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3 Pro Se

4 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
5 YOLO COUNTY

7 MARK BAKER,  
8 Plaintiff,  
9 vs.  
10 COLDWELL BANKER REAL ESTATE, LLC  
11 AND  
12 PETROVICH DEVELOPMENT COMPANY,  
13 LLC  
14 Defendants

Case No.: CV2024-1150

COMPLAINT PURSUANT TO:  
1. THE AMERICANS WITH DISABILITIES  
ACT 42 U.S.C. §§ 12181 – 12189;  
2. THE UNRUH CIVIL RIGHTS ACT,  
CALIFORNIA CIVIL CODE §§ 51  
UNDER \$10,000

15  
16 **I. INTRODUCTION**

- 17 1. Plaintiff Mark Baker (“Plaintiff”), an individual with a qualified disability, alleges that  
18 Coldwell Banker Real Estate and Petrovich Development Company (“Defendants”) have  
19 discriminated against Plaintiff based solely on Plaintiff’s disability, in violation of state and  
20 federal anti-discrimination statutes.  
21 2. Specifically, Plaintiff alleges that Defendants made an alteration to the Woodland Gateway  
22 Shopping Center (“Woodland Gateway”) in Woodland, California that created a new  
23 discriminatory barrier where none existed previously. The alteration was the addition of a

1 spy camera system that emits and pulses intense, high-energy, blue LED light into the eyes  
2 of Plaintiff and prevents Plaintiff's full and equal access to Woodland Gateway.

3 3. Plaintiff offered Defendants the opportunity to engage in an interactive process to find  
4 accommodation, but Defendants declined to engage.

5 4. Due to Plaintiff's disability and as a result of Defendants' discriminatory actions as alleged  
6 herein, Plaintiff is deterred from visiting Woodland Gateway because Plaintiff is denied  
7 full and equal access.

8 5. Through this lawsuit, Plaintiff seeks coercive relief requiring Defendants to restore  
9 Woodland Gateway to its non-discriminatory state by turning off the LED lights on the spy  
10 camera system.

## 11 **II. THE PARTIES**

12 6. Plaintiff is Mark Baker, a resident of California.

13 7. Defendant, Coldwell Banker Real Estate, is a Limited Liability Corporation.

14 8. Defendant, Petrovich Development Company, is a California Limited Liability  
15 Corporation.  
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## 17 **III. JURISDICTION AND VENUE**

18 9. This Court has jurisdiction of this action under California Civil Code 51, 28 U.S.C. §§  
19 1331 and 42 U.S.C. § 12133. The Court may grant declaratory and other relief pursuant to  
20 28 U.S.C. §§ 2201 and 2202, and 42 U.S.C. § 12133.

21 10. Defendants own and operate a business establishment within the meaning of Unruh Civil  
22 Rights Act, Cal. Civ. Code 51, and are therefore subject to the Unruh Civil Rights Act.  
23

1 11. The venue is proper because Woodland Gateway is located in this county and all the claims  
2 and events giving rise to this action occurred in this county.

3 12. Defendants own and operate a place of public accommodation as defined in 42 U.S.C. §  
4 12181(7)(E).

5 13. Plaintiff exhausted all administrative remedies prior to filing this claim.

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7 **IV. STANDING**

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9 14. To demonstrate standing, a plaintiff must (1) have suffered a concrete and particularized  
10 injury-in-fact, which is actual or imminent, not conjectural or hypothetical; (2) there must  
11 be a causal connection between the injury and the defendant's conduct; and (3) it must be  
12 likely that the injury will be redressed by a favorable decision.<sup>1</sup>

13 15. Plaintiff meets standing requirements because (1) Plaintiff has suffered neurological and  
14 psychological trauma when exposed to the LED lights emitted by the spy camera system  
15 operating in the Woodland Gateway parking lot.; (2) Defendants' use of the blue LED  
16 lights on the spy camera system prevents full and equal access to Woodland Gateway and  
17 the businesses located within Woodland Gateway.; and (3) a favorable decision will allow  
18 Plaintiff access to Woodland Gateway without the imminent threat of psychological trauma  
19 and neurological injury.

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21 **V. BACKGROUND**

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23 <sup>1</sup> <https://casetext.com/case/hernandez-v-welcome-sacramento-llc>

1           **A. Qualified Disability**

2 16. Mark Baker (Plaintiff) has been diagnosed with autism spectrum disorder, which is a  
3 qualified ADA disability, and is therefore protected under the ADA.  
4

5           **B. LVT Spy Camera System**

6 17. The LVT spy camera system is a mobile system that can be placed in a shopping center  
7 parking lot to take video of individuals in the shopping center parking lot.

