

**FILED**

JAN 05 2010

Timothy S Daubert

P.O. Box 371

Lindsay, Ca. 93247

(559) 562-8041

09/19/2009

Plaintiff

City Of Lindsay

251 E. Honolulu

Lindsay, Ca. 93247

(559) 562- 5927

1:10-CV-0015-OLW-SMS

Defendant

CLERK, U.S. DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA  
BY \_\_\_\_\_  
DEPUTY CLERK

My name is Timothy S Daubert. I am the Disability Advocate in and for the disabled in Lindsay Ca.

And I am a disabled veteran. I am confined to a wheelchair both manual and powered I am Filling this complaint against The Defendant City of Lindsay for the following reasons.

1 The Defendant City of Lindsay has received Federal Grants for McDermott Field House

1. The Defendant had a Haunted Laser Tag activity at the Mcdermont Field House 365 N. Sweetbriar in Lindsay Ca. From October 16-October 31, 2009

2. On October 21 2009 I went to the McDermont Field House in my power chair. I paid my admission fee. I ask the clerk where the disabled go to play the Haunted Laser Tag she told me there was a ramp next to the tables by the basketball court I went to the ramp. It was too steep to go down. I left the area

Bill Bream came with me

3. I went home and E-mailed the Disability Coordinator Diane Bucaroff (attached) on October 28,2009 She sent me a certified letter (attached) Telling me I would have to pay to see the Handicap ramp that went to the Haunted Laser Tag.

4. At 5pm On October 28,2009 Myself and Bill Bream went to McDermont Field House I paid the Clerk \$5.00 soon a security person came and led me through the video game area to a set of double doors. I went through the doors and I was outside there was a ramp there I followed the man down the ramp to another door where he said it was where the Laser Tag Area was. Mr. Bream came also. The Security man stayed while I played amd when I was through he walked with me back up wher I started from. I went home

5. At 6:22 on October 28, 2009 I e-mailed the Disability Coordinator Dianne Bucaroff (attached) in this E-mail I told her that the ramps going down to the Haunted Laser Tag area were 39 feet long Federal regulations 4.8.2 State that ramps can not be over 30 feet. And that exposing me and the other disabled

people to outside weather conditions while others use the inside ramp to go to the Laser Tag area is discrimination. Diane Bucaroff did not open my e-mail.

The City Of Lindsay Violated Title 2 Title 3 Of The Americans with Disability Act 1990 and Violated Section 504 of The Rehabilitation Act. Therefore I request that I be granted Injunctive Relief and monetary relief in the amount the Federal Judge deems appropriate.

Date: January 4, 2010

A handwritten signature in black ink, appearing to read "Timothy S. Daubert", written over a dotted line.

Timothy S Daubert

**windows mail**

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**From:** "windows mail" <timd01@clearwire.net>  
**To:** <dbucaroff@lindsay.ca.us>  
**Sent:** Wednesday, October 21, 2009 4:16 PM  
**Subject:** Mcdermont Field House Haunted Laser Tag  
My name is Timothy S Daubert

I am the disability advocate in and for the disabled in Lindsay Ca. This e-mail is to inform you that the ramp going down to the Haunted Laser Tag at McDermont Field House 365 N. Sweetbriar Lindsay Ca is in violation of Federal Regulations and Title 2 Title 3 and section 504 of the Rehabilitation Act the slope is very steep and it is dangerous to the disabled in wheelchairs both manual and powered. This makes it so the disabled are excluded from participating in this activity. That is discrimination and against Federal law. You are the Disability Coordinator and its your job to make sure the disabled are not excluded from any activity. Therefore you must cease this activity. If you fail to do so I will file a Federal Lawsuit against the City Of Lindsay Soon after 10/31/2009

Timothy S Daubert

[timd01@clearwire.net](mailto:timd01@clearwire.net)

**windows mail**

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**From:** "windows mail" <timd01@clearwire.net>  
**To:** <dbucaroff@lindsay.ca.us>  
**Sent:** Wednesday, October 28, 2009 6:22 PM  
**Subject:** McDermont Field House Laser Tag  
My Name is Timothy S Daubert

I am the Disability advocate in and for the disabled in Lindsay Ca. This Evening at 5pm I went to McDermont Field House and paid to go play Haunted Laser Tag. The security person took me in the back of McDermont Field House to a Door that went outside to a ramp going down to the basement and to the laser tag area I played laser tag I did have a great time. So this is difficult for me. The two ramps going down are over 39 feet long Federal Regulations say that a ramp cannot be over 30 feet long. Also by making the disabled go outside exposed to the weather conditions while walking people go inside to go to the basement is discrimination. Therefore McDermont Field House having Haunted Laser Tag is against Title 2 and Title 3 of the Americans With Disability Act And Section 504 of the Rehabilitation Act and your failure to make it accessible forces me to file a federal lawsuit against the City Of Lindsay Soon after 10/31/2009

Timothy S Daubert

**windows mail**

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**From:** "Diane Bucaroff" <dbucaroff@lindsay.ca.us>  
**To:** "windows mail" <timd01@clearwire.net>  
**Sent:** Wednesday, October 21, 2009 4:29 PM  
**Attach:** ATT00030.txt  
**Subject:** Read: Mcdermont Field House Haunted Laser Tag  
Your message

To: dbucaroff@lindsay.ca.us  
Subject: Mcdermont Field House Haunted Laser Tag  
Sent: 10/21/2009 4:16 PM

was read on 10/21/2009 4:29 PM.



