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3:02-CV-01226 ORGANIZATION FOR THE V. LAPETITE ROUGE MOTEL

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\*CMP.\*

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8 **UNITED STATES DISTRICT COURT**  
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 **'02 CV 1226BTM(NLS)**

11 **ORGANIZATION FOR THE**  
12 **ADVANCEMENT OF MINORITIES**  
13 **WITH DISABILITIES SUING ON**  
14 **BEHALF OF DAVID SINGLETARY**  
15 **AND ITS MEMBERS; and DAVID**  
16 **SINGLETARY, An Individual,**

17 Plaintiffs,

18 v.

19 **LA PETITE ROUGE MOTEL a.k.a.**  
20 **LAPETTITE ROUGE MOTEL;**  
21 **JAYANTILAL M. BHAGAT; SAROD**  
22 **R. PATEL; HANSABEN J. BHAGAT;**  
23 **VINA S. PATEL; And DOES 1**  
24 **THROUGH 10, Inclusive**

25 Defendants.

Case No.

**CIVIL COMPLAINT:**

**DISCRIMINATORY PRACTICES IN**  
**PUBLIC ACCOMMODATIONS**

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

**INTENTIONAL DISCRIMINATION**

**NEGLIGENCE**

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

**INTENTIONAL INFLECTION OF**  
**EMOTIONAL DISTRESS**

[CA CIVIL CODE 3294, 3333]

**NEGLIGENT INFLECTION OF**  
**EMOTIONAL DISTRESS**

[CA CIVIL CODE 3333]

**DEMAND FOR JURY TRIAL**

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

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**INTRODUCTION**

Plaintiffs ORGANIZATION FOR THE ADVANCEMENT OF MINORITIES WITH DISABILITIES SUING ON BEHALF OF DAVID SINGLETARY AND ITS MEMBERS and DAVID SINGLETARY, An Individual, herein complain, by filing this Civil Complaint in accordance with rule 8 of the Federal Rules of Civil Procedure in the Judicial District of the United States District Court of the Southern District of California, that Defendants have in the past, and presently are, engaging in discriminatory practices against individuals with disabilities, specifically including minorities with disabilities. Plaintiffs allege this civil action and others substantial similar thereto are necessary to compel access compliance because empirical research on the effectiveness of Title III of the Americans with Disabilities Act indicates the Title has failed to achieve full and equal access simply by the executive branch of the Federal Government funding and promoting voluntary compliance efforts. Further, empirical research shows when individuals with disabilities give actual notice of potential access problems to places of public accommodation without a federal civil rights civil action, the public accommodations do not remove the access barriers. Therefore, Plaintiffs make the following allegations in this federal civil rights action:

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**JURISDICTION AND VENUE**

1. The federal jurisdiction of this action is based on the Americans with Disabilities Act, 42 United States Code 12101-12102, 12181-12183 and 12201, et seq. Venue in the Judicial District of the United States District Court of the Southern

1 District of California is in accordance with 28 U.S.C. § 1391(b)  
2 because a substantial part of Plaintiffs' claims arose within the  
3 Judicial District of the United States District Court of the  
4 Southern District of California.  
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6 **SUPPLEMENTAL JURISDICTION**  
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8 2. The Judicial District of the United States District Court of  
9 the Southern District of California has supplemental jurisdiction  
10 over the state claims as alleged in this Complaint pursuant to 28  
11 U.S.C. § 1367(a). The reason supplemental jurisdiction is proper  
12 in this action is because all the causes of action or claims  
13 derived from federal law and those arising under state law, as  
14 herein alleged, arose from common nucleus of operative facts. The  
15 common nucleus of operative facts, include, but are not limited  
16 to, the incidents where Plaintiff's Member and Plaintiff DAVID  
17 SINGLETARY was denied full and equal access to Defendants'  
18 facilities, goods, and/or services in violation of both federal  
19 and state laws when he attempted to enter, use, and/or exit  
20 Defendants' facilities as described within paragraphs 6 through 22  
21 of this Complaint. Further, due to this denial of full and equal  
22 access Plaintiff's Member and Plaintiff DAVID SINGLETARY and other  
23 minorities with disabilities were injured. Based upon the said  
24 allegations the state actions, as stated herein, are so related to  
25 the federal actions that they form part of the same case or  
26 controversy, and the actions would ordinarily be expected to be  
27 tried in one judicial proceeding.

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NAMED DEFENDANTS AND NAMED PLAINTIFFS

3. Defendants are, and, at all times mentioned herein, were, a business or corporation or franchise organized and existing and/or doing business under the laws of the State of California. Defendant LA PETITE ROUGE MOTEL a.k.a. LAPETTITE ROUGE MOTEL is located at 6840 El Cajon Boulevard, San Diego, California, 92115. Plaintiffs are informed and believe and thereon allege that Defendants JAYANTILAL M. BHAGAT and SAROD R. PATEL are the owners, operators, and/or lessors of LA PETITE ROUGE MOTEL a.k.a. LAPETTITE ROUGE MOTEL. Further, Plaintiffs are informed and believe and thereon allege that Defendants JAYANTILAL M. BHAGAT; SAROD R. PATEL; HANSABEN J. BHAGAT; and VINA S. PATEL are the owners, operators, and/or lessors of the property located at 6840 El Cajon Boulevard, San Diego, California, 92115, Assessor Parcel Number 468-152-18-00. Defendants JAYANTILAL M. BHAGAT; SAROD R. PATEL; HANSABEN J. BHAGAT; and VINA S. PATEL are located at 6840 El Cajon Boulevard, San Diego, California, 92115. The words "Plaintiffs" and "Plaintiff" as used herein specifically include the ORGANIZATION FOR THE ADVANCEMENT OF MINORITIES WITH DISABILITIES, ORGANIZATION FOR THE ADVANCEMENT OF MINORITIES SUING ON BEHALF OF DAVID SINGLETARY, its Members, DAVID SINGLETARY, and persons associated with its Members who accompanied Members to Defendants' facilities. The words "Plaintiff's Member" and "Plaintiff's Member" as used herein specifically include ORGANIZATION FOR THE ADVANCEMENT OF MINORITIES SUING ON BEHALF OF DAVID SINGLETARY, its Members, DAVID SINGLETARY, and persons

1 associated with its Members who accompanied Members to Defendants'  
2 facilities.

3 4. Defendants Does 1 through 10, were at all times relevant  
4 herein subsidiaries, employers, employees, agents, of LA PETITE  
5 ROUGE MOTEL a.k.a. LAPETTITE ROUGE MOTEL; JAYANTILAL M. BHAGAT;  
6 SAROD R. PATEL; HANSABEN J. BHAGAT; and/or VINA S. PATEL.

7 Plaintiffs are ignorant of the true names and capacities of  
8 Defendants sued herein as Does 1 through 10, inclusive, and  
9 therefore sues these Defendants by such fictitious names.

10 Plaintiffs will pray leave of the court to amend this complaint to  
11 allege the true names and capacities of the Does when ascertained.

