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7
8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA

10 ERNESTINA SALDANA-NEILY

CASE NO.
Civil Rights

11 Plaintiff,

12 v.

13
14 TACO BELL OF AMERICA, INC.;
15 DOROTHY M. HIURA TRUST; and
16 DOES 1-25; HEDIA PETROLEUM,
17 INC., dba CAMPBELL UNION
76; BOZORGHADAD TRUST; and
DOES 26-50, Inclusive,

**COMPLAINT FOR DENIAL OF ACCESS
RIGHTS TO DISABLED PERSONS IN
VIOLATION OF TITLE III OF THE
AMERICANS WITH DISABILITIES ACT OF
1990, AND OF CALIFORNIA LAWS
GUARANTEEING FULL AND EQUAL ACCESS
TO PUBLIC FACILITIES; INJUNCTIVE
RELIEF AND DAMAGES PER 42 USC 12101
et seq.; CALIFORNIA CIVIL CODE §§
51, 52, 54, 54.1, 54.3 AND 55;
CALIFORNIA HEALTH AND SAFETY CODE
§§ 19955-19959**

18 Defendants.

DEMAND FOR JURY TRIAL

19
20 Plaintiff ERNESTINA SALDANA-NEILY complains of Defendants
21 TACO BELL OF AMERICA, INC.; DOROTHY M. HIURA TRUST; HEDIA
22 PETROLEUM, INC., dba CAMPBELL UNION 76; BOZORGHADAD TRUST; and DOES
23 1-50, Inclusive, and alleges as follows:

24
25 **FIRST CAUSE OF ACTION: DAMAGES AND INJUNCTIVE RELIEF**
26 **FOR DENIAL OF FULL AND EQUAL ACCESS TO A PUBLIC**
27 **ACCOMMODATION: PUBLIC FACILITIES IN A PUBLIC FACILITY**
(§§19955 Et Seq., Health & Safety Code, §§54, et seq. Civil Code)

28 1. **SUMMARY:** This case involves the denial of accessible

1 parking, accessible paths of travel, and accessible restroom
2 facilities, to Plaintiff ERNESTINA SALDANA-NEILY at a Taco Bell
3 Restaurant located in Campbell, California, and accessible
4 facilities at the Campbell Union 76 Station located down the
5 street, resulting in a humiliating bodily functions accident.
6 Plaintiff ERNESTINA SALDANA-NEILY is a physically disabled person
7 who requires the use of a wheelchair and is unable to use public
8 facilities which are not accessible to disabled members of the
9 public. ERNESTINA SALDANA-NEILY was denied her Civil Rights to
10 full and equal access at these facilities, under both California
11 law and federal law, because they were not, and are not now,
12 properly accessible to physically disabled persons who use
13 wheelchairs. Plaintiff seeks injunctive relief to require
14 Defendants to make these facilities accessible to disabled persons,
15 and to ensure that all disabled patrons will be provided accessible
16 parking, entry, paths of travel, and restroom facilities.
17 Plaintiff also seeks recovery of damages for her personal injuries
18 and discriminatory experiences and for the continuing day-to-day
19 denial of access which results from defendants' failure to provide
20 accessible facilities. Plaintiff ERNESTINA SALDANA-NEILY also
21 seeks recovery of statutory attorney fees, litigation expenses and
22 costs.

23 2. **JURISDICTION:** This Court has jurisdiction of this action
24 pursuant to 28 USC §1331 for violations of the Americans with
25 Disabilities Act of 1990, 42 USC 12101 *et seq.* Pursuant to pendant
26 jurisdiction, attendant and related causes of action arising from
27 the same facts are also brought under California law, including but
28 not limited to violations of California Government Code §4450 *et*

1 seq., Health & Safety Code §19955 et seq., including §19959; Title
2 24 California Code of Regulations; and California Civil Code §§ 51,
3 52, 54, 54.1 and 55.

4 3. **VENUE:** Venue is proper in this court pursuant to 28 USC
5 1391(b) because the subject property is located in this district
6 and Plaintiff's causes of action arose here.

7 4. **INTRADISTRICT:** This case should be assigned to the San
8 Jose intradistrict where the subject property is located and is
9 where plaintiff's causes of action arose.

