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Attorney for Defendant EVERGREEN DYNASTY CORPORATION, a California corporation,  
doing business as MANDARIN TOUCH RESTAURANT

FILED  
OCT 19 PM 2:12  
U.S. DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

**JAREK MOLSKI**, an individual; and  
**DISABILITY RIGHTS  
ENFORCEMENT, EDUCATION  
SERVICES: HELPING YOU HELP  
OTHERS**, a California public benefit  
corporation,

Plaintiffs,

vs.

**MANDARIN TOUCH RESTAURANT;  
EVERGREEN DYNASTY CORP.**, a  
California corporation; and **BRIAN  
McINERNEY** and **KATHY S.  
McINERNEY** as Joint Tenants,

Defendants.

CASE NUMBER CV04-0450 ER (SHx)

Case Assigned for All Purposes to the  
Honorable Edward Rafeedie

**REPLY TO PLAINTIFF JAREK  
MOLSKI'S OPPOSITION TO  
DEFENDANT EVERGREEN DYNASTY  
CORPORATION'S MOTION FOR A  
PREFILING ORDER PROHIBITING  
VEXATIOUS LITIGANT FROM  
FILING NEW LITIGATION WITHOUT  
LEAVE OF COURT, TO POST  
SECURITY, AND FOR MONETARY  
SANCTIONS PURSUANT TO  
FEDERAL RULES OF CIVIL  
PROCEDURE RULE 11 AGAINST  
PLAINTIFF JAREK MOLSKI AND HIS  
COUNSEL THOMAS E. FRANKOVICH  
IN THE SUM OF \$16,500.00**

Date: October 25, 2004  
Time: 10:00 a.m.  
Courtroom: 1  
Place: 312 N. Spring Street  
Los Angeles, CA 90012

Discovery Cut-Off: None Set  
Motion Cut-Off: None Set  
Trial Date: None Set

Date Action Filed: January 23, 2004

OCT 20 2004  
BY [Signature]

31

Defendant EVERGREEN DYNASTY CORPORATION, a California corporation, doing

1 business as MANDARIN TOUCH RESTAURANT [hereinafter referred to as “MANDARIN  
2 TOUCH”] hereby submits his Reply to Plaintiff JAREK MOLSKI’s Opposition to  
3 MANDARIN TOUCH’s Motion for an Order Prohibiting Plaintiff JAREK MOLSKI  
4 [hereinafter referred to as “MOLSKI”] From Filing Any New Litigation in the Federal Courts  
5 Without First Obtaining Leave of the Presiding Judge of the Court in which the litigation is  
6 proposed to be filed, and to give security in such amount as the Court determines to be  
7 appropriate to secure the payment of any costs, sanctions, or other amounts which may be  
8 awarded against MOLSKI, and for sanctions pursuant to *FRCP Rule 11* as follows:

9 **1. MOLSKI IS NOTHING MORE THAN A PROFESSIONAL PLAINTIFF WHO**  
10 **EARNs HIS LIVING BY SUING EVERYONE HE COMES INTO CONTACT**  
11 **WITH ON A GIVEN DAY FOR ALLEGED MINOR VIOLATIONS OF THE ADA**

12 The Complaints filed by MOLSKI are very revealing as to the true motivations of  
13 MOLSKI in flooding the Federal Courts with his alleged and purported grievances. MOLSKI  
14 targets restaurants, wineries, banks, gas stations and bowling alleys. It is unclear as to why  
15 MOLSKI targets bowling alleys or why he would even be inside one as MOLSKI claims that  
16 he is a wheelchair bound quadriplegic and he certainly could not be on the premises for the  
17 purposes of bowling. The only conclusion to be reached is that MOLSKI is certain to find  
18 violations of the ADA and is certain to squeeze or extort money from the Defendants for these  
19 alleged violations.

