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11
12 UNITED STATES DISTRICT COURT
13 CENTRAL DISTRICT OF CALIFORNIA
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15 RAUL URIARTE-LIMON,
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17 Plaintiff,

18 vs.

19 RYSH REALTY GROUP LP, a
20 California limited partnership; and
21 DOES 1-10,

22 Defendants.
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Case No.:

COMPLAINT FOR:

DENIAL OF CIVIL RIGHTS AND
ACCESS TO PUBLIC FACILITIES
TO PHYSICALLY DISABLED
PERSONS IN VIOLATION OF THE
AMERICANS WITH DISABILITIES
ACT OF 1990, (42 U.S.C. §12101, *et*
seq.) AND THE UNRUH CIVIL
RIGHTS ACT, (CALIFORNIA CIVIL
CODE §51, *et seq.*)

DEMAND FOR JURY TRIAL



13. Unfortunately, during Plaintiff's visit, Defendants did not offer persons with disabilities equivalent facilities, privileges, advantages, and accommodations offered to other persons.

14. Plaintiff encountered barriers that interfered with and denied Plaintiff the ability to use and enjoy the goods, services, privileges, advantages, and accommodations offered by Defendants at the Subject Property.

15. These barriers violate one or more standards of the Americans with Disabilities Act ("2010 ADA") and/or the California Building Codes ("2022 CBC").

16. Parking for patrons visiting the Subject Property is among the facilities, privileges, advantages, and accommodations offered by Defendants.

1 17. According to the ADA National Network, “Designating accessible
2 parking is often readily achievable and is considered a top priority because it
3 enables many people with disabilities to ‘get in the door.’” ADA National Network
4 Accessible Parking Factsheet, 2017.

5 18. When parking is provided, there must be at least one accessible
6 parking space designated and marked for disabled persons. 2010 ADA §502 et
7 seq.; 2022 CBC 11B-502 et seq.

8 19. However, there is no accessible parking for disabled persons at the
9 Subject Property because there are insufficient accessible parking spaces
10 designated for disabled persons and/or the existing designated space or spaces are
11 significantly noncompliant with the applicable ADA and CBC standards.

12 20. The paint used for the designated accessible parking spaces and
13 adjacent access aisle was badly faded and cannot be clearly identified. ADA 2010
14 §502.3.3; ADA 2010 §502.6; 2022 CBC 11B-502.3.3; 2022 CBC 11B 502.6; 28
15 C.F.R. §36.211(a); 2022 CBC 11B-108.

16 21. The parking space’s adjacent access aisle did not say “No Parking,” or
17 the paint is so faded it cannot be clearly identified. ADA 2010 §502.3.3; 2022 CBC
18 11B-502.3.3; 28 C.F.R. §36.211(a); 2022 CBC 11B-108.

19 22. A photo taken on the day of Plaintiff’s visit which shows one or more
20 of these violations is below.

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15 23. The barriers existed during Plaintiff's visit to the Subject Property.
16 Plaintiff personally encountered these barriers.

17 24. These inaccessible conditions and barriers denied Plaintiff full and
18 equal access and caused him difficulty, discomfort, and embarrassment. Because of
19 the lack of compliant parking, Plaintiff was placed at risk of being blocked in by
20 other vehicles and unable to get out of his vehicle or get back into it. He was also
21 at greater risk of being hit by a car while transferring to and from his wheelchair.

22 25. These barriers denied Plaintiff full and equal access due to his
23 disability because, *inter alia*, they caused Plaintiff anxiety, difficulty, discomfort,
24 and embarrassment which patrons who do not use a wheelchair for mobility do not
25 suffer when they access the Subject Property.

26 26. Plaintiff intends to return to the Subject Property in the near future.
27 Plaintiff is currently deterred from returning because of the knowledge of the
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1 barriers to equal access that relate to Plaintiff’s disabilities which continue to exist
2 at Defendants’ public accommodation facilities.

3 27. Plaintiff alleges that Defendants knew that the barriers prevented
4 equal access. Plaintiff further alleges that Defendants had actual or constructive
5 knowledge that the architectural barriers prevented equal access, and that the
6 noncompliance with the Americans with Disabilities Act and Title 24 of the
7 California Building Code regarding accessible features was intentional.

8 28. Defendants have obstructed or failed to maintain, in working and
9 useable conditions, those features necessary to provide ready access to persons
10 with disabilities. “A public accommodation shall maintain in operable working
11 condition those features of facilities and equipment that are required to be readily
12 accessible to and usable by persons with disabilities.” 28 C.F.R. §36.211(a); 2022
13 CBC 11B-108.