10 5. **PARTIES:** Plaintiff ERNESTINA SALDANA-NEILY is a
11 "qualified" physically disabled person who cannot walk and who
12 requires use of a "power" wheelchair. Defendants TACO BELL OF
13 AMERICA, INC.; DOROTHY M. HIURA TRUST; and DOES 1-25, located at
14 1546 Camden Ave., Campbell, California, and HEDIA PETROLEUM, INC.,
15 dba CAMPBELL UNION 76; BOZORGHADAD TRUST; and DOES 26-50,
16 Inclusive, located at 3145 S. Bascom Ave., Campbell, are the
17 owners, operators, lessors, and lessees of the subject properties,
18 buildings and facilities. The restaurant and gas station operated
19 as a "Taco Bell" and the "Campbell Union 76" are each a "public
20 accommodation and/or business entity" subject to the requirements
21 of California Health & Safety Code §19955 et seq. and of California
22 Civil Code §54 et seq. Each of these facilities have, since July
23 1, 1970, undergone construction and/or "alterations, structural
24 repairs, or additions" requiring disabled access per §§19955-19959,
25 et seq. of the California Health & Safety Code.

26 6. The true names and capacities of Defendants Does 1
27 through 50, Inclusive, are unknown to plaintiff who therefore sues
28 said Defendants by such fictitious names. Plaintiff is informed

1 and believes that each of the defendants herein designated as a Doe
2 is legally responsible in some manner for the events and happenings
3 herein referred to and caused injury and damages proximately
4 thereby to plaintiff; plaintiff prays leave of Court to amend this
5 Complaint to show such true names and capacities when the same have
6 been ascertained.

7 7. Defendants TACO BELL OF AMERICA, INC.; DOROTHY M. HIURA
8 TRUST; and DOES 1-25, located at 1546 Camden Ave., Campbell,
9 California, and HEDIA PETROLEUM, INC., dba CAMPBELL UNION 76;
10 BOZORGHADAD TRUST; and DOES 26-50, Inclusive, located at 3145 S.
11 Bascom Ave., Campbell, are and were the owners, operators, lessors
12 and lessees of the subject properties buildings, and facilities at
13 all relevant times. Plaintiff is informed and believes that each
14 of the defendants herein is the agent, employee or representative
15 of each of the other defendants, and performed all acts and
16 omissions stated herein within the scope of such agency or
17 employment or representative capacity and is responsible in some
18 manner for the acts and omissions of the other defendants in
19 proximately causing the damages complained of herein.

20 8. Plaintiff ERNESTINA SALDANA-NEILY and other similarly
21 situated mobility disabled persons are unable to use public
22 facilities on a "full and equal" basis unless each such facility
23 is in compliance with the provisions of California Health & Safety
24 Code §19955 *et seq.* Plaintiff is a member of that portion of the
25 public whose rights are protected by the provisions of §19955 *et*
26 *seq.* Health & Safety Code.

27 9. Sections 19955 and 19955.5 Health & Safety Code were
28 enacted "To ensure that public accommodations or facilities

1 constructed in this state with private funds adhere to the
2 provisions of Chapter 7 (commencing with §4450) of Division 5 of
3 Title 1 of the Government Code." Section 19955 also requires that
4 "When sanitary facilities are made available for the public,
5 clients, or employees ..., they shall be made available for persons
6 with disabilities." Title 24, California Code of Regulations,
7 formerly known as the California Administrative Code, was in effect
8 at the time of each alteration which occurred at such public
9 facility since July 1, 1982, requiring access complying with the
10 specifications of Title 24 whenever any construction, alteration,
11 structural repair or addition" was performed. Further, any
12 construction alterations, structural repairs, or additions which
13 occurred between July 1, 1970 and July 1, 1982, required access
14 pursuant to the A.S.A. (American Standards Association) Regulations
15 then in effect, per §4450ff Government Code. All such
16 constructions and/or alterations were carried out by the current
17 defendant owners or operators, or by their predecessors in
18 interest, whose acts and omissions are the continuing and current
19 responsibility of all current owners, operators, lessors and
20 lessees.

21 10. On or about May 15, 2004, plaintiff and her husband were
22 returning to their home in Santa Cruz after a drive. They decided
23 to leave the freeway to buy lunch and pulled in at the Taco Bell
24 restaurant at 1546 Camden Ave., Campbell. They parked and
25 disembarked their disabled licensed van, entered the restaurant,
26 and ordered food and beverages. While waiting for their food,
27 plaintiff felt a need to use the restroom and inquired of an
28 employee behind the counter, "Where is the accessible bathroom?"

