

FEE WAIVER

Pending MAY 15 2008

FILED IN FORMA PAUPERIS (CRC 985)
PER ORDER DATED _____
AMOUNT RECOVERABLE PURSUANT
TO 68511.3 GC \$ _____
PLUS A ONE TIME ADMINISTRATIVE FEE UPON JUDGMENT
IF THE PARTY BECOMES A JUDGMENT CREDITOR.

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FILED
LOS ANGELES SUPERIOR COURT

MAY 15 2008

Attorneys for Plaintiff

JOHN A. CLARKE, CLERK
[Signature]
BY D.M. SWAIN, DEPUTY

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

JON CARPENTER,

Case No.

BC390795

Plaintiff,

CIVIL COMPLAINT:
DISCRIMINATORY PRACTICES IN
PUBLIC ACCOMMODATIONS
[42 U.S.C. 12182(a) ET. SEQ.; CIVIL
CODE 51, 52, 54, 54.1, 54.3]

v.

**KCH HOLDINGS LLC; BRIAN DEAN
MATAYOSHI DBA SIERRA
PHARMACY ; And DOES 1
THROUGH 10, Inclusive**

**UNLIMITED CIVIL CASE -
PERMANENT INJUNCTIVE RELIEF**

Defendants.

NAMED DEFENDANTS AND NAMED PLAINTIFF

1. Plaintiff is informed, believes and thereon alleges that 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. Plaintiff is informed and believes and thereon alleges that Defendants KCH HOLDINGS LLC; BRIAN DEAN MATAYOSHI DBA SIERRA PHARMACY are the owner, operator, and/or lessor/lessee of the real property and the public accommodation located thereon at the Property Address: 2700 S FIGUEROA ST, LOS ANGELES, CA 90007; Assessor's Parcel Number: 5123-018-031. Defendant KCH HOLDINGS LLC c/o Registered Agent: ALAN R. FREEDMAN, located at 501 SANTA MONICA BLVD., STE. 307, SANTA MONICA, CA 90401. Defendant BRIAN DEAN MATAYOSHI DBA

Case assigned to Judge Alan S. Ramseyfield

1 SIERRA PHARMACY is located at 2708 S FIGUEROA ST, LOS ANGELES, CA 90007-3255.

2 2. The words Plaintiff and Plaintiffs as used herein specifically include JON CARPENTER.

3 3. Defendants Does 1 through 10, were at all times relevant herein subsidiaries, employers,
4 employees, agents, of Defendants KCH HOLDINGS LLC; BRIAN DEAN MATAYOSHI DBA
5 SIERRA PHARMACY. Plaintiff is ignorant of the true names and capacities of Defendants sued
6 herein as Does 1 through 10, inclusive, and therefore sues these Defendants by such fictitious
7 names. Plaintiff will pray leave of the court to amend this complaint to allege the true names and
8 capacities of the Does when ascertained.

9 4. Plaintiff is informed and believes, and thereon alleges, that Defendants and each of them
10 herein were, at all times relevant to the action, the owner, lessor, lessee, franchiser, franchisee,
11 general partner, limited partner, agent, employee, representing partner, or joint venturer of the
12 remaining Defendants and were acting within the course and scope of that relationship. Plaintiff
13 is further informed and believe, and thereon allege, that each of the Defendants herein gave
14 consent to, ratified, and/or authorized the acts alleged herein to each of the remaining Defendants.

15 **CONCISE SET OF FACTS**

16 5. Plaintiff JON CARPENTER (hereinafter "Plaintiff") has physical impairments and due to
17 these impairments he has learned to successfully operate a wheelchair for mobility. Plaintiff said
18 physical impairments substantially limit one or more of the following major life activities
19 including but not limited to: walking.

