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1303 EAST GRAND AVENUE, SUITE 101
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Attorneys for Plaintiffs,

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

**JAMES RUTHERFORD; AND,
THE ASSOCIATION 4 EQUAL
ACCESS, INDIVIDUALLY AND
ON BEHALF OF ALL OTHERS
SIMILARLY SITUATED,**

Plaintiffs,

v.

EVANS HOTELS, LLC,

Defendant.

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Case No.: 18-cv-435 JLS (BGS)

CLASS ACTION

**SECOND AMENDED
COMPLAINT FOR DAMAGES
FOR VIOLATIONS OF:**

- I. THE UNRUH CIVIL RIGHTS
ACT, CAL. CIV. CODE §§ 51,
ET SEQ.; AND,**
- II. AMERICANS WITH
DISABILITIES ACT, 42
U.S.C. §§ 12101, ET SEQ.**

JURY TRIAL DEMANDED

HON. JANIS L. SAMMARTINO

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Plaintiffs JAMES RUTHERFORD, an individual, and THE ASSOCIATION 4 EQUAL ACCESS (collectively, “Plaintiffs”), bring this class action against EVANS HOTELS, LLC, a California limited liability company (“Defendant”):

INTRODUCTION

1. Plaintiffs and/or their members are mobility impaired and require information about the accessibility of hotels and hotel rooms to make reservations. Defendant maintains its reservations systems, including but not limited to those offered to the public on its various websites, such as Bahia.com, lodgtorreypines.com and catamaranresort.com (collectively, the “Websites”) in such a way that they contain access barriers preventing Plaintiffs, and other mobility-impaired individuals, from gaining full and equal access to the reservations services offered by Defendant. Defendant’s denial of full and equal access to its reservations services, and therefore its products and services offered thereby, is a violation of the rights of Plaintiffs under the California Unruh Civil Rights Act, California Civil Code § 51 *et seq.*, (“Unruh Act”).
2. The California Legislature provided a clear and statewide mandate for the elimination of discrimination against individuals with disabilities when it enacted the Unruh Civil Rights Act, Cal. Civ. Code § 51, *et seq.* Discrimination sought to be eliminated by the Unruh Civil Rights Act (“UCRA”) includes barriers to full integration, independent living and equal opportunity for individuals with disabilities, which then necessarily includes barriers created by websites and other places of public accommodation that are inaccessible.
3. Each of Defendant’s violations of Title III of Americans With Disabilities Act, 42 U.S.C. §§ 12181, *et seq.*, 28 CFR § 36.302(e)(1) *et seq.* (“ADA”) is likewise a violation of the Unruh Act. Indeed, the Unruh Act provides that any violation of the ADA constitutes a violation of the Unruh Act. Cal. Civ. Code § 51(f).

