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LOS ANGELES

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10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA

12
13 J. PAUL CHARLEBOIS, an individual,
on behalf of himself and on behalf of
14 all others similarly situated

15 Plaintiff,

16 vs.

17 ANGELS BASEBALL LP, CITY OF
ANAHEIM, and DOES 1 through 10,
18 inclusive,

19 Defendants.
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Case No. SACV10-853-AG(LAN)

CLASS ACTION COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF

1. VIOLATION OF THE UNRUH CIVIL RIGHTS ACT (Cal. Civ. Code §§ 51, 51.5-52)
2. VIOLATION OF THE AMERICANS WITH DISABILITIES ACT (42 U.S.C. 12101 *et seq.*)
3. DISCRIMINATION BY A STATE FUNDED PROGRAM OR ACTIVITY (Cal. Gov. Code § 1135)
4. VIOLATION OF THE DISABLED PERSONS ACT (Cal. Civ. Code § 54.1)
5. VIOLATION OF CAL. BUSINESS AND PROFESSIONS CODE § 17200 *et seq.*

CLASS ACTION COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

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) 6. NEGLIGENCE, INCLUDING
) NEGLIGENT SELECTION,
) HIRING, RETENTION, AND
) SUPERVISION OF
) EMPLOYEES AND AGENTS
)
) **JURY TRIAL DEMANDED**

I. INTRODUCTION

Plaintiff J. Paul Charlebois (“Plaintiff” or “Mr. Charlebois”), who is confined to a wheel chair, brings this action on behalf of himself and all others similarly situated, against Defendants City of Anaheim (“City”) and Angels Baseball LP (“Angels Baseball,” and with the City, “Defendants”), among others, so that he and other wheel chair bound individuals will have equal access to the Angels Baseball Stadium (“Stadium”) and be able to enjoy the same benefits and amenities, including quality seating and in-seat food and beverage services, which are available to all other baseball fans. By bringing this action for injunctive and declaratory relief, Plaintiff seeks justice for himself and other wheel chair bound patrons of Angels Stadium by requiring Angeles Baseball and the City of Anaheim to comply with federal and California law requiring equal access for individuals with disabilities.

II. NATURE OF ACTION

1. This action arises out of the discriminatory practices by Defendants in violation of the laws of the United States and California, designed to protect individuals with physical disabilities.

2. These practices include, *inter alia*, the denial of access to places of public accommodation and the discriminatory treatment given to individuals on

1 account of their physical disabilities.

2 3. As a result of these practices, Plaintiff and others similarly situated
3 are not able to benefit from the full use and enjoyment of Defendants' public
4 accommodations.

5 III. JURISDICTION AND VENUE

6 4. The claims alleged herein arise under the Americans with Disabilities
7 Act (42 U.S.C. §12131 *et seq.*), (the "ADA"), such that jurisdiction of this Court is
8 invoked pursuant to 28 U.S.C. §§ 1331. Through the same actions and omissions
9 that form the basis of Plaintiff's federal claims, Defendants have also violated
10 Plaintiff's rights under state law, over which this Court has supplemental
11 jurisdiction pursuant to 28 U.S.C. § 1367. This Court has jurisdiction over
12 Plaintiff's claims for declaratory and injunctive relief pursuant to 28 U.S.C. §§
13 2201 and 2202 and Rule 65 of the Federal Rules of Civil Procedure.

14 5. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) in
15 that the unlawful actions challenged herein occurred in the Central District.

16 IV. THE PARTIES

17 6. Plaintiff J. Paul Charlebois is an individual who, at all relevant times
18 herein mentioned:

- 19 a. Was a resident of the County of Los Angeles, State of
20 California;
- 21 b. Had a physical disability, as that term is defined in 42 U.S.C. §
22 12102, that substantially limits major life activities, namely his
23 mobility. Plaintiff uses a wheelchair;
- 24 c. Was a lawful ticket holder for a baseball game at Angels
25 Stadium of Anaheim and attempted to utilize the facilities of
26 the stadium, which is a public accommodation owned and/or
27 operated by Defendants, but was deprived of the full value of
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- his ticket;
- d. Suffered discrimination by the Defendants and their employees;
- e. Is a baseball fan who wishes to attend future baseball games at Angels Stadium;
- f. Was a member of the Plaintiff Class alleged in paragraph 16 below, and
- g. Has filed a timely claim for monetary damages pursuant to the Government Tort Claims Act, to the extent, it is applicable as to the City of Anaheim.

7. Plaintiff brings this action on his own behalf and on behalf of all members of the class defined in paragraph 16 below.