20 6. Plaintiff has physical impairments because their conditions affect one or more of the
21 following body systems: neurological, musculoskeletal, special sense organs, and/or
22 cardiovascular. Further, Plaintiff said physical impairments substantially limits one or more of
23 the following major life activities. In addition, Plaintiff cannot perform one or more of the said
24 major life activities in the manner, speed, and duration when compared to the average person.
25 Moreover, Plaintiff has a history of or has been classified as having a physical impairment as
26 required by 42 U.S.C. § 12102(2)(A).

27 7. On November 29, 2007, Plaintiff JON CARPENTER wanted to visit Defendants' public
28 accommodation facilities located at Property Address: 2700 S FIGUEROA ST, LOS ANGELES,
CA 90007; Assessor's Parcel Number: 5123-018-031 to utilize their goods and/or services. When

1 Plaintiff JON CARPENTER patronized Defendants' public accommodation facilities, he was
2 unable to use and/or had difficulty using the public accommodations' facilities including but not
3 limited to the barriers to access listed herein and said facilities were not accessible because they
4 failed to comply with ADA Access Guidelines For Buildings and Facilities (hereafter referred to
5 as "ADAAG" and codified in 28 C.F.R. Part 36, App. A) and/or California's Title 24 Building
6 Code Requirements. Defendants failed to remove barriers to equal access within their public
7 accommodation facilities as required.

8 8. Plaintiff JON CARPENTER was deterred from visiting the property due to said access
9 barriers as listed herein to the present Complaint at Defendants' public accommodation facilities
10 located on the Property and/or has knowledge of said access barriers and is presently deterred
11 from accessing the public accommodation. Plaintiff alleges that these known barriers to access
12 are not an exhaustive list of the barriers to access that exist at Defendants' facilities.

13 9. Defendants failed to provide auxiliary aids and services that are necessary to ensure equal
14 access to the goods, services, privileges, or accommodations that it offers. Title 28, part 36.303
15 of Code of Federal Regulations states:

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

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

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

- 1 (2) Qualified readers, taped texts, audio recordings, Brailled materials, large print
2 materials, or other effective methods of making visually delivered materials available to
3 individuals with visual impairments;
4 (3) Acquisition or modification of equipment or devices; and
5 (4) Other similar services and actions.

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

9 10. Plaintiff can prove these barriers as Plaintiff conducted a preliminary survey of
10 Defendants' facility. Plaintiff specifically alleges that Defendants knew, to a substantial
11 certainty, that the architectural barriers precluded equal access. First, Plaintiff will prove that
12 Defendants had actual knowledge that the architectural barriers precluded equal access and that
13 the noncompliance with ADAAG as to accessible entrances was intentional. Second, due to the
14 abundance of ADA information and constant news covers of ADA lawsuits, Defendants had
15 actual knowledge of the ADA and decided deliberately not to remove architectural barriers.
16 Third, Defendants have no plans to remodel. Fourth, Defendants had actual knowledge of ADA
17 given all the ADA public awareness campaigns, the abundance of free ADA information and the
18 media's constant ADA coverage. Fifth, a human being acting for the defendants made a
19 conscious decision as to how to proceed given the presence of the architectural barriers. Plaintiff
20 alleges any alternative methods preclude integration of disabled patrons, as it requires them to use
21 second-class facilities. Also, expert testimony will show the facility contained inaccessible
22 features. Plaintiff alleges businesses often state that they have few customers with disabilities.
23 Plaintiff alleges such customers avoid patronizing inaccessible businesses and are deterred from
24 patronizing such businesses.

25 11. For example, there is one step and no ramp. Also, there is no sign to alternative entrance.
26 These violations deterred the Plaintiff's access to the pharmacy.

27 12. Plaintiff intends to return to Defendants' public accommodation facilities in the immediate
28

1 future. Plaintiff was deterred and is presently deterred from returning due to his knowledge of the
2 barriers to access that exist at Defendants' facilities.

