff DOROTHY DEGROOTE were subjected to discrimination in  
23 violation of 42 United States Code 12182(b) (2)(A)(iv) and 42  
24 U.S.C. § 12188 because Plaintiffs were denied equal access to  
25 Defendants' existing facilities.

26 73. Deceased Plaintiff's Member WALTER LEE DEGROOTE had physical  
27 impairments as alleged in ¶ 16 above because his conditions  
28 affected one or more of the following body systems: neurological,

1 musculoskeletal, special sense organs, and/or cardiovascular.  
2 Further, his said physical impairments substantially limited one  
3 or more of the following major life activities: walking. In  
4 addition, deceased Plaintiff's Member WALTER LEE DEGROOTE could  
5 not perform one or more of the said major life activities in the  
6 manner, speed, and duration when compared to the average person.  
7 Moreover, deceased Plaintiff's Member WALTER LEE DEGROOTE had a  
8 history of or has been classified as having a physical impairment  
9 as required by 42 U.S.C. § 12102(2) (A).

10 CLAIM 11: Failure To Make Alterations In Such A Manner That The  
11 Altered Portions Of The Facility Are Readily Accessible And Usable  
12 By Individuals With Disabilities

13 74. Based on the facts plead at ¶¶ 16 - 69 above and elsewhere in  
14 this complaint, deceased Plaintiff's Member WALTER LEE DEGROOTE:  
15 and Plaintiff's Member and Plaintiff DOROTHY DEGROOTE were denied  
16 full and equal access to Defendants' goods, services, facilities,  
17 privileges, advantages, or accommodations within a public  
18 accommodation owned, leased, and/or operated by Defendants.  
19 Defendants altered their facility in a manner that affects or  
20 could affect the usability of the facility or a part of the  
21 facility after January 26, 1992. In performing the alteration,  
22 Defendants failed to make the alteration in such a manner that, to  
23 the maximum extent feasible, the altered portions of the facility  
24 are readily accessible to and usable by individuals with  
25 disabilities, including individuals who use wheelchairs, in  
26 violation of 42 U.S.C. §12183(a) (2).  
27

28 75. Additionally, the Defendants undertook an alteration that

1 affects or could affect the usability of or access to an area of  
2 the facility containing a primary function after January 26, 1992.  
3 Defendants further failed to make the alterations in such a manner  
4 that, to the maximum extent feasible, the path of travel to the  
5 altered area and the bathrooms serving the altered area, are  
6 readily accessible to and usable by individuals with disabilities  
7 in violation 42 U.S.C. 812183(a)(2).

8 76. Pursuant to 42 U.S.C. §12183(a), this failure to make the  
9 alterations in a manner that, to the maximum extent feasible, are  
10 readily accessible to and usable by individuals with disabilities  
11 constitutes discrimination for purposes of 42 U.S.C. §12183(a).  
12 Therefore, Defendants discriminated against deceased Plaintiff's  
13 Member WALTER LEE DEGROOTE and Plaintiff's Member and Plaintiff  
14 DOROTHY DEGROOTE in violation of 42 U.S.C. § 12182(a).

15 77. Thus, deceased Plaintiff's Member WALTER LEE DEGROOTE and  
16 Plaintiff's Member and Plaintiff DOROTHY DEGROOTE were subjected  
17 to discrimination in violation of 42 U.S.C. § 12183(a), 42 U.S.C.  
18 §12182(a) and 42 U.S.C. 812188 because deceased Plaintiff's Member  
19 WALTER LEE DEGROOTE and Plaintiff's Member and Plaintiff DOROTHY  
20 DEGROOTE were denied equal access to Defendants' existing  
21 Facilities.

22  
23 CLAIM 111: Failure To Remove Architectural Barriers

24 78. Based on the facts plead at ¶¶ 16 - 69 above and elsewhere  
25 in this complaint, deceased Plaintiff's Member WALTER LEE DEGROOTE  
26 and Plaintiff's Member and Plaintiff DOROTHY DEGROOTE were denied  
27 full and equal access to Defendants' goods, services, facilities,  
28 privileges, advantages, or accommodations within a public



