



JRL 5/15/03 11:17

3:03-CV-00977 RIVERA V. MCDONALDS RESTAURANT

\*1\*

\*CMP.\*

1 ROY L. LANDERS (BAR #64920)  
2 LAW OFFICES OF ROY L. LANDERS  
3 7840 MISSION CENTER COURT, SUITE 101  
4 SAN DIEGO, CALIFORNIA 92108  
5 TELEPHONE (619) 296-7898  
6 FACSIMILE (619) 296-5611

7 Attorney for Plaintiff: ISMAEL RIVERA

FILED  
03 MAY 14 PM 2:39

CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
BY: *[Signature]* DEPUTY

8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA

10 ISMAEL RIVERA

11 Plaintiff,

12 vs.

13 Mc DONALD'S RESTAURANT, Mc  
14 DONALD'S CORPORATION, PAUL  
15 SCHULZ, MR. SCHULZ, PAUL ECKE JR  
16 TRUST, AND DOES 1-10, Inclusive,

17 Defendants.

Case No.:

03 CV 0977 BTM LSP

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

18 I

19 JURISDICTION AND VENUE

20  
21 1. (a) Jurisdiction of this action is invoked on the basis of 28 USC 1331 and 1343, 42 USC 12101-  
22 12102, 12181-12183 and 12201, et. seq. Jurisdiction is also invoked pursuant to 42 USC 1981  
23 [Civil Rights Act of 1991], et seq. which is applicable to causes of action where persons with  
24 disabilities have been denied their civil rights and Title II, section 201, et. seq. of the 1964 Civil  
25 Rights Act. Venue in the Southern Judicial District of California in the United States District Court  
26 is in accord with 28. U.S.C. section 1391(b) because a substantial part of plaintiff's claims arose  
27 within the Judicial District of the United States District Court of the Southern District of California.  
28

*ca*



1 5. Plaintiff is ignorant of the defendants sued as Does 1-10 herein, and therefore sues them in their  
2 fictitious names as Doe defendants. Plaintiff is informed and believes and thereon alleges that Does  
3 1-10 are the owners, operators, lessees or tenants of the subject property and each of the Doe  
4 defendants at all times herein was acting as the agent and or representative of each other and  
5 thereby are responsible in some manner for the injuries and damages complained of herein. Plaintiff  
6 will seek leave of court to amend this complaint to name Doe defendants when the same is  
7 ascertained.

### 8 III

#### 9 GENERAL ALLEGATIONS COMMON TO ALL CLAIMS

10 6. Plaintiff is disabled and confined to a wheelchair. He has no control over his lower  
11 extremities and must use a wheelchair to transport himself and to effect the basic necessities of his  
12 everyday existence. Plaintiff's disability substantially limits one or more of life's major activities  
13 and therefore he is disabled as defined under 42 USC 12102(2)(A)(B)(C).

14 7. On or about APRIL 16, 2003 plaintiff attempted to enter the subject premises of the  
15 defendants herein to utilize goods and/or services offered by defendants. When Plaintiff attempted  
16 to enter said facility, plaintiff had difficulty entering and using the facility because it failed to  
17 comply with Federal ADA Access Guidelines For Building and Facilities [hereinafter "ADAAG"]  
18 and/or the State of California's Title 24 Building Code Requirements.

19 8. The specific difficulty Plaintiff had in entering and utilizing Defendants' facility and which  
20 amount to a violation of ADAAG and Title 24 of the California Building Code are:

- 21 1. Improper Site Entrance Signage (Not Filled Out - Reclaim at:), (CA Title 24  
22 1129B.5);
- 23 2. Improper Site Entrance Signage (Not Filled Out – Telephone number:), (CA  
24 Title 24 1129B.5);
- 25 3. Improper Seating – Dining, Banquet & Bar Facilities – (Min Requirement  
26 5%), (ADAAG 5.1 & CA Title 24 1104B.5.4);
- 27 4. Improper Seating – Dining, Banquet & Bar Facilities – (Clear Space 30" x 48"  
28 Min)), (ADAAG 4.2.4.1 & CA Title 24 1122B.3);

- 1           **5. Improper Seating – Dining, Banquet & Bar Facilities – (Knee Space 27”H,**
- 2                   **30”W, 19”D), (ADAAG 4.32.3 & CA Title 24 1122B.3);**
- 3           **6. Improper Seating – Dining, Banquet & Bar Facilities – (Table Height 28”-34”**
- 4                   **), (ADAAG 4.32.4 & CA Title 24 1122B.4);**
- 5           **7. Improper Seating – Dining, Banquet & Bar Facilities – (Access Aisles Min**
- 6                   **Width 36” ), (ADAAG 5.3 & CA Title 24 1104B.5.4);**
- 7           **8. Improper Seating – Dining, Banquet & Bar Facilities – (Equivalent Services &**
- 8                   **Décor @ Accessible Seating ), (ADAAG 5.4 & CA Title 24 1104B.5.4);**
- 9           **9. Improper Seating – Dining, Banquet & Bar Facilities – (Accessible Seating**
- 10                   **Integrated w/General Seating), (ADAAG 5.4 & CA Title 24 1104B.5.4);**
- 11           **10. No Bathroom – International Symbol of Accessibility, (ADAAG 4.30.6 & CA**
- 12                   **Title 24 1117B.5.9);**
- 13           **11. No Raised Braille Characters (Restroom Signage), (ADAAG 4.30.4 & CA**
- 14                   **Title 24 1117B.5.6.1 & .2);**
- 15           **12. No Wall Mount Signage (Latch Side of Door) , (ADAAG 4.1.2(7)(d) and CA**
- 16                   **Title 24 1117B.5.1.1 & .5.6.3);**
- 17           **13. No Wall Mount Signage (60 inches from the floor), (ADAAG 4.30.6 & CA Title**
- 18                   **24 1117B.5.9);**
- 19           **14. No Drain & Hot Water Pipes – Insulated or Covered, (ADAAG 4.24.6);**

20 9. Plaintiff is informed and believes and thereon alleges that defendants’ facility has in excess of  
21 **TWENTY-FIVE (25) Violations** of ADAAG and/or Title 24 at their facility.

22 10. These violations are believed to have existed for a significant period of time and with  
23 defendant’s specific knowledge.

24 11. Based upon the above facts, Plaintiff as been discriminated against and will continue to be  
25 discriminated against unless and until Defendants are enjoined and forced to cease and desist from  
26 continuing to discriminate against Plaintiff and others similarly situated.

27 12. Pursuant to federal {ADA} and state law [California Title 24], Defendants are required to  
28 remove barriers to their existing facilities. Defendants have been put on notice pursuant to the ADA

1 and the California Civil Code prior to the statutory effect of the ADA on January 26, 1992 that  
2 Defendants and each of them had a duty to remove barriers to persons with disabilities such as  
3 plaintiff. Defendants also knew or should have known that individuals such as plaintiff with a  
4 disability are not required to give notice to a governmental agency prior to filing suit alleging  
5 Defendants' failure to remove architectural barriers.

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

17 14. Plaintiff desires to return to Defendants' places of business and utilize their facilities without  
18 being discriminated against in the immediate future.

#### 19 IV

#### 20 FIRST CAUSE OF ACTION

#### 21 (Violation of Civil Rights-American With Disabilities Act)

22 15. Plaintiff re-alleges the allegations in paragraphs 1 through 14 as though set forth fully herein.

#### 23 **Claim 1: Denial of Full and Equal Access**

24 16. Based on the facts asserted above Plaintiff has been denied full and equal access to Defendants'  
25 goods, services, facilities, privileges, advantages, or accommodations. Defendant Mc DONALD'S  
26 RESTAURANT is a public accommodation owned, leased and/or operated by Defendants and each  
27 of them. Defendants' existing facilities and/or services failed to provide full and equal access to  
28 Defendants' facility as required by 42 U.S.C. Section 12182(a). Thus, Plaintiff was subjected to

1 discrimination in violation of 42 U.S.C. 12182(b)(2)(A)(ii)(iv); 42 USC 1981 and 42 U.S.C. section  
2 12188 because Plaintiff was denied equal access to Defendants' existing facilities.

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

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

11 18. Based upon the facts alleged herein, Plaintiff was denied full and equal access to Defendants'  
12 goods, services, facilities, privileges, advantages, or accommodations within a public  
13 accommodation owned leased, and/or operated by the named Defendants. Defendants individually  
14 and collectively failed to remove barriers as required by 42 U.S.C. 12182(a). Plaintiff is informed  
15 and believes, and thus alleges that architectural barriers which are structural in nature exist at the  
16 following physical elements of Defendants' facilities:

17 Space Allowance and Reach Ranges, Accessible Route, Protruding Objects, Ground and Floor  
18 Surfaces, Parking and Passenger Loading Zones, Curb Ramps, Ramps, Stairs, Elevators, Platform  
19 Lifts (Wheelchair Lifts), Windows, Doors, Entrances, Drinking Fountains and Water Coolers,  
20 Water Closets, Toilet Stalls, Urinals, Lavatories and Mirrors, Sinks, Storage, Handrails, Grab Bars,  
21 and Controls and Operating Mechanisms, Alarms, Detectable Warnings, Signage, and Telephones.

22 Pursuant to 42 USC section 12182(b)(2)(iv), Title III requires places of public accommodation to  
23 remove architectural barriers that are structural in nature within existing facilities. Failure to remove  
24 such barriers and disparate treatment against a person who has a known association with a person  
25 with a disability are forms of prohibited discrimination. Accordingly, Plaintiff was subjected to  
26 discrimination in violation of 42 USC 12182(b)(2)(A)(iv) and 42 USC 12182 (b)(2)(A)(iv); 42 USC  
27 1981 and 42 USC 12188.





1 25. Defendants, because they have individually and/or collectively denied plaintiff access to their  
2 premises, goods and services, have denied him the right to make, enter into or enforce a contract  
3 and therefore have violated the provisions of 42 U.S.C. 1991 all to Plaintiff's damage in an amount  
4 to be determined at time of trial herein.

5 26. As a result of Defendants' actions Plaintiff was humiliated, embarrassed and discouraged and  
6 upset emotionally and physically and suffered damages according to proof.

7 27. The actions of the Defendants were intentional, outrageous and done with reckless disregard of  
8 Plaintiff's rights and therefore entitle him to an award of punitive damages.

9 28. By reason of Defendants' actions Plaintiff was caused to incur costs and expenses of litigation,  
10 including attorney's fees, to seek and redress his civil rights. Plaintiff therefore seeks an award of  
11 costs and attorney's fees associated with the necessity of bringing this lawsuit.

12 **VI**

13 **THIRD CAUSE OF ACTION**

14 **(Violation Of Civil Rights Under California Accessibility Laws)**

15 29. Plaintiff re-alleges the allegations of the Second Cause of Action as though set forth fully  
16 herein.

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

18 30. Plaintiff has been denied full and equal access to Defendants' goods services, facilities,  
19 privileges, advantages, or accommodations within a public accommodation owned, leased, and/or  
20 operated by Defendants in violation of California Civil Code Sections 54 and 54.1; California  
21 Health and Safety Code Section 19955 and California Government Code Section 12948. The  
22 actions of Defendants also violate the provisions of Title 24 of the State of California Building  
23 Codes with regard to accessibility for persons with disabilities by failing to provide access to  
24 Defendants facilities due to violations pertaining to accessible routes, ground and floor surfaces,  
25 parking and passenger loading zones, curb ramps, ramps, stairs, elevators, platform lifts (wheelchair  
26 lifts), windows, doors, toilet stalls, urinals, lavatories and mirrors, sinks, storage, handrails, grab  
27 bars, controls and operating mechanisms, alarms, detectable warnings, signage and telephones.

28 31. On the above basis Plaintiff has been wrongfully discriminated against.



1 37. Defendants and each of them, at all times prior to and including APRIL 16, 2003 respectively  
2 and continuing to the present time, knew that persons with physical disabilities were denied their  
3 rights of equal access to all portions of this public facility. Despite such knowledge, Defendants,  
4 and each of them, failed and refused to take steps to comply with the applicable access statutes and  
5 despite knowledge of the resulting problems and denial of civil rights suffered by Plaintiff and other  
6 similarly situated persons with disabilities.  
7

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

18 39. Plaintiff has suffered emotional and physical damage and continues to suffer such damages all  
19 in an amount to be determined at time of trial.  
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21 40. Under the provisions of Cal. Civ. Code section 55 Plaintiff seeks an award of reasonable  
22 attorney's fees and costs as a result of having to bring this action. Plaintiff requests the court to  
23 award such fees in an appropriate amount.  
24

25 **VIII**  
26 **FIFTH CAUSE OF ACTION**  
27 **(Unfair And Unlawful Business Practice)**  
28

41. Plaintiff re-alleges the allegations of the Fourth Cause of Action as though set forth fully herein.

1 42. California Business and Professions Code Section 17200 states in pertinent part:

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

4 43. Defendants, as alleged herein, are in violation of the Americans With Disabilities Act and Title  
5 24 of the California Building Code, in that they have denied equal access to their places of public  
6 accommodation to Plaintiff and others similarly situated to Plaintiff. Defendants have failed and  
7 refused and continue to refuse to comply with equal access laws all in violation of 42 USC 12181-  
8 12183; 42 USC 1981; and 42 USC 12188. In addition the complained of acts are in violation of  
9 California Civil Code Sections 51, 52, 54, and 54.1, California Health and Safety Code section 19955  
10 and California Government Code section 12948 all of which require Defendants to provide equal  
11 access to their facility to disabled persons such as plaintiff. Defendants are also in violation of the  
12 indicated statutes because of their failure to remove architectural barriers, which prevent equal  
13 access to their facility by disabled persons and because of their failure to modify their practices,  
14 policies and procedures to have a scheme, plan, or design to assist Plaintiff and others similarly  
15 situated to enter and utilize Defendants' services as required by the Unruh Act.

16 44. Defendants' acts are unlawful and unfair and are therefore in violation of California Business  
17 and Professions Code section 17200.

18 45. Pursuant to the provisions of California Business and Professions Code section 17201 Plaintiff  
19 is a person as identified within said section and therefore allowed to bring this action on behalf of  
20 himself and the general public to effectuate California Business and Professions Code 17200 as  
21 provided for within Business and Professions Code section 17204.

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

3  
4 **IX**

5 **SIXTH CAUSE OF ACTION**

6 **(Negligent Infliction of Emotional Distress)**

7 47. Plaintiff re-alleges the allegations of the Fourth Cause of Action as though set forth fully herein.

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

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

23  
24 50. As a proximate result of the actions of Defendants Plaintiff did suffer emotional and mental  
25 stress and pain and suffering all in an amount to be determined at time of trial.  
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5 **SEVENTH CAUSE OF ACTION**

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

7 51. Plaintiff re-alleges the allegations of the Fourth Cause of Action as though set forth fully herein.

8 52. The actions of Defendants and each of them are despicable, intentional and done with conscious  
9 disregard of the rights and safety of Plaintiff and as such should be regarded as outrageous.

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

12 54. Plaintiff seeks an award of punitive damages for this claim as the actions of Defendants are  
13 tantamount to outrageous conduct and subject them to exemplary damages.

14 **DEMAND FOR JURY**

15 55. Plaintiff respectfully requests that the claims made herein be heard and determined by a jury.

16 **WHEREFORE PLAINTIFF PRAYS:**

17 **1. For general damages according to proof;**

18 **2. For special damages according to proof;**

19 **3. For damages pursuant to Cal. Civil Code section 52, in the amount of \$4,000 for each and**  
20 **every offense of California Civil Code section 51, Title 24 of the California Building Code and**  
21 **the Americans With Disabilities Act.**

22 **4. For Injunctive relief pursuant to 42 U.S.C. 12188(a) and California Business and**  
23 **Professions Code section 17200**

24 **5. For an award of attorney's fees pursuant to 42 U.S.C. 1988, 42 U.S.C. 1981, 42 U.S.C. 12205**  
25 **and Cal. Civ. Code section 55;**

26 **6. For treble damages pursuant to Cal. Civ. Code 52 (a);**

27 **7. For punitive damages according to proof;**

28 **8. For a Jury Trial;**

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**9. For costs of suit incurred herein and;**

**10. For such other and further relief as the court deems proper.**

**Respectfully submitted.**

DATED: 5-8-03

  
\_\_\_\_\_  
Attorney for Plaintiff, ISMAEL RIVERA

# 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

San Diego

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

## DEFENDANTS

MCDONALD'S RESTAURANT, McDONALD'S CORPORATION, PAUL SCHULZ, MR. SCHULZ, PAUL ECKE JR TRUST, AND DOES 1-10, Inclusive, San Diego

County of Residence of First Listed San Diego  
(IN U.S. PLAINTIFF CASES ONLY)

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

(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

Attorneys (If Known)

**03 CV 0977 BTM LSP**

## 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 | Incorporated or Principal Place of Business in This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

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

| CONTRACT  | TORTS  |  | FORFEITURE/PENALTY   | BANKRUPTCY   | OTHER STATUTES   |
|---|--|--|--|--|--|
| <input type="checkbox"/> 110 Insurance<br><input type="checkbox"/> 120 Marine<br><input type="checkbox"/> 130 Miller Act<br><input type="checkbox"/> 140 Negotiable Instrument<br><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of<br><input type="checkbox"/> 151 Medicare Act<br><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)<br><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits<br><input type="checkbox"/> 160 Stockholders' Suits<br><input type="checkbox"/> 190 Other Contract<br><input type="checkbox"/> 195 Contract Product Liability | <b>PERSONAL INJURY</b><br><input type="checkbox"/> 310 Airplane<br><input type="checkbox"/> 315 Airplane Product Liability<br><input type="checkbox"/> 320 Assault, Libel & Slander<br><input type="checkbox"/> 330 Federal Employers' Liability<br><input type="checkbox"/> 340 Marine<br><input type="checkbox"/> 345 Marine Product Liability<br><input type="checkbox"/> 350 Motor Vehicle<br><input type="checkbox"/> 355 Motor Vehicle Product Liability<br><input type="checkbox"/> 360 Other Personal Injury | <b>PERSONAL INJURY</b><br><input type="checkbox"/> 362 Personal Injury—Med. Malpractice<br><input type="checkbox"/> 365 Personal Injury—Product Liability<br><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability<br><b>PERSONAL PROPERTY</b><br><input type="checkbox"/> 370 Other Fraud<br><input type="checkbox"/> 371 Truth in Lending<br><input type="checkbox"/> 380 Other Personal Property Damage<br><input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 610 Agriculture<br><input type="checkbox"/> 620 Other Food & Drug<br><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC<br><input type="checkbox"/> 630 Liquor Laws<br><input type="checkbox"/> 640 R.R. & Trunk<br><input type="checkbox"/> 650 Airline Regs.<br><input type="checkbox"/> 660 Occupational Safety/Health<br><input type="checkbox"/> 690 Other | <input type="checkbox"/> 422 Appeal 28 USC 158<br><input type="checkbox"/> 423 Withdrawal 28 USC 157<br><b>PROPERTY RIGHTS</b><br><input type="checkbox"/> 820 Copyrights<br><input type="checkbox"/> 830 Patent<br><input type="checkbox"/> 840 Trademark | <input type="checkbox"/> 400 State Reapportionment<br><input type="checkbox"/> 410 Antitrust<br><input type="checkbox"/> 430 Banks and Banking<br><input type="checkbox"/> 450 Commerce/ICC Rates/etc.<br><input type="checkbox"/> 460 Deportation<br><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations<br><input type="checkbox"/> 810 Selective Service<br><input type="checkbox"/> 850 Securities/Commodities/Exchange<br><input type="checkbox"/> 875 Customer Challenge 12 USC 3410<br><input type="checkbox"/> 891 Agricultural Acts<br><input type="checkbox"/> 892 Economic Stabilization Act<br><input type="checkbox"/> 893 Environmental Matters<br><input type="checkbox"/> 894 Energy Allocation Act<br><input type="checkbox"/> 895 Freedom of Information Act<br><input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice<br><input type="checkbox"/> 950 Constitutionality of State Statutes<br><input type="checkbox"/> 890 Other Statutory Actions |
| REAL PROPERTY   | CIVIL RIGHTS   | PRISONER PETITIONS   | LABOR  | SOCIAL SECURITY  | FEDERAL TAX SUITS  |
| <input type="checkbox"/> 210 Land Condemnation<br><input type="checkbox"/> 220 Foreclosure<br><input type="checkbox"/> 230 Rent Lease & Ejectment<br><input type="checkbox"/> 240 Torts to Land<br><input type="checkbox"/> 245 Tort Product Liability<br><input type="checkbox"/> 290 All Other Real Property  | <input type="checkbox"/> 441 Voting<br><input type="checkbox"/> 442 Employment<br><input type="checkbox"/> 443 Housing/Accommodations<br><input type="checkbox"/> 444 Welfare<br><input checked="" type="checkbox"/> 440 Other Civil Rights  | <input type="checkbox"/> 510 Motions to Vacate Sentence<br><b>Habeas Corpus:</b><br><input type="checkbox"/> 530 General<br><input type="checkbox"/> 535 Death Penalty<br><input type="checkbox"/> 540 Mandamus & Other<br><input type="checkbox"/> 550 Civil Rights<br><input type="checkbox"/> 555 Prison Condition  | <input type="checkbox"/> 710 Fair Labor Standards Act<br><input type="checkbox"/> 720 Labor/Mgmt. Relations<br><input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act<br><input type="checkbox"/> 740 Railway Labor Act<br><input type="checkbox"/> 790 Other Labor Litigation<br><input type="checkbox"/> 791 Empl. Ret. Inc. Security Act   | <input type="checkbox"/> 861 HIA (1395ff)<br><input type="checkbox"/> 862 Black Lung (923)<br><input type="checkbox"/> 863 DIWC/DIWW (405(g))<br><input type="checkbox"/> 864 SSID Title XVI<br><input type="checkbox"/> 865 RSI (405(g))                  | <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)<br><input type="checkbox"/> 871 IRS—Third Party 26 USC 7609   |

## 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 5-8-03 SIGNATURE OF ATTORNEY OF RECORD Roy L. Landers

OR OFFICE USE ONLY  
RECEIPT # 93976 AMOUNT 150.00 APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

5/14/03 VB