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7  
8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**

10  
11 NELSON CHILIN,  
12 Plaintiff,  
13 vs.

14  
15 EKAB ELIDIAB, AS TRUSTEE OF THE  
16 EKAB ELDIAB FAMILY TRUST D/B/A  
GENES MARKET & LIQUOR 2; and  
17 DOES 1 to 10,  
18 Defendants.

**Case No.:**

COMPLAINT FOR INJUNCTIVE  
RELIEF AND DAMAGES FOR DENIAL  
OF CIVIL RIGHTS OF A DISABLED  
PERSON IN VIOLATIONS OF

1. AMERICANS WITH DISABILITIES  
ACT, 42 U.S.C. §12131 et seq.;
2. CALIFORNIA’S UNRUH CIVIL  
RIGHTS ACT;
3. CALIFORNIA’S DISABLED  
PERSONS ACT;
4. CALIFORNIA HEALTH & SAFETY  
CODE;
5. NEGLIGENCE

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25 Plaintiff NELSON CHILIN (“Plaintiff”) complains of Defendants EKAB  
26 ELIDIAB, AS TRUSTEE OF THE EKAB ELDIAB FAMILY TRUST D/B/A GENES  
27 MARKET & LIQUOR 2; and DOES 1 to 10 (“Defendants”) and alleges as follows:

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1 **PARTIES**

2 1. Plaintiff is a California resident with a physical disability. Plaintiff is a  
3 paraplegic due to spinal cord injury and is substantially limited in his ability to walk.  
4 Plaintiff requires the use of a wheelchair at all times when traveling in public.

5 2. Defendants are, or were at the time of the incident, the real property owners,  
6 business operators, lessors and/or lessees of the real property for a liquor store  
7 (“Business”) located at or about 25976 9th St., San Bernardino, California.

8 3. The true names and capacities, whether individual, corporate, associate or  
9 otherwise of Defendant DOES 1 through 10, and each of them, are unknown to Plaintiff,  
10 who therefore sues said Defendants by such fictitious names. Plaintiff will ask leave of  
11 Court to amend this Complaint when the true names and capacities have been  
12 ascertained. Plaintiff is informed and believes, and, based thereon, alleges that each such  
13 fictitiously named Defendants are responsible in some manner, and therefore, liable to  
14 Plaintiff for the acts herein alleged.

15 4. Plaintiff is informed and believes, and thereon alleges that, at all relevant  
16 times, each of the Defendants was the agent, employee, or alter-ego of each of the other  
17 Defendants, and/or was acting in concert with each of the other Defendants, and in doing  
18 the things alleged herein was acting with the knowledge and consent of the other  
19 Defendants and within the course and scope of such agency or employment relationship.

20 5. Whenever and wherever reference is made in this Complaint to any act or  
21 failure to act by a defendant or Defendants, such allegations and references shall also be  
22 deemed to mean the acts and failures to act of each Defendant acting individually, jointly  
23 and severally.

24 **JURISDICTION AND VENUE**

25 6. The Court has jurisdiction of this action pursuant to 28 USC §§ 1331 and  
26 1343 for violation of the Americans with Disabilities Act of 1990, (42 USC §12101, *et*  
27 *seq.*).

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1 7. Pursuant to pendant jurisdiction, attendant and related causes of action,  
2 arising from the same nucleus of operating facts, are also brought under California law,  
3 including, but not limited to, violations of California Civil Code §§51, 51.5, 52(a), 52.1,  
4 54, 54., 54.3 and 55.

5 8. Plaintiff's claims are authorized by 28 USC §§ 2201 and 2202.

6 9. Venue is proper in this court pursuant to 28 USC §1391(b). The real  
7 property which is the subject of this action is located in this district, San Bernardino  
8 County, California, and that all actions complained of herein take place in this district.

9 **FACTUAL ALLEGATIONS**

10 10. In or about October of 2023, Plaintiff went to the Business.

11 11. The Business is a liquor store business establishment, open to the public, and  
12 is a place of public accommodation that affects commerce through its operation.

13 Defendants provide parking spaces for customers.

14 12. While attempting to enter the Business during each visit, Plaintiff personally  
15 encountered a number of barriers that interfered with his ability to use and enjoy the  
16 goods, services, privileges, and accommodations offered at the Business.