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- 1 4. For more than 27 years, the ADA and the Unruh Act have required that
2 individuals with disabilities be provided full and equal access to the goods,
3 services and facilities provided by hotel owners and operators.
- 4 5. However, the hospitality industry has been slow to respond, or has failed to
5 respond, to the needs of disabled travelers. *See e.g.* Consent Decree in *United*
6 *States of America v. Hilton Worldwide Inc., No. 10 1924* (entered November 29,
7 2010)(Resolving Complaint by the United States alleging in part that Hilton
8 systemically, and across its various brands, “fails to provide individuals with
9 disabilities the same opportunity to reserve accessible guestrooms using its on-
10 line ... reservations systems” and “failed to provide accurate, reliable
11 information about its accessible sleeping rooms and amenities throughout its
12 reservations system” and that “individuals with disabilities are unable to
13 reserve, on-line, accessible sleeping accommodations with either a tub or a roll-
14 in shower”); Settlement Agreement *United States of America and Motel 6*
15 *Operating L.P., DJ# 202-73-5*(entered August 12, 2004 and extended January
16 19, 2006)(Resolving allegations the Motel 6 online reservation system was
17 inadequate and securing in part the agreement of Motel 6 that it would, for its
18 internet reservation systems, “provide service to individuals who request
19 accessible rooms that is equivalent to that provided to individuals who seek to
20 reserve standard rooms.”).
- 21 6. Eventually, in response to many complaints received by the Department of
22 Justice, Civil Rights Division (“DOJ”), typically by individuals who reserved
23 an accessible hotel room only to discover upon arrival that the room they
24 reserved is not accessible, the DOJ took action, issuing its Notice of Proposed
25 Rulemaking, 73 FR 34508 (June 17, 2008)(“NPRM”).
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- 1 7. After a notice and comment period, with input primarily from individuals with
2 disabilities, hotels, resort developers, travel agencies and organizations
3 commenting on their behalf, the DOJ published Section 36.302(e) with detailed
4 requirements for hotel reservations services. In short, the DOJ required that
5 hotels must make reasonable modifications to reservations policies, practices, or
6 procedures when necessary to ensure that individuals with disabilities can make
7 reservations for accessible guest rooms during *the same hours and in the same*
8 *manner* as individuals who do not need accessible rooms and that they must
9 identify and describe *accessible features in the hotels and guest rooms* offered
10 through its reservations service *in enough detail* to reasonably permit
11 individuals with disabilities to *assess independently whether a given hotel or*
12 *guest room meets his or her accessibility needs.* 28 CFR § 36.302(e)(1)(i)-
13 (ii)(*emphasis added*).
- 14 8. The Final Rule on Nondiscrimination on the Basis of Disability by Public
15 Accommodations, including the hotel reservations requirements above, was
16 published on September 15, 2010 in the Federal Register. While the Final Rule
17 generally took immediate effect, the hotel reservations component did not. The
18 DOJ observed: “As with hotels, the Department believes that within the 18-
19 month transition period these reservations services should be able to modify
20 their systems to ensure that potential guests with disabilities who need
21 accessible rooms can make reservations during the same hours and in the same
22 manner as those who do not need accessible rooms.” Accordingly, to
23 accommodate the needs of industry, the hotel reservations requirements of 28
24 CFR § 36.302(e)(1) did not become effective until after an 18-month transition
25 period, or until March 15, 2012. 28 CFR § 36.302(e)(3).
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9. The ADA’s hotel reservations requirements have now been in effect for five years, nine months and counting. Yet, the problem the DOJ sought to address through its reservations regulations is as bad as ever. So bad, that in 2017 the private start-up company AbiliTrek launched. AbiliTrek describes its mission as follows:

AbiliTrek, like many other companies, began as an innovative idea; AbiliTrek is geared toward bettering the travel experience for people with disabilities. **Currently, the travel industry lacks the information needed for travelers with disabilities. This makes traveling a daunting and exhausting task for many in the disability community.** AbiliTrek was created as a fundamental resource for any traveler with a disability. **AbiliTrek’s goal is to counteract the current state of the travel industry and make traveling with a disability a fulfilling experience”** AbiliTrek Updates posted December 31, 2017. <https://abilitrek.com/wrapping-up-2017-our-end-of-year-review-package/>. (Emphasis added).

10. Defendant is part of the problem addressed by the hotel reservations provisions of the ADA and private firms like AbiliTrek.

11. As a result of Defendant’s violations of law, and to correct them, Plaintiffs seek statutory damages where available, declaratory relief and injunctive relief establishing that Defendant has engaged in violations of the ADA and the Unruh Act and requiring Defendant to comply with the Unruh Act by providing individuals with disabilities the ability to independently make reservations for accessible guest rooms in the same manner as individuals who do not need accessible rooms including the identification and description of the accessible features in the Defendant’s hotels and the guest rooms offered through Defendant’s service sufficient to ensure that individuals with disabilities receive the information they need to benefit from the services offered by Defendant.

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JURISDICTION AND VENUE

12. This Court has subject matter jurisdiction over this action. This Court has personal jurisdiction over Defendant because it conducted and continues to conduct substantial business and Plaintiff’s claims arose in the State of California, County of San Diego, and Defendant’s offending website is available throughout California.

13. Venue is proper in this Court because Defendant conducts substantial business in this County. Venue is also proper because a substantial portion of the conduct complained of herein occurred in this District.

