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Proposed Class*

**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

JANNE KOURI, individually on behalf
of himself and all others similarly
situated,

Plaintiff,

v.

FEDEX CORPORATION; and DOES 1-
25, inclusive,

Defendants.

CASE NO.:

**NATIONWIDE CLASS ACTION
COMPLAINT**

1. Violation of Title III of the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101 *et seq.*)
2. Violation of California’s Unruh Civil Rights Act (Cal. Civil Code § 51 *et seq.*)

JURY TRIAL DEMANDED

Plaintiff Janne Kouri (hereinafter “Plaintiff”), individually and on behalf of all others similarly situated, by his attorneys, asserts the following upon information and belief, except for those allegations pertaining to Plaintiff, which are based on his personal knowledge:

NATURE OF THE ACTION

1. Janne Kouri, a person with a mobility disability who uses a wheelchair for mobility, brings this action individually and on behalf of all others similarly situated against Defendants, asserting violations of Title III of the Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.* (the “ADA”), and its implementing

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1 regulations, and for violation of California’s Unruh Civil Rights Act, California Civil
2 Code § 51 *et seq.* (“Unruh Act”), and for statutory damages in accordance with
3 California Civil Code §§ 52(a).

4 2. Defendants FEDEX CORPORATION and DOES 1 to 25 (collectively,
5 “Defendants”) maintain a system of more than 34,000 unstaffed drop boxes to provide
6 customers the opportunity to drop off packages in office buildings, shopping centers
7 and corporate and industrial parks.

8 3. Plaintiff’s claims arise from his own experience with accessibility
9 barriers present at Defendants’ drop boxes in the form of excessive reach ranges and
10 excessive maximum forces required to operate the drop box doors when attempting
11 to ship packages, and from site investigations at 102 of Defendants’ drop box facilities
12 across seven states, which *all* presented accessibility barriers, including specifically
13 excessive reach ranges and excessive maximum forces required to operate the drop
14 boxes of the type encountered by Plaintiff.

15 4. Plaintiff asserts that the excessive reach range and maximum force
16 conditions required to operate the drop box doors persist in part as a result of
17 Defendants’ existing but inadequate internal maintenance and repair procedures,
18 which fail to ensure compliance with reach range and operable parts requirements of
19 the ADA’s implementing regulations. *See* 28 C.F.R. §§ 36.101 *et seq.*

20 5. The ADA and the Unruh Act expressly authorize injunctive relief aimed
21 at modification of existing policies, practices, or procedures that Plaintiff seeks in this
22 action. In relevant part, the ADA states:

23 Where appropriate, injunctive relief shall also include requiring the
24 provision of an auxiliary aid or service, modification of a policy, or
provision of alternative methods...

25 42 U.S.C. § 12188(a)(2); Cal. Civ. Code, § 52(c)(1).

26 6. Consistent with 42 U.S.C. § 12188(a)(2) and the Unruh Act, Plaintiff
27 seeks a permanent injunction requiring that:

28 a. Defendants take all steps necessary to bring their drop boxes into full

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1 compliance with the requirements set forth in the ADA, and its
2 implementing regulations, so that the drop boxes are fully accessible to
3 and independently usable by individuals with mobility disabilities;

4 b. Defendants modify their existing repair and maintenance policies and
5 practices so that the accessibility barriers to their drop boxes do not
6 reoccur; and

7 c. Plaintiff’s representatives monitor Defendants’ facilities to ensure the
8 injunctive relief ordered pursuant to Paragraph 6.a. and 6.b. has been
9 implemented and will remain in place.

10 7. Plaintiff’s claim for permanent injunctive relief is asserted as a
11 nationwide class claim pursuant to Fed. R. Civ. P. 23(b)(2). Rule 23(b)(2) was
12 specifically intended to be utilized in civil rights cases where the plaintiffs seek
13 injunctive relief for their own benefit and the benefit of a class of similarly situated
14 individuals. To that end, the note to the 1996 amendment to Rule 23 states:

15 Subdivision(b)(2). This subdivision is intended to reach situations where
16 a party has taken action or refused to take action with respect to a class,
17 and final relief of an injunctive nature or a corresponding declaratory
18 nature, settling the legality of the behavior with respect to the class as a
19 whole, is appropriate . . . Illustrative are various actions in the civil
rights field where a party is charged with discriminating unlawfully
against a class, usually one whose members are incapable of specific
enumeration.