8. Defendant City of Anaheim (“City”) is a public entity, which at all relevant times herein mentioned:

- a. Is located in the County of Orange, State of California;
- b. Owned the public accommodation commonly known as Angels Stadium or Angels Stadium of Anaheim, which is located at 2000 Gene Autry Way in the City of Anaheim, State of California;
- c. Paid for and/or authorized construction of the Stadium in 1966 and paid approximately \$30 million towards the renovation and/or modification of the Stadium from 1998-1999. The remodeling and alteration of the Stadium included Section 322 and other seating at the Club Level and the luxury boxes. The alterations were made without compliance with CFR 36.402 and other applicable accessibility statutes;
- d. Leased the Stadium to Defendant Angels Baseball LP to operate the Stadium for professional baseball games, which

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was open to any member of the public who held a ticket for events at the Stadium;

- e. Received funding from the state of California;
- f. Is a local government and public entity within the meaning of Title II of the ADA, and, upon information and belief, oversees Defendant Angels Baseball;
- g. Is liable under California Government Code § 815(a) for any and all wrongful acts in violation of state law hereinafter complained of committed by any of these City employees acting within the course and scope of their employment.
- h. Discriminated against the Plaintiff Class, as defined in paragraph 16 below, by, *inter alia*:
 - i. Failing to provide sufficient seating specifically for use by disabled individuals;
 - ii. Failing to make reasonable accommodations for individuals who were, due to any disability relating to mobility, unable to take equal advantage of the accommodations provided to non-disabled individuals; and
 - iii. Failing to adequately integrate wheelchair accessible seating into the seating plan of the Stadium such that it was dispersed throughout all seating areas and provided lines of sight and choices of admission prices comparable to those for non-disabled individuals.

9. Defendant Angels Baseball LP is a private entity, which at all relevant times herein mentioned:

- a. Maintained its headquarters in Anaheim, California;

- 1 b. Was authorized to conduct, and actually did conduct, business
2 in the County of Orange;
- 3 c. Operated the Stadium which was open to any member of the
4 public who held a ticket for events at the Stadium;
- 5 d. Discriminated against the Plaintiff Class, as defined in
6 paragraph 16 below, by, *inter alia*:
- 7 i. Failing to provide sufficient seating specifically for use
8 by disabled individuals;
- 9 ii. Failing to make accommodations for individuals who
10 were, due to any disability relating to mobility, unable to
11 take equal advantage of the accommodations provided to
12 non-disabled individuals;
- 13 iii. Failing to adequately integrate wheelchair accessible
14 seating into the seating plan of the Stadium such that it
15 was dispersed throughout all seating areas and provided
16 lines of sight and choices of admission prices
17 comparable to those for non-disabled individuals;
- 18 iv. Failing to adequately train its employees in
19 accommodating individuals confined to wheelchairs
20 and/or other handicapped individuals; and
- 21 v. Failing to institute policies and procedures for mobility
22 impaired customers to identify the location of accessible
23 seating as well as purchase and utilize accessible seating
24 within the Stadium.

25 10. The Defendants whose identities are unknown are sued herein under
26 the names DOES 1 through 10 ("DOES"). Plaintiff is informed and believes and
27 thereon alleges that all of the Defendants, including the DOES, are in some
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1 manner responsible for the injuries and damages herein alleged. Plaintiff sues the
2 DOES in their individual and official capacities. Plaintiff will seek leave to amend
3 this Complaint to allege the true names and capacities of Does 1 through 10,
4 inclusive, when they are ascertained.

5 11. Plaintiff is informed and believes, and based upon that information
6 and belief alleges, that each of the Defendants named in this Complaint, including
7 Does 1 through 10, inclusive, are responsible in some manner for one or more of
8 the events and happenings that proximately caused the injuries and damages
9 hereinafter alleged.

10 12. Plaintiff is informed and believes, and based upon that information
11 and belief alleges, that each Defendant named in this Complaint, including Does 1
12 through 10, inclusive, knowingly and willfully acted in concert, conspired and
13 agreed together among themselves and entered into a combination and systemized
14 campaign of activity to, *inter alia*, damage Plaintiff and to otherwise consciously
15 and/or recklessly act in derogation of Plaintiff's rights, and the trust reposed by
16 Plaintiff in each of said Defendants, said acts being negligently and/or
17 intentionally inflicted.

18 13. Said conspiracy, and Defendants' concerted actions, were such that,
19 to the information and belief of Plaintiff, and to all appearances, Defendants and
20 each of them, represented a unified body so that the actions of one Defendant were
21 accomplished in concert with, and with knowledge, ratification, authorization and
22 approval of each of the other Defendants.

