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8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA

10 JEFF HOHLBEIN,

11 Plaintiff,

12 v.

13 W & W MOBILE HOME SALES, INC., a  
14 California corporation, dba W & W TRAILER  
15 SALES, and DOES ONE to FIFTY, inclusive,

16 Defendants.

Case No. C 03-04369 WHA

Civil Rights

COMPLAINT FOR INJUNCTIVE RELIEF  
AND DAMAGES: DENIAL OF CIVIL  
RIGHTS OF A DISABLED PERSON IN  
VIOLATION OF THE AMERICANS WITH  
DISABILITIES ACT OF 1990; VIOLATION  
OF CALIFORNIA'S CIVIL RIGHTS  
STATUTES

JURY TRIAL REQUESTED

17  
18  
19 Plaintiff **JEFF HOHLBEIN** complains of defendants **W & W MOBILE HOME SALES,**  
20 **INC., a California corporation, dba W & W TRAILER SALES, and DOES ONE to FIFTY,**  
21 **inclusive,** and alleges as follows:

22 **JURISDICTION AND VENUE**

23 1. The Court has jurisdiction of this action pursuant to 28 **USC** § 1331 for violations  
24 of the **Americans with Disabilities Act of 1990**, (42 **USC** § 12101, *et seq.*) Pursuant to  
25 pendant jurisdiction, attendant and related causes of action, arising from the same facts, are  
26 also brought under California law, including, but not limited to, violations of **California Health &**  
27 **Safety Code** § 19955, *et seq.*, including **California Code of Regulations**, Title 24, § 19959,  
28

1 **California Civil Code** §§ 51, 51.5, 52(a), 52.1, 54, 54.1, 54.3 and 55.

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

5 **INTRODUCTION**

6 3. **W & W MOBILE HOME SALES (hereinafter "W & W")** is located at 4300  
7 Broadway, Eureka, California. Said mobile home and RV accessories sales facility is owned  
8 and operated by defendants **W & W MOBILE HOME SALES, INC., a California corporation,**  
9 **and DOES ONE to FIFTY, inclusive.**

10 Defendants **W & W MOBILE HOME SALES, INC., a California corporation, and**  
11 **DOES ONE to FIFTY, inclusive,** operate an establishment for services to the public and at  
12 which Defendants failed to provide barrier free access to said establishment in conformity with  
13 both Federal and California legal requirements. Further, Defendants failed to provide  
14 compliance as follows:

- 15
- 16 a. There is no compliant path of travel from the pedestrian way along the  
17 street to the building in violation of California Title 24 § 1114B.
  - 18 b. There is no access into the store; the front entrance is completely non-  
19 compliant; including, but not limited to, a step that is not wide enough in  
20 violation of California Title 24 § 1133B;
  - 21 c. There is no accessible parking anywhere on the facility in violation of  
22 California Title 24 § 1129B.
  - 23 d. Some of the access aisles are less than 36" wide and the counter is not  
24 36" high or have a 36" wide clear space in violation of California Title 24 §  
25 1110B.
  - 26 e. There is also no accessible way to view the inside of the mobile homes.

26 The above barriers interfered with Plaintiff's access of the facilities and continue to deter  
27 Plaintiff from visiting said facilities, and as a legal result, Plaintiff **JEFF HOHLBEIN** suffers  
28 violations of his civil rights to full and equal enjoyment of goods, services, facilities and

1 privileges, and has and will suffer embarrassment and humiliation.

2 **FACTUAL ALLEGATIONS**

3 4. Plaintiff **JEFF HOHLBEIN** is, and at all times relevant to this Complaint is, a  
4 “physically handicapped person, “physically disabled person,” and a “person with a disability,”  
5 as these terms are used under California law and under federal laws including, but not limited  
6 to, Title III of the ***Americans with Disabilities Act of 1990***. (The terms “physically  
7 handicapped person,” “physically disabled person,” and a “person with a disability” will be used  
8 interchangeably throughout this Complaint.) Plaintiff is a “person with a disability,” as defined  
9 by all applicable California and United State’s laws. Plaintiff **JEFF HOHLBEIN** is severely  
10 limited in the use of his legs. He is wheelchair-mobile.