1 accommodation owned, leased, and/or operated by Defendants.  
2 Defendants failed to remove barriers as required by 42 U.S.C. §  
3 12182(a). Plaintiffs are informed and believe, and thus allege  
4 that architectural barriers which are structural in nature exist  
5 at the following physical elements of Defendants' facilities:  
6 Space Allowance and Reach Ranges, Accessible Route, Protruding  
7 Objects, Ground and Floor Surfaces, Parking and Passenger Loading  
8 Zones, Curb Ramps, Ramps, Stairs, Elevators, Platform Lifts  
9 (Wheelchair Lifts), Windows, Doors, Entrances, Drinking Fountains  
10 and Water Coolers, Water Closets, Toilet Stalls, Urinals,  
11 Lavatories and Mirrors, Sinks, Storage, Handrails, Grab Bars, and  
12 Controls and Operating Mechanisms, Alarms, Detectable Warnings,  
13 Signage, and Telephones. Title III requires places of public  
14 accommodation to remove architectural barriers that are structural  
15 in nature to existing facilities. [See, 42 United States Code  
16 12182(b)(2)(A)(iv).] Failure to remove such barriers and  
17 disparate treatment against a person who has a known association  
18 with a person with a disability are forms of discrimination. [See  
19 42 United States Code 12182(b)(2)(A)(iv).] Thus, deceased  
20 Plaintiff's Member WALTER LEE DEGROOTE and Plaintiff's Member and  
21 Plaintiff DOROTHY DEGROOTE were subjected to discrimination in  
22 violation of 42 United States Code 12182(b)(2)(A)(iv) and 42  
23 U.S.C. § 12188 because deceased Plaintiff's Member WALTER LEE  
24 DEGROOTE and Plaintiff's Member and Plaintiff DOROTHY DEGROOTE  
25 were denied equal access to Defendants' existing facilities.

26  
27 CLAIM IV: Failure To Modify Practices, Policies And Procedures

28 79. Based on the facts plead at ¶¶ 16 - 69 above and elsewhere

1 in this complaint, Defendants failed and refused to provide a  
2 reasonable alternative by modifying its practices, policies and  
3 procedures in that they failed to have a scheme, plan, or design  
4 to assist deceased Plaintiff's Member WALTER LEE DEGROOTE,  
5 Plaintiff's Member and Plaintiff DOROTHY DEGROOTE and/or others  
6 similarly situated in entering and utilizing Defendants' services,  
7 as required by 42 U.S.C. § 12188(a). Thus, deceased Plaintiff's  
8 Member WALTER LEE DEGROOTE and Plaintiff's Member and Plaintiff  
9 DOROTHY DEGROOTE were subjected to discrimination in violation of  
10 42 United States Code 12182(b)(2)(A)(iv) and 42 U.S.C. § 12188  
11 because deceased Plaintiff's Member WALTER LEE DEGROOTE and  
12 Plaintiff's Member and Plaintiff DOROTHY DEGROOTE were denied  
13 equal access to Defendants' existing facilities.

14 SECOND CAUSE OF ACTION AGAINST ALL DEFENDANTS - CLAIMS UNDER  
15 CALIFORNIA ACCESSIBILITY LAWS

16 CLAIM I: Denial Of Full And Equal Access

17 90. Based on the facts plead at ¶¶ 16 - 69 above and elsewhere  
18 in this complaint, deceased Plaintiff's Member WALTER LEE DEGROOTE  
19 and Plaintiff's Member and Plaintiff DOROTHY DEGROOTE were denied  
20 full and equal access to Defendants' goods, services, facilities,  
21 privileges, advantages, or accommodations within a public  
22 accommodation owned, leased, and/or operated by Defendants as  
23 required by Civil Code Sections 54 and 54.1. Defendants' facility  
24 violated California's Title 24 Accessible Building Code by failing  
25 to provide access to Defendants' facilities due to violations  
26 pertaining to the Space Allowance and Reach Ranges, Accessible  
27 Route, Protruding Objects, Ground and Floor Surfaces, Parking and  
28

1 Passenger Loading Zones, Curb Ramps, Ramps, Stairs, Elevators,  
2 Platform Lifts (Wheelchair Lifts), Windows, Doors, Entrances,  
3 Drinking Fountains and Water Coolers, Water Closets, Toilet  
4 Stalls, Urinals, Lavatories and Mirrors, Sinks, Storage,  
5 Handrails, Grab Bars, and Controls and Operating Mechanisms,  
6 Alarms, Detectable Warnings, Signage, and Telephones.

7 31. These violations denied deceased Plaintiff's Member WALTER  
8 LEE DEGROOTE and Plaintiff's Member and Plaintiff DOROTHY DEGRICOTE  
9 Full and equal access to Defendants' facility. Thus, deceased  
10 Plaintiff's Member WALTER LEE DEGROOTE and Plaintiff's Member and  
11 Plaintiff DOROTHY DEGROOTE were subjected to discrimination  
12 pursuant to Civil Code §§ 51, 52, and 54.1 because Plaintiffs were  
13 denied full, equal and safe access to Defendants' facility,  
14 causing severe emotional distress.

15 **CLAIM II: Failure To Modify Practices, Policies And Procedures**

16 32. Based on the facts plead at ¶¶ 16 - 69 above and elsewhere  
17 herein this complaint, Defendants failed and refused to provide a  
18 reasonable alternative by modifying its practices, policies, and  
19 procedures in that they failed to have a scheme, plan, or design  
20 to assist deceased Plaintiff's Member WALTER LEE DEGROOTE,  
21 Plaintiff's Member and Plaintiff DOROTHY DEGROOTE and/or others  
22 similarly situated in entering and utilizing Defendants' services  
23 as required by Civil Code § 54.1. Thus, deceased Plaintiff's  
24 Member WALTER LEE DEGROOTE and Plaintiff's Member and Plaintiff  
25 DOROTHY DEGROOTE were subjected to discrimination in violation of  
26 Civil Code § 54.1.