20 8. In addition, Plaintiff’s claim for minimum statutory damages pursuant to
21 California Civil Code §§ 52(a) is asserted as a California statewide class claim
22 pursuant to Fed. R. Civ. P. 23(b)(3).

23 **PARTIES**

24 9. Plaintiff Janne Kouri is, and at all times relevant hereto was, a resident
25 of Los Angeles County in the State of California. As a result of his disability, Plaintiff
26 uses a wheelchair for mobility. Plaintiff was a competitive athlete, playing football at
27 Georgetown University. Plaintiff suffered a spinal cord injury in 2006 and is now
28 paralyzed. Following his injury, Plaintiff founded a nonprofit rehabilitation center,

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1 aimed at helping others with paralysis, called NextStep Fitness. Plaintiff is the
2 President and Founder of NextStep. Plaintiff has a FedEx account. Plaintiff is a
3 member of a protected class under the ADA, 42 U.S.C. § 12102(2), and the
4 regulations implementing the ADA set forth at 28 C.F.R. §§ 36.101 et seq.

5 10. Defendant FEDEX CORPORATION (“FedEx”) is Delaware
6 Corporation and has been doing business in California since 1973. Its principal
7 executive offices are located in Memphis, Tennessee.

8 11. The true names and capacities, whether individual, corporate, associate,
9 or otherwise of the Defendants named herein as Does 1 through 25 (together with
10 FedEx, “Defendants”), are unknown to Plaintiff at this time. Plaintiff will amend this
11 Complaint to assert their true names and capacities when known. Plaintiff is informed
12 and believes and thereon asserts that each of the fictitiously-named Defendants is
13 responsible in some manner for the occurrences asserted in this Complaint.

14 12. Plaintiff asserts that Defendants, including Doe Defendants, and each of
15 them at all times mentioned in this Complaint, were the alter egos, agents and/or
16 subsidiaries of their Co-Defendants and in doing the things asserted in this Complaint
17 were acting within the course of such agency and/or employment and with the
18 permission and consent of their Co-Defendants.

19 13. Defendants’ drop box facilities are places of public accommodation as
20 defined in 42 U.S.C. §12181(7)(G) and Defendants are subject to the requirements of
21 the ADA and the Unruh Act.

22 **FACTUAL BACKGROUND**

23 **Plaintiff Has Been Denied Full and Equal Access to Defendants’ Facilities**

24 14. Plaintiff is a FedEx business account holder and utilizes the FedEx drop
25 box service as a regular part of his business. Plaintiff visited Defendants’ drop box
26 located at 505 North Sepulveda Boulevard, Manhattan Beach, California, on August
27 20, 2021, August 27, 2021, and September 9, 2021. Plaintiff visited Defendants’
28 facilities in California, and was denied the opportunity to participate in the full and

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1 equal enjoyment of Defendants’ services, facilities, privileges, advantages and
2 accommodations, as a result of Defendants’ inaccessible drop box network, when he
3 encountered drop box door heights in excess of the ADA Accessibility Guidelines’
4 (“ADAAG”) reach range standards, and the force required to operate the drop box
5 doors in excess of the ADAAG’s operable parts standards. 36 CFR Appendix D to
6 Part 1191, §§§ 308.2, 308.3, and 309.4.

7 15. Despite this difficulty, frustration, and unequal treatment, Plaintiff will
8 use Defendants’ drop box services in the future due to the proximity of Defendants’
9 facilities, its reliability, timeliness, and overnight delivery services, and plans to return
10 to Defendants drop boxes, but is deterred from doing so due to the discrimination he
11 has faced and expects to face in the future. Furthermore, Plaintiff intends to return to
12 Defendants’ drop boxes to ascertain whether those facilities remain in violation of
13 accessibility standards.

14 **Defendants Repeatedly Deny Individuals With Disabilities Full and Equal**
15 **Access to Defendants’ Facilities**

16 16. Defendants own and maintain a network of more than 34,000 unstaffed
17 drop boxes throughout the United States.¹ Defendants’ drop boxes are uniform in size
18 and design throughout their network.

19 17. The drop boxes feature a drop-down door operated by grasping the
20 door’s handle and pulling the door in an outward and downward motion. Once open,
21 a FedEx package is placed in the drawer, and deposited in the drop box when the door
22 is shut.