12 5. Defendants **W & W MOBILE HOME SALES, INC., a California corporation,**  
13 **and DOES ONE to FIFTY, inclusive,** at all times relevant herein were and are the owners and  
14 operators; lessors and/or lessees, franchisers and/or franchisees, of public facilities known as  
15 “**W & W**” located at Eureka, California, subject to the requirements of California state law  
16 requiring full and equal access to public facilities pursuant to ***California Health & Safety Code***  
17 **§ 19955, et seq., *California Civil Code* §§ 51, 51.5, 52(a), 52.1, 54, 54.1, 54.3 and 55,** and  
18 subject to Title III of the ***Americans with Disabilities Act of 1990***, and to all other legal  
19 requirements referred to in this Complaint. Plaintiff does not know the relative responsibilities  
20 of defendants in the operation of the facilities herein complained of, and alleges a joint venture  
21 and common enterprise by all such defendants.

24 6. Defendants **W & W MOBILE HOME SALES, INC., a California corporation,**  
25 **and DOES ONE to FIFTY, inclusive** (hereinafter alternatively referred to collectively as  
26 “defendants”), at all times relevant herein were and are owners, possessors, builders and  
27 keepers of the “**W & W**” in Eureka, California.

28 7. Defendants **W & W MOBILE HOME SALES, INC., a California corporation,**

1 **and DOES ONE to FIFTY, inclusive** are the owners and operators of the subject “**W & W**” at  
2 all times relevant to this Complaint. Plaintiff is informed and believes that each of the  
3 defendants herein is the agent, employee or representative of each of the other defendants,  
4 and performed all acts and omissions stated herein within the scope of such agency or  
5 employment or representative capacity and is responsible in some manner for the acts and  
6 omissions of the other defendants in legally causing the damages complained of herein, and  
7 have approved or ratified each of the acts or omissions of each other defendant, as herein  
8 described.  
9

10 8. Plaintiff **JEFF HOHLBEIN** does not know the true names and capacities of  
11 defendants **W & W MOBILE HOME SALES, INC., a California corporation, and DOES ONE**  
12 **to FIFTY, inclusive**, their business capacities, their ownership connection to the property and  
13 business, nor their relative responsibilities in causing the access violations herein complained  
14 of, and alleges a joint venture and common enterprise by all such defendants. Plaintiff is  
15 informed and believes that each of the defendants herein, including DOES ONE to FIFTY,  
16 inclusive, is the agent, ostensible agent, master, servant, employer, employee, representative,  
17 franchiser, franchisee, joint venturer, partner, and associate, or such similar capacity, of each  
18 of the other defendants, and was at all times acting and performing, or failing to act or perform,  
19 with the authorization, consent, permission or ratification of each of the other defendants, and  
20 is responsible in some manner for the acts and omissions of the other defendants in legally  
21 causing the violations and damages complained of herein, and have approved or ratified each  
22 of the acts or omissions of each other defendant, as herein described. Plaintiff will seek leave  
23 to amend this Complaint when the true names, capacities, connections and responsibilities of  
24 defendants **W & W MOBILE HOME SALES, INC., a California corporation, and DOES ONE**  
25 **to FIFTY, inclusive**, are ascertained.  
26  
27

28 9. Plaintiff is informed and believes that all named defendants, including DOES ONE

1 to FIFTY, inclusive, conspired to commit the acts described herein, or alternatively, aided and  
2 abetted one another in the performance of the wrongful acts hereinafter alleged.

