

JS-6

**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

NEHEMIAH KONG,

Plaintiff,

vs.

LEONARDO M. LOPEZ, IRIS A.
LOPEZ, and FERMAX INC., a
California corporation,

Defendants.

Case No. 2:18-cv-2538-MWF (GJSx)

The Honorable Michael W. Fitzgerald,
United States District Judge

JUDGMENT AFTER TRIAL

1 This action came on regularly for jury trial between February 18 and
2 February 20, 2020, in Courtroom 5A of this United States District Court. Plaintiff
3 Nehemiah Kong was represented by James R. Boyd and Dennis J. Price II of Potter
4 Handy, LLP (Center for Disability Access). Defendants Leonardo M. Lopez, Iris
5 A. Lopez, and Fermax, Inc. were represented by Charles L. Murray III of Charles
6 Murray Law Offices.

7 A jury of eight persons was regularly empaneled and sworn. Witnesses were
8 sworn and testified and exhibits were admitted into evidence. After hearing the
9 evidence and arguments of counsel, the jury was duly instructed by the Court and
10 the cause was submitted to the jury. The jury deliberated and thereafter returned a
11 verdict as follows:

12
13 **Question 1:** Did the Restaurant present an architectural barrier by failing to
14 offer a van-accessible parking space on February 9, 2018? (The meaning of “van-
15 accessible parking space” is defined in Instruction No. 13.)

16
17 Yes **X** No _____

18 *If you answered “Yes”, please proceed to Question 2. If you answered “No”,*
19 *please skip the remaining questions, sign and date the form on page 3.*
20

21 **Question 2:** Did the Plaintiff personally encounter the lack of a van-
22 accessible parking space on February 9, 2018?
23

24 Yes _____ No **X**

25 *Please proceed to Question 3.*
26
27
28

1 **Question 3:** Did the Plaintiff have personal knowledge of the lack of a van-
2 accessible parking space on February 9, 2018 and was thereby deterred from
3 visiting or patronizing the Restaurant on February 9, 2018?

4
5 Yes _____ No X

6 *If you answered “Yes” to either Question 2 or 3, please proceed to Question 4. If*
7 *you answered “No” to both Questions 2 and 3, please skip to the remaining*
8 *questions, sign and date the form on page 3.*

9
10 **Question 4:** Did the Plaintiff prove that he intends to return to the
11 Restaurant?

12
13 Yes _____ No _____

14
15 *Please proceed to Question 5.*

16
17 **Question 5:** Did the Plaintiff experience difficulty, discomfort, or
18 embarrassment due to encountering the lack of a van-accessible parking space?

19
20 Yes _____ No _____

21 *Please proceed to Question 6.*

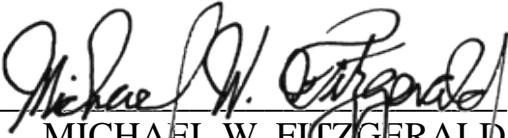
22
23 **Question 6:** Did the Defendants prove that providing a van-accessible
24 parking space is *not* readily achievable? (The meaning of “readily achievable” is
25 defined in Instruction No. 15).

26
27 Yes _____ No _____

1 Now, therefore, pursuant to Rules 54 and 58 of the Federal Rules of Civil
2 Procedure, **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that
3 final judgment in this action in favor of Defendants be entered as follows:

- 4 1. As to Plaintiff's claim for violation of Americans with Disabilities Act of
5 1990, 42 U.S.C. §§ 12101, *et seq.*: Judgment is entered against Plaintiff
6 Nehemiah Kong and in favor of Defendants Leonardo M. Lopez, Iris A.
7 Lopez, and Fermax, Inc.
- 8 2. As to Plaintiff's claim for violation of the Unruh Civil Rights Act, Cal.
9 Civ. Code §§ 51-53: Judgment is entered against Plaintiff Nehemiah
10 Kong and in favor of Defendants Leonardo M. Lopez, Iris A. Lopez, and
11 Fermax, Inc.
- 12 3. As the prevailing party, Defendants may file an application to recover
13 their reasonable costs.

14
15 Dated: March 4, 2020


MICHAEL W. FITZGERALD
United States District Judge