23 18. Each drop box also features a lift door above the drop door. The lift door
24 is operated by reaching for the lip of the door (there is no handle), and pushing the
25 door in an upwards motion. Once open, the lift door reveals an area containing
26

27 _____
28 ¹ FedEx’s principal owned properties includes its 34,000 FedEx Drop Boxes. –
FedEx 2021 Form 10-k, p. 34 and 37.

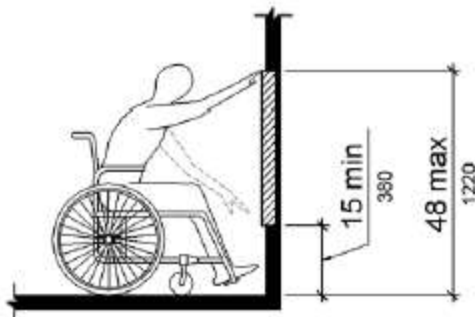
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1 complimentary FedEx Express airbills and FedEx envelopes, among other things.

2 19. Defendants install their drop boxes adjacent to public sidewalks on
3 concrete bases, on the street side of curbs, also on concrete bases, and at shopping
4 centers, grocery stores, and similar areas. FedEx drop boxes are maintained and
5 stocked by Defendants’ drivers several times per week. Broken drop boxes are also
6 repaired by Defendants. FedEx drop boxes offer convenient 24 hour a day, 7 day a
7 week drop-off service for shipments, allow for shipping without any person-to-person
8 contact.

9 20. The ADA Accessibility Guidelines (“ADAAG”) promulgated by the
10 Department of Justice pursuant to 42 U.S.C. § 12186(b), include both the 1991
11 ADAAG Standards (28 C.F.R. § pt. 36, App. D) and the 2010 Standards (36 C.F.R. §
12 pt. 1191, App. D) set forth the minimum accessibility standards for reach ranges and
13 the maximum allowable forces required to operate drop boxes such as those owned,
14 operated, and maintained by Defendants.

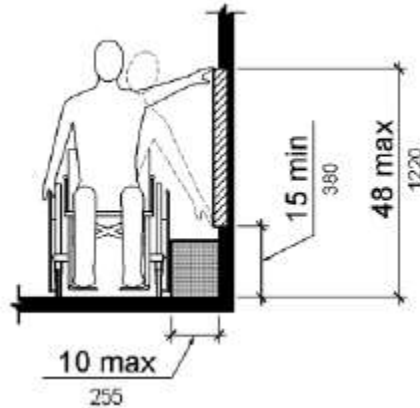
15 21. Where the “forward reach is unobstructed, the high forward reach shall
16 be 48 inches *1220 mm) maximum and the low forward reach shall be 15 inches (380
17 mm) minimum above the finish floor or ground.” 36 CFR Appendix D to Part 1191,
18 § 308.2.1. Figure 308.2.1 of the ADAAG depicts unobstructed forward reach
19 thresholds as follows:



22 ///

23 ///

22. “Where a clear floor or ground space allows a parallel approach to an element and the side reach is unobstructed, the high side reach shall be 48 inches (1220 mm) and the low side reach shall be 15 inches (380 mm) above the finish floor or ground.” 36 CFR Appendix D to Part 1191, § 308.3.1. Figure 308.3.1 of the ADAAG depicts unobstructed side reach thresholds as follows:



23. Plaintiff’s claims concerning Defendants’ drop boxes do not raise issues with either low forward or low side reaches.

24. The ADAG requires that operable parts, such as the drop down door and lift door on Defendants’ drop boxes, are placed within one or more reach ranges specified by the ADAAG. 36 CFR Appendix D to Part 1191, § 309.3. Section 309.4 requires that “[o]perable parts shall be operable with one hand and shall not require tight grasping, pinching, or twisting of the wrist. The force required to activate operable parts shall be 5 pounds maximum.” 36 CFR Appendix D to Part 1191, § 309.4.

25. The drop doors of Defendants’ drop boxes regularly exceed the ADAAG’s high and side reach maximums when located on poured concrete pads adjacent to sidewalks, and where placed on the street side of curbs. The lift doors of Defendants’ drop boxes exceed the ADAAG’s high and side reach maximums regardless of where the drop box is situated, and mobility-impaired wheelchair users

1 are completely barred from accessing complimentary FedEx Express airbills, FedEx
2 envelopes, and similar items available at each drop box. The pressure required by a
3 wheelchair user to operate either the drop door or lift door at Defendants' drop boxes
4 greatly exceeds the ADAAG's maximum threshold of 5 pounds of force.