23 14. Plaintiff is informed and believes, and based upon that information
24 and belief alleges, that each of the Defendants named in this Complaint, including
25 Does 1 through 10, inclusive, is, and at all times mentioned herein was, the agent,
26 servant and/or employee of each of the other Defendants and that each Defendant
27 was acting within the course and scope of his, her or its authority as the agent,
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1 servant and/or employee of each of the other Defendants. Consequently, all of the
2 Defendants are liable for the injuries caused to Plaintiff and the Plaintiff Class, as
3 defined in paragraph 16 below.

4 15. At all times set forth herein, the acts and omissions of each Defendant
5 caused, led and/or contributed to the various acts and omissions of each and all of
6 the other Defendants, legally causing the injuries as set forth.

7 **V. CLASS ALLEGATIONS**

8 **Definition of PLAINTIFF CLASS**

9 16. This action consists of the following Plaintiff Class (or “Class
10 Plaintiffs”):

11 **WHEELCHAIR SEATING CLASS.** Any person with a disability,
12 as that term is defined in 42 U.S.C. § 12102, who purchased, was provided, or was
13 in lawful possession of a ticket to a baseball game at the Stadium but was denied
14 equal access to the amenities, privileges, services and facilities of the Stadium due
15 to the availability and accessibility of wheelchair designated seating and who has
16 the desire to attend future baseball games at the Stadium.

17 **Maintenance Of The Action**

18 17. Plaintiff brings this action individually and on behalf of himself and
19 as representative of all similarly situated persons, pursuant to the provisions of
20 Rule 23 of the *Federal Rules of Civil Procedure*.

21 **Class Action Requisites**

22 18. At all material times, Plaintiff was and is a member of the Plaintiff
23 Class described in paragraph 16.

24 19. This Class Action meets the statutory prerequisites for the
25 maintenance of a Class Action as set forth Rule 23 of the *Federal Rules of Civil*
26 *Procedure* in that:

27 a. The persons who comprise the Plaintiff Class are so numerous
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1 that the joinder of all such persons is impracticable and the
2 disposition of their claims as a class will benefit the parties and
3 the Court;

4 b. Nearly all factual, legal, statutory, declaratory and injunctive
5 relief issues that are raised in this Complaint are common to the
6 Plaintiff Class and will apply uniformly to every member of the
7 Plaintiff Class;

8 c. The named Plaintiff's claim for declaratory and injunctive
9 relief is typical of the claims of the class. Plaintiff and the
10 members of the Plaintiff Class were and are similarly or
11 identically harmed by the same unlawful, deceptive, unfair,
12 systematic and pervasive pattern of misconduct engaged in by
13 the Defendants;

14 d. The representative Plaintiff will fairly and adequately represent
15 and protect the interests of the Plaintiff Class, and has retained
16 counsel who is competent and experienced in Class Action
17 litigation. There are no material conflicts between the claims
18 of the representative Plaintiff and the members of the Plaintiff
19 Class that would make class certification inappropriate.
20 Counsel for the Plaintiff Class will vigorously assert the claims
21 of all members of the Plaintiff Class.

22 e. Defendants have acted or refused to act on grounds generally
23 applicable to the class.

24 20. In addition to meeting the statutory prerequisites to a Class Action,
25 this action is properly maintained as a Class Action pursuant to Rule 23(b)(2) of
26 the *Federal Rules of Civil Procedure* in that:

27 a. The parties opposing the Plaintiff Class have acted or refused
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1 to act on grounds generally applicable to the Plaintiff Class,
2 thereby making appropriate final injunctive relief or
3 corresponding declaratory relief with respect to the Plaintiff
4 Class as a whole.

- 5 21. Among the many questions of law and fact common to the class are:
- 6 a. Whether Angels Baseball failed to ensure that its employees are
7 properly trained in handling situations in which an individual
8 in a wheelchair holds a ticket for a seat that is not wheelchair
9 accessible;
 - 10 b. Whether Defendants failed to adequately and properly integrate
11 wheelchair accessible seating into the seating plan of the arena
12 such that it is dispersed throughout all seating areas and
13 provides lines of sight, amenities, and choices of admission
14 prices comparable to those for the general public;
 - 15 c. Whether Defendants failed to provide sufficient seating
16 specifically for use by disabled individuals; and
 - 17 d. Whether Defendants failed to make accommodations for
18 individuals who were, due to any disability relating to mobility,
19 unable to take equal advantage of the accommodations
20 provided to non-disabled individuals;

21 22. As to the issues raised in this case, a class action is superior to all
22 other methods for the fair and efficient adjudication of this controversy, since
23 joinder of all class members is impracticable and since many legal and factual
24 questions to be adjudicated apply uniformly to all class members.