27 //

28

1 CLAIM 111: Violation Of The Unruh Act

2 13. Based on the facts plead at ¶¶ 16 - 69 above and elsewhere  
3 herein this complaint and because Defendants violated the Civil  
4 Code § 51 by failing to comply with 42 United States Code  
5 2182(b) (2)(A) (iv), Defendants did and continue to discriminate  
6 against deceased Plaintiff's Member WALTER LEE DEGROOTE,  
7 Plaintiff's Member and Plaintiff DOROTHY DEGROOTE and persons  
8 similarly situated in violation of Civil Code §§ 51, 52, and 54.1.

9 Reple Damages Pursuant To Claims I, 11, III Under The California  
10 Accessibility Laws

11 14. Defendants, each of them, at times prior to and including  
12 during the month of August, 2002, respectively, and continuing to  
13 the present time, knew that persons with physical disabilities  
14 were denied their rights of equal access to all portions of this  
15 public facility. Despite such knowledge, Defendants, and each of  
16 them, failed and refused to take steps to comply with the  
17 applicable access statutes; and despite knowledge of the resulting  
18 problems and denial of civil rights thereby suffered by deceased  
19 Plaintiff's Member WALTER LEE DEGROOTE, Plaintiff's Member and  
20 Plaintiff DOROTHY DEGROOTE and other similarly situated persons:  
21 with disabilities. Defendants, and each of them, have failed and  
22 refused to take action to grant full and equal access to persons  
23 with physical disabilities in the respects complained of  
24 hereinabove. Defendants, and each of them, have carried out a  
25 course of conduct of refusing to respond to, or correct complaints  
26 about, denial of disabled access and have refused to comply with  
27 their legal obligations to make the subject common areas of the La  
28

1 Jolla Village Square Shopping Center, LINEN'S & THINGS - VILLA LA  
2 JOLLA DRIVE, LA JOLLA; MARSHALLS OF CALIFORNIA, LLC, d.b.a.  
3 MARSHALLS - VILLA LA JOLLA DRIVE, LA JOLLA; PICK UP STIX - VILLA  
4 LA JOLLA DRIVE, LA JOLLA; RALPHS GROCERY COMPANY - VILLA LA JOLLA  
5 DRIVE, LA JOLLA; STARBUCKS COFFEE #644; PIER I IMPORTS #1034;  
6 TRADER JOE'S - VILLA LA JOLLA DRIVE, LA JOLLA; CHIPOLTE MEXICAN  
7 GRILL - VILLA LA JOLLA DRIVE, LA JOLLA; ROSS DRESS FOR LESS -  
8 VILLA LA JOLLA DRIVE, LA JOLLA; BROWN GROUP RETAIL, INC., d.b.a.  
9 FAMOUS FOOTWEAR - VILLA LA JOLLA DRIVE, LA JOLLA; TAE UN KANG  
10 d.b.a. SCHLOTSKY'S DELI - VILLA LA JOLLA DRIVE, LA JOLLA; HWA SUK  
11 KANG d.b.a. SCHLOTSKY'S DELI - VILLA LA JOLLA DRIVE, LA JOLLA;  
12 COST PLUS WORLD MARKET - VILLA LA JOLLA DRIVE, LA JOLLA; FINS  
13 MEXICAN FOOD - VILLA LA JOLLA DRIVE, LA JOLLA; JAMBA JUICE - VILLP  
14 LA JOLLA DRIVE, LA JOLLA; and CALIFORNIA PIZZA KITCHEN - NOBEL  
15 DRIVE, LA JOLLA facilities accessible pursuant to the Americans  
16 With Disability Act Access Guidelines (ADAAG) and Title 24 of the  
17 California Code of Regulations (also known as the California  
18 Building Code). Such actions and continuing course of conduct by  
19 Defendants, and each of them, evidence despicable conduct in  
20 conscious disregard of the rights and/or safety of deceased  
21 Plaintiff's Member WALTER LEE DEGROOTE, Plaintiff's Member and  
22 Plaintiff DOROTHY DEGROOTE and of other similarly situated  
23 persons, justifying an award of treble damages pursuant to  
24 sections 52(a) and 54.3(a) of the California Civil Code.

25  
26 35. Defendants', and each of their, actions have also been  
27 oppressive to persons with physical disabilities and of other  
28 members of the public, and have evidenced actual or implied

1 malicious intent toward those members of the public, such as  
2 Plaintiffs and other persons with physical disabilities who have  
3 been denied the proper access to which they are entitled by law.  
4 Further, Defendants', and each of their, refusals on a day-to-day  
5 basis to correct these problems evidence despicable conduct in  
6 conscious disregard for the rights of deceased Plaintiff's Member  
7 WALTER LEE DEGROOTE, Plaintiff's Member and Plaintiff DOROTHY  
8 DEGROOTE and other members of the public with physical  
9 disabilities.