# City of Lindsay



P.O. Box 369 — Lindsay, California 93247 — 251 Honolulu Street  
559 • 562 • 7117  
559 • 562 • 7139 fax

October 26, 2009

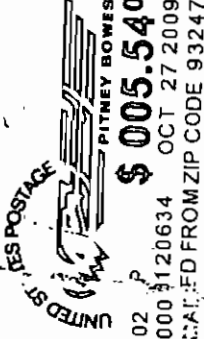
Dear Mr. Daubert,

I have referred your ADA complaint to the McDermont Field House staff. They have informed me that there is another ramp that provides access to all laser tag activities in the basement. There is a separate fee for laser tag that must be paid prior to partaking in the activity. This fee may be paid at the front desk, and then you can enter the area through the alternate ramp.

A handwritten signature in cursive script, appearing to read "Diane Bucaroff".

Diane Bucaroff  
Disability Coordinator





PITNEY BOWES  
**\$ 005.540**  
 02 P  
 000 120634 OCT 27 2009  
 MAILED FROM ZIP CODE 93247

**RETURN RECEIPT  
 REQUESTED**

251 E. HONOLULU STREET  
 P.O. BOX 369  
 LINDSAY, CA 93247



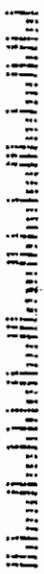
*Mothy Lambert  
 P.O. Box 371  
 Lindsay, Ca  
 93247*

PLACE STICKER AT TOP OF ENVELOPE  
 TO THE RIGHT OF RETURN ADDRESS.  
 FOLD AT DOTTED LINE  
**CERTIFIED MAIL**



7000 0600 0026 0519 5212

5324740371





JS-44 (Rev. 3/99)

CIVIL COVER SHEET

1:10-cv-00015-DWW-87M

The 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, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Timothy S. Dambart

DEFENDANTS

CITY of Lindsay

(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed (IN U.S. PLAINTIFF CASES ONLY) Tulare

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

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 (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |                                     |                                     |   |                          |                          |
|---|-------------------------------------|-------------------------------------|---|--------------------------|--------------------------|
|   | PTF                                 | DEF                                 |   | PTF                      | DEF                      |
| Citizen of This State                   | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Incorporated or Principal Place of Business in This State     | <input type="checkbox"/> | <input type="checkbox"/> |
| Citizen of Another State                | <input type="checkbox"/>            | <input type="checkbox"/>            | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> | <input type="checkbox"/> |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/>            | <input type="checkbox"/>            | Foreign Nation  | <input type="checkbox"/> | <input type="checkbox"/> |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 311 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employer's Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 363 Personal Injury—Product Liability <input type="checkbox"/> 364 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 425 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 420 Copyrights <input type="checkbox"/> 430 Patent <input type="checkbox"/> 440 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deposition <input type="checkbox"/> 470 Railroads Influenced and Control Organizations <input type="checkbox"/> 480 Selective Service <input type="checkbox"/> 490 Securities/Commodities Exchange <input type="checkbox"/> 475 Customer Challenge 12 USC 3410 <input type="checkbox"/> 491 Agricultural Act <input type="checkbox"/> 492 Economic Stabilization Act <input type="checkbox"/> 493 Environmental Matters <input type="checkbox"/> 494 Energy Allocation Act <input type="checkbox"/> 495 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Torts to Land <input type="checkbox"/> 245 Torts to Land <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input checked="" type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 515 Habeas Corpus: <input type="checkbox"/> 520 General <input type="checkbox"/> 525 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<b>LABOR</b> <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inv. Security Act	<b>SOCIAL SECURITY</b> <input type="checkbox"/> 601 HIA (1395ff) <input type="checkbox"/> 602 Black Lung (923) <input type="checkbox"/> 603 DIWC/DIWW (405(g)) <input type="checkbox"/> 604 SSID Title XVI <input type="checkbox"/> 605 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 670 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 671 IRS—Third Party 26 USC 7609

V. 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 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

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

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$

CHECK YES only if demanded in complaint: JURY DEMAND:  Yes  No

VIII. RELEVANT CASE(S) IF

(See instructions): JUDGE

DOCKET NUMBER RECEIVED

DATE SIGNATURE OF ATTORNEY OF RECORD

JAN 05 2010

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE CLERK, U.S. DISTRICT COURT EASTERN DISTRICT OF CALIFORNIA BY DEPUTY CLERK Attachment