25 **VI. GENERAL ALLEGATIONS COMMON TO ALL COUNTS**

26 23. Defendant City is a public entity which constructed and/or
27 refurbished and/or owns the Stadium located in Anaheim, California, and
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1 authorizes Defendant Angels Baseball to use and operate the Stadium.

2 24. Defendant Angels Baseball is a private entity that operates the
3 Stadium.

4 25. Plaintiff is a handicapped individual who is confined to a wheelchair
5 and thus limited in his mobility.

6 26. On or about July 12, 2009, Plaintiff was in lawful possession of a
7 ticket for a baseball game between the Los Angeles Angels of Anaheim and the
8 New York Yankees. A friend accompanied Plaintiff to the game on that day.

9 27. The ticket was for a seat located in section 322 of the Stadium and
10 had a face value of \$65.00. Among other amenities, this ticket provided for in-
11 seat waiter/waitress service for people located on the Club Level (including
12 section 322), a significant amenity for individuals, like Plaintiff, who are confined
13 to a wheelchair and/or are limited in their mobility.

14 28. When Plaintiff made his way to section 322 of the Stadium, he
15 searched for but was unable to find any wheelchair companion seating, i.e. a
16 general admission seat adjacent to a wheelchair accessible seat, readily apparent at
17 or near section 322. Plaintiff's friend approached an usher, who was employed by
18 Defendant Angels Baseball, to inquire about such seating. The usher informed
19 Plaintiff and his friend that there were only two wheelchair/companion seats
20 located on the entire level that included section 322. Both such seats were
21 unavailable.

22 29. The usher informed Plaintiff that if he wished to use the seat
23 indicated on his ticket, he would need to be carried to and from the seat. Plaintiff
24 was offered no alternative accommodations.

25 30. Plaintiff ultimately had no choice but to make his way down to the
26 terrace level to find adequate wheelchair/companion seating. However, virtually
27 all such seating is clustered in a \$29.00 per ticket section that does not provide for
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1 equivalent amenities as the seats in or around section 322, including, but not
2 limited to, in-seat waiter/waitress service. Due to the inadequate integration and
3 dispersal of wheelchair accessible seating, Plaintiff was forced to forego the
4 waiter/waitress services, a significant amenity, especially for an individual with
5 limited mobility and/or confined to a wheelchair. Furthermore, Plaintiff was
6 forced to sit in a less desirable section of the Stadium, and was not refunded the
7 difference between the cost of his ticket and the lesser value seat

8 31. As a member of the Plaintiff Class, Mr. Charlebois suffered
9 discrimination by the Defendants which is typical of that suffered by other
10 members of the Plaintiff Class. Mr. Charlebois was given no reasonable
11 alternative to foregoing his original seats with all the amenities offered and was
12 forced to sit in a less desirable area due to the lack of proper integration and
13 dispersal of wheelchair accessible seating.

14 **VII.**

15 **FIRST CAUSE OF ACTION**

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

17 **[*Cal. Civ. Code* §§ 51, 51.5 and 52]**

18 **(Against All Defendants)**

19 32. Plaintiff and the Plaintiff Class re-allege and incorporate by reference,
20 as though fully set forth herein, paragraphs 1 through 31 of this Complaint.

21 33. This claim is brought by the Plaintiff, on behalf of himself and on
22 behalf of the Plaintiff Class.

23 34. Section 51 of the *California Civil Code* (the “Unruh Act”) provides
24 that all persons in California are free and equal no matter their sex, race color,
25 religion, ancestry, national origin, disability or medical condition, and are entitled
26 to the full and equal accommodations, advantages, facilities, privileges, or services
27 in all business establishments of every kind whatsoever.
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1 35. Section 51.5 of the *California Civil Code* provides, in relevant part,
2 that no business establishment of any kind whatsoever shall discriminate against,
3 boycott or blacklist, or refused to buy from, contract with, sell to, or trade with any
4 person on account of their disability, among other protected groups.

5 36. Section 52 of the *California Civil Code* provides that whoever
6 denies, aids or incites a denial, or makes any discrimination or distinction contrary
7 to section 51 is liable for each and every offense.

8 37. Section 51(f) of the *California Civil Code* provides that any violation
9 of the right of any individual under the Americans with Disabilities Act of 1990
10 shall also be considered a violation of the Unruh Act.

11 38. Defendants' treatment of Plaintiff and members of the Plaintiff Class
12 has denied such members full and equal accommodations, advantages, facilities,
13 privileges and services with respect to Defendants' business establishment on the
14 basis of disability in violation of Plaintiff and Class Plaintiffs' rights under the
15 Unruh Act.

16 39. Defendants operate a business establishment within the jurisdiction
17 of the State of California and, as such, are obligated to comply with the provisions
18 of the Unruh Act.