PARTIES

14. Plaintiff JAMES RUTHERFORD suffers from spinal stenosis aggravated by a herniated disc. Plaintiff also suffers from an arthritic condition in his thumbs, which interferes with his ability to grab, twist, and turn objects. As a result of his physical impairments, Plaintiff is substantially limited in performing one or more major life activities, including but not limited to: walking, standing, sleeping, ambulating, and/or sitting and uses a mobility device, including when necessary, a rollator walker or wheelchair. Plaintiff is further substantially limited in performing one or more other major life activities, including but not limited to ability to grab, twist, and turn objects such as door handles. At the time of Plaintiff’s attempt to make room reservations at Defendant’s hotels and prior to instituting this action, Plaintiff suffered from a “qualified disability” under the ADA, including those set forth in this paragraph. Plaintiff is also the holder of a Disabled Person Parking Placard.

15. Plaintiff ASSOCIATION 4 EQUAL ACCESS ("A4EA") is an association with the purpose of providing ADA related resources and information to disabled individuals and to ensure businesses increase accessibility at their facilities. A4EA members continued to be discriminated against by Defendant’s lack of ADA compliance.

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1 16.Claimant: PATRICIA FILARDI is an adult quadriplegic who uses a wheelchair
2 for mobility. She has a specially equipped van with a ramp that deploys out of
3 the passenger side of her van. She is substantially limited in performing one or
4 more major life activities, including but not limited to: walking, standing,
5 sleeping, ambulating, and/or sitting. She requires the use of a wheelchair at all
6 times for mobility and life functions. At the time of her attempts to access the
7 reservations systems offered by Defendant and prior to instituting this action,
8 she suffered from a “qualified disability” under the ADA. She has a Disabled
9 Person Parking Placard issued to her on a permanent basis. Claimant is a
10 member of A4EA. Claimant has experienced the barriers to access described
11 herein and has been denied access and deterred from seeking access thereby.
12 Despite possessing a meritorious claim for damages and injunctive relief
13 Claimant does not assert such a claim at this time, but reserves her right to do
14 so.

15 17.Plaintiff RUTHERFORD is a member of A4EA.

16 18.As a result of Plaintiff RUTHERFORD’S disability he requires an accessible
17 room to utilize the goods, services and facilities provided by Defendant.

18 19.Plaintiff RUTHERFORD is a tester in this litigation and a consumer who
19 wishes to access Defendant’s good and services. Plaintiff is being deterred
20 from patronizing the Defendant’s hotels on particular occasions, but intends to
21 return to the Websites for the dual purpose of availing himself of the goods and
22 services offered to the public and to ensure that Defendant ceases evading its
23 responsibilities under federal and state law.

24 20.Plaintiff A4EA’s members are being deterred from patronizing the Defendant’s
25 hotels on particular occasions, but intend to return to the Websites for the dual
26 purpose of availing themselves of the goods and services offered to the public
27 and to ensure that Defendant ceases evading its responsibilities under federal
28 and state law.

1 21. Plaintiff is informed and believes, and upon such information and belief alleges,
 2 that Defendant is a California limited liability company with its principal place
 3 of business located in San Diego, California. Plaintiff is informed and believes,
 4 and thereon alleges, that Defendant owns and operates hotels throughout
 5 Southern California. Defendant's hotel locations constitute places of public
 6 accommodation. Defendant's locations provide to the public important goods
 7 and/or services. Defendant also provides to the public the Websites. The
 8 Websites provide access to the array of services, including descriptions of its
 9 hotels, rooms and services, the ability to make room reservations, and many
 10 other benefits related to these facilities and services. The hotel locations are
 11 public accommodations within the definition of Title III of the ADA, 42 U.S.C.
 12 § 12181(7) and are likewise "business establishments" within the meaning of
 13 the Unruh Act. The Websites are a service, privilege, and advantage of
 14 Defendant's hotel locations and services. The Websites are a service that is by
 15 and integrated with these locations.

FACTUAL ALLEGATIONS

16
 17 22. As part of its operations, Defendant provides the public access to reservations
 18 services, including but not limited to the ability to make reservations online at
 19 the Websites.