8 18. The LVT system has several extremely intense blue LED lights, some of which pulse,  
9 and some of which are static.

10 19. Figure 1 shows the intense light emitted by the LVT system.



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*Figure 1 – LVT Spy Camera Device*

20. Defendants have authorized the operation of an LVT system in the parking lot of the  
Woodland Gateway Shopping Center in Woodland, California.

1  
2 **C. Regulatory Framework for LED Products.**

- 3 21. The US Food and Drug Administration has not vetted or approved the any LED product  
4 and has not published the required performance standards for LED products as required  
5 by 21 U.S.C. 360ii and thus there are no standards to limit the intensity or to restrict the  
6 digital pulsing of the LED lights.
- 7 22. There are no known government regulatory agencies that have authorized the use of the  
8 LED lights that are used in the LVT system.
- 9 23. No government agency has stated that LED lights are safe for individuals who have been  
10 diagnosed with autism spectrum disorder.

11  
12 **D. Research on Autism and Lights**

- 13 24. The research article Visual Sensory Experiences From the Viewpoint of Autistic Adults  
14 describes the impacts of light on individuals diagnosed with autism spectrum disorder.<sup>2</sup>  
15 Below are several quotes from this research article:
- 16 25. Quote: *“including difficulties tolerating a range of stimuli such as bright environments,*  
17 *artificial lighting, patterns, unpredictable movements, visual distractions, fine detail, and*  
18 *particular colors.”*
- 19 26. Quote: *“Bogdashina (2003) provided a list of visual hypersensitivity issues, such as*  
20 *focusing on fine detail and a dislike for extreme or flashing lights...”*

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23 <sup>2</sup> <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8217662/>

1 27. Quote: “*Light alterations increased participants’ ability to cope in artificially lit*  
2 *environments. Reducing light levels can improve visual ability.*”

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4 **E. Neurological Impacts of LED Light**

5 28. Scientists at Intelligent Optical Systems in Torrance, Calif., have developed a rapid,  
6 strobe system that not only distracts a suspect in a crime, but also makes the suspect  
7 rapidly nauseous, if not violently ill. The device is called an LED Incapacitator (LEDI),  
8 and the device relies on light-emitting diodes. The U.S. Department of Homeland  
9 Security awarded the company a \$1 million grant to develop and test this weapon.<sup>3</sup> Thus,  
10 it is well known that LEDs have the potential to cause adverse neurological reactions.

11 29. The Soft Lights Foundation began collecting reports of harm from exposure to LED  
12 lights in April 2024. In addition to Plaintiff’s own submissions, one other individual with  
13 autism reported the following, “[LED headlights] have had deleterious impacts on my  
14 quality of life since I can no longer exercise outdoors or drive at night without fear of  
15 being exposed to excessively bright LED headlights, experiencing sensory overload, and  
16 having meltdowns as a result.”<sup>4</sup> Plaintiff suffers the same sensory overload and  
17 psychological meltdown as this other individual with autism when exposed to intense  
18 LED lights.

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23 <sup>3</sup> <https://science.howstuffworks.com/led-incapacitator.htm>

<sup>4</sup> <https://www.softlights.org/led-incident-reports/>

1           **E. Impacts of LED Lights on Plaintiff**

2 30. Plaintiff has been subjected to LED lights and LED flashing lights numerous times and at  
3 numerous locations over the past several years. Plaintiff reacts with terror, fear, anxiety,  
4 and panic. The intense LED light sometimes triggers suicidal ideations.

5 31. Plaintiff’s attempts to survive LED flashing lights include covering Plaintiff’s eyes with  
6 his hands, closing his eyes, and yelling profanity. Plaintiff describes the effects of the  
7 LED lights as akin to torture.

8 32. Plaintiff has encountered LED flashing lights many times with his partner present.  
9 Plaintiff’s partner has seen Plaintiff’s reactions to the LED lights and now warns Plaintiff  
10 to cover his eyes whenever they encounter LED lights.

