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16 UNITED STATES DISTRICT COURT
17 NORTHERN DISTRICT OF CALIFORNIA
18 SAN FRANCISCO/OAKLAND DIVISION
19

20 THE CIVIL RIGHTS EDUCATION AND
21 ENFORCEMENT CENTER, on behalf of
itself, and ANN CUPOLO-FREEMAN,
22 RUTHEE GOLDKORN, and KENNETH
KILGORE, on behalf of themselves and a
23 proposed class of similarly situated persons
defined below,
24

25 Plaintiffs,

26 v.

27 RLJ LODGING TRUST,

28 Defendant.

Case No. _____

**CLASS ACTION COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF**

1 Plaintiffs, the Civil Rights Education and Enforcement Center (“CREEC”), on behalf of
2 itself, and Ann Cupolo-Freeman, Ruthee Goldkorn, and Kenneth Kilgore on behalf of
3 themselves and a proposed class defined below, by and through undersigned counsel, file their
4 Class Action Complaint for Declaratory and Injunctive Relief and respectfully allege as follows:

5 **INTRODUCTION**

6 1. For more than 20 years, the Americans with Disabilities Act has required hotels
7 that provide transportation services to their guests to provide equivalent accessible transportation
8 services to guests who use wheelchairs or scooters.

9 2. Nevertheless Defendant RLJ Lodging Trust (“RLJ”) – which owns and/or
10 operates approximately 150 hotels spread among more than 20 states – has repeatedly failed to
11 provide wheelchair-accessible transportation in hotels that provide transportation to nondisabled
12 guests.

13 3. As a result, while RLJ’s nondisabled guests staying at these hotels can take
14 advantage of airport shuttle services and transportation services to areas near the hotel, guests
15 who use wheelchairs or scooters are denied these services. This action is limited to challenging
16 RLJ’s violations of state and federal requirements governing accessible transportation, including
17 for example purchase and lease of accessible vehicles and provision of accessible transportation.

18 4. Plaintiffs seek declaratory and injunctive relief establishing that RLJ has engaged
19 in violations of the ADA and California state law, and requiring RLJ to comply with these
20 statutes by providing wheelchair-accessible transportation services that are equivalent to the
21 transportation services provided to nondisabled guests at RLJ’s hotels.

22 **JURISDICTION AND VENUE**

23 5. Plaintiffs’ claims arise under Title III of the Americans with Disabilities Act, 42
24 U.S.C. § 12181, *et seq.* (“ADA”), and the Unruh Civil Rights Act, Cal. Civ. Code § 51, *et seq.*
25 (“the Unruh Act”).

26 6. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C.
27 §§ 1331 and 1343, and pursuant to its supplemental jurisdiction over Plaintiffs’ claims brought
28 under the laws of the State of California. This Court has jurisdiction over Plaintiffs’ claims for

1 declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201 and 2202.

2 7. Venue is proper within this District pursuant to 28 U.S.C. § 1391(b).

3 **INTRADISTRICT ASSIGNMENT**

4 8. This action arises in part in Contra Costa and Alameda Counties and thus is
5 properly assigned to the San Francisco/Oakland Division.

6 **PARTIES**

7 9. Plaintiff the Civil Rights Education and Enforcement Center (“CREEC”) is a
8 nationwide civil rights membership organization based in Denver, Colorado whose mission
9 includes, among other purposes, ensuring that persons with disabilities participate in our nation’s
10 civic life without discrimination, including in the opportunity to benefit from the services
11 provided by hotels.

12 10. Plaintiff Ann Cupolo-Freeman is a member of CREEC and is and has been at all
13 relevant times a resident of the State of California. Plaintiff Cupolo-Freeman has diastrophic
14 dysplasia and uses a motorized wheelchair for mobility. She has a disability within the meaning
15 of the ADA, 42 U.S.C. § 12102, and a physical disability as that term is defined in applicable
16 California law, including California Government Code section 12926. Because Ms. Cupolo-
17 Freeman requires a wheelchair-accessible vehicle in order to utilize transportation services
18 offered by hotels, she has a personal interest in ensuring that hotels comply with federal and state
19 requirements governing provision of accessible transportation services to hotel guests. She is
20 also a tester in this litigation.

21 11. Plaintiff Ruthee Goldkorn is a member of CREEC and is and has been at all times
22 material hereto a resident of the State of California. Plaintiff Goldkorn has multiple sclerosis and
23 uses a power wheelchair for mobility. She has a disability within the meaning of the ADA, 42
24 U.S.C. § 12102, and a physical disability as that term is defined in applicable California law,
25 including California Government Code section 12926. Because Ms. Goldkorn requires a
26 wheelchair-accessible vehicle in order to utilize transportation services offered by hotels, she has
27 a personal interest in ensuring that hotels comply with federal and state requirements governing
28 provision of accessible transportation services to hotel guests. She is also a tester in this

1 litigation.

2 12. Plaintiff Kenneth Kilgore is a member of CREEC and is and has been at all times
3 material hereto a resident of the State of California. Plaintiff Kilgore is a quadriplegic who uses
4 a wheelchair for mobility. He has a disability within the meaning of the ADA, 42 U.S.C. §
5 12102, and a physical disability as that term is defined in applicable California law, including
6 California Government Code section 12926. Because Mr. Kilgore requires a wheelchair-
7 accessible vehicle in order to utilize transportation services offered by hotels, he has a personal
8 interest in ensuring that hotels comply with federal and state requirements governing provision
9 of accessible transportation services to hotel guests. He is also a tester in this litigation.

10 13. Defendant RLJ is an investment trust incorporated in Maryland, with its principal
11 place of business at 3 Bethesda Metro Center, Suite 1000, Bethesda, Maryland. RLJ is a self-
12 advised, publicly traded real estate investment trust focused on acquiring premium-branded,
13 focused-service and compact full-service hotels. RLJ owns and/or operates hotels throughout the
14 United States, including approximately 12 hotels in the State of California.

15 **FACTS APPLICABLE TO ALL CLAIMS**

16 14. Defendant RLJ owns and/or operates the Hyatt Place Fremont/Silicon Valley
17 located in Fremont, CA, a hotel that provides its guests with a local shuttle service within an
18 eight-mile radius of the hotel.

19 15. On or about October 22, 2014, Plaintiff Kilgore telephoned the Hyatt Place
20 Fremont/Silicon Valley and asked if it provided wheelchair-accessible shuttle services. He was
21 informed that the hotel does not offer wheelchair-accessible shuttle services.

22 16. Had Plaintiff Kilgore been informed that the hotel did provide wheelchair-
23 accessible shuttle services, he intended to stay at the hotel and to use those services. He was
24 deterred from doing so by the hotel's lack of wheelchair-accessible shuttle services.

25 17. Plaintiff Kilgore would like to stay at the Hyatt Place Fremont/Silicon Valley
26 hotel in the future and use the hotel's transportation services, and will do so if he calls and is told
27 that such accessible services exist.

28 18. Defendant RLJ owns and/or operates the Hyatt House Emeryville/San Francisco

1 Bay Area hotel located in Emeryville, CA, a hotel that provides its guests with a local shuttle
2 service within a three-mile radius of the hotel.

3 19. On or about October 28, 2014, Plaintiff Cupolo-Freeman telephoned the Hyatt
4 House Emeryville/San Francisco Bay Area and asked if it provided wheelchair-accessible shuttle
5 services. She was informed that the hotel does not offer wheelchair-accessible shuttle services.

6 20. Had Plaintiff Cupolo-Freeman been informed that the hotel did provide
7 wheelchair-accessible shuttle services, she intended to stay at the hotel and to use those services.
8 She was deterred from doing so by the hotel's lack of wheelchair-accessible shuttle services.

9 21. Plaintiff Cupolo-Freeman would like to stay at the Hyatt House Emeryville/San
10 Francisco Bay Area in the future and use the hotel's transportation services, and will do so if she
11 calls and is told that such accessible services exist.

12 22. Defendant RLJ owns and/or operates the Hyatt House San Ramon hotel located in
13 San Ramon, CA, a hotel that provides its guests with a local shuttle service within a five-mile
14 radius of the hotel.

15 23. On or about October 28, 2014, Plaintiff Cupolo-Freeman telephoned the Hyatt
16 House San Ramon and asked if it provided wheelchair-accessible shuttle services. She was
17 informed that the hotel does not offer wheelchair-accessible shuttle services.

18 24. Had Plaintiff Cupolo-Freeman been informed that the hotel did provide
19 wheelchair-accessible shuttle services, she intended to stay at the hotel and to use those services.
20 She was deterred from doing so by the hotel's lack of wheelchair-accessible shuttle services.

21 25. Plaintiff Cupolo-Freeman would like to stay at the Hyatt House San Ramon hotel
22 in the future and use the hotel's transportation services, and will do so if she calls and is told that
23 such accessible services exist.

24 26. Defendant RLJ owns and/or operates the Hyatt House San Diego/Sorrento Mesa
25 hotel located in San Diego, CA, a hotel that provides its guests with a local shuttle service within
26 a five-mile radius of the hotel.

27 27. On or about October 17, 2014, Plaintiff Goldkorn telephoned the Hyatt House San
28 Diego/Sorrento Mesa and asked if it provided wheelchair-accessible shuttle services. She was

1 informed that the hotel does not offer wheelchair-accessible shuttle services.

2 28. Had Plaintiff Goldkorn been informed that the hotel did provide wheelchair-
3 accessible shuttle services, she intended to stay at the hotel and to use those services. She was
4 deterred from doing so by the hotel's lack of wheelchair-accessible shuttle services.

5 29. Plaintiff Goldkorn would like to stay at the Hyatt House San Diego/Sorrento
6 Mesa hotel in the future and use the hotel's transportation services, and will do so if she calls and
7 is told that such accessible services exist.

8 30. On information and belief, RLJ owns and/or operates a number of other hotels in
9 the United States that offer transportation services to their guests but do not offer equivalent
10 transportation services to guests who use wheelchairs or scooters. These hotels include, without
11 limitation:

12 A. Hampton Inn & Suites Clearwater/St. Petersburg - Ulmerton Road, 4050

13 Ulmerton Rd., Clearwater, FL

14 B. Embassy Suites Fort Myers - Estero, 10450 Corkscrew Commons Dr., Estero, FL

15 C. Hampton Inn West Palm Beach Central Airport, 1601 Worthington Rd., West
16 Palm Beach, FL

17 D. DoubleTree by Hilton Hotel Columbia, 5485 Twin Knolls Rd., Columbia, MD

18 E. Holiday Inn Grand Rapids - Airport, 3063 Lake Eastbrook Blvd. SE, Grand
19 Rapids, MI

20 F. SpringHill Suites by Marriott Portland Hillsboro, 7351 NE Butler St., Hillsboro,
21 OR

22 G. Courtyard Austin Airport, 7809 E Ben White Blvd., Austin, TX

23 H. Fairfield Inn & Suites San Antonio Airport/North Star Mall, 88 Loop 410 NE,
24 San Antonio, TX

25 I. Courtyard Grand Junction, 765 Horizon Dr., Grand Junction, CO

26 J. Residence Inn Grand Junction, 767 Horizon Dr., Grand Junction, CO

27 31. On information and belief, after August 25, 1990, RLJ has purchased or leased
28 vehicles for use on fixed-route and/or demand-responsive transportation systems in place at its

1 hotels.

2 32. CREEC brings this action based on associational standing on behalf of its
3 members. CREEC's members – including Mr. Kilgore, Ms. Goldkorn, and Ms. Cupolo-
4 Freeman – include persons with disabilities who use wheelchairs or scooters for mobility, who
5 would like to stay at RLJ hotels and use their transportation services, but have been deterred and
6 prevented from doing so by the failure of those hotels to provide equivalent, wheelchair-
7 accessible transportation services. Because CREEC seeks only declaratory and injunctive relief,
8 individual participation of CREEC members is not required.

9 33. Pre-suit efforts to resolve this issue were unsuccessful.

10 **CLASS ACTION ALLEGATIONS**

11 34. Plaintiffs Cupolo-Freeman, Goldkorn, and Kilgore (the “Representative
12 Plaintiffs”) bring this action on behalf of themselves and on behalf of a class defined as follows:
13 individuals who use wheelchairs or scooters for mobility who have been, or in the future will be,
14 denied the full and equal enjoyment of transportation services offered to guests at hotels owned
15 and/or operated by RLJ because of the lack of equivalent accessible transportation services at
16 those hotels.

17 35. Joinder of all members of the proposed class would be impracticable because,
18 without limitation, the class consists of numerous individuals who are geographically diverse,
19 these individuals are very difficult to identify and they are unlikely to be able to bring individual
20 suits.

21 36. There are numerous common questions of law and fact, including but not limited
22 to:

23 A. Whether Defendant RLJ is a “private entity[y] . . . not primarily engaged in the
24 business of transporting people”;

25 B. Whether hotels owned and/or operated by Defendant RLJ provide fixed-route
26 and/or demand-responsive transportation systems;

27 C. Whether Defendant RLJ has purchased or leased any vehicles after August 25,
28 1990 for use on fixed-route or demand-responsive systems, and if so, the seating

1 capacity of those vehicles;

2 D. Whether Defendant RLJ's transportation vehicles are readily accessible to and
3 usable by individuals with disabilities, including individuals who use wheelchairs;
4 and

5 E. Whether Defendant RLJ has ensured that the transportation system in place at
6 each hotel, when viewed in its entirety, meets the equivalent service requirements
7 of 49 C.F.R. part 37.

8 37. The claims of the Representative Plaintiffs are typical of the claims of the class
9 because they arise from the same course of conduct engaged in by Defendant RLJ, are based on
10 the same alleged violations of the same statutes and regulations, and seek the same relief.

11 38. The Representative Plaintiffs will fairly and adequately represent the interests of
12 the class. The Representative Plaintiffs have no interests adverse to the interests of other
13 members of the class. Further, the attorneys they have retained include counsel who have been
14 appointed as class counsel in, and have successfully litigated, numerous disability rights class
15 actions across the country.

16 39. Finally, certification under Rule 23(b)(2) is proper here because Defendant RLJ
17 has acted or refused to act on grounds generally applicable to the class, thereby making
18 appropriate final injunctive or declaratory relief with respect to the class as a whole.

19 **FIRST CLAIM FOR RELIEF**

20 **Title III of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12181 *et seq.***

21 40. Plaintiffs incorporate by reference each and every allegation herein.

22 41. Title III requires that “[n]o individual shall be discriminated against on the basis
23 of disability in the full and equal enjoyment of the goods, services, facilities, privileges,
24 advantages, or accommodations of any place of public accommodation by any person who owns
25 . . . or operates a place of public accommodation.” 42 U.S.C. § 12182(a); 28 C.F.R. § 36.201(a).

26 42. Hotels that provide fixed-route transportation services to guests must comply with
27 the following requirements:

28 A. For all purchases or leases after August 25, 1990, vehicles with a seating capacity
over 16 passengers must be wheelchair-accessible;

1 B. For all purchases or leases after August 25, 1990, vehicles with a seating capacity
2 of under 16 passengers must be either wheelchair-accessible or equivalent service
3 must be provided.

4 43. Hotels that provide on-demand transportation services to guests must either
5 provide wheelchair-accessible vehicles or ensure that equivalent service is provided.

6 44. Defendant RLJ owns and/or operates “an inn, hotel, motel, or other place of
7 lodging,” which is a place of public accommodation pursuant to 42 U.S.C. § 12181(7)(A), and is
8 also a “private entit[y] not primarily engaged in the business of transporting people” pursuant to
9 49 C.F.R. part 37.

10 45. Defendant RLJ has engaged in illegal disability discrimination, as defined by Title
11 III, including without limitation, by failing to ensure that transportation vehicles in use at its
12 hotels are readily accessible to and usable by individuals with disabilities, including individuals
13 who use wheelchairs, by failing to ensure that its hotels provide equivalent accessible
14 transportation services to such individuals, and/or by failing to ensure that personnel are trained
15 to proficiency with respect to the provision of accessible transportation services.

16 46. Defendant RLJ’s ongoing and continuing violations of Title III have caused, and
17 in the absence of an injunction will continue to cause, harm to the plaintiffs and the class.

18 **SECOND CLAIM FOR RELIEF**
19 **Unruh Civil Rights Act, Cal. Civ. Code, § 51, *et seq.*, and the Unruh Act’s**
20 **Incorporation of the ADA**

21 47. Plaintiffs incorporate by reference each and every allegation herein.

22 48. Defendant RLJ’s hotels are business establishments and, as such, must comply
23 with the provisions of the Unruh Act.

24 49. The Unruh Act guarantees, *inter alia*, that persons with disabilities are entitled to
25 full and equal accommodations, advantages, facilities, privileges, or services in all business
26 establishments of every kind whatsoever within the jurisdiction of the State of California. Cal.
27 Civ. Code § 51(b).

28 50. A violation of the ADA, the DOJ Standards, or Title 24 is also a violation of the
Unruh Act.

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