12 5. Plaintiffs are informed and believe, and thereon allege,  
13 that Defendants and each of them herein were, at all times  
14 relevant to the action, the owner, franchisee, lessee, general  
15 partner, limited partner, agent, employee, representing partner,  
16 or joint venturer of the remaining Defendants and were acting  
17 within the course and scope of that relationship. Plaintiffs are  
18 further informed and believes, and thereon alleges, that each of  
19 the Defendants herein gave consent to, ratified, and/or authorized  
20 the acts alleged herein to each of the remaining Defendants.

21  
22 **CONCISE SET OF FACTS**

23 6. ORGANIZATION FOR THE ADVANCEMENT OF MINORITIES WITH  
24 DISABILITIES was formed to advocate for the civil rights of  
25 minorities with disabilities; a substantial population with  
26 neither an advocate nor voice in the disability movement. It is  
27 well documented by the federal government and others that the  
28 promises and opportunities afforded by the Americans with

1 Disabilities Act are not reaching minorities with disabilities.  
2 Further, there is abundance of evidence to show, despite the  
3 federal government's unprecedented and aggressive ADA awareness  
4 and technical assistance drive, businesses in the minority  
5 communities are not complying with the ADA. For example, the  
6 National Council on Disability reported in 1993 that minorities  
7 with disabilities face double discrimination; they are poorer;  
8 they have fewer opportunities than others. Also, the fastest  
9 growing segment of the disability population is from minority  
10 communities because those communities are growing faster than the  
11 Anglo communities, and because persons from minority communities  
12 have a higher risk of disability. In fact, studies show the rate  
13 of disability for Whites is 7%, for African-American 13%, and for  
14 Hispanics 9%. Moreover, from 1983 to 1994 the disability non-  
15 White population increased by 50.4% whereas the disability White  
16 population only increased 11.3%. Even more intriguing is the non-  
17 White 18 years older and under population rate of disability  
18 increased by 86.6%. Further, evidence suggests minorities with  
19 disabilities tend to live with their families in conditions of  
20 poverty (61%), and they tend not to advocate for their civil  
21 rights.

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23 7. Hence, Members of ORGANIZATION FOR THE ADVANCEMENT OF  
24 MINORITIES WITH DISABILITIES specifically intend to zealously  
25 advocate for minorities with disabilities and desire equal access  
26 to businesses within their community; and these are the reasons  
27 Plaintiffs filed this action.

28 8. Plaintiff's Member and Plaintiff DAVID SINGLETARY has a

1 physical impairment and due to this impairment he has learned to  
2 successfully operate a wheelchair.

3 9. On July 11, 2001, Plaintiff's Member and Plaintiff DAVID  
4 SINGLETARY went to Defendants' LA PETITE ROUGE MOTEL a.k.a.  
5 LAPETTITE ROUGE MOTEL facilities to utilize their goods and/or  
6 services. When Plaintiff's Member and Plaintiff DAVID SINGLETARY  
7 patronized Defendants' LA PETITE ROUGE MOTEL a.k.a. LAPETTITE  
8 ROUGE MOTEL establishment, he had difficulty using the disabled  
9 parking, exterior path of travel, lobby/office entrance,  
10 guestroom, and guestroom entrance facilities because they failed  
11 to comply with ADA Access Guidelines For Buildings and Facilities  
12 (hereafter referred to as "ADAAG") and/or California's Title 24  
13 Building Code Requirements. Further, Plaintiff's Member and  
14 Plaintiff DAVID SINGLETARY was completely denied access to  
15 Defendants' LA PETITE ROUGE MOTEL a.k.a. LAPETTITE ROUGE MOTEL  
16 facilities as Defendants specifically stated to Plaintiff's Member  
17 and Plaintiff DAVID SINGLETARY that Defendants refuse to reserve a  
18 guestroom or let a guestroom to a member of the disability  
19 community. Therefore, Plaintiff's Member and Plaintiff DAVID  
20 SINGLETARY was intentionally discriminated against when he  
21 attempted to gain access to Defendants' LA PETITE ROUGE MOTEL  
22 a.k.a. LAPETTITE ROUGE MOTEL establishment.

23 10. Defendants failed to remove obstructions in the disabled  
24 parking, exterior path of travel, lobby/office entrance, customer  
25 service counter, Customer service bell, lobby/office clear floor  
26 space, stair, guestroom, and guestroom entrance facilities in  
27 Defendants' LA PETITE ROUGE MOTEL a.k.a. LAPETTITE ROUGE MOTEL  
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1 establishment.

2 11. Plaintiff's Member and Plaintiff DAVID SINGLETARY personally  
3 experienced difficulty with said access barriers in Defendants LA  
4 PETITE ROUGE MOTEL a.k.a. LAPETTITE ROUGE MOTEL f.k.a. COMPUTERS  
5 RESALE establishment. For example, the parking facilities that  
6 serve Defendants' motel fail to have any disabled parking and fail  
7 to have any "Van Accessible" disabled parking. The entrance to  
8 the parking facilities off of El Cajon Boulevard fail to have the  
9 required disability signage informing patrons they may be fined or  
10 their vehicles may be towed if they unlawfully park in a disabled  
11 parking space.

12 12. There fails to be a safe and accessible exterior path of  
13 travel leading from the public sidewalk to the lobby/office and to  
14 the guestrooms as members of the disability community are forced  
15 to traverse through vehicular traffic in the parking lot without  
16 the benefit of a marked crosswalk leading to the building walkway.  
17 There also fails to be a safe and accessible exterior path of  
18 travel leading from the office/lobby to the guestrooms, as members  
19 of the disability community are forced to traverse through  
20 vehicular traffic in the parking lot without the benefit of a  
21 marked crosswalk leading to the building walkway. The exterior  
22 path of travel leading to the three (3) story building is  
23 completely inaccessible, as there are a series of steps that must  
24 be traversed to access the building walkway. There are unsecured  
25 mats along the exterior path of travel leading to the lobby/office  
26 entrance door that pose hazards.

27 13. The lobby/office entrance door is completely inaccessible to  
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1 members of the disability community who use a wheelchair for  
2 mobility, as there is a five inch (5") step that must be traversed  
3 in order to access the lobby/office entrance door.

4 14. Defendants' LA PETITE ROUGE MOTEL a.k.a. LAPETTITE ROUGE  
5 MOTEL has twenty-two (22) guestrooms, none of which are accessible  
6 guestrooms. If a motel has twenty-two guestrooms, there must be  
7 one (1) guestroom that is fully accessible to members of the  
8 disability community, including members of the disability  
9 community with hearing impairments.

10 15. Every guestroom within Defendants' motel is completely  
11 inaccessible. There is a two inch (2") unbeveled threshold on the  
12 exterior side of every guestroom entrance door. The exterior  
13 hardware on every guestroom entrance door fails to be accessible,  
14 as the hardware requires tight grasping and/or twisting of the  
15 wrist to operate. There are unsecured mats located on the  
16 exterior side of many guestroom entrance doors that pose hazards.  
17 Also, the guestroom entrance doors fail to have the required  
18 disability signage and fail to have the required Braille symbols  
19 identifying the guestroom numbers.

20 16. Further, Plaintiff's Member and Plaintiff DAVID SINGLETARY  
21 was subjected to a complete denial of access to Defendants' LA  
22 PETITE ROUGE MOTEL a.k.a. LAPETTITE ROUGE MOTEL facilities.  
23 Defendant verbally refused any and all services to Plaintiff's  
24 Member and Plaintiff DAVID SINGLETARY. Further, Defendants stated  
25 to Plaintiff's Member and Plaintiff DAVID SINGLETARY that  
26 Defendants refuse to reserve a guestroom or let a guestroom to a  
27 member of the disability community. Therefore, Plaintiff's Member  
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1 and Plaintiff DAVID SINGLETARY was intentionally discriminated  
2 against when he attempted to gain access to Defendants' LA PETITE  
3 ROUGE MOTEL a.k.a. LAPETTITE ROUGE MOTEL establishment.

4 17. In addition to the violations personally experienced by  
5 Plaintiff, additional violations of federal and state disability  
6 laws exist at Defendants' LA PETITE ROUGE MOTEL a.k.a. LAPETTITE  
7 ROUGE MOTEL, establishment. For example, within the lobby/office,  
8 the guest customer service counter is too high to be accessible,  
9 as the counter is forty inches (40") high. Also, the customer  
10 service bell at the front desk in the lobby/office is mounted too  
11 high to be accessible, as the bell is mounted fifty-six inches  
12 (56") high. The lobby/office interior fails to have sufficient  
13 clear floor space to allow for the required turning radius for a  
14 member of the disability community who uses a wheelchair for  
15 mobility.

16 18. The stairs that lead to Guestrooms 1 through 4 fail to have  
17 the required handrails that are located on both sides of the  
18 stairs and that are thirty-four inches to thirty-eight inches (34"  
19 to 38") above the nosing of the treads, and that extend one foot  
20 (1') beyond the top nosing and one foot (1'), plus the tread  
21 width, beyond the bottom nosing. This flight of stairs fails to  
22 have the required non-skid material on the stairs and fails to  
23 have the required striping for the visually impaired.

24 19. Within Defendants' motel, there are eight (8) sets of  
25 interior stairs. All eight sets of stairs fails to have the  
26 required handrails that are located on both sides of the stairs  
27 and that are thirty-four inches to thirty-eight inches (34" to  
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1 38") above the nosing of the treads, and that extend one foot (1')  
2 beyond the top nosing and one foot (1'), plus the tread width,  
3 beyond the bottom nosing. The existing handrails fail to have the  
4 correct gripping surfaces. All eight (8) sets of stairs fail to  
5 have the required non-skid material on the steps and fail to have  
6 the required striping for the visually impaired. Also, all eight  
7 (8) sets of stairs have impermissible open risers.

8 20. Based on these facts, Plaintiffs allege Plaintiff's Member  
9 and Plaintiff DAVID SINGLETARY was discriminated against each time  
10 he patronized Defendants' establishments.

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

8 22. Plaintiff's Member and Plaintiff DAVID SINGLETARY was  
9 extremely upset due to Defendants' conduct. Plaintiff's Member  
10 and Plaintiff DAVID SINGLETARY desires to return to the  
11 Defendants' LA PETITE ROUGE MOTEL a.k.a. LAPETTITE ROUGE MOTEL  
12 facilities.

13 **WHAT CLAIMS ARE PLAINTIFFS ALLEGING AGAINST EACH NAMED DEFENDANT**

14 23. LA PETITE ROUGE MOTEL a.k.a. LAPETTITE ROUGE MOTEL;  
15 JAYANTILAL M. BHAGAT; SAROD R. PATEL; HANSABEN J. BHAGAT; VINA S.  
16 PATEL; and Does 1 through 10 will be referred to collectively  
17 hereinafter as "Defendants."

18 24. Plaintiffs aver that the Defendants are liable for the  
19 following claims as alleged below:

20 **DISCRIMINATORY PRACTICES IN PUBLIC ACCOMMODATIONS**

21 FIRST CAUSE OF ACTION AGAINST ALL DEFENDANTS- **Claims Under The**  
22 **Americans With Disabilities Act Of 1990**

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

24 25. Based on the facts plead at ¶¶ 6-22 above and elsewhere  
25 in this complaint, Plaintiff's Member and Plaintiff DAVID  
26 SINGLETARY was denied full and equal access to Defendants' goods,  
27 services, facilities, privileges, advantages, or accommodations.  
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1 Plaintiffs allege Defendants are a public accommodation owned,  
2 leased and/or operated by Defendants.

3 26. Defendants' existing facilities and/or services failed to  
4 provide full and equal access to Defendants' facility as required  
5 by 42 U.S.C. § 12182(a). Thus, Plaintiff's Member and Plaintiff  
6 DAVID SINGLETARY was subjected to discrimination in violation of  
7 42 United States Code 12182(b)(2)(A)(iv) and 42 U.S.C. § 12188  
8 because Plaintiffs were denied equal access to Defendants'  
9 existing facilities.

10 27. Plaintiff's Member and Plaintiff DAVID SINGLETARY has  
11 physical impairments as alleged in ¶ 8 above because his  
12 conditions affect one or more of the following body systems:  
13 neurological, musculoskeletal, special sense organs, and/or  
14 cardiovascular. Further, his said physical impairments  
15 substantially limits one or more of the following major life  
16 activities: walking.

17 28. In addition, Plaintiff's Member and Plaintiff DAVID  
18 SINGLETARY cannot perform one or more of the said major life  
19 activities in the manner, speed, and duration when compared to the  
20 average person. Moreover, Plaintiff's Member and Plaintiff DAVID  
21 SINGLETARY has a history of or has been classified as having a  
22 physical impairment as required by 42 U.S.C. § 12102(2)(A).

23 CLAIM II: Failure To Make Alterations In Such A Manner That The  
24 Altered Portions Of The Facility Are Readily Accessible And Usable  
25 By Individuals With Disabilities  
26

27 29. Based on the facts plead at ¶¶ 6-22 above and elsewhere in  
28 this complaint, Plaintiff's Member and Plaintiff DAVID SINGLETARY

1 was denied full and equal access to Defendants' goods, services,  
2 facilities, privileges, advantages, or accommodations within a  
3 public accommodation owned, leased, and/or operated by Defendants.  
4 Defendants altered their facility in a manner that affects or  
5 could affect the usability of the facility or a part of the  
6 facility after January 26, 1992. In performing the alteration,  
7 Defendants failed to make the alteration in such a manner that, to  
8 the maximum extent feasible, the altered portions of the facility  
9 are readily accessible to and usable by individuals with  
10 disabilities, including individuals who use wheelchairs, in  
11 violation of 42 U.S.C. §12183(a)(2).

12 30. Additionally, the Defendants undertook an alteration that  
13 affects or could affect the usability of or access to an area of  
14 the facility containing a primary function after January 26, 1992.  
15 Defendants further failed to make the alterations in such a manner  
16 that, to the maximum extent feasible, the path of travel to the  
17 altered area and the bathrooms, telephones, and drinking fountains  
18 serving the altered area, are readily accessible to and usable by  
19 individuals with disabilities in violation 42 U.S.C. §12183(a)(2).  
20

21 31. Pursuant to 42 U.S.C. §12183(a), this failure to make the  
22 alterations in a manner that, to the maximum extent feasible, are  
23 readily accessible to and usable by individuals with disabilities  
24 constitutes discrimination for purposes of 42 U.S.C. §12183(a).

25 Therefore, Defendants discriminated against Plaintiff's Member and  
26 Plaintiff DAVID SINGLETARY in violation of 42 U.S.C. § 12182(a).

27 32. Thus, Plaintiff's Member and Plaintiff DAVID SINGLETARY was  
28 subjected to discrimination in violation of 42 U.S.C. § 12183(a),

1 42 U.S.C. §12182(a) and 42 U.S.C. §12188 because said Member and  
2 Plaintiff DAVID SINGLETARY was denied equal access to Defendants'  
3 existing facilities.

4 CLAIM III: **Failure To Remove Architectural Barriers**

5 33. Based on the facts plead at ¶¶ 6-22 above and elsewhere in  
6 this complaint, Plaintiff's Member and Plaintiff DAVID SINGLETARY  
7 was denied full and equal access to Defendants' goods, services,  
8 facilities, privileges, advantages, or accommodations within a  
9 public accommodation owned, leased, and/or operated by Defendants.  
10 Defendants failed to remove barriers as required by 42 U.S.C. §  
11 12182(a). Plaintiffs are informed and believe, and thus allege  
12 that architectural barriers which are structural in nature exist  
13 at the following physical elements of Defendants' facilities:  
14 Space Allowance and Reach Ranges, Accessible Route, Protruding  
15 Objects, Ground and Floor Surfaces, Parking and Passenger Loading  
16 Zones, Curb Ramps, Ramps, Stairs, Elevators, Platform Lifts  
17 (Wheelchair Lifts), Windows, Doors, Entrances, Drinking Fountains  
18 and Water Coolers, Water Closets, Toilet Stalls, Urinals,  
19 Lavatories and Mirrors, Sinks, Storage, Handrails, Grab Bars, and  
20 Controls and Operating Mechanisms, Alarms, Detectable Warnings,  
21 Signage, and Telephones.

22  
23 34. Title III requires places of public accommodation to remove  
24 architectural barriers that are structural in nature to existing  
25 facilities. [See, 42 United States Code 12182(b)(2)(A)(iv).]  
26 Failure to remove such barriers and disparate treatment against a  
27 person who has a known association with a person with a disability  
28 are forms of discrimination. [See 42 United States Code



1 12182(b)(2)(A)(iv).] Thus, Plaintiff's Member and Plaintiff DAVID  
2 SINGLETARY was subjected to discrimination in violation of 42  
3 United States Code 12182(b)(2)(A)(iv) and 42 U.S.C. § 12188  
4 because said Member and Plaintiff DAVID SINGLETARY was denied  
5 equal access to Defendants' existing facilities.

6 CLAIM IV: **Failure To Modify Practices, Policies And Procedures**

7 35. Based on the facts plead at ¶¶ 6-22 above and elsewhere in  
8 this complaint, Defendants failed and refused to provide a  
9 reasonable alternative by modifying its practices, policies and  
10 procedures in that they failed to have a scheme, plan, or design  
11 to assist Plaintiff's Member and Plaintiff DAVID SINGLETARY and/or  
12 others similarly situated in entering and utilizing Defendants'  
13 services, as required by 42 U.S.C. § 12188(a).

14 36. Thus, said Member and Plaintiff DAVID SINGLETARY was  
15 subjected to discrimination in violation of 42 United States Code  
16 12182(b)(2)(A)(iv) and 42 U.S.C. § 12188 because said Member and  
17 Plaintiff DAVID SINGLETARY was denied equal access to Defendants'  
18 existing facilities.

19 CLAIM V: **Intentional Discrimination**

20 37. Based on the facts plead at ¶¶ 6-22 above and elsewhere  
21 in this complaint, Defendants intentionally denied Plaintiff's  
22 Member DAVID SINGLETARY full and equal access to Defendants'  
23 goods, services, facilities, privileges, advantages, or  
24 accommodations. Alternatively, Defendants' intent to discriminate  
25 can be inferred from Defendants' acts or omissions to act which  
26 were substantially certain to result in Defendants' denial to  
27 Plaintiff's Member full and equal access to Defendants' goods,  
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1 services, facilities, privileges, advantages, or accommodations.  
2 Plaintiffs allege Defendants denied Plaintiffs full and equal  
3 access to Defendants' facility as required by 42 U.S.C. §  
4 12182(a). Thus, Plaintiff's Member DAVID SINGLETARY was subjected  
5 to discrimination in violation of 42 United States Code  
6 12182(b)(2)(A)(iv) and 42 U.S.C. § 12188 since Defendants' denied  
7 Plaintiff's Member DAVID SINGLETARY equal access to Defendants'  
8 existing facilities.

9 38. Based on the facts plead at ¶¶ 6-22 above and elsewhere  
10 in this complaint, Defendants intentionally denied Plaintiff's  
11 Member DAVID SINGLETARY full and equal access to Defendants'  
12 goods, services, facilities, privileges, advantages, or  
13 accommodations. Alternatively, Defendants acts or omissions to  
14 act were substantially certain to result in Defendants' denial to  
15 Plaintiff's Member full and equal access to Defendants' goods,  
16 services, facilities, privileges, advantages, or accommodations  
17 such that Defendants' acts or failure to act constitute intent.  
18 Plaintiffs allege Defendants intentionally denied Plaintiffs full  
19 and equal access to Defendants' facility as required by 42 U.S.C.  
20 § 12182(a). Defendants intentionally failed to remove barriers as  
21 required by 42 U.S.C. § 12182(a). Failure to remove such barriers  
22 and disparate treatment against a person who has a known  
23 association with a person with a disability are forms of  
24 discrimination. [See 42 United States Code 12182(b)(2)(A)(iv).]  
25 Defendants' intentional failure to remove such barriers  
26 constitutes discrimination against Plaintiff DAVID SINGLETARY.  
27 [See 42 United States Code 12182(b)(2)(A)(iv)]. Also, Defendants  
28

1 intentional failure to remove such barriers constitutes  
2 discrimination against similarly situated persons with  
3 disabilities. [See 42 United States Code 12182(b)(2)(A)(iv)].  
4 Defendants' actions or omissions to act constitute a pattern and  
5 practice of discrimination against Plaintiffs and similarly  
6 situated persons with disabilities. Thus, Plaintiff's Member  
7 DAVID SINGLETARY was subjected to discrimination in violation of  
8 42 United States Code 12182(b)(2)(A)(iv) and 42 U.S.C. § 12188  
9 39. Based on the facts plead at ¶¶ 6-22 above and elsewhere in  
10 this complaint, Defendants intentionally failed and refused to  
11 provide a reasonable alternative by modifying its practices,  
12 policies and procedures in that they failed to have a scheme,  
13 plan, or design to assist Plaintiff's Member DAVID SINGLETARY  
14 and/or others similarly situated in entering and utilizing  
15 Defendants' services, as required by 42 U.S.C. § 12188(a). Thus,  
16 said Member was subjected to intentional discrimination in  
17 violation of 42 United States Code 12182(b)(2)(A)(iv) and 42  
18 U.S.C. § 12188 because said Member was denied equal access to  
19 Defendants' existing facilities.  
20

21  
22 SECOND CAUSE OF ACTION AGAINST ALL DEFENDANTS - CLAIMS UNDER  
23 CALIFORNIA ACCESSIBILITY LAWS

24 CLAIM I: Denial Of Full And Equal Access

25 40. Based on the facts plead at ¶¶ 6-22 above and elsewhere in  
26 this complaint, Plaintiff's Member and Plaintiff DAVID SINGLETARY  
27 was denied full and equal access to Defendants' goods, services,  
28 facilities, privileges, advantages, or accommodations within a

1 public accommodation owned, leased, and/or operated by Defendants  
2 as required by Civil Code Sections 54 and 54.1. Defendants'  
3 facility violated California's Title 24 Accessible Building Code  
4 by failing to provide access to Defendants' facilities due to  
5 violations pertaining to the Space Allowance and Reach Ranges,  
6 Accessible Route, Protruding Objects, Ground and Floor Surfaces,  
7 Parking and Passenger Loading Zones, Curb Ramps, Ramps, Stairs,  
8 Elevators, Platform Lifts (Wheelchair Lifts), Windows, Doors,  
9 Entrances, Drinking Fountains and Water Coolers, Water Closets,  
10 Toilet Stalls, Urinals, Lavatories and Mirrors, Sinks, Storage,  
11 Handrails, Grab Bars, and Controls and Operating Mechanisms,  
12 Alarms, Detectable Warnings, Signage, and Telephones.

13 41. These violations denied Plaintiff's Member and Plaintiff  
14 DAVID SINGLETARY full and equal access to Defendants' facility.  
15 Thus, said Member and Plaintiff DAVID SINGLETARY was subjected to  
16 discrimination pursuant to Civil Code §§ 51, 52, and 54.1 because  
17 Plaintiffs were denied full, equal and safe access to Defendants'  
18 facility, causing severe emotional distress.

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

20 42. Based on the facts plead at ¶¶ 6-22 above and elsewhere  
21 herein this complaint, Defendants failed and refused to provide a  
22 reasonable alternative by modifying its practices, policies, and  
23 procedures in that they failed to have a scheme, plan, or design  
24 to assist Plaintiff's Member and Plaintiff DAVID SINGLETARY and/or  
25 others similarly situated in entering and utilizing Defendants'  
26 services as required by Civil Code § 54.1. Thus, said Member and  
27 Plaintiff DAVID SINGLETARY was subjected to discrimination in  
28

1 violation of Civil Code § 54.1.

2 CLAIM III: Violation Of The Unruh Act

3 43. Based on the facts plead at ¶¶ 6-22 above and elsewhere  
4 herein this complaint and because Defendants violated the Civil  
5 Code § 51 by failing to comply with 42 United States Code  
6 12182(b)(2)(A)(iv), Defendants did and continue to discriminate  
7 against Plaintiff's Member and Plaintiff DAVID SINGLETARY and  
8 persons similarly situated in violation of Civil Code §§ 51, 52,  
9 and 54.1.

10 CLAIM IV: Intentional Discrimination

11 44. Based on the facts plead at ¶¶ 6-22 above and elsewhere in  
12 this complaint, Defendants intentionally denied Plaintiff's Member  
13 DAVID SINGLETARY full and equal access as required by Civil Code  
14 Sections 51 to Defendants' goods, services, facilities,  
15 privileges, advantages, or accommodations within a public  
16 accommodation owned, leased, and/or operated by Defendants.  
17 Alternatively, Defendants' intent can be inferred from Defendants'  
18 acts or omissions to act that were substantially certain to result  
19 in Defendants denying to Plaintiff's Member DAVID SINGLETARY full  
20 and equal access to Defendants' goods, services, facilities,  
21 privileges, advantages, or accommodations. Thus, Plaintiffs were  
22 subjected to intentional discrimination in violation of Cal. Civil  
23 Code §§ 51, 52, and 54.1 because Plaintiff's Member DAVID  
24 SINGLETARY was denied full, equal and safe access to Defendants'  
25 facility, which caused severe emotional distress.

26 45. Based on the facts plead at ¶¶ 6-22 above and elsewhere  
27 herein this complaint, Defendants intentionally failed and refused  
28

1 to provide a reasonable alternative by modifying its practices,  
2 policies, and procedures in that they failed to have a scheme,  
3 plan, or design to assist Plaintiff's Member DAVID SINGLETARY  
4 and/or others similarly situated in entering and utilizing  
5 Defendants' services as required by Civil Code § 54.1.

6 Alternatively, Defendants' intent can be inferred from Defendants'  
7 acts or omissions to act which were substantially certain to  
8 result in Defendants' failure or refusal to provide a reasonable  
9 alternative by modification of Defendants' practices, policies,  
10 and procedures to assist Plaintiff's Member DAVID SINGLETARY  
11 and/or others similarly situated in entering and utilizing  
12 Defendants' services. Thus, Plaintiffs were subjected to  
13 intentional discrimination in violation of Civil Code § 54.1.

14 46. Based on the facts plead at ¶¶ 6-22 above and elsewhere  
15 herein this complaint and because Defendants violated the Civil  
16 Code § 51 by intentionally failing to comply with 42 U.S.C §  
17 12182(b)(2)(A)(iv) and 42 U.S.C. § 12183(a)(2), Defendants did and  
18 continue to intentionally discriminate against Plaintiff's Member  
19 DAVID SINGLETARY and persons similarly situated in violation of  
20 Civil Code §§ 51, 52, and 54.1.

21 47. Wherefore, Plaintiffs pray for damages and relief as  
22 hereinafter stated.  
23

24 **Treble Damages Pursuant To Claims I, II, III Under The California**  
25 **Accessibility Laws**

26 48. Defendants, each of them, at times prior to and including  
27 during the month of July, 2001, respectively, and continuing to  
28 the present time, knew that persons with physical disabilities

1 were denied their rights of equal access to all portions of this  
2 public facility. Despite such knowledge, Defendants, and each of  
3 them, failed and refused to take steps to comply with the  
4 applicable access statutes; and despite knowledge of the resulting  
5 problems and denial of civil rights thereby suffered by  
6 Plaintiff's Member and Plaintiff DAVID SINGLETARY and other  
7 similarly situated persons with disabilities. Defendants, and  
8 each of them, have failed and refused to take action to grant full  
9 and equal access to persons with physical disabilities in the  
10 respects complained of hereinabove. Defendants, and each of them,  
11 have carried out a course of conduct of refusing to respond to, or  
12 correct complaints about, denial of disabled access and have  
13 refused to comply with their legal obligations to make the subject  
14 LA PETITE ROUGE MOTEL a.k.a. LAPETTITE ROUGE MOTEL facility  
15 accessible pursuant to the Americans With Disability Act Access  
16 Guidelines (ADAAG) and Title 24 of the California Code of  
17 Regulations (also known as the California Building Code). Such  
18 actions and continuing course of conduct by Defendants, and each  
19 of them, evidence despicable conduct in conscious disregard of the  
20 rights and/or safety of Plaintiff's Member and Plaintiff DAVID  
21 SINGLETARY and of other similarly situated persons, justifying an  
22 award of treble damages pursuant to sections 52(a) and 54.3(a) of  
23 the California Civil Code.

24  
25 49. Defendants', and each of their, actions have also been  
26 oppressive to persons with physical disabilities and of other  
27 members of the public, and have evidenced actual or implied  
28 malicious intent toward those members of the public, such as

1 Plaintiffs and other persons with physical disabilities who have  
2 been denied the proper access to which they are entitled by law.  
3 Further, Defendants', and each of their, refusals on a day-to-day  
4 basis to correct these problems evidence despicable conduct in  
5 conscious disregard for the rights of Plaintiff's Member and  
6 Plaintiff DAVID SINGLETARY and other members of the public with  
7 physical disabilities.

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

17 51. Wherefore, Plaintiffs pray for damages and relief as  
18 hereinafter stated.

19  
20 **THIRD CAUSE OF ACTION AGAINST ALL DEFENDANTS - Violation of**  
21 **Business and Professions Code section 17200 et seq.**

22 52. Plaintiffs incorporate by reference herein the facts plead  
23 at ¶¶ 6 - 22 above and elsewhere in this complaint.

24 53. Defendants failed to remove obstructions in the disabled  
25 parking, exterior path of travel, lobby/office entrance, customer  
26 service counter, Customer service bell, lobby/office clear floor  
27 space, stair, guestroom, and guestroom entrance facilities in  
28 Defendants' LA PETITE ROUGE MOTEL a.k.a. LAPETTITE ROUGE MOTEL



1 establishment. Pursuant to federal law, Defendants are required  
2 to remove barriers to their existing facilities. Title III of the  
3 Americans With Disabilities Act requires places of public  
4 accommodation to remove architectural barriers that are structural  
5 in nature to existing facilities. [42 United States Code  
6 12182(b)(2)(A)(iv).] Failure to remove such barriers and  
7 disparate treatment against a person who has a known association  
8 with a person with a disability are forms of discrimination. [See  
9 42 United States Code 12182(b)(2)(A)(iv).] Thus, Plaintiff's  
10 Member and Plaintiff DAVID SINGLETARY was subjected to  
11 discrimination in violation of 42 United States Code  
12 12182(b)(2)(A)(iv) and 42 U.S.C. § 12188 because said Member and  
13 Plaintiff DAVID SINGLETARY was denied equal access to Defendants'  
14 existing facilities. Also, Defendants' facilities failed to  
15 provide full and equal access to Defendants' facility as required  
16 by 42 U.S.C. § 12182(a). Thus, Plaintiff's Member and Plaintiff  
17 DAVID SINGLETARY was subjected to discrimination in violation of  
18 42 United States Code 12182(b)(2)(A)(iv) and 42 U.S.C. § 12188  
19 because Plaintiff's Member and Plaintiff DAVID SINGLETARY was  
20 denied equal access to Defendants' existing facilities.  
21 Additionally, as a result of said access barriers, Defendants  
22 failed and refused to provide a reasonable alternative by  
23 modifying its practices, policies and procedures in that they  
24 failed to have a scheme, plan, or design to assist Plaintiff's  
25 Member and Plaintiff DAVID SINGLETARY and/or others similarly  
26 situated in entering and utilizing Defendants' services, as  
27 required by 42 U.S.C. § 12188(a). Thus, said Member and Plaintiff  
28

1 DAVID SINGLETARY was subjected to discrimination in violation of  
2 42 United States Code 12182(b)(2)(A)(iv) and 42 U.S.C. § 12188  
3 because said Member and Plaintiff DAVID SINGLETARY was denied  
4 equal access to Defendants' existing facilities.

5 54. Pursuant to state law, Defendants are also required to remove  
6 barriers to their existing facilities. These violations denied  
7 Plaintiff's Member and Plaintiff DAVID SINGLETARY full and equal  
8 access to Defendants' facilities. Thus, said Member and Plaintiff  
9 DAVID SINGLETARY was subjected to discrimination pursuant to Civil  
10 Code §§ 51, 52, and 54.1 because Plaintiff's Member and Plaintiff  
11 DAVID SINGLETARY was denied full, equal and safe access to  
12 Defendants' facility. Further, Defendants' facility, and other  
13 goods, services, and/or facilities provided to the public by  
14 Defendants are not accessible to and usable by persons with  
15 disabilities as required by Health and Safety Code § 19955 which  
16 requires private entities to make their facility accessible before  
17 and after remodeling, and to remove architectural barriers on and  
18 after AB 1077 went into effect. Additionally, Defendants failed  
19 and refused to provide a reasonable alternative by modifying its  
20 practices, policies, and procedures in that they failed to have a  
21 scheme, plan, or design to assist Plaintiff's Member and Plaintiff  
22 DAVID SINGLETARY and/or others similarly situated in entering and  
23 utilizing Defendants' services as required by Civil Code § 54.1.  
24 Thus, said Member and Plaintiff DAVID SINGLETARY was subjected to  
25 discrimination in violation of Civil Code § 54.1. Also, under the  
26 Unruh Act, Defendants violated the Civil Code § 51 by failing to  
27 comply with 42 United States Code 12182(b)(2)(A)(iv), Defendants  
28

1 did and continue to discriminate against Plaintiff's Member and  
2 Plaintiff DAVID SINGLETARY and persons similarly situated in  
3 violation of Civil Code §§ 51, 52, and 54.1. Further, Defendants  
4 had actual knowledge of their barrier removal duties under the  
5 Americans with Disabilities Act, the California Civil Code, and  
6 the California Health & Safety Code before January 26, 1992.

7 55. Business and Professions Code section 17200 defines "unfair  
8 competition" and prohibited activities as, ". . . **any unlawful,  
9 unfair or fraudulent business act or practice** and unfair,  
10 deceptive, untrue or misleading advertising and any act prohibited  
11 by Chapter 1 (commencing with Section 17500) of Part 3 of Division  
12 7 of the Business and Professions Code." (emphasis added).

13 Defendants' acts and omissions alleged herein are violations of  
14 the above-enumerated federal and state statutory requirements and  
15 public policy and therefore constitute unfair competition and/or  
16 prohibited activities as such violations are *unlawful, unfair or  
17 fraudulent business acts or practices*. Defendants' alleged  
18 unlawful, unfair, or fraudulent business acts or practices are  
19 specifically prohibited by the specific introductory language of  
20 B&P section 17200 that is stated in the conjunctive.  
21

22 Consequently, Plaintiffs allege that Defendants' acts and  
23 omissions constitute a violation specifically of this section  
24 17200 of the Business and Professions Code.

25 56. Plaintiffs seek injunctive relief requiring Defendants to  
26 remedy the disabled access violations present at the Defendants'  
27 facilities. Ancillary to this injunctive relief, Plaintiffs also  
28 request restitution for amounts paid by Plaintiff's Member and

1 Plaintiff DAVID SINGLETARY who attempted to visit and patronize  
2 Defendants' facilities during the time period that the subject  
3 premises have been in violation of the disabled access laws of the  
4 State of California.

5 57. Plaintiffs seek, on behalf of the general public, injunctive  
6 relief requiring Defendants to comply with the disabled access  
7 laws of the State of California at facilities throughout the State  
8 of California built, owned, operated, and/or controlled by  
9 Defendants.

10 58. WHEREFORE, Plaintiffs pray for judgment as hereinafter set  
11 forth.

12 FOURTH CAUSE OF ACTION AGAINST ALL DEFENDANTS- Negligence

13 59. Based on the facts plead at ¶¶ 6-22 above and elsewhere in  
14 this complaint, Defendants owed Plaintiff's Member and Plaintiff  
15 DAVID SINGLETARY a statutory duty to make their facility  
16 accessible and owed Plaintiff's Member and Plaintiff DAVID  
17 SINGLETARY a duty to keep Plaintiff's Member and Plaintiff DAVID  
18 SINGLETARY reasonably safe from known dangers and risks of harm.  
19 This said duty arises by virtue of legal duties proscribed by  
20 various federal and state statutes including, but not limited to,  
21 ADA, ADAAG, Civil Code 51, 52, 54, 54.1 and Title 24 of the  
22 California Administrative Code and applicable 1982 Uniform  
23 Building Code standards as amended.

24 60. Title III of the ADA mandates removal of architectural  
25 barriers and prohibits disability discrimination. As well,  
26 Defendants' facility, and other goods, services, and/or facilities  
27 provided to the public by Defendants are not accessible to and  
28

1 usable by persons with disabilities as required by Health and  
2 Safety Code § 19955 which requires private entities to make their  
3 facility accessible before and after remodeling, and to remove  
4 architectural barriers on and after AB 1077 went into effect.

5 61. Therefore, Defendants engaged in discriminatory conduct in  
6 that they failed to comply with known duties under the ADA, ADAAG,  
7 Civil Code 51, 52, 54, 54.1, ADAAG, and Title 24, and knew or  
8 should have known that their acts of nonfeasance would cause  
9 Plaintiff's Member and Plaintiff DAVID SINGLETARY emotional,  
10 bodily and personal injury. Plaintiffs further allege that such  
11 conduct was done in reckless disregard of the probability of said  
12 conduct causing Plaintiff's Member and Plaintiff DAVID SINGLETARY  
13 to suffer bodily or personal injury, anger, embarrassment,  
14 depression, anxiety, mortification, humiliation and distress.  
15 Plaintiffs allege that such conduct caused Plaintiffs' Member and  
16 Plaintiff DAVID SINGLETARY to suffer the injuries of mental and  
17 emotional distress, including, but not limited to, anger,  
18 embarrassment, depression, anxiety, mortification, humiliation,  
19 distress, and fear of physical injury. Plaintiffs additionally  
20 allege that such conduct caused Plaintiff's Member and Plaintiff  
21 DAVID SINGLETARY to suffer damages as a result of these injuries.  
22

23  
24 FIFTH CAUSE OF ACTION BY ONLY PLAINTIFF DAVID SINGLETARY, AN  
25 INDIVIDUAL, AGAINST ALL DEFENDANTS - INTENTIONAL INFLICTION OF  
26 EMOTIONAL DISTRESS

27 62. Based on the facts plead at ¶¶ 6-22 above and elsewhere  
28 herein this complaint, Plaintiff DAVID SINGLETARY was

1 intentionally discriminated against when he attempted to gain  
2 access to Defendants' LA PETITE ROUGE MOTEL a.k.a. LAPETTITE ROUGE  
3 MOTEL establishment.

4 63. On the day Plaintiff DAVID SINGLETARY patronized Defendants'  
5 establishment, Plaintiff DAVID SINGLETARY was subjected to a  
6 complete denial of access to Defendants' LA PETITE ROUGE MOTEL  
7 a.k.a. LAPETTITE ROUGE MOTEL facilities. Defendant verbally  
8 refused any and all services to Plaintiff DAVID SINGLETARY.  
9 Further, Defendants stated to Plaintiff DAVID SINGLETARY that  
10 Defendants refuse to reserve a guestroom or let a guestroom to a  
11 member of the disability community. Therefore, Plaintiff DAVID  
12 SINGLETARY was intentionally discriminated against when he  
13 attempted to gain access to Defendants' LA PETITE ROUGE MOTEL  
14 a.k.a. LAPETTITE ROUGE MOTEL establishment.

15 64. Defendants conduct was intentional and malicious and done  
16 for the purposes of causing Plaintiff DAVID SINGLETARY, An  
17 Individual, to suffer humiliation, mental anguish, and emotional  
18 and physical distress. Defendants' conduct in specifically  
19 refusing to reserve a guestroom or let a guestroom to a member of  
20 the disability community and specifically refusing to reserve a  
21 guestroom or let a guestroom to DAVID SINGLETARY, a member of the  
22 disability community who uses a wheelchair for mobility, was done  
23 with the knowledge that Plaintiff DAVID SINGLETARY's emotional and  
24 physical distress would thereby increase, and was done with wanton  
25 and reckless disregard of the consequences to Plaintiff DAVID  
26 SINGLETARY.  
27

28 65. As a proximate result of the acts alleged above, Plaintiff

1 DAVID SINGLETARY suffered humiliation, mental anguish, and  
2 emotional and physical distress, and has been injured in mind and  
3 body.

4 66. The acts of Defendants alleged above are willful, wanton,  
5 malicious and oppressive, and justify the awarding of exemplary  
6 and punitive damages.

7 67. Wherefore, Plaintiff DAVID SINGLETARY prays for judgment as  
8 hereinafter set forth.

9 SIXTH CAUSE OF ACTION BY ONLY PLAINTIFF DAVID SINGLETARY, AN  
10 INDIVIDUAL, AGAINST ALL DEFENDANTS - NEGLIGENT INFLICTION OF  
11 EMOTIONAL DISTRESS

12 68. Based on the facts plead at ¶¶ 6-22 above and elsewhere  
13 herein this complaint, Plaintiff DAVID SINGLETARY was  
14 intentionally discriminated against when he attempted to gain  
15 access to Defendants' LA PETITE ROUGE MOTEL a.k.a. LAPETTITE ROUGE  
16 MOTEL establishment.

17 69. On the day Plaintiff DAVID SINGLETARY patronized Defendants'  
18 establishment, Plaintiff DAVID SINGLETARY was subjected to a  
19 complete denial of access to Defendants' LA PETITE ROUGE MOTEL  
20 a.k.a. LAPETTITE ROUGE MOTEL facilities. Defendant verbally  
21 refused any and all services to Plaintiff DAVID SINGLETARY.  
22 Further, Defendants stated to Plaintiff DAVID SINGLETARY that  
23 Defendants refuse to reserve a guestroom or let a guestroom to a  
24 member of the disability community. Therefore, Plaintiff DAVID  
25 SINGLETARY was intentionally discriminated against when he  
26 attempted to gain access to Defendants' LA PETITE ROUGE MOTEL  
27 a.k.a. LAPETTITE ROUGE MOTEL establishment.  
28

1 70. Defendants knew, or should have known, that their failure to  
2 exercise due care by subjecting Plaintiff DAVID SINGLETARY to a  
3 complete denial of access to Defendants' LA PETITE ROUGE MOTEL  
4 a.k.a. LAPETTITE ROUGE MOTEL and in specifically refusing to  
5 reserve a guestroom or let a guestroom to a member of the  
6 disability community and specifically refusing to reserve a  
7 guestroom or let a guestroom to DAVID SINGLETARY, a member of the  
8 disability community who uses a wheelchair for mobility, would  
9 cause Plaintiff DAVID SINGLETARY severe emotional distress.

10 Further, Defendants knew, or should have known, that their failure  
11 to exercise due care by subjecting Plaintiff DAVID SINGLETARY to a  
12 complete denial of access to Defendants' LA PETITE ROUGE MOTEL  
13 a.k.a. LAPETTITE ROUGE MOTEL and in specifically refusing to  
14 reserve a guestroom or let a guestroom to a member of the  
15 disability community and specifically refusing to reserve a  
16 guestroom or let a guestroom to DAVID SINGLETARY, a member of the  
17 disability community who uses a wheelchair for mobility would  
18 cause Plaintiff DAVID SINGLETARY severe emotional distress.

19 71. Defendants breached their duty of care to Plaintiff DAVID  
20 SINGLETARY because on July 11, 2002, Defendants subjected  
21 Plaintiff DAVID SINGLETARY to a complete denial of access to  
22 Defendants' LA PETITE ROUGE MOTEL a.k.a. LAPETTITE ROUGE MOTEL and  
23 specifically refused to reserve a guestroom or let a guestroom to  
24 a member of the disability community and specifically refused to  
25 reserve a guestroom or let a guestroom to DAVID SINGLETARY, a  
26 member of the disability community who uses a wheelchair for  
27 mobility.  
28



1 72. As a proximate result of Defendants' conduct in which on  
2 July 11, 2002, Defendants subjected Plaintiff DAVID SINGLETARY to  
3 a complete denial of access to Defendants' LA PETITE ROUGE MOTEL  
4 a.k.a. LAPETTITE ROUGE MOTEL and specifically refused to reserve a  
5 guestroom or let a guestroom to a member of the disability  
6 community and specifically refused to reserve a guestroom or let a  
7 guestroom to DAVID SINGLETARY, a member of the disability  
8 community who uses a wheelchair for mobility, Plaintiff DAVID  
9 SINGLETARY's suffered severe emotional distress and mental  
10 suffering.

11 73. Wherefore, Plaintiff DAVID SINGLETARY prays for judgment as  
12 hereinafter set forth.

13  
14 DEMAND FOR JUDGMENT FOR RELIEF:

15 A. For general damages pursuant to Cal. Civil Code §§ 52, 54.3,  
16 3281, and 3333;

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

20 C. In the alternative to the damages pursuant to Cal. Civil  
21 Code § 52 in Paragraph B above, for \$1,000 in damages pursuant to  
22 Cal. Civil Code § 54.3 for each and every offense of Civil Code §  
23 54.1, Title 24 of the California Building Code, ADA, and ADA  
24 Accessibility Guidelines;

25  
26 D. For injunctive relief pursuant to 42 U.S.C. § 12188(a) and  
27 Cal. Civil Code § 55. Plaintiffs request this Court enjoin  
28

1 Defendants to remove all architectural barriers in, at, or on  
2 their facilities related to the following: Space Allowance and  
3 Reach Ranges, Accessible Route, Protruding Objects, Ground and  
4 Floor Surfaces, Parking and Passenger Loading Zones, Curb Ramps,  
5 Ramps, Stairs, Elevators, Platform Lifts (Wheelchair Lifts),  
6 Windows, Doors, Entrances, Drinking Fountains and Water Coolers,  
7 Water Closets, Toilet Stalls, Urinals, Lavatories and Mirrors,  
8 Sinks, Storage, Handrails, Grab Bars, and Controls and Operating  
9 Mechanisms, Alarms, Detectable Warnings, Signage, and Telephones.

10 E. For attorneys' fees pursuant to 42 U.S.C. § 1988, 42 U.S.C.  
11 § 12205, and Cal. Civil Code § 55;

12 F. For treble damages pursuant to Cal. Civil Code §§ 52(a), and  
13 54.3(a);

14 G. For exemplary and punitive damages for Plaintiff DAVID  
15 SINGLETARY, An Individual, only, pursuant to Cal. Civil Code  
16 §3294;

17 H. For Restitution pursuant to Business and Professions section  
18 17200;

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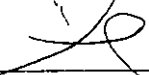
I. A Jury Trial and;

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

Respectfully submitted:

PINNOCK & ASSOCIATES

Dated: June 19, 2002

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

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

FILED

02 JUN 21 PM 1:50

I (a) PLAINTIFFS

ORGANIZATION FOR THE ADVANCEMENT OF MINORITIES WITH DISABILITIES SUING ON BEHALF OF DAVID SINGLETARY AND ITS MEMBERS; and DAVID SINGLETARY, An Individual.

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

DEFENDANTS

LA PETITE ROUGE MOTEL a.k.a. LAPETTITE ROUGE MOTEL; JAYANTILAL M. BHAGAT; SAROD R. PATEL; HANSABENDU J. BHAGAT; ANA S. PATEL; and DOES 1 THROUGH 10, Inclusive.

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT San Diego (IN U.S. PLAINTIFF CASES ONLY)

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

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

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ATTORNEYS (IF KNOWN)

'02 CV 1226BTM (NLS)

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

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

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

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

IV. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY).

42 U.S.C. Sections 12101-12102, 12181-12183, and 12201, Et. Seq.

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

Table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, BANKRUPTCY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories and checkboxes.

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

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

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER f.r.c.p. 23

DEMAND \$

TO BE DETERMINED AT TRIAL

Check YES only if demanded in complaint:

JURY DEMAND: YES NO

VIII. RELATED CASE(S) IF ANY (See Instructions):

JUDGE

Docket Number

DATE June 19, 2002

SIGNATURE OF ATTORNEY OF RECORD

Handwritten signature and number: #083745 \$150.00 flb