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7
8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA

10 C. JEFFERY EVANS) Case No. C-03-0977 WDB
11)
12 Plaintiffs,) Civil Rights
13 v.)
14) COMPLAINT FOR INJUNCTIVE RELIEF
15 THE MONTEREY INSTITUTE OF) AND DAMAGES: DENIAL OF CIVIL
16 INTERNATIONAL STUDIES, a California) RIGHTS OF A DISABLED PERSON IN
17 corporation, and DOES ONE to FIFTY,) VIOLATION OF THE AMERICANS WITH
18 inclusive,) DISABILITIES ACT OF 1990; VIOLATION
19) OF CALIFORNIA'S CIVIL RIGHTS
20 Defendants.) STATUTES; VIOLATION OF §504 OF THE
21) REHABILITATION ACT (29 USC §794)
22)
23)
24)
25)
26)
27)
28) JURY TRIAL REQUESTED

19
20 Plaintiffs **C. JEFFERY EVANS** complain of defendants **THE MONTEREY INSTITUTE**
21 **OF INTERNATIONAL STUDIES, a California corporation, and DOES ONE to FIFTY,**
22 **inclusive,** and alleges as follows:

23 **JURISDICTION AND VENUE**

24 1. The Court has jurisdiction of this action pursuant to 28 **USC** § 1331 for violations
25 of the **Americans with Disabilities Act of 1990**, (42 **USC** § 12101, *et seq.*) Pursuant to
26 pendant jurisdiction, attendant and related causes of action, arising from the same facts, are
27 also brought under California law, including, but not limited to, violations of **California Health**
28

1 **& Safety Code** § 19955, *et seq.*, including **California Code of Regulations**, Title 24, § 19959,
2 **California Civil Code** §§ 51, 51.5, 52(a), 52.1, 54, 54.1, 54.3 and 55.

3 2. Venue is proper in this court pursuant to 28 **USC** § 1391(b) and is founded on the
4 fact that the real property which is the subject of this action is located in this district, at
5 Monterey, California, and that Plaintiffs' causes of action arose in this district.
6

7 **INTRODUCTION**

8 3. **MONTEREY INSTITUTE** is located in Monterey, California and covers several
9 blocks with numerous buildings. Said Institute is owned and operated by Defendants **THE**
10 **MONTEREY INSTITUTE OF INTERNATIONAL STUDIES**, a California corporation, and
11 **DOES ONE to FIFTY, inclusive**.

12 Defendants **THE MONTEREY INSTITUTE OF INTERNATIONAL STUDIES**, a
13 **California corporation**, and **DOES ONE to FIFTY, inclusive**, operate an establishment for
14 services to the public and at which Defendants failed to provide barrier free access to said
15 establishment in conformity with both Federal and California legal requirements. Further,
16 Defendants failed to provide compliance as follows:
17

18 **A. 484 Van Buren Street, Apartment 4**

- 19 1. Entrance Door.
- 20 a. Landing. The entrance door does not have a level landing in
21 violation of California Title 24 § 1120A.2.4.2, 1133B.2.4, ADAAG
22 4.13.6 and UFAS 4.13.6.
- 23 b. Hardware. The door hardware requires tight pinching and turning of
24 the wrist in violation of California Title 24 § 1120A.2.5.1 and
25 1133B.2.5.1, ADAAG 4.13.9 and UFAS 4.13.9
- 26 2. Parking. Accessible parking is not provided in violation of California Title 24
27 § 1129B.1, Table 11B-7 and ADAAG 4.1.2(5)(a)
- 28 3. Laundry.
- a. Loading Type. The washing machine is not front loading as required
by UFAS 4.34.7.2.

1 b. Laundry Controls.

- 2 (1) Height: The highest operable part of the laundry controls is
3 greater than 34" over a reach of 24" in violation of UFAS
4 4.34.6.3, 4.27.3 and 4.2.6.
5 (2) Control Type: The controls require tight grasping in violation
6 of UFAS 4.34.6.3 and 4.27.4.

- 7 4. Accessible Route. The route between Apartment 4 and the sidewalk is
8 through the driveway in violation of California Title 24 § 1107A.2.1, 1129B.1,
9 1114B.1.2 and ADAAG 4.1.2(1). UFAS 4.34.2 requires dwelling units to be
10 an accessible route.

11 **B. 425 Van Buren Street, Segal Building: Library**

- 12 1. Parking. Accessible parking is not provided in violation of California Title 24
13 § 1129B.1, Table 11B-7 and ADAAG 4.1.2(5)(a)

14 2. Accessible Route

- 15 a. Connecting Ramp to Samson Student Center: The ramp has a slope
16 of 6% percent and does not have handrails in violation of California
17 Title 24 § 1133B.5.5.1 and ADAAG 4.8.5.

18 b. Connecting Route and Ramp to Sidewalk

- 19 (1) Slope. The ramp from the Library entrance to the sidewalk
20 involves ramps with slopes greater than 8.3% in violation of
21 California Title 24 § 1133B.5.1 & 1133B.5.3 and ADAAG 4.8.2.
22 (2) Handrails. No handrails are provided in violation of California
23 Title 24 § 1133B.5.5.1 and ADAAG 4.8.5.

- 24 3. Drinking Fountain. The drinking fountains project more than 4" into the
25 accessible route in violation of California Title 24 § 1117B.1.2

- 26 4. Computers. The computers provided for the students in the library are 36"
27 or more high. ADAAG 5.1 and California Title 24 § 1122B.1 require that
28 where fixed tables are provided, at least 5%, but not less than 1, shall be
29 accessible. California Title 24 § 1122B. 4 and ADAAG 4.32.4 requires that
30 the tops of accessible tables and counters be from 28" to 34" high.
31 Note. In addition, the computers need to be available to persons with
32 disabilities under the programmatic requirements of Section 504 and the
33 nondiscriminatory provisions of Title III of the ADA.

- 34 5. Counter. The front counter of the library is more than 36" high in violation of
35 California Title 24 § 1122B.4, ADAAG 7.2. See 28 CFR 36.103(c).

36 **C. 442 ½ Van Buren Street, Holland Center**

37 An accessible route is not provided to the Holland Center.

- 38 1. Ramp. There is a courtyard below the Holland Center which is reachable by
39 a noncompliant ramp. The ramp does not have handrails. Handrails are
40 required on both sides. See California Title 24 § 1133B.5.5.1 and ADAAG
41 4.8.5.