3 10. Defendants **W & W MOBILE HOME SALES, INC., a California corporation,**  
4 **and DOES ONE to FIFTY, inclusive,** are the owners and operators of the "**W & W,**" located at  
5 Eureka, California. This mobile home and RV accessories sales facility, including, but not  
6 limited to, parking spaces and access aisles and access routes, are each a part of a "public  
7 accommodation or facility" subject to the requirements of **California Health & Safety Code §**  
8 **19955, et seq.,** and of **California Civil Code §§ 51, 52(a), 54, 54.1, et seq.** On information and  
9 belief, this "**W & W**" mobile home and RV accessories sales facility was constructed after 1990,  
10 which has subjected the "**W & W**" mobile home and RV accessories sales facility to  
11 handicapped access requirements per **California Health & Safety Code § 19959,** and  
12 applicable portions of **California Code of Regulations, Title 24,** (the State Building Code).  
13  
14

15 11. On or about August 4, 2003, Plaintiff **JEFF HOHLBEIN,** visited the "**W & W**" in  
16 Eureka, California for the purpose of obtaining some parts for his RV. Defendants **W & W**  
17 **MOBILE HOME SALES, INC., a California corporation, and DOES ONE to FIFTY,**  
18 **inclusive,** interfered with Plaintiff's access to the "**W & W**" as set forth in Paragraph 3 above.  
19

20 Said acts and omissions denied Plaintiff legal handicapped access to the "**W & W**"  
21 according to federal and state law.

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

26 13. Defendants, and each of them, discriminated against Plaintiff **JEFF HOHLBEIN**  
27 on the basis of his physical disability, and interfered with his access to the "**W & W**"  
28 establishment, in violation of both California law including, but not limited to, **California Civil**

1 **Code** §§ 51, 51.5, 54, 54.1, and a violation of Title III, §302, the “Prohibition of Discrimination”  
2 provision and §503, the “Prohibition Against Retaliation or Coercion” provision of the  
3 **Americans with Disabilities Act of 1990.**

4 14. As a result of the actions and failure to act of Defendants, and each of them, and  
5 as a result of the failure to provide appropriate handicapped parking, proper handicapped  
6 signage, proper handicapped accessible entryways, and handicapped accommodations for the  
7 mobile home and RV accessories sales facility, Plaintiff **JEFF HOHLBEIN** suffered and will  
8 suffer a loss of his civil rights to full and equal access to public facilities, and further suffered  
9 and will suffer emotional distress, mental distress, mental suffering, mental anguish, which  
10 includes shame, humiliation, embarrassment, anger, chagrin, disappointment and worry,  
11 expectedly and naturally associated with a person with a physical disability being denied  
12 access to a public accommodation, all to his damages as prayed hereinafter in an amount  
13 within the jurisdiction of this court.  
14

15  
16 **I. FIRST CAUSE OF ACTION:**  
17 **VIOLATION OF *THE AMERICANS WITH DISABILITIES ACT OF 1990***  
18 **(42 *USC* §12101 *et seq.*)**

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

22 16. Pursuant to law, in 1990 the United States Congress made findings per 42 **USC** §  
23 12101 regarding persons with physical disabilities, finding that laws were needed to more fully  
24 protect 43 million Americans with one or more physical or mental disabilities; [that] historically  
25 society has tended to isolate and segregate individuals with disabilities; [that] such forms of  
26 discrimination against individuals with disabilities continue to be a serious and pervasive social  
27 problem; [that] the nation’s proper goals regarding individuals with disabilities are to assure  
28 equality of opportunity, full participation, independent living and economic self-sufficiency for

1 such individuals; [and that] the continuing existence of unfair and unnecessary discrimination  
2 and prejudice denies people with disabilities the opportunity to compete on an equal basis and  
3 to pursue those opportunities for which our free society is justifiably famous.

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

6  
7 It is the purpose of this act (1) to provide a clear and comprehensive  
8 national mandate for the elimination of discrimination against individuals with  
9 disabilities; (2) to provide clear, strong, consistent, enforceable standards  
10 addressing discrimination against individuals with disabilities; (3) to ensure that  
11 the Federal government plays a central role in enforcing the standards  
12 established in this act on behalf of individuals with disabilities; and (4) to invoke  
13 the sweep of Congressional authority, including the power to enforce the 14th  
14 Amendment and to regulate commerce, in order to address the major areas of  
15 discrimination faced day to day by people with disabilities.