14 29. The State of California Department of General Servicers, Division of
15 the State Architect (DSA) provides commentary to 2022 CBC 11B-108 as follows:

16 Features for accessibility must be permanently functional, unobstructed
17 and may not be removed. It is not sufficient to provide features such as
18 accessible routes, parking, elevators, ramps or signage if those features
19 are not maintained in a manner that enables individuals with disabilities
to use them.

20 DSA, 2019 California Access Compliance Advisory Reference Manual, p.84.

21 30. Defendants have the financial resources to remove these barriers
22 without much expense or difficulty in order to make their property more accessible
23 to their mobility impaired customers. The United States Department of Justice has
24 identified that these types of barriers are readily achievable to remove.

25 31. To date, Defendants refuse to remove these barriers, in violation of
26 the law, willfully depriving disabled persons including Plaintiff of important civil
27 rights.

1 transportation, communication, recreation, institutionalization, health services,
2 voting, and access to public services.” 42 U.S.C. §12101(a).

3 36. In 1990 Congress also found that “the Nation’s proper goals regarding
4 individuals with disabilities are to assure equality of opportunity, full participation,
5 independent living, and economic self-sufficiency for such individuals,” but that
6 “the continuing existence of unfair and unnecessary discrimination and prejudice
7 denies people with disabilities the opportunity to compete on an equal basis and to
8 pursue those opportunities for which our free society is justifiably famous.” 42
9 U.S.C. §12101(a).

10 37. In passing the Americans with Disabilities Act of 1990, which was
11 signed into law by President George H. W. Bush on July 26, 1990 (hereinafter the
12 “ADA”), Congress stated as its purpose:

13 “It is the purpose of this Act

14 (1) to provide a clear and comprehensive national mandate for the
15 elimination of discrimination against individuals with disabilities;

16 (2) to provide clear, strong, consistent, enforceable standards
17 addressing discrimination against individuals with disabilities;

18 (3) to ensure that the Federal Government plays a central role in
19 enforcing the standards established in this Act on behalf of individuals
20 with disabilities; and

21 (4) to invoke the sweep of congressional authority, including the power
22 to enforce the fourteenth amendment and to regulate commerce, in
23 order to address the major areas of discrimination faced day to-day by
24 people with disabilities.”

25 42 USC §12101(b).

26 38. As part of the ADA, Congress passed “Title III – Public
27 Accommodations and Services Operated by Private Entities” (42 U.S.C. §12181 *et*
28 *seq.*). Title III of the ADA prohibits discrimination against any person “on the

1 basis of disability in the full and equal enjoyment of the goods, services, facilities,
2 privileges, advantages, or accommodations of any place of public accommodation
3 by any person who owns, leases (or leases to), or operates a place of public
4 accommodation.” 42 U.S.C. §12182(a).

5 39. The specific prohibitions against discrimination include, *inter alia*, the
6 following:

- 7 • 42 U.S.C. §12182(b)(1)(A)(ii): “Participation in Unequal Benefit. - It
8 shall be discriminatory to afford an individual or class of individuals,
9 on the basis of a disability or disabilities of such individual or class,
10 directly, or through contractual, licensing, or other arrangements, with
11 the opportunity to participate in or benefit from a good, service, facility,
12 privilege, advantage, or accommodation that is not equal to that
13 afforded to other individuals.”
- 14 • 42 U.S.C. §12182(b)(2)(A)(ii): “a failure to make reasonable
15 modifications in policies, practices, or procedures when such
16 modifications are necessary to afford such goods, services, facilities,
17 privileges, advantages, or accommodations to individuals with
18 disabilities...;”
- 19 • 42 U.S.C. §12182(b)(2)(A)(iii): “a failure to take such steps as may be
20 necessary to ensure that no individual with a disability is excluded,
21 denied service, segregated, or otherwise treated differently than other
22 individuals because of the absence of auxiliary aids and services...;”
- 23 • 42 U.S.C. §12182(b)(2)(A)(iv): “a failure to remove architectural
24 barriers, and communication barriers that are structural in nature, in
25 existing facilities... where such removal is readily achievable;”
- 26 • 42 U.S.C. §12182(b)(2)(A)(v): “where an entity can demonstrate that
27 the removal of a barrier under clause (iv) is not readily achievable, a
28 failure to make such goods, services, facilities, privileges, advantages,
or accommodations available through alternative methods if such
methods are readily achievable.”