1 The employee advised that the public restrooms were outside, in the
2 back of the restaurant. Plaintiff exited the restaurant in her
3 wheelchair and went to the back of the restaurant, but discovered
4 that the women's restroom door was too narrow for her to enter in
5 her wheelchair. (The men's restroom door also appeared too narrow
6 for entry in a wheelchair.) Plaintiff returned to the restaurant
7 and let her husband know that the restrooms were inaccessible.
8 Plaintiff returned to the same employee and requested if there was
9 any other restroom available, and was referred to the restaurant
10 manager, who identified herself as "Maria," and who also advised
11 that no restrooms at the restaurant were accessible for disabled
12 persons. The Taco Bell staff stated that they did not know of any
13 other nearby restaurant with accessible restroom facilities,
14 although the manager advised that there was a Kentucky Fried
15 Chicken in the area.

16 11. Plaintiff's physical discomfort from her need to use the
17 restroom increased so that she became extremely physically
18 uncomfortable and determined to try to use a restroom at a nearby
19 Union 76 service station. Plaintiff traveled on the sidewalk and
20 across the street to the Union 76 station and inquired of an
21 attendant whether they had an accessible restroom. The employee
22 advised that there was one inside the service station. However,
23 the entrance into the service station was blocked to wheelchair
24 entry by a rack with some form of merchandise. The employee
25 managed to move the rack of merchandise out of the way, which
26 apparently was difficult for the employee because of its weight.
27 Finally the employee moved the rack out of the way where it blocked
28 entrance into the building, and pointed to the rear toward the

1 restroom. With some difficulty, plaintiff reached and entered the
2 restroom, which entry was also blocked by merchandise, but was
3 unable to reach the toilet before she had a bodily functions
4 accident resulting in her soiling of her clothes, to her severe
5 humiliation and embarrassment. She cleaned herself up as best she
6 could with paper hand towels, left the restroom and left the Union
7 76 service station. She returned to the Taco Bell and motioned to
8 her husband to come outside, where she told him what had happened
9 and that she needed to return home immediately. After assisting
10 Ernestina back into the van, her husband returned to the Taco Bell
11 and told the manager, Maria, what had happened. Because there had
12 been a disabled accessible parking place outside the Taco Bell,
13 plaintiff had expected that the restrooms would be accessible, and
14 was extremely upset when she found out, when plaintiff had the need
15 to use the restroom, that there were no accessible restrooms at the
16 Taco Bell; nor were there any warnings to patrons that there were
17 no accessible restrooms on the premises. Plaintiff and her husband
18 left the Taco Bell with plaintiff physically uncomfortable and
19 emotionally distraught.

20 12. On information and belief both the Taco Bell Restaurant
21 and the Union 76 service station lacked the following accessible
22 public facilities contrary to legal requirements under both
23 California law and federal law: proper accessible and van
24 accessible parking, fully accessible entrances, properly accessible
25 paths of travel, properly accessible women's (and men's) restrooms.
26 Additionally, on information and belief each of these public
27 facilities is inaccessible to persons with disabilities in other
28 aspects, including but not limited to the following: lack of proper

1 disabled accessible signage throughout the exterior and interior
2 of each the properties; lack of accessible door hardware; and lack
3 of fully accessible restrooms including (at the 76 Station) lack
4 of path of travel to the restrooms due to product displays blocking
5 entry, towel racks and mirrors mounted too high for disabled use,
6 lack of properly positioned, sized and configured grab bars in each
7 restroom, lack of full sized strike edge clearance upon exiting
8 restrooms, all rendering such facilities inaccessible to and
9 unuseable by plaintiff and other mobility disabled persons. All
10 facilities must be brought into compliance with all applicable
11 federal and state code requirements.

12 13. Further, each and every violation of the Americans With
13 Disabilities Act of 1990, (as pled in the Third Cause of Action,
14 the contents of which are repled and incorporated herein, word for
15 word, as if separately repled), also constitutes a separate and
16 distinct violation of §54(c) California Civil Code, thus
17 independently justifying an award of damages and injunctive relief
18 pursuant to California law, including but not limited to §§ 54.3
19 and 55 Civil Code.