3 13. Pursuant to federal and state law, Defendants are required to remove barriers to their
4 existing facilities. Further, Defendants had actual knowledge of their barrier removal duties
5 under the Americans with Disabilities Act and the Civil Code before January 26, 1992. Also,
6 Defendants should have known that individuals with disabilities are not required to give notice to
7 a governmental agency before filing suit alleging Defendants failed to remove architectural
8 barriers.

9 14. Plaintiff believes and herein alleges Defendants' facilities have access violations not
10 directly experienced by Plaintiff which would preclude or limit access by Plaintiff potentially
11 including but not limited to violations of the ADA, ADA Accessibility Guidelines (Codified in 28
12 C.F.R. Part 36, App. A) and Title 24 of the California Building Code. Plaintiff alleges
13 Defendants are required to utilize the ADA checklist for Readily Achievable Barrier Removal
14 approved by the United States Department of Justice and created by Adaptive Environments.
15 Plaintiff is entitled to injunctive relief to remove all barriers to access that are related to his
16 disability even those barriers that are only known to exist but are not directly experienced by
17 plaintiff. *Doran v 7-Eleven Inc*, 2007 U.S.App.Lexis 26143 (9th Cir 2007).

18 15. Based on these facts, Plaintiff alleges he was discriminated against each time he
19 patronized and/or was deterred from patronizing Defendants' facilities. Plaintiff was extremely
20 upset due to Defendants' conduct.

21 16. Plaintiff is not required to provide notice to the defendants prior to filing a complaint
22 and/or to recover attorney fees and costs. *Botosan v. Paul McNally Realty*, 216 F.3d 827, 832
23 (9th Cir 2000). *Skaff v Meridien*, 2007 U.S. App. LEXIS 25516 (9th Cir 2007).

24 **WHAT CLAIMS ARE PLAINTIFF ALLEGING AGAINST EACH NAMED**
25 **DEFENDANT**

26 17. Defendants KCH HOLDINGS LLC; BRIAN DEAN MATAYOSHI DBA SIERRA
27 PHARMACY and Does 1 through 10 will be referred to collectively hereinafter as "Defendants."
28

1 18. Plaintiff avers that the Defendants are liable for the following claims as alleged below:

2 **DISCRIMINATORY PRACTICES IN PUBLIC ACCOMMODATIONS**

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

5 **Claim I**

6 19. Based on the facts stated above, Defendants discriminated against Plaintiff on the basis of
7 disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages,
8 or accommodations of any place of public accommodation as Defendants own, lease (or lease
9 to), or operate a place of public accommodation in violation of 42 U.S.C. §12182.

10 **Claim II**

11 20. Based on the facts stated above, Defendants discriminated against Plaintiff directly, or
12 through contractual, licensing, or other arrangements, to a denial of the opportunity of the
13 individual or class to participate in or benefit from the goods, services, facilities, privileges,
14 advantages, or accommodations of an entity in violation of 42 U.S.C. §12182.

15 **Claim III**

16 21. Based on the facts stated above, Defendants discriminated against Plaintiff as it is
17 discriminatory to afford an individual or class of individuals, on the basis of a disability or
18 disabilities of such individual or class, directly, or through contractual, licensing, or other
19 arrangements with the opportunity to participate in or benefit from a good, service, facility,
20 privilege, advantage, or accommodation that is not equal to that afforded to other individuals in
21 violation of 42 U.S.C. §12182.

22 **Claim IV**

23 22. Based on the facts stated above, Defendants discriminated against Plaintiff as it is
24 discriminatory to provide an individual or class of individuals, on the basis of a disability or
25 disabilities of such individual or class, directly, or through contractual, licensing, or other
26 arrangements with a good, service, facility, privilege, advantage, or accommodation that is
27 different or separate from that provided to other individuals.
28

1 Claim V

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

5 Claim VI

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

10 Claim VII

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

17 Claim VIII

18 26. Based on the facts stated above, Defendants discriminated against Plaintiff as Defendants
19 engaged in the specific prohibitions as stated in 42 U.S.C. §12182.