20 23. Within the applicable limitations period, Plaintiffs visited the Websites, to view
 21 the accessible features in the hotel and guest rooms of the Defendant's hotels.

22 24. Plaintiff RUTHERFORD desired to visit a hotel in the San Diego area to
 23 celebrate his birthday. He desired to do so with his fiancé, Claimant FILARDI.
 24 As a result of each of their disabilities, Plaintiffs required information about the
 25 features of the accessible rooms and the hotels to independently make a
 26 reservation. The information required by Plaintiffs was unavailable so
 27 Plaintiffs could not make a reservation for an accessible room or suite using the
 28 Websites in the same in the same manner as individuals who do not need

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1 accessible rooms.

2 25. Plaintiffs were unable to independently identify the material accessible features
3 of the hotel and guest rooms of the Bahia Resort Hotel, The Lodge Torrey
4 Pines, and the Catamaran Resort (the “Subject Properties”) owned and operated
5 by Defendant. The description of the accessible rooms and features of the
6 Subject Properties are substantially limited to the following vague, ambiguous,
7 cursory and inadequate (for Plaintiffs’) information:

8 a. Bahiahotel.com offers the Room Feature “Handicap Room”. This term is
9 not defined on the website. Further, a search of all rooms with this feature
10 selected yielded multiple available rooms but failed to yield any rooms
11 labeled as “Handicap Room”. Plaintiff is not aware of what the Room
12 Feature “Handicap Room” means in this context.

13 b. Bahiahotel.com “The Bahia’s Facts at a Glance” lists as an amenity
14 “accessible rooms”. Plaintiff is not aware of what the descriptor
15 “accessible rooms” means in this context.

16 c. Lodgetorreypines.com offers the Room Type “Accessible Roll In Shower”.
17 This room type is available with one king or two queen beds. Unlike other
18 rooms, the number and type of beds in the Accessible Roll In Shower room
19 is not part of the room type and is not determined during the reservation
20 process. The room description provides no details regarding accessibility
21 other than the statement “Accessible Roll In Shower”. Plaintiff is not
22 aware of what the descriptor “Accessible Roll In Shower” means in this
23 context beyond the presence of a roll in shower. Plaintiff could not
24 identify any accessible suites at the property.

25 d. Catamaranresort.com does not offer accessible rooms, or if it does, it does
26 not provide any accessibility information about them.
27 Catamaranresort.com includes a PDF map with the international symbol of
28 accessibility in locations where it appears disabled parking is located on

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1 the hotel grounds.

2 e. The Websites, including the reservations aspect, do not adequately or
3 accurately describe the inventory of accessible types of rooms and
4 amenities available at each property.

5 f. The Websites, including the reservations aspect, do not indicate with any
6 whether the Subject Properties offer accessible parking and/or accessible
7 pathways to the accessible entrance(s), or accessible pathways to resort
8 amenities.

9 g. The Websites do not permit reservation of accessible rooms in the same
10 manner as other rooms including the identification of accessible features of
11 rooms and of the Subject Properties in enough detail to reasonably permit
12 Plaintiff and/or their members to assess independently whether a given
13 hotel or guest room meets their accessibility needs.

14 26. An investigation performed on Plaintiffs' behalf confirmed the allegations made
15 by Plaintiffs above.

16 27. Plaintiffs have been, and in the absence of an injunction will continue to be,
17 injured by Defendant's policy and practice of failing to make reasonable
18 modifications to its reservations policies practices and procedures applicable to
19 its reservations systems offered online on the Websites so as to allow
20 individuals with disabilities the ability to make reservations for accessible guest
21 rooms in the same manner as individuals who do not need accessible rooms
22 including the identification and description of the accessible features in the
23 Defendant's hotels and the guest rooms sufficient to ensure that individuals
24 with disabilities receive the information they need to benefit from the services
25 offered by Defendant.

