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

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11 CAMERON HARRELL,
12 Plaintiff,
13 vs.

14
15 FOOTHILL MARKET ENTERPRISE,
16 LLC; 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 CAMERON HARRELL (“Plaintiff”) complains of Defendants
24 FOOTHILL MARKET ENTERPRISE, LLC; and DOES 1 to 10 (“Defendants”) and
25 alleges as follows:

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1 **PARTIES**

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

6 2. Defendants are, or were at the time of the incident, the real property owners,
7 business operators, lessors and/or lessees of the real property for a music store
8 (“Business”) located at or about 12479 Foothill Blvd., Rancho Cucamonga, California.

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

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

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

25 **JURISDICTION AND VENUE**

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

1 patronize the Business; however, Plaintiff is deterred from visiting the Business because
2 his knowledge of these violations prevents him from returning until the barriers are
3 removed.

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

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

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

17 **FIRST CAUSE OF ACTION**

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

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

21 19. Under the Americans with Disabilities Act of 1990 (“ADA”), no individual
22 shall be discriminated against on the basis of disability in the full and equal enjoyment of
23 the goods, services, facilities, privileges, advantages, or accommodations of any place of
24 public accommodation by any person who owns, leases, or leases to, or operates a place
25 of public accommodation. *See* 42 U.S.C. § 12182(a).

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

- 27 a. A failure to make reasonable modification in policies, practices, or
28 procedures, when such modifications are necessary to afford such

1 goods, services, facilities, privileges, advantages, or accommodations
2 to individuals with disabilities, unless the entity can demonstrate that
3 making such modifications would fundamentally alter the nature of
4 such goods, services, facilities, privileges, advantages, or
5 accommodations. 42 U.S.C. § 12182(b)(2)(A)(ii).

6 b. A failure to take such steps as may be necessary to ensure that no
7 individual with a disability is excluded, denied services, segregated or
8 otherwise treated differently than other individuals because of the
9 absence of auxiliary aids and services, unless the entity can
10 demonstrate that taking such steps would fundamentally alter the
11 nature of the good, service, facility, privilege, advantage, or
12 accommodation being offered or would result in an undue burden. 42
13 U.S.C. § 12182(b)(2)(A)(iii).

14 c. A failure to remove architectural barriers, and communication barriers
15 that are structural in nature, in existing facilities, and transportation
16 barriers in existing vehicles and rail passenger cars used by an
17 establishment for transporting individuals (not including barriers that
18 can only be removed through the retrofitting of vehicles or rail
19 passenger cars by the installation of a hydraulic or other lift), where
20 such removal is readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv).

21 d. A failure to make alterations in such a manner that, to the maximum
22 extent feasible, the altered portions of the facility are readily
23 accessible to and usable by individuals with disabilities, including
24 individuals who use wheelchairs or to ensure that, to the maximum
25 extent feasible, the path of travel to the altered area and the
26 bathrooms, telephones, and drinking fountains serving the altered
27 area, are readily accessible to and usable by individuals with
28 disabilities where such alterations to the path or travel or the

1 bathrooms, telephones, and drinking fountains serving the altered area
2 are not disproportionate to the overall alterations in terms of cost and
3 scope. 42 U.S.C. § 12183(a)(2).

4 21. Where parking spaces are provided, accessible parking spaces shall be
5 provided. 1991 ADA Standards § 4.1.2(5); 2010 ADA Standards § 208. One in every
6 eight accessible spaces, but not less than one, shall be served by an access aisle 96 in
7 (2440 mm) wide minimum and shall be designated “van accessible.” 1991 ADA
8 Standards § 4.1.2(5)(b). For every six or fraction of six parking spaces, at least one shall
9 be a van accessible parking space. 2010 ADA Standards § 208.2.4.

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

18 23. Here, the access aisle is not level with the parking spaces, as there were
19 permanent ramps constructed in the accessible aisles. Under the 2010 Standards, access
20 aisles shall be at the same level as the parking spaces they serve. Changes in level are not
21 permitted. 2010 Standards § 502.4. “Access aisles are required to be nearly level in all
22 directions to provide a surface for transfer to and from vehicles.” 2010 Standards § 502.4
23 Advisory. Id. No more than a 1:48 slope is permitted.

24 24. Under the ADA, the method and color of marking are to be addressed by
25 State or local laws or regulations. See 36 C.F.R., Part 1191. Under the California
26 Building Code (“CBC”), the parking space identification signs shall include the
27 International Symbol of Accessibility. Parking identification signs shall be reflectorized
28 with a minimum area of 70 square inches. Additional language or an additional sign

1 below the International Symbol of Accessibility shall state “Minimum Fine \$250.” A
2 parking space identification sign shall be permanently posted immediately adjacent and
3 visible from each parking space, shall be located with its centerline a maximum of 12
4 inches from the centerline of the parking space and may be posted on a wall at the
5 interior end of the parking space. See CBC § 11B-502.6, et seq.

6 25. Moreover, an additional sign shall be posted either in a conspicuous place at
7 each entrance to an off-street parking facility or immediately adjacent to on-site
8 accessible parking and visible from each parking space. The additional sign shall not be
9 less than 17 inches wide by 22 inches high. The additional sign shall clearly state in
10 letters with a minimum height of 1 inch the following: “Unauthorized vehicles parked in
11 designated accessible spaces not displaying distinguishing placards or special license
12 plates issued for persons with disabilities will be towed away at the owner’s expense...”
13 See CBC § 11B-502.8, et seq.

14 26. Here, Defendants failed to provide the signs stating, “Minimum Fine \$250”
15 and “Van Accessible.”

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

19 28. By failing to maintain the facility to be readily accessible and usable by
20 Plaintiff, Defendants are in violation of Plaintiff’s rights under the ADA and its related
21 regulations.

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

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SECOND CAUSE OF ACTION

VIOLATION OF THE UNRUH CIVIL RIGHTS ACT

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

5 31. 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 32. 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 33. 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 34. 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 35. 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 36. Plaintiff incorporates by reference each of the allegations in all prior
4 paragraphs in this complaint.

5 37. 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 38. 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 39. 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 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 46. Plaintiff incorporates by reference each of the allegations in all prior
7 paragraphs in this complaint.

8 47. 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 48. Defendants breached their duty of care by violating the provisions of ADA,
12 Unruh Civil Rights Act and California Disabled Persons Act.

13 49. 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: April 10, 2024

SO. CAL. EQUAL ACCESS GROUP

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