2. Restrooms. The restrooms off the courtyard are not accessible.
 - a. Accessible Route. An accessible route to the restroom is not provided. The corridor in front of the women's restroom is less than 44" in width; the door has a closer and is approached from the hinge side in violation of California Title 24 § 1133B.2; 28 CFR 36.103(c) for Title III.
 - b. Entrance Door. The women's door opening width is 26" in violation of California Title 24 § 1133B.1.1.1.1 and ADAAG 4.13.5

D. 440 Van Buren Street, Student Affairs Building

1. Ramp to Housing Office.
 - a. Ramp Slope. The ramp has a slope of 9.6% in violation of California Title 24 § 1133B.5.1 & 1133B.5.3 and ADAAG 4.8.2.
 - b. Handrails. Handrails are not provided in violation of California Title 24 § 1133B.5.5.1 and ADAAG 4.8.5.
2. Entrance to Housing Office.

There are steps to the Housing Office which make it inaccessible in violation of California Title 24 § 1117B.5.7 and ADAAG 4.1.6(h). Note: It is possible that access to the housing office may be gained by entering through the back of the building, though that is not certain. If such access is available, a sign should be posted stating such.

E. 462 Van Buren, C Classrooms, ESL Faculty Offices, Kinnoul House

No access is provided to 462 Van Buren.

F. 460 Pierce Street, Lara Soto Adobe, Admissions Office

1. Signs. No signs are available to direct people with disabilities to an accessible entrance in violation of California Title 24 § 1117B.5.7 and ADAAG 4.1.6(h).
2. Ramp. The ramp from the sidewalk to the front of the Admissions Office has a 13% slope in violation of California Title 24 § 1133B.5.1 & 1133B.5.3 and ADAAG 4.8.2.

G. 460 Pierce Street, Campus Security Office

The Campus Security Office is not accessible as required by California Title 24 and the ADA.

H. 449 Pierce Street, Casa Fuente

1. Parking. The slope of the accessible parking spaces is greater than 2% in violation of California Title 24 § 1129B.4.4 and ADAAG 4.6.3
2. Ramp.
 - a. Handrail Extensions. The handrails do not extend 12" beyond the top and bottom of the ramp in violation of California Title 24 §

- 1133B.5.5.1 and ADAAG 4.8.5(2).
 - b. The handrails have a diameter greater than 2" in violation of California Title 24 § 1133B.5.5.1 and ADAAG 4.26.2.
 - c. The slope of the ramp is 11.8% in violation of California Title 24 § 1133B.5.1 & 1133B.5.3 and ADAAG 4.8.2.
3. Bottom of Doors. The bottom 10" of the doors on the push side are not smooth in violation of California Title 24 § 1133B.2.6
 4. Stairs
 - a. Handrail Extensions. The handrails do not extend 12" beyond the top and bottom treads in violation of California Title 24 § 1133B.4.2.2 and ADAAG 4.9.4(2).
 - b. Handrail Diameter. The handrails have a diameter greater than 2" in violation of California Title 24 § 1133B.4.2.6.1 and ADAAG 4.26.2.
 - c. Tread Striping. The treads do not have a stripe in a different perception value along the outer edge as is required by CA Title 24 1133B.4.4. This has been a requirement in California since the adoption of the 1982 CA Title 24 Section 2-3305(r).
 5. Accessible Route. An accessible route from the public sidewalks to the building is not provided, as required by CA Title 24 1114B.1.2 and ADAAG 4.1.6(b) and 4.1.2(1). This has been a requirement in California since the adoption of the 1982 CA Title 24 2-7101.

I. 400 Pacific Street, Center for Nonproliferation Studies

1. Parking. Accessible parking is not provided.
2. Curb Ramp. The ramp from the parking to the building has a slope of 26.8% in violation of California Title 24 § 1133B.5.1 & 1133B.5.3 and ADAAG 4.8.2.

J. 499 Pierce Street, McCone Building

1. Jean Arthur Atrium Gallery
 - a. The counter in the gallery is 42" high in violation of California Title 24 § 1122B.4, ADAAG 7.2

K. Parking Lots

1. Student Parking off Van Buren Street. Accessible parking is not provided in violation of California Title 24 § 1129B.1, Table 11B-7 and ADAAG 4.1.2(5)(a)
2. Staff Parking between Van Buren and Piece Streets. Accessible parking is not provided in violation of California Title 24 § 1129B.1, Table 11B-7 and ADAAG 4.1.2(5)(a)
3. Parking Off Pierce Street. There is 1 accessible parking space but it does not have an accessible loading aisle. Van parking spaces must have a loading and unloading aisle (recommended on passenger side), a minimum of eight feet wide. See California Title 24 § 1129B.4.2 and ADAAG 4.6.3.

1 The above barriers interfered with Plaintiffs' access of the facilities and continue to deter
2 Plaintiffs from visiting and utilizing said facilities, and as a legal result, Plaintiff **C. JEFFERY**
3 **EVANS** suffered violations of his civil rights to full and equal enjoyment of goods, services,
4 facilities and privileges, and has and will suffer embarrassment and humiliation.

5
6 **FACTUAL ALLEGATIONS**

7 4. Plaintiff **C. JEFFERY EVANS** is, and at all times relevant to this Complaint was,
8 a “physically handicapped person, “physically disabled person,” and a “person with a
9 disability,” as these terms are used under California law and under federal laws including, but
10 not limited to, Title III of the ***Americans with Disabilities Act of 1990***. (The terms “physically
11 handicapped person,” “physically disabled person,” and a “person with a disability” will be used
12 interchangeably throughout this Complaint.) Plaintiffs each are a “person with a disability,” as
13 defined by all applicable California and United State’s laws. Plaintiff **C. JEFFERY EVANS** is
14 severely limited in the use of his legs.
15

16 5. Defendants **THE MONTEREY INSTITUTE OF INTERNATIONAL STUDIES, a**
17 **California corporation, and DOES ONE to FIFTY, inclusive**, at all times relevant herein
18 were and are the owners and operators; lessors and/or lessees, franchisers and/or
19 franchisees, of public facilities known as the "**MONTEREY INSTITUTE**", located at Monterey,
20 California, subject to the requirements of California state law requiring full and equal access to
21 public facilities pursuant to ***California Health & Safety Code* § 19955, et seq., *California***
22 ***Civil Code* §§ 51, 51.5, 52(a), 52.1, 54, 54.1, 54.3 and 55**, and subject to Title III of the
23 ***Americans with Disabilities Act of 1990***, and to all other legal requirements referred to in
24 this Complaint. Plaintiff does not know the relative responsibilities of defendants in the
25 operation of the facilities herein complained of, and alleges a joint venture and common
26 enterprise by all such defendants.
27
28

1 6. Defendants **THE MONTEREY INSTITUTE OF INTERNATIONAL STUDIES, a**
2 **California corporation, and DOES ONE to FIFTY, inclusive** (hereinafter alternatively
3 referred to collectively as “defendants”), at all times relevant herein were and are owners,
4 possessors, builders and keepers of the “**MONTEREY INSTITUTE** ” in Monterey, California.