20 14. Further, each and every violation of the Americans With
21 Disabilities Act of 1990, (as pled in the Third Cause of Action,
22 the contents of which are repled and incorporated herein, word for
23 word, as if separately repled), also constitutes a separate and
24 distinct violation of §54.1(d) California Civil Code, thus
25 independently justifying an award of damages and injunctive relief
26 pursuant to California law, including but not limited to §§ 54.3
27 and 55 Civil Code.

28 15. **INJUNCTIVE RELIEF:** Plaintiff seeks injunctive relief to

1 prohibit the acts and omissions of Defendants as complained of
2 herein which are continuing on a day-to-day basis and which have
3 the effect of wrongfully excluding Plaintiff and other members of
4 the public who are physically disabled wheelchair users from full
5 and equal access to these public facilities. Such acts and
6 omissions are the cause of humiliation and mental and emotional
7 suffering of Plaintiff ERNESTINA SALDANA-NEILY in that these
8 actions continue to treat her as an inferior and second class
9 citizen and serve to discriminate against her on the sole basis
10 that she is a person with disabilities who requires the use of a
11 wheelchair for movement in public places. Plaintiff is unable, so
12 long as such acts and omissions of defendants continue, to achieve
13 equal access to and use of these public facilities. The acts of
14 Defendants have proximately caused and will continue to cause
15 irreparable injury to plaintiff if not enjoined by this Court.

16 16. Wherefore plaintiff ERNESTINA SALDANA-NEILY asks this
17 Court to preliminarily and permanently enjoin any continuing
18 refusal by Defendants to grant full and equal access to herself and
19 other disabled persons in the respects complained of and to require
20 defendants to comply forthwith with the applicable statutory
21 requirements relating to access for disabled persons. Such
22 injunctive relief is provided by §19953 California Health & Safety
23 Code and California Civil Code §55, and other law. Plaintiff
24 further requests that the court award damages pursuant to Civil
25 Code §54.3 and other law and attorney fees, litigation expenses,
26 and costs pursuant to §19953 Health & Safety Code, Civil Code §54.3
27 and 55, Code of Civil Procedure §1021.5 and other law, all as
28 hereinafter prayed for.

1 17. **DAMAGES:** As a result of the denial of full and equal
2 access to the facility and due to the acts and omissions of
3 Defendants and each of them in owning, operating, leasing,
4 constructing, altering, and maintaining the subject facilities,
5 plaintiff suffered a violation of her Civil Rights including but
6 not limited to rights under §§ 54 and 54.1 Civil Code, all to her
7 damages as hereinafter stated. Defendants' actions and omissions
8 to act constitute discrimination against plaintiff on the sole
9 basis that she was and is physically disabled and unable, because
10 of the architectural barriers created and/or maintained by the
11 defendants in violation of the subject laws, to use the public
12 facilities on a full and equal basis as other persons.

13 18. **FEES AND COSTS:** As a result of defendants' acts,
14 omissions, and conduct, plaintiff has been required to incur
15 attorney fees, litigation expenses, and costs as provided by
16 statute, in order to enforce plaintiff's rights and to enforce
17 provisions of the law protecting access for disabled persons and
18 prohibiting discrimination against disabled persons. Plaintiff
19 therefore seeks recovery of all reasonable attorney fees,
20 litigation expenses, and costs, pursuant to the provisions of §§
21 54.3 and 55 Civil Code. Additionally, plaintiff's lawsuit is
22 intended to force the defendants to make their facilities
23 accessible to all disabled members of the public, justifying
24 "public interest" attorney fees, litigation expenses and costs
25 pursuant to the provisions of §1021.5 Code of Civil Procedure and
26 other applicable law.

27 Wherefore plaintiff prays for relief as hereinafter
28 stated:

1 WHEREFORE, plaintiff prays for damages and injunctive
2 relief as hereinafter stated.

3
4 **THIRD CAUSE OF ACTION:**
5 **VIOLATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990**
6 **42 USC §12101FF**

7 22. Plaintiff repleads and incorporates by reference, as if
8 fully set forth again herein, the allegations contained in
9 Paragraphs 1 through 21 of this Complaint, and incorporates them
10 herein as if separately repled.