20 On **May 19, 2003**, MOLSKI visited the TACOS LUPITA Restaurant where he claims  
21 he was injured when he allegedly struck his foot on the **planter** which blocked the front door.  
22 On **May 11, 2004**, MOLSKI filed a Complaint in Federal Court against the TACOS LUPITA  
23 Restaurant alleging violations of the (1) ADA, (2) the California Disabled Persons Act (DPA)  
24 [*Civil Code § 54, et seq.*] (3) *Health & Safety Code § 19955, et seq.*, (4) the Unruh Civil  
25 Rights Act, *Civil Code § 51*, (5) Unfair Business Practices, *Business & Professions Code §*  
26 *17200, et seq.* In the Complaint MOLSKI alleges an inaccessible entrance due to planter and  
27 excessive door pressure, inaccessible counter, inaccessible restroom facilities, lack of  
28 disabled parking spaces, and lack of signage for the disabled parking spaces. In the Complaint,

1 MOLSKI seeks an injunction, special and general damages, \$4,000.00 in daily damages,  
2 punitive damages, and attorney's fees and costs. [See Complaint filed in that certain action  
3 entitled *Molski v. Tacos Lupita*, Case Number 2004CV-01852 attached as Exhibit "36" to the  
4 Appendix of Exhibits, Volume 2.]

5 On **May 20, 2003**, MOLSKI visited the RAPAZZINI WINERY where he claims he was  
6 injured when he attempted to transfer to the **toilet** using the existing elements and severely  
7 injured himself. On **May 12, 2004**, MOLSKI filed a Complaint in Federal Court against the  
8 RAPAZZINI WINERY alleging violations of the (1) ADA, (2) the California Disabled Persons  
9 Act (DPA) [*Civil Code § 54, et seq.*] (3) *Health & Safety Code § 19955, et seq.*, (4) the  
10 Unruh Civil Rights Act, *Civil Code § 51*, (5) Unfair Business Practices, *Business &*  
11 *Professions Code § 17200, et seq.*. In the Complaint MOLSKI alleges an inaccessible  
12 entrance due to heavy door pressure, inaccessible counter, inaccessible restroom facilities,  
13 lack of disabled parking spaces, and lack of signage for the disabled parking spaces. In the  
14 Complaint, MOLSKI seeks an injunction, special and general damages, \$4,000.00 in daily  
15 damages, punitive damages, and attorney's fees and costs. [See Complaint filed in that certain  
16 action entitled *Molski v. Rapazzini Winery*, Case Number 2004CV-01881 attached as Exhibit  
17 "39" to the Appendix of Exhibits, Volume 2.]

18 On **May 20, 2003**, *on the same day that MOLSKI visited the RAPAZZINI WINERY*,  
19 MOLSKI also visited the EL 7 MARES RESTAURANT where he claims he was injured when  
20 he attempted to transfer to the **toilet** using the existing elements and injured his shoulders.  
21 On **May 12, 2004**, MOLSKI filed a Complaint in Federal Court against the EL 7 MARES  
22 RESTAURANT alleging violations of the (1) ADA, (2) the California Disabled Persons Act  
23 (DPA) [*Civil Code § 54, et seq.*] (3) *Health & Safety Code § 19955, et seq.*, (4) the Unruh  
24 Civil Rights Act, *Civil Code § 51*, (5) Unfair Business Practices, *Business & Professions*  
25 *Code § 17200, et seq.*. In the Complaint MOLSKI alleges an inaccessible counter,  
26 inaccessible restroom facilities, lack of disabled parking spaces, and lack of signage for the  
27 disabled parking spaces. In the Complaint, MOLSKI seeks an injunction, special and general  
28 damages, \$4,000.00 in daily damages, punitive damages, and attorney's fees and costs. [See

1 Complaint filed in that certain action entitled *Molski v. El 7 Mares Restaurant*, Case Number  
2 2004CV-01882 attached as Exhibit "37" to the Appendix of Exhibits, Volume 2.]

3 On **May 21, 2003**, MOLSKI visited the LONGHOUSE RESTAURANT where he claims  
4 he was **injured in the bathroom** of the restaurant when he attempted to transfer to the **toilet**  
5 and slipped in the process and in regaining his transfer position, suffered severe injury to his  
6 upper extremities. On **May 18, 2004**, MOLSKI filed a Complaint in Federal Court against the  
7 LONGHOUSE RESTAURANT alleging violations of the (1) ADA, (2) the California Disabled  
8 Persons Act (DPA) [*Civil Code § 54, et seq.*] (3) *Health & Safety Code § 19955, et seq.*, (4)  
9 the Unruh Civil Rights Act, *Civil Code § 51*, (5) Unfair Business Practices, *Business &*  
10 *Professions Code § 17200, et seq.* In the Complaint, MOLSKI alleges an inaccessible  
11 entrance due to heavy door pressure, inaccessible dining area, inaccessible restroom facilities,  
12 lack of disabled parking spaces, and lack of signage for the disabled parking spaces. In the  
13 Complaint, MOLSKI seeks an injunction, special and general damages, \$4,000.00 in daily  
14 damages, punitive damages, and attorney's fees and costs. [See Complaint filed in that certain  
15 action entitled *Molski v. Longhouse Restaurant*, Case Number 2004CV-0194217 attached  
16 as Exhibit "42" to the Appendix of Exhibits, Volume 3.]

17 On **May 21, 2003**, *on the same day that MOLSKI visited the LONGHOUSE*  
18 *RESTAURANT*, MOLSKI also visited the KING AND I THAI CUISINE Restaurant wherein  
19 he claims that he had to take food to go because he could not get into the Restaurant  
20 **[therefore no claim for personal injuries]**. On **May 18, 2004**, MOLSKI filed a Complaint  
21 in Federal Court against the KING AND I THAI CUISINE Restaurant alleging violations of the  
22 (1) ADA, (2) the California Disabled Persons Act (DPA) [*Civil Code § 54, et seq.*] (3) *Health*  
23 *& Safety Code § 19955, et seq.*, (4) the Unruh Civil Rights Act, *Civil Code § 51*, (5) Unfair  
24 Business Practices, *Business & Professions Code § 17200, et seq.* In the Complaint  
25 MOLSKI alleges an inaccessible entrance due to heavy door pressure, inaccessible dining area,  
26 inaccessible restroom facilities, lack of disabled parking spaces, and lack of signage for the  
27 disabled parking spaces. In the Complaint, MOLSKI seeks an injunction, special and general  
28 damages, \$4,000.00 in daily damages, punitive damages, and attorney's fees and costs. [See

1 Complaint filed in that certain action entitled *Molski v. King and I Investment Group*, Case  
2 Number 2004CV-01943 attached as Exhibit "40" to the Appendix of Exhibits, Volume 2.]

3 On May 21, 2003, on the same day that **MOLSKI** visited the **LONGHOUSE**  
4 **RESTAURANT and the KING AND I THAI CUISINE Restaurant**, MOLSKI also visited  
5 CASA DE FRUTA store and coffee shop wherein he claims he was **injured in the bathroom**  
6 of the coffee shop when he attempted to transfer to and from the **toilet** without the use of a  
7 rear grab bar (apparently it was missing) and suffered severe injury to his upper extremities.  
8 On May 20, 2004, MOLSKI filed a Complaint in Federal Court against the CASA DE FRUTA  
9 store and coffee shop alleging violations of the (1) ADA, (2) the California Disabled Persons  
10 Act (DPA) [*Civil Code § 54, et seq.*] (3) *Health & Safety Code § 19955, et seq.*, (4) the  
11 Unruh Civil Rights Act, *Civil Code § 51*, (5) Unfair Business Practices, *Business &*  
12 *Professions Code § 17200, et seq.* In the Complaint MOLSKI alleges an inaccessible  
13 entrance, lack of handicapped counters, inaccessible restroom facilities, lack of accessible  
14 sloped areas to the coffee shop, general store and other areas, lack of disabled parking spaces,  
15 and lack of signage for the disabled parking spaces. In the Complaint, MOLSKI seeks an  
16 injunction, special and general damages, \$4,000.00 in daily damages, punitive damages, and  
17 attorney's fees and costs. [See Complaint filed in that certain action entitled *Molski v. Casa*  
18 *De Fruta*, Case Number 2004CV-01981 attached as Exhibit "38" to the Appendix of Exhibits,  
19 Volume 2.]

20 On May 21, 2003, on the same day that **MOLSKI** visited the **LONGHOUSE**  
21 **RESTAURANT, the KING AND I THAI CUISINE Restaurant, and the CASA DE FRUTA**  
22 **store and coffee shop**, MOLSKI also visited LA ROCHELLE WINERY wherein he claims he  
23 was **injured in the bathroom** of the Winery when he attempted to use the **toilet** because he  
24 became wedged in the bathroom stall and scraped and chaffed his hands  
25 and suffered severe injury as a result thereof. On May 20, 2004, MOLSKI filed a Complaint  
26 in Federal Court against LA ROCHELLE WINERY alleging violations of the (1) ADA, (2) the  
27 California Disabled Persons Act (DPA) [*Civil Code § 54, et seq.*] (3) *Health & Safety Code*  
28 *§ 19955, et seq.*, (4) the Unruh Civil Rights Act, *Civil Code § 51*, (5) Unfair Business

1 Practices, *Business & Professions Code § 17200, et seq.*. In the Complaint MOLSKI alleges  
2 an inaccessible entrance, inaccessible counters, inaccessible restrooms, lack of disabled  
3 parking spaces, and lack of signage for the disabled parking spaces. In the Complaint, MOLSKI  
4 seeks an injunction, special and general damages, \$4,000.00 in daily damages, punitive  
5 damages, and attorney's fees and costs. [See Complaint filed in that certain action entitled  
6 *Molski v. La Rochelle Winery*, Case Number 2004CV-01985 attached as Exhibit "41" to the  
7 Appendix of Exhibits, Volume 2.]

8 On **May 22, 2003**, MOLSKI visited the Pump N Go gas station where he claims he was  
9 **injured in the bathroom** of the gas station when he attempted to transfer to the **toilet** but  
10 slipped thereby injuring his upper extremities and causing severe bodily injury. On **May 11,**  
11 **2004**, MOLSKI filed a Complaint in Federal Court against the Pump N Go gas station alleging  
12 violations of the (1) ADA, (2) the California Disabled Persons Act (DPA) [*Civil Code § 54,*  
13 *et seq.*] (3) *Health & Safety Code § 19955, et seq.*, (4) the Unruh Civil Rights Act, *Civil*  
14 *Code § 51*, (5) Unfair Business Practices, *Business & Professions Code § 17200, et seq.*  
15 In the Complaint MOLSKI alleges that Credit Card reader was too high, inaccessible entrance,  
16 inaccessible counter, inaccessible restroom facilities, lack of disabled parking spaces, and lack  
17 of signage for the disabled parking spaces. In the Complaint, MOLSKI seeks an injunction,  
18 special and general damages, \$4,000.00 in daily damages, punitive damages, and attorney's fees  
19 and costs. [See Complaint filed in that certain action entitled *Molski v. Pump N Go*, Case  
20 Number 2004CV-01854 attached as Exhibit "43" to the Appendix of Exhibits, Volume 3.]

21 On **May 22, 2003**, ***on the same day that MOLSKI visited the Pump N Go gas station,***  
22 he also visited THE COVE RESTAURANT where he claims he was **injured in the bathroom**  
23 **[same as the PUMP N GO]** when he attempted to transfer to the **toilet** using only one grab bar  
24 thereby injuring his upper extremities and causing severe bodily injury. On **May 12, 2004,**  
25 MOLSKI filed a Complaint in Federal Court against THE COVE RESTAURANT alleging  
26 violations of the (1) ADA, (2) the California Disabled Persons Act (DPA) [*Civil Code § 54,*  
27 *et seq.*] (3) *Health & Safety Code § 19955, et seq.*, (4) the Unruh Civil Rights Act, *Civil*  
28 *Code § 51*, (5) Unfair Business Practices, *Business & Professions Code § 17200, et seq.*

1 In the Complaint MOLSKI alleges an inaccessible entrance due to heavy door pressure,  
2 inaccessible restroom facilities, lack of disabled parking spaces, and lack of signage for the  
3 disabled parking spaces. In the Complaint, MOLSKI seeks an injunction, special and general  
4 damages, \$4,000.00 in daily damages, punitive damages, and attorney's fees and costs. [See  
5 Complaint filed in that certain action entitled *Molski v. The Cove Restaurant*, Case Number  
6 2004CV-01880 attached as Exhibit "44" to the Appendix of Exhibits, Volume 3.]

7 On **May 22, 2003**, on the same day that MOLSKI visited the PUMP N GO gas station  
8 and THE COVE RESTAURANT, he also visited the CASA MEDINA Restaurant wherein he  
9 claims that he had to take food to go because he could not get into the Restaurant [therefore  
10 no claim for personal injuries]. On **May 18, 2004**, MOLSKI filed a Complaint in Federal  
11 Court against CASA MEDINA Restaurant alleging violations of the (1) ADA, (2) the California  
12 Disabled Persons Act (DPA) [*Civil Code § 54, et seq.*] (3) *Health & Safety Code § 19955,*  
13 *et seq.*, (4) the Unruh Civil Rights Act, *Civil Code § 51*, (5) Unfair Business Practices,  
14 *Business & Professions Code § 17200, et seq.* In the Complaint MOLSKI alleges an  
15 inaccessible entrance due to stairs, inaccessible restroom facilities, lack of directional signage  
16 to show accessible routes of travel, i.e. entrances. In the Complaint, MOLSKI seeks an  
17 injunction, special and general damages, \$4,000.00 in daily damages, punitive damages, and  
18 attorney's fees and costs. [See Complaint filed in that certain action entitled *Molski v. Casa*  
19 *Medina*, Case Number 2004CV-01947 attached as Exhibit "45" to the Appendix of Exhibits,  
20 Volume 3.]

21 On **May 23, 2003**, MOLSKI visited the CLONINGER CELLARS winery where he  
22 claims he was injured by the gravel parking lot because he immediately hit rocks and holes,  
23 which turned and twisted not only his wheelchair but his body causing serious bodily injury.  
24 On **May 11, 2004**, MOLSKI filed a Complaint in Federal Court against the CLONINGER  
25 CELLARS winery alleging violations of the (1) ADA, (2) the California Disabled Persons Act  
26 (DPA) [*Civil Code § 54, et seq.*] (3) *Health & Safety Code § 19955, et seq.*, (4) the Unruh  
27 Civil Rights Act, *Civil Code § 51*, (5) Unfair Business Practices, *Business & Professions*  
28 *Code § 17200, et seq.* In the Complaint MOLSKI alleges the lack of a smooth hard packed

1 parking lot, lack of disabled parking spaces, and lack of signage for the disabled parking spaces.  
2 In the Complaint, MOLSKI seeks an injunction, special and general damages, \$4,000.00 in  
3 daily damages, punitive damages, and attorney's fees and costs. [See Complaint filed in that  
4 certain action entitled *Molski v. Cloninger Cellars*, Case Number 2004CV-01853 attached  
5 as Exhibit "46" to the Appendix of Exhibits, Volume 3.]

6 On May 23, 2003, on the same day that MOLSKI visited the **CLONINGER CELLARS**  
7 **winery**, he also visited the TORO PETROLEUM gas station where he claims he was injured  
8 in the **bathroom of the gas station** when he attempted a solo/leap transfer to the **toilet**, but  
9 due to the missing grab bars he severely injured his upper extremities. On May 18, 2004,  
10 MOLSKI filed a Complaint in Federal Court against the TORO PETROLEUM gas station  
11 alleging violations of the (1) ADA, (2) the California Disabled Persons Act (DPA) [*Civil Code*  
12 *§ 54, et seq.*] (3) *Health & Safety Code § 19955, et seq.*, (4) the Unruh Civil Rights Act,  
13 *Civil Code § 51*, (5) Unfair Business Practices, *Business & Professions Code § 17200, et*  
14 *seq.* In the Complaint MOLSKI alleges a lack of tow-a-way signage, and inaccessible  
15 restroom facilities. In the Complaint, MOLSKI seeks an injunction, special and general  
16 damages, \$4,000.00 in daily damages, punitive damages, and attorney's fees and costs. [See  
17 Complaint filed in that certain action entitled *Molski v. Toro Petroleum*, Case Number  
18 2004CV-0191 attached as Exhibit "47" to the Appendix of Exhibits, Volume 3.]

19 On May 23, 2003, on the same day that MOLSKI visited the **CLONINGER CELLARS**  
20 **winery and the TORO PETROLEUM gas station**, he also visited ROY'S DRIVE-IN  
21 Restaurant where he claims he was injured in the **bathroom of the restaurant** when he  
22 attempted to use the **toilet** without grabs bars and experienced trauma to his shoulders. On  
23 May 20, 2004, MOLSKI filed a Complaint in Federal Court against ROY'S DRIVE-IN  
24 Restaurant alleging violations of the (1) ADA, (2) the California Disabled Persons Act (DPA)  
25 [*Civil Code § 54, et seq.*] (3) *Health & Safety Code § 19955, et seq.*, (4) the Unruh Civil  
26 Rights Act, *Civil Code § 51*, (5) Unfair Business Practices, *Business & Professions Code §*  
27 *17200, et seq.* In the Complaint, MOLSKI alleges as inaccessible entrance, lack of a curb cut  
28 to the sidewalk leading to the service center, lack of an accessible curb cut leading to the



1 restrooms, inaccessible restroom facilities, lack of disabled parking spaces, and lack of  
2 signage for the disabled parking spaces. In the Complaint, MOLSKI seeks an injunction,  
3 special and general damages, \$4,000.00 in daily damages, punitive damages, and attorney's fees  
4 and costs. [See Complaint filed in that certain action entitled *Molski v. Roy's Drive-In*, Case  
5 Number 2004CV-01983 attached as Exhibit "48" to the Appendix of Exhibits, Volume 3.]

6 On **June 7, 2003**, MOLSKI visited the GEORIS WINERY where he claims he was  
7 injured in the **bathroom of the winery** when he attempted to transfer to the **toilet** without the  
8 use of grab bars which caused trauma and severe injury to his upper extremities. On **June 2,**  
9 **2004**, MOLSKI filed a Complaint in Federal Court against the GEORIS WINERY alleging  
10 violations of the (1) ADA, (2) the California Disabled Persons Act (DPA) [*Civil Code § 54,*  
11 *et seq.*] (3) *Health & Safety Code § 19955, et seq.*, (4) the Unruh Civil Rights Act, *Civil*  
12 *Code § 51*, (5) Unfair Business Practices, *Business & Professions Code § 17200, et seq.*  
13 In the Complaint, MOLSKI alleges a lack of directional signage to show accessible routes of  
14 travel, i.e. entrances, inaccessible entrance due to a makeshift ramp, inaccessible counters,  
15 inaccessible restrooms, lack of disabled parking spaces, and lack of signage for the disabled  
16 parking spaces. In the Complaint, MOLSKI seeks an injunction, special and general damages,  
17 \$4,000.00 in daily damages, punitive damages, and attorney's fees and costs. [See Complaint  
18 filed in that certain action entitled *Molski v. Georis Winery*, Case Number 2004CV-02118  
19 attached as Exhibit "49" to the Appendix of Exhibits, Volume 3.]

20 On **June 7, 2003**, *on the same day that MOLSKI visited the GEORIS WINERY*, he  
21 also visited the HELLER ESTATES Winery where he claims he was injured in the **bathroom**  
22 **of the Winery** when he attempted to transfer to the **toilet** without the use of grab bars which  
23 caused trauma and severe injury to plaintiff's upper extremities. On **June 2, 2004**, MOLSKI  
24 filed a Complaint in Federal Court against HELLER ESTATES Winery alleging violations of  
25 the (1) ADA, (2) the California Disabled Persons Act (DPA) [*Civil Code § 54, et seq.*] (3)  
26 *Health & Safety Code § 19955, et seq.*, (4) the Unruh Civil Rights Act, *Civil Code § 51*, (5)  
27 Unfair Business Practices, *Business & Professions Code § 17200, et seq.* In the Complaint,  
28 MOLSKI alleges a lack of directional signage to show accessible routes of travel, i.e.

1 entrances, inaccessible entrance due to a makeshift ramp, inaccessible counters, inaccessible  
2 restrooms, lack of disabled parking spaces, and lack of signage for the disabled parking spaces.  
3 In the Complaint, MOLSKI seeks an injunction, special and general damages, \$4,000.00 in  
4 daily damages, punitive damages, and attorney's fees and costs. [See Complaint filed in that  
5 certain action entitled *Molski v. Heller Estates, Inc.*, Case Number 2004CV-02164 attached  
6 as Exhibit "50" to the Appendix of Exhibits, Volume 3.]

7 On **June 8, 2004**, MOLSKI visited the COOPER-GARROD ESTATE VINEYARDS  
8 Winery where he claims he was injured by the gravel parking lot because he immediately hit  
9 rocks, ruts and holes, which rocked and jostled him in his wheelchair causing severe injury to  
10 his upper extremities. On **June 7, 2004**, MOLSKI filed a Complaint in Federal Court against  
11 the COOPER-GARROD ESTATE VINEYARDS Winery alleging violations of the (1) ADA,  
12 (2) the California Disabled Persons Act (DPA) [*Civil Code § 54, et seq.*] (3) *Health & Safety*  
13 *Code § 19955, et seq.*, (4) the Unruh Civil Rights Act, *Civil Code § 51*, (5) Unfair Business  
14 Practices, *Business & Professions Code § 17200, et seq.*. In the Complaint, MOLSKI alleges  
15 a lack of directional signage to show accessible routes of travel, i.e. entrances and parking  
16 areas, inaccessible counters, inaccessible restrooms, lack of disabled parking spaces, lack of  
17 signage for the disabled parking spaces, and lack of level, hard parked parking lot. In the  
18 Complaint, MOLSKI seeks an injunction. special and general damages, \$4,000.00 in daily  
19 damages, punitive damages, and attorney's fees and costs. [See Complaint filed in that certain  
20 action entitled *Molski v. Cooper-Garrod Estate Vineyards*, Case Number 2004CV-02226  
21 attached as Exhibit "51" to the Appendix of Exhibits, Volume 3.]

22 As the Court can clearly see, MOLSKI claims the same injuries to the same parts of his  
23 body in every Complaint, and in almost all instances he claims to injure himself using the  
24 toilet. In addition, by the dates listed in the Complaints as the date of injury, it is clear that  
25 every place MOLSKI visits in a single day is a target and will most likely be sued as a  
26 Defendant in Federal Court nearly one year after the claimed incident. This conduct on the part  
27 of MOLSKI is outrageous and egregious. The Federal Courts are being used as the vehicle for  
28 MOLSKI to earn a living to squeeze money from every unsuspecting restaurant owner, winery,

1 bank, gas station who receives an unfortunate visit from MOLSKI. This is nothing more than  
2 legal extortion.

3 In the instant action, conditions should be imposed on MOLSKI before he is allowed  
4 to file any subsequent action in federal court. MOLSKI has filed THREE-HUNDRED-  
5 THIRTY-FOUR (334) lawsuits in the federal courts since 1998, with one suit filed in 1998,  
6 seven (7) suits in 2001, twenty four (24) suits in 2002, one-hundred-twenty-six (126) suits in  
7 2003, and an additional ONE-HUNDRED-SEVENTY-FIVE (175) from January 2, 2004  
8 through September 14, 2004. [See Exhibit "A" attached to the Declaration of Robert H. Appert  
9 filed concurrently herewith, and Appendix of Exhibits, Volume 1, Exhibit "1."] This conduct  
10 evidences an abuse of the judicial system such that MOLSKI should be deemed a vexatious  
11 litigant.

12 In this case, MANDARIN TOUCH has made an adequate showing for the Court to issue  
13 the prefiling order. MANDARIN TOUCH has provided the Court with a listing of all cases,  
14 including the case name, case number and date filed. Furthermore, MANDARIN TOUCH has  
15 also detailed for the Court the THIRTY-ONE (31) cases out of TWO-HUNDRED-SEVENTY  
16 SIX filed which have been decided adversely to MOLSKI. FIVE (5) out of the THIRTY-ONE  
17 (31) cases were dismissed by the Court for lack of prosecution, and THREE (3) out of the  
18 THIRTY-ONE (31) cases were dismissed by the Court for MOLSKI's violation of Court  
19 Orders. [See Appendix of Exhibits, Volume 1, Exhibits "2" through "32" which are made a part  
20 hereof by this reference.]

21 In the instant action, MOLSKI should be deemed a vexatious litigant subject to a pre-  
22 filing order because he has filed THREE-HUNDRED-THIRTY-FOUR (334) lawsuits in the  
23 federal courts since 1998, with one suit filed in 1998, seven (7) suits in 2001, twenty four  
24 (24) suits in 2002, one-hundred-twenty-six (126) suits in 2003, and an additional ONE-  
25 HUNDRED-SEVENTY FIVE (175) from January 2, 2004 through September 14, 2004. Based  
26 on MOLSKI's history as a prolific litigant who consistently fails to meet deadlines [see  
27 Appendix of Exhibits, Volume 1, Exhibits "2" through "32" which are made a part hereof by this  
28 reference, detailing the suits dismissed by the Federal Court for lack of prosecution and for

1 reference, detailing the suits dismissed by the Federal Court for lack of prosecution and for  
2 violation of Court Orders] and acts in a "vexatious and harassing" manner, the Court should  
3 exercise its power to regulate MOLSKI's litigation activities through the imposition of pre-  
4 filing conditions.