5 7. Defendants **THE MONTEREY INSTITUTE OF INTERNATIONAL STUDIES, a**
6 **California corporation, and DOES ONE to FIFTY, inclusive** are the owners and operators of
7 the subject “**MONTEREY INSTITUTE**”, at all times relevant to this Complaint. Plaintiff is
8 informed and believes that each of the defendants herein is the agent, employee or
9 representative of each of the other defendants, and performed all acts and omissions stated
10 herein within the scope of such agency or employment or representative capacity and is
11 responsible in some manner for the acts and omissions of the other defendants in legally
12 causing the damages complained of herein, and have approved or ratified each of the acts or
13 omissions of each other defendant, as herein described.

14 8. Plaintiff **C. JEFFERY EVANS** does not know the true names and capacities of
15 Defendants **THE MONTEREY INSTITUTE OF INTERNATIONAL STUDIES, a California**
16 **corporation, and DOES ONE to FIFTY, inclusive**, their business capacities, their ownership
17 connection to the property and business, nor their relative responsibilities in causing the
18 access violations herein complained of, and alleges a joint venture and common enterprise by
19 all such defendants. Plaintiff is informed and believes that each of the defendants herein,
20 including DOES ONE to FIFTY, inclusive, is the agent, ostensible agent, master, servant,
21 employer, employee, representative, franchiser, franchisee, joint venturer, partner, and
22 associate, or such similar capacity, of each of the other defendants, and was at all times acting
23 and performing, or failing to act or perform, with the authorization, consent, permission or
24 ratification of each of the other defendants, and is responsible in some manner for the acts and
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1 omissions of the other defendants in legally causing the violations and damages complained of
2 herein, and have approved or ratified each of the acts or omissions of each other defendant,
3 as herein described. Plaintiff will seek leave to amend this Complaint when the true names,
4 capacities, connections and responsibilities of Defendants **THE MONTEREY INSTITUTE OF**
5 **INTERNATIONAL STUDIES, a California corporation, and DOES ONE to FIFTY, inclusive,**
6 are ascertained.
7

8 9. Plaintiff is informed and believes that all named defendants, including DOES
9 ONE to FIFTY, inclusive, conspired to commit the acts described herein, or alternatively, aided
10 and abetted one another in the performance of the wrongful acts hereinafter alleged.

11 10. Defendants **THE MONTEREY INSTITUTE OF INTERNATIONAL STUDIES, a**
12 **California corporation, and DOES ONE to FIFTY, inclusive,** are the owners and operators
13 of "**MONTEREY INSTITUTE**", located at Monterey, California. This Institute, including, but not
14 limited to, parking spaces and access aisles and access routes, are each a part of a "public
15 accommodation or facility" subject to the requirements of **California Health & Safety Code §**
16 **19955, et seq.**, and of **California Civil Code §§ 51, 52(a), 54, 54.1, et seq.** On information
17 and belief, this "**MONTEREY INSTITUTE**" has since July 1, 1970, undergone "alterations
18 structural repairs, and additions" each of which has subjected the Institute's parking,
19 handicapped signage, paths of travel, classrooms, labs, bookstores, offices, and public
20 restrooms to handicapped access requirements per **California Health & Safety Code §**
21 **19959,** and applicable portions of **California Code of Regulations, Title 24,** (the State
22 Building Code).
23
24

25 11. Commencing on or about April, 2001 and continuing through May, 2002, Plaintiff
26 **C. JEFFERY EVANS,** made inquiries and communicated with personnel of the "**MONTEREY**
27 **INSTITUTE**" in Monterey, California for the purpose of enrolling in a course of study, first in the
28

1 summer program of 2001, then for the winter program of 2002, and finally for the summer
2 program of 2002. In October, 2002, Plaintiff visited the premises of the "**MONTEREY**
3 **INSTITUTE**". Defendants **THE MONTEREY INSTITUTE OF INTERNATIONAL STUDIES, a**
4 **California corporation, and DOES ONE to FIFTY, inclusive**, were unable to provide Plaintiff
5 with suitable accessible housing and scholastic accommodations and thereby interfered with
6 Plaintiff's access to the "**MONTEREY INSTITUTE**" as set forth in Paragraph 3 above.
7

8 Said acts and omissions denied Plaintiff legal handicapped access to the "**MONTEREY**
9 **INSTITUTE**" according to federal and state law.

10 12. Plaintiff encountered and/or is informed and believes that the architectural
11 barriers set forth in Paragraph 3 above, which violate the requirements of the **California Code**
12 **of Regulations Title 24 and ADAAG**, existed and continue to exist thereby denying Plaintiff
13 and those similarly situated full and equal access to the subject public facility.
14

15 13. Defendants, and each of them, discriminated against Plaintiff **C. JEFFERY**
16 **EVANS** on the basis of his physical disability, and interfered with his access to the
17 "**MONTEREY INSTITUTE**" establishment, in violation of both California law including, but not
18 limited to, **California Civil Code** §§ 51, 51.5, 54, 54.1, and a violation of Title III, §302, the
19 "Prohibition of Discrimination" provision and §503, the "Prohibition Against Retaliation or
20 Coercion" provision of the **Americans with Disabilities Act of 1990**.
21

22 14. As a result of the actions and failure to act of defendants, and each of them, and
23 as a result of the failure to provide appropriate handicapped parking, proper handicapped
24 signage, proper handicapped accessible entryways, and handicapped accommodations for
25 students, Plaintiff **C. JEFFERY EVANS** suffered and will suffer a loss of his civil rights to full
26 and equal access to public facilities, and further suffered and will suffer emotional distress,
27 mental distress, mental suffering, mental anguish, which includes shame, humiliation,
28

1 embarrassment, anger, chagrin, disappointment and worry, expectedly and naturally
2 associated with a person with a physical disability being denied access to a public
3 accommodation, all to his damages as prayed hereinafter in an amount within the jurisdiction
4 of this court.

5
6 **I. FIRST CAUSE OF ACTION:**
7 VIOLATION OF ***THE AMERICANS WITH DISABILITIES ACT OF 1990***
8 (42 ***USC*** §12101 *et seq.*)

9 15. Plaintiff repleads and incorporates by reference, as if fully set forth again herein,
10 the allegations contained in paragraphs 1 through 14 of this Complaint and incorporate them
11 herein as if separately repled.

12 16. Pursuant to law, in 1990 the United States Congress made findings per 42 ***USC***
13 § 12101 regarding persons with physical disabilities, finding that laws were needed to more
14 fully protect 43 million Americans with one or more physical or mental disabilities; [that]
15 historically society has tended to isolate and segregate individuals with disabilities; [that] such
16 forms of discrimination against individuals with disabilities continue to be a serious and
17 pervasive social problem; [that] the nation's proper goals regarding individuals with disabilities
18 are to assure equality of opportunity, full participation, independent living and economic self-
19 sufficiency for such individuals; [and that] the continuing existence of unfair and unnecessary
20 discrimination and prejudice denies people with disabilities the opportunity to compete on an
21 equal basis and to pursue those opportunities for which our free society is justifiably famous.

