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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

THERESA BROOKE,  
Plaintiff,  
v.  
H&K PARTNERSHIP, a California  
partnership dba Best Economy Inn & Suites,  
Defendant.

Case No.: 1:16-cv-1406-AWI-JLT  
ORDER TO PLAINTIFF TO SHOW CAUSE WHY  
THE ACTION SHOULD NOT BE DISMISSED  
FOR LACK OF STANDING

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THERESA BROOKE,  
Plaintiff,  
v.  
C & S CHONG INVESTMENT  
CORPORATION, a California corporation  
dba La Quinta Inn Bakersfield North,  
Defendant.

Case No.: 1:16-cv-1407-LJO-JLT

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THERESA BROOKE,  
Plaintiff,  
v.  
JDS HOSPITALITY GROUP, LLC, a  
California limited liability company dba  
Days Inn Bakersfield,  
Defendant.

Case No.: 1:16-cv-1408-DAD-JLT

1 THERESA BROOKE,

2 Plaintiff,

3 v.

4 JHP HOSPITALITY GROUP, INC., a  
5 California corporation dba Ramada Limited  
6 Bakersfield North,

7 Defendant.

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Case No.: 1:16-cv-1409-AWI-JLT

8 THERESA BROOKE,

9 Plaintiff,

10 v.

11 D.P.R.L. INVESTMENTS, LLC, a  
12 California limited liability company dba  
13 Hotel Rosedale,

14 Defendant.

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Case No.: 1:16-cv-1410-LJO-JLT

15 THERESA BROOKE,

16 Plaintiff,

17 v.

18 KOO JIN HYUN & CHU MYUNG HEE,  
19 trustees of the KOO JIN HYUN & CHU  
20 MYUNG HEE TRUST dba Hampton Inn &  
21 Suites Bakersfield North-Airport,

22 Defendants.

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Case No.: 1:16-cv-1411-DAD-JLT

23 THERESA BROOKE,

24 Plaintiff,

25 v.

26 PRIME HOSPITALITY SERVICES, LLC, a  
27 California limited liability company dba  
28 Hampton Inn & Suites Bakersfield/Hwy 58,

Defendant.

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Case No.: 1:16-cv-1414- LJO-JLT

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THERESA BROOKE,  
  
Plaintiff,  
  
v.  
  
RP GOLDEN STATE MGT, LLC, a  
California limited liability company dba  
Garden Suites Inn,  
  
Defendant.

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Case No.: 1:16-cv-1415-LJO-JLT

THERESA BROOKE,  
  
Plaintiff,  
  
v.  
  
KPK, INC., a California corporation dba  
Travelodge Turlock,  
  
Defendant.

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Case No.: 1:16-cv-1449-LJO -JLT

THERESA BROOKE,  
  
Plaintiff,  
  
v.  
  
LILJENQUIST MODESTO COMPANY,  
LLC, a California limited liability company  
dba Modesto Hotel,  
  
Defendant.

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Case No.: 1:16-cv-1454-DAD-JLT

THERESA BROOKE,  
  
Plaintiff,  
  
v.  
  
METRO HOSPITALITY SERVICES, INC.,  
a California corporation dba Hampton Inn  
Fresno NW,  
  
Defendant.

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Case No.: 1:16-cv-1455- DAD-JLT

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THERESA BROOKE,  
  
Plaintiff,  
  
v.  
  
JAYESHKUMAR PATEL, an individual;  
PRAFULBHAI PATEL, an individual, both  
individuals dba Budget Inn Modesto,  
  
Defendants.

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Case No.: 1:16-cv-1456-LJO-JLT

THERESA BROOKE,  
  
Plaintiff,  
  
v.  
  
KHATRI BROTHERS, L.P., a California  
limited partnership dba Clarion Modesto,  
  
Defendant.

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Case No.: 1:16-cv-1465-AWI-JLT

THERESA BROOKE,  
  
Plaintiff,  
  
v.  
  
A&A TARZANA PLAZA, LP, a California  
limited partnership dba Hilton Garden Inn  
Clovis,  
  
Defendant.

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Case No.: 1:16-cv-1499-AWI- JLT

THERESA BROOKE,  
  
Plaintiff,  
  
v.  
  