16 18. As part of the ***Americans with Disabilities Act of 1990***, Public Law 101-336  
17 (hereinafter the “ADA”), Congress passed “Title III - Public Accommodations and Services  
18 Operated by Private Entities” (42 ***USC*** § 12181 *et seq.*). Among the public accommodations  
19 identified for purposes of this title were “a bakery, grocery store, clothing store, hardware store,  
20 shopping center, or other sales or rental establishment. . .”

21 19. Pursuant to 42 ***USC*** § 12182,

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

26 20. Among the general prohibitions against discrimination were included in 42 ***USC***  
27 §12182(b)(1)(A)(i):

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

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

1 §12182(b)(1)(E):

2           **Association** -- It shall be discriminatory to exclude or otherwise deny  
3 equal goods, services, facilities, privileges, advantages, accommodations, or  
4 other opportunities to an individual or entity because of the known disability of an  
5 individual with whom the individual or entity is known to have a relationship or  
6 association.

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

9           22. Among the general prohibitions against discrimination were included in 42 **USC** §  
10 12182(b)(2)(A)(i) and 42 **USC** § 12182(b)(2)(A)(ii):

11           **Discrimination.** For purposes of subsection (a), discrimination includes -

12           (i) the imposition or application of eligibility criteria that screen out or tend  
13 to screen out an individual with a disability or any class of individuals with  
14 disabilities from fully and equally enjoying any goods, services, facilities,  
15 privileges, advantages, or accommodations, unless such criteria can be shown to  
16 be necessary for the provision of the goods, services, facilities, privileges,  
17 advantages, or accommodations being offered;

18           (ii) a failure to make reasonable modifications in policies, practices, or  
19 procedures, when such modifications are necessary to afford such goods,  
20 services, facilities, privileges, advantages, or accommodations to individuals with  
21 disabilities, unless the entity can demonstrate that making such modifications  
22 would fundamentally alter the nature of such goods, services, facilities, privileges,  
23 advantages, or accommodations.

24           23. Plaintiff alleges that constructing the eligibility requirements, policies, practices  
25 and procedure for entry to the "**W & W**" facility by persons with disabilities and their  
26 companions as established by the defendants can be simply modified to eliminate disparate  
27 and discriminatory treatment of persons with disabilities by properly constructing barrier free  
28 handicapped access for safe and full and equal enjoyment of the "**W & W**" as that enjoyed by  
other people.

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



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

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

10 25. Among the specific prohibitions against discrimination were included, in 42 **USC** §  
11 12182(b)(2)(a)(iv), “A failure to remove architectural barriers, and communications barriers that  
12 are structural in nature, in existing facilities...where such removal is readily achievable;” and (v)  
13 “where and entity can demonstrate that the removal of a barrier under clause (iv) is not readily  
14 achievable, a failure to make such goods, services, facilities, privileges, advantages, or  
15 accommodations available through alternative methods if such methods are readily  
16 achievable.” The acts of Defendants set forth herein were a violations of Plaintiff’s rights under  
17 the “ADA,” Public Law 101-336, and the regulations promulgated thereunder, 28 **CFR** Part 36,  
18 *et seq.*

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

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

The changes needed to remove barriers to access for the disabled were and are “readily

1 achievable” by the defendants under standards set forth under 42 **USC** § 12181 of the  
2 **Americans with Disabilities Act of 1990**. (Further, if it was not “readily achievable” for  
3 defendants to remove all such barriers, defendants have failed to make the required services  
4 available through alternative methods, although such methods are achievable as required by  
5 42 **USC** §12181(b)(2)(a)(iv), (v).)

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

16  
17 29. Defendants’, and each of their acts and omissions of failing to provide barrier free  
18 handicapped access for Plaintiff, were tantamount to interference, coercion or intimidation  
19 pursuant to **Americans With Disabilities Act of 1990** §503(b) (now 42 **USC** § 12203):

20  
21 It shall be unlawful to coerce, intimidate, threaten, or interfere with any  
22 individual in the exercise or enjoyment of, or on account of his or her having  
23 encouraged any other individual in the exercise or enjoyment of, any right granted  
24 or protected by this Act.