19 40. The Unruh Act guarantees, *inter alia*, that persons with physical
20 disabilities are entitled to full and equal accommodations, advantages, facilities,
21 privileges, or services in all business establishments of every kind whatsoever
22 within the jurisdiction of the State of California regardless of their disability.
23 Section 51.5 specifically prohibits business establishments from discriminating
24 against or refusing to do business with individuals with disabilities.

25 41. Defendants have violated the Unruh Act by, *inter alia*, denying
26 Plaintiff and the Plaintiff Class full and equal accommodations, advantages,
27 facilities, privileges, or services offered by Defendants by: (1) failing to provide
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1 sufficient seating specifically for use by disabled individuals; (2) failing to make
2 reasonable accommodations for individuals who were, due to any disability
3 relating to mobility, unable to take equal advantage of the accommodations
4 provided to non-disabled individuals; (3) failing to adequately integrate
5 wheelchair accessible seating into the seating plan of the Stadium such that it was
6 dispersed throughout all seating areas and provided lines of sight and choices of
7 admission prices comparable to those for the general public, including those
8 sections with the Club Level amenities such as in-seat food and beverage service;
9 and (4) failing to adequately train its employees in accommodating individuals
10 confined to wheelchairs and/or other handicapped individuals.

11 42. In committing the acts as alleged in this Complaint, Defendant has
12 willfully violated the Unruh Act by failing to operate its services on a non-
13 discriminatory basis; failing to ensure that persons with disabilities have
14 nondiscriminatory access to public accommodations; failing to ensure that
15 personnel employed by Defendants are properly trained regarding their obligation
16 to accommodate persons with disabilities, pursuant to California law; and failing
17 to provide specific rights guaranteed by the ADA and the federal rules and
18 regulations adopted in implementation thereof.

19 43. Unless Defendants are restrained by a preliminary and permanent
20 mandatory injunction, Plaintiff and Class Plaintiffs, and other members of the
21 general public who are identified as handicapped, will continue to suffer
22 irreparable harm by Defendants' discriminatory practices. Plaintiff and Class
23 Plaintiffs have no adequate remedy at law because monetary damages, which may
24 compensate for past unlawful conduct, will not afford adequate relief for the harm
25 caused by the continuation of the wrongful conduct of Defendants and the denial
26 of rights protected by *Cal. Civ. Code* § 51.

27 44. The violation by Defendants of the rights of Plaintiff and Class
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1 Plaintiffs, as protected by the Unruh Act, entitle Plaintiff and Class Plaintiffs to
2 receive attorneys' fees, and declaratory and injunctive relief, all of which are
3 provided for in *Cal. Civ. Code* § 52 and are prayed for below.

4 **VIII.**

5 **SECOND CAUSE OF ACTION**

6 **VIOLATION OF THE**

7 **AMERICANS WITH DISABILITIES ACT**

8 **[42 U.S.C. 12101 *et. seq.*]**

9 **(Against All Defendants)**

10 45. Plaintiff and the Plaintiff Class re-allege and incorporate by reference,
11 as though fully set forth herein, paragraphs 1 through 44 of this Complaint.

12 46. Facilities constructed or renovated after January 26, 1992 are subject
13 to compliance with the ADA § 302(b)(2)(A)(iv) [42 U.S.C.A.
14 §12182(b)(2)(A)(iv)], and the federal regulations promulgated pursuant to the
15 ADA. Plaintiff is informed and believes and alleges that the Stadium was
16 renovated between 1998-1999 at a cost of approximately \$117 million dollars.
17 Defendant City of Anaheim paid approximately \$30 million towards the cost of
18 renovation, which included the remodeling and alteration of Section 322 and other
19 substantial changes to the Club Level Seating level for which Plaintiff had a ticket.
20 The Stadium is designed to accommodate approximately 44,000 patrons.

21 47. At the time of renovation and at all times since 1999 Defendants have
22 failed to bring the Stadium into compliance with the applicable provisions and
23 regulations of the ADA.

24 48. Pursuant to ADA § 302(a) [42 U.S.C.A. § 12182(a)], and the federal
25 regulations promulgated by the United States Department of Justice, 28 C.F.R. §
26 36.305, if removal of a barrier is not readily achievable, accommodation must be
27 made available through alternative methods. Defendant Angels Baseball has
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1 violated the ADA by failing to make reasonable accommodations to provide
2 accessible wheelchair seating in all areas of the Stadium and to make reasonable
3 accommodations for the disabled.

