

1 SO. CAL. EQUAL ACCESS GROUP
Jason J. Kim (SBN 190246)
2 Jason Yoon (SBN 306137)
Kevin Hong (SBN 299040)
3 101 S. Western Ave., Second Floor
Los Angeles, CA 90004
4 Telephone: (213) 252-8008
Facsimile: (213) 252-8009
5 cm@SoCalEAG.com

6 Attorneys for Plaintiff
CAMERON HARRELL

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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 RICHARD O. REED POST, NO. 777,
16 THE AMERICAN LEGION,
DEPARTMENT OF CALIFORNIA; 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 CAMERON HARRELL (“Plaintiff”) complains of Defendants
26 RICHARD O. REED POST, NO. 777, THE AMERICAN LEGION, DEPARTMENT OF
27 CALIFORNIA; and DOES 1 to 10 (“Defendants”) and alleges as follows:
28

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 bar (“Business”)
8 located at or about 176 E. 40th St., San Bernardino, 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 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 April of 2024, Plaintiff went to the Business.

11 11. The Business is a bar business establishment, open to the public, and is a
12 place of public accommodation that affects commerce through its operation. Defendants
13 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 provide the parking space identification sign with the
22 International Symbol of Accessibility.
- 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 post required signage such as "Van Accessible," "Minimum
26 Fine \$250" and "Unauthorized Parking."
- 27 c. Defendants failed to comply with the federal and state standards for
28 the parking space designated for persons with disabilities. Defendants

1 failed to provide proper van accessible space designated for the
2 persons with disabilities as there were no “NO PARKING” markings
3 painted on the surface of the access aisle.

4 d. Defendants failed to maintain the parking space designated for
5 persons with disabilities to comply with the federal and state
6 standards. Defendants failed to maintain the mark on the space with
7 the International Symbol of Accessibility, resulting in the paint
8 becoming severely deteriorated, hindering visibility.

9 e. Defendants failed to maintain the parking space designated for
10 persons with disabilities to comply with the federal and state
11 standards. Defendants failed to maintain the paint on the ground as
12 required, resulting in the markings becoming severely deteriorated,
13 hindering visibility.

14 f. Defendants failed to maintain the parking space designated for
15 persons with disabilities to comply with the federal and state
16 standards. Defendants failed to provide accessible parking space
17 designated for persons with disabilities as there were obstructions
18 such as permanent bollards blocking access to the access aisle.

19 14. These barriers and conditions denied Plaintiff the full and equal access to the
20 Business and caused Plaintiff difficulty and frustration. Plaintiff wishes to return and
21 patronize the Business; however, Plaintiff is deterred from visiting the Business because
22 his knowledge of these violations prevents him from returning until the barriers are
23 removed.

24 15. Based on the violations, Plaintiff alleges, on information and belief, that
25 there are additional barriers to accessibility at the Business after further site inspection.
26 Plaintiff seeks to have all barriers related to his disability remedied. *See Doran v. 7-*
27 *Eleven, Inc.* 524 F.3d 1034 (9th Cir. 2008).
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1 otherwise treated differently than other individuals because of the
2 absence of auxiliary aids and services, unless the entity can
3 demonstrate that taking such steps would fundamentally alter the
4 nature of the good, service, facility, privilege, advantage, or
5 accommodation being offered or would result in an undue burden. 42
6 U.S.C. § 12182(b)(2)(A)(iii).

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

14 d. A failure to make alterations in such a manner that, to the maximum
15 extent feasible, the altered portions of the facility are readily
16 accessible to and usable by individuals with disabilities, including
17 individuals who use wheelchairs or to ensure that, to the maximum
18 extent feasible, the path of travel to the altered area and the
19 bathrooms, telephones, and drinking fountains serving the altered
20 area, are readily accessible to and usable by individuals with
21 disabilities where such alterations to the path or travel or the
22 bathrooms, telephones, and drinking fountains serving the altered area
23 are not disproportionate to the overall alterations in terms of cost and
24 scope. 42 U.S.C. § 12183(a)(2).

25 21. Where parking spaces are provided, accessible parking spaces shall be
26 provided. 1991 ADA Standards § 4.1.2(5); 2010 ADA Standards § 208. One in every
27 eight accessible spaces, but not less than one, shall be served by an access aisle 96 in
28 (2440 mm) wide minimum and shall be designated “van accessible.” 1991 ADA

1 Standards § 4.1.2(5)(b). For every six or fraction of six parking spaces, at least one shall
2 be a van accessible parking space. 2010 ADA Standards § 208.2.4.

