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FILED

2006 DEC -6 PM 4:0

CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY Rm DEPUTY

8 UNITED STATES DISTRICT COURT
9 FOR THE SOUTHERN DISTRICT OF CALIFORNIA

10 '06CV 2671 LAB POR
CASE NO.

11 MAURIZIO ANTONINETTI, JEAN RIKER,
12 JAMES PERKINS, KAREN FRIEDMAN and
13 MICHAEL RIFKIN, on behalf of
themselves and all others similarly
situated,

14 Plaintiffs,

15 v.

16 CHIPOTLE MEXICAN GRILL, INC., a
17 Colorado Corporation and DOES 1-10,
18 Inclusive,
Defendants.

CLASS ACTION - Related to
USDC No. 05 CV 1660 J
(WMC)

COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF AND
DAMAGES FOR VIOLATIONS OF:

- 1. Title III of the Americans with Disabilities Act (42 U.S.C. §§ 12181 et seq.);
- 2. Unruh Civil Rights Act (Cal. Civil Code § 51 et seq.);
- 3. Unfair Business Practices (Business and Professions Code §17200 et seq.);
- 4. Intentional Infliction of Emotional Distress;
- 5. Negligence per se; and
- 6. Declaratory Relief.

DEMAND FOR JURY TRIAL

25 INTRODUCTION

26
27 1. A visit to a Chipotle restaurant with family and
28 friends, or alone, should be an enjoyable experience, one in

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1 which everyone has the opportunity to "build their perfect
2 burrito", to "add a little salsa, a little less guacamole", to
3 see the appetizing display of food choices and to watch the
4 actual construction of their burrito or bol - their own private
5 FoodTV show. It should be a "fast" experience, in a casual
6 setting, consistent with Chipotle's description of its
7 restaurants as providing "fast casual" fare. For Plaintiffs
8 Maurizio Antoninetti, Jean Riker, and Michael Rifkin, James
9 Perkins and Karen Friedman and the class of people with mobility
10 disabilities they represent, it is, instead, an experience in
11 discrimination.

12 2. Mr. Antoninetti is a frequent visitor to Chipotle
13 restaurants because his family loves the food. He reluctantly
14 accompanies them because to do otherwise would mean disappointing
15 his children and his wife or losing the opportunity to spend time
16 with his family. Ms. Riker, Mr. Rifkin, Dr. Perkins and Ms.
17 Friedman are infrequent visitors because they have found the
18 experience so unpleasant that they only wish to return if the
19 restaurants are made accessible to people with disabilities

20 3. Under a policy instituted by Chipotle Mexican Grill,
21 Inc. ("Chipotle"), all food service lines in its restaurants are
22 designed and constructed in the same manner - with an almost four
23 foot high wall separating the customers from the food crew, the
24 food items and the food preparation area where burritos are
25 rolled and bols are made. Only standing people, or non-
26 wheelchair users, can see over the wall, which is much too high
27 for a person in a wheelchair to see beyond.

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1 4. Those who can see over the wall have the opportunity to
2 see large pans of eighteen or so appetizing ingredients,
3 tantalizingly displayed, to see and select the specific
4 ingredients they want in their burrito or bol, to direct the
5 amount of each of the chosen ingredients to be placed in the
6 burrito or bol, and to watch the actual construction of their
7 burritos or bols. Just as Chipotle advertises, non-wheelchair
8 users get to "direct" the construction of their "perfect"
9 burrito. People in wheelchairs, however, have no such
10 opportunity. They get to see only the vertical wall and the
11 sneeze guard which protects the food items on display. Unless,
12 of course (at least according to Chipotle), the person in a
13 wheelchair makes a specific request to see the food or "looks"
14 like they want to see the food. Then, and only then, do
15 wheelchair users receive an "accommodation".

16 5. Chipotle's "policy" of accommodating people in
17 wheelchairs is, unfortunately, an UNWRITTEN policy which allows
18 (but does not instruct) food crew members to "accommodate"
19 customers in wheelchairs. These "accommodations" are provided
20 only if: 1) the customer specifically asks for an accommodation,
21 or 2) the customer "looks" like he or she wants to see the food
22 by, for example, raising up in his or her wheelchair. The
23 "accommodations" consist of allowing, but not instructing,
24 Chipotle food crew to raise spoonfuls of food above the almost
25 four foot high wall to allow customers in wheelchairs to see the
26 food in the serving spoon. Another identified "accommodation"
27 pursuant to the general and vague policy is to allow (but not to
28 instruct) the crew to lift the pans of food above the wall so

1 customers in wheelchairs can see the food. The only other
2 alternative method of "accommodating people in wheelchairs", as
3 described by Chipotle, is to allow (though not to instruct) the
4 food crew to put samples of the sixteen or so food items into
5 "portion cups", to place the cups on a tray along with a heated
6 tortilla and to take the tray to the cashier counter or to an
7 adjacent dining table, so that a person in a wheelchair can see
8 the food items and the making of their burrito.