5 26. When Plaintiff used Defendants' drop box at 505 North Sepulveda
6 Boulevard, Manhattan Beach, California, he experienced great difficulty using the
7 drop box drop door because its height was 45.5 inches above the adjacent ground
8 space, the pressure required to operate the drop door required 19 pounds of force, the
9 lift door height while open was 58 inches above the adjacent ground space, the lift
10 door height while closed was 47.5 inches, and the pressure to operate the lift door
11 required 6 pounds of force. Because of the height of the compartment behind the lift
12 door, Plaintiff could not see or access the FedEx envelopes and other similar items.

13 27. By failing to make their drop boxes accessible to wheelchair users,
14 Defendants' facilities, public accommodations subject to Title III of the ADA and the
15 Unruh Act, deprive mobility-impaired individuals of the full benefits of Defendants'
16 services—all benefits they afford nondisabled individuals—thereby increasing the
17 sense of isolation and stigma among these Americans that Title III of the ADA and
18 the Unruh Act were meant to redress.

19 28. Defendants' existing centralized maintenance and operational policies,
20 practices, or procedures have systematically and routinely resulted in excessive
21 maximum height and maximum force conditions at Defendants' drop boxes,
22 in violation of the ADA and the Unruh Act and their implementing regulations.

23 29. On Plaintiff's behalf, investigators examined multiple FedEx drop box
24 locations, and found the following violations which are illustrative of the fact that
25 Defendants' existing policies, practices, or procedures are discriminatory,
26 unreasonable, inadequate, and routinely result in excessive maximum height and
27 maximum force conditions:

28 a. 102 drop boxes were inspected in seven states, and all had some issue

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- 1 with accessibility for a mobility-impaired wheelchair user, in violation
2 of the ADAAG;
- 3 b. 57 drop boxes required greater than 5 pounds of force to operate (pull
4 down) the drop door;
- 5 c. 101 of the 102 drop boxes required greater than 5 pounds of force to
6 operate (lift) the access door and hold it while reaching with a second
7 hand for the shipping materials;
- 8 d. All 102 drop boxes failed to comply with the ADAAG’s maximum reach
9 to operate the lift door, and 21 of the 102 drop boxes failed to comply
10 with the ADAAG’s 48” height for maximum reach;
- 11 e. A firm, stable accessible route to the drop boxes was not present at 36 of
12 the 102 locations, or the drop boxes were located on a curb or landing
13 with no accessible route; and,
- 14 f. 44 of the 102 locations were not installed adjacent to a level landing in
15 front of the drop box.

16 30. As evidenced by the widespread excessive reach ranges and excessive
17 maximum forces required to operate the doors present in Defendants’ drop boxes,
18 absent a change in Defendants’ existing practices or procedures, these excessive
19 conditions and the accessibility barriers they present will continue to reoccur
20 in Defendants’ drop boxes even after they have been remediated.

21 **JURISDICTION AND VENUE**

22 31. This Court has federal question jurisdiction pursuant to 28 U.S.C. § 1331
23 and 42 U.S.C. § 12188. This Court has supplemental jurisdiction over state law claims
24 pursuant to 28 U.S.C. § 1367.

25 32. Plaintiff’s claims asserted herein arose in this judicial district, and
26 Defendants do substantial business in this judicial district and have otherwise
27 purposely availed themselves of the markets in California through the placement of
28 thousands of drop boxes in California to render the exercise of jurisdiction by this

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1 Court permissible under traditional notions of fair play and substantial justice.

2 33. Venue in this judicial district is proper under 28 U.S.C. § 1391(a) (b)(2)
3 in that this is the judicial district in which a substantial part of the events and/or
4 omissions at issue occurred.

5 **CLASS ASSERTIONS**

6 34. Plaintiff brings this class action pursuant to Fed. R. Civ. P. 23(a) and
7 23(b)(2) and with respect to the Unruh Act minimum statutory damages sub-class,
8 Fed. R. Civ. P. 23(b) on behalf of himself and those similarly situated.

9 35. Plaintiff seeks certification of the following Nationwide Class:

10 All wheelchair users with qualified mobility disabilities who were
11 denied the full and equal enjoyment of the services, facilities,
12 privileges, advantages, or accommodations of any FEDEX
13 CORPORATION drop box in the United States on the basis of
14 disability because such persons encountered accessibility barriers due
15 to Defendants’ failure to comply with the ADA’s reach range and
operable parts regulations in their purportedly accessible, unstaffed
FedEx Express drop boxes (the “Nationwide Injunctive Class”).

16 Plaintiff reserves the right to amend or modify the Class definition in connection with
17 a motion for class certification and/or the result of discovery.

18 36. Plaintiff also seeks certification of the following California minimum
19 statutory damages class:

20 All wheelchair users with qualified mobility disabilities who were
21 denied the full and equal enjoyment of the goods, services, facilities,
22 privileges, advantages, or accommodations of any FEDEX
23 CORPORATION drop box in California on the basis of disability
24 because such persons encountered accessibility barriers due to
25 Defendants’ failure to comply with the ADA’s reach range and
operable parts regulations in their purportedly accessible, unstaffed
FedEx Express drop boxes (the “California Class”)

26 Plaintiff reserves the right to amend or modify the minimum statutory damages Class
27 definition in connection with a motion for class certification and/or the result of
28 discovery.

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1 37. The California minimum statutory damages class seeks classwide
2 damages pursuant to California Civil Code § 52(a) in the amount of \$4,000 per
3 violation based on Defendants’ wrongful policy and practice of failing to provide full
4 and equal access to mobility-impaired Californians as asserted herein. This action
5 does not seek class recovery for actual damages, personal injuries, or emotional
6 distress that may have been caused by Defendants’ conduct asserted herein.

7 38. This action should be certified as a class action under Federal Rule of
8 Civil Procedure 23(a) and (b)(2) for the Nationwide Injunctive Class. It satisfies the
9 class action prerequisites of numerosity, commonality, typicality, and adequacy
10 because:

- 11 a. Numerosity: Class Members are so numerous that joinder of all members
12 is impracticable. Plaintiff anticipates there are tens of thousands of
13 mobility-impaired, wheelchair using individuals who are Class Members
14 who have been harmed and suffered discrimination due to Defendants’
15 failure to comply with the ADA’s reach range and operable parts
16 regulations.
- 17 b. Commonality: There is a well-defined community of interest and
18 common questions of fact and law affecting members of the class in that
19 they all have been and/or are denied their civil rights to full and equal
20 access to and use and enjoyment of Defendants’ facilities and/or services
21 due to Defendants’ failure to make their facilities fully accessible and
22 independently usable as described above.
- 23 c. Typicality: Plaintiff’s claims are typical of the claims of the members of
24 the proposed Nationwide Injunctive Class. The claims of Plaintiff and
25 members of the class are based on the same legal theories and arise from
26 the same unlawful conduct.
- 27 d. Adequacy: Plaintiff is an adequate Class representative. None of his
28 interests conflict with the interests of the Class Members he seeks to

1 represent; Plaintiff will fairly, adequately, and vigorously represent and
 2 protect the interests of the members of the Class, all of whom are
 3 similarly situated individuals with mobility impairments, and he has a
 4 strong interest in vindicating his own and others' civil rights; and, he has
 5 retained counsel competent and experienced in complex class action
 6 litigation, generally, and who possess specific expertise in the context of
 7 class litigation under the ADA and Unruh Act.

8 39. Class certification of the Nationwide Injunctive Class is appropriate
 9 under Fed. R. Civ. P. 23(b)(2) because Defendants have acted on or refused to act on
 10 grounds generally applicable to the Class, making appropriate declaratory, injunctive,
 11 and equitable relief with respect to Plaintiff and the Class as a whole.

12 40. This action should be further certified as a class action under Federal
 13 Rule of Civil Procedure 23(a) and (b)(3) for the California Unruh Damages Sub-Class.
 14 Plaintiff asserts the subclass, limited to class members who are, or during the relevant
 15 time were, residents of California, satisfies the class action prerequisites of
 16 numerosity, commonality, typicality, and adequacy for the same reasons set forth in
 17 the preceding paragraph. In addition:

18 a. Predominance: Pursuant to Rule 23(b)(3), the common issues of law and
 19 fact identified above predominate over any other questions affecting only
 20 individual members of the California Unruh Damages Sub-Class. The
 21 Class issues fully predominate over any individual issue because no
 22 inquiry into individual conduct is necessary; all that is required is a
 23 narrow focus on Defendants' encounters with mobility-impaired
 24 California residents through its drop box facilities.

25 b. Superiority: A class action is superior to the other available methods for
 26 the fair and efficient adjudication of this controversy because:

27 i. The joinder of thousands of individual Class Members is
 28 impracticable, cumbersome, unduly burdensome, and a waste of

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- 1 judicial and/or litigation resources;
- 2 ii. The individual claims of the Class Members are relatively
- 3 modest compared with the expense of litigating the claims,
- 4 thereby making it impracticable, unduly burdensome, and
- 5 expensive—if not totally impossible—to justify individual
- 6 actions;
- 7 iii. When Defendants’ liability has been adjudicated, all Class
- 8 Members’ claims can be determined by the Court and
- 9 administered efficiently in a manner far less burdensome and
- 10 expensive than if it were attempted through filing, discovery, and
- 11 trial of all individual cases;
- 12 iv. This class action will promote orderly, efficient, expeditious,
- 13 and appropriate adjudication and administration of Class claims;
- 14 v. Plaintiff knows of no difficulties to be encountered in the
- 15 management of this action that would preclude its maintenance
- 16 as a class action;
- 17 vi. A class action will assure uniformity of decisions among Class
- 18 Members;
- 19 vii. Prosecution of this action as a class action will eliminate the
- 20 possibility of repetitious litigation; and,
- 21 viii. Class Members’ interests in individually controlling the
- 22 prosecution of separate actions is outweighed by their interest in
- 23 efficient resolution by single class action.

24 41. Accordingly, this case should be maintained as a class action under Rule
25 23(b)(3) because questions of law or fact common to Class Members predominate
26 over any questions affecting only individual members, and because a class action is
27 superior to other available methods for fairly and efficiently adjudicating this
28 controversy.

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FIRST CAUSE OF ACTION
VIOLATION OF THE ADA, TITLE III
[42 U.S.C. §§ 12101 *et seq.*]
(Against all Defendants)

42. Plaintiff restates each and every allegation set forth in the foregoing paragraphs of this Complaint with the same force and effect as if more fully set forth herein.

43. At all times relevant to this action, Plaintiff has been substantially limited in the major life activity of mobility. Accordingly, he is considered an individual with a disability as defined under the ADA, 42 U.S.C. § 12102(2).

44. Defendants own and operate drop box facilities that are places of public accommodation as defined under Title III of the ADA, 42 U.S.C. § 12181(7)(F).

45. The ADA requires the accessible features of Defendants’ drop box facilities to be designed and maintained so that they are readily accessible to and usable by individuals with mobility disabilities.

46. The barriers described above demonstrate that Defendants’ facilities were not constructed, repaired, or maintained in a manner that causes them to be readily accessible to and usable by individuals who use wheelchairs.

47. It is unlawful discrimination under the ADA for Defendants to offer unequal or separate benefits to individuals with disabilities. 42 U.S.C. § 12182(b)(1)(A); 28 C.F.R. §§ 36.202.

48. Defendants discriminated against Plaintiff on the basis of his disability by denying access to the full and equal enjoyment of their services, facilities, privileges, advantages, and/or accommodations in violation of the ADA.

49. Defendants further discriminated against Plaintiff by denying him the equal opportunity to participate in and benefit from Defendants’ services, in violation of the ADA.

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1 50. Furthermore, the architectural barriers described above demonstrate that
2 Defendants have failed to remove barriers as required by 42 U.S.C. §
3 12182(b)(2)(A)(iv).

4 51. Defendants’ repeated and systemic failures to remove architectural
5 barriers, to maintain the accessible features of their facilities, and/or modify their
6 existing procedures to ensure compliance with the reach range and operable parts
7 requirements of the ADA’s implementing regulations once constructed, constitute
8 unlawful discrimination on the basis of a disability in violation of Title III of the
9 ADA.

10 52. Defendants’ conduct is ongoing and continuous, and Plaintiff has been
11 harmed by Defendants’ conduct.

12 53. Unless Defendants are restrained from continuing their ongoing and
13 continuous course of conduct, they will continue to violate the ADA and will continue
14 to inflict injury upon Plaintiff and the Class.

15 54. Given that Defendants have not complied with the ADA’s requirements
16 to make their facilities fully accessible to, and independently usable by, individuals
17 who use wheelchairs, Plaintiff invokes his statutory rights to declaratory and
18 injunctive relief, as well as costs and attorneys’ fees.

