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CLERK, U.S. DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

BY \_\_\_\_\_  
DEPUTY CLERK

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13 BANCSHARES

14 UNITED STATES DISTRICT COURT  
15 EASTERN DISTRICT OF CALIFORNIA

Garcia et al v. United Security Bank NA et al

16 SUZANNE GARCIA and TAMMY  
DENNISON

Case No. 1:08-CV-00561-LJO-DLB

Doc. 14

Civil Rights

17 Plaintiffs,

v.

18 **CONSENT DECREE AND**  
19 **[PROPOSED] ORDER**

20 UNITED SECURITY BANK NA; UNITED  
SECURITY BANCSHARES; AND DOES 1-  
10, INCLUSIVE,

21 Defendants,

22 \_\_\_\_\_ /

1 **CONSENT DECREE AND ORDER**

2 1. Plaintiffs SUZANNE GARCIA and TAMMY DENNISON (“plaintiffs”) filed a  
3 Complaint in this action on April 23, 2008, to obtain recovery of damages for their  
4 discriminatory experiences, denial of access, and denial of civil rights, and to enforce  
5 provisions of the Americans with Disabilities Act of 1990 (“ADA”), 42 U.S.C. §§ 12101 et  
6 seq., and California civil rights laws against Defendants, UNITED SECURITY BANK, NA;  
7 UNITED SECURITY BANCSHARES (“defendants”), relating to the condition of the public  
8 accommodations at the United Security Bank located at 145 East Durian Ave. Coalinga,  
9 California. Plaintiffs have alleged that Defendants violated Title III of the ADA and sections  
10 51, 52, 54, 54.1, 54.3 and 55 of the California Civil Code, and sections 19955 *et seq.* of the  
11 California Health and Safety Code by failing to provide full and equal access to their facilities  
12 at the United Security Bank.

13 2. Defendants deny the allegations in the Complaint and by entering into this  
14 Consent Decree do not admit liability to any of the allegations in Plaintiffs' Complaint filed in  
15 this action. The parties hereby enter into this Consent Decree for the purpose of resolving this  
16 lawsuit without the need for protracted litigation, and without the admission of any liability.

17 **JURISDICTION:**

18 3. The parties to this Consent Decree agree that the Court has jurisdiction of this  
19 matter pursuant to 28 USC §1331 for alleged violations of the Americans with Disabilities Act  
20 of 1990, 42 USC 12101 *et seq.* and pursuant to supplemental jurisdiction for alleged violations  
21 of California Health & Safety Code §19955 *et seq.*, including §19959; Title 24 California Code  
22 of Regulations; and California Civil Code §§51; 52; 54; 54.1; 54.3; and 55.

23 4. In order to avoid the costs, expense, and uncertainty of protracted litigation, the  
24 parties to this Consent Decree agree to entry of this Order to resolve all claims <sup>PLR</sup> regarding ~~§51 + TD~~  
25 ~~injunctive relief~~ raised in the Complaint filed with this Court. Accordingly, they agree to the  
26 entry of this Order without trial or further adjudication of any issues of fact or law concerning  
27 Plaintiffs' claims, <sup>PLR §51 + TD</sup> ~~for injunctive relief.~~  
28

1           5.       WHEREFORE, the parties to this Consent Decree hereby agree and stipulate to  
2 the Court's entry of this Consent Decree and Order, which provides as follows:

3       **SETTLEMENT OF INJUNCTIVE RELIEF:**

4           6.       This Order shall be a full, complete, and final disposition and settlement of <sup>PRR BY M</sup> all <sup>TKR 36</sup>  
5 plaintiffs' claims against Defendants ~~for injunctive relief~~ <sup>and damages</sup> <sub>TD</sub> that have arisen out of the acts or  
6 omissions alleged or which could have been alleged in the subject Complaint. The parties  
7 agree that there has been no admission or finding of liability or violation of the ADA and/or  
8 California civil rights laws, and this Consent Decree and Order should not be construed as  
9 such.

10          7.       The parties agree and stipulate that the corrective work will be performed in  
11 compliance with the standards and specifications for disabled access as set forth in the  
12 California Code of Regulations, Title 24-2 and Americans with Disabilities Act Accessibility  
13 Guidelines, unless other standards are specifically agreed to in this Consent Decree and Order.

14          8.       **Remedial Measures:**

15  
16       **A) Inclined Route:** Construct an accessible path of travel between the East Durian St. entry  
17 door and the public sidewalk, via an inclined route that will include handrails on both sides if  
the incline of the route exceeds 5.0% slope.