11 33. Plaintiff’s reactions to the LED lights and LED flashing lights are a direct result of his  
12 disability. Individuals without Plaintiff’s disability may not react to LED light in this  
13 way. It is solely due to Plaintiff’s disability of autism spectrum disorder that the LED  
14 lights cause such severe adverse neurological and psychological reactions, although other  
15 individuals with neurological disabilities such as epilepsy, migraines, and PTSD may  
16 react similarly to LED lights.

17 34. An assault is a non-accidental act that causes the victim to reasonably believe that the act  
18 will cause imminent harm.<sup>5</sup> Plaintiff does not assert in this claim that Defendant is  
19 legally assaulting Plaintiff with the LED lights, but Plaintiff raises the point to show the  
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21  
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23 <sup>5</sup> <https://www.law.cornell.edu/wex/assault>

1 similarity between Plaintiff's reactions to the LED light and the legal definition of  
2 assault. Plaintiff has frequently described the impacts of LED light as an assault.

3 35. Plaintiff lives near Woodland, California. On November 25, 2023, Plaintiff attempted to  
4 shop at Woodland Gateway, but was struck by the blue LED lights from the LVT system.  
5 Plaintiff was forced to cup his hands over his eyes to protect himself, cursed, and drove  
6 out of the parking lot.

7 36. Due to Plaintiff's numerous repeated exposures to LED lights, Plaintiff suffers an  
8 increasing level of psychological trauma from each subsequent exposure to LED lights  
9 due to reliving past anxiety, panic attacks, and suicidal ideations associated with the LED  
10 lights.

11 37. Plaintiff has a fear of returning to Woodland Gateway due to the imminent threat of being  
12 struck by the blue LED lights on the LVT system and is thus deterred from the benefits of  
13 Woodland Gateway.

#### 14 15 **F. LED Discrimination Case History**

16 38. While an understanding by the legal system that the use of LED light can cause  
17 discrimination is somewhat new, the issue is not entirely *de novo*.

18 39. On June 15, 2023, the Minnesota Department of Human Rights issued a Finding of  
19 Probable Cause of Discrimination.<sup>6</sup> In that case, the "Charging Party was nearby and  
20 experienced disability-related symptoms because of the bright, flashing LED lights. Her  
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23 <sup>6</sup> <https://www.softlights.org/wp-content/uploads/2023/06/74059-6-15-2023-ECP-Memorandum-.pdf>  
COMPLAINT PURSUANT TO: 1. THE AMERICANS WITH DISABILITIES ACT 42 U.S.C. §§ 12181 – 12189; 2.  
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1 symptoms continued into the next day, and Charging Party was unable to go to work.”

2 The MDHR concluded, “In sum, evidence demonstrated Respondent failed to engage in  
3 the reasonable accommodation process to find an accommodation or an alternative.”

4 40. In New York State Public Services case 23-E-0727, the utility company National Grid  
5 wrote, “In February 2021, upon information and belief, the Village adopted a resolution  
6 to revert five streetlights in the vicinity of the Cherry residence from LED luminaires to  
7 HPS luminaires after being provided information from Ms. Cherry’s medical care  
8 provider.”<sup>7</sup> (NYSPSC Case number 32-E-0727, Item 12, Page 5).

9 41. On January 18, 2024, Engstrom Properties, the property management company for the  
10 Woodland Crossing Shopping Center, turned off the blue LED lights on the LVT spy  
11 camera system at Plaintiff’s request, thus restoring Plaintiff’s full and equal access to the  
12 Woodland Crossing Shopping Center.

13 42. On February 4, 2024, Klassen Construction turned off the blue LED lights on the LVT  
14 spy camera system at Plaintiff’s request. This action eliminated the discriminatory  
15 barrier.<sup>8</sup>

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22 <sup>7</sup> <https://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=21-02623&CaseSearch=Search>

23 <sup>8</sup> <https://www.softlights.org/wp-content/uploads/2024/02/Soft-Lights-Mail-Request-for-Accommodation-Blue-LED-Lights-Klassen-Smith.pdf>



owns or operates the place of public accommodation are public accommodations subject to the requirements of this part. As between the parties, allocation of responsibility for complying with the obligations of this part may be determined by lease or other contract.”

## **B. Alteration**

48. For any alteration after 1992, a place of public accommodation is required to ensure that the altered portion of the facility is readily accessible and usable by individuals with disabilities.