4 49. DOJ Regulation, 28 C.F.R. 35.151(b), requires each facility or part of
5 a facility altered by, on behalf of, or for the use of a public entity in a manner that
6 affects or could affect the usability of the facility or part of the facility shall, to the
7 maximum extent feasible, be altered in such a manner that the altered portion of
8 the facility is readily accessible to and usable by individuals with disabilities if the
9 alteration was commenced after January 26, 1992. Despite renovating the Stadium
10 in 1999, Defendants failed to come into conformity with this requirement,
11 pursuant to 28 C.F.R. 36.402 and other applicable accessibility statutes.

12 50. Pursuant to federal regulations promulgated by the United States, 28
13 C.F.R. Part 36, App. A, § 4.33.3, wheelchair accessible seating must be integrated
14 into the seating plan of the Stadium, dispersed throughout all seating areas, and
15 providing lines of sight and choices of admission prices comparable to those for
16 the general public.

17 51. By failing to permit Plaintiff and members of the Plaintiff Class to
18 obtain equivalent seating in the sections herein described within the Stadium,
19 Defendants discriminated against Plaintiff and the Plaintiff Class in violation of
20 the ADA.

21 52. Pursuant to ADA § 302(a) [42 U.S.C.A. § 12182(a)], and the federal
22 regulations promulgated pursuant to the ADA, Defendants cannot discriminate
23 against persons with disabilities solely based on their disability.

24 53. Unless Defendants are restrained by a preliminary and permanent
25 mandatory injunction, Plaintiff and Class Plaintiffs, and other members of the
26 general public who are identified as handicapped, will continue to suffer
27 irreparable harm by Defendants' discriminatory practices. Plaintiff and Class
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1 Plaintiffs have no adequate remedy at law because monetary damages, which may
2 compensate for past unlawful conduct, will not afford adequate relief for the harm
3 caused by the continuation of the wrongful conduct of Defendants and the denial
4 of rights protected by this Act.

5 54. The violation by Defendants of the rights of Plaintiff and Class
6 Plaintiffs, as protected by the Americans with Disabilities Act, entitle Plaintiff and
7 Class Plaintiffs to receive attorneys' fees, and declaratory and injunctive relief, all
8 of which are provided for are prayed for below.

9 **IX.**

10 **THIRD CAUSE OF ACTION**

11 **DISCRIMINATION BY A STATE FUNDED PROGRAM OR ACTIVITY**

12 **(Cal. Gov. Code § 1135)**

13 **(Against the City of Anaheim)**

14 55. Plaintiff and the Plaintiff Class re-allege and incorporate by reference,
15 as though fully set forth herein, paragraphs 1 through 54 of this Complaint.

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17 56. Section 1135(a) of the California Government Code prohibits
18 unlawful discrimination and the denial of full and equal access on the basis of
19 physical disability, to any program or activity that is funded directly by the State
20 of California or receives any financial assistance from the State of California.

21 57. Defendant City of Anaheim receives funding from the State of
22 California and operates and administers a program or activity within the meaning
23 of Cal. Gov. Code §1135(a).

24 58. The conduct alleged herein violates Cal. Government Code §1135(a),
25 as Defendant City of Anaheim has, on the basis of physical disability, unlawfully
26 discriminated against Plaintiff and the Plaintiff Class and denied them full and
27 equal access to its program or activity.
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1 59. Section §1135(b) of the California Government Code provides that,
2 with respect to discrimination on the basis of physical disability, programs and
3 activities subject to Cal. Government. Code §1135(a) shall meet all requirements
4 of the relevant sections of the Americans with Disabilities Act of 1990, all federal
5 rules and regulations adopted in implementation thereof, and all laws of the State
6 of California.

7 60. The conduct of Defendants violates California Government Code
8 §1135(b) by reason of the joint and several failure of the Defendants and each of
9 them to comply with their respective legal obligations under state and federal
10 disability, civil rights and discrimination statutes, and regulations, including but
11 not limited to the causes of action alleged herein in the First and Second Causes of
12 action alleged by Plaintiff and the Plaintiff Class above and the Defendants'
13 failure to comply with California public policy favoring the protection of civil
14 rights of people with disabilities.

15 61. Through their acts and omissions described herein, Defendants have
16 violated California Government Code §1135 by unlawfully denying Plaintiff and
17 the Plaintiff Class the benefits of, and unlawfully subjecting Plaintiff and the
18 Plaintiff Class to discrimination under Defendants' programs and activities.

19 62. Plaintiff is informed, believes, and based thereon alleges that
20 Defendants committed the acts and omissions alleged herein intentionally and/or
21 with reckless disregard for the rights of Plaintiff and the Plaintiff Class.

22 63. Plaintiff and the Plaintiff Class suffer, continue to suffer and will
23 suffer harm in the form of discriminatory treatment and denial of access.

24 64. Because Defendants' discriminatory conduct is ongoing, declaratory
25 and injunctive relief are appropriate remedies, including reasonable attorneys' fees
26 and costs in filing this action.

