

USDC SCAN INDEX SHEET



GJM 10/21/03 10:14
3:03-CV-02056 RIVERA V. MCDONALD'S
1
CMP.

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3 7840 MISSION CENTER COURT, SUITE 101
4 SAN DIEGO, CALIFORNIA 92108
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FILED
03 OCT 15 PM 2:57

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY: 

DEPUTY

8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10 ISMAEL RIVERA

11 Plaintiff,

12 vs.

13 MCDONALD'S CORPORATION, ERNIE
14 SANDOVAL, dba MACDONALD'S
15 RESTAURANT AND DOES 1-10
16 Inclusive,

17 Defendants.
18

'03 CV 2056 JM NLS

Case No.:

) COMPLAINT FOR DAMAGES RE:
) VIOLATION OF CIVIL RIGHTS ON
) BASIS OF DISCRIMINATION IN
) PUBLIC ACCOMMODATIONS; UNFAIR,
) UNLAWFUL AND FRAUDULENT BUSINESS
) PRACTICES; NEGLIGENT INFLECTION
) OF EMOTIONAL DISTRESS;
) INTENTIONAL INFLECTION OF
) EMOTIONAL DISTRESS; DEMAND FOR
) JURY TRIAL

19 I

20 JURISDICTION AND VENUE

21 1. (a) Jurisdiction of this action is invoked on the basis of 28
22 USC 1331 and 1343, 42 USC 12101-12102, 12181-12183 and 12201, et.
23 seq., which is applicable to causes of action where persons with
24 disabilities have been denied their civil rights. Venue in the
25 Southern Judicial District of California in the United States
26 District Court is in accord with 28. U.S.C. section 1391(b)
27 because a substantial part of plaintiff's claims arose within the
28

1 Judicial District of the United States District Court of the
2 Southern District of California.

3 (b) Supplemental Jurisdiction. The Judicial District of the
4 United States District Court of the Southern District of
5 California has supplemental jurisdiction over the state claims
6 alleged in this Complaint pursuant to 28 U.S.C. section 1367(a).
7 Supplemental jurisdiction is appropriate in this action on the
8 basis that all the causes of action or claims derived from federal
9 law and those arising under state law, as herein alleged, arose
10 from a common nucleus of operative facts. The common nucleus of
11 operative facts, include, but are not limited to, the incidents
12 whereby plaintiff was denied full and equal access to Defendant's
13 facilities, goods, and/or services in violation of both federal
14 and state laws when plaintiff attempted to enter, use, and/or exit
15 Defendant's facilities as described within this Complaint.
16 Further, due to this denial of full and equal access Plaintiff and
17 other person's with disabilities were injured. Based upon such
18 allegations the state actions, as stated herein, are so related to
19 the federal actions that they form part of the same case or
20 controversy, and the actions would ordinarily be expected to be
21 tried in one judicial proceeding.

22 **II**

23 **PARTIES**

24 2. Defendants, McDonald's Corporation and Ernie Sandoval, dba
25 McDonald's Restaurant was and at all times herein mentioned were
26 duly organized businesses, associations, or corporations duly
27 authorized to exist and operate within the State of California and
28 County of San Diego and the owners, lessees, or tenants of the

1 premises located at 3720 Mission Avenue Oceanside, California
2 92054.

3 3. Plaintiff is informed and believes and thereon alleges that
4 defendant McDonald's Corporation is the owner and/or landlord of
5 the subject property upon which defendant business is sited.

6 4. Plaintiff is informed and believes and thereon alleges that
7 each of the named defendants herein operates a business and
8 or/facility of public accommodation as defined and described
9 within 42 USC 12181(7)(B) of the American with Disabilities Act
10 [ADA] and as such must comply with the ADA under provisions of
11 Title III therein.

12 5. Plaintiff is ignorant of the defendants sued as Does 1-10
13 herein, and therefore sues them in their fictitious names as Doe
14 defendants. Plaintiff is informed and believes and thereon alleges
15 that Does 1-10 are the owners, operators, lessees or tenants of
16 the subject property and each of the Doe defendants at all times
17 herein was acting as the agent and or representative of each other
18 and thereby are responsible in some manner for the injuries and
19 damages complained of herein. Plaintiff will seek leave of court
20 to amend this complaint to name Doe defendants when the same is
21 ascertained.

22 **III**

23 **GENERAL ALLEGATIONS COMMON TO ALL CLAIMS**

24 6. Plaintiff is disabled and confined to a wheelchair. He has no
25 control over his lower extremities and must use a wheelchair to
26 transport himself and to affect the basic necessities of his
27 everyday existence. Plaintiff's disability substantially limits
28

1 one or more of life's major activities and therefore he is
2 disabled as defined under 42 USC 12102(2) (A) (B) (C).

3 7. On or about June 10, 2003 plaintiff patronized the premises of
4 defendants to utilize goods and/or services offered by defendants.
5 When Plaintiff attempted to gain access to the goods and/or
6 services offered by defendants he encountered access barriers
7 because the premises failed to comply with federal ADA Access
8 Guidelines For Building and Facilities [hereinafter "ADAAG"];
9 Department of Justice [DOJ] regulations at 28 CFR. 36.201; 36.304
10 and/or the State of California's Title 24 Building Code
11 Requirements.

12 8. The specific difficulty Plaintiff had in entering and utilizing
13 Defendants' facility and which amount to a violation of ADAAG, DOJ
14 regulations and Title 24 of the California Building Code are:

- 15 (a) Site entrance is lacking as required by Title 24 1129B.5
- 16 (b) Site lacks NO PARKING signage as required by Title 24
17 1129B.4.1&2.
- 18 (c) Site lacks designated van accessible parking as required by
19 ADAAG 4.1.2(5) (b) and Title 24 1129B.4.2.;ADAAG 4.6.3;
20 4.6.4
- 21 (d) Facility lacks van accessible aisle as required by ADAAG
22 4.6.3 and Title 24 1129B.4.2.
- 23 (e) Facility lacks installed signage as required by ADAAG 4.6.4
24 and Title 24 1129B.5.
- 25 (f) Lack of entrance signage at every entrance as required by
26 ADAAG 4.1.3(16) (b) and Title 24 1127B.3.
- 27 (g) Dining facilities do not meet the requirements of ADAAG 5.1
28 and Title 24 1104B.5.4.; ADAAG 4.32.3; 4.32.4 and Title 24

- 1 1122B.4; ADAAG 5.3 and Title 24 1104B.5.4.; ADAAG 5.4.;
- 2 ADAAG 4.2.4.1 and Title 24 1122B.3
- 3 (h) Grab bars do not comply with ADAAG 4.17.6 & Title 24
- 4 1115B.8.1
- 5 (i) Water closet mounting/location is not in proper place -
- 6 Title 24 1115B. 7.1.2.
- 7 (j) Accessories/fixtures are not at proper height in accord
- 8 with ADAAG 4.23.7 and Title 24 1115B9.2.
- 9 (k) Urinal rim height does not comply with ADAAG 4.18.2 and
- 10 Title 24 1503.2.1
- 11 (l) Entrance door kick plate does not comply with Title 24
- 12 1133B.2.6.
- 13 (m) Urinal flush valve is not a correct height - ADAAG 4.18.4
- 14 and Title 24 1503.2.2.
- 15 (n) Toilet stall is not properly sized - ADAAG 4.17.3 and Title
- 16 24 1115B.1.

17 9. Based upon the above facts, Plaintiff as been discriminated

18 against and will continue to be discriminated against unless and

19 until Defendants are enjoined and forced to cease and desist from

20 continuing to discriminate against Plaintiff and others similarly

21 situated.

22 10. Pursuant to federal [ADA], Title 28 CFR 36.201; 36.203;

23 36.304; 36.305 and state law [California Title 24], Defendants are

24 required to remove barriers to their existing facilities.

25 Defendants have been put on notice pursuant to the ADA and

26 California Civil Codes [51,52] prior to the statutory effect of

27 the ADA on January 26, 1992 that Defendants and each of them had a

28 duty to remove barriers to persons with disabilities such as

1 plaintiff. Defendants also knew or should have known that
2 individuals such as plaintiff with a disability are not required
3 to give notice to a governmental agency prior to filing suit
4 alleging Defendants' failure to remove architectural barriers.
5 11. Plaintiff believes and thereon allege that Defendants'
6 facilities, as described herein, have other access violations not
7 directly experienced by Plaintiff, which preclude or limit access
8 by others with disabilities, including, but not limited to, Space
9 Allowances, Reach Ranges, Accessible Routes, Protruding Objects,
10 Ground and Floor Surfaces, Parking and Passenger Loading Zones,
11 Curb Ramps, Ramps, Stairs, Elevators, Platform Lifts (Wheelchair
12 Lifts), Windows, Doors, Entrances, Drinking Fountains, and Water
13 Coolers, Water Closets, Toilet Stalls, Urinals, Lavatories and
14 Mirrors, Sinks, Storage, Handrails, Grab Bars, Telephones,
15 Controls and Operating Mechanisms, Alarms, Detectable Warnings and
16 Signage. Accordingly, Plaintiff alleges Defendants are required to
17 remove all architectural barriers, known or unknown. Also,
18 Plaintiff alleges Defendants are required to utilize the ADA
19 checklist for Readily Achievable Barrier Removal approved by the
20 United States Department of Justice and created by Adaptive
21 Environments.

22 12. Plaintiff desires to return to Defendants' places of business
23 and utilize their facilities without being discriminated against
24 in the immediate future.

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IV

FIRST CAUSE OF ACTION

(Violation of Civil Rights-American With Disabilities Act)

13. Plaintiff realleges the allegations in paragraphs 1 through 12 as though set forth fully herein.

Claim 1: Denial of Full and Equal Access

14. Based on the facts asserted above Plaintiff has been denied full and equal access to Defendants' goods, services, facilities, privileges, advantages, or accommodations. Defendant business is a public accommodation owned, leased and/or operated by Defendants and each of them. Defendants' existing facilities and/or services failed to provide full and equal access to Defendants' facility as required by 42 U.S.C. section 12182(a). Thus, Plaintiff was subjected to discrimination in violation of 42 U.S.C.

12182(b)(2)(A)(ii)(iv) and 42 U.S.C. section 12188 because Plaintiff was denied equal access to Defendants' existing facilities.

15. Plaintiff has a physical impairment as alleged herein because his condition affects one or more of the following body systems: neurological, musculoskeletal, special sense organs, and/or cardiovascular. Further, his physical impairments substantially limits one or more of the following major life activities: [walking]. In addition, Plaintiff cannot perform one or more of the said major life activities in the manner speed, and duration when compared to the average person. Moreover, Plaintiff has a history of or has been classified as having a physical impairment as required by 42 U.S.C. section 12102(2)(A).

1 **Claim 2: Failure To Remove Architectural Barriers**

2 16. Based upon the facts alleged herein, Plaintiff was denied
3 full and equal access to Defendants' goods, services, facilities,
4 privileges, advantages, or accommodations within a public
5 accommodation owned leased, and/or operated by the named
6 Defendants. Defendants individually and collectively failed to
7 remove barriers as required by 42 U.S.C. 12182(a) and 28 CFR
8 36.304. Plaintiff is informed and believes, and thus alleges that
9 architectural barriers which are structural in nature exist at the
10 following physical elements of Defendants' facilities:

11 Space Allowance and Reach Ranges, Accessible Route, Protruding
12 Objects, Ground and Floor Surfaces, Parking and Passenger Loading
13 Zones, Curb Ramps, Ramps, Stairs, Elevators, Platform Lifts
14 (Wheelchair Lifts), Windows, Doors, Entrances, Drinking Fountains
15 and Water Coolers, Water Closets, Toilet Stalls, Urinals,
16 Lavatories and Mirrors, Sinks, Storage, Handrails, Grab Bars, and
17 Controls and Operating Mechanisms, Alarms, Detectable Warnings,
18 Signage, and Telephones. Pursuant to 42 USC section
19 12182(b)(2)(iv) and 28 CFR 36.304 Title III requires places of
20 public accommodation to remove architectural barriers that are
21 structural in nature within existing facilities. Failure to remove
22 such barriers and disparate treatment against a person who has a
23 known association with a person with a disability are forms of
24 prohibited discrimination. Accordingly, Plaintiff was subjected to
25 discrimination in violation of 42 USC 12182(b)(2)(A)(iv) and 42
26 USC 12182 (b)(2)(A)(iv) and 42 USC 12188.

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1 **(a) Denial Of Full And Equal Access**

2 22. Plaintiff has been denied full and equal access to Defendants'
3 goods services, facilities, privileges, advantages, or
4 accommodations within a public accommodation owned, leased, and/or
5 operated by Defendants in violation of California Civil Code
6 Sections 54 and 54.1 and California Health and Safety Code Section
7 19955. The actions of Defendants also violate the provisions of
8 Title 24 of the State of California Building Codes with regard to
9 accessibility for persons with disabilities by failing to provide
10 access to Defendants facilities due to violations pertaining to
11 accessible routes, ground and floor surfaces, parking and
12 passenger loading zones, curb ramps, ramps, stairs, elevators,
13 platform lifts (wheelchair lifts), windows, doors, toilet stalls,
14 urinals, lavatories and mirrors, sinks, storage, handrails, grab
15 bars, controls and operating mechanisms
16 alarms, detectable warnings, signage and telephones.

17 23. On the above basis Plaintiff has been wrongfully discriminated
18 against.

19 **(b) Failure To Modify Practices, Policies And Procedures**

20 24. Defendants have failed and refused and continue to fail and
21 refuse to provide a reasonable alternative to allow plaintiff
22 equal access to their facility by modifying their practices,
23 policies, and procedures in that that they failed to have s
24 scheme, plan, or design to assist Plaintiff and others similarly
25 situated in entering and utilizing Defendants' goods or services
26 as required by California Civil Code section 54 and 54.1.
27 Accordingly Defendants have wrongfully discriminated against
28 Plaintiff.

1 VII

2 THIRD CAUSE OF ACTION

3 (Violation of The Unruh Civil Rights Act)

4 25. Plaintiff realleges the allegations of the Second Cause of
5 Action as though set forth fully herein.

6 26. Section 51(b) of the Cal. Civ. Code [The Unruh Civil Rights
7 Act], provides in pertinent part:

8 "All persons within the jurisdiction of this state are
9 free and equal, and no matter what their sex, race, color,
10 religion, ancestry, national origin, disability, or medical
11 condition is entitled to the full and equal accommodations,
12 advantages, facilities, privileges, or services in all
13 business establishments of every kind whatsoever."

14 27. Defendants have violated the provisions of Civ. Code 51 (b) by
15 failing and refusing to provide free and equal access to Plaintiff
16 to their facility on the same basis as other persons not disabled.

17 By their failure to provide equal access to Plaintiff as herein
18 alleged, Defendants have also violated 42 U.S.C. section
19 12182(b)(2)(A)(iv) as provided in Cal. Civ. Codes section 51(f).

20 28. By reason of their acts and denial of Plaintiff's civil rights
21 Defendants also violated the provisions of Cal. Civ. Code section
22 52, which makes a person or entity in violation of Cal.Civ. Code
23 51 liable for the actual damages to a Plaintiff including treble
24 damages where appropriate.

25 29. Defendants and each of them, at all times prior to and
26 including June 2003, respectively and continuing to the present
27 time, knew that persons with physical disabilities were denied
28

1 their rights of equal access to all portions of this public
2 facility. Despite such knowledge, Defendants, and each of them,
3 failed and refused to take steps to comply with the applicable
4 access statutes and despite knowledge of the resulting problems
5 and denial of civil rights suffered by Plaintiff and other
6 similarly situated persons with disabilities.
7

8 30. Defendants and each of them have failed and refused to take
9 action to grant full and equal access to person with physical
10 disabilities. Defendants have carried out a course of conduct of
11 refusing to respond to, or correct complaints about unequal access
12 and have refused to comply with their legal obligations to make
13 the subject facility accessible pursuant the ADAAG and the
14 California Building Code [Title 24 of the California Code of
15 Regulations]. Such actions and continuing course of conduct by
16 Defendants, and each of them, evidence despicable conduct in
17 conscious disregard of the rights and/or safety of Plaintiff and
18 those similarly situated and thus justify an award of treble
19 damages pursuant to section 52(a) and 54.3(a) of the Cal.Civ. Code
20 or alternatively an award of punitive damages in an appropriate
21 amount.
22
23
24

25 31. Plaintiff has suffered emotional and physical damage and
26 continues to suffer such damages all in an amount to be determined
27 at time of trial.
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1 32. Under the provisions of Cal. Civ. Code section 55 Plaintiff
2 seeks an award of reasonable attorney's fees and costs as a result
3 of having to bring this action. Plaintiff requests the court to
4 award such fees in an appropriate amount.
5

6 **VIII**

7 **FOURTH CAUSE OF ACTION**

8 **(Unfair And Unlawful Business Practice)**

9 33. Plaintiff realleges the allegations of the Third Cause of
10 Action as though set forth fully herein.

11 34. California Business and Professions Code Section 17200 states
12 in pertinent part:

13 "As used in this chapter, unfair competition shall mean and
14 include any unlawful, unfair or fraudulent business act..."

15 35. Defendants, as alleged herein, are in violation of the
16 Americans With Disabilities Act and Title 24 of the California
17 Building Code, in that they have denied equal access to their
18 places of public accommodation to Plaintiff and others similarly
19 situated to Plaintiff. Defendants have failed and refused and
20 continue to refuse to comply with equal access laws all in
21 violation of 42 USC 12181-12183; 28 CFR 36.304 and 42 USC 12188.
22 In addition the complained of acts are in violation of California
23 Civil Code Sections 51,52, 54,and 54.1,; California Health and
24 Safety Code section 19955 all of which require Defendants to
25 provide equal access to their facility to disabled persons such as
26 plaintiff. Defendants are also in violation of the indicated
27
28

1 statutes because of their failure to remove architectural
2 barriers, which prevent equal access to their facility by disabled
3 persons and because of their failure to modify their practices,
4 policies and procedures to have a scheme, plan, or design to
5 assist Plaintiff and others similarly situated to enter and
6 utilize Defendants' services as required by the Unruh Act.

8 36. Defendants' acts are unlawful and unfair and are therefore in
9 violation of California Business and Professions Code section
10 17200.
11

12 37. Pursuant to the provisions of California Business and
13 Professions Code section 17201 Plaintiff is a person as identified
14 within said section and therefore allowed to bring this action on
15 behalf of himself and the general public to effectuate California
16 Business and Professions Code 17200 as provided for within
17 Business and Professions Code section 17204.
18

19 38. Thus, Plaintiff, under Bus & Prof. Code section 17200 seeks
20 injunctive relief, on behalf of himself and the general public,
21 requiring Defendants to remedy the disabled access violations
22 present within Defendants' facility and that Defendants be ordered
23 to cease and desist from continuing in noncompliance with disabled
24 access statutes and regulations.
25

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1 IX

2 FIFTH CAUSE OF ACTION

3 (Negligent Infliction of Emotional Distress)

4
5 39. Plaintiff relleges the allegations of the Fourth Cause of
6 Action as though set forth fully herein.

7 40. Defendants and each of them owed a duty to Plaintiff to make
8 their facility accessible and to keep Plaintiff reasonably safe
9 from known dangers and risks of harm. This duty arises by virtue
10 of the legal duties proscribed by various federal and state
11 statutes including, but not limited to, ADA, ADAAG, California
12 Civil Code sections 51, 52, 54, 54.1 and Title 24 of the
13 California Code of Regulations. Defendants had a duty of due care
14 not to do or cause anything to happen that would subject Plaintiff
15 to undue stress, embarrassment, chagrin, and discouragement.
16

17
18 41. Defendants breached their duty of care to Plaintiff by the
19 actions and inaction complained of herein and as a result thereof
20 Plaintiff was shocked, discouraged, embarrassed and outraged at
21 the callousness and disregard of Defendants. Defendants knew or
22 had reason to know that by denying Plaintiff equal access to their
23 facility and failing and refusing to remove architectural
24 barriers, Plaintiff would suffer emotional and/or mental distress
25 because of such discrimination and disparate treatment. Defendants
26 breached their duty of care to plaintiff by the perpetration of
27 the acts outlined herein.
28

1 42. As a proximate result of the actions of Defendants Plaintiff
2 did suffer emotional and mental stress and pain and suffering all
3 in an amount to be determined at time of trial.
4

5 X

6 **SIXTH CAUSE OF ACTION**

7 **(Intentional Infliction of Emotional Distress)**

8 43. Plaintiff realleges the allegations of the Fifth Cause of
9 Action as though set forth fully herein.

10 44. The actions of Defendants and each of them are despicable,
11 intentional and done with conscious disregard of the rights and
12 safety of Plaintiff and as such should be regarded as outrageous.

13 45. As a proximate result of Defendants' actions Plaintiff has
14 suffered severe emotional and mental distress all to his damage in
15 an amount to be determined at time of trial.

16 46. Plaintiff seeks an award of punitive damages for this claim as
17 the actions of Defendants are tantamount to outrageous conduct and
18 subject them to exemplary damages.

19 **DEMAND FOR JURY**

20 47. Plaintiff respectfully requests that the claims made herein be
21 heard and determined by a jury.

22 WHEREFORE PLAINTIFF PRAYS:

- 23 1. For general damages according to proof;
24 2. For special damages according to proof;
25 3. For damages pursuant to Cal. Civil Code section 52, in the
26 amount of \$4,000 for each and every offense of California Civil
27 Code section 51, Title 24 of the California Building Code and the
28 Americans With Disabilities Act.

- 1 4. For Injunctive relief pursuant to 42 U.S.C. 12188(a) and
- 2 California Business and Professions Code section 17200
- 3 5. For an award of attorney's fees pursuant to 42 U.S.C. 1988, 42
- 4 U.S.C. 12205 and Cal. Civ. Code section 55;
- 5 6. For treble damages pursuant to Cal. Civ. Code 52 (a);
- 6 7. For punitive damages according to proof;
- 7 8. For a Jury Trial;
- 8 9. For costs of suit incurred herein and;
- 9 10. For such other and further relief as the court deems proper.

10 Respectfully submitted,

11 Dated: 7-30-03


Attorney for Plaintiff, Ismael Rivera

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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 REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

ISMAEL RIVERA

(b) County of Residence of First Listed Plaintiff San Diego
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)
Roy L. Landers (619)296-7898
7840 Mission Center CT, Suite 101
San Diego, CA 92108

DEFENDANTS

MCDONALD'S CORPORATION, et al.

FILED
03 OCT 15 PM 2:57
U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
San Diego
(IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys (If Known)

08 06 2056 JM NLS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 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 | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 DEF | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 DEF |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 DEF | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 DEF |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 DEF | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 DEF |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutional of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	LABOR	SOCIAL SECURITY	FEDERAL TAX SUITS
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input checked="" type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
PRISONER PETITIONS				
<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition				

V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- 1 Original Proceeding
- 2 Removed 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

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

42 USC 12101-12102, 12181-12183 and 12201, et seq.
Discrimination on basis of disability (Public Accommodations)

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ _____ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE _____ DOCKET NUMBER _____

DATE 10-13-03 SIGNATURE OF ATTORNEY OF RECORD Roy L. Landers

FOR OFFICE USE ONLY
RECEIPT # 977984 AMOUNT 150.00 APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____
10/15/03 VB