39. Plaintiff is a qualified individual with a disability as defined in the
Rehabilitation Act and in the Americans with Disabilities Act of 1990.

1 41. The acts and omissions of Defendants set forth herein were in
2 violation of Plaintiff’s rights under the ADA and the regulations promulgated
3 thereunder, 28 C.F.R. Part 36 *et seq.*

4 42. The removal of each of the physical and policy barriers complained of
5 by Plaintiff as hereinabove alleged, were at all times herein mentioned “readily
6 achievable” under the standards of §12181 and §12182 of the ADA. Removal of
7 each and every one of the architectural and/or policy barriers complained of herein
8 was already required under California law. Further, on information and belief,
9 alterations, structural repairs or additions since January 26, 1993, have also
10 independently triggered requirements for removal of barriers to access for disabled
11 persons per §12183 of the ADA. In the event that removal of any barrier is found
12 to be “not readily achievable,” Defendants still violated the ADA, per
13 §12182(b)(2)(A)(v) by failing to provide all goods, services, privileges, advantages
14 and accommodations through alternative methods that were “readily achievable.”

15 43. On information and belief, as of the date of Plaintiff’s encounter at the
16 premises and as of the filing of this Complaint, Defendants’ actions, policies, and
17 physical premises have denied and continue to deny full and equal access to
18 Plaintiff and to other mobility disabled persons in other respects, which violate
19 Plaintiff’s right to full and equal access and which discriminate against Plaintiff on
20 the basis of his disabilities, thus wrongfully denying to Plaintiff the full and equal
21 enjoyment of the goods, services, facilities, privileges, advantages and
22 accommodations, in violation of 42 U.S.C. §12182 and §12183 of the ADA.

23 44. Defendants’ actions continue to deny Plaintiff’s rights to full and
24 equal access and discriminated and continue to discriminate against him on the
25 basis of his disabilities, thus wrongfully denying to Plaintiff the full and equal
26 enjoyment of Defendants’ goods, services, facilities, privileges, advantages and
27 accommodations, in violation of the ADA, 42 U.S.C. §12182.

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1 he requests. Plaintiff and Defendants have an actual controversy and opposing
2 legal positions as to Defendants' violations of the laws of the United States and
3 the State of California.

4 The need for relief is critical because the civil rights at issue are paramount
5 under the laws of the United States of America and the State of California.

6 WHEREFORE, Plaintiff prays judgment against Defendants, and each of
7 them, as follows:

8 1. Issue a preliminary and permanent injunction directing
9 Defendants as current owners, operators, lessors, and/or lessees of the
10 Subject Property and premises to modify the above described property,
11 premises, policies and related facilities to provide full and equal access
12 to all persons, including persons with physical disabilities; and issue a
13 preliminary and permanent injunction pursuant to ADA §12188(a) and
14 state law directing Defendants to provide facilities and services usable
15 by Plaintiff and similarly situated persons with disabilities, and which
16 provide full and equal access, as required by law, and to maintain such
17 accessible facilities once they are provided; to cease any discriminatory
18 policies; and to train Defendants' employees and agents how to
19 recognize disabled persons and accommodate their rights and needs;

20 2. Retain jurisdiction over the Defendants until such time as
21 the Court is satisfied that Defendants' unlawful policies, practices, acts
22 and omissions, and maintenance of physically inaccessible public
23 facilities and policies as complained of herein no longer occur, and
24 cannot recur;

25 3. Award to Plaintiff all appropriate damages, including but
26 not limited to actual and statutory damages according to proof;
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1 4. Award to Plaintiff all reasonable attorney fees, litigation
2 expenses, and costs of this proceeding pursuant to 42 U.S.C §12205 and
3 California Civil Code §52; and

4 5. Grant such other and further relief as this Court may deem
5 just and proper.

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7 DATED: September 18, 2023

VALENTI LAW APC

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9 By: /s/ Matthew D. Valenti

10 Matthew D. Valenti
11 Attorney for Plaintiff Raul Uriarte-
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JURY DEMAND

Plaintiff hereby demands a trial by jury for all claims and issues for which a jury is permitted.

DATED: September 18, 2023

VALENTI LAW APC

By: /s/ Matthew D. Valenti

Matthew D. Valenti
Attorney for Plaintiff Raul Uriarte-Limon