5 **2. DEFENDANT MANDARIN TOUCH IS ENTITLED TO MONETARY**  
6 **SANCTIONS AGAINST PLAINTIFF MOLSKI AND HIS COUNSEL THOMAS E.**  
7 **FRANKOVICH**

8 *Rule 11* expressly authorizes both monetary and non-monetary sanctions. [*Federal*  
9 *Rules of Civil Procedure Rule 11(c)(2)*] A court may enter an order prohibiting a litigant  
10 (particularly a vexatious litigant) from filing further lawsuits without leave of court. [*Schramek*  
11 *v. Jones* (MD FL 1995) 161 FRD 119, 122; see also *Visser v. Supreme Court of California*  
12 (9<sup>th</sup> Cir. 1990) 919 F.2d 113, 114]

13 For the reasons herein set forth, MANDARIN TOUCH seeks an award of monetary  
14 sanctions pursuant to *Rule 11* for all attorney's fees and costs incurred in the preparation and  
15 filing of the Motion and the Reply, as well as the court appearance thereon, as more fully  
16 detailed in the Declaration of Robert H. Appert previously filed herein, in the sum of  
17 \$16,500.00 against MOLSKI and his counsel, Thomas E. Frankovich, jointly and severally for  
18 their abusive and harassive conduct.

19 **CONCLUSION**

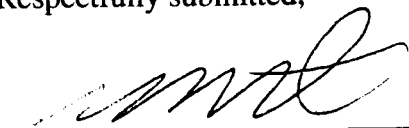
20 For the reasons herein set forth, MANDARIN TOUCH respectfully requests that this  
21 Court issue a prefiling order against MOLSKI prohibiting him from filing any new litigation  
22 in the Federal Courts without first obtaining leave of Court, to give security in such amount as

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1 the Court determines to be appropriate, and for sanctions in the sum of \$16,500.00 pursuant  
2 to *Rule 11* against MOLSKI and his counsel, Thomas E. Frankovich, jointly and  
3 severally.

4 DATED: October 19, 2004

5 Respectfully submitted,



7  
8 **ROBERT H. APPERT**  
9 Attorney for Defendant  
10 **EVERGREEN DYNASTY**  
11 **CORPORATION**, a California corporation,  
12 doing business as **MANDARIN TOUCH**  
13 **RESTAURANT**

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1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

3 I am employed in the County of Los Angeles, State of California. I am over the age of  
4 eighteen (18) years and not a party to the within pending action. My business address is 1208  
5 S. San Gabriel Boulevard, San Gabriel, California 91776.

6 On October 19, 2004, I served the foregoing document described as **REPLY TO**  
7 **PLAINTIFF JAREK MOLSKI'S OPPOSITION TO DEFENDANT EVERGREEN**  
8 **DYNASTY CORPORATION'S MOTION FOR A PREFILING ORDER PROHIBITING**  
9 **VEXATIOUS LITIGANT FROM FILING NEW LITIGATION WITHOUT LEAVE OF**  
10 **COURT, TO POST SECURITY, AND FOR MONETARY SANCTIONS PURSUANT TO**  
11 **FEDERAL RULES OF CIVIL PROCEDURE RULE 11 AGAINST PLAINTIFF JAREK**  
12 **MOLSKI AND HIS COUNSEL THOMAS E. FRANKOVICH IN THE SUM OF \$16,500.00**

13 upon the interested parties in this action addressed as follows:

14 THOMAS E. FRANKOVICH, ESQ.  
15 THOMAS E. FRANKOVICH, A.P.C.  
16 2806 Van Ness Avenue  
17 San Francisco, CA 94109  
18 Tel (415) 674-8600  
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Attorney for Plaintiffs

18 ALAN H. BOON, ESQ.  
19 BERGER KAHN, ALC  
20 P.O. Box 19694  
21 Irvine, CA 92623-9694  
22 Tel (949) 474-1880  
23 Fax (949) 474-7265

Attorneys for Defendants  
BRIAN McINERNEY and  
KATHY S. McINERNEY

21 (X) **By Express Mail:** I placed such envelope with postage thereon fully prepaid in the  
22 United States Mail at San Gabriel, California.

23 Executed on October 19, 2004, at San Gabriel, California.

24 I declare under penalty of perjury that the foregoing is true and correct.

25   
26 LISA CHEN