10 86. Plaintiffs pray for an award of treble damages against  
11 Defendants, and each of them, pursuant to California Civil Code  
12 sections 52(a) and 54.3(a), in an amount sufficient to make a more  
13 profound example of Defendants and encourage owners and operators  
14 of other public facilities from willful disregard of the rights of  
15 persons with disabilities. Plaintiffs do not know the financial  
16 worth of Defendants, or the amount of treble damages sufficient to  
17 accomplish the public purposes of section 52(a) of the California  
18 Civil Code and section 54.3 of the California Civil Code.

19 37. Wherefore, Plaintiffs pray for damages and relief as  
20 hereinafter stated.

21  
22 **THIRD CAUSE OF ACTION AGAINST ALL DEFENDANTS - Violation of**  
23 **Business and Professions Code section 17200 et seq.**

24 38. Plaintiffs incorporate by reference herein the facts plead  
25 at ¶¶ 16 - 69 above and elsewhere in this complaint.

26 39. Defendants failed to remove obstructions in the disabled  
27 parking, exterior path of travel, elevator, entrance, and restroom  
28 facilities within the common areas of the La Jolla Village Square

1 Shopping Center, in which Defendants LINEN'S & THINGS - VILLA LA  
2 JOLLA DRIVE, LA JOLLA; MARSHALLS OF CALIFORNIA, LLC, d.b.a.  
3 MARSHALLS - VILLA LA JOLLA DRIVE, LA JOLLA; PICK UP STIX - VILLA  
4 LA JOLLA DRIVE, LA JOLLA; RALPHS GROCERY COMPANY - VILLA LA JOLLA  
5 DRIVE, LA JOLLA; STARBUCKS COFFEE #644; PIER I IMPORTS #1034;  
6 TRADER JOE'S - VILLA LA JOLLA DRIVE, LA JOLLA; CHIPOLTE MEXICAN  
7 GRILL - VILLA LA JOLLA DRIVE, LA JOLLA; ROSS DRESS FOR LESS -  
8 VILLA LA JOLLA DRIVE, LA JOLLA; BROWN GROUP RETAIL, INC., d.b.a.  
9 FAMOUS FOOTWEAR - VILLA LA JOLLA DRIVE, LA JOLLA; TAE UN KANG  
10 d.b.a. SCHLOTSKY'S DELI - VILLA LA JOLLA DRIVE, LA JOLLA; HWA SUK  
11 KANG d.b.a. SCHLOTSKY'S DELI - VILLA LA JOLLA DRIVE, LA JOLLA;  
12 COST PLUS WORLD MARKET - VILLA LA JOLLA DRIVE, LA JOLLA; FINS  
13 MEXICAN FOOD - VILLA LA JOLLA DRIVE, LA JOLLA; JAMBA JUICE - VILLA  
14 LA JOLLA DRIVE, LA JOLLA; and CALIFORNIA PIZZA KITCHEN - NOBEL  
15 DRIVE, LA JOLLA, establishments are located. Defendants failed to  
16 remove obstructions in the entrance and interior path of travel  
17 facilities within Defendants' LINEN'S & THINGS - VILLA LA JOLLA.  
18 DRIVE, LA JOLLA, establishment. Defendants failed to remove  
19 obstructions in the entrance, interior path of travel, and  
20 restroom facilities within Defendants' MARSHALLS OF CALIFORNIA,  
21 LLC, d.b.a. MARSHALLS - VILLA LA JOLLA DRIVE, LA JOLLA,  
22 establishment. Defendants failed to remove obstructions in the  
23 entrance, interior path of travel, and public pay telephone  
24 facilities within Defendants' PICK UP STIX - VILLA LA JOLLA DRIVE,  
25 LA JOLLA, establishment. Defendants failed to remove obstructions  
26 in the entrance, interior path of travel, and restroom facilities  
27 within Defendants' RALPHS GROCERY COMPANY - VILLA LA JOLLA DRIVE,  
28

1 LA JOLLA, establishment. Defendants failed to remove obstructions  
2 in the entrance, interior path of travel, and restroom facilities  
3 within Defendants' STARBUCKS COFFEE #644, establishment.