18       **B) Level Landing:** Provide a clear and level landing that encompasses the floor areas at the top  
19 of the inclined route; at the exterior side of the Durian St. entry door; in front of the ATM; and  
20 in front of the night deposit box.

21       **C) Step to West Walkway:** Where constructing a new level landing in the vicinity of the night  
22 deposit box, results in an abrupt change of floor level between the new landing and the existing  
23 walkway, perform either Option-1 or 2.

- 24       • **Option-1:** Allow passage across the change of level via a step that includes required  
handrails on each side, per **Exhibit A**, a drawing by Karl Danz.
- 25       • **Option-2:** Block pedestrian passage by installing a wall or guardrail.

26       **D) Steps to Durian St. Sidewalk:** Where constructing a new level landing that extends  
27 southward from the Durian St. entry door to the public sidewalk, results in an abrupt change of  
28 level between the new landing and the sidewalk, perform either Option 1 or 2.

- **Option-1:** Allow passage across the change of level via steps that include required  
handrails, per **Exhibit A**.
- **Option-2:** Block pedestrian passage by installing a wall or guardrail.

1 **E) Parking:** Replace the existing accessible parking space with a new, van-accessible parking  
2 space located in the southeast corner of the parking lot, as shown in Exhibit A.

3 **F) Miscellaneous:** Provide the following items that are not shown in Exhibit A.  
4 **1.** Provide all code required parking signage, including a “tow-away” enforcement sign, located  
5 at the vehicle entrance to the parking lot or at a location that is clearly visible from the  
6 accessible parking space.  
7 **2.** Adjust the south, bank entrance door (facing Durian St.) so that no more than 5-lbs. of force  
8 is needed to open the door.  
9 **3.** Install a symbol of access (6” x 6” decal) at both bank entry doors.  
10 **4.** Limit the swing of the south entry door so that when opened, its leading edge is no closer  
11 than 36-inch to the face of the ATM. Install either a chain between the door transom and the  
12 top of the door, or a floor-mounted doorstop, or install an equivalent means of limiting the  
13 door’s swing.

14 **9. Timing of Injunctive Relief:** Defendants will submit plans for all corrective  
15 work to the appropriate governmental agencies within 30 days of the entry of this consent  
16 decree by the Court. Defendants will commence work within 30 days of receiving approval  
17 from the appropriate agencies. Defendants will complete the work within 30 days of  
18 commencement. For work not requiring building permits, the work will be completed within  
19 60 days of entry of this Consent Decree and Order by the Court. In the event that unforeseen  
20 difficulties prevent Defendants from completing any of the agreed-upon injunctive relief,  
21 within the stipulated timeframes. Defendants or their counsel will notify Plaintiffs' counsel in  
22 writing within 15 days of discovering the delay. Defendants or their counsel will notify  
23 Plaintiffs' counsel when the corrective work is completed, and in any case will provide a status  
24 report no later than 120 days from the entry of this Consent Decree.

25 **10.** If Plaintiffs contend any or some portion of the corrective construction work to  
26 be completed under this Consent Decree has not been carried out correctly, Plaintiffs will  
27 provide written notice to Defendants and their counsel detailing in what respects Plaintiffs  
28 contend the premises are not compliant. Within 14 calendar days of receiving this notice,  
Defendants will respond to this notice. If the parties are not able to agree upon a course of  
action, they will hold a meet and confer within 30 calendar days of Plaintiffs' written notice and

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will use their best efforts to resolve the dispute informally. If the parties are still not able to agree, they will submit the matter to the judge then assigned to the case.

**DAMAGES, ATTORNEY FEES, LITIGATION EXPENSES, AND COSTS:**

*Defendants shall pay plaintiffs Suzanne Garcia and Tammy Dennison*  
11. The parties have not yet reached an agreement regarding Plaintiffs' claims for *damages*, attorney fees, litigation expenses and costs. *These issues shall be the subject of attorneys fees, litigation expenses and costs in the amount of \$30,883 within 15 days.* *PLR, SS+TD*

**ENTIRE CONSENT ORDER:**

12. This Consent Decree and Order and Attachment A to this Consent Decree, which is incorporated by this reference as if fully set forth in this document, constitute the entire agreement between the signing parties on the *all* matters of *injunctive relief and damages* and no other statement, promise, or agreement, either written or oral, made by any of the parties or agents of any of the parties, that is not contained in this written Consent Decree and Order, shall be enforceable regarding *all* the matters of *injunctive relief* described herein. *PLR 56 TD*

**CONSENT ORDER BINDING ON PARTIES AND SUCCESSORS IN INTEREST:**

13. This Consent Decree and Order shall be binding on Plaintiffs SUZANNE GARCIA and TAMMY DENNISON; Defendants UNITED SECURITY BANK NA; UNITED SECURITY BANCSHARES; and any successors in interest. The parties have a duty to so notify all such successors in interest of the existence and terms of this Consent Decree and Order during the period of the Court's jurisdiction of this Consent Decree and Order.