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1 28. Given the obvious and blatant violation alleged hereinabove, Plaintiffs allege,
2 on information and belief, that there are other violations of 28 CFR § 36.302(e),
3 the ADA and the Unruh Act, that relate to Plaintiffs’ disabilities. Plaintiffs will
4 amend the complaint, to provide proper notice regarding the scope of this
5 lawsuit, after discovery. However, Defendant is hereby on notice that Plaintiffs
6 seek to have all barriers related to their disabilities remedied. See *Doran v. 7-
7 11*, 524 F.3d 1034 (9th Cir. 2008).

8 **CLASS ALLEGATIONS**

9 29. Plaintiffs bring this action on behalf of themselves, and on behalf of all others
10 similarly situated pursuant to Federal R. Civ. P. 23(a)(b)(2), and alternatively,
11 (b)(3), on behalf of all legally disabled individuals in the United States who
12 have attempted to access Defendant’s websites. For the claims under California
13 State law, Plaintiffs also represent a California subclass of all legally disabled
14 individuals in California who attempted to visit Defendant’s websites.

15 30. Defendant and Defendant’s employees or agents are excluded from the class.

16 31. Plaintiffs do not know the exact number of persons in the class, but believe
17 them to be in the hundreds of thousands, making joinder of all these actions
18 impracticable.

19 32. The identity of the individual members is ascertainable through Defendants’
20 and/or Defendants’ agents’ records or by public notice.

21 33. There is a well-defined community of interest in the questions of law and fact
22 involved affecting the members of the class. The questions of law and fact
23 common to the class predominate over questions affecting only individual class
24 members, and include, but are not limited to, the following:

- 25 a. Whether Defendant’s websites complied with the ADA;
- 26 b. Whether Defendant’s websites complied with the Unruh Act;
- 27 c. Whether legally disabled individuals are able to access Defendant’s
28 websites;

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- 1 d. Whether legally disabled individuals are being denied their civil rights to
- 2 full and equal access to, and use and enjoyment of, Defendant's goods,
- 3 facilities and/or services due to the lack of access to Defendant's
- 4 websites as required by law for persons with disabilities;
- 5 e. Whether members of the class are entitled to the remedies;
- 6 f. Whether members of the class are entitled to declaratory relief;
- 7 g. Whether members of the class are entitled to injunctive relief; and,
- 8 h. Whether members of the class are entitled to an award of reasonable
- 9 attorneys' fees and costs of suit.

10 34. Plaintiffs will fairly and adequately protect the interest of the class.

11 35. Plaintiffs have retained counsel experienced in consumer class action litigation

12 and in handling claims involving discrimination.

13 36. Plaintiffs' claims are typical of the claims of the class, which all arise from the

14 same operative facts.

15 37. A class action is a superior method for the fair and efficient adjudication of this

16 controversy.

17 38. Class-wide damages are essential to induce Defendant to comply with the

18 federal and State laws alleged in the operative pleading.

19 39. The interests of class members in individually controlling the prosecution of

20 separate claims against Defendant is small because the maximum statutory

21 damages in an individual action are capped.

22 40. Management of these claims is likely to present significantly fewer difficulties

23 than those presented in many class claims, e.g., securities fraud.

24 41. Defendant has acted on grounds generally applicable to the class, thereby

25 making appropriate final declaratory relief with respect to the class as a whole.

26 42. Plaintiffs contemplate providing notice to the putative class members by direct

27 mail in the form of a postcard-type notice and via Internet website.

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1 43.Plaintiffs request certification of a hybrid class for monetary damages and
2 injunctive relief.

3 **FIRST CAUSE OF ACTION**

4 **VIOLATION OF THE UNRUH CIVIL RIGHTS ACT, CALIFORNIA**

5 **CIVIL CODE § 51 et seq. (Injunctive Relief and Damages on Behalf of**
6 **Plaintiffs)**

7 **(By Plaintiffs Against All Defendants)**

8 44.Plaintiffs re-allege and incorporate by reference all paragraphs alleged above
9 and each and every other paragraph in this Complaint necessary or helpful to
10 state this cause of action as though fully set forth herein.

11 45.California Civil Code § 51 et seq. guarantees equal access for people with
12 disabilities to the accommodations, advantages, facilities, privileges, and
13 services of all business establishments of any kind whatsoever. Defendant is
14 systematically violating the UCRA, Civil Code § 51 et seq.