9 6. This experience is unfair, is humiliating and is
10 degrading for people with disabilities who use wheelchairs.
11 First, it is patently unfair to require people in wheelchairs to
12 specifically request (by word or conduct) the opportunity to
13 participate in the "Chipotle experience" when that experience is
14 routinely provided to non-wheelchair users without request.
15 Second, it is patently unfair that the average non-disabled
16 standing Chipotle customer, unlike a wheelchair user, is served
17 in about 30 seconds, from the time they enter the door until they
18 pay for their food. This speed is accomplished because non-
19 wheelchair users can see the ingredients as they walk along the
20 food service line, can point to their food, can easily interact
21 with the food crew and can direct the making of their burrito or
22 bol, efficiently and quickly.

23 7. Wheelchair users, however, are "accommodated" in ways
24 that take much, much longer than 30 seconds. They have to wait
25 for several minutes, certainly well longer than the efficient
26 half of a minute, before they complete the "Chipotle experience."
27 Under one scenario, they have to wait, holding up the line of
28 other customers, while each of the 16 ingredients is spooned up

1 and lifted above the wall. Or they have to endure the
2 interminable delay while each of the 16 pans of ingredients is
3 lifted out of place and hoisted above the four foot wall. Or
4 they have to agree to be subjected to the most time-consuming and
5 humiliating "accommodation" of all - waiting while the food crew
6 spoons the 16 ingredients into little plastic cups, places the 16
7 cups on a tray along with a tortilla, carries the tray to the
8 cashier counter or to a nearby table (if one is vacant) just so
9 that the wheelchair user is allowed to see all of the items at
10 one time and to watch the making of their burrito.

11 8. It is also humiliating and degrading to subject people
12 in wheelchairs to scorn and ridicule from non-wheelchair users
13 who simply want to "get their burrito fast", in the 30 seconds of
14 service they are accustomed to. Subjecting people in wheelchairs
15 to the humiliation of holding up what would otherwise be a swift-
16 moving line is unfair and discriminatory. Requiring people in
17 wheelchairs to block or delay other customers from paying for
18 their food just so they (the wheelchair users) can see the making
19 of their burrito at the cashier station is unfair and
20 discriminatory. Requiring people in wheelchairs to wait for the
21 assembly of ingredients on a tray and to follow a food crew
22 member around the dining area, while searching for a vacant table
23 (hopefully the accessible table) all while under the watch of
24 other customers, is unfair and discriminatory.

25 **JURISDICTION AND VENUE**

26 9. The claims alleged herein arise under the Americans with
27 Disabilities Act (42 U.S.C. §§ 12131 et seq.) ("ADA"), among
28 other state claims for relief, such that the jurisdiction of this

1 Court is invoked pursuant to 28 U.S.C. §§ 1331 and 1343. Through
2 the same actions and omissions that form the basis of Plaintiff's
3 federal claims, Defendants have also violated Plaintiffs' rights
4 under state law, over which this Court has supplemental
5 jurisdiction pursuant to 28 U.S.C. § 1367. This Court has
6 jurisdiction over Plaintiffs' claims for declaratory and
7 injunctive relief pursuant to 28 U.S.C. §§ 2201 and 2202 and Rule
8 65 of the Federal Rules of Civil Procedure.

9 10. Venue over Plaintiffs' claims is proper in the Southern
10 District of California because Defendant operates approximately
11 10 restaurants in the Southern District of California, Mr.
12 Antoninetti resides in the Southern District, and because the
13 events, acts, and omissions giving rise to at least one of the
14 Plaintiffs' claims occurred in the Southern District of
15 California.

16 **PARTIES**

17 11. Plaintiffs Maurizio Antoninetti, Jean Riker, Michael
18 Rifkin, James Perkins and Karen Friedman are each individuals
19 with physical disabilities within the meaning of all applicable
20 statutes, including the ADA, 42 U.S.C. § 12101, et seq., Section
21 504, 29 U.S.C. §794, and California Civil Code § 51, et seq. All
22 of these plaintiffs utilize wheelchairs for mobility.

23 12. This action is brought on behalf of the named
24 Plaintiffs and on behalf of all persons similarly situated. The
25 class which the Plaintiffs seek to represent is composed of all
26 persons with mobility disabilities who use wheelchairs or
27 motorized mobility aides, such as scooters, who have been or will
28 be denied their rights under the ADA, and state law to access the

1 goods, services, benefits, privileges, advantages and
2 accommodations provided by Chipotle with respect to the food
3 service line, the viewing and selection of food items, and the
4 viewing of the preparation of burritos and bols.