25  
26 30. Per **Americans With Disabilities Act of 1990** § 308(a)(1) (now 42 **USC** §  
27 12188), “Nothing in this section shall require a person with a disability to engage in a futile  
28 gesture if such person has actual notice that a person or organization covered by this title does  
not intend to comply with its provisions.” Pursuant to this last section, Plaintiff, on information  
and belief, alleges that defendants have continued to violate the law and deny the rights of  
Plaintiff and other disabled persons to access this public accommodation for the purpose of

1 making a purchase. Therefore, Plaintiff seeks injunctive relief pursuant to §308(a)(2),

2 “...Where appropriate, injunctive relief shall also include requiring the  
3 provision of an auxiliary aid or service, modifications of a policy, or provision of  
4 alternative methods, to the extent required by this title.”

5 31. Plaintiff seeks relief pursuant to remedies set forth in § 204(a) of the **Civil Rights**  
6 **Act of 1964** (42 **USC** § 2000a-3(a), and pursuant to federal regulations adopted to implement  
7 the **Americans with Disabilities Act of 1990**, including, but not limited to, an order granting  
8 injunctive relief and attorneys’ fees. Such attorneys’ fees, “including litigation expenses and  
9 costs,” are further specifically provided for by §505 of Title III.

10 **II. SECOND CAUSE OF ACTION**

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

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

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

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

26 34. **California Health & Safety Code** § 19956, which appears in the same chapter  
27 as §19955, provides in pertinent part, “accommodations constructed in this state shall conform  
28 to the provisions of Chapter 7 (commencing with Sec. 4450) of Division 5 of Title 1 of the  
*Government Code*...” **California Health & Safety Code** § 19956 was operative July 1, 1970,  
and is applicable to all public accommodations constructed or altered after that date. On  
information and belief, portions of “**W & W**” and/or of its buildings, were constructed and/or

1 altered after July 1, 1970, and substantial portions of said building had alterations, structural  
2 repairs, and/or additions made to such public accommodations after July 1, 1970, thereby  
3 requiring said public accommodations and/or buildings to be subject to the requirements of  
4 Part 5.5, **California Health & Safety Code** § 19955, *et seq.*, upon such alteration, structural  
5 repairs or additions per **California Health & Safety Code** § 19959.

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

19  
20 36. Public facilities, such as "W & W" are public accommodations or facilities within  
21 the meaning of **California Health & Safety Code** § 19955, *et seq.*

22  
23 37. It is difficult or impossible for persons with physical disabilities who use  
24 wheelchairs, canes, walkers and service animals to travel about in public to use a mobile home  
25 and RV accessories sales facility with the defects set forth in Paragraph 3 above as required  
26 by Title 24 of the **California Code of Regulations** and the **Americans with Disabilities Act**  
27 **Access Guidelines (ADAAG)**. Thus, when public accommodations fail to provide handicap  
28 accessible public facilities, persons with physical disabilities are unable to enter and use said

1 facilities, and are denied full and equal access to and use of that facility that is enjoyed by  
2 other members of the general public.

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

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

16 40. Plaintiff is further informed and believes that as of the date of filing this  
17 Complaint, Defendants have not made accessible the facilities at the subject mobile home and  
18 RV accessories sales facility as set forth in Paragraph 3 above.

19 41. Plaintiff **JEFF HOHLBEIN** is informed and believes, and therefore alleges, that  
20 Defendants **W & W MOBILE HOME SALES, INC., a California corporation, and DOES ONE**  
21 **to FIFTY, inclusive**, and each of them, caused the subject buildings constituting “**W & W**” to  
22 be constructed, altered and maintained in such a manner that persons with physical disabilities  
23 were denied full and equal access to, within and throughout said buildings and were denied full  
24 and equal use of said public facilities, and despite knowledge and actual and constructive  
25 notice to such Defendants that the configuration of the mobile home and RV accessories sales  
26 facility and/or buildings was in violation of the civil rights of persons with physical disabilities,  
27 such as Plaintiff. Such construction, modification, ownership, operation, maintenance and  
28

1 practices of such public facilities are in violation of law as stated in Part 5.5, **California Health**  
2 **& Safety Code** § 19955, *et seq.*, and elsewhere in the laws of California.