15 46.The Unruh Act guarantees, inter alia, that persons with disabilities are entitled
16 to full and equal accommodations, advantages, facilities, privileges, or services
17 in all business establishments of every kind whatsoever within the jurisdiction
18 of the state of California. Cal. Civ. Code § 51(b).

19 47.Defendant through the Subject Properties provide lodging to the general public
20 in California is a business establishment within the jurisdiction of the state of
21 California, and as such is obligated to comply with the provisions of the Unruh
22 Act, California Civil Code §§ 51, et seq.

23 48.The Unruh Act provides, inter alia, that a violation of the ADA, 42 U.S.C. §§
24 12101, et seq., also constitutes a violation of the Unruh Act. Cal. Civ. Code §
25 51(f).

26 49.Defendant’s discriminatory conduct alleged herein includes, inter alia, the
27 violation of the rights of persons with disabilities set forth in Title III of the
28 ADA and therefore also violates the Unruh Act. Cal. Civ. Code § 51(f).

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1 50. The actions of Defendant were and are in violation of the Unruh Act, California
2 Civil Code §§ 51, et seq. Plaintiffs are aware of Defendant’s unlawful actions,
3 and this knowledge of discrimination has deterred Plaintiffs from attempting to
4 access and use Defendant’s reservation services and hotels on several
5 occasions. Therefore, Plaintiffs are entitled to injunctive relief remedying the
6 discrimination pursuant to California Civil Code § 52. Unless the Court enjoins
7 Defendant from continuing to engage in these unlawful practices, Plaintiffs will
8 continue to suffer irreparable harm.

9 51. Plaintiffs are also entitled to statutory minimum damages pursuant to California
10 Civil Code § 52 for each and every offense in violation of the Unruh Act. Cal.
11 Civ. Code § 52(a), and so Plaintiffs request relief as set forth below.

12 **SECOND CAUSE OF ACTION**

13 **VIOLATION OF THE UNRUH CIVIL RIGHTS ACT, CALIFORNIA**

14 **CIVIL CODE § 51 et seq. (Injunctive Relief and Damages on Behalf of**

15 **Plaintiffs)**

16 **(By Plaintiffs Against All Defendants)**

17 52. Plaintiffs re-allege and incorporate by reference all paragraphs alleged above
18 and each and every other paragraph in this Complaint necessary or helpful to
19 state this cause of action as though fully set forth herein.

20 53. Section 302(a) of Title III of the Americans with Disabilities Act of 1990, 42
21 U.S.C. § 12101 et seq., provides:

22 No individual shall be discriminated against on the basis of disability
23 in the full and equal enjoyment of the goods, services, facilities,
24 privileges, advantages, or accommodations of any place of public
accommodation by any person who owns, leases (or leases to), or
operates a place of public accommodation.

25 54. Defendant’s hotels are sales establishments and public accommodations within
26 the definition of Title III of the ADA. 42 U.S.C. §§ 12181(7)(E).

27 55. Defendant’s websites are a service, privilege or advantage of Defendant’s
28 hotels.

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1 56. Defendant’s websites are a service that is by and integrated with these hotels.

2 57. Under section 302(b)(1) of Title III of the ADA, it is unlawful discrimination to
3 deny individuals with disabilities or a class of individuals with disabilities the
4 opportunity to participate in or benefit from the goods, services, facilities,
5 privileges, advantages, or accommodations of an entity.

6 58. Under Section 302(b)(1) of Title III of the ADA, it is unlawful discrimination to
7 deny individuals with disabilities or a class of individuals with disabilities an
8 opportunity to participate in or benefit from the goods, services, facilities,
9 privileges, advantages, or accommodation, which is equal to the opportunities
10 afforded to other individuals.