AKSHAR, INC., a California corporation  
dba Parkside Inn Fresno,  
  
Defendant.

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Case No.: 1:16-cv-1502-DAD- JLT

1 THERESA BROOKE,

2 Plaintiff,

3 v.

4 THANDI ENTERPRISES, LLC, a California  
5 limited liability company dba Holiday Inn  
Express Fresno,

6 Defendant.

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Case No.: 1:16-cv-1503-DAD- JLT

8 THERESA BROOKE,

9 Plaintiff,

10 v.

11 BHAGAT BHAVESH, an individual dba  
12 Rodeway Inn Fresno,

13 Defendant.

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Case No.: 1:16-cv-1505-DAD- JLT

15 THERESA BROOKE,

16 Plaintiff,

17 v.

18 FRESNO AIRPORT HOTELS, LLC, a  
19 California limited liability company dba  
Ramada Fresno Airport,

20 Defendant.

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Case No.: 1:16-cv-1506-DAD- JLT

22 THERESA BROOKE,

23 Plaintiff,

24 v.

25 KAINTH BROTHERS, INC., a California  
26 corporation dba Country Inn Suites Fresno  
North,

27 Defendant.

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Case No.: 1:16-cv-1508-LJO- JLT

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THERESA BROOKE,  
  
Plaintiff,  
  
v.  
  
SHIV HOTELS, LLC, a California limited liability company dba Hampton Inn Fresno,  
  
Defendant.

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Case No.: 1:16-cv-1509-LJO- JLT

THERESA BROOKE,  
  
Plaintiff,  
  
v.  
  
SHIVKRUPA INVESTMENTS, INC., a California corporation dba La Quinta Inn Suites Fresno,  
  
Defendant.

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Case No.: 1:16-cv-1510-LJO- JLT

THERESA BROOKE,  
  
Plaintiff,  
  
v.  
  
SHRIGI, INC., a California corporation dba Welcome Inn Fresno,  
  
Defendant.

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Case No.: 1:16-cv-1511-LJO- JLT

THERESA BROOKE,  
  
Plaintiff,  
  
v.  
  
THE DAE SUNG & HEE JAE CHA TRUST dba Quality Inn Tulare,  
  
Defendant.

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Case No.: 1:16-cv-1520-LJO- JLT

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THERESA BROOKE,  
  
Plaintiff,  
  
v.  
  
HANFORD INVESTORS, INC., a  
California corporation dba Comfort Inn  
Hanford,  
  
Defendant.

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Case No.: 1:16-cv-1521-AWI- JLT

THERESA BROOKE,  
  
Plaintiff,  
  
v.  
  
INTERLINK PROPERTIES L.P., a  
California limited partnership dba Hampton  
Inn Visalia,  
  
Defendant.

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Case No.: 1:16-cv-1522-LJO- JLT

THERESA BROOKE,  
  
Plaintiff,  
  
v.  
  
NMA HOSPITALITY LLC, a California  
limited liability company dba La Quinta  
Tulare,  
  
Defendant.

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Case No.: 1:16-cv-1529-DAD- JLT

THERESA BROOKE,  
  
Plaintiff,  
  
v.  
  
TERRA INVESTMENTS I, LLC, a  
California limited liability company dba  
Charter Inn Suites,  
  
Defendant.

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Case No.: 1:16-cv-1530-DAD- JLT

1 THERESA BROOKE,

2 Plaintiff,

3 v.

4 PICADILLY INN UNIVERSITY, dba  
University Square Hotel,

5 Defendant.

Case No.: 1:16-cv-1594-AWI- JLT

7 THERESA BROOKE,

8 Plaintiff,

9 v.

10 DAYS INN OF FRESNO PARTNERSHIP,  
dba Days Inn Fresno Central,

11 Defendant.

Case No.: 1:16-cv-1595-DAD- JLT

13 THERESA BROOKE,

14 Plaintiff,

15 v.