5 13. Defendant Chipotle Mexican Grill, Inc., headquartered
6 in Denver, Colorado, is a corporation authorized to do business
7 and doing business within the State of California. Plaintiffs
8 are informed and believe and thereon allege that Chipotle
9 operates approximately 83 restaurants within the State of
10 California, all of which are similarly designed and constructed
11 with respect to the food service line. This case arises out of
12 Defendants' policy to deny access to people in wheelchairs to the
13 goods, services, advantages, privileges, accommodations and
14 benefits afforded to non-disabled customers.

15 14. The Defendants whose identities are unknown are sued
16 herein under the names DOES 1 through 10 ("DOES"). Plaintiffs
17 are informed and believe and thereon allege that all of the
18 Defendants, including the DOES, are in some manner responsible
19 for the injuries and damages herein alleged.

20 **FACTS APPLICABLE TO ALL CAUSES OF ACTION**

21 15. Each and every allegation set forth in each and every
22 statement of the Complaint is hereby incorporated by reference in
23 each and every other averment and allegation of this Complaint.

24 16. Maurizio Antoninetti has paraplegia. He uses a
25 wheelchair for mobility. In November and December of 2006, Mr.
26 Antoninetti visited the Chipotle restaurants located on Rosecrans
27 Street and at San Diego State University in San Diego,
28 California. At one of the restaurants, Mr. Antoninetti

1 experienced the same discrimination he had been subjected to at
2 Chipotle restaurants in Encinitas and Pacific Beach, California.
3 That is, despite his protestations that he could not see the food
4 items, and despite his attempt to see over the wall which
5 separates customers from the food items, Mr. Antoninetti was
6 provided with absolutely no accommodations by Chipotle food crew.
7 No effort at all was made to show him the food items or to allow
8 him to see the preparation of his food. He, therefore, could not
9 order exactly what he wanted, nor could he direct the building of
10 his perfect burrito, nor did he have the opportunity to enjoy
11 viewing the construction of his burrito. At the other
12 restaurant, because of the same condition of the high wall, Mr.
13 Antoninetti was deterred from even purchasing any food items.

14 17. Jean Riker has hemiplegia. She uses a wheelchair for
15 mobility. Ms. Riker visited the Chipotle restaurant on Capitol
16 Avenue in Sacramento, California in November of 2006. Ms. Riker
17 could not see the food items available for selection or the
18 preparation of her burrito, despite her efforts to see over the
19 high wall which separated her from the food crew. Absolutely no
20 accommodations were provided to Ms. Riker. Ms. Riker has since
21 been deterred from returning to Chipotle because of the
22 discrimination she experienced on her visit.

23 18. Michael Rifkin has multiple sclerosis and uses a
24 motorized chair for mobility. Mr. Rifkin visited the Chipotle
25 restaurant on Victoria Avenue in Ventura, California in August of
26 2006. Mr. Rifkin advised the food crew members that he could not
27 see the food items or the preparation of his food. No
28 accommodations were provided to Mr. Rifkin. Mr. Rifkin has been

1 deterred from returning to any Chipotle because of the
2 discrimination he experienced during his visit.

3 19. Karen Friedman has multiple sclerosis, among other
4 disabling conditions. She uses a wheelchair or a motorized
5 scooter for mobility. She visited the Chipotle on State Street
6 in Santa Barbara, California. She attempted to view the food
7 items over the wall, but was unsuccessful because of the height
8 of the food. As a strict vegetarian, she ordered a vegetarian
9 burrito but was given a burrito with meat ingredients. She
10 believes that, if she had been provided the opportunity to view
11 her food while it was being prepared, she would have been able to
12 prevent the mistake from occurring. She has been deterred from
13 returning to a Chipotle restaurant because of the lack of
14 accommodations provided to her.

15 20. Dr. Perkins uses a wheelchair for mobility. Dr.
16 Perkins visited the Chipotle restaurant located in Ventura,
17 California in 2006. Dr. Perkins attempted to view the food items
18 available for selection but was unable to see over the wall. He
19 advised the crew members that he could not see the food, but no
20 accommodation was provided until he insisted that he be able to
21 see the guacamole because of a concern for his food allergies.
22 Because he was unable to see the food items and because no
23 accommodations were provided to him, Dr. Perkins left the food
24 line without ordering and ultimately had to rely on his wife to
25 select and "build" his burrito.

26 21. As a result of the above, Defendants have failed to
27 comply with federal requirements not to discriminate against
28 people with disabilities. Such actions are required under Title

1 III of the ADA to ensure that patrons with mobility disabilities
2 have access to the goods, services, benefits, advantages,
3 privileges and accommodations that are provided to non-disabled
4 patrons of Chipotle.