4 Defendants failed to remove obstructions in the entrance and  
5 interior path of travel facilities within Defendants' PIER I  
6 IMPORTS #1034, establishment. Defendants failed to remove  
7 obstructions in the entrance and interior path of travel

8 facilities within Defendants' TRADER JOE'S - VILLA LA JOLLA DRIVE,  
9 LA JOLLA, establishment. Defendants failed to remove obstructions  
10 in the entrance, bar, and public seating facilities within

11 Defendants' CHIPOLTE MEXICAN GRILL - VILLA LA JOLLA DRIVE, LA  
12 JOLLA, establishment. Defendants failed to remove obstructions in  
13 the entrance, interior path of travel, restroom, and fitting room

14 facilities within Defendants' ROSS DRESS FOR LESS - VILLA LA JOLLA  
15 DRIVE, LA JOLLA, establishment. Defendants failed to remove  
16 obstructions in the entrance and interior path of travel

17 facilities within Defendants' BROWN GROUP RETAIL, INC., d.b.a.  
18 FAMOUS FOOTWEAR - VILLA LA JOLLA DRIVE, LA JOLLA, establishment.  
19 Defendants failed to remove obstructions in the entrance, interior

20 path of travel, and customer service counter facilities within  
21 Defendants' TAE UN KANG d.b.a. SCHLOTSKY'S DELI - VILLA LA JOLLA  
22 DRIVE, LA JOLLA; and HWA SUK KANG d.b.a. SCHLOTSKY'S DELI - VILLA

23 LA JOLLA DRIVE, LA JOLLA, establishment. Defendants failed to  
24 remove obstructions in the interior path of travel facilities  
25 within Defendants' COST PLUS WORLD MARKET - VILLA LA JOLLA DRIVE,  
26 LA JOLLA, establishment. Defendants failed to remove obstructions

27 in the entrance, customer service counter, and interior path of  
28



1 travel facilities within Defendants' FINS MEXICAN FOOD - VILLA LA  
2 JOLLA DRIVE, LA JOLLA, establishment. Defendants failed to remove  
3 obstructions in the entrance, interior path of travel, and  
4 restroom facilities within Defendants' JAMBA JUICE - VILLA LA  
5 JOLLA DRIVE, LA JOLLA, establishment. Defendants failed to remove  
6 obstructions in the facilities within Defendants' CALIFORNIA PIZZE  
7 KITCHEN - NOBEL DRIVE, LA JOLLA, establishment.

8 90. Pursuant to federal law, Defendants are required to remove  
9 barriers to their existing facilities. Title III of the American:  
10 With Disabilities Act requires places of public accommodation to  
11 remove architectural barriers that are structural in nature to  
12 existing facilities. [42 United States Code 12182(b)(2)(A)(iv).]  
13 Failure to remove such barriers and disparate treatment against a  
14 person who has a known association with a person with a disability  
15 are forms of discrimination. [See 42 United States Code  
16 12182(b)(2)(A)(iv).] Thus, deceased Plaintiff's Member WALTER LEE  
17 DEGROOTE and Plaintiff's Member and Plaintiff DOROTHY DEGROOTE  
18 were subjected to discrimination in violation of 42 United States  
19 Code 12182(b)(2)(A)(iv) and 42 U.S.C. § 12188 because deceased  
20 Plaintiff's Member WALTER LEE DEGROOTE and Plaintiff's Member and  
21 Plaintiff DOROTHY DEGROOTE were denied equal access to Defendants'  
22 existing facilities. Also, Defendants' facilities failed to  
23 provide full and equal access to Defendants' facility as required  
24 by 42 U.S.C. § 12182(a). Thus, deceased Plaintiff's Member WALTER  
25 LEE DEGROOTE and Plaintiff's Member and Plaintiff DOROTHY DEGROOTE  
26 were subjected to discrimination in violation of 42 United States  
27 Code 12182(b)(2)(A)(iv) and 42 U.S.C. § 12188 because deceased  
28

1 Plaintiff's Member WALTER LEE DEGROOTE and Plaintiff's Member and  
2 Plaintiff DOROTHY DEGROOTE were denied equal access to Defendants  
3 existing facilities. Additionally, as a result of said access  
4 barriers, Defendants failed and refused to provide a reasonable  
5 alternative by modifying its practices, policies and procedures in  
6 that they failed to have a scheme, plan, or design to assist  
7 deceased Plaintiff's Member WALTER LEE DEGROOTE, Plaintiff's  
8 Member and Plaintiff DOROTHY DEGROOTE and/or others similarly  
9 situated in entering and utilizing Defendants' services, as  
10 required by 42 U.S.C. § 12188(a). Thus, deceased Plaintiff's  
11 Member WALTER LEE DEGROOTE and Plaintiff's Member and Plaintiff  
12 DOROTHY DEGROOTE were subjected to discrimination in violation of  
13 42 United States Code 12182(b)(2)(A)(iv) and 42 U.S.C. § 12188  
14 because deceased Plaintiff's Member WALTER LEE DEGROOTE and  
15 Plaintiff's Member and Plaintiff DOROTHY DEGROOTE were denied  
16 equal access to Defendants' existing facilities.

17  
18 31. Pursuant to state law, Defendants are also required to remove  
19 barriers to their existing facilities. These violations denied  
20 deceased Plaintiff's Member WALTER LEE DEGROOTE and Plaintiff's  
21 Member and Plaintiff DOROTHY DEGROOTE full and equal access to  
22 Defendants' facilities. Thus, deceased Plaintiff's Member WALTER  
23 LEE DEGROOTE and Plaintiff's Member and Plaintiff DOROTHY DEGROOTE  
24 were subjected to discrimination pursuant to Civil Code §§ 51, 52,  
25 and 54.1 because deceased Plaintiff's Member WALTER LEE DEGROOTE  
26 and Plaintiff's Member and Plaintiff DOROTHY DEGROOTE were denied  
27 full, equal and safe access to Defendants' facility. Further,  
28 Defendants' facility, and other goods, services, and/or facilities

1 provided to the public by Defendants are not accessible to and  
2 usable by persons with disabilities as required by Health and  
3 Safety Code § 19955 which requires private entities to make their  
4 facility accessible before and after remodeling, and to remove  
5 architectural barriers on and after AB 1077 went into effect.  
6 Additionally, Defendants failed and refused to provide a  
7 reasonable alternative by modifying its practices, policies, and  
8 procedures in that they failed to have a scheme, plan, or design  
9 to assist deceased Plaintiff's Member WALTER LEE DEGROOTE,  
10 Plaintiff's Member and Plaintiff DOROTHY DEGROOTE and/or others  
11 similarly situated in entering and utilizing Defendants' services  
12 as required by Civil Code § 54.1. Thus, deceased Plaintiff's  
13 Member WALTER LEE DEGROOTE and Plaintiff's Member and Plaintiff  
14 DOROTHY DEGROOTE were subjected to discrimination in violation of  
15 Civil Code § 54.1. Also, under the Unruh Act, Defendants violated  
16 the Civil Code § 51 by failing to comply with 42 United States  
17 Code 12182(b)(2)(A)(iv), Defendants did and continue to  
18 discriminate against deceased Plaintiff's Member WALTER LEE  
19 DEGROOTE, Plaintiff's Member and Plaintiff DOROTHY DEGROOTE and  
20 persons similarly situated in violation of Civil Code §§ 51, 52,  
21 and 54.1. Further, Defendants had actual knowledge of their  
22 barrier removal duties under the Americans with Disabilities Act,  
23 the California Civil Code, and the California Health & Safety Code  
24 before January 26, 1992.

25  
26 92. Business and Professions code section 17200 defines "unfair  
27 competition" and prohibited activities as, ". . . **any unlawful,**  
28 **unfair or fraudulent business act or practice** and unfair,

1 deceptive, untrue or misleading advertising and any act prohibited  
2 by Chapter 1 (commencing with Section 17500) of Part 3 of Division  
3 7 of the Business and Professions Code." (emphasis added).

4 Defendants' acts and omissions alleged herein are violations of  
5 the above-enumerated federal and state statutory requirements and  
6 public policy and therefore constitute unfair competition and/or  
7 prohibited activities as such violations are unlawful, unfair or  
8 fraudulent business acts or practices. Defendants' alleged  
9 unlawful, unfair, or fraudulent business acts or practices are  
10 specifically prohibited by the specific introductory language of  
11 B&P section 17200 that is stated in the conjunctive.

12 Consequently, Plaintiffs allege that Defendants' acts and  
13 missions constitute a violation specifically of this section  
14 17200 of the Business and Professions Code.

15 93. Plaintiffs seek injunctive relief requiring Defendants to  
16 remedy the disabled access violations present at the Defendants'  
17 Facilities. Ancillary to this injunctive relief, Plaintiffs also  
18 request restitution for amounts paid by deceased Plaintiff's  
19 Member WALTER LEE DEGROOTE and Plaintiff's Member and Plaintiff:  
20 RICHARD DEGROOTE who attempted to visit and patronize Defendants'  
21 Facilities during the time period that the subject premises have  
22 been in violation of the disabled access laws of the State of  
23 California.

24 94. Plaintiffs seek, on behalf of the general public, injunctive  
25 relief requiring Defendants to comply with the disabled access  
26 laws of the State of California at facilities throughout the State  
27 of California built, owned, operated, and/or controlled by  
28

1 Defendants.

2 95. WHEREFORE, Plaintiffs pray for judgment as hereinafter set  
3 forth.

4 FOURTH CAUSE OF ACTION AGAINST ALL DEFENDANTS- Negligence

5 96. Based on the facts plead at ¶¶ 16 - 69 above and elsewhere  
6 in this complaint, Defendants owed deceased Plaintiff's Member  
7 WALTER LEE DEGROOTE and Plaintiff's Member and Plaintiff DOROTHY  
8 DEGROOTE a statutory duty to make their facility accessible and  
9 owed deceased Plaintiff's Member WALTER LEE DEGROOTE and  
10 Plaintiff's Member and Plaintiff DOROTHY DEGROOTE a duty to keep  
11 deceased Plaintiff's Member WALTER LEE DEGROOTE and Plaintiff's  
12 Member and Plaintiff DOROTHY DEGROOTE reasonably safe from known  
13 dangers and risks of harm. This said duty arises by virtue of  
14 legal duties proscribed by various federal and state statutes  
15 including, but not limited to, ADA, ADAAG, Civil Code 51, 52, 54,  
16 54.1 and Title 24 of the California Administrative Code and  
17 applicable 1982 Uniform Building Code standards as amended.

18 97. Title III of the ADA mandates removal of architectural  
19 barriers and prohibits disability discrimination. As well,  
20 Defendants' facility, and other goods, services, and/or facilities  
21 provided to the public by Defendants are not accessible to and  
22 usable by persons with disabilities as required by Health and  
23 Safety Code § 19955 which requires private entities to make their  
24 facility accessible before and after remodeling, and to remove  
25 architectural barriers on and after AB 1077 went into effect.

26 98. Therefore, Defendants engaged in discriminatory conduct in  
27 that they failed to comply with known duties under the ADA, ADAAG,  
28

1 Civil Code 51, 52, 54, 54.1, ADAAG, and Title 24, and knew or  
2 should have known that their acts of nonfeasance would cause  
3 deceased Plaintiff's Member WALTER LEE DEGROOTE and Plaintiff's  
4 Member and Plaintiff DOROTHY DEGROOTE emotional, bodily and  
5 personal injury. Plaintiffs allege that there was bodily injury  
6 in this matter because when deceased Plaintiff's Member WALTER LEE  
7 DEGROOTE attempted to enter, use, and exit Defendants'  
8 establishment, deceased Plaintiff's Member WALTER LEE DEGROOTE  
9 experienced pain in his legs, back, arms, shoulders, and wrists.  
10 Plaintiffs further allege that such conduct was done in reckless  
11 disregard of the probability of said conduct causing deceased  
12 Plaintiff's Member WALTER LEE DEGROOTE and Plaintiff's Member and  
13 Plaintiff DOROTHY DEGROOTE to suffer bodily or personal injury,  
14 anger, embarrassment, depression, anxiety, mortification,  
15 humiliation and/or distress. Plaintiffs allege that such conduct  
16 caused deceased Plaintiff's Member WALTER LEE DEGROOTE and  
17 Plaintiff's Member and Plaintiff DOROTHY DEGROOTE to suffer the  
18 injuries of mental and emotional distress, including, but not  
19 limited to, anger, embarrassment, depression, anxiety,  
20 mortification, humiliation, distress, and fear of physical injury.  
21 Plaintiffs additionally allege that such conduct caused deceased  
22 Plaintiff's Member WALTER LEE DEGROOTE and Plaintiff's Member and  
23 Plaintiff DOROTHY DEGROOTE to suffer damages as a result of these  
24 injuries.  
25

26 DEMAND FOR JUDGMENT FOR RELIEF:

27 A. For general damages pursuant to Cal. Civil Code §§ 52, 54.3,  
28

1 3281, and 3333;

2 B. For \$4,000 in damages pursuant to Cal. Civil Code § 52 for  
3 each and every offense of Civil Code § 51, Title 24 of the  
4 California Building Code, ADA, and ADA Accessibility Guidelines;

5 C. In the alternative to the damages pursuant to Cal. Civil  
6 Code § 52 in Paragraph B above, for \$1,000 in damages pursuant to  
7 Cal. Civil Code § 54.3 for each and every offense of Civil Code  
8 54.1, Title 24 of the California Building Code, ADA, and ADA  
9 Accessibility Guidelines;  
10

11 D. For injunctive relief pursuant to 42 U.S.C. § 12188(a) and  
12 Cal. Civil Code § 55. Plaintiffs request this Court enjoin  
13 Defendants to remove all architectural barriers in, at, or on  
14 their facilities related to the following: Space Allowance and  
15 Reach Ranges, Accessible Route, Protruding Objects, Ground and  
16 Floor Surfaces, Parking and Passenger Loading Zones, Curb Ramps,  
17 Ramps, Stairs, Elevators, Platform Lifts (Wheelchair Lifts),  
18 Windows, Doors, Entrances, Drinking Fountains and Water Coolers,  
19 Water Closets, Toilet Stalls, Urinals, Lavatories and Mirrors,  
20 Sinks, Storage, Handrails, Grab Bars, and Controls and Operating  
21 Mechanisms, Alarms, Detectable Warnings, Signage, and Telephones

22  
23 E. For attorneys' fees pursuant to 42 U.S.C. § 1988, 42 U.S.C.  
24 § 12205, and Cal. Civil Code § 55;

25 F. For treble damages pursuant to Cal. Civil Code §§ 52(a),  
26 and 54.3 (a);

27 G. For Restitution pursuant to Business and Professions secti  
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17200;

H. A Jury Trial and;

I. For such other further relief as the court deems proper.

Respectfully submitted:

PINNOCK & WAKEFIELD, A.P.C.