3 42. On information and belief, the subject building constituting the public facilities of  
4 “**W & W**” denied full and equal access to Plaintiff and other persons with physical disabilities in  
5 other respects due to non-compliance with requirement of Title 24 of the **California Code of**  
6 **Regulations** and **California Health & Safety Code** § 19955, *et seq.*

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

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

1 incurred, pursuant to the provisions of the **California Code of Civil Procedure** § 1021.5.  
2 Plaintiff additionally seeks attorneys' fees pursuant to **California Health & Safety Code** §  
3 19953 and **California Civil Code** §§ 54.3 and 55.

4 45. Defendants, and each of them, at times prior to and including August 4, 2003,  
5 and continuing to the present time, knew that persons with physical disabilities were denied  
6 their rights of equal access to all portions of this public facility. Despite such knowledge,  
7 Defendants failed and refused to take steps to comply with the applicable access statutes; and  
8 despite knowledge of the resulting problems and denial of civil rights thereby suffered by  
9 Plaintiff **JEFF HOHLBEIN** and other similarly situated persons with disabilities, including the  
10 specific notices referred to in paragraph 43 of this Complaint. Defendants have failed and  
11 refused to take action to grant full and equal access to persons with physical disabilities in the  
12 respects complained of hereinabove. Defendants and each of them have carried out a course  
13 of conduct of refusing to respond to, or correct complaints about, denial of handicap access.  
14 Such actions and continuing course of conduct by Defendants, evidence despicable conduct in  
15 conscious disregard for the rights or safety of Plaintiff and of other similarly situated persons,  
16 justifying an award of treble damages pursuant to **California Civil Code** § 54.3.

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

27 47. Plaintiff prays for an award of treble damages against Defendants, and each of  
28 them, pursuant to **California Civil Code** § 54.3 in an amount sufficient to make a more

1 profound example of Defendants and discourage owners, operators, franchisers and  
2 franchisees of other public facilities from willful disregard of the rights of persons with physical  
3 disabilities.

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

12 WHEREFORE, Plaintiff prays for damages as hereinafter stated.

13  
14 **III. THIRD CAUSE OF ACTION**  
15 **VIOLATION OF CALIFORNIA'S CIVIL RIGHTS ACTS**  
16 **(California Civil Code §§ 54, 54.1 and 54.3)**

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

20 50. The public facilities above-described constitute public facilities and public  
21 accommodations within the meaning of **California Health & Safety Code § 19955 et seq.** and  
22 were facilities to which members of the public are invited. The aforementioned acts and  
23 omissions of defendants, and each of them, constitute a denial of equal access to and use and  
24 enjoyment of these facilities by persons with disabilities, including Plaintiff **JEFF HOHLBEIN**.  
25 Said acts and omissions are also in violation of provisions of Title 24 of the **California Code of**  
26 **Regulations**.

27  
28 51. The rights of Plaintiff, the entitlement of Plaintiff to full and equal access and the



1 denial by defendants of such rights and entitlements are set forth in **California Civil Code** §§  
2 54, 54.1 and 54.3, to wit:

3           Individuals with disabilities shall have the same right as the...general  
4 public to full and free use of the streets, highways, sidewalks, walkways, public  
5 buildings, public facilities, and other public places. **California Civil Code** §  
6 54(a).

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

17           52. On or about August 4, 2003, Plaintiff **JEFF HOHLBEIN** suffered violations of  
18 **California Civil Code** §§ 54 and 54.1 in that he was denied full and equal enjoyment of the  
19 goods, services, facilities and privileges of said **W & W**, as set forth in paragraph 3 above.

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

23           53. As a result of the denial of full and equal enjoyment of the goods, services,  
24 facilities and privileges of defendants' **W & W** due to the acts and omissions of defendants,  
25 and each of them, in owning, operating and maintaining this subject public facility, Plaintiff  
26 suffered violations of his civil rights, including, but not limited to, rights under **California Civil**  
27 **Code** §§ 54, 54.1, and 54.3, and has and will suffer physical injury, emotional distress, mental  
28 distress, mental suffering, mental anguish, which includes shame, humiliation, embarrassment,  
anger, chagrin, disappointment and worry, expectedly and naturally associated with a disabled  
person's denial of full and equal enjoyment of goods, services, privileges, etc. all to his  
damages as prayed hereinafter in an amount within the jurisdiction of the court. Defendants'

1 actions and omissions to act constituted discrimination against Plaintiff on the sole basis that  
2 Plaintiff was physically disabled.