5 22. Chipotle has failed to comply with California state
6 requirements relating to providing access to people with
7 disabilities. Chipotle was notified by other wheelchair users,
8 beginning at least several years ago and continuing to the
9 present, about the lack of access provided to people who use
10 wheelchairs for mobility. Chipotle, despite this notice, has
11 taken no action to modify the high walls at its restaurants or to
12 provide effective accommodations to people in wheelchairs so that
13 they can see the selection of food items and see the preparation
14 of their burritos or bols, in a manner equal to that available to
15 non-wheelchair users.

16 23. Accordingly, Plaintiffs bring this action seeking
17 injunctive and declaratory relief in order to compel Defendant to
18 comply with its obligations to provide access to its goods,
19 services, benefits, advantages, privileges and accommodations and
20 to otherwise not discriminate against people with disabilities
21 who use wheelchairs. The named Plaintiffs also seek damages in
22 addition to their attorneys' fees and costs.

23 **CLASS ACTION ALLEGATIONS**

24 24. Plaintiffs bring this action on their own behalf and on
25 behalf of all persons similarly situated. The class which
26 plaintiffs seek to represent is composed of "all persons with
27 mobility disabilities who use wheelchairs or motorized mobility
28 aides, who have been or will be denied their rights under the

1 ADA, and state law to access goods, services, benefits,
2 advantages, privileges and accommodations provided by Chipotle at
3 its approximately 83 restaurants within the State of California
4 (class definition).

5 25. This suit is properly maintainable as a class action
6 under Federal Rules of Civil Procedure, Rule 23 (b)(2), because
7 Defendant has acted or refused to act on grounds generally
8 applicable to the class, at each of its approximately 83
9 California restaurants, thereby making appropriate final
10 injunctive relief or declaratory relief with respect to the class
11 as a whole an appropriate remedy. Class claims are brought for
12 the purpose of obtaining declaratory and injunctive relief and
13 statutory minimum damages only. Class claims do not include
14 claims for actual, general or special damages.

15 26. The persons in the class are so numerous that joinder
16 of all such persons is impracticable and the disposition of their
17 claims in a class action is a benefit to the parties and to the
18 Court.

19 27. There is a well-defined community of interest in the
20 questions of law and fact involved affecting the parties to be
21 represented in that they were all denied their civil right to
22 full and equal access to the facilities owned and/or operated by
23 Defendant due to the policies and/or design requirements applied
24 to persons with mobility disabilities, despite the requirements
25 of federal law.

26 28. Legal and factual questions common to each of the class
27 members include, but are not limited to, the following:

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1 A. Whether Defendant is violating Title III of the
2 ADA, 42 U.S.C. sections 12181, et seq., by designing and
3 constructing a food service line which precludes people in
4 wheelchairs from seeing the food items available for selection
5 and from seeing the construction of their burritos or bols in the
6 same manner as is available to non-disabled people.

7 B. Whether Defendant has violated California Civil
8 Code sections 51, et seq., in that patrons of Chipotle with
9 mobility disabilities who use mobility aides as described above,
10 have either not been provided services, goods, benefits,
11 advantages, privileges, accommodations and facilities that are
12 provided to other persons or have been provided services, goods,
13 benefits, advantages, privileges and accommodations and
14 facilities that are not equal to, and are inferior to, the
15 services, goods, benefits, advantages, privileges, accommodations
16 and facilities provided to persons who do not have mobility
17 disabilities;

18 C. Whether Defendants have violated Business &
19 Professions Code section 17200 by engaging in unfair, illegal or
20 fraudulent business practices; and

21 D. Whether the Defendant is liable to each and every
22 class member for damages for each offense, as provided by
23 applicable state statutes.

24 29. The claims of the named Plaintiffs are typical of those
25 of the class and Plaintiffs will fairly and adequately represent
26 the interests of the class.

27 30. The attorney representing the Plaintiffs is an
28 experienced civil rights attorney with specific experience in

1 cases involving persons with disabilities. The attorney
2 representing Plaintiffs is also considered an able practitioner
3 in statutory adjudication and federal court litigation.

4 31. References to Plaintiffs shall be deemed to include the
5 named Plaintiffs and each member of the class, unless otherwise
6 indicated.

7 **FIRST CAUSE OF ACTION**

8 **Title III of the Americans with Disabilities Act**
9 **42 U.S.C. §§ 12181 et seq.**

10 32. Plaintiffs incorporate by reference each and every
11 allegation contained in the foregoing paragraphs.