11 59. Under Section 302(b)(2) of Title III of the ADA, unlawful discrimination also
12 includes, among other things:

13 a failure to make reasonable modifications in policies, practices, or
14 procedures, when such modifications are necessary to afford such
15 goods, services, facilities, privileges, advantages, or accommodations
16 to individuals with disabilities, unless the entity can demonstrate that
17 making such modifications would fundamentally alter the nature of
18 such goods, services, facilities, advantages, or accommodations; and

19 a failure to take such steps as may be necessary to ensure that no
20 individual with a disability is excluded, denied services, segregated or
21 otherwise treated differently than other individuals because of the
22 absence of auxiliary aids and services, unless the entity can
23 demonstrate that taking such steps would fundamentally alter the
24 nature of the good, service, facility, privilege, advantage, or
25 accommodation being offered or would result in an undue burden.

26 60. The acts alleged herein constituted violations of Title III of the Americans with
27 Disabilities Act of 1990, 42 U.S.C. §§ 12101, et seq., and the regulations
28 promulgated thereunder.

61. Patrons of Defendant’s websites who are disabled have been denied full and
equal access to Defendant’s websites, have not been provided services that are
provided to other patrons who are not disabled, and/or have been provided
services that are inferior to the services provided to non-disabled patrons.

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1 62. Defendant has failed to take any prompt or equitable steps to remedy its
2 discrimination conduct; thus, these violations are ongoing.

3 **THIRD CAUSE OF ACTION**

4 **(Declaratory Relief on Behalf of Plaintiffs)**

5 63. Plaintiffs re-allege and incorporate by reference all paragraphs alleged above
6 and each and every other paragraph in this Complaint necessary or helpful to
7 state this cause of action as though fully set forth herein.

8 64. An actual controversy has arisen and now exists between the parties in that
9 Plaintiffs contend, and are informed and believe that Defendant denies, that by
10 failing to provide a reservation service through the Websites that allows persons
11 with mobility impairments to independently identify accessible features of
12 Defendant's hotels and independently reserve accessible rooms in those hotels
13 Defendant fails to comply with applicable laws, including but not limited to
14 Title III of the Americans with Disabilities Act, 42 U.S.C. §§ 12101, et seq. and
15 California's Unruh Act, California Civil Code §§ 51-52

16 65. A judicial declaration is necessary and appropriate at this time in order that each
17 of the parties may know their respective rights and duties and act accordingly
18 and so Plaintiffs requests relief as set forth below.

19 **PRAYER**

20 **WHEREFORE, Plaintiffs pray for judgment against Defendant, as**
21 **follows:**

- 22 • An Order certifying this Action as a class with Plaintiffs as the class
23 representatives and Plaintiff's counsel as class counsel;

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- A preliminary and permanent injunction enjoining Defendant from further violations of the Unruh Act, Civil Code § 51 *et seq.* requiring Defendant to take the steps necessary to ensure that Defendant’s reservation services allow persons with mobility impairments to independently identify accessible features of Defendant’s hotels and independently reserve accessible rooms in those hotels but Plaintiffs hereby expressly limits the injunctive relief to require that Defendant expend no more than \$50,000 thereon;
- A declaration that at the commencement of this action Defendant discriminated against persons with mobility impairments by failing to ensure that Defendant’s reservation services found on the Websites allowed persons with mobility impairments to independently identify accessible features of Defendant’s hotels and independently reserve accessible rooms in those hotels, in violation of Title III of the ADA, 42 U.S.C. §§ 12181, *et seq.*, 28 CFR § 36.302(e)(1) *et seq.*, and California’s Unruh Act, California Civil Code §§ 51-52.;
- Statutory damages pursuant to California Civil Code § 52(a), for Plaintiffs and each putative class member;
- For attorneys’ fees and expenses pursuant to all applicable laws including, without limitation, Civil Code § 52(a);
- An order awarding Plaintiffs’ post-judgement interest; and
- For such other and further relief as this Court deems just and proper.

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DEMAND FOR JURY TRIAL

Plaintiffs hereby respectfully request a trial by jury on all appropriate issues raised in this Complaint.

Dated: July 27, 2018

Respectfully submitted,

KAZEROUNI LAW GROUP, APC

By: /s/ Matthew M. Loker
MATTHEW M. LOKER, ESQ.
ATTORNEY FOR PLAINTIFFS