16 PICADILLY INN EXPRESS,

17 Defendant.

Case No.: 1:16-cv-1596-DAD- JLT

18  
19 Plaintiff Theresa Brooke seeks to proceed with claims in each of the foregoing actions for  
20 violations of the Americans with Disabilities Act (“ADA”), the California Unruh Civil Rights Act, and  
21 the California Disabled Persons Act.<sup>1</sup>

22  
23 <sup>1</sup> See Case No. 1:16-cv-01406-AWI-JLT (Doc. 1), Case No. 16-cv-01407-LJO-JLT (Doc. 1); Case No. 1:16-cv-  
24 01408-DAD-JLT (Doc. 1); Case No. 1:16-cv-01409-AWI-JLT (Doc. 1); Case No. 1:16-cv-01410-LJO-JLT (Doc. 1); Case  
25 No. 1:16-cv-01411-DAD-JLT (Doc. 1); Case No. 1:16-cv-01414-LJO-JLT (Doc. 1); Case No. 1:16-cv-01415-LJO-JLT  
26 (Doc. 1); Case No. 1:16-cv-01449-LJO-JLT (Doc. 1); Case No. 1:16-cv-01454-DAD-JLT (Doc. 1); Case No. 1:16-cv-  
27 01455-DAD-JLT (Doc. 1); Case No. 1:16-cv-01456-LJO-JLT (Docs. 1, 4); Case No. 1:16-cv-01465-AWI-JLT (Doc. 1);  
28 Case No. 1:16-cv-01499-AWI-JLT (Doc. 1); Case No. 1:16-cv-01502-DAD-JLT (Doc. 1); Case No. 1:16-cv-01503-DAD-  
JLT (Doc. 1); Case No. 1:16-cv-01505-AWI-JLT (Doc. 1); Case No. 1:16-cv-01506-DAD-JLT (Doc. 1); Case No. 1:16-cv-  
01508-LJO-JLT (Doc. 1); Case No. 1:16-cv-01509-LJO-JLT (Doc. 1); Case No. 1:16-cv-01510-LJO-JLT (Doc. 1); Case  
No. 1:16-cv-01511-LJO-JLT (Doc. 1); Case No. 1:16-cv-01520-LJO-JLT (Doc. 1); Case No. 1:16-cv-01521-AWI-JLT  
(Doc. 1); Case No. 1:16-cv-01522-LJO-JLT (Doc. 1); Case No. 1:16-cv-01529-DAD-JLT (Doc. 1); Case No. 1:16-cv-1530-  
DAD-JLT (Doc. 1); Case No. 1:16-cv-1594-AWI-JLT (Doc. 1); Case No. 1:16-cv-1595-DAD-JLT (Doc. 1); and Case No.  
1:16-cv-01596-DAD-JLT (Doc. 1) Because the allegations to which the Court refers in its analysis are identical in each of  
the 28 cases, the citation to “Complaint” refers to the operative pleading in each case.



1 Plaintiff reports she resides in Pinal County, Arizona and is disabled and confined to a wheel  
2 chair. (Complaint, ¶1) She alleges the defendants’ hotels—located throughout the Eastern District of  
3 California in Bakersfield, Fresno, Tulare, Modesto, and Sacramento—have “barriers to use of the  
4 swimming pool facilities” and “do not have acceptable means of entry for disabled persons.”  
5 (Complaint, ¶ 4) However, Plaintiff fails to allege she visited the hotels and encountered the barriers,  
6 or facts supporting a conclusion that she has personal knowledge of the alleged barriers. Rather, in  
7 each complaint, Plaintiff alleges she “contacted Defendant’s hotel for purposes of booking a room for  
8 personal and business affairs,” and “inquired whether Defendant’s hotel pool or Jacuzzi (“pool”) had a  
9 pool lift or other means of access for disabled persons such as Plaintiff.” (Complaint, ¶ 24) According  
10 to Plaintiff, hotel representatives at each of the defendants’ hotels informed her there were no lifts.  
11 (*Id.*) She asserts her “agent, an expert in ADA accessibility guidelines, as part of due diligence  
12 investigation, independently verified that the Jacuzzi does not have a pool lift... and provided Plaintiff  
13 with photographs demonstrating the lack of accessibility.” (Complaint, ¶ 25) Plaintiff alleges:

14 But for these barriers, Plaintiff would lodge with Defendant in the near future. If and  
15 when Defendant removes these barriers, Plaintiff will lodge with Defendant’s hotel since  
16 she has several upcoming planned visits to the...area. However, she will not pay money  
17 to book a room at Defendant’s hotel when she already is aware through photographs and  
18 expert assertions that Defendant’s hotel does not provide disabled persons such as her  
19 access equal to able-bodied persons.