12 33. Congress enacted the ADA upon finding, among other
13 things, that "society has tended to isolate and segregate
14 individuals with disabilities" and that such forms for
15 discrimination continue to be a "serious and pervasive social
16 problem." 42 U.S.C. § 12101(a)(2).

17 34. In response to these findings, Congress explicitly
18 stated that the purpose of the ADA is to provide "a clear and
19 comprehensive national mandate for the elimination of
20 discrimination against individuals with disabilities" and "clear,
21 strong, consistent, enforceable standards addressing
22 discrimination against individuals with disabilities." 42 U.S.C.
23 § 12101(b)(1)-(2).

24 35. The ADA provides, inter alia, that it is discriminatory
25 to subject an individual or class of individuals on the basis of
26 a disability "to a denial of the opportunity of the individual or
27 class to participate in or benefit from the goods, services,
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1 facilities, privileges, advantages, or accommodations of an
2 entity." 42 U.S.C. § 12182(a)(i).

3 36. The ADA further provides that it is discriminatory "to
4 afford an individual or class of individuals, on the basis of a
5 disability . . . with the opportunity to participate in or
6 benefit from a good, service, facility, privilege, advantage, or
7 accommodation that is not equal to that afforded to other
8 individuals." 42 U.S.C. § 12182(a)(ii).

9 37. Defendants' acts and omissions alleged herein are in
10 violation of the ADA, 42 U.S.C. sections 12101, et seq., and the
11 regulations promulgated thereunder.

12 38. Chipotle is a public accommodation covered by Title III
13 of the ADA. 42 U.S.C. § 12181(7)(I).

14 39. Plaintiffs are persons with mobility disabilities and
15 thus are specifically protected under the ADA. 42 U.S.C. §
16 12102(2); and 28 C.F.R. § 36.104.

17 40. Defendant's conduct constitutes multiple ongoing and
18 continuous violations of the ADA and, unless restrained from
19 doing so, Defendant will continue to violate said law. Said
20 conduct, unless enjoined, will continue to inflict injuries for
21 which Plaintiffs have no adequate remedy at law. Consequently,
22 Plaintiffs are entitled to injunctive relief pursuant to section
23 308 of the ADA. 42 U.S.C. § 12188.

24 41. Plaintiffs are also entitled to reasonable attorneys'
25 fees and costs pursuant to section 505 of the ADA. 42 U.S.C. §
26 12205.

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1 **SECOND CAUSE OF ACTION**

2 **Unruh Civil Rights Act**
3 **California Civil Code §§ 51 et seq.**

4 42. Plaintiffs incorporate by reference each and every
5 allegation contained in the foregoing paragraphs.

6 43. California's Unruh Civil Rights Act prohibits
7 discrimination against individuals with disabilities. Section 51
8 of the California Civil Code provides, in relevant part:

9 All persons within the jurisdiction of this
10 state are free and equal, and no matter what
11 their ... disability ... are entitled to the full
12 and equal accommodations, advantages,
13 facilities, privileges, or services in all
14 business establishments of every kind
15 whatsoever.

16 Cal. Civ. Code § 51(b).

17 44. The Unruh Act provides that "[a] violation of the right
18 of any individual under the Americans with Disabilities Act ...
19 shall also constitute a violation of this section." Cal. Civ.
20 Code § 51(f).

21 45. As set forth above, Defendant discriminated against
22 Plaintiffs based on their disability by instituting policies or
23 by designing and constructing facilities that discriminate
24 against people with mobility disabilities.

25 46. Defendant's actions or inactions constitute a violation
26 of, among other laws, the Americans with Disabilities Act.

27 47. Plaintiffs' mobility disabilities limit a major life
28 activity; thus they are protected under the Unruh Civil Rights
Act. Cal. Civ. Code § 51(e)(1); Cal. Gov't. Code §12926(k).

48. Chipotle is a business establishment regulated by the
Unruh Civil Rights Act. Cal. Civ. Code § 51(b).

1 49. As a direct and proximate result of Defendant's
2 conduct, Plaintiffs have suffered damages.

3 50. As such, the named Plaintiffs are entitled to damages,
4 including statutory damages in an amount up to three times the
5 amount of their actual damages, with a minimum amount of \$4,000
6 per offense. Plaintiffs are also entitled to their attorneys'
7 fees. Cal. Civ. Code § 52(a), (e) and § 52.1(h).

8 51. Plaintiffs are also entitled to injunctive and
9 declaratory relief. Cal. Civ. Code § 52.1(b).

10 **THIRD CAUSE OF ACTION**

11 **Unfair Business Practice**
12 **Business and Professions Code §17200**

13 52. Plaintiffs incorporate by reference each and every
14 allegation contained in the foregoing paragraphs.