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

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

21 24. Here, Defendants failed to provide the parking space identification sign with
22 the International Symbol of Accessibility. In addition, Defendants failed to provide the
23 signs stating, “Minimum Fine \$250” and “Van Accessible.” Moreover, Defendants failed
24 to provide the additional sign with the specific language stating “Unauthorized vehicles
25 parked in designated accessible spaces not displaying distinguishing placards or special
26 license plates issued for persons with disabilities will be towed always at the owner’s
27 expense...”
28

1 25. For the parking spaces, access aisles shall be marked with a blue painted
2 borderline around their perimeter. The area within the blue borderlines shall be marked
3 with hatched lines a maximum of 36 inches (914 mm) on center in a color contrasting
4 with that of the aisle surface, preferably blue or white. The words "NO PARKING" shall
5 be painted on the surface within each access aisle in white letters a minimum of 12 inches
6 (305 mm) in height and located to be visible from the adjacent vehicular way. CBC §
7 11B-502.3.3.

8 26. Here, Defendants failed to provide a proper access aisle as there were no
9 "NO PARKING" markings painted on the parking surface. Additionally, the blue hatched
10 lines, which indicate the presence of the access aisle were severely deteriorated,
11 hindering visibility. Moreover, Defendants failed to provide the access aisle with the
12 minimum width of 96 inches.

13 27. The surface of each accessible car and van space shall have surface
14 identification complying with either of the following options: The outline of a profile
15 view of a wheelchair with occupant in white on a blue background a minimum 36" wide
16 by 36" high (914 mm x 914 mm). The centerline of the profile view shall be a maximum
17 of 6 inches (152 mm) from the centerline of the parking space, its sides parallel to the
18 length of the parking space and its lower side or corner aligned with the end of the
19 parking space length or by outlining or painting the parking space in blue and outlining
20 on the ground in white or a suitable contrasting color a profile view of a wheel chair with
21 occupant. See CBC § 11B-502.6.4, et seq.

22 28. Here, Defendants failed to maintain the mark on the space with the
23 International Symbol of Accessibility, resulting in the paint becoming severely
24 deteriorated, hindering visibility.

25 29. At least one accessible route shall connect accessible building, facilities,
26 elements, and spaces that are on the same site. 1991 ADA Standards § 4.3.2. A public
27 accommodation shall maintain in operable working condition those features of facilities
28

1 and equipment that are required to be readily accessible to and usable by persons with
2 disabilities by the Act or this part. 28 C.F.R. 35.211(a).

3 30. Here, Defendants failed to provide accessible parking space designated for
4 persons with disabilities as there were obstructions such as permanent bollards blocking
5 access to the access aisle.

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

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

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

17 **SECOND CAUSE OF ACTION**

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

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

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

27 36. California Civil Code § 52 states, "Whoever denies, aids or incites a denial,
28 or make any discrimination or distinction contrary to Section 51, 515, or 51.6, is liable

1 for each and every offense for the actual damages, and any amount that may be
2 determined by a jury, or a court sitting without a jury, up to a maximum of three times the
3 amount of actual damage but in no case less than four thousand dollars (\$4,000) and any
4 attorney's fees that may be determined by the court in addition thereto, suffered by any
5 person denied the rights provided in Section 51, 51.5, or 51.6.

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

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

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

17 **THIRD CAUSE OF ACTION**

18 **VIOLATION OF CALIFORNIA DISABLED PERSONS ACT**

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

21 41. California Civil Code § 54.1(a) states, "Individuals with disabilities shall be
22 entitled to full and equal access, as other members of the general public, to
23 accommodations, advantages, facilities, medical facilities, including hospitals, clinics,
24 and physicians' offices, and privileges of all common carriers, airplanes, motor vehicles,
25 railroad trains, motorbuses, streetcars, boats, or any other public conveyances or modes
26 of transportation (whether private, public, franchised, licensed, contracted, or otherwise
27 provided), telephone facilities, adoption agencies, private schools, hotels, loading places,
28 places of public accommodations, amusement, or resort, and other places in which the

1 general public is invited, subject only to the conditions and limitations established by
2 law, or state or federal regulation, and applicable alike to all persons.

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

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

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

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

23 **FOURTH CAUSE OF ACTION**

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

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

27 47. Plaintiff and other similar physically disabled persons who require the use of
28 a wheelchair are unable to use public facilities on a “full and equal” basis unless each

1 such facility is in compliance with the provisions of California Health & Safety Code §
2 19955 et seq. Plaintiff is a member of the public whose rights are protected by the
3 provisions of California Health & Safety Code § 19955 et seq.

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

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

19 **FIFTH CAUSE OF ACTION**

20 **NEGLIGENCE**

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

23 51. Defendants have a general duty and a duty under the ADA, Unruh Civil
24 Rights Act and California Disabled Persons Act to provide safe and accessible facilities
25 to the Plaintiff.

26 52. Defendants breached their duty of care by violating the provisions of ADA,
27 Unruh Civil Rights Act and California Disabled Persons Act.

