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

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11 NELSON CHILIN,  
12 Plaintiff,  
13 vs.

14  
15 CANYON GRANDE PROPERTIES LP;  
16 and DOES 1 to 10,  
17 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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23 Plaintiff NELSON CHILIN (“Plaintiff”) complains of Defendants CANYON  
24 GRANDE PROPERTIES LP; and DOES 1 to 10 (“Defendants”) and alleges as follows:

25 **PARTIES**

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





1 as required, resulting in the markings becoming severely deteriorated,  
2 hindering visibility.

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

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

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

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

21 **FIRST CAUSE OF ACTION**

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

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

25 19. Under the Americans with Disabilities Act of 1990 (“ADA”), no individual  
26 shall be discriminated against on the basis of disability in the full and equal enjoyment of  
27 the goods, services, facilities, privileges, advantages, or accommodations of any place of  
28

1 public accommodation by any person who owns, leases, or leases to, or operates a place  
2 of public accommodation. *See* 42 U.S.C. § 12182(a).

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

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

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

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

15 22. For the parking spaces, access aisles shall be marked with a blue painted  
16 borderline around their perimeter. The area within the blue borderlines shall be marked  
17 with hatched lines a maximum of 36 inches (914 mm) on center in a color contrasting  
18 with that of the aisle surface, preferably blue or white. The words "NO PARKING" shall  
19 be painted on the surface within each access aisle in white letters a minimum of 12 inches  
20 (305 mm) in height and located to be visible from the adjacent vehicular way. CBC §  
21 11B-502.3.3.

22 23. Here, Defendants failed to provide a proper access aisle as the “NO  
23 PARKING” markings, blue borderlines, and blue hatched lines painted on the parking  
24 surface were poorly maintained, resulting in the markings becoming severely  
25 deteriorated, hindering visibility.

26 24. The surface of each accessible car and van space shall have surface  
27 identification complying with either of the following options: The outline of a profile  
28 view of a wheelchair with occupant in white on a blue background a minimum 36” wide

1 by 36" high (914 mm x 914 mm). The centerline of the profile view shall be a maximum  
2 of 6 inches (152 mm) from the centerline of the parking space, its sides parallel to the  
3 length of the parking space and its lower side or corner aligned with the end of the  
4 parking space length or by outlining or painting the parking space in blue and outlining  
5 on the ground in white or a suitable contrasting color a profile view of a wheel chair with  
6 occupant. See CBC § 11B-502.6.4, et seq.

7 25. Here, Defendants failed to maintain the International Symbol of  
8 Accessibility painted on the surface as required, resulting in the markings becoming  
9 severely deteriorated, hindering visibility.

10 26. At least one accessible route shall connect accessible building, facilities,  
11 elements, and spaces that are on the same site. 1991 ADA Standards § 4.3.2. A public  
12 accommodation shall maintain in operable working condition those features of facilities  
13 and equipment that are required to be readily accessible to and usable by persons with  
14 disabilities by the Act or this part. 28 C.F.R. 35.211(a).

15 27. Here, Defendants failed to paint the ground as required, as there were no  
16 blue hatched lines painted on the ground to indicate the access route from the accessible  
17 space to the entrance of the Business.

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

21 29. By failing to maintain the facility to be readily accessible and usable by  
22 Plaintiff, Defendants are in violation of Plaintiff's rights under the ADA and its related  
23 regulations.

24 30. The Business has denied and continues to deny full and equal access to  
25 Plaintiff and to other people with disabilities. Plaintiff has been and will continue to be  
26 discriminated against due to the lack of accessible facilities, and therefore, seeks  
27 injunctive relief to alter facilities to make such facilities readily accessible to and usable  
28 by individuals with disabilities.

**SECOND CAUSE OF ACTION**

**VIOLATION OF THE UNRUH CIVIL RIGHTS ACT**

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3 31. Plaintiff incorporates by reference each of the allegations in all prior  
4 paragraphs in this complaint.