15 53. Defendant's conduct, as alleged, is part of a general
16 business practice by Defendant. Defendant has made a considered
17 decision to promote patronage at the expense of Defendant's legal
18 obligations to patrons with mobility disabilities.

19 54. Defendant's policies, practices and procedures
20 constitute an unfair, fraudulent and deceitful business practice
21 within the meaning of California Business and Professions Code
22 sections 17200, et seq., in that, inter alia, Defendant appeals
23 to, advertises to, and purports to serve all people, including
24 persons with mobility disabilities, yet Defendant's policies,
25 practices and procedures are illegal, discriminatory and in
26 violation of public policy.

27 55. Plaintiffs have suffered injury as a result of
28 Defendant's unfair and illegal business policy, including, but

1 not limited to being discriminated against while attempting to
2 "build the perfect burrito" or to participate in the "Chipotle
3 experience" as advertised and offered by Defendant.

4 56. Plaintiffs are entitled to an injunction restraining
5 Defendant from engaging in any act or omission, or failing to
6 engage in any act or omission, the effect of which is to cause,
7 directly or indirectly, discrimination by Defendant against
8 persons with mobility disabilities. Plaintiffs are also entitled
9 to an injunction ordering Defendant to engage in an act or acts,
10 the effect of which is to prevent or remedy discrimination by
11 Defendant against persons with mobility disabilities. Plaintiffs
12 are also entitled to attorneys' fees and costs pursuant to
13 California Code of Civil Procedure section 1021.5.

14 **WHEREFORE**, plaintiffs request relief as set forth below.

15 **FOURTH CAUSE OF ACTION**

16 **Intentional Infliction of Emotional Distress**

17 57. Plaintiffs incorporate by reference each and every
18 allegation contained in the foregoing paragraphs.

19 58. Through the acts and omissions described herein, and
20 other such acts, Defendants refused to provide Plaintiffs with
21 goods, services, facilities, privileges, advantages, or
22 accommodations in a manner comparable to the goods, services,
23 facilities, privileges, advantages, or accommodations provided to
24 people without disabilities solely because of their disabilities.

25 59. Defendant's treatment of Plaintiffs because of their
26 disabilities constitutes outrageous conduct.

27 60. Defendant's conduct was intentional and malicious and
28 done for the purpose of causing Plaintiffs to suffer humiliation,

1 mental anguish, loss of appetite, and emotional and physical
2 distress.

3 61. As the proximate result of the acts and omissions
4 described herein, and other such acts, Plaintiffs suffered
5 humiliation, mental anguish, and emotional distress.

6 62. Plaintiffs are informed and believe and based thereon
7 allege that Defendant's acts and omissions described herein, and
8 other such acts, were willful, reckless, oppressive, malicious
9 and done with a callous disregard of the consequences
10 substantially certain to occur and justify an award of exemplary
11 and punitive damages.

12 **FIFTH CAUSE OF ACTION**

13 **Negligence Per Se**

14 63. Plaintiffs incorporate by reference each and every
15 allegation contained in the foregoing paragraphs.

16 64. As a place of public accommodation and as a business
17 establishment in the state of California, Chipotle has statutory
18 duties to each of its customers, including Plaintiffs, to provide
19 them with: (1) the full and equal enjoyment of its goods,
20 services, facilities, privileges, advantages, or accommodations
21 (42 U.S.C. § 12182(a)); (2) to not exclude from the participation
22 in, or be denied the benefits of the services (29 U.S.C. § 709);
23 (3) full and equal goods and services (Cal. Civ. Code § 51(b));
24 and (4) full and equal access (Cal. Civ. Code § 54.1(a)(1)).

25 65. Through the acts and omissions described herein, and
26 other such acts, Defendant breached the statutory duties
27 described in paragraph 64 that it owed to Plaintiffs by its
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1 policies, practices, procedures, design and construction of
2 facilities as described above.

3 66. By violating the statutes described in paragraph 64 and
4 causing the very injury those statutes were designed to prevent,
5 namely discrimination against people with disabilities, Defendant
6 committed negligence per se. Defendant's breach of its duties to
7 Plaintiffs was a proximate cause of the injuries and loss
8 suffered by Plaintiffs, including but not limited to emotional
9 distress.

10 **SIXTH CAUSE OF ACTION**

11 **Declaratory Relief**

12 67. Plaintiffs incorporate by reference each and every
13 allegation contained in the foregoing paragraphs.

14 68. Plaintiffs contend, and are informed and believe that
15 Defendants deny, that Defendant fails to comply with applicable
16 laws prohibiting discrimination against persons with mobility
17 disabilities and are in violation of various civil rights
18 statutes and the California Business and Professions Code.

19 69. In addition, Plaintiffs contend, and are informed and
20 believe, that Defendant denies that it has violated or breached
21 any of its obligations to persons who use wheelchairs for
22 mobility.