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X.

FOURTH CAUSE OF ACTION

CALIFORNIA CIVIL CODE §§54 THROUGH 55.2

(Against All Defendants)

65. Plaintiff and the Plaintiff Class re-allege and incorporate by reference, as though fully set forth herein, paragraphs 1 through 64 of this Complaint.

66. California Civil Code §54 (a) states that: Individuals with disabilities or medical conditions have the same right as the general public to the full and free use of the streets, highways, sidewalks, walkways, public buildings, medical facilities, including hospitals, clinics, and physicians' offices, public facilities, and other public places.

67. Further, California Civil Code §54.1 (a) (1) states: Individuals with disabilities shall be entitled to full and equal access, as other members of the general public, to accommodations, advantages, facilities, medical facilities, including hospitals, clinics, and physicians' offices, and privileges of all common carriers, airplanes, motor vehicles, railroad trains, motor buses, streetcars, boats, or any other public conveyances or modes of transportation (whether private, public, franchised, licensed, contracted, or otherwise provided), telephone facilities, adoption agencies, private schools, hotels, lodging places, places of public accommodation, amusement, or resort, and other places to which the general public is invited, subject only to the conditions and limitations established by law, or state or federal regulation, and applicable alike to all persons.

68. Additionally, §54.1 (a) (3) states that "Full and equal access," for purposes of this section in its application to transportation, means access that meets the standards of Titles II and III of the Americans with Disabilities Act of 1990 (Public Law 101-336) and federal regulations adopted pursuant thereto, except that, if the laws of this state prescribe higher standards, it shall

1 maintain access that meets those higher standards.

2 69. Defendants' have violated the rights of Plaintiff and the Class
3 Plaintiffs by denying equal access to the Stadium, as alleged in the First, Second
4 and Third Causes of Action.

5 70. As a result of Defendants' violation of the rights of Plaintiff and the
6 Class Plaintiffs as protected by the California Public Accommodations Law,
7 Plaintiff and Class Plaintiffs are entitled to injunctive relief and attorneys' fees as
8 provided in Cal. Civ. Code §55.

9 **XI.**

10 **FIFTH CAUSE OF ACTION**

11 **UNFAIR COMPETITION – VIOLATION OF**
12 **BUSINESS & PROFESSIONS CODE § 17200, et seq.**

13 **(Against Defendant Angels Baseball)**

14 71. Plaintiff and the Plaintiff Class re-allege and incorporate by reference,
15 as though fully set forth herein, paragraphs 1 through 70 of this Complaint.

16 72. Defendant Angels Baseball's violations of the Civil Rights Laws and
17 Regulations, as alleged herein, include: (1) Defendant's failure to provide
18 sufficient seating specifically for use by disabled individuals; (2) Defendant's
19 failure to make accommodations for individuals who were, due to any disability
20 relating to mobility, unable to take equal advantage of the accommodations
21 provided to non-disabled individuals; (3) Defendant's failure to adequately
22 integrate wheelchair accessible seating into the seating plan of the Stadium such
23 that it was dispersed throughout all seating areas and provided lines of sight and
24 choices of admission prices comparable to those for non-disabled individuals; (4)
25 Defendant's failure to adequately train its employees in accommodating
26 individuals confined to wheelchairs and/or other handicapped individuals; (5)
27 Defendant's failure to institute policies and procedures for mobility impaired
28

1 customers to identify the location of accessible seating as well as purchase and
2 utilize accessible seating within the Stadium. The aforementioned violations
3 constitute unfair business practices in violation of the Unfair Competition Law,
4 California Business & Professions Code Section 17200, *et seq.*

5 73. As a result of Defendant Angels Baseball's unfair business practices,
6 Defendant Angels Baseball has reaped unfair benefits and illegal profits at the
7 expense of Plaintiff, the Plaintiff Class and members of the public.

8 74. Defendant Angels Baseball's unfair business practices entitle Plaintiff
9 and the Plaintiff Class to seek preliminary and permanent injunctive relief, as well
10 as costs, and reasonable attorney fees pursuant to statute including California
11 Code of Civil Procedure section 1021.5.

