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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

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

24 Plaintiffs,

25 v.

26 RLJ LODGING TRUST,

27 Defendant.
28

Case No. 4:15-cv-00224-YGR

**FIRST AMENDED 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 Julie Reiskin on behalf of themselves
3 and a proposed class defined below, by and through undersigned counsel, file their Class Action
4 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 equivalent wheelchair-accessible transportation in hotels that provide transportation to
12 nondisabled 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 equivalent services. This action is limited to
16 challenging RLJ’s violations of state and federal requirements governing accessible
17 transportation, including for example purchase and lease of accessible vehicles and provision of
18 accessible transportation.

19 4. Plaintiffs seek declaratory and injunctive relief establishing that RLJ has engaged
20 in violations of the ADA and California state law, and requiring RLJ to comply with these
21 statutes by providing wheelchair-accessible transportation services that are equivalent to the
22 transportation services provided to nondisabled guests at RLJ’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 Ruthee Goldkorn is a member of CREEC and is and has been at all times
23 material hereto a resident of the State of California. Plaintiff Goldkorn has multiple sclerosis and
24 uses a power wheelchair for mobility. She has a disability within the meaning of the ADA, 42
25 U.S.C. § 12102, and a physical disability as that term is defined in applicable California law,
26 including California Government Code section 12926. Because Ms. Goldkorn requires a
27 wheelchair-accessible vehicle in order to utilize transportation services offered by hotels, she has
28 a personal interest in ensuring that hotels comply with federal and state requirements governing

1 provision of accessible transportation services to hotel guests. She is also a tester in this
2 litigation.

3 12. Plaintiff Julie Reiskin is a member of CREEC and is and has been at all times
4 material hereto a resident of the State of Colorado. Plaintiff Reiskin is a Board Member of the
5 Legal Services Corporation and the Executive Director of the Colorado Cross-Disability
6 Coalition. She travels frequently across the country. Plaintiff Reiskin has multiple sclerosis and
7 uses a power wheelchair for mobility. She has a disability within the meaning of the ADA, 42
8 U.S.C. § 12102, and a physical disability as that term is defined in applicable California law,
9 including California Government Code section 12926. Because Ms. Reiskin requires a
10 wheelchair-accessible vehicle in order to utilize transportation services offered by hotels, she has
11 a personal interest in ensuring that hotels comply with federal and state requirements governing
12 provision of accessible transportation services to hotel guests. She is also a tester in this
13 litigation.

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

19 **FACTS APPLICABLE TO ALL CLAIMS**

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

23 15. On or about October 7 and 12, 2015, Plaintiff Reiskin telephoned the Hyatt Place
24 Fremont/Silicon Valley and asked if it provided wheelchair-accessible shuttle services. She was
25 informed that the hotel does not offer equivalent wheelchair-accessible shuttle services.

26 16. Had the hotel provided equivalent wheelchair-accessible shuttle services, and had
27 it informed Plaintiff Reiskin of those wheelchair-accessible shuttle services, she intended to stay
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1 at the hotel and to use those services. She was deterred from doing so by the hotel's lack of
2 equivalent wheelchair-accessible shuttle services.

3 17. Plaintiff Reiskin would like to stay at the Hyatt Place Fremont/Silicon Valley
4 hotel in the future and use the hotel's transportation services, and will do so if the hotel
5 accurately informs her that it provides equivalent accessible transportation services.

6 18. Defendant RLJ owns and/or operates the Hyatt House Emeryville/San Francisco
7 Bay Area hotel located in Emeryville, CA, a hotel that provides its guests with a local shuttle
8 service within a three-mile radius of the hotel.

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

13 20. Had the hotel provided equivalent wheelchair-accessible shuttle services, and had
14 it informed Plaintiff Cupolo-Freeman of those wheelchair-accessible shuttle services, she
15 intended to stay at the hotel and to use those services. She was deterred from doing so by the
16 hotel's lack of equivalent wheelchair-accessible shuttle services.

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

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

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

26 24. Had the hotel provided equivalent wheelchair-accessible shuttle services, and had
27 it informed Plaintiff Cupolo-Freeman of those wheelchair-accessible shuttle services, she
28

1 intended to stay at the hotel and to use those services. She was deterred from doing so by the
2 hotel's lack of equivalent wheelchair-accessible shuttle services.

3 25. Plaintiff Cupolo-Freeman would like to stay at the Hyatt House San Ramon hotel
4 in the future and use the hotel's transportation services, and will do so if the hotel accurately
5 informs her that it provides equivalent accessible transportation services.

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

9 27. On or about October 17, 2014, Plaintiff Goldkorn telephoned the Hyatt House San
10 Diego/Sorrento Mesa and asked if it provided wheelchair-accessible shuttle services. She was
11 informed that the hotel does not offer wheelchair-accessible shuttle services.

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

15 29. Plaintiff Goldkorn would like to stay at the Hyatt House San Diego/Sorrento
16 Mesa hotel in the future and use the hotel's transportation services, and will do so if the hotel
17 accurately informs her that it provides equivalent accessible transportation services.

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

22 A. Hampton Inn & Suites Clearwater/St. Petersburg - Ulmerton Road, 4050
23 Ulmerton Rd., Clearwater, FL

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

25 C. Hampton Inn West Palm Beach Central Airport, 1601 Worthington Rd., West
26 Palm Beach, FL

27 D. DoubleTree by Hilton Hotel Columbia, 5485 Twin Knolls Rd., Columbia, MD
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1 E. SpringHill Suites by Marriott Portland Hillsboro, 7351 NE Butler St., Hillsboro,
2 OR

3 F. Courtyard Austin Airport, 7809 E Ben White Blvd., Austin, TX

4 G. Fairfield Inn & Suites San Antonio Airport/North Star Mall, 88 Loop 410 NE,
5 San Antonio, TX

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

9 32. On information and belief, RLJ relies on third parties to provide accessible
10 transportation services at many of its hotels.

11 33. On information and belief, many of these third parties do not provide accessible
12 transportation services that are equivalent to the transportation services provided to nondisabled
13 guests. For example, and without limitation, these third-party transportation companies do not
14 have the capability or capacity to provide equivalent transportation services, do not provide
15 transportation services during the hours that such services are available to nondisabled guests,
16 and/or require longer advance notice than nondisabled guests must provide.

17 34. CREEC brings this action based on associational standing on behalf of its
18 members. CREEC's members – including Ms. Reiskin, Ms. Goldkorn, and Ms. Cupolo-
19 Freeman – include persons with disabilities who use wheelchairs or scooters for mobility, who
20 would like to stay at RLJ hotels and use their transportation services, but have been deterred and
21 prevented from doing so by the failure of those hotels to provide equivalent, wheelchair-
22 accessible transportation services. Because CREEC seeks only declaratory and injunctive relief,
23 individual participation of CREEC members is not required.

24 35. Pre-suit efforts to resolve this issue were unsuccessful.

25 **CLASS ACTION ALLEGATIONS**

26 36. Plaintiffs Cupolo-Freeman, Goldkorn, and Reiskin (the “Representative
27 Plaintiffs”) bring this action on behalf of themselves and on behalf of a class defined as follows:
28 individuals who use wheelchairs or scooters for mobility who have been, or in the future will be,

1 denied the full and equal enjoyment of transportation services offered to guests at hotels owned
2 and/or operated by RLJ because of the lack of equivalent accessible transportation services at
3 those hotels.

4 37. Joinder of all members of the proposed class would be impracticable because,
5 without limitation, the class consists of numerous individuals who are geographically diverse,
6 these individuals are very difficult to identify and they are unlikely to be able to bring individual
7 suits.

8 38. There are numerous common questions of law and fact, including but not limited
9 to:

- 10 A. Whether Defendant RLJ is a “private entity[y] . . . not primarily engaged in the
11 business of transporting people”;
- 12 B. Whether hotels owned and/or operated by Defendant RLJ provide fixed-route
13 and/or demand-responsive transportation systems;
- 14 C. Whether Defendant RLJ has purchased or leased any vehicles after August 25,
15 1990 for use on fixed-route or demand-responsive systems, and if so, the seating
16 capacity of those vehicles;
- 17 D. Whether Defendant RLJ’s transportation vehicles are readily accessible to and
18 usable by individuals with disabilities, including individuals who use wheelchairs;
19 and
- 20 E. Whether Defendant RLJ has ensured that its transportation systems, when viewed
21 in their entirety, meet the equivalent service requirements of 49 C.F.R. part 37.

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

25 40. The Representative Plaintiffs will fairly and adequately represent the interests of
26 the class. The Representative Plaintiffs have no interests adverse to the interests of other
27 members of the class. Further, the attorneys they have retained include counsel who have been
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1 appointed as class counsel in, and have successfully litigated, numerous disability rights class
2 actions across the country.

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

6 **FIRST CLAIM FOR RELIEF**

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

8 42. Plaintiffs incorporate by reference each and every allegation herein.

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

13 44. Hotels that provide fixed-route transportation services to guests must comply with
14 the following requirements:

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

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

20 45. Hotels that provide on-demand transportation services to guests must either
21 provide wheelchair-accessible vehicles or ensure that equivalent service is provided.

22 46. Defendant RLJ owns and/or operates “an inn, hotel, motel, or other place of
23 lodging,” which is a place of public accommodation pursuant to 42 U.S.C. § 12181(7)(A), and is
24 also a “private entit[y] not primarily engaged in the business of transporting people” pursuant to
25 49 C.F.R. part 37.

26 47. Defendant RLJ has engaged in illegal disability discrimination, as defined by Title
27 III, including without limitation, by failing to ensure that transportation vehicles in use at its
28 hotels are readily accessible to and usable by individuals with disabilities, including individuals
who use wheelchairs, by failing to ensure that its hotels provide equivalent accessible

1 transportation services to such individuals, and/or by failing to ensure that personnel are trained
2 to proficiency with respect to the provision of accessible transportation services.

3 48. Defendant RLJ's ongoing and continuing violations of Title III have caused, and
4 in the absence of an injunction will continue to cause, harm to the plaintiffs and the class.

5 **SECOND CLAIM FOR RELIEF**
6 **Unruh Civil Rights Act, Cal. Civ. Code, § 51, et seq., and the Unruh Act's**
7 **Incorporation of the ADA**

8 49. Plaintiffs incorporate by reference each and every allegation herein.

9 50. Defendant RLJ's hotels are business establishments and, as such, must comply
10 with the provisions of the Unruh Act.

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

15 52. A violation of the ADA, the DOJ Standards, or Title 24 is also a violation of the
16 Unruh Act.

17 53. Defendant RLJ has violated the Unruh Act by, *inter alia*, denying, or aiding or
18 inciting the denial of, Plaintiffs' and class members' rights to the full and equal accommodations,
19 advantages, facilities, privileges, or services offered at Defendant's business establishments,
20 specifically the transportation services offered at Defendant's hotels.

21 54. Defendant has also violated the Unruh Act by denying, or aiding or inciting the
22 denial of, Plaintiffs' and class members' rights to equal access arising from the provisions of the
23 ADA.

24 55. Defendant RLJ's ongoing and continuing violations of the Unruh Act have
25 caused, and in the absence of an injunction will continue to cause, harm to the plaintiffs and the
26 class.

27 **PRAYER FOR RELIEF**

28 WHEREFORE, Plaintiffs respectfully request judgment as follows:

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