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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

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

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.

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.

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.

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.

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.

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

THERESA BROOKE,

Plaintiff,

v.

KPK, INC., a California corporation dba
Travelodge Turlock,

Defendant.

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.

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.

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.

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

THERESA BROOKE,

Plaintiff,

v.

KHATRI BROTHERS, L.P., a California
limited partnership dba Clarion Modesto,

Defendant.

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.

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

THERESA BROOKE,

Plaintiff,

v.

AKSHAR, INC., a California corporation
dba Parkside Inn Fresno,

Defendant.

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.

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.

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.

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.

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.

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.

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

THERESA BROOKE,

Plaintiff,

v.

SHRIGI, INC., a California corporation dba Welcome Inn Fresno,

Defendant.

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

THERESA BROOKE,

Plaintiff,

v.

THE DAE SUNG & HEE JAE CHA TRUST dba Quality Inn Tulare,

Defendant.

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.

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.

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.

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.

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.¹

22
23 ¹ 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.²

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28 ² 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).