23 70. A judicial declaration is necessary and appropriate at
24 this time in order that each of the parties may know their
25 respective rights and duties and act accordingly.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment as follows:

1) Declaring that Defendant violated Title III of the ADA and its implementing regulations by failing to provide full and equal enjoyment of their goods, services, facilities, privileges, advantages, or accommodations to Plaintiffs;

2) Declaring that Defendants violated the Unruh Civil Rights Act by failing to provide full and equal goods, services, facilities, privileges, advantages, or accommodations to Plaintiffs;

3) Declaring that Defendant violated Business and Professions Code Section 17200 by engaging in unfair business practices;

4) Granting a permanent injunction directing Defendant to modify the design and construction of the food service line walls at each of its California restaurants and/or to alter its policies, practices and procedures, including employee training, to ensure that it affords full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations for people with disabilities, including Plaintiffs, as required by the ADA, the Unruh Civil Rights Act, and Business and Professions Code Section 17200;

5) Awarding Plaintiffs compensatory damages in an amount according to proof;

6) Awarding Plaintiffs such additional amounts as may be determined at trial, up to a maximum of three times the amount of actual damages, but in no case less than four thousand dollars (\$4,000) for each violation of California Civil Code section 51,


1 as provided by California Civil Code section 52;

2 7) Awarding Plaintiffs attorneys' fees and all costs
3 incurred by bringing this action; and

4 8) Granting such other relief as the Court deems just
5 and fair.

6 DATED: 12/6, 2006

LAW OFFICES OF AMY B. VANDEVELD

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9 AMY B. VANDEVELD,
Attorney for Plaintiffs

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JS44

(Rev. 07/89)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

I (a) PLAINTIFFS MAURIZIO ANTONINETTI, JEAN RIKUR: JAMES PERKINS: KAREN FRIEDMAN and MICHAEL RIFKIN, on behalf of themselves and all other similarly situated,

DEFENDANTS **CHIPOTLE MEXICAN GRILL, INC.,** a Colorado Corporation and **2006 DEC 8 10:01**

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF San Diego and Los Angeles (EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT (IN U.S. PLAINTIFF CASES ONLY) San Diego
CLERK US DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA
BY **Rm** DEPUTY

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)
Amy B. Vandeveld, Esq.
LAW OFFICES OF AMY B. VANDEVELD
1850 Fifth Avenue, Suite 22
San Diego, CA 92101

ATTORNEYS (IF KNOWN)
'06CV 2671 LAB POR

II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)

- U.S. Government Plaintiff
- Federal Question (U.S. Government Not a Party)
- 20.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX (For Diversity Cases Only) FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

	PT	DEF		PT	DEF
Citizen of This State	<input type="checkbox"/>	<input type="checkbox"/>	Incorporated or Principal Place of Business in This State	<input type="checkbox"/>	<input type="checkbox"/>
Citizen of Another State	<input type="checkbox"/>	<input type="checkbox"/>	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/>	<input type="checkbox"/>
Citizen or Subject of a Foreign Country	<input type="checkbox"/>	<input type="checkbox"/>	Foreign Nation	<input type="checkbox"/>	<input type="checkbox"/>

IV. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY).

42 U.S.C. Sec. 12101 12111, 12181 12184 and 12201 et seq.

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<ul style="list-style-type: none"> 110 Insurance 120 Marine 130 Miller Act 140 Negotiable Instrument 150 Recovery of Overpayment & Enforcement of Judgment 151 Medicare Act 152 Recovery of Defaulted Student Loans (Excl. Veterans) 153 Recovery of Overpayment of Veterans Benefits 160 Stockholder Suits 190 Other Contract 195 Contract Product Liability 	<p>PERSONAL INJURY</p> <ul style="list-style-type: none"> 310 Airplane 315 Airplane Product Liability 320 Assault, Libel & Slander 330 Federal Employers' Liability 340 Marine 345 Marine Product Liability 350 Motor Vehicle 355 Motor Vehicle Product Liability 360 Other Personal Injury <p>PERSONAL INJURY</p> <ul style="list-style-type: none"> 362 Personal Injury - Medical Malpractice 365 Personal Injury - Product Liability 368 Asbestos Personal Injury Product Liability <p>PERSONAL PROPERTY</p> <ul style="list-style-type: none"> 370 Other Fraud 371 Truth in Lending 380 Other Personal Property Damage 385 Property Damage Product Liability 	<ul style="list-style-type: none"> 610 Agriculture 620 Other Food & Drug 625 Drug Related Seizure of Property 21 USC881 630 Liquor Laws 640 RR & Truck 650 Airline Regs 660 Occupational Safety/Health 690 Other <p>LABOR</p> <ul style="list-style-type: none"> 710 Fair Labor Standards Act 720 Labor/Mgmt. Relations 730 Labor/Mgmt. Reporting & Disclosure Act 740 Railway Labor Act 790 Other Labor Litigation 791 Empl. Ret. Inc. Security Act 	<ul style="list-style-type: none"> 422 Appeal 28 USC 158 423 Withdrawal 28 USC 157 <p>PROPERTY RIGHTS</p> <ul style="list-style-type: none"> 820 Copyrights 830 Patent 840 Trademark <p>SOCIAL SECURITY</p> <ul style="list-style-type: none"> 861 HIA (13958) 862 Black Lung (923) 863 DIWC/DIWW (405(g)) 864 SSID Title XVI 865 RSI (405(a)) <p>FEDERAL TAX SUITS</p> <ul style="list-style-type: none"> 870 Taxes (U.S. Plaintiff or Defendant) 871 IRS - Third Party 26 USC 7609 	<ul style="list-style-type: none"> 400 State Reappointment 410 Antitrust 430 Banks and Banking 450 Commercial/CC Rates/etc. 460 Deportation 470 Racketeer Influenced and Corrupt Organizations 810 Selective Service 850 Securities/Commodities Exchange 875 Customer Challenge 12 USC 891 Agricultural Acts 892 Economic Stabilization Act 893 Environmental Matters 894 Energy Allocation Act 895 Freedom of Information Act 900 Appeal of Fee Determination Under Equal Access to Justice 950 Constitutionality of State 890 Other Statutory Actions
<p>REAL PROPERTY</p> <ul style="list-style-type: none"> 210 Land Condemnation 220 Foreclosure 230 Rent Lease & Ejectment 240 Tort to Land 245 Tort Product Liability 290 All Other Real Property 	<p>CIVIL RIGHTS</p> <ul style="list-style-type: none"> 441 Voting 442 Employment 443 Housing/Accommodations 444 Welfare 440 Other Civil Rights 	<p>PRISONER PETITIONS</p> <ul style="list-style-type: none"> 510 Motions to Vacate Sentence Habeas Corpus 530 General 535 Death Penalty 540 Mandamus & Other 550 Civil Rights 555 Prisoner Conditions 		

VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

- 1 Original Proceeding
- 2 Removal from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ Undetermined JURY DEMAND: YES

VIII. RELATED CASE(S); IF ANY (See Instructions): JUDGE Napoleon Jones Docket Number 05 CV 1660 J

DATE 12/6/06 SIGNATURE OF ATTORNEY OF RECORD Amy B. Vandeveld

132539 \$350 ser 12/6/06

RETURN OF SERVICE	
Service of the Summons and Complaint was made by me	DATE
NAME OF SERVER	TITLE
Check one box below to indicate appropriate method of service	
<input type="checkbox"/> Served personally upon the defendant. Place where served: _____	
<input type="checkbox"/> Left copies thereof at _____ (discretion then residing at _____) of _____ (Name of person of suitable age and address)	
<input type="checkbox"/> Return unexecuted: _____	
<input type="checkbox"/> Other (specify): _____	
TRAVEL I declare under penalty of perjury that the Return of Service is true and correct. Executed on: _____	<div style="text-align: right;"> FROM: CIVIL FILING MAURIZIO ANTONINETTI ET AL V. CHIPOTLE MEXICAN GRILL ET AL BCR 3071 SH </div> <div style="text-align: center;"> Total -> 350.00 60.00 CH 100.00 CH 190.00 CH </div> <div style="text-align: center;"> Case # 3-06-CV-2671 Judge - BURNS CV886900 </div> <div style="text-align: center;"> Code # By Amount </div> <div style="text-align: center;"> # 132539 - 01 December 6, 2006 San Diego Division Southern District of California DISTRICT COURT UNITED STATES </div>
NOTICE OF RIGHT TO CONSENT TO ENTRY OF JUDGMENT	
IN ACCORDANCE WITH THE PROVISIONS OF 28 U.S.C. § 636(c), YOU MAY, AT ANY TIME, VOLUNTARILY CONSENT TO THE ENTRY OF A JUDGMENT BY A U.S. MAGISTRATE JUDGE IN THIS CASE. YOU SHOULD BE AWARE THAT YOU SHOULD BE COMMUNICATED WITH BY THE JUDGE OR MAGISTRATE TO WHOM YOU CONSENT.	
JUDGMENTS OF THE U.S. MAGISTRATES ARE APPEALABLE TO THE U.S. COURT OF APPEALS IN ACCORDANCE WITH THIS STATUTE AND THE FEDERAL RULES OF APPELLATE PROCEDURE.	

1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure