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10 Attorney for Defendants  
 11 FORT MASON MARKET and DELI;  
 BARBARA R. BOYLE, Trustee of the  
 12 Barbara R. Boyle Marital Trust; and  
 13 CATHERINE BRANDI-LINT,  
 Trustee of the Robert A. Lint and  
 14 Catherine Brandi-Lint 2008 Inter Vivos Trust

15  
 16 UNITED STATES DISTRICT COURT  
 17 NORTHERN DISTRICT OF CALIFORNIA

19	)	<b>CASE NO. CV-10-5890-DMR</b>
PATRICK CONNALLY, an individual,	)	
20 Plaintiff,	)	<b>CONSENT DECREE</b>
	)	
21 v.	)	
	)	
22	)	
23 FORT MASON MARKET and DELI;	)	
BARBARA R. BOYLE, Trustee of the	)	
24 Barbara R. Boyle Marital Trust; and	)	
CATHERINE BRANDI-LINT, Trustee of	)	
25 the Robert A. Lint and Catherine Brandi-	)	
26 Lint 2008 Inter Vivos Trust,	)	
Defendants.	)	
27	)	

1           **WHEREAS**, plaintiff PATRICK CONNALLY (hereinafter referred to at times as  
2 “CONNALLY”), on behalf of himself, has filed an action in the United States District Court,  
3 Northern District of California, alleging claims for damages and injunctive relief under the  
4 California Health & Safety Code Sections 19955, *et seq.*, California Civil Code Sections 51, 51.5  
5 and 54, *et seq.*, and the Americans with Disabilities Act of 1990 (42 U.S.C. §12101, *et seq.*)

6 arising out of plaintiff’s visit to the FORT MASON MARKET AND DELI and ARTESANIAS  
7 on September 7, 2010, September 23, 2010 and November 11, 2010; and

8           **WHEREAS**, defendant BARBARA R. BOYLE, Trustee of the Barbara R. Boyle Marital  
9 Trust, defendant CATHERINE BRANDI-LINT, Trustee of the Robert A. Lint and Catherine  
10 Brandi-Lint 2008 Inter Vivos Trust, and Alfred J. Brandi, Trustee of the Alfred J. Brandi and  
11 Therese C. Brandi 2003 Inter Vivos Trust (hereinafter collectively referred to at all times as  
12 “1701 GREENWICH PARTIES”) are the owners of the building and landlord for the public  
13 accommodations FORT MASON MARKET and DELI and ARTESANIAS, respectively located  
14 at 1701 and 1711 Greenwich, San Francisco, California; and

15           **WHEREAS**, the public accommodation, located at 1701 Greenwich Street, San  
16 Francisco, has a seven and one quarter (7-1/4) inch step at the entrance and tall shelving  
17 containing various goods ; and

18           **WHEREAS**, the Parties have agreed to enter the Mutual Settlement Agreement and  
19 Release, marked as Exhibit “A” and attached hereto as though set forth in full (hereinafter  
20 “Settlement Agreement”), pursuant to which the 1701 GREENWICH PARTIES will perform  
21 certain remedial improvements at the 1701 and 1711 Greenwich Street public accommodations  
22 to provide access to disabled persons as set forth below; and

23           **WHEREAS**, it is not practical to construct a permanent ramp from the sidewalk into the  
24 1701 Greenwich Street store, (see Exhibit “1” - 1701 Photo, attached to the Settlement  
25 Agreement); and  
26



1 B. The 1701 GREENWICH PARTIES agree not to contest the Court's jurisdiction to  
2 enter into and enforce this Consent Decree.

3 **II. DENIAL OF LIABILITY**

4 The 1701 GREENWICH PARTIES deny any and all legal or equitable liability under any  
5 federal, state or local statute, regulation or ordinance, or the common law, for any damages or  
6 claims caused by or arising out of the of the physical condition of the 1701 and 1711 Greenwich  
7 Street public accommodations respectively or from acts or inaction. By entering into this  
8 Consent Decree, or by taking any action in accordance with it, the 1701 GREENWICH  
9 PARTIES do not admit any allegations contained herein or in the complaint, nor do they admit  
10 any liability for any purpose or admit any issue of law or fact or any responsibility for the alleged  
11 noncompliance of the 1701 and 1711 Greenwich Street public accommodations with the  
12 Americans with Disabilities Act of 1990 (ADA), Americans with Disabilities Act Accessibility  
13 Guidelines (ADAAG), California Building Code, or any other state or federal building code or  
14 statute.

15 **III. PURPOSE**

16 The purpose of this Consent Decree is to resolve amicably the existing dispute between  
17 the parties hereto as to whether remedial improvements at the public accommodation, located at  
18 1701 and 1711 Greenwich Street, San Francisco, are necessary to provide access to persons with  
19 disabilities and to settle the claims asserted against defendant(s) in the complaint filed in this  
20 matter.