20 Claim IX

21 27. Based on the facts stated above, Defendants discriminated against Plaintiff as Defendant
22 failed to demonstrate that the removal of a barrier is not readily achievable, and made such goods,
23 services, facilities, privileges, advantages, or accommodations available through alternative
24 methods in a segregated manner in violation of 42 U.S.C. §12182. Plaintiff is entitled to
25 injunctive relief to remove all barriers to access that are related to his disability even those
26 barriers that are only known to exist but are not directly experienced by plaintiff. *Doran v 7-*
27 *Eleven Inc*, 2007 U.S.App.Lexis 26143 (9th Cir 2007).
28

1 Claim X

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

7 29. WHEREFORE, Plaintiff pray for judgment and relief as hereinafter set forth.
8

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

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

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

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

17 31. Based on the facts plead above and elsewhere herein this complaint, Defendants failed and
18 refused to provide a reasonable alternative by modifying its practices, policies, and procedures in
19 that they failed to have a scheme, plan, or design to assist Plaintiff and/or others similarly situated
20 in entering and utilizing Defendants' services as required by Civil Code § 54.1. Thus, Plaintiff
21 was subjected to discrimination in violation of Civil Code § 54.1.

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

23 32. Based on the facts plead above and elsewhere herein this complaint and because
24 Defendants violated the Civil Code § 51 by failing to comply with 42 United States Code §
25 12182(b)(2)(A)(iv) and 42 U.S.C. § 12183(a)(2), Defendants did and continue to knowingly
26 discriminate against Plaintiff and persons similarly situated in violation of Civil Code §§ 51, 52,
27 and 54.1. Plaintiff alleges the access violations alleged here are so obvious as to implicate at least
28 a prima facie case of discriminatory intent.

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

12 34. Wherefore, Plaintiff prays for damages and relief as hereinafter stated.
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20 DEMAND FOR JUDGMENT FOR RELIEF:
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- 22 A. For injunctive relief pursuant to 42 U.S.C. § 12188(a).
23 B. For general damages pursuant to Cal. Civil Code §§ 52 or 54.3;
24 C. For \$4,000 in damages pursuant to Cal. Civil Code § 52 for each and every offense of
25 Civil Code § 51, Title 24 of the California Building Code, ADA, and ADA Accessibility
26 Guidelines (Codified in 28 C.F.R. Part 36, App. A);
27 D. In the alternative to the damages pursuant to Cal. Civil Code § 52 in Paragraph C above,
28 for \$1,000 in damages pursuant to Cal. Civil Code § 54.3 for each and every offense of Civil

1 Code § 54.1, Title 24 of the California Building Code, ADA, and ADA Accessibility Guidelines;

2 E. For treble damages pursuant to Cal. Civil Code §§ 52(a) or 54.3(a);

3
4 F. For attorneys fees pursuant to 42 U.S.C. § 1988, 42 U.S.C. § 12205, and Cal. Civil Code
5 § 52; 54.3;

6 G. A Jury Trial and;

7 H. For such other further relief as the court deems proper.

8 Respectfully submitted:

9 Dated: May 2, 2008

PINNOCK & WAKEFIELD, A.P.C.

10 By: _____
11 THEODORE A. PINNOCK, ESQ.
12 DAVID C. WAKEFIELD, ESQ.
13 Attorneys for Plaintiff
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ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
Theodore A. Pinnock, Esq. Bar #: 153434; David C. Wakefield, Esq. Bar#: 185736;
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FOR COURT USE ONLY
FILED
LOS ANGELES SUPERIOR COURT

MAY 15 2008

JOHN A. CLARKE, CLERK
[Signature]
BY D.M. SWAIN, DEPUTY

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES
STREET ADDRESS: 111 North Hill Street
MAILING ADDRESS:
CITY AND ZIP CODE: Los Angeles, California 90012
BRANCH NAME: Central District Stanley Mosk Courthouse