20 (*Id.*) Plaintiff concludes that because she “is currently deterred” from staying at each of the hotels by  
21 the pool accessibility barrier, she has standing to bring the actions. (Complaint, ¶ 26)

22 As explained by the Supreme Court of the United States, “those who seek to invoke the  
23 jurisdiction of the federal courts must satisfy the threshold requirement imposed by Article III of the  
24 Constitution by alleging an actual case or controversy.” *City of Los Angeles v. Lyons*, 461 U.S. 95, 101  
25 (1983). “[T]he Constitution mandates that prior to our exercise of jurisdiction there exist a  
26 constitutional ‘case or controversy,’ that the issues presented are ‘definite and concrete, not  
27 hypothetical or abstract.’” *Thomas v. Anchorage Equal Rights Comm’n*, 220 F.3d 1134, 1138 (9th Cir.  
28 2000) (quoting *Railway Mail Assoc. v. Corsi*, 326 U.S. 88, 93 (1945)). To satisfy the “case or  
controversy” requirement, a plaintiff must demonstrate standing under Article III to bring suit. *Human  
Life of Wash., Inc. v. Brumsickle*, 624 F.3d 990, 1000 (9th Cir. 2010); *see also Skaff v. Meridien N. Am.*

1 *Beverly Hills, LLC*, 506 F.3d 832, 838 (2007) (“standing is an essential and unchanging part of the  
2 case-or-controversy requirement of Article III”).

3 To establish standing—and thus that there is an actual case or controversy—a plaintiff “must  
4 demonstrate (1) an injury-in-fact, (2) causation, and (3) a likelihood that the injury will be redressed by  
5 a decision in the plaintiff’s favor.” *Human Life*, 624 F.3d at 1000 (citing *Lujan v. Defenders of*  
6 *Wildlife*, 504 U.S. 555, 560 (1992)). To establish standing to pursue injunctive relief under the ADA, a  
7 plaintiff must also “demonstrate a ‘real and immediate threat of repeated injury’ in the future.”  
8 *Chapman v. Pier 1 Imports (U.S.) Inc.*, 631 F.3d 939, 946 (9th Cir. 2011).

9 Significantly, several courts have determined that merely calling to inquire about accessibility  
10 and potential barriers is insufficient to support a conclusion that the plaintiff has standing under the  
11 ADA. *See, e.g., Brooke v. Kalthia Group Hotels*, 2015 U.S. Dist. LEXIS 156163, 2015 WL 7302736  
12 (S.D. Cal. Nov. 11, 2015) (an ADA plaintiff has not suffered an injury-in-fact until he or she has  
13 “actually become aware of discriminatory conditions existing at a public accommodation, and is  
14 thereby deterred from visiting or patronizing that accommodation”); *Brooke v. Ayres-Laguna Woods*,  
15 L.P., 2016 U.S. Dist. LEXIS 59863 (C.D. Cal. Apr. 12, 2016); *Brooke v. Joie de Vivre Hospitality LLC*,  
16 2015 U.S. Dist. LEXIS 123316 (D. Az. May 20, 2015). Indeed, “[d]riving by, or to the property,  
17 without staying in a hotel room or facing the allegedly discriminatory amenities is not sufficient to meet  
18 the ‘case’ or ‘controversy’ requirement.” *Meggs v. MHD Vegas Realty Corp.*, 2016 U.S. Dist. LEXIS  
19 21645 at \*7 (D. Nev. Mar. 10, 2016) (citing *Parr v. L & L Drive-Inn Restaurant*, 96 F.Supp.2d 1065,  
20 1079 (D. Haw. 2000)). Thus, because Plaintiff did not stay at—or even visit—the hotels and did not  
21 personally encounter the alleged barriers, it appears Plaintiff lacks standing under Article III to pursue  
22 her claims for violations of the ADA.<sup>2</sup>

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27 \_\_\_\_\_  
28 <sup>2</sup> Plaintiff’s complaints also contain claims for violations of California law. However, the Court should not exercise jurisdiction over these claims if she lacks standing for her sole claim under federal law. *See* 28 U.S.C. § 1367(a).