21 **IV. BINDING EFFECT**

22 A. The undersigned trustee BARBARA R. BOYLE, Trustee of the Barbara R. Boyle  
23 Marital Trust certifies that she is a trustee of the Barbara R. Boyle Marital Trust and is fully  
24 authorized to enter into the terms and conditions of this Decree and that he or she is fully  
25 authorized to execute this document and legally bind Barbara R. Boyle Marital Trust to the  
26 provisions of this Decree.  
27  
28

1 B. The undersigned trustee CATHERINE BRANDI-LINT, Trustee of the Robert A.  
2 Lint and Catherine Brandi-Lint 2008 Inter Vivos Trust certifies that she is a trustee of the Robert  
3 A. Lint and Catherine Brandi-Lint 2008 Inter Vivos Trust and is fully authorized to enter into the  
4 terms and conditions of this Decree and that he or she is fully authorized to execute this  
5 document and legally bind Robert A. Lint and Catherine Brandi-Lint 2008 Inter Vivos Trust to  
6 the provisions of this Decree.

7 C. The undersigned Alfred J. Brandi, Trustee of the Alfred J. Brandi and Therese C.  
8 Brandi 2003 Inter Vivos Trust certifies that he is a trustee of the Alfred J. Brandi and Therese C.  
9 Brandi 2003 Inter Vivos Trust and is fully authorized to enter into the terms and conditions of  
10 this Decree and that he or she is fully authorized to execute this document and legally bind  
11 Alfred J. Brandi and Therese C. Brandi 2003 Inter Vivos Trust to the provisions of this Decree.

12 D. The undersigned plaintiff certifies that he is fully authorized to enter into the  
13 terms and conditions of this Decree and that he has not assigned, transferred or purported to  
14 assign or transfer, to any person or entity any claim or other matter which is the subject of this  
15 Decree.

## 16 **V. WORK TO BE PERFORMED**

17  
18 A. Specifically, the 1701 GREENWICH PARTIES shall undertake remedial  
19 measures as set forth in the Settlement Agreement to make the 1701 and 1711 Greenwich Street  
20 public accommodations as accessible as possible under the "readily achievable standard" to  
21 persons with disabilities.

22 The remedial work, policy and procedures to be performed pursuant to this Consent  
23 Decree is set forth in detail in the Settlement Agreement, which constitutes the removal of  
24 architectural barriers as referred to in the ADA 28CFR part 36 and ADAAG.

25 B. The work to be performed pursuant to this Consent decree shall be completed by  
26 November 30, 2011.

1 C. The remedial work set forth herein meets the "readily achievable" standard of the  
2 Americans with Disabilities Act of 1990.

3 **VI. TERMINATION AND SATISFACTION**

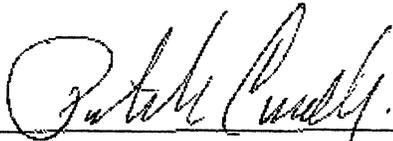
4 A. Upon the 1701 GREENWICH PARTIES completion of the work to be performed,  
5 as specified, pursuant to this Consent Decree or on November 30, 2011, whichever occurs  
6 earlier, the Court's jurisdiction of this matter shall terminate unless the parties show good cause  
7 for the continuance of this Consent Decree.

8 **VII. EXECUTION OF THIS CONSENT DECREE**

9  
10 This Consent Decree may be executed in counterpart signatures, and such signatures may  
11 be attached in counterparts, each of which shall be deemed an original, and which together shall  
12 constitute one and the same instrument. Such counterparts may be signed as faxed signatures,  
13 which shall have the same force and effect as original signatures.

14 The undersigneds hereby consent to the foregoing Consent Decree.

15  
16 Dated: 4-18 2011

  
17 PATRICK CONNALLY, Plaintiff

18  
19  
20 **1701 GREENWICH PARTIES:**

21 Dated: 4/19 2011

  
22 BARBARA R. BOYLE, Trustee, Defendant

23  
24  
25 Dated: 4/19 2011

  
26 CATHERINE BRANDI-LINT, Trustee, Defendant

1  
2 Dated: 4/19 2011

Alfred J. Brandi  
ALFRED J. BRANDI, Trustee

3  
4  
5  
6 APPROVED AS TO FORM AND CONTENT:

7 Dated: 4/15/11 2011

8 THOMAS E. FRANKOVICH,  
9 A PROFESSIONAL LAW CORPORATION

10 By: [Signature]  
11 Thomas E. Frankovich  
12 Attorneys for Plaintiff PATRICK CONNALLY

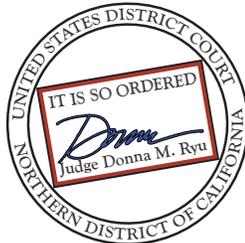
13  
14 Dated: 4/21/2011

15 ROCHESTER WONG & SHEPARD  
16 A Professional Corporation

17 By: [Signature]  
18 William R. Shepard  
19 Attorneys for Defendants/1701 GREENWICH  
20 PARTIES

21  
22  
23 IT IS SO ORDERED.

ORDER



24  
25  
26 Dated: 5/9/11

27 Honorable Magistrate Judge Donna M. Ryu  
28 United States District Court Judge