CASE NAME: JON CARPENTER v. KCH HOLDINGS LLC; ET AL

CIVIL CASE COVER SHEET
 Unlimited (Amount demanded exceeds \$25,000)
 Limited (Amount demanded is \$25,000 or less)

Complex Case Designation
 Counter **Joinder**
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER: **BC390795**
JUDGE:
DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

| | | |
|---|--|---|
| Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) | Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) | Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) |
| Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) | Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) | Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) |
| Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input checked="" type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) | Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) | Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) |
| Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15) | Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39) | Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43) |

2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

| | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |

3. Type of remedies sought (check all that apply):
 a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive

4. Number of causes of action (specify):
 5. This case is is not a class action suit.
 6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: 5/5/08
 Theodore A. Pinnock
 (TYPE OR PRINT NAME)

[Signature]
 (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

INSTRUCTIONS HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the Civil Case Cover Sheet contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court. To Parties in Complex Cases

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the Civil Case Cover Sheet to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)—Personal Injury/ProperDama

Uninsured Motorist (46) *(if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)*

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability *(not asbestos or toxic/environmental)* (24)
Medical Malpractice (45)
Medical Malpractice—Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) *(not civil harassment)* (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice *(not medical or legal)*
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Contract/Warranty
Contract *(not unlawful detainer or wrongful eviction)*
Contract/Warranty Breach—Seller Plaintiff *(not fraud or negligence)*
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage *(not provisionally complex)* (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud

Real Property

Other Contract Dispute
Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property *(not eminent domain, landlord/tenant, or foreclosure)*

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) *(if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)*

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor Commissioner Appeals

Provisionally Complex Civil

Litigation (Cal. Rules of Court Rules 1800–1812)
Breach of Rental/Lease
Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims *(arising from provisionally complex case type listed above)* (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment *(non-domestic relations)*
Sister State Judgment
Administrative Agency Award *(not unpaid taxes)*
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint *(not specified above)* (42)
Declaratory Relief Only
Injunctive Relief Only *(non-harassment)*
Mechanics Lien
Other Commercial Complaint Case *(non-tort/non-complex)*
Other Civil Complaint *(non-tort/non-complex)*

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition *(not specified above)* (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief from Late Claim
Other Civil Petition

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| SHORT TITLE: JON CARPENTER v. KCH HOLDINGS LLC; ET AL | CASE NUMBER BC390795 |
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**CIVIL CASE COVER SHEET ADDENDUM AND STATEMENT OF LOCATION
(CERTIFICATE OF GROUNDS FOR ASSIGNMENT TO COURTHOUSE LOCATION)**

This form is required pursuant to LASC Local Rule 2.0 in all new civil case filings in the Los Angeles Superior Court.

Item I. Check the types of hearing and fill in the estimated length of hearing expected for this case:

JURY TRIAL? YES CLASS ACTION? YES LIMITED CASE? YES TIME ESTIMATED FOR TRIAL 3 HOURS/ DAYS

Item II. Select the correct district and courthouse location (4 steps – If you checked "Limited Case", skip to Item III, Pg. 4):

Step 1: After first completing the Civil Case Cover Sheet Form, find the main civil case cover sheet heading for your case in the left margin below, and, to the right in Column A, the Civil Case Cover Sheet case type you selected.

Step 2: Check one Superior Court type of action in Column B below which best describes the nature of this case.

Step 3: In Column C, circle the reason for the court location choice that applies to the type of action you have checked. For any exception to the court location, see Los Angeles Superior Court Local Rule 2.0.