49. 42 U.S.C. § 12183 states, “*discrimination for purposes of section 12182(a) of this title includes...a failure to make alterations in such a manner that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities.*”<sup>9</sup>

50. 28 C.F.R. § 36.402(a)(1) states, “*Any alteration to a place of public accommodation or a commercial facility, after January 26, 1992, shall be made so as to ensure that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities...*”

51. 28 C.F.R. § 36.402(b) states, “*For the purposes of this part, an alteration is a change to a place of public accommodation or a commercial facility that affects or could affect the usability of the building or facility or any part thereof.*”

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<sup>9</sup> <https://www.law.cornell.edu/uscode/text/42/12183>

1 52. 28 C.F.R. § 36.402(c) states, “Any altered features of the facility that can be made  
2 accessible shall be made accessible.”

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4 **C. Discriminatory Barrier**

5 53. The reason for this legal action is due to the Defendants’ alteration of adding the LVT  
6 system after 1992 which created a new discriminatory barrier where none existed  
7 previously. Defendants failed to ensure that the altered portion of Woodland Gateway is  
8 readily accessible and usable by Plaintiff.

9 54. A barrier does not need to completely deny Plaintiff’s access to Woodland Gateway to be  
10 a violation of the Americans with Disabilities Act, but the barrier need only interfere with  
11 Plaintiff’s full and equal use of Woodland Gateway. *Chapman vs. Pier 1 Imports* at 957  
12 (2010).<sup>10</sup>

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14 **VII. First Cause of Action**

15 **Violations of Americans with Disabilities Act**

16 55. The allegations of the paragraphs above are hereby re-alleged and incorporated by  
17 reference. Defendants have discriminated against Plaintiff in violation of the following  
18 Codes of Federal Regulation:  
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23 <sup>10</sup> <https://casetext.com/case/chapman-v-pier-1-imports-us-inc>

1 56. A) Defendants failed to ensure that the alteration of adding the LVT system did not create  
2 a new discriminatory barrier where none had previously existed, and Defendants failed to  
3 ensure that Woodland Gateway would still be readily accessible by individuals with  
4 disabilities with the addition of the LVT system. 28 C.F.R. § 36.402(a)(1).

5 57. B) The operation of the intense blue LED lights on the LVT system denies Plaintiff the full  
6 and equal enjoyment of the Woodland Gateway Shopping Center and subjects Plaintiff to  
7 discrimination. 28 C.F.R. § 36.201(a)

8 58. C) Defendants failed to engage with Plaintiff and failed to modify its practices related to  
9 the LVT system to avoid discrimination. 28 C.F.R. § 36.302(a).

10 59. D) Defendants failed to provide the most integrated setting, which would be the use of  
11 Woodland Gateway without Plaintiff suffering neurological or psychological trauma  
12 caused by the LED lights on the LVT system. 28 C.F.R. §36.203(a)

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14 **VIII. Second Cause of Action**

15 **Violations of the Unruh Civil Rights Act**

16 60. The allegations of the paragraphs above are hereby re-alleged and incorporated by  
17 reference. Defendants have discriminated against Plaintiff in violation of the Unruh Civil  
18 Rights Act.

19 61. The operation of the intense blue LED lights on the LVT system denies Plaintiff the full  
20 and equal privileges and services of the Woodland Gateway Shopping Center and subjects  
21 Plaintiff to discrimination. Cal. Civ. Code 51(b).

22 **IX. Relief Requested**

23 62. Therefore, Plaintiff requests that the Court enter judgment:

COMPLAINT PURSUANT TO:1. THE AMERICANS WITH DISABILITIESACT 42 U.S.C. §§ 12181 – 12189;2.  
THE UNRUH CIVIL RIGHTS ACT, CALIFORNIA CIVIL CODE §§ 51UNDER \$10,000 - 13

- 1 A. Declaring that Defendant has violated Title III of the ADA, 42 U.S.C. §§ 12181-  
2 12189, and its implementing regulations, 28 C.F.R. Part 36;
- 3 B. Declaring that Defendant has violated the Unruh Civil Rights Act, California Civil  
4 Code § 51;
- 5 C. For a permanent injunction, ordering Defendants to turn off the LED lights on the  
6 LVT system within 10 days of the judgment and requiring Defendants to provide full  
7 and equal access to Woodland Gateway Shopping Center in the most integrated  
8 setting;
- 9 D. For actual damages for each offense pursuant to California Civil Code Section 52;
- 10 E. For statutory damages for each offense pursuant to California Civil Code Section 52;
- 11 F. Granting court costs and legal fees. 28 C.F.R. § 36.505, California Civil Code  
12 Sections 52 and