3 54. Plaintiff seeks damages for the violation of his rights as a disabled person on or  
4 about August 4, 2003, according to proof, pursuant to **California Civil Code** § 54.3, including  
5 a trebling of all statutory and actual damages, general and special, available pursuant to  
6 **California Civil Code** § 54.3(a).

7  
8 55. As a result of defendants' acts and omissions in this regard, Plaintiff **JEFF**  
9 **HOHLBEIN** has been required to incur legal expenses and hire attorneys in order to enforce  
10 his rights and enforce provisions of the law protecting the full and equal enjoyment of goods,  
11 services, facilities, privileges of public facilities by the disabled, and those individuals  
12 associated with or accompanied by a person with disabilities, and prohibiting discrimination  
13 against the disabled. Plaintiff, therefore, seeks recovery in this lawsuit for all reasonable  
14 attorneys' fees incurred pursuant to the provisions of **California Civil Code** § 54.3.  
15 Additionally, Plaintiff's lawsuit is intended not only to obtain compensation for damages to  
16 Plaintiff, but also to compel the defendants to make their goods, services, facilities and  
17 privileges available and accessible to all members of the public with physical disabilities,  
18 justifying public interest attorneys' fees pursuant to the provisions of **California Code of Civil**  
19 **Procedure** § 1021.5.

20  
21 56. The acts and omissions of defendants in failing to provide the required accessible  
22 facilities subsequent to the enactment date and compliance date of the **Americans with**  
23 **Disabilities Act of 1990**, and refusal to make remedial modifications and alterations to its  
24 handicapped parking, handicapped signage, pathways, and other elements as hereinabove  
25 stated, after being notified by patrons before and after the time of Plaintiff's visit and injuries,  
26 on or about August 4, 2003, and all times prior thereto with the knowledge that persons with  
27 disabilities would enter defendants' premises, the reason given therefor, was an established  
28

1 policy, practice and procedure of refusing and denying entry, thereby denying lodging and  
2 other services to a person with disabilities and the companions thereof, evidence malice and  
3 oppression toward Plaintiff and other disabled persons.

4 57. Plaintiff seeks injunctive relief pursuant to **California Civil Code** § 55 to require  
5 Defendants to comply with federal and state access regulations.

6 58. Defendants have failed to establish a nondiscriminatory criteria, policy, practice  
7 and procedure for entry into said "**W & W**" as hereinabove described.

8 59. As a result of defendants' continuing failure to provide for the full and equal  
9 enjoyment of goods, services, facilities and privileges of said "**W & W**" as hereinabove  
10 described, Plaintiff has continually been denied his rights to full and equal enjoyment of the  
11 subject mobile home and RV accessories sales facility, as it would be a "futile gesture" to  
12 attempt to patronize said "**W & W**" with the discriminatory policy in place as hereinabove  
13 described.

14 60. The acts and omissions of defendants as complained of herein in failing to  
15 provide the required accessible facilities subsequent to the enactment date and compliance  
16 date of the **Americans with Disabilities Act of 1990** and refusal to make remedial  
17 modifications and alternations to the architectural barriers as stated herein and in failing to  
18 establish practices, policies and procedures to allow safe access by persons who are disabled  
19 are continuing on a day-to-day basis to have the effect of wrongfully and willfully excluding  
20 Plaintiff and other members of the public who are physically disabled, from full and equal  
21 enjoyment of the subject "**W & W**" as hereinabove described. Such acts and omissions are  
22 the continuing cause of humiliation and mental and emotional suffering of Plaintiff in that these  
23 actions continue to treat Plaintiff as an inferior and second class citizen and serve to  
24 discriminate against him on the sole basis that he is a physically disabled. Plaintiff is unable,  
25 so long as such acts and omissions of defendants continue, to achieve full and equal  
26  
27  
28

1 enjoyment of the goods and services of said "**W & W**" as described hereinabove. The acts of  
2 defendants have legally caused and will continue to cause irreparable injury to Plaintiff if not  
3 enjoined by this court.