Applicable Reasons for Choosing Courthouse Location (see Column C below)

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|---|--|
| 1. Class Actions must be filed in the County Courthouse, Central District. | 6. Location of property or permanently garaged vehicle. |
| 2. May be filed in Central (Other county, or no Bodily Injury/Property Damage). | 7. Location where petitioner resides. |
| 3. Location where cause of action arose. | 8. Location wherein defendant/respondent functions wholly. |
| 4. Location where bodily injury, death or damage occurred. | 9. Location where one or more of the parties reside. |
| 5. Location where performance required or defendant resides. | 10. Location of Labor Commissioner Office. |

Step 4: Fill in the information requested on page 4 in Item III; complete Item IV. Sign the declaration.

| | A Civil Case Cover Sheet Category No. | B Type of Action (Check only one) | C Applicable Reasons - See Step 3 Above |
|---|---|---|--|
| Auto Tort | Auto (22) | <input type="checkbox"/> A7100 Motor Vehicle - Personal Injury/Property Damage/Wrongful Death | 1., 2., 4. |
| | Uninsured Motorist (46) | <input type="checkbox"/> A7110 Personal Injury/Property Damage/Wrongful Death – Uninsured Motorist | 1., 2., 4. |
| Other Personal Injury/Property Damage/Wrongful Death Tort | Asbestos (04) | <input type="checkbox"/> A6070 Asbestos Property Damage <input type="checkbox"/> A7221 Asbestos - Personal Injury/Wrongful Death | 2. 2. |
| | Product Liability (24) | <input type="checkbox"/> A7260 Product Liability (not asbestos or toxic/environmental) | 1., 2., 3., 4., 8. |
| | Medical Malpractice (45) | <input type="checkbox"/> A7210 Medical Malpractice - Physicians & Surgeons <input type="checkbox"/> A7240 Other Professional Health Care Malpractice | 1., 2., 4. 1., 2., 4. |
| | Other Personal Injury Property Damage Wrongful Death (23) | <input type="checkbox"/> A7250 Premises Liability (e.g., slip and fall). | 1., 2., 4. |
| | | <input type="checkbox"/> A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, vandalism, etc.) | 1., 2., 4. |
| <input type="checkbox"/> A7270 Intentional Infliction of Emotional Distress | | 1., 2., 3. | |
| <input type="checkbox"/> A7220 Other Personal Injury/Property Damage/Wrongful Death | | 1., 2., 4. | |
| Non-Personal Injury/Property Damage/Wrongful Death Tort | Business Tort (07) | <input type="checkbox"/> A6029 Other Commercial/Business Tort (not fraud/breach of contract) | 1., 2., 3. |
| | Civil Rights (08) | <input checked="" type="checkbox"/> A6005 Civil Rights/Discrimination | 1., 2., 3. |
| | Defamation (13) | <input type="checkbox"/> A6010 Defamation (slander/libel) | 1., 2., 3. |
| | Fraud (16) | <input type="checkbox"/> A6013 Fraud (no contract) | 1., 2., 3. |

Non-Personal Injury/Property Damage/
Wrongful Death Tort (Cont'd.)

Employment

Contract

Real Property

Judicial Review-Unlawful Detainer

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| A Civil Case Cover Sheet Category No. | B Type of Action (Check only one) | C Applicable Reasons -See Step 3 Above |
|--|---|--|
| Professional Negligence (25) | <input type="checkbox"/> A6017 Legal Malpractice <input type="checkbox"/> A6050 Other Professional Malpractice (not medical or legal) | 1., 2., 3. 1., 2., 3. |
| Other (35) | <input type="checkbox"/> A6025 Other Non-Personal Injury/Property Damage tort | 2., 3. |
| Wrongful Termination (36) | <input type="checkbox"/> A6037 Wrongful Termination | 1., 2., 3. |
| Other Employment (15) | <input type="checkbox"/> A6024 Other Employment Complaint Case <input type="checkbox"/> A6109 Labor Commissioner Appeals | 1., 2., 3. 10. |
| Breach of Contract/Warranty (06) (not insurance) | <input type="checkbox"/> A6004 Breach of Rental/Lease Contract (not Unlawful Detainer or wrongful eviction) <input type="checkbox"/> A6008 Contract/Warranty Breach -Seller Plaintiff (no fraud/negligence) <input type="checkbox"/> A6019 Negligent Breach of Contract/Warranty (no fraud) <input type="checkbox"/> A6028 Other Breach of Contract/Warranty (not fraud or negligence) | 2., 5. 2., 5. 1., 2., 5. 1., 2., 5. |
| Collections (09) | <input type="checkbox"/> A6002 Collections Case-Seller Plaintiff <input type="checkbox"/> A6012 Other Promissory Note/Collections Case | 2., 5., 6. 2., 5. |
| Insurance Coverage (18) | <input type="checkbox"/> A6015 Insurance Coverage (not complex) | 1., 2., 5., 8. |
| Other Contract (37) | <input type="checkbox"/> A6009 Contractual Fraud <input type="checkbox"/> A6031 Tortious Interference <input type="checkbox"/> A6027 Other Contract Dispute(not breach/insurance/fraud/negligence) | 1., 2., 3., 5. 1., 2., 3., 5. 1., 2., 3., 8. |
| Eminent Domain/Inverse Condemnation (14) | <input type="checkbox"/> A7300 Eminent Domain/Condemnation Number of parcels _____ | 2. |
| Wrongful Eviction (33) | <input type="checkbox"/> A6023 Wrongful Eviction Case | 2., 6. |
| Other Real Property (26) | <input type="checkbox"/> A6018 Mortgage Foreclosure <input type="checkbox"/> A6032 Quiet Title <input type="checkbox"/> A6060 Other Real Property (not eminent domain, landlord/tenant, foreclosure) | 2., 6. 2., 6. 2., 6. |
| Unlawful Detainer-Commercial (31) | <input type="checkbox"/> A6021 Unlawful Detainer-Commercial (not drugs or wrongful eviction) | 2., 6. |
| Unlawful Detainer-Residential (32) | <input type="checkbox"/> A6020 Unlawful Detainer-Residential (not drugs or wrongful eviction) | 2., 6. |
| Unlawful Detainer-Drugs (38) | <input type="checkbox"/> A6022 Unlawful Detainer-Drugs | 2., 6. |
| Asset Forfeiture (05) | <input type="checkbox"/> A6108 Asset Forfeiture Case | 2., 6. |
| Petition re Arbitration (11) | <input type="checkbox"/> A6115 Petition to Compel/Confirm/Vacate Arbitration | 2., 5. |

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Judicial Review (Cont'd.)

Provisionally Complex Litigation

Enforcement of Judgment

Miscellaneous Civil Complaints

Miscellaneous Civil Petitions

| A Civil Case Cover Sheet Category No. | B Type of Action (Check only one) | C Applicable Reasons - See Step 3 Above |
|--|--|--|
| Writ of Mandate (02) | <input type="checkbox"/> A6151 Writ - Administrative Mandamus <input type="checkbox"/> A6152 Writ - Mandamus on Limited Court Case Matter <input type="checkbox"/> A6153 Writ - Other Limited Court Case Review | 2., 8. 2. 2. |
| Other Judicial Review (39) | <input type="checkbox"/> A6150 Other Writ /Judicial Review | 2., 8. |
| Antitrust/Trade Regulation (03) | <input type="checkbox"/> A6003 Antitrust/Trade Regulation | 1., 2., 8. |
| Construction Defect (10) | <input type="checkbox"/> A6007 Construction defect | 1., 2., 3. |
| Claims Involving Mass Tort (40) | <input type="checkbox"/> A6006 Claims Involving Mass Tort | 1., 2., 8. |
| Securities Litigation (28) | <input type="checkbox"/> A6035 Securities Litigation Case | 1., 2., 8. |
| Toxic Tort Environmental (30) | <input type="checkbox"/> A6036 Toxic Tort/Environmental | 1., 2., 3., 8. |
| Insurance Coverage Claims from Complex Case (41) | <input type="checkbox"/> A6014 Insurance Coverage/Subrogation (complex case only) | 1., 2., 5., 8. |
| Enforcement of Judgment (20) | <input type="checkbox"/> A6141 Sister State Judgment <input type="checkbox"/> A6160 Abstract of Judgment <input type="checkbox"/> A6107 Confession of Judgment (non-domestic relations) <input type="checkbox"/> A6140 Administrative Agency Award (not unpaid taxes) <input type="checkbox"/> A6114 Petition/Certificate for Entry of Judgment on Unpaid Tax <input type="checkbox"/> A6112 Other Enforcement of Judgment Case | 2., 9. 2., 6. 2., 9. 2., 8. 2., 8. 2., 8., 9. |
| RICO (27) | <input type="checkbox"/> A6033 Racketeering (RICO) Case | 1., 2., 8. |
| Other Complaints (Not Specified Above) (42) | <input type="checkbox"/> A6030 Declaratory Relief Only <input type="checkbox"/> A6040 Injunctive Relief Only (not domestic/harassment) <input type="checkbox"/> A6011 Other Commercial Complaint Case (non-tort/non-complex) <input type="checkbox"/> A6000 Other Civil Complaint (non-tort/non-complex) | 1., 2., 8. 2., 8. 1., 2., 8. 1., 2., 8. |
| Partnership Corporation Governance(21) | <input type="checkbox"/> A6113 Partnership and Corporate Governance Case | 2., 8. |
| Other Petitions (Not Specified Above) (43) | <input type="checkbox"/> A6121 Civil Harassment <input type="checkbox"/> A6123 Workplace Harassment <input type="checkbox"/> A6124 Elder/Dependent Adult Abuse Case <input type="checkbox"/> A6190 Election Contest <input type="checkbox"/> A6110 Petition for Change of Name <input type="checkbox"/> A6170 Petition for Relief from Late Claim Law <input type="checkbox"/> A6100 Other Civil Petition | 2., 3., 9. 2., 3., 9. 2., 3., 9. 2. 2., 7. 2., 3., 4., 8. 2., 9. |

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Item III. Statement of Location: Enter the address of the accident, party's residence or place of business, performance, or other circumstance indicated in Item II., Step 3 on Page 1, as the proper reason for filing in the court location you selected.

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| REASON: CHECK THE NUMBER UNDER COLUMN C WHICH APPLIES IN THIS CASE <input type="checkbox"/> 1. <input type="checkbox"/> 2. <input type="checkbox"/> 3. <input type="checkbox"/> 4. <input type="checkbox"/> 5. <input type="checkbox"/> 6. <input type="checkbox"/> 7. <input type="checkbox"/> 8. <input type="checkbox"/> 9. <input type="checkbox"/> 10. | | ADDRESS: 2700 S FIGUEROA ST |
| CITY: LOS ANGELES | STATE: CA | ZIP CODE: 90007 |

Item IV. Declaration of Assignment: I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that the above-entitled matter is properly filed for assignment to the _____ courthouse in the _____ District of the Los Angeles Superior Court (Code Civ. Proc., § 392 et seq., and LASC Local Rule 2.0, subds. (b), (c) and (d)).

Dated: 5/5/08



(SIGNATURE OF ATTORNEY/FILING PARTY)

PLEASE HAVE THE FOLLOWING ITEMS COMPLETED AND READY TO BE FILED IN ORDER TO PROPERLY COMMENCE YOUR NEW COURT CASE:

1. Original Complaint or Petition.
2. If filing a Complaint, a completed Summons form for issuance by the Clerk.
3. Civil Case Cover Sheet form CM-010.
4. Complete Addendum to Civil Case Cover Sheet form LACIV 109 (Rev. 01/07), LASC Approved 03-04.
5. Payment in full of the filing fee, unless fees have been waived.
6. Signed order appointing the Guardian ad Litem, JC form FL-935, if the plaintiff or petitioner is a minor under 18 years of age, or if required by Court.
7. Additional copies of documents to be conformed by the Clerk. Copies of the cover sheet and this addendum must be served along with the summons and complaint, or other initiating pleading in the case.

LACIV 109 (Rev. 01/07)