11 23. Pursuant to law, in 1990 the United States Congress made
12 findings per 42 USC §12101 regarding physically disabled persons,
13 finding that laws were needed to more fully protect "some 43
14 million Americans [with] one or more physical or mental
15 disabilities;" that "historically society has tended to isolate and
16 segregate individuals with disabilities;" that "such forms of
17 discrimination against individuals with disabilities continue to
18 be a serious and pervasive social problem;" that "the Nation's
19 proper goals regarding individuals with disabilities are to assure
20 equality of opportunity, full participation, independent living and
21 economic self sufficiency for such individuals;" and that "the
22 continuing existence of unfair and unnecessary discrimination and
23 prejudice denies people with disabilities the opportunity to
24 compete on an equal basis and to pursue those opportunities for
25 which our free society is justifiably famous..."

26 24. Congress stated as its purpose in passing the Americans
27 with Disabilities Act (42 USC §12101(b))

28 It is the purpose of this act

(1) to provide a clear and comprehensive national

1 mandate for the elimination of discrimination against
2 individuals with disabilities;

3 (2) to provide clear, strong, consistent, enforceable
4 standards addressing discrimination against individuals with
5 disabilities;

6 (3) to ensure that the Federal government plays a central
7 role in enforcing the standards established in this act on
8 behalf of individuals with disabilities; and

9 (4) to invoke the sweep of Congressional authority, including
10 the power to enforce the 14th Amendment and to regulate
11 commerce, in order to address the major areas of
12 discrimination faced day to day by people with disabilities.
13 (Emphasis added)

14 25. As part of the Americans with Disabilities Act, Public
15 Law 101-336, (hereinafter the "ADA"), Congress passed "Title III -
16 Public Accommodations and Services Operated by Private Entities"
17 (42 USC 12181ff). The subject properties and facilities are among
18 the "private entities" which are considered "public accommodations"
19 for purposes of this title, per ADA §301(7)(B), which includes any
20 "a restaurant, bar, or other sales or rental establishment serving
21 food or drink," and §301(7)(f) " a ... gas station ... or other
22 service establishment."

23 26. Pursuant to §302, 42 USC §12182, "No individual shall be
24 discriminated against on the basis of disability in the full and
25 equal enjoyment of the goods, services, facilities, privileges,
26 advantages, or accommodations of any place of public accommodation
27 by any person who owns, leases, or leases to, or operates a place
28 of public accommodation."

29 27. Among the specific prohibitions against discrimination
30 were included:

31 §302(b)(2)(A)(ii): "A failure to make reasonable modifications in
32 policies, practices or procedures when such modifications are

1 necessary to afford such goods, services, facilities, privileges,
2 advantages or accommodations to individuals with disabilities...;"

3 §302(b)(A)(iii): "a failure to take such steps as may be necessary
4 to ensure that no individual with a disability is excluded, denied
5 service, segregated, or otherwise treated differently than other
6 individuals because of the absence of auxiliary aids and
7 services...;"

8 §302(b)(2)(A)(iv): "A failure to remove architectural barriers, and
9 communication barriers that are structural in nature, in existing
10 facilities... where such removal is readily achievable;"

11 §302(b)(2)(A)(v): "Where an entity can demonstrate that the removal
12 of a barrier under clause (iv) is not readily achievable, a failure
13 to make such goods, services, facilities, privileges, advantages,
14 or accommodations available through alternative methods if such
15 methods are readily achievable." The acts and omissions of
16 Defendants set forth herein were in violation of Plaintiff's rights
17 under the ADA, Public Law 101-336, and the regulations promulgated
18 thereunder, 28 CFR Part 36ff.

19 28. The removal of each of the barriers complained of by
20 Plaintiff as hereinabove alleged, were at all times herein
21 mentioned "readily achievable" under the standards of the Americans
22 With Disabilities Act. As noted hereinabove, removal of each and
23 every one of the architectural barriers complained of herein were
24 also required under California law. Further, on information and
25 belief, alterations, structural repairs or additions since January
26 26, 1992 have also independently triggered requirements for removal
27 of barriers to access for disabled persons per §303 of the ADA.

28 29. On information and belief, as of the date of plaintiff's

1 encounter at each of the premises and as of the filing of this
2 Complaint, each premises have denied and continue to deny full and
3 equal access to plaintiff and to other disabled persons, including
4 wheelchair users, in other respects, which violate plaintiff's
5 rights to full and equal access and which discriminate against
6 plaintiff on the basis of her disability, thus wrongfully denying
7 to plaintiff the full and equal enjoyment of the goods, services,
8 facilities, privileges, advantages and accommodations, in violation
9 of §302 of the ADA, 42 USC §12182.