17 13. To the extent of Plaintiff's personal knowledge, the barriers at the Business  
18 included, but were not limited to, the following:

19 a. Defendants failed to comply with the federal and state standards for  
20 the parking space designated for persons with disabilities. Defendants  
21 failed to post required signage such as "Van Accessible," "Minimum  
22 Fine \$250" and "Unauthorized Parking."

23 b. Defendants failed to comply with the federal and state standards for  
24 the parking space designated for persons with disabilities. Defendants  
25 failed to provide proper van accessible space designated for the  
26 persons with disabilities as there were no "NO PARKING" markings  
27 painted on the surface of the access aisle. Additionally, the access  
28 aisle did not meet the minimum required 96-inch width.

1 c. Defendants failed to comply with the federal and state standards for  
2 the parking space designated for persons with disabilities. Defendants  
3 failed to provide an access aisle with level surface slope as there was a  
4 permanent ramp improperly placed on the access aisle.

5 14. These barriers and conditions denied Plaintiff the full and equal access to the  
6 Business and caused Plaintiff difficulty and frustration. Plaintiff wishes to return and  
7 patronize the Business; however, Plaintiff is deterred from visiting the Business because  
8 his knowledge of these violations prevents him from returning until the barriers are  
9 removed.

10 15. Based on the violations, Plaintiff alleges, on information and belief, that  
11 there are additional barriers to accessibility at the Business after further site inspection.  
12 Plaintiff seeks to have all barriers related to his disability remedied. *See Doran v. 7-*  
13 *Eleven, Inc.* 524 F.3d 1034 (9<sup>th</sup> Cir. 2008).

14 16. In addition, Plaintiff alleges, on information and belief, that Defendants  
15 knew that particular barriers render the Business inaccessible, violate state and federal  
16 law, and interfere with access for the physically disabled.

17 17. At all relevant times, Defendants had and still have control and dominion  
18 over the conditions at this location and had and still have the financial resources to  
19 remove these barriers without much difficulty or expenses to make the Business  
20 accessible to the physically disabled in compliance with ADDAG and Title 24  
21 regulations. Defendants have not removed such barriers and have not modified the  
22 Business to conform to accessibility regulations.

23 **FIRST CAUSE OF ACTION**

24 **VIOLATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990**

25 18. Plaintiff incorporates by reference each of the allegations in all prior  
26 paragraphs in this complaint.

27 19. Under the Americans with Disabilities Act of 1990 (“ADA”), no individual  
28 shall be discriminated against on the basis of disability in the full and equal enjoyment of

1 the goods, services, facilities, privileges, advantages, or accommodations of any place of  
2 public accommodation by any person who owns, leases, or leases to, or operates a place  
3 of public accommodation. *See* 42 U.S.C. § 12182(a).

4 20. Discrimination, *inter alia*, includes:

- 5 a. A failure to make reasonable modification in policies, practices, or  
6 procedures, when such modifications are necessary to afford such  
7 goods, services, facilities, privileges, advantages, or accommodations  
8 to individuals with disabilities, unless the entity can demonstrate that  
9 making such modifications would fundamentally alter the nature of  
10 such goods, services, facilities, privileges, advantages, or  
11 accommodations. 42 U.S.C. § 12182(b)(2)(A)(ii).
- 12 b. A failure to take such steps as may be necessary to ensure that no  
13 individual with a disability is excluded, denied services, segregated or  
14 otherwise treated differently than other individuals because of the  
15 absence of auxiliary aids and services, unless the entity can  
16 demonstrate that taking such steps would fundamentally alter the  
17 nature of the good, service, facility, privilege, advantage, or  
18 accommodation being offered or would result in an undue burden. 42  
19 U.S.C. § 12182(b)(2)(A)(iii).
- 20 c. A failure to remove architectural barriers, and communication barriers  
21 that are structural in nature, in existing facilities, and transportation  
22 barriers in existing vehicles and rail passenger cars used by an  
23 establishment for transporting individuals (not including barriers that  
24 can only be removed through the retrofitting of vehicles or rail  
25 passenger cars by the installation of a hydraulic or other lift), where  
26 such removal is readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv).
- 27 d. A failure to make alterations in such a manner that, to the maximum  
28 extent feasible, the altered portions of the facility are readily

1 accessible to and usable by individuals with disabilities, including  
2 individuals who use wheelchairs or to ensure that, to the maximum  
3 extent feasible, the path of travel to the altered area and the  
4 bathrooms, telephones, and drinking fountains serving the altered  
5 area, are readily accessible to and usable by individuals with  
6 disabilities where such alterations to the path or travel or the  
7 bathrooms, telephones, and drinking fountains serving the altered area  
8 are not disproportionate to the overall alterations in terms of cost and  
9 scope. 42 U.S.C. § 12183(a)(2).

10 21. Where parking spaces are provided, accessible parking spaces shall be  
11 provided. 1991 ADA Standards § 4.1.2(5); 2010 ADA Standards § 208. One in every  
12 eight accessible spaces, but not less than one, shall be served by an access aisle 96 in  
13 (2440 mm) wide minimum and shall be designated “van accessible.” 1991 ADA  
14 Standards § 4.1.2(5)(b). For every six or fraction of six parking spaces, at least one shall  
15 be a van accessible parking space. 2010 ADA Standards § 208.2.4.

16 22. Under the ADA, the method and color of marking are to be addressed by  
17 State or local laws or regulations. See 36 C.F.R., Part 1191. Under the California  
18 Building Code (“CBC”), the parking space identification signs shall include the  
19 International Symbol of Accessibility. Parking identification signs shall be reflectorized  
20 with a minimum area of 70 square inches. Additional language or an additional sign  
21 below the International Symbol of Accessibility shall state “Minimum Fine \$250.” A  
22 parking space identification sign shall be permanently posted immediately adjacent and  
23 visible from each parking space, shall be located with its centerline a maximum of 12  
24 inches from the centerline of the parking space and may be posted on a wall at the  
25 interior end of the parking space. See CBC § 11B-502.6, et seq.

26 23. Moreover, an additional sign shall be posted either in a conspicuous place at  
27 each entrance to an off-street parking facility or immediately adjacent to on-site  
28 accessible parking and visible from each parking space. The additional sign shall not be

1 less than 17 inches wide by 22 inches high. The additional sign shall clearly state in  
2 letters with a minimum height of 1 inch the following: “Unauthorized vehicles parked in  
3 designated accessible spaces not displaying distinguishing placards or special license  
4 plates issued for persons with disabilities will be towed always at the owner’s expense...”  
5 See CBC § 11B-502.8, et seq.

6 24. Here, Defendants failed to provide the signs stating, “Minimum Fine \$250”  
7 and “Van Accessible.” Moreover, Defendants failed to provide the additional sign with  
8 the specific language stating “Unauthorized vehicles parked in designated accessible  
9 spaces not displaying distinguishing placards or special license plates issued for persons  
10 with disabilities will be towed always at the owner’s expense...”

11 25. For the parking spaces, access aisles shall be marked with a blue painted  
12 borderline around their perimeter. The area within the blue borderlines shall be marked  
13 with hatched lines a maximum of 36 inches (914 mm) on center in a color contrasting  
14 with that of the aisle surface, preferably blue or white. The words "NO PARKING" shall  
15 be painted on the surface within each access aisle in white letters a minimum of 12 inches  
16 (305 mm) in height and located to be visible from the adjacent vehicular way. CBC §  
17 11B-502.3.3.

18 26. Here, Defendants failed to provide a proper access aisle as there were no  
19 “NO PARKING” markings painted on the parking surface. Moreover, Defendants failed  
20 to provide the access aisle with the minimum width of 96 inches.

21 27. Under the 1991 Standards, parking spaces and access aisles must be level  
22 with surface slopes not exceeding 1:50 (2%) in all directions. 1991 Standards § 4.6.2.  
23 Accessible parking spaces shall be at least 96 in (2440 mm) wide. Parking access aisles  
24 shall be part of an accessible route to the building or facility entrance and shall comply  
25 with 4.3. Two accessible parking spaces may share a common access aisle. Parked  
26 vehicle overhangs shall not reduce the clear width of an accessible route. Parking spaces  
27 and access aisles shall be level with surface slopes not exceeding 1:50 (2%) in all  
28 directions. 1991 Standards § 4.6.3.



1 28. Here, the access aisle is not level with the parking spaces as there was a  
2 permanent ramp improperly placed on the access aisle. Under the 2010 Standards, access  
3 aisles shall be at the same level as the parking spaces they serve. Changes in level are not  
4 permitted. 2010 Standards § 502.4. “Access aisles are required to be nearly level in all  
5 directions to provide a surface for transfer to and from vehicles.” 2010 Standards § 502.4  
6 Advisory. Id. No more than a 1:48 slope is permitted.