**MUTUAL RELEASE AND WAIVER OF CIVIL CODE SECTION 1542 AS TO**

**~~INJUNCTIVE RELIEF ONLY~~ ALL MATTER** *PLR 56 TD*

14. Each of the parties to this Consent Decree understands and agrees that there is a risk and possibility that, subsequent to the execution of this Consent Decree, any or all of them will incur, suffer, or experience some further loss or damage with respect to the Lawsuit which are unknown or unanticipated at the time this Consent Decree is signed. Except for all obligations required in this Consent Decree, the parties intend that this Consent Decree applies to all such further loss with respect to the Lawsuit, except those caused by the parties

*\$10,000. cash for all damages claims whatsoever by check within 15 days of today. PLR 56 TD*

1 subsequent to the execution of this Consent Decree. Therefore, except for all obligations  
2 required in this Consent Decree, this Consent Decree shall apply to and cover any and all  
3 claims, demands, actions and causes of action by the parties to this Consent Decree with  
4 respect to the Lawsuit, whether the same are known, unknown or hereafter discovered or  
5 ascertained, and the provisions of Section 1542 of the California Civil Code are hereby  
6 expressly waived. Section 1542 provides as follows:

7 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE  
8 CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR  
9 AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR  
10 HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT  
11 WITH THE DEBTOR.

12 15. For all obligations required in this Consent Decree, and including the referenced  
13 claims for damages, statutory attorney fees, litigation expenses and costs, each of the parties to  
14 this Consent Decree, on behalf of each, their respective agents, representatives, predecessors,  
15 successors, heirs, partners and assigns, releases and forever discharges each other Party and all  
16 officers, directors, shareholders, subsidiaries, joint venturers, stockholders, partners, parent  
17 companies, employees, agents, attorneys, insurance carriers, heirs, predecessors, and  
18 representatives of each other Party, from all claims, demands, actions, and causes of action of  
19 whatever kind or nature, presently known or unknown, arising out of or in any way connected  
20 with the Lawsuit.

21 **TERM OF THE CONSENT DECREE AND ORDER:**

22 16. This Consent Decree and Order shall be in full force and effect for a period of  
23 twelve (12) months after the date of entry of this Consent Decree and Order, or until the  
24 injunctive relief contemplated by this Order is completed, whichever occurs later. The Court  
25 shall retain jurisdiction of this action to enforce provisions of this Order for twelve (12) months  
26 after the date of this Consent Decree, or until the relief contemplated by this Order is  
27 completed, whichever occurs later.

28 **SEVERABILITY:**

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18. If any term of this Consent Decree and Order is determined by any court to be unenforceable, the other terms of this Consent Decree and Order shall nonetheless remain in full force and effect.

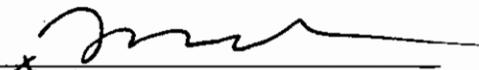
**SIGNATORIES BIND PARTIES:**

19. Signatories on the behalf of the parties represent that they are authorized to bind the parties to this Consent Decree and Order. This Consent Decree and Order may be signed in counterparts and a facsimile signature shall have the same force and effect as an original signature.

Dated: x 01/14/, 2008<sup>9</sup>

  
Plaintiff SUZANNE GARCIA

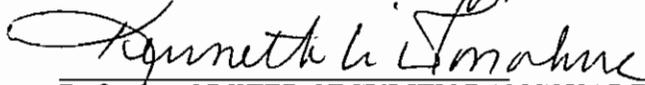
Dated: x 01/14, 2008<sup>9</sup>

  
Defendant TAMMY DENNISON

Dated: 1/14, 2008<sup>9</sup>

  
Defendant UNITED SECURITY BANK NA  
Senior Vice President & Chief Financial Officer

Dated: 1/14, 2008<sup>9</sup>

  
Defendant UNITED SECURITY BANCSHARES  
Senior Vice President & Chief Financial Officer

///  
///  
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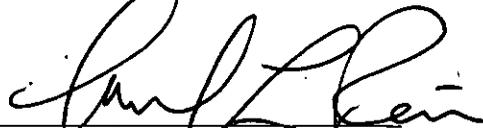
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APPROVED AS TO FORM:

Dated: 1/14/09, 2008

PAUL L. REIN  
CELIA MCGUINNESS  
LAW OFFICES OF PAUL L. REIN

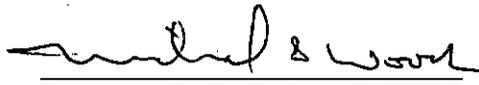
JULIE OSTIL  
LAW OFFICE OF JULIE OSTIL



Attorneys for Plaintiffs  
SUZANNE GARCIA AND TAMMY  
DENNISON

Dated: 1/14, 2008

MICHAEL G. WOODS  
MCCORMICK BARSTOW ET AL



Attorneys for Defendants UNITED SECURITY  
BANK NA; UNITED SECURITY  
BANCSHARES

**ORDER**

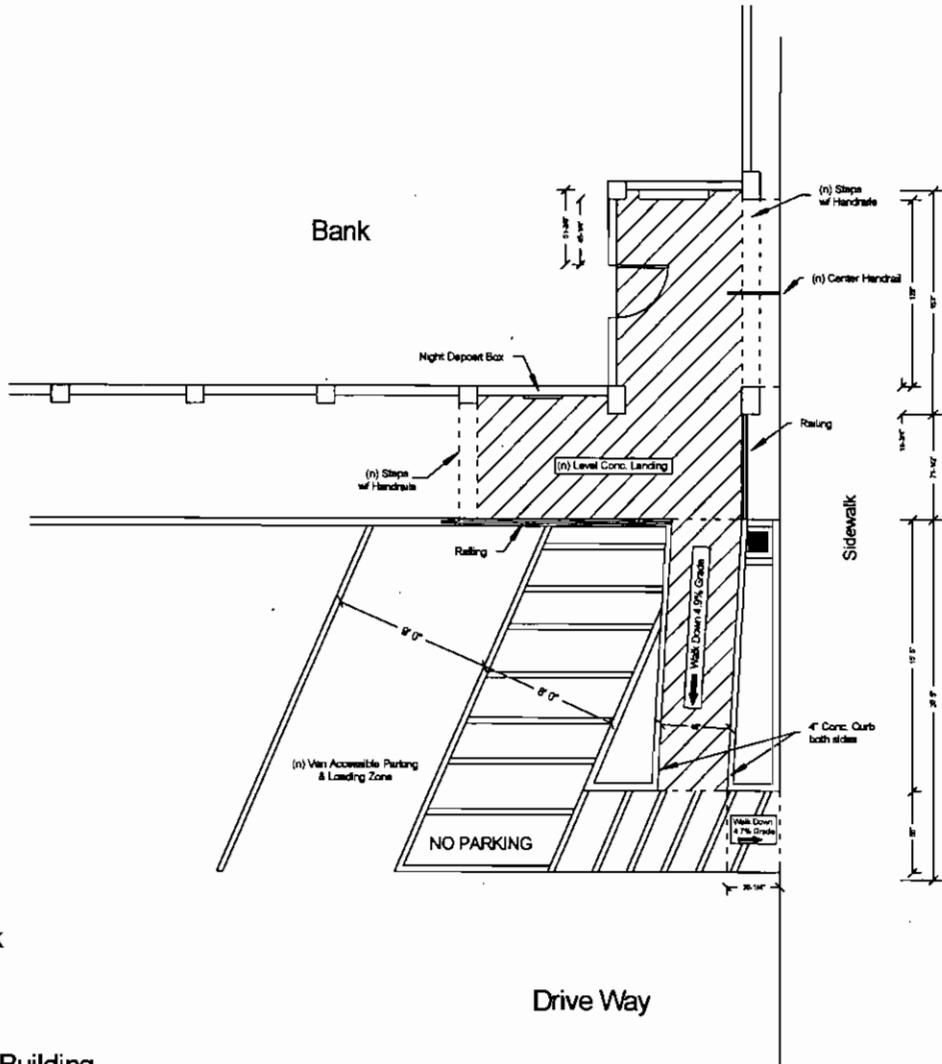
Pursuant to stipulation, and for good cause shown, **IT IS SO ORDERED.**

Dated: Jan 14, 2009



HON. LAWRENCE J. O'NEILL  
U.S. DISTRICT JUDGE

# **Exhibit A**



E. Durian Street

United Security Bank  
 145 E. Durian Street  
 Coalinga, CA

Proposed Access to Building,  
 ATM Machine and Night Deposit Box

Drive Way