10 30. Pursuant to the Americans with Disabilities Act, 42 USC
11 12188ff, §308, Plaintiff is entitled to the remedies and procedures
12 set forth in §204(a) of the Civil Rights Act of 1964, 42 USC
13 2000(a)-3(a), as plaintiff is being subjected to discrimination on
14 the basis of disability in violation of this title or has
15 reasonable grounds for believing that she is about to be subjected
16 to discrimination in violation of §302 and §303. On information
17 and belief, defendants have continued to violate the law and deny
18 the rights of plaintiff and other disabled persons to access these
19 public accommodations since on or before defendant's encounters as
20 previously described. Pursuant to §308(a)(2), "In cases of
21 violations of §302(b)(2)(A)(iv) and §303(a)... injunctive relief
22 shall include an order to alter facilities to make such facilities
23 readily accessible to and usable by individuals with disabilities
24 to the extent required by this title."

25 31. Plaintiff seeks relief pursuant to remedies set forth in
26 §204(a) of the Civil Rights Act of 1964, (42 USC 2000(a)-3(a), and
27 pursuant to Federal Regulations adopted to implement the Americans
28 with Disabilities Act of 1990. Plaintiff is a qualified disabled

1 person for purposes of §308(a) of the ADA who is being subjected
2 to discrimination on the basis of disability in violation of Title
3 III and who has reasonable grounds for believing she will be
4 subjected to such discrimination each time that she may attempt to
5 use the property and premises.

6 Wherefore plaintiff prays for relief as hereinafter
7 stated:

8 **PRAYER**

9 Plaintiff ERNESTINA SALDANA-NEILY prays that this Court:

10 1. Issue a preliminary and permanent injunction directing
11 Defendants TACO BELL OF AMERICA, INC.; DOROTHY M. HIURA TRUST; and
12 DOES 1-25; HEDIA PETROLEUM, INC., dba CAMPBELL UNION 76;
13 BOZORGHADAD TRUST; and DOES 26-50, Inclusive, as current owners,
14 operators, lessors, and/or lessees of the two described subject
15 properties and premises to modify the above described property and
16 premises and related facilities so that each provides full and
17 equal access to all citizens, including persons with disabilities;
18 and issue a preliminary and permanent injunction directing
19 Defendants to provide facilities usable by Plaintiff and similarly
20 situated persons with disabilities, and which provide full and
21 equal access, as required by law;

22 2. Retain jurisdiction over the Defendants until such time
23 as the Court is satisfied that Defendants' unlawful policies,
24 practices, acts and omissions, and maintenance of inaccessible
25 public facilities as complained of herein no longer occur, and can
26 not recur;

27 3. Award to Plaintiff ERNESTINA SALDANA-NEILY all
28 appropriate damages, including but not limited to statutory

1 damages, general damages and treble damages in an amount within the
2 jurisdiction of the Court, all according to proof;

3 4. Award to Plaintiff all reasonable attorney fees,
4 litigation expenses, and costs of this proceeding as provided by
5 law; and

6 5. Grant such other and further relief as this Court may
7 deem just and proper.

8
9 Dated: October __, 2004

PAUL L. REIN
PATRICIA BARBOSA
JULIE MCLEAN
LAW OFFICES OF PAUL L. REIN

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13 _____
Attorneys for Plaintiff
ERNESTINA SALDANA-NEILY

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16 **DEMAND FOR JURY TRIAL**

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

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20 Dated: October __, 2004

PAUL L. REIN
PATRICIA BARBOSA
JULIE MCLEAN
LAW OFFICES OF PAUL L. REIN

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24 _____
Attorneys for Plaintiff
ERNESTINA SALDANA-NEILY

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CERTIFICATION OF INTERESTED ENTITIES OR PARTIES

Pursuant to Civil L.R. 3-16, the undersigned certifies that as of this date, other than the named parties, there is no such interest to report.

Dated: October __, 2004

PAUL L. REIN
PATRICIA BARBOSA
JULIE MCLEAN
LAW OFFICES OF PAUL L. REIN

Attorneys for Plaintiff
ERNESTINA SALDANA-NEILY