12 **PRAYER**

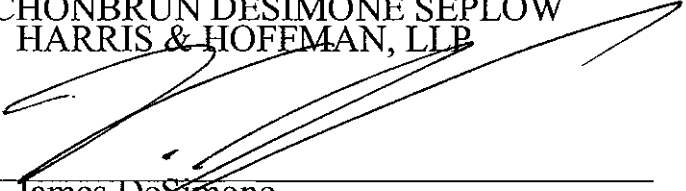
13 WHEREFORE, Plaintiff prays for judgment as follows:

- 14 a. For an injunction ordering Defendants to comply with the statutes set
15 forth herein; that a judicial determination and declaration pursuant to
16 28 U.S.C. § 2201, 2202 be made of the rights of Plaintiff and the
17 Plaintiff Class, and of the Court approved remedial measures that
18 Defendants must take to prevent discrimination of disabled patrons
19 who use wheelchairs;
- 20 b. For costs of suit;
- 21 c. For reasonable attorney fees and costs pursuant to the Americans with
22 Disabilities Act; California Civil Code §§ 52, 55; California Business
23 and Professions Code § 17200; and California Code Civil Procedure
24 § 1021.5; and

25 For such other and further relief as the Court may deem just and proper.
26
27
28

1 Dated: June 15, 2010

SCHONBRUN DESIMONE SEPLOW
HARRIS & HOFFMAN, LLP



V. James DeSimone
Michael D. Seplow
Amanda R. Canning
Attorneys for Plaintiff
J. PAUL CHARLEBOIS


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DEMAND FOR JURY TRIAL

Plaintiff J. Paul Charlebois hereby demands a trial by jury on all claims.

Dated: June 15, 2010

SCHONBRUN DESIMONE SEPLOW
HARRIS & HOFFMAN, LLP



V. James DeSimone
Michael D. Seplow
Amanda R. Canning
Attorneys for Plaintiff
J. PAUL CHARLEBOIS

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

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge Andrew Guilford and the assigned discovery Magistrate Judge is Arthur Nakazato.

The case number on all documents filed with the Court should read as follows:

SACV10 - 853 AG (ANx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge



NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

Western Division
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

Southern Division
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

Eastern Division
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Central District of California

J. PAUL CHARLEBOIS, an individual on behalf of himself and on behalf of all others similiary situated,

Plaintiff

v.

ANGELS BASEBALL LP, CITY OF ANAHEIM, and DOES 1 through 10, inclusive,

Defendant

Civil Action No. SAC 110-853-AG(ANX)

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Angels Baseball LP, 2000 Gene Autry Way, Anaheim, CA 92806; City of Anaheim, 200 S. Anaheim Blvd., Anaheim, CA 92805.

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

V. James DeSimone
SCHONBRUN DeSIMONE SEPLOW HARRIS & HOFFMAN, LLP
723 Ocean Front Walk, Venice, CA 90291

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Date: 06/15/2010

CLERK OF COURT

MARSHALL

Signature of Clerk or Deputy Clerk

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA CIVIL COVER SHEET

I (a) PLAINTIFFS (Check box if you are representing yourself) J. PAUL CHARLEBOIS, an individual, on behalf of himself and on behalf of all others similarly situated

DEFENDANTS ANGELS BASEBALL LP, CITY OF ANAHEIM, and DOES 1 THROUGH 10;

(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)

V. James DeSimone, SBN 119668 SCHONBRUN DeSIMONE SEPLOW HARRIS & HOFFMAN LLP 723 Ocean Front Walk, Venice, CA 90291; (310) 396-0731

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an X in one box only.)

- 1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.)

- Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
PTF DEF
Incorporated or Principal Place of Business in this State
Incorporated and Principal Place of Business in Another State
Foreign Nation

IV. ORIGIN (Place an X in one box only.)

- 1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from another district (specify):
6 Multi-District Litigation
7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: JURY DEMAND: Yes No (Check 'Yes' only if demanded in complaint.)

CLASS ACTION under F.R.C.P. 23: Yes No

MONEY DEMANDED IN COMPLAINT: \$ Attorneys' fees, enhancement fee

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

Americans with Disabilities Act (42 U.S.C. 12101 et seq): Failure to provide adequate seating at Angels Stadium to individuals who require wheelchair accessible seating.

VII. NATURE OF SUIT (Place an X in one box only.)

Table with 6 columns: 400-490, 500-590, 600-690, 700-790, 800-890, 900-950. Contains various legal categories like Insurance, Personal Injury, Real Property, etc.

FOR OFFICE USE ONLY: Case Number: SACV10-853

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? No Yes
If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? No Yes
If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) A. Arise from the same or closely related transactions, happenings, or events; or
 B. Call for determination of the same or substantially related or similar questions of law and fact; or
 C. For other reasons would entail substantial duplication of labor if heard by different judges; or
 D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named plaintiff resides.
 Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles County	

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named defendant resides.
 Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Angels Baseball LP: Orange County City of Anaheim: Orange County	

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH claim arose.
 Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Orange County	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties
 Note: In land condemnation cases, use the location of the tract of land involved

X SIGNATURE OF ATTORNEY (OR PRO PER):  Date 6/15/10

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))