

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF ORANGE
NORTH JUSTICE CENTER**

MINUTE ORDER

Date: 12/17/2009

Time: 11:12:00 AM

Dept: N15

Judicial Officer Presiding: Frederick P. Aguirre

Clerk: Joanne M Schwartz

Reporter/ERM:

Bailiff/Court Attendant:

Case No: **30-2008-00099668-CL-CR-NJC** Case Init. Date: 09/11/2008

Case Title: **Mundy vs. Highko, Inc.**

Case Category: Civil - Limited

Case Type: Civil Rights

APPEARANCES

There are no appearances by any party.

Court having taken this matter under submission on 12/15/09, now rules accordingly:

Statement of Decision

Thomas Mundy testified and the court admitted the following exhibits: a copy of a receipt for \$5.39 from Aria Restaurant, 7814 Orangethorpe Avenue, Buena Park, California, dated June 14, 2008; a copy of a photograph taken by Thomas Mundy of the men's bathroom mirror over the sink at Aria Restaurant; a copy of a receipt for \$15.21 from Aria Restaurant dated October 7, 2009; and a copy of a photograph taken by Thomas Munday of the same men's bathroom on October 7, 2009 depicting new wall tile, new soap dispenser, new faucet fixtures and a new mirror.

The parties stipulated through counsel that Defendant Brooks Investment of Buena Park, L.P. is the owner of the subject premises.

Thomas Mundy testified that on June 14, 2008 he was and still is a paraplegic and was and still is confined to a wheelchair. He stated that he was inspector of facilities for disabled persons in Hawaii but that he is now retired and only receives Social Security benefits. He testified that on June 14, 2008 he purchased food at the Aria Restaurant and used the men's bathroom at the restaurant. He stated he went in to wash his hands, that he was able to reach the soap dispenser, wash his hands, and that he pulled the paper towels from the dispenser. He estimated that the sink at that time was 28 inches high and that the tile over the sink was 4 inches by 4 inches.

The court finds that the mirror, therefore, was located approximately 40 inches from the floor.

The court finds that the Plaintiff was disabled on June 14, 2008 and that the Defendant Brooks Investment of Buena Park, L.P. was the owner of the subject place of public accomodation. The court finds that the mirror was accessible for use by the Plaintiff. The court does not find that the mirror was an architectural barrier. The court finds that the Plaintiff was not deterred from accessing the subject place of accommodation on June 14, 2008. Plaintiff was not injured on that date.

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Judgment for the Defendant. No costs or attorney fees are awarded.

Court orders Clerk's Office to give notice.