Dated: August 7, 2003

By: 

\_\_\_\_\_  
THEODORE A. PINNOCK, ESQ.  
DAVID C. WAKEFIELD, ESQ.  
MICHELLE L. WAKEFIELD, ESQ.  
Attorneys for Plaintiffs



ATTACHMENT TO CIVIL COVER SHEET

DEFENDANTS :

LINEN'S & THINGS - VILLA LA JOLLA DRIVE, LA JOLLA; LNT, INC.; MARSHALLS OF CALIFORNIA, LLC, d.b.a. MARSHALLS - VILLA LA JOLLA DRIVE, LA JOLLA; PICK UP STIX - VILLA LA JOLLA DRIVE, LA JOLLA; RECODO PROPERTIES, INC. f.k.a. PICK UP STIX, INC.; RALPHS GROCERY COMPANY - VILLA LA JOLLA DRIVE, LA JOLLA; RALPHS GROCERY COMPANY, INC.; STARBUCKS COFFEE #644; STARBUCKS CORPORATION; PIER I IMPORTS #1034; PIER 1 IMPORTS (U.S.), INC.; TRADER JOE'S - VILLA LA JOLLA DRIVE, LA JOLLA; TRADER JOE'S COMPANY, INC.; CHIPOLTE MEXICAN GRILL - VILLA LA JOLLA DRIVE, LA JOLLA; CHIPOLTE MEXICAN GRILL, INC.; ROSS DRESS FOR LESS - VILLA LA JOLLA DRIVE, LA JOLLA; ROSS STORES, INC.; BROWN GROUP RETAIL, INC., d.b.a. FAMOUS FOOTWEAR - VILLA LA JOLLA DRIVE, LA JOLLA; TAE UN KANG d.b.a. SCHLOTSKY'S DELI - VILLA LA JOLLA DRIVE, LA JOLLA; HWA SUK KANG d.b.a. SCHLOTSKY'S DELI - VILLA LA JOLLA DRIVE, LA JOLLA; COST PLUS WORLD MARKET - VILLA LA JOLLA DRIVE, LA JOLLA; COST PLUS, INC.; FINS MEXICAN FOOD - VILLA LA JOLLA DRIVE, LA JOLLA; BOLD MOVE, INC.; JAMBA JUICE - VILLA LA JOLLA DRIVE, LA JOLLA; JAMBA JUICE COMPANY, INC.; CALIFORNIA PIZZA KITCHEN - NOBEL DRIVE, LA JOLLA; CALIFORNIA PIZZA KITCHEN, INC.; 8650 VILLA LA JOLLA, INC.; **And** DOES 1 THROUGH 10, Inclusive.

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CIVIL COVER SHEET

This 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 1914, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

FILED

09 AUG 08 PM 3:55

I (a) PLAINTIFFS ORGANIZATION FOR ACCESSIBLE RIGHTS IN THE NEW MILLENNIUM SUING ON BEHALF OF THE ESTATE OF WALTER LEE DEGROOTE, DOROTHY DEGROOTE, AND ITS MEMBERS; THE ESTATE OF WALTER LEE DEGROOTE; and DOROTHY DEGROOTE, An Individual

DEFENDANTS PLEASE SEE ATTACHMENT CLERK, U.S. DISTRICT COURT COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT San Diego (IN U.S. PLAINTIFF CASES ONLY)

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF San Die o (EXCEPT IN U.S. PLAINTIFF CASES)

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

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER) Michael A. Winkler Esq. Pinnock & Wakefield, A.P.C. 3033 Fifth Avenue, Suite 410 San Diego, California 92103 Telephone: (619) 858-3671; Facsimile: (619) 858-3646

ATTORNEYS (IF KNOWN) '03 ON 1587 W NLS

II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)

TIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- 1 U.S. Government Plaintiff 8 1 Federal Question (U.S. Government Not a Party) 2 U.S. Government Defendant 4 Diversity (Indicate Citizenship of Parties in Item 111)

- Citizen of This State Citizen of Another State Citizen or Subject of a Foreign Country PT DEF 1 Incorporated or Principal Place of Business in This State 2 Incorporated and Principal Place of Business in Another State 3 Foreign Nation

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

Table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, BANKRUPTCY, FEDERAL TAX SUITS, OTHER STATUTES. Includes checkboxes for various legal categories like Insurance, Land Condemnation, Personal Injury, etc.

VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

- 1 Original Proceeding 2 Removal from State Court 0 1 Remanded from Appellate Court 4 Reinstated or Recopened 5 Transferred from another district (specify) 6 Multidistrict Litigation 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER f.r.c.p. 23 DEMAND \$ TO BE DETERMINED AT TRIAL JURY DEMAND: YES UNO

VIII. RELATED CASE(S) IF ANY (See Instructions): JUDGE DATE August 7, 2003 SIGNATURE OF ATTORNEY OF RECORD

Handwritten signature: CB # 150 94318 08/08/03