4 61. Wherefore, Plaintiff asks this court to preliminarily and permanently enjoin any  
5 continuing refusal by defendants to permit entry to said "**W & W**" and to serve Plaintiff or  
6 others similarly situated, and to require defendants to comply forthwith with the applicable  
7 statutory requirements relating to the full and equal enjoyment of goods and services as  
8 described hereinabove for disabled persons. Such injunctive relief is provided by **California**  
9 **Civil Code** § 55. Plaintiff further requests that the court award statutory costs and attorneys'  
10 fees to Plaintiff pursuant to **California Civil Code** § 55 and **California Code of Civil**  
11 **Procedure** § 1021.5, all as hereinafter prayed for.

12  
13 WHEREFORE, Plaintiff prays for compensatory damages, reasonable attorneys' fees  
14 and costs of suit, as allowed by statute and according to proof, and appropriate exemplary  
15 damages.  
16

17 **IV. FOURTH CAUSE OF ACTION**  
18 **VIOLATIONS OF *UNRUH CIVIL RIGHTS ACT***  
19 **(*California Civil Code* §§ 51 and 51.5)**

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

23 63. Defendants' acts and omissions as specified with regard to the discriminatory  
24 treatment of Plaintiff **JEFF HOHLBEIN** on the basis of his physical disabilities, have been in  
25 violation of **California Civil Code** §§ 51 and 51.5, the **Unruh Civil Rights Act**, and have  
26 denied to Plaintiff his rights to "full and equal accommodations, advantages, facilities,  
27 privileges or services in all business establishments of every kind whatsoever."

28 64. **California Civil Code** § 51 also provides that "[a] violation of the right of any

individual under the ***Americans with Disabilities Act of 1990*** (Public Law 101-336) shall also constitute a violation of this section.”

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

66. As a result of the violation of Plaintiff’s civil rights protected by ***California Civil Code*** §§ 51 and, 51.5, Plaintiff is entitled to the rights and remedies of ***California Civil Code*** § 52, including a trebling of actual damages (defined by ***California Civil Code*** § 52(h) to mean “special and general damages”), as well as reasonable attorneys’ fees and costs, as allowed by statute, according to proof. Further, pursuant to paragraphs 11, 12, 13, 35 and 43, Plaintiff seeks appropriate exemplary damages under ***California Civil Code*** § 3294.

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

**PRAYER FOR RELIEF**

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

1. Grant injunctive relief requiring that defendants establish a non-discriminatory criteria policy, practice and procedure permitting entry into the **W & W** in Eureka, California, for the purpose of services according to ***California Civil Code*** §§ 51, 51.5, 52, 54, 54.1, 54.3, and 55, *et seq.*, and Title III of the ***Americans with Disabilities Act of 1990***, and grant injunctive relief requiring that Defendants repair and render safe to handicapped persons, and otherwise make handicapped-accessible, all public areas of the mobile home and RV accessories sales facility, including, but not limited to, each of the barriers to access identified in Paragraph 3,

1 above, and make such facilities “readily accessible to and usable by individuals with  
2 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 **W &**  
5 **W**, located in Eureka, California, as a public facility until Defendants provide full and equal  
6 enjoyment of goods and services as described hereinabove to physically disabled persons,  
7 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;

13 4. Prejudgment interest on all compensatory damages;

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

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

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

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

24 **SINGLETON LAW GROUP**

25 Dated: September 22, 2003

26  
27 \_\_\_\_\_  
28 Jason K. Singleton, Attorney for  
Plaintiff, **JEFF HOHLBEIN**

1 **REQUEST FOR JURY TRIAL**

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

3 **SINGLETON LAW GROUP**

4  
5 Dated: September 22, 2003

6 \_\_\_\_\_  
7 Jason K. Singleton, Attorney for  
8 Plaintiff, **JEFF HOHLBEIN**