22
23 17. Congress stated as its purpose in passing the ***Americans with Disabilities Act***
24 ***of 1990*** (42 ***USC*** § 12102):

25 It is the purpose of this act (1) to provide a clear and comprehensive
26 national mandate for the elimination of discrimination against individuals with
27 disabilities; (2) to provide clear, strong, consistent, enforceable standards
28 addressing discrimination against individuals with disabilities; (3) to ensure that
the Federal government plays a central role in enforcing the standards
established in this act on behalf of individuals with disabilities; and (4) to invoke

1 the sweep of Congressional authority, including the power to enforce the 14th
2 Amendment and to regulate commerce, in order to address the major areas of
3 discrimination faced day to day by people with disabilities.

4 18. As part of the ***Americans with Disabilities Act of 1990***, Public Law 101-336
5 (hereinafter the “ADA”), Congress passed “Title III - Public Accommodations and Services
6 Operated by Private Entities” (42 **USC** § 12181 *et seq.*). Among the public accommodations
7 identified for purposes of this title were “a...secondary, undergraduate, or postgraduate private
8 school, or other place of education.”

9 19. Pursuant to 42 **USC** § 12182:

10 “No individual shall be discriminated against on the basis of disability in
11 the full and equal enjoyment of the goods, services, facilities, privileges,
12 advantages, or accommodations of any place of public accommodation by any
13 person who owns, leases (or leases to), or operates a place of public
14 accommodation.”

15 20. Among the general prohibitions against discrimination were included in 42 **USC**
16 §12182(b)(1)(A)(i):

17 **Denial of participation.** It shall be discriminatory to subject an individual
18 or class of individuals on the basis of a disability or disabilities of such individual
19 or class, directly, or through contractual, licensing, or other arrangements, to a
20 denial of the opportunity of the individual or class to participate in or benefit from
21 the goods, services, facilities, privileges, advantages, or accommodations of an
22 entity.

23 21. Among the general prohibitions against discrimination were included in 42 **USC**
24 §12182(b)(1)(E):

25 **Association** -- It shall be discriminatory to exclude or otherwise deny
26 equal goods, services, facilities, privileges, advantages, accommodations, or
27 other opportunities to an individual or entity because of the known disability of an
28 individual with whom the individual or entity is known to have a relationship or
29 association.

30 The acts of defendants set forth herein were a violation of Plaintiff's rights under the ADA,
31 Public Law 101-336, and the regulations promulgated thereunder, 28 **CFR** Part 36 *et seq.*

32 22. Among the general prohibitions against discrimination were included in 42 **USC**

1 § 12182(b)(2)(A)(i) and 42 **USC** § 12182(b)(2)(A)(ii):

2 **Discrimination.** For purposes of subsection (a), discrimination include-

3 (i) the imposition or application of eligibility criteria that screen out or tend
4 to screen out an individual with a disability or any class of individuals with
5 disabilities from fully and equally enjoying any goods, services, facilities,
6 privileges, advantages, or accommodations, unless such criteria can be shown to
7 be necessary for the provision of the goods, services, facilities, privileges,
8 advantages, or accommodations being offered;

9 (ii) a failure to make reasonable modifications in policies, practices, or
10 procedures, when such modifications are necessary to afford such goods,
11 services, facilities, privileges, advantages, or accommodations to individuals with
12 disabilities, unless the entity can demonstrate that making such modifications
13 would fundamentally alter the nature of such goods, services, facilities,
14 privileges, advantages, or accommodations.

15 23. Plaintiffs allege that constructing the eligibility requirements, policies, practices
16 and procedure for entry to the "**MONTEREY INSTITUTE**" facility by persons with disabilities
17 and their companions as established by the defendants can be simply modified to eliminate
18 disparate and discriminatory treatment of persons with disabilities by properly constructing
19 barrier free handicapped access for safe and full and equal enjoyment of the "**MONTEREY**
20 **INSTITUTE**" as that enjoyed by other people.

21 24. The specific prohibition against retaliation and coercion is included in the
22 **Americans With Disabilities Act of 1990** § 503(b) and the *Remedies and Procedures* in §
23 503(c):

24 (b) Interference, Coercion, or Intimidation. - It shall be unlawful to coerce,
25 intimidate, threaten, or interfere with any individual in the exercise or enjoyment
26 of, or on account of his or her having exercised or enjoyed, or on account of his
27 or her having aided or encouraged any other individual in the exercise or
28 enjoyment of, any right granted or protected by this Act.

(c) Remedies and Procedure. - The remedies and procedures available
under sections 107, 203, and 308 of this Act shall be available to aggrieved
persons for violations of subsections (a) and (b), with respect to Title I, Title II
and Title III, respectively.

25. Among the specific prohibitions against discrimination were included, in 42 **USC**

1 § 12182(b)(2)(a)(iv), “A failure to remove architectural barriers, and communications barriers
2 that are structural in nature, in existing facilities...where such removal is readily achievable;”
3 and (v) “where and entity can demonstrate that the removal of a barrier under clause (iv) is not
4 readily achievable, a failure to make such goods, services, facilities, privileges, advantages, or
5 accommodations available through alternative methods if such methods are readily
6 achievable.” The acts of Defendants set forth herein were a violations of Plaintiffs' rights under
7 the “ADA,” Public Law 101-336, and the regulations promulgated thereunder, 28 **CFR** Part 36,
8 *et seq.*

10 26. The removal of the barriers complained of by Plaintiff as hereinabove alleged
11 were at all times after 1990 “readily achievable.” On information and belief, if the removal of all
12 the barriers complained of here together were not “readily achievable,” the removal of each
13 individual barrier complained of herein was “readily achievable.”

15 27. Per 42 **USC** § 12181(9), “The term ‘readily achievable’ means easily
16 accomplishable and able to be carried out without much difficulty or expense.” The statute and
17 attendant regulations define relative “expense” in relation to the total financial resources of the
18 entities involved, including any “parent” companies. Plaintiff alleges that properly repairing
19 each of the items that Plaintiff complains of herein is readily achievable, including, but not
20 limited to, correcting and repairing the items set forth in Paragraph 3 above.

22 The changes needed to remove barriers to access for the disabled were and are
23 “readily achievable” by the defendants under standards set forth under 42 **USC** § 12181 of the
24 ***Americans with Disabilities Act of 1990***. (Further, if it was not “readily achievable” for
25 defendants to remove all such barriers, defendants have failed to make the required services
26 available through alternative methods, although such methods are achievable as required by
27 42 **USC** §12181(b)(2)(a)(iv), (v).)

1 28. Pursuant to the **Americans with Disabilities Act of 1990**, §308 (42 **USC** §
2 12188 *et seq.*), Plaintiff is entitled to the remedies and procedures set forth in the **Civil Rights**
3 **Act of 1964** §204(a), (42 **USC** § 2000a-3(a)), as Plaintiff is being subjected to discrimination
4 on the basis of disability in violation of this title and/or Plaintiff has reasonable grounds for
5 believing that he is about to be subjected to discrimination in violation of **Americans With**
6 **Disabilities Act of 1990** §302. Plaintiff cannot return to or make use of the public facilities
7 complained of herein for the purpose of entry and provision of goods and service so long as
8 defendants continue to apply eligibility criteria, policies, practices and procedures to screen out
9 and refuse to allow entry and service to persons with disabilities such as Plaintiffs'.

11 29. Defendants', and each of their acts and omissions of failing to provide barrier free
12 handicapped access for Plaintiff, was tantamount to interference, coercion or intimidation
13 pursuant to **Americans With Disabilities Act of 1990** §503(b) (now 42 **USC** § 12203):

15 It shall be unlawful to coerce, intimidate, threaten, or interfere with any
16 individual in the exercise or enjoyment of, or on account of his or her having
17 encouraged any other individual in the exercise or enjoyment of, any right
18 granted or protected by this Act.

19 30. Per **Americans With Disabilities Act of 1990** § 308(a)(1) (now 42 **USC** §
20 12188), "Nothing in this section shall require a person with a disability to engage in a futile
21 gesture if such person has actual notice that a person or organization covered by this title does
22 not intend to comply with its provisions." Pursuant to this last section, Plaintiff, on information
23 and belief, alleges that defendants have continued to violate the law and deny the rights of
24 Plaintiff and other disabled persons to access this public accommodation for the purpose of
25 lodging. Therefore, Plaintiff seeks injunctive relief pursuant to §308(a)(2):

26 "...Where appropriate, injunctive relief shall also include requiring the
27 provision of an auxiliary aid or service, modifications of a policy, or provision of
28 alternative methods, to the extent required by this title."

31. Plaintiff seeks relief pursuant to remedies set forth in § 204(a) of the **Civil Rights**

1 **Act of 1964** (42 *USC* § 2000a-3(a), and pursuant to federal regulations adopted to implement
2 the **Americans with Disabilities Act of 1990**, including, but not limited to, an order granting
3 injunctive relief and attorneys' fees. Such attorneys' fees, "including litigation expenses and
4 costs," are further specifically provided for by §505 of Title III.

5
6 **II. SECOND CAUSE OF ACTION**

7 BREACH OF STATUTORY PROTECTIONS FOR PERSONS WITH PHYSICAL
8 DISABILITIES (**California Health & Safety Code** § 19955, *et seq.*)

9 32. Plaintiff repleads and incorporates by reference, as if fully set forth again herein,
10 the allegations contained in paragraphs 1 through 31 of this Complaint and incorporates them
11 herein as if separately repled.

12 33. **California Health & Safety Code** § 19955 provides in pertinent part:

13 The purpose of this part is to insure that public accommodations or
14 facilities constructed in this state with private funds adhere to the provisions of
15 Chapter 7 (commencing with Sec. 4450) of Division 5 of Title 1 of the
16 *Government Code*. For the purposes of this part "public accommodation or
17 facilities" means a building, structure, facility, complex, or improved area which is
18 used by the general public and shall include auditoriums, hospitals, theaters,
19 restaurants, Institutes, motels, stadiums, and convention centers. When sanitary
20 facilities are made available for the public, clients or employees in such
21 accommodations or facilities, they shall be made available for the handicapped.

22 34. **California Health & Safety Code** § 19956, which appears in the same chapter
23 as §19955, provides in pertinent part, "accommodations constructed in this state shall conform
24 to the provisions of Chapter 7 (commencing with Sec. 4450) of Division 5 of Title 1 of the
25 *Government Code*..." **California Health & Safety Code** § 19956 was operative July 1, 1970,
26 and is applicable to all public accommodations constructed or altered after that date. On
27 information and belief, portions of "**MONTEREY INSTITUTE**" and/or of its buildings, were
28 constructed and/or altered after July 1, 1970, and substantial portions of said buildings had
alterations, structural repairs, and/or additions made to such public accommodations after July
1, 1970, thereby requiring said public accommodations and/or buildings to be subject to the

1 requirements of Part 5.5, **California Health & Safety Code** § 19955, *et seq.*, upon such
2 alteration, structural repairs or additions per **California Health & Safety Code** § 19959.

3 35. Pursuant to the authority delegated by **California Government Code** § 4450, *et*
4 *seq.*, the State Architect promulgated regulations for the enforcement of these provisions.
5 Effective January 1, 1982, Title 24 of the **California Administrative Code** adopted the
6 California State Architect's Regulations and these regulations must be complied with as to any
7 alterations and/or modifications of the "**MONTEREY INSTITUTE**" occurring after that date.
8 Construction changes occurring prior to this date but after July 1, 1970 triggered access
9 requirements pursuant to the "ASA" requirements, the **American Standards Association**
10 **Specifications**, A117.1-1961. On information and belief, at the time of the construction and
11 modification of said buildings, all buildings and facilities covered were required to conform to
12 each of the standards and specifications described in the **American Standards Association**
13 **Specifications** and/or those contained in Title 24 of the **California Administrative Code**,
14 **Specifications** and/or those contained in Title 24 of the **California Administrative Code**,
15 (now known as Title 24, **California Code of Regulations**.)

17 36. Public facilities, such as "**MONTEREY INSTITUTE**" are public accommodations
18 or facilities within the meaning of **California Health & Safety Code** § 19955, *et seq.*

19 37. It is difficult or impossible for persons with physical disabilities who use
20 wheelchairs, canes, walkers and service animals to travel about in public to utilize an Institute
21 with the defects set forth in Paragraph 3 above as required by Title 24 of the **California Code**
22 **of Regulations** and the **Americans with Disabilities Act Access Guidelines (ADAAG)**.
23 Thus, when public accommodations fail to provide handicap accessible public facilities,
24 persons with physical disabilities are unable to enter and use said facilities, and are denied full
25 and equal access to and use of that facility that is enjoyed by other members of the general
26 public.
27
28

1 38. Plaintiffs **C. JEFFERY EVANS** and other similarly situated persons with physical
2 disabilities whose physical conditions require the use of wheelchairs, canes, walkers and
3 service animals are unable to use public facilities on a “full and equal” basis unless each such
4 facility is in compliance with the provisions of the **California Health & Safety Code** § 19955,
5 *et seq.* Plaintiffs are members of that portion of the public whose rights are protected by the
6 provisions of **California Health & Safety Code** § 19955, *et seq.*
7

8 39. The **California Health & Safety Code** was enacted “[t]o ensure that public
9 accommodations or facilities constructed in this state with private funds adhere to the
10 provisions of Chapter 7 (commencing with §4450) of Division 5 of Title 1 of the *Government*
11 *Code.*” Such public accommodations are defined to include Institutions of higher learning.
12

13 40. Plaintiffs are further informed and believe that as of the date of filing this
14 Complaint, Defendants have not made accessible the facilities at the subject Institute as set
15 forth in Paragraph 3 above.

16 41. Plaintiff **C. JEFFERY EVANS** is informed and believes, and therefore alleges,
17 that Defendants **THE MONTEREY INSTITUTE OF INTERNATIONAL STUDIES, a California**
18 **corporation, and DOES ONE to FIFTY, inclusive,** and each of them, caused the subject
19 buildings constituting “**MONTEREY INSTITUTE**” to be constructed, altered, and maintained in
20 such a manner that persons with physical disabilities were denied full and equal access to,
21 within and throughout said buildings and were denied full and equal use of said public facilities,
22 and despite knowledge and actual and constructive notice to such Defendants that the
23 configuration of the buildings was in violation of the civil rights of persons with physical
24 disabilities, such as Plaintiff. Such construction, modification, ownership, operation,
25 maintenance and practices of such public facilities are in violation of law as stated in Part 5.5,
26 **California Health & Safety Code** § 19955, *et seq.*, and elsewhere in the laws of California.
27
28

1 42. On information and belief, the subject buildings constituting the public facilities of
2 the "**MONTEREY INSTITUTE**" denied full and equal access to Plaintiff and other persons with
3 physical disabilities in other respects due to non-compliance with requirement of Title 24 of the
4 **California Code of Regulations** and **California Health & Safety Code** § 19955, *et seq.*

5
6 43. The basis of Plaintiff's aforementioned information and belief is the various
7 means upon which Defendants must have acquired such knowledge, including, but not limited
8 to, this lawsuit, other access lawsuits, communications with operators of other learning
9 facilities and other property owners regarding denial access, communications with Plaintiff and
10 other persons with disabilities, communications with other patrons who regularly visit there,
11 communications with owners of other businesses, notices and advisories they obtained from
12 governmental agencies through the mails, at seminars, posted bulletins, television, radio,
13 public service announcements, or upon modification, improvement, alteration or substantial
14 repair of the subject premises and other properties owned by these Defendants, newspaper
15 articles and trade publications regarding the **Americans with Disabilities Act of 1990** and
16 other access law, and other similar information. The scope and means of the knowledge of
17 each defendant is within each defendant's exclusive control and cannot be ascertained except
18 through discovery.
19

20
21 44. As a result of Defendants' acts and omissions in this regard, Plaintiff has been
22 required to incur legal expenses and hire attorneys in order to enforce his civil rights and
23 enforce provisions of the law protecting access for persons with physical disabilities and
24 prohibiting discrimination against persons with physical disabilities, and to take such action
25 both in his own interests and in order to enforce an important right affecting the public interest.
26 Plaintiff, therefore, seeks damages in this lawsuit for recovery of all reasonable attorneys' fees
27 incurred, pursuant to the provisions of the **California Code of Civil Procedure** § 1021.5.
28

1 Plaintiff additionally seeks attorneys' fees pursuant to **California Health & Safety Code** §
2 19953 and **California Civil Code** §§ 54.3 and 55.

3 45. Defendants, and each of them, at times prior to and including the dates set forth
4 in paragraph 11 above, and continuing to the present time, knew that persons with physical
5 disabilities were denied their rights of equal access to all portions of this public facility. Despite
6 such knowledge, Defendants failed and refused to take steps to comply with the applicable
7 access statutes; and despite knowledge of the resulting problems and denial of civil rights
8 thereby suffered by Plaintiff **C. JEFFERY EVANS** and other similarly situated persons with
9 disabilities, including the specific notices referred to in paragraph 43 of this Complaint.
10 Defendants have failed and refused to take action to grant full and equal access to persons
11 with physical disabilities in the respects complained of hereinabove. Defendants and each of
12 them have carried out a course of conduct of refusing to respond to, or correct complaints
13 about, denial of handicap access. Such actions and continuing course of conduct by
14 Defendants, evidence despicable conduct in conscious disregard for the rights or safety of
15 Plaintiff and of other similarly situated persons, justifying an award of exemplary and punitive
16 damages pursuant to **California Civil Code** § 3294.

17 46. Defendants' actions have also been oppressive to persons with physical
18 disabilities and of other members of the public, and have evidenced actual or implied malicious
19 intent toward those members of the public, such as Plaintiff and other persons with physical
20 disabilities who have been denied the proper access they are entitled to by law. Further,
21 Defendants' refusals on a day-to-day basis to correct these problems evidence despicable
22 conduct in conscious disregard for the rights of Plaintiffs and other members of the public with
23 physical disabilities.
24

25 47. Plaintiff prays for an award of punitive damages against Defendants, and each of
26
27
28

1 them, pursuant to **California Civil Code** § 3294 in an amount sufficient to make a more
2 profound example of Defendants and discourage owners, operators, franchisers and
3 franchisees of other public facilities from willful disregard of the rights of persons with physical
4 disabilities. Plaintiff does not know the financial worth of Defendants, or the amount of punitive
5 damages sufficient to accomplish the public purposes of **California Civil Code** § 3294 and
6 seek leave to amend this Complaint when such facts are known.
7

8 48. As a result of the actions and failure of Defendants, and each of them, and as a
9 result of the failure to provide proper accessible public facilities, Plaintiff **C. JEFFERY EVANS**
10 was denied his civil rights, including his right to full and equal access to public facilities, was
11 embarrassed and humiliated, suffered physical, psychological and mental injuries and
12 emotional distress, mental distress, mental suffering, mental anguish, which includes shame,
13 humiliation, embarrassment, anger, chagrin, disappointment and worry, expectedly and
14 naturally associated with a person with a physical disability being denied access to a public
15 accommodation.
16

17 WHEREFORE, Plaintiff prays for damages as hereinafter stated.

18 **III. THIRD CAUSE OF ACTION**
19 **VIOLATION OF CALIFORNIA'S CIVIL RIGHTS ACTS**
20 **(California Civil Code §§ 54, 54.1 and 54.3)**

21 49. Plaintiff repleads and incorporates by reference as if fully set forth again herein,
22 the allegations contained in paragraphs 1 through 48 of this Complaint and incorporates them
23 herein as if separately repled.

24 50. The public facilities above-described constitute public facilities and public
25 accommodations within the meaning of **California Health & Safety Code** § 19955 *et seq.* and
26 were facilities to which members of the public are invited. The aforementioned acts and
27 omissions of defendants, and each of them, constitute a denial of equal access to and use and
28

1 enjoyment of these facilities by persons with disabilities, including Plaintiff **C. JEFFERY**
2 **EVANS**. Said acts and omissions are also in violation of provisions of Title 24 of the
3 **California Code of Regulations**.

4 51. The rights of Plaintiff, the entitlement of Plaintiff to full and equal access and the
5 denial by defendants of such rights and entitlements are set forth in **California Civil Code** §§
6 54, 54.1 and 54.3, to wit:

8 Individuals with disabilities shall have the same right as the...general
9 public to full and free use of the streets, highways, sidewalks, walkways, public
10 buildings, public facilities, and other public places. **California Civil Code** §
11 54(a).

12 Individuals with disabilities shall be entitled to full and equal access, as
13 other members of the general public, to accommodations, advantages, facilities,
14 and privileges of all common carriers, airplanes, motor vehicles, railroad trains,
15 motor buses, streetcars, boats, or any other public conveyances or modes of
16 transportation (whether private, public, franchised, licensed, contracted, or
17 otherwise provided), telephone facilities, adoption agencies, private schools,
18 Institutes, lodging places, places of public accommodation, amusement or resort,
19 and other places to which the general public is invited, subject only to the
20 conditions and limitations established by law, or state or federal regulation, and
21 applicable alike to all persons. **California Civil Code** § 54.1(a).

22 52. As alleged above, Plaintiff **C. JEFFERY EVANS** suffered violations of **California**
23 **Civil Code** §§ 54 and 54.1 in that he was denied full and equal enjoyment of the goods,
24 services, facilities and privileges of said **MONTEREY INSTITUTE**, as set forth in paragraph 3
25 above.

26 Plaintiff was also denied full and equal access to other particulars, including, but not
27 limited to, those described hereinabove. Plaintiff was also denied use of facilities that he was
28 entitled to under Title III of the **Americans with Disabilities Act of 1990**.

53. As a result of the denial of full and equal enjoyment of the goods, services,
facilities and privileges of defendants' "**MONTEREY INSTITUTE**" due to the acts and
omissions of defendants, and each of them, in owning, operating and maintaining this subject

1 public facility, Plaintiff suffered violations of his civil rights, including, but not limited to, rights
2 under **California Civil Code** §§ 54, 54.1, and 54.3, and has and will suffer physical injury,
3 emotional distress, mental distress, mental suffering, mental anguish, which includes shame,
4 humiliation, embarrassment, anger, chagrin, disappointment and worry, expectedly and
5 naturally associated with a disabled person's denial of full and equal enjoyment of goods,
6 services, privileges, etc. all to his damages as prayed hereinafter in an amount within the
7 jurisdiction of the court. Defendants' actions and omissions to act constituted discrimination
8 against Plaintiff on the sole basis that Plaintiff was and is physically disabled.
9

10 54. Plaintiff seek damages for the violation of his rights as disabled persons,
11 according to proof, pursuant to **California Civil Code** § 54.3, including a trebling of all
12 statutory and actual damages, general and special, available pursuant to **California Civil**
13 **Code** § 54.3(a).
14

15 55. As a result of defendants' acts and omissions in this regard, Plaintiff **C.**
16 **JEFFERY EVANS** has been required to incur legal expenses and hire attorneys in order to
17 enforce his rights and enforce provisions of the law protecting the full and equal enjoyment of
18 goods, services, facilities, privileges of public facilities by the disabled, and those individuals
19 associated with or accompanied by a person with disabilities, and prohibiting discrimination
20 against the disabled. Plaintiff, therefore, seeks recovery in this lawsuit for all reasonable
21 attorneys' fees incurred pursuant to the provisions of **California Civil Code** § 54.3.
22 Additionally, Plaintiff's lawsuit is intended not only to obtain compensation for damages to
23 Plaintiff, but also to compel the defendants to make their goods, services, facilities and
24 privileges available and accessible to all members of the public with physical disabilities,
25 justifying public interest attorneys' fees pursuant to the provisions of **California Code of Civil**
26 **Procedure** § 1021.5.
27
28

1 56. The acts and omissions of defendants in failing to provide the required
2 accessible facilities subsequent to the enactment date and compliance date of the **Americans**
3 **with Disabilities Act of 1990**, and refusal to make remedial modifications and alterations to its
4 handicapped parking, handicapped signage, pathways, and other elements as hereinabove
5 stated, after being notified by patrons before and after the time of Plaintiff's visits and injuries,
6 as set forth in paragraph 11 above, and all times prior thereto with the knowledge that persons
7 with disabilities would enter defendants' premises, the reason given therefor, was an
8 established policy, practice and procedure of refusing and denying entry, thereby denying
9 lodging and other services to a person with disabilities and the companions thereof, evidence
10 malice and oppression toward Plaintiff and other disabled persons.
11

12 57. Such despicable conduct, as that incorporated herein by reference and
13 specifically set forth in Paragraph 11, was carried out by defendants with a willful and
14 conscious disregard for the law and the rights of Plaintiff and of other disabled persons, and
15 was oppressive in that such conduct subjected Plaintiff "to cruel and unjust hardship in
16 conscious disregard" for the law and Plaintiff's rights, and justifies exemplary and punitive
17 damages pursuant to **California Civil Code** § 3294, in amounts sufficient to make an example
18 of defendants and to punish defendants and to carry out the purposes of **California Civil**
19 **Code** § 3294.
20

21 58. Defendants have failed to establish a nondiscriminatory criteria, policy, practice
22 and procedure for entry into said "**MONTEREY INSTITUTE**" as hereinabove described.
23

24 59. As a result of defendants' continuing failure to provide for the full and equal
25 enjoyment of goods, services, facilities and privileges of said "**MONTEREY INSTITUTE**" as
26 hereinabove described, Plaintiff has continually been denied his rights to full and equal
27 enjoyment of the subject Institute, as it would be a "futile gesture" to attempt to patronize said
28

1 **"MONTEREY INSTITUTE"** with the discriminatory policy in place as hereinabove described.

2 60. The acts and omissions of defendants as complained of herein in failing to
3 provide the required accessible facilities subsequent to the enactment date and compliance
4 date of the **Americans with Disabilities Act of 1990** and refusal to make remedial
5 modifications and alternations to the architectural barriers as stated herein and in failing to
6 establish practices, policies and procedures to allow safe access by persons who are disabled
7 are continuing on a day-to-day basis to have the effect of wrongfully and willfully excluding
8 Plaintiff and other members of the public who are physically disabled, from full and equal
9 enjoyment of the subject **"MONTEREY INSTITUTE"** as hereinabove described. Such acts and
10 omissions are the continuing cause of humiliation and mental and emotional suffering of
11 Plaintiff in that these actions continue to treat Plaintiff as an inferior and second class citizen
12 and serve to discriminate against him on the sole basis that he is a physically disabled.
13 Plaintiff is unable, so long as such acts and omissions of defendants continue, to achieve full
14 and equal enjoyment of the goods and services of said **"MONTEREY INSTITUTE"** as
15 described hereinabove. The acts of defendants have legally caused and will continue to cause
16 irreparable injury to Plaintiff if not enjoined by this court.
17

18 61. Wherefore, Plaintiff asks this court to preliminarily and permanently enjoin any
19 continuing refusal by defendants to permit entry to said **"MONTEREY INSTITUTE"** and to
20 serve Plaintiff or others similarly situated, and to require defendants to comply forthwith with
21 the applicable statutory requirements relating to the full and equal enjoyment of goods and
22 services as described hereinabove for disabled persons. Such injunctive relief is provided by
23 **California Civil Code** § 55. Plaintiff further requests that the court award statutory costs and
24 attorneys' fees to Plaintiff pursuant to **California Civil Code** § 55 and **California Code of Civil**
25 **Procedure** § 1021.5, all as hereinafter prayed for.
26
27
28

1 WHEREFORE, Plaintiff prays for compensatory damages, reasonable attorneys' fees
2 and costs of suit, as allowed by statute and according to proof, and appropriate exemplary
3 damages.

4 **IV. FOURTH CAUSE OF ACTION**
5 **VIOLATIONS OF *UNRUH CIVIL RIGHTS ACT***
6 **(*California Civil Code* §§ 51 and 51.5)**

7 62. Plaintiff repleads and incorporates by reference, as if fully set forth again herein,
8 the allegations contained in paragraphs 1 through 61 of this Complaint and incorporate them
9 herein as if separately repled.

10 63. Defendants' acts and omissions as specified with regard to the discriminatory
11 treatment of Plaintiff **C. JEFFERY EVANS** on the basis of his physical disabilities, have been
12 in violation of *California Civil Code* §§ 51 and 51.5, the *Unruh Civil Rights Act*, and have
13 denied to Plaintiff his rights to "full and equal accommodations, advantages, facilities,
14 privileges or services in all business establishments of every kind whatsoever."

15 64. *California Civil Code* § 51 also provides that "[a] violation of the right of any
16 individual under the *Americans with Disabilities Act of 1990* (Public Law 101-336) shall also
17 constitute a violation of this section."

18 65. *California Civil Code* § 51.5 also provides that "[n]o business establishment of
19 any kind whatsoever shall discriminate against, boycott, or blacklist, refuse to buy from, sell to,
20 or trade with any person in this state because of the race, creed, religion, color, national origin,
21 sex, disability of the person or of the person's partners, members, stockholders, directors,
22 officers, managers, superintendents, agents, employees, business associates, suppliers, or
23 customers."

24 66. As a result of the violation of Plaintiff's civil rights protected by *California Civil*
25 *Code* §§ 51 and, 51.5, Plaintiff is entitled to the rights and remedies of *California Civil Code* §
26
27
28

1 52, including a trebling of actual damages (defined by **California Civil Code** § 52(h) to mean
2 “special and general damages”), as well as reasonable attorneys’ fees and costs, as allowed
3 by statute, according to proof. Further, pursuant to paragraphs 11, 12, 13, 35 and 43, Plaintiff
4 seeks appropriate exemplary damages under **California Civil Code** § 3294.

5
6 **V. FIFTH CAUSE OF ACTION**
7 VIOLATION OF §504 OF THE **REHABILITATION ACT** (29 **USC** § 794)

8 67. Plaintiff repleads and incorporates by reference, as if fully set forth again herein,
9 the allegations contained in paragraphs 1 through 66 of this Complaint and incorporate them
10 herein as if separately repled.

11 68. Plaintiff is entitled to meaningful access to Defendant’s Institute by virtue of the
12 federal funding that Defendant received and as set forth above, Defendant failed to provide
13 access required by law as the building is wholly inaccessible as presently configured to
14 persons with handicaps and disabled patrons.

15 WHEREFORE, Plaintiffs seek for compensatory damages and injunctive relief, including
16 attorney fees as hereinafter set forth.

17 WHEREFORE, Plaintiff prays that this court award damages and provide relief as
18 follows:
19

20 **PRAYER FOR RELIEF**

21 Plaintiff prays that this court award damages and provide relief as follows:

22 1. Grant injunctive relief requiring that defendants establish a non-discriminatory
23 criteria policy, practice and procedure permitting entry into the "**MONTEREY INSTITUTE**" in
24 Monterey, California, for the purpose of services according to California Civil Code §§ 51, 51.5,
25 52, 54, 54.1, 54.3, et seq., and Title III of the Americans with Disabilities Act of 1990, and grant
26 injunctive relief requiring that Defendants repair and render safe to handicapped persons, and
27 otherwise make handicapped-accessible, all public areas of the Institute as set forth in
28

1 paragraph 3 above and make such facilities “readily accessible to and usable by individuals
2 with disabilities,” according to the standards of Title 24 of the **California Administrative Code**,
3 **California Health & Safety Code** § 19955 *et seq.*, and Title III of the **Americans with**
4 **Disabilities Act of 1990** and the standards of **ADAAG**; and prohibiting operation of the
5 **MONTEREY INSTITUTE**, located in Monterey, California, as a public facility until Defendants
6 provide full and equal enjoyment of goods and services as described hereinabove to physically
7 disabled persons, including Plaintiff;

9 2. General damages according to proof;

10 3. Statutory and “actual” damages, including general damages and special
11 damages, according to proof, pursuant to **California Civil Code** §§ 52, and 54.3, and that
12 these damages be trebled;

14 4. Prejudgment interest on all compensatory damages;

15 5. Punitive and exemplary damages pursuant to the standards and purposes of
16 **California Civil Code** § 3294;

17 6. Remedies and Procedures available under **Americans with Disabilities Act of**
18 **1990** §§ 107, 203 and 308;

19 7. Award Plaintiff all litigation expenses, all costs of this proceeding and all
20 reasonable attorneys’ fees as provided by law, including but not limited to those recoverable
21 pursuant to the provisions of **California Civil Code** §§ 52, 54.3, and 55, **California Code of**
22 **Civil Procedure** § 1021.5, and **Americans with Disabilities Act of 1990** §308 of Title III; and

24 8. Grant such other and further relief as the court may deem just and proper.

26 Dated: March 3, 2003

27 _____
28 Jason K. Singleton, Attorney for Plaintiff,
C. JEFFERY EVANS

1 **REQUEST FOR JURY TRIAL**

2 Plaintiffs hereby request a jury for all claims for which a jury is permitted.

3
4 Dated: march 3, 2003

5 _____
6 Jason K. Singleton, Attorney for Plaintiff,
7 **C. JEFFERY EVANS**