19 **SECOND CAUSE OF ACTION**

20 **VIOLATION OF THE UNRUH CIVIL RIGHTS ACT**

21 **[Cal. Civil Code § 51, *et seq.*]**

22 **(Against all Defendants)**

23 55. Plaintiff restates each and every allegation set forth in the foregoing
24 paragraphs of this Complaint with the same force and effect as if more fully set forth
25 herein.

26 56. Defendants violated the Unruh Act by their acts and omissions, as set
27 forth herein.

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1 57. Defendants discriminate against Plaintiff and denied him full and equal
2 access to Defendants’ facilities and services on the basis of his disability.

3 58. Pursuant to subdivision (f) of section 51 of the California Civil Code,
4 Defendants’ conduct in violation of the ADA, as set forth above, also constitutes a
5 violation of the Unruh Civil Rights Act.

6 59. Plaintiff was harmed and Defendants’ discriminatory conduct was a
7 substantial factor in causing Plaintiff’s harm.

8 60. The actions of Defendants were and are in violation of the Unruh Civil
9 Rights Act, California Civil Code §§ 51, *et seq.*, and therefore Plaintiff is entitled to
10 injunctive relief remedying the discrimination.

11 61. Unless the Court enjoins Defendants from continuing to engage in these
12 unlawful practices, Plaintiff and members of the Class will continue to suffer
13 irreparable harm.

14 62. Plaintiff further seeks statutory minimum damages pursuant to
15 California Civil Code § 52 for every individual violation; *i.e.*, each time a mobility-
16 impaired, wheelchair using individual attempted to independently use one of
17 Defendants’ unstaffed drop boxes in California. This action does not seek class
18 recovery for actual damages, personal injuries, or emotional distress that may have
19 been caused by Defendants’ conduct asserted herein.

20 **PRAYER FOR RELIEF**

21 WHEREFORE, Plaintiff, on behalf of himself and the members of the Class,
22 prays for:

- 23 a. A declaratory judgment that Defendants are in violation of the specific
- 24 requirements of Title III of the ADA described above, and the relevant
- 25 implementing regulations of the ADA, in that Defendants’ drop box
- 26 facilities, as described above, are not fully accessible to and
- 27 independently usable by individuals who use wheelchairs;

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- 1 b. A permanent injunction pursuant to 42 U.S.C. § 12188(a)(2), 28 CFR §
- 2 36.501(b) , and California Civil Code, § 51 *et seq.*, that (i) to remove the
- 3 architectural barriers described above and to bring their facilities into full
- 4 compliance with the requirements set forth in the ADA, and its
- 5 implementing regulations, so that the facilities are fully accessible to and
- 6 independently usable by individuals who use wheelchairs; (ii) directs
- 7 Defendants to modify their existing policies, practices, and procedures
- 8 to prevent the reoccurrence of excessive reach range and operable parts
- 9 conditions at their drop box facilities post-remediation; and (iii) directs
- 10 that Plaintiff shall monitor Defendants’ facilities to ensure that the
- 11 injunctive relief ordered above remains in place.
- 12 c. An Order certifying the Classes proposed by Plaintiff, naming Plaintiff
- 13 as Class representative, and appointing his counsel as Class counsel;
- 14 d. Payment of minimum statutory damages, in accordance with California
- 15 Civil Code §§ 52(a) to the California sub-class;
- 16 e. Payment of costs of suit;
- 17 f. Payment of reasonable attorneys’ fees, pursuant to 42 U.S.C. § 12205,
- 18 28 CFR § 36.505, Cal. Civil Code §52, and Civ. Proc. Code § 1021.5;
- 19 g. Award of prejudgment interest pursuant to California Civil Code § 3291;
- 20 h. An Order retaining jurisdiction over this case until Defendants have
- 21 complied with the Court’s Orders; and,
- 22 i. The provision of whatever other relief the Court deems just, equitable
- 23 and appropriate.

24
25 Dated: October 9, 2021

Respectfully Submitted,

/s/ Jonathan D. Miller

Signatures continued below

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DEMAND FOR JURY TRIAL

Plaintiff Janne Kouri hereby demands a trial by jury of all claims so triable in the above-referenced matter.

Dated: October 9, 2021

Respectfully Submitted,

/s/ Jonathan D. Miller
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ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [FedEx Drop Boxes Present Accessibility Barriers for Wheelchair Users, Class Action Alleges](#)