7 29. A public accommodation shall maintain in operable working condition those  
8 features of facilities and equipment that are required to be readily accessible to and usable  
9 by persons with disabilities by the Act or this part. 28 C.F.R. 35.211(a).

10 30. By failing to maintain the facility to be readily accessible and usable by  
11 Plaintiff, Defendants are in violation of Plaintiff’s rights under the ADA and its related  
12 regulations.

13 31. The Business has denied and continues to deny full and equal access to  
14 Plaintiff and to other people with disabilities. Plaintiff has been and will continue to be  
15 discriminated against due to the lack of accessible facilities, and therefore, seeks  
16 injunctive relief to alter facilities to make such facilities readily accessible to and usable  
17 by individuals with disabilities.

18 **SECOND CAUSE OF ACTION**

19 **VIOLATION OF THE UNRUH CIVIL RIGHTS ACT**

20 32. Plaintiff incorporates by reference each of the allegations in all prior  
21 paragraphs in this complaint.

22 33. California Civil Code § 51 states, “All persons within the jurisdiction of this  
23 state are free and equal, and no matter what their sex, race, color, religion, ancestry,  
24 national origin, disability, medical condition, genetic information, marital status, sexual  
25 orientation, citizenship, primary language, or immigration status are entitled to the full  
26 and equal accommodations, advantages, facilities, privileges, or services in all business  
27 establishments of every kind whatsoever.”  
28



1 34. California Civil Code § 52 states, “Whoever denies, aids or incites a denial,  
2 or make any discrimination or distinction contrary to Section 51, 515, or 51.6, is liable  
3 for each and every offense for the actual damages, and any amount that may be  
4 determined by a jury, or a court sitting without a jury, up to a maximum of three times the  
5 amount of actual damage but in no case less than four thousand dollars (\$4,000) and any  
6 attorney’s fees that may be determined by the court in addition thereto, suffered by any  
7 person denied the rights provided in Section 51, 51.5, or 51.6.

8 35. California Civil Code § 51(f) specifies, “a violation of the right of any  
9 individual under federal Americans with Disabilities Act of 1990 (Public Law 101-336)  
10 shall also constitute a violation of this section.”

11 36. The actions and omissions of Defendants alleged herein constitute a denial  
12 of full and equal accommodation, advantages, facilities, privileges, or services by  
13 physically disabled persons within the meaning of California Civil Code §§ 51 and 52.  
14 Defendants have discriminated against Plaintiff in violation of California Civil Code §§  
15 51 and 52.

16 37. The violations of the Unruh Civil Rights Act caused Plaintiff to experience  
17 difficulty, discomfort, or embarrassment. The Defendants are also liable for statutory  
18 damages as specified in California Civil Code §55.56(a)-(c).

19 **THIRD CAUSE OF ACTION**

20 **VIOLATION OF CALIFORNIA DISABLED PERSONS ACT**

21 38. Plaintiff incorporates by reference each of the allegations in all prior  
22 paragraphs in this complaint.

23 39. California Civil Code § 54.1(a) states, “Individuals with disabilities shall be  
24 entitled to full and equal access, as other members of the general public, to  
25 accommodations, advantages, facilities, medical facilities, including hospitals, clinics,  
26 and physicians’ offices, and privileges of all common carriers, airplanes, motor vehicles,  
27 railroad trains, motorbuses, streetcars, boats, or any other public conveyances or modes  
28 of transportation (whether private, public, franchised, licensed, contracted, or otherwise

1 provided), telephone facilities, adoption agencies, private schools, hotels, loading places,  
2 places of public accommodations, amusement, or resort, and other places in which the  
3 general public is invited, subject only to the conditions and limitations established by  
4 law, or state or federal regulation, and applicable alike to all persons.

5 40. California Civil Code § 54.3(a) states, “Any person or persons, firm or  
6 corporation who denies or interferes with admittance to or enjoyment of public facilities  
7 as specified in Sections 54 and 54.1 or otherwise interferes with the rights of an  
8 individual with a disability under Sections 54, 54.1 and 54.2 is liable for each offense for  
9 the actual damages, and any amount as may be determined by a jury, or a court sitting  
10 without a jury, up to a maximum of three times the amount of actual damages but in no  
11 case less than one thousand dollars (\$1,000) and any attorney’s fees that may be  
12 determined by the court in addition thereto, suffered by any person denied the rights  
13 provided in Section 54, 54.1, and 54.2.

14 41. California Civil Code § 54(d) specifies, “a violation of the right of an  
15 individual under Americans with Disabilities Act of 1990 (Public Law 101-336) also  
16 constitute a violation of this section, and nothing in this section shall be construed to limit  
17 the access of any person in violation of that act.

18 42. The actions and omissions of Defendants alleged herein constitute a denial  
19 of full and equal accommodation, advantages, and facilities by physically disabled  
20 persons within the meaning of California Civil Code § 54. Defendants have  
21 discriminated against Plaintiff in violation of California Civil Code § 54.

22 43. The violations of the California Disabled Persons Act caused Plaintiff to  
23 experience difficulty, discomfort, and embarrassment. The Defendants are also liable for  
24 statutory damages as specified in California Civil Code §55.56(a)-(c).

25 **FOURTH CAUSE OF ACTION**

26 **CALIFORNIA HEALTH & SAFETY CODE § 19955, et seq.**

27 44. Plaintiff incorporates by reference each of the allegations in all prior  
28 paragraphs in this complaint.

1 45. Plaintiff and other similar physically disabled persons who require the use of  
2 a wheelchair are unable to use public facilities on a “full and equal” basis unless each  
3 such facility is in compliance with the provisions of California Health & Safety Code §  
4 19955 et seq. Plaintiff is a member of the public whose rights are protected by the  
5 provisions of California Health & Safety Code § 19955 et seq.

6 46. The purpose of California Health & Safety Code § 1995 et seq. is to ensure  
7 that public accommodations or facilities constructed in this state with private funds  
8 adhere to the provisions of Chapter 7 (commencing with Section 4450) of Division 5 of  
9 Title 1 of the Government Code. The code relating to such public accommodations also  
10 require that “when sanitary facilities are made available for the public, clients, or  
11 employees in these stations, centers, or buildings, they shall be made available for  
12 persons with disabilities.

13 47. Title II of the ADA holds as a “general rule” that no individual shall be  
14 discriminated against on the basis of disability in the full and equal enjoyment of goods  
15 (or use), services, facilities, privileges, and accommodations offered by any person who  
16 owns, operates, or leases a place of public accommodation. 42 U.S.C. § 12182(a).  
17 Further, each and every violation of the ADA also constitutes a separate and distinct  
18 violation of California Civil Code §§ 54(c) and 54.1(d), thus independently justifying an  
19 award of damages and injunctive relief pursuant to California law, including but not  
20 limited to Civil Code § 54.3 and Business and Professions Code § 17200, et seq.

21 **FIFTH CAUSE OF ACTION**

22 **NEGLIGENCE**

23 48. Plaintiff incorporates by reference each of the allegations in all prior  
24 paragraphs in this complaint.

25 49. Defendants have a general duty and a duty under the ADA, Unruh Civil  
26 Rights Act and California Disabled Persons Act to provide safe and accessible facilities  
27 to the Plaintiff.  
28

1 50. Defendants breached their duty of care by violating the provisions of ADA,  
2 Unruh Civil Rights Act and California Disabled Persons Act.

3 51. As a direct and proximate result of Defendants’ negligent conduct, Plaintiff  
4 has suffered damages.

5 **PRAYER FOR RELIEF**

6 WHEREFORE, Plaintiff respectfully prays for relief and judgment against  
7 Defendants as follows:

8 1. For preliminary and permanent injunction directing Defendants to comply  
9 with the Americans with Disability Act and the Unruh Civil Rights Act;

10 2. Award of all appropriate damages, including but not limited to statutory  
11 damages, general damages and treble damages in amounts, according to proof;

12 3. Award of all reasonable restitution for Defendants’ unfair competition  
13 practices;

14 4. Reasonable attorney’s fees, litigation expenses, and costs of suit in this  
15 action;

16 5. Prejudgment interest pursuant to California Civil Code § 3291; and

17 6. Such other and further relief as the Court deems just and proper.

18 **DEMAND FOR TRIAL BY JURY**

19 Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff hereby  
20 demands a trial by jury on all issues so triable.

21  
22 Dated: January 18, 2024

SO. CAL. EQUAL ACCESS GROUP

23  
24  
25 By: /s/ Jason J. Kim  
26 Jason J. Kim, Esq.  
27 Attorneys for Plaintiff  
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