

**SUMMONS
(CITACION JUDICIAL)**

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**
CHARLES WEBB,

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**
GREENBRIER INN, LOUIS C. HOLTZ, BEVERLY M. HOLTZ, and
DOES 1 through 10, inclusive

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol/) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:
(El nombre y dirección de la corte es):
Superior Court, County of San Diego, North County Branch
325 South Melrose
Vista, CA 92081

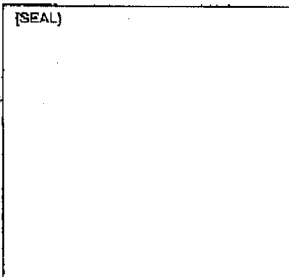
CASE NUMBER:
(Número del Caso): **GINU 58023**

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Mark D. Potter / Russell C. Handy
Center for Disability Access, LLP
3405 Kenyon Street, Suite 502
San Diego, CA 92110 (619) 226-9010

M. BALES

DATE: JUN 21 2004
(Fecha) Clerk, by _____, Deputy (Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



NOTICE TO THE PERSON SERVED: You are served

- 1. as an individual defendant.
- 2. as the person sued under the fictitious name of (specify):
- 3. on behalf of (specify) **Greenbrier Inn**
 under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 other (specify): **business entity unknown**
- 4. by personal delivery on (date):

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Y. C.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address):
Mark D. Potter / Russell C. Handy 166317 / 195058
Center for Disability Access, LLP
3405 Kenyon Street, Suite 502 San Diego, CA 92110
TELEPHONE NO.: (619) 226-9010 FAX NO.: (619) 226-9030
ATTORNEY FOR (Name): CHARLES WEBB

SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Diego
STREET ADDRESS: 325 South Melrose
MAILING ADDRESS: 325 South Melrose
CITY AND ZIP CODE: Vista, CA 92081
BRANCH NAME: North County Branch

CASE NAME: WEBB v. GREENBRIER INN, ET AL.

CIVIL CASE COVER SHEET
 Unlimited (Amount demanded exceeds \$25,000)
 Limited (Amount demanded is \$25,000 or less)

Complex Case Designation
 Counter Joinder
Filed with first appearance by defendant (Cal. Rules of Court, rule 1811)

CASE NUMBER: **GIN038023**
JUDGE:
DEPT.:

All five (5) items below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

<p>Auto Tort</p> <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) <p>Other P/PI/D/W/D (Personal Injury/Property Damage/Wrongful Death) Tort</p> <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other P/PI/D/W/D (23) <p>Non-P/PI/D/W/D (Other) Tort</p> <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-P/PI/D/W/D tort (35) <p>Employment</p> <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	<p>Contract</p> <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) <p>Real Property</p> <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) <p>Unlawful Detainer</p> <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) <p>Judicial Review</p> <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	<p>Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 1800-1812)</p> <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental /Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) <p>Enforcement of Judgment</p> <input type="checkbox"/> Enforcement of judgment (20) <p>Miscellaneous Civil Complaint</p> <input type="checkbox"/> RICO (27) <input checked="" type="checkbox"/> Other complaint (not specified above) (42) <p>Miscellaneous Civil Petition</p> <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case is is not complex under rule 1800 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

a. <input type="checkbox"/> Large number of separately represented parties	d. <input type="checkbox"/> Large number of witnesses
b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve	e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states or countries, or in a federal court
c. <input type="checkbox"/> Substantial amount of documentary evidence	f. <input type="checkbox"/> Substantial post-judgment judicial supervision

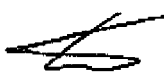
3. Type of remedies sought (check all that apply):
a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive

4. Number of causes of action (specify):

5. This case is is not a class action suit.

Date: May 5, 2004

Mark D. Potter
(TYPE OR PRINT NAME)


(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate, Family, or Welfare and Institutions Code). (Cal. Rules of Court, rule 201.8.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 1800 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

1 CENTER FOR DISABILITY ACCESS, LLP
2 MARK D. POTTER, ESQ., SBN 166317
3 RUSSELL C. HANDY, ESQ., SBN 195058
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5 San Diego, CA 92110-5008
6 (619) 226-9010
7 Fax: (619) 226-9030

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COURT

8 Attorney for Plaintiff, CHARLES WEBB,

9 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 IN AND FOR THE COUNTY OF SAN DIEGO

11 CHARLES WEBB,

12 Plaintiff,

13 v.

14 GREENBRIER INN, LOUIS C. HOLTZ,
15 BEVERLY M. HOLTZ, and DOES 1
16 through 10, inclusive

17 Defendants.

Case No.: **GINO38023**

**COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF FOR
VIOLATIONS OF: UNRUH CIVIL
RIGHTS ACT; NEGLIGENCE;
CALIFORNIA'S UNFAIR BUSINESS
PRACTICE ACT.**

DEMAND FOR JURY

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19
20 Plaintiff CHARLES WEBB, (hereinafter referred to as "Plaintiff") complains of
21 GREENBRIER INN, LOUIS C. HOLTZ, BEVERLY M. HOLTZ, and DOES 1
22 through 10, inclusive, (hereinafter referred to as "Defendants") and alleges as follows:

23 **INTRODUCTION:**

24 1. This is a Civil Rights action for discrimination against persons with physical
25 disabilities, of which Plaintiff is a member of said class, for failure to remove
26 architectural barriers structural in nature at Defendants' place of business, located at
27 560 Greenbrier Drive, Oceanside, California, a place of public accommodation; and for
28 failure to modify practices and or policies in order to accommodate, thereby

1 discriminatorily denying Plaintiff and the class of other similarly situated persons with
2 physical disabilities access to, the full and equal enjoyment of, opportunity to
3 participate in, and benefit from, the goods, facilities, services, and accommodations
4 thereof.

5 2. Plaintiff seeks injunctive relief and damages for violations of civil rights and
6 for damages flowing from such violations.

7 **PARTIES:**

8 3. Plaintiff is a California resident with physical disabilities.

9 4. Defendants, GREENBRIER INN, LOUIS C. HOLTZ, BEVERLY M.
10 HOLTZ, and DOES 1 through 10, inclusive (hereinafter alternatively referred to
11 collectively as "Defendants"), are the owners and operators, lessors and/or lessees, or
12 agents of the owners, lessors and/or lessees, and/or alter egos, franchisers and/or
13 franchisees, of the building and/or buildings which constitute a public facility in and of
14 itself, occupied by the above described defendants, and subject to the requirements of
15 federal and state law requiring full and equal access to public accommodations and
16 facilities.

17 5. Plaintiff does not know the true names of Defendants, their business
18 capacities, their ownership connection to the property and business, or their relative
19 responsibilities in causing the access violations herein complained of, and alleges a
20 joint venture and common enterprise by all such Defendants. Plaintiff is informed and
21 believes that each of the Defendants herein, including DOES 1 through 10, inclusive, is
22 responsible in some capacity for the events herein alleged, or is a necessary party for
23 obtaining appropriate relief. Plaintiff will seek leave to amend when the true names,
24 capacities, connections, and responsibilities of the Defendants and DOES 1 through
25 10, inclusive, are ascertained.

26 **PRELIMINARY FACTUAL ALLEGATIONS:**

27 6. Defendants are or were at the time of the incident the owners and operators,
28 lessors and lessees of the public facility, located at 560 Greenbrier Drive, Oceanside,

1 California. The public accommodation, its path of travel, parking, restrooms and its
2 other facilities are each a "public accommodation or facility" subject to the
3 requirements of state and federal law. On information and belief, each such facility has,
4 since July 1, 1970, undergone "alterations, structural repairs and additions," each of
5 which has subjected the public accommodations, and each of their facilities to
6 handicapped access requirements per the Americans with Disabilities Act Access
7 Guidelines (ADAAG) and Title 24 of California's Code of Regulations.

8 7. On at least once occasion within the statutory period preceding the filing of
9 this complaint, Plaintiff was an invitee and customer at the subject public
10 accommodation.

11 8. During Plaintiff's visit, the subject public accommodation exhibited various
12 violations of the Americans with Disabilities Act Accessibility Guidelines ("ADAAG")
13 and Title 24 of the California Code of Regulations including but not limited to: a lack
14 of a properly configured disabled bathroom facilities;

15 9. On information and belief, other portions of the facility were improperly
16 inaccessible for use by persons with physical disabilities.

17 10. On information and belief, the facilities continue to the date of filing this
18 complaint to deny equal access to Plaintiff and other persons with physical disabilities.

19 11. As a result of the inaccessible facilities, Plaintiff was humiliated, embarrassed
20 and frustrated, suffering emotional injuries.

21 12. Defendants knew their facilities were inaccessible and continued to maintain
22 these facilities in an inaccessible condition and in doing so, knowingly continued to
23 violate and interfere with the rights of disabled persons including Plaintiff. Such
24 conduct by defendants is despicable, and was carried on by defendant with a willful and
25 conscious disregard for the rights of disabled persons, including Plaintiff.

26 13. Plaintiff would like to return and use the Defendants' public accommodations
27 but because of Defendants' violations, Plaintiff and other persons with physical
28 disabilities are unable to use public facilities such as those owned and operated by

1 Defendants on a "full and equal" basis unless such facility is in compliance with the
2 provisions of the Americans with Disabilities Act Accessibility Guidelines and state
3 accessibility law as pled herein. Plaintiff has, therefore, been deterred from returning
4 and using the Defendants' public accommodations.

5 14. Plaintiff is informed and believes and therefore alleges that Defendants and
6 each of them (1) caused the subject improved real properties which constitute the
7 subject public accommodation to be constructed, altered and maintained in such a
8 manner that persons with physical disabilities were denied full and equal access to,
9 within and throughout said improved real property(s); (2) that the Defendants have had
10 actual and constructive notice that the facilities were not legally accessible to persons
11 with disabilities; (3) that despite being informed of such effect on Plaintiff and other
12 persons with physical disabilities due to the lack of accessible facilities, Defendants,
13 and each of them, knowingly and willfully refused to take any steps to rectify the
14 situation and to provide full and equal access for Plaintiff and other persons with
15 physical disabilities to the subject public accommodation. Said defendants, and each of
16 them, have continued such practices, in conscious disregard for the rights and safety of
17 Plaintiff and other persons with physical disabilities. Said conduct, with knowledge of
18 the effect it was and is having on Plaintiff and other persons with physical disabilities,
19 constitutes despicable conduct in conscious disregard of the rights and safety of
20 Plaintiff and of other similarly situated persons, justifying the imposition of punitive
21 and exemplary damages per Civil Code section 3294.

22 **I. FIRST CAUSE OF ACTION: VIOLATION OF THE UNRUH CIVIL**
23 **RIGHTS ACT (On behalf of Plaintiff and Against All Defendants) (Cal Civ § 51**
et seq.)

24 15. Plaintiff repleads and incorporates by reference, as if fully set forth again
25 herein, the allegations contained in all prior paragraphs of this complaint.

26 16. California Civil Code § 52 provides that a party that discriminates against a
27 plaintiff in violation of Civ. Code § 51 shall be liable for actual damages, up to three
28 times actual damages but not less than \$4000 for each such offense, and any attorney's

1 fees incurred by the plaintiff.

2 **Count One:**

3 17.The Defendants have not ensured that their facilities comply with Title 24 of
4 the California Code of Regulations, the California Building Code as it applies to
5 physical access for persons with disabilities and failed to ensure that disabled persons
6 have "full and equal accommodations, advantages, facilities, privileges, or services" to
7 the facilities identified above.

8 **Count Two:**

9 18.The Defendants have not complied with the Americans with Disabilities Act
10 of 1990.

11 **II. SECOND CAUSE OF ACTION: NEGLIGENCE**
12 **(On behalf of the Plaintiff and Against All Defendants)**

13 19.Plaintiff repleads and incorporates by reference, as if fully set forth again
14 herein, the allegations contained in all prior paragraphs of this complaint.

15 20.Defendants had a duty to exercise ordinary care, i.e., comply with the various
16 accessibility laws and ensure that their property was safely configured.

17 21.Defendants failed to exercise ordinary care in that they failed to ensure that
18 their facilities complied with the accessibility guidelines or that their facilities were
19 configured to promote safe and effective use by persons with wheelchairs.

20 22.As the actual and proximate result of Defendants' failure to exercise ordinary
21 care, Plaintiff suffered damages in an amount to be determined by proof.

22 23.Wherefore, Plaintiff prays for relief and damages and relief as hereinafter
23 stated.

24 **III. THIRD CAUSE OF ACTION: VIOLATION OF CALIFORNIA'S UNFAIR**
25 **BUSINESS PRACTICES ACT (On behalf of the Public and Against All**
26 **Defendants) (Cal. Bus. & Prof. § 17200 et seq.)**

27 24.Plaintiff repleads and incorporates by reference, as if fully set forth again
28 herein, the allegations contained in all prior paragraphs of this complaint.

1 25. In addition to the access violations described above, Defendants' facilities are
2 in violation of California and Federal law in that they do not provide required access
3 for disabled persons.

4 26. Defendants' acts and omissions alleged herein are a violation of both statutory
5 requirements and public policy and, therefore, constitute a violation of Business and
6 Professions Code sections 17200 et seq.

7 27. Plaintiff, on behalf of himself/herself and the general public, seeks injunctive
8 relief requiring Defendants to remedy the disability access violations present at their
9 facilities.

10 28. Wherefore, Plaintiff prays for relief and damages and relief as hereinafter
11 stated.

12
13 **PRAYER:**

14 Wherefore, Plaintiff prays that this court award damages and provide relief as
15 follows:

- 16 1. For injunctive relief, compelling Defendants to comply with the Unruh Civil
17 Rights Act.
- 18 2. General and Special damages in an amount to be determined by proof;
- 19 3. Reasonable attorneys' fees, litigation expenses and costs of suit, pursuant to
20 Cal. Civ. Code §§ 52, and Cal. Civ. Proc. § 1021.5;
- 21 4. For Punitive Damages pursuant to Cal. Civ. Code Section 3294(c)(1);
- 22 5. For such other and further relief as the court may deem proper.

23 Dated: May 4, 2004

CENTER FOR DISABILITY ACCESS, LLP

24
25 By: 

26 MARK D. POTTER
27 RUSSELL C. HANDY
28 Attorneys for Plaintiff

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DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury for all claims for which a jury is permitted.

Dated: May 4, 2004

CENTER FOR DISABILITY ACCESS, LLP

By: 
MARK D. POTTER
RUSSELL C. HANDY
Attorneys for Plaintiff