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

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

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

21 35. The actions and omissions of Defendants alleged herein constitute a denial  
22 of full and equal accommodation, advantages, facilities, privileges, or services by  
23 physically disabled persons within the meaning of California Civil Code §§ 51 and 52.  
24 Defendants have discriminated against Plaintiff in violation of California Civil Code §§  
25 51 and 52.

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



**THIRD CAUSE OF ACTION**

**VIOLATION OF CALIFORNIA DISABLED PERSONS ACT**

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3 37. Plaintiff incorporates by reference each of the allegations in all prior  
4 paragraphs in this complaint.

5 38. California Civil Code § 54.1(a) states, “Individuals with disabilities shall be  
6 entitled to full and equal access, as other members of the general public, to  
7 accommodations, advantages, facilities, medical facilities, including hospitals, clinics,  
8 and physicians’ offices, and privileges of all common carriers, airplanes, motor vehicles,  
9 railroad trains, motorbuses, streetcars, boats, or any other public conveyances or modes  
10 of transportation (whether private, public, franchised, licensed, contracted, or otherwise  
11 provided), telephone facilities, adoption agencies, private schools, hotels, loading places,  
12 places of public accommodations, amusement, or resort, and other places in which the  
13 general public is invited, subject only to the conditions and limitations established by  
14 law, or state or federal regulation, and applicable alike to all persons.

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

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

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1 41. The actions and omissions of Defendants alleged herein constitute a denial  
2 of full and equal accommodation, advantages, and facilities by physically disabled  
3 persons within the meaning of California Civil Code § 54. Defendants have  
4 discriminated against Plaintiff in violation of California Civil Code § 54.

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

8 **FOURTH CAUSE OF ACTION**

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

10 43. Plaintiff incorporates by reference each of the allegations in all prior  
11 paragraphs in this complaint.

12 44. Plaintiff and other similar physically disabled persons who require the use of  
13 a wheelchair are unable to use public facilities on a “full and equal” basis unless each  
14 such facility is in compliance with the provisions of California Health & Safety Code §  
15 19955 et seq. Plaintiff is a member of the public whose rights are protected by the  
16 provisions of California Health & Safety Code § 19955 et seq.

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

24 46. Title II of the ADA holds as a “general rule” that no individual shall be  
25 discriminated against on the basis of disability in the full and equal enjoyment of goods  
26 (or use), services, facilities, privileges, and accommodations offered by any person who  
27 owns, operates, or leases a place of public accommodation. 42 U.S.C. § 12182(a).  
28 Further, each and every violation of the ADA also constitutes a separate and distinct

1 violation of California Civil Code §§ 54(c) and 54.1(d), thus independently justifying an  
2 award of damages and injunctive relief pursuant to California law, including but not  
3 limited to Civil Code § 54.3 and Business and Professions Code § 17200, et seq.

4 **FIFTH CAUSE OF ACTION**

5 **NEGLIGENCE**

6 47. Plaintiff incorporates by reference each of the allegations in all prior  
7 paragraphs in this complaint.

8 48. Defendants have a general duty and a duty under the ADA, Unruh Civil  
9 Rights Act and California Disabled Persons Act to provide safe and accessible facilities  
10 to the Plaintiff.

11 49. Defendants breached their duty of care by violating the provisions of ADA,  
12 Unruh Civil Rights Act and California Disabled Persons Act.

13 50. As a direct and proximate result of Defendants' negligent conduct, Plaintiff  
14 has suffered damages.

15 **PRAYER FOR RELIEF**

16 WHEREFORE, Plaintiff respectfully prays for relief and judgment against  
17 Defendants as follows:

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

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

22 3. Award of all reasonable restitution for Defendants' unfair competition  
23 practices;

24 4. Reasonable attorney's fees, litigation expenses, and costs of suit in this  
25 action;

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

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

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**DEMAND FOR TRIAL BY JURY**

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

Dated: March 27, 2024

SO. CAL. EQUAL ACCESS GROUP

By: /s/ Jason J. Kim  
Jason J. Kim, Esq.  
Attorneys for Plaintiff

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