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

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

24 Plaintiffs,

25 v.

27 ASHFORD HOSPITALITY TRUST,  
28 INC.,

Defendant.

Case No. \_\_\_\_\_

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

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

6 **INTRODUCTION**

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

10 2. Nevertheless Defendant Ashford Hospitality Trust, Inc. (“Ashford”) – which  
11 owns and/or operates approximately 93 hotels spread among more than 25 states – has repeatedly  
12 failed to provide wheelchair-accessible transportation in hotels that provide transportation to  
13 nondisabled guests.

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

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

23 **JURISDICTION AND VENUE**

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

27 6. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C.  
28 §§ 1331 and 1343, and pursuant to its supplemental jurisdiction over Plaintiffs’ claims brought

1 under the laws of the State of California. This Court has jurisdiction over Plaintiffs’ claims for  
2 declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201 and 2202.

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

4 **INTRADISTRICT ASSIGNMENT**

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

7 **PARTIES**

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

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

22 11. Plaintiff Kenneth Kilgore is a member of CREEC and is and has been at all times  
23 material hereto a resident of the State of California. Plaintiff Kilgore is a quadriplegic who uses  
24 a wheelchair for mobility. He has a disability within the meaning of the ADA, 42 U.S.C. §  
25 12102, and a physical disability as that term is defined in applicable California law, including  
26 California Government Code section 12926. Because Mr. Kilgore requires a wheelchair-  
27 accessible vehicle in order to utilize transportation services offered by hotels, he has a personal  
28

1 interest in ensuring that hotels comply with federal and state requirements governing provision  
2 of accessible transportation services to hotel guests. He is also a tester in this litigation.

3 12. Defendant Ashford is an investment trust incorporated in Maryland, with its  
4 principal place of business at 14185 Dallas Parkway, Suite 1100, Dallas, Texas. Ashford is a  
5 publicly traded, self-administered real estate investment trust focused on investing in the  
6 hospitality industry across all segments and in all methods including direct real estate, equity,  
7 and debt. Ashford owns and/or operates hotels throughout the United States, including  
8 approximately 15 hotels in the State of California.

9 **FACTS APPLICABLE TO ALL CLAIMS**

10 13. Defendant Ashford owns and/or operates the Courtyard Oakland Airport located  
11 in Oakland, CA, a hotel that provides its guests with a shuttle service to and from the Oakland  
12 International Airport and at least one Bay Area Rapid Transit station.

13 14. On or about October 22, 2014, Plaintiff Kilgore telephoned the Courtyard  
14 Oakland Airport hotel and asked if it provided wheelchair-accessible shuttle services. He was  
15 informed that the hotel does not offer wheelchair-accessible shuttle services.

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

19 16. Plaintiff Kilgore would like to stay at the Courtyard Oakland Airport hotel in the  
20 future and use the hotel's transportation services, and will do so if he calls and is told that such  
21 accessible services exist.

22 17. Defendant Ashford owns and/or operates the Embassy Suites Walnut Creek  
23 located in Walnut Creek, CA, a hotel that provides its guests with a local shuttle service within a  
24 five-mile radius of the hotel.

25 18. On or about October 28, 2014, Plaintiff Cupolo-Freeman telephoned the Embassy  
26 Suites Walnut Creek and asked if it provided wheelchair-accessible shuttle services. She was  
27 informed that the hotel does not offer wheelchair-accessible shuttle services.  
28

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

4 20. Plaintiff Cupolo-Freeman would like to stay at the Embassy Suites Walnut Creek  
5 in the future and use the hotel's transportation services, and will do so if she calls and is told that  
6 such accessible services exist.

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

- 11 A. Residence Inn Phoenix Airport, 801 N 44<sup>th</sup> St., Phoenix, AZ
- 12 B. Courtyard Louisville Airport, 819 Phillips Ln., Louisville, KY
- 13 C. Hilton Garden Inn BWI Airport, 1516 Aero Dr., Linthicum, MD
- 14 D. Hilton Minneapolis/St. Paul Airport Mall of America, 3800 American Blvd. E,  
15 Bloomington, MN
- 16 E. SpringHill Suites Raleigh-Durham Airport/Research Triangle Park, 920 Slater  
17 Rd., Durham, NC
- 18 F. Omaha Marriott, 10220 Regency Cir., Omaha, NE
- 19 G. Embassy Suites Syracuse, 6646 Old Collamer Rd. S, East Syracuse, NY
- 20 H. Embassy Suites Philadelphia – Airport, 9000 Bartram Ave., Philadelphia, PA
- 21 I. Dallas Marriott Suites Medical/Market Center, 2493 N Stemmons Fwy., Dallas,  
22 TX
- 23 J. Embassy Suites Dallas – Near the Galleria, 14021 Noel Rd., Dallas, TX
- 24 K. Embassy Suites Houston – Near the Galleria, 2911 Sage Rd., Houston, TX
- 25 L. Courtyard Arlington Crystal City/Reagan National Airport, 2899 Jefferson Davis  
26 Hwy., Arlington, VA
- 27 M. Embassy Suites Dulles Airport, 13341 Woodland Park Dr., Herndon, VA
- 28



1 B. Whether hotels owned and/or operated by Defendant Ashford provide fixed-route  
2 and/or demand-responsive transportation systems;

3 C. Whether Defendant Ashford has purchased or leased any vehicles after August  
4 25, 1990 for use on fixed-route or demand-responsive systems, and if so, the  
5 seating capacity of those vehicles;

6 D. Whether Defendant Ashford's transportation vehicles are readily accessible to and  
7 usable by individuals with disabilities, including individuals who use wheelchairs;  
8 and

9 E. Whether Defendant Ashford has ensured that the transportation system in place at  
10 each hotel, when viewed in its entirety, meets the equivalent service requirements  
11 of 49 C.F.R. part 37.

12 28. The claims of the Representative Plaintiffs are typical of the claims of the class  
13 because they arise from the same course of conduct engaged in by Defendant Ashford, are based  
14 on the same alleged violations of the same statutes and regulations, and seek the same relief.

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

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

23 **FIRST CLAIM FOR RELIEF**

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

25 31. Plaintiffs incorporate by reference each and every allegation herein.

26 32. Title III requires that "[n]o individual shall be discriminated against on the basis  
27 of disability in the full and equal enjoyment of the goods, services, facilities, privileges,  
28

1 advantages, or accommodations of any place of public accommodation by any person who owns .  
2 . . or operates a place of public accommodation.” 42 U.S.C. § 12182(a); 28 C.F.R. § 36.201(a).

3 33. Hotels that provide fixed-route transportation services to guests must comply with  
4 the following requirements:

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

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

10 34. Hotels that provide on-demand transportation services to guests must either  
11 provide wheelchair-accessible vehicles or ensure that equivalent service is provided.

12 35. Defendant Ashford owns and/or operates “an inn, hotel, motel, or other place of  
13 lodging,” which is a place of public accommodation pursuant to 42 U.S.C. § 12181(7)(A), and is  
14 also a “private entit[y] not primarily engaged in the business of transporting people” pursuant to  
15 49 C.F.R. part 37.

16 36. Defendant Ashford has engaged in illegal disability discrimination, as defined by  
17 Title III, including without limitation, by failing to ensure that transportation vehicles in use at its  
18 hotels are readily accessible to and usable by individuals with disabilities, including individuals  
19 who use wheelchairs, by failing to ensure that its hotels provide equivalent accessible  
20 transportation services to such individuals, and/or by failing to ensure that personnel are trained  
21 to proficiency with respect to the provision of accessible transportation services.

22 37. Defendant Ashford’s ongoing and continuing violations of Title III have caused,  
23 and in the absence of an injunction will continue to cause, harm to the plaintiffs and the class.

24 **SECOND CLAIM FOR RELIEF**

25 **Unruh Civil Rights Act, Cal. Civ. Code, § 51, *et seq.*, and the Unruh Act’s**  
26 **Incorporation of the ADA**

27 38. Plaintiffs incorporate by reference each and every allegation herein.

28 39. Defendant Ashford’s hotels are business establishments and, as such, must  
comply with the provisions of the Unruh Act.





1 Dated: January 15, 2015

Respectfully Submitted,

2  
3 By:           /s/ Timothy P. Fox          

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