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LOS ANGELES SUPERIOR COURT

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Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES
Northwest District
Van Nuys Courthouse East - Civil and Small Claims

LC079429

JAMES F. COHAN;

Case No.

Plaintiff,

CIVIL COMPLAINT:
DISCRIMINATORY PRACTICES IN
PUBLIC ACCOMMODATIONS
[42 U.S.C. 12182(a) ET. SEQ; CIVIL
CODE 51, 52, 54, 54.1]

v.

**Walgreen Drug Stores; FIRST
AVENUE REALTY CO INC; SEGAL
FAMILY PARTNERSHIP ETAL; And
DOES 1 THROUGH 10, Inclusive**

Defendants.

NAMED DEFENDANTS AND NAMED PLAINTIFF

1. 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. Property Owner: FIRST AVENUE REALTY CO INC; SEGAL FAMILY PARTNERSHIP ETAL
Mailing Address: 1250 6TH ST, SANTA MONICA, CA 90401
Property Address: 7155 VAN NUYS BLVD, LOS ANGELES, CA 91405 Company Name: FIRST AVENUE REALTY CO INC

1 Registered Agent: JEFF SEGAL

2 Registered Office: 1250 6TH ST STE 400 SANTA MONICA, CA 90401

3 2. Plaintiffs are further informed and believe and thereon allege that Defendants,
4 Walgreen Drug Stores; FIRST AVENUE REALTY CO INC; SEGAL FAMILY
5 PARTNERSHIP ETAL, are the owners, operators, and/or lessors of the real property, as
6 well as the business operated thereon.

7 3. The words "Plaintiffs" and "Plaintiff's Member" as used herein specifically
8 include the organization and TRIPPLE AAA ASSOCIATION FOR CHILDREN AND
9 ADULTS WITH DEVELOPMENTAL DISABILITIES, SUING ON BEHALF OF ITS
10 MEMBERS, JAMES H. COHAN; and persons associated with its Members who
11 accompanied Members to Defendants' facilities.

12 4. Defendants Does 1 through 10, were at all times relevant herein subsidiaries,
13 employers, employees, agents, of Defendants Walgreen Drug Stores; FIRST AVENUE
14 REALTY CO INC; SEGAL FAMILY PARTNERSHIP ETAL. Plaintiffs are ignorant of
15 the true names and capacities of Defendants sued herein as Does 1 through 10, inclusive,
16 and therefore sues these Defendants by such fictitious names. Plaintiffs will pray leave
17 of the court to amend this complaint to allege the true names and capacities of the Does
18 when ascertained.

19 5. Plaintiffs are informed and believe, and thereon allege, that Defendants and each
20 of them herein were, at all times relevant to the action, the owner, lessor, lessee,
21 franchiser, franchisee, general partner, limited partner, agent, employee, representing
22 partner, or joint venturer of the remaining Defendants and were acting within the course
23 and scope of that relationship. Plaintiffs are further informed and believe, and thereon
24 allege, that each of the Defendants herein gave consent to, ratified, and/or authorized the
25 acts alleged herein to each of the remaining Defendants.

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CONCISE SET OF FACTS

6. Plaintiff has an impairment.

7. Defendants failed to provide auxiliary aids and services that are necessary to ensure equal access to the goods, services, privileges, or accommodations that it offers.

Title 28, part 36.303 of Code of Federal Regulations states:

(a) General. A public accommodation shall take those steps that may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, unless the public accommodation can demonstrate that taking those steps would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations being offered or would result in an undue burden, i.e., significant difficulty or expense.

(b) Examples. The term "auxiliary aids and services" includes:

(1) Qualified interpreters, notetakers, computer-aided transcription services, written materials, telephone handset amplifiers, assistive listening devices, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, telecommunications devices for deaf persons (TDD's), videotext displays, or other effective methods of making aurally delivered materials available to individuals with hearing impairments;

(2) Qualified readers, taped texts, audio recordings, Brailled materials, large print materials, or other effective methods of making visually delivered materials available to individuals with visual impairments;

(3) Acquisition or modification of equipment or devices; and

(4) Other similar services and actions.

1 (c) Effective communication. A public accommodation shall furnish
2 appropriate auxiliary aids and services where necessary to ensure effective
3 communication with individuals with disabilities.

4 Defendants failed to comply with Title 28, part 36.303 of Code of Federal Regulations as
5 it failed to provide Qualified readers, taped texts, audio recordings, Brailled materials, or
6 large print materials. Further, Defendants failed to remove architectural barriers.

7 8. Plaintiff's Member and Plaintiff(s) have physical impairments because their
8 conditions affect one or more of the following body systems: neurological,
9 musculoskeletal, special sense organs, and/or cardiovascular. Further, Plaintiff's
10 Member and Plaintiff(s) said physical impairments substantially limits one or more of the
11 following major life activities. In addition, Plaintiff's Member and Plaintiff(s) cannot
12 perform one or more of the said major life activities in the manner, speed, and duration
13 when compared to the average person. Moreover, Plaintiff's Member and Plaintiff(s) has
14 a history of or has been classified as having a physical impairment as required by 42
15 U.S.C. § 12102(2)(A).

16 9. Plaintiff's Members expressly intend to patronize the establishment and the
17 property that is the subject of this Complaint in the immediate future.

18 10. Plaintiff's Member was deterred from patronizing the facility.
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21 **WHAT CLAIMS ARE PLAINTIFFS ALLEGING AGAINST EACH NAMED**
22 **DEFENDANT**

23 11. Defendants Walgreen Drug Stores; FIRST AVENUE REALTY CO INC; SEGAL
24 FAMILY PARTNERSHIP ETAL; and Does 1 through 10 will be referred to collectively
25 hereinafter as "Defendants."

26 12. Plaintiffs aver that the Defendants are liable for the following claims as alleged
27 below:
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THE UNIVERSITY OF CHICAGO
DIVISION OF THE PHYSICAL SCIENCES

DEPARTMENT OF CHEMISTRY

REPORT OF THE RESEARCH GROUP ON THE CHEMISTRY OF THE SOLID STATE

FOR THE YEAR 1963

EDITED BY

ROBERT M. HAYES

AND

WALTER K. RENTZ

CHICAGO, ILLINOIS

1 licensing, or other arrangements with a good, service, facility, privilege, advantage, or
2 accommodation that is different or separate from that provided to other individuals.

3 Claim V

4 17. Based on the facts stated above, Defendants discriminated against Plaintiffs as
5 Defendants failed to afford to an individual with a disability in the most integrated
6 setting appropriate to the needs of the individual in violation of 42 U.S.C. §12182.

7 Claim VI

8 18. Based on the facts stated above, Defendants discriminated against Plaintiffs as
9 Defendants utilized standards or criteria or methods of administration that have the effect
10 of discriminating on the basis of disability; or that perpetuate the discrimination of others
11 who are subject to common administrative control in violation of 42 U.S.C. §12182.

12 Claim VII

13 19. Based on the facts stated above, Defendants discriminated against Plaintiffs as it
14 is discriminatory to exclude or otherwise deny equal goods, services, facilities, privileges,
15 advantages, accommodations, or other opportunities to an individual or entity because of
16 the known disability of an individual with whom the individual or entity is known to have
17 a relationship or association in violation of 42 U.S.C. §12182. See Niece v. Fitzner 922 F.
18 Supp. 1208 (1996)

19 Claim VIII

20 20. Based on the facts stated above, Defendants discriminated against Plaintiffs as
21 Defendants engaged in the specific prohibitions as stated in 42 U.S.C. §12182.

22 Claim IX

23 21. Based on the facts stated above, Defendants discriminated against Plaintiffs as
24 Defendant failed to demonstrate that the removal of a barrier is not readily achievable,
25 and made such goods, services, facilities, privileges, advantages, or accommodations
26 available through alternative methods in a segregated manner in violation of 42 U.S.C.
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1 §12182.

2 Claim X

3 22. Based on the facts stated above, Defendants discriminated against Plaintiffs as
4 Defendants altered the use of their establishment in a manner that affected or could have
5 affected the usability of the facility or part thereof and failed to make alterations in such a
6 manner that, to the maximum extent feasible, the altered portions of the facility are
7 readily accessible to and usable by individuals with disabilities, including individuals
8 who use wheelchairs in violation of 42 U.S.C. §12183.

9 23. WHEREFORE, Plaintiffs pray for judgment and relief as hereinafter set forth.

10
11 **SECOND CAUSE OF ACTION AGAINST ALL DEFENDANTS - CLAIMS UNDER**
12 **CALIFORNIA ACCESSIBILITY LAWS**

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

14 24. Based on the facts plead above and elsewhere in this complaint, Plaintiff's
15 Member and Plaintiff(s) was denied full and equal access to Defendants' goods, services,
16 facilities, privileges, advantages, or accommodations within a public accommodation
17 owned, leased, and/or operated by Defendants as required by Civil Code Sections 54 and
18 54.1.

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

20 25. Based on the facts plead at ¶¶ 6-16 above and elsewhere herein this complaint,
21 Defendants failed and refused to provide a reasonable alternative by modifying its
22 practices, policies, and procedures in that they failed to have a scheme, plan, or design to
23 assist Plaintiffs and/or others similarly situated in entering and utilizing Defendants'
24 services as required by Civil Code § 54.1. Thus, Plaintiff's Member and Plaintiff(s) were
25 subjected to discrimination in violation of Civil Code § 54.1.

26 **CLAIM III: Violation Of The Unruh Act**

27 26. Based on the facts plead above and elsewhere herein this complaint and because
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1 Defendants violated the Civil Code § 51 by failing to comply with 42 United States Code
2 § 12182(b)(2)(A)(iv) and 42 U.S.C. § 12183(a)(2), Defendants did and continue to
3 knowingly discriminate against Plaintiffs and persons similarly situated in violation of
4 Civil Code §§ 51, 52, and 54.1. Plaintiffs allege the access violations alleged here are so
5 obvious as to implicate at least a prima facie case of discriminatory intent.

6 27. Based on the facts plead above, Claims I, II, and III of Plaintiffs' Second Cause
7 Of Action above, and the facts elsewhere herein this complaint. Plaintiffs will suffer
8 irreparable harm unless Defendants are ordered to remove architectural, non-
9 architectural, and communication barriers at Defendants' public accommodation.
10 Plaintiffs allege that Defendants' discriminatory conduct is capable of repetition, and this
11 discriminatory repetition adversely impacts Plaintiffs and a substantial segment of the
12 disability community. Plaintiffs allege there is a state and national public interest in
13 requiring accessibility in places of public accommodation. Plaintiffs have no adequate
14 remedy at law to redress the discriminatory conduct of Defendants. Plaintiffs desire to
15 return to Defendants' places of business in the immediate future. Accordingly, the
16 Plaintiffs allege that a structural or mandatory injunction is necessary to enjoin
17 compliance with state civil rights laws enacted for the benefit of individuals with
18 disabilities.

19 28. Wherefore, Plaintiffs pray for damages and relief as hereinafter stated.
20

21 DEMAND FOR JUDGMENT FOR RELIEF:
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- 23 A. For injunctive relief pursuant to 42 U.S.C. § 12188(a).
24 B. For attorneys fees pursuant to 42 U.S.C. § 1988, 42 U.S.C. § 12205, and Cal.
Civil Code § 51, 52; 54.3;
25 C. A Jury Trial and;
26 D. For such other further relief as the court deems proper.

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1 Respectfully submitted:

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PINNOCK & WAKEFIELD, A.P.C.

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Dated: September 4, 2007

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By:  _____

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THEODORE A. PINNOCK, ESQ.
MICHELLE L. WAKEFIELD, ESQ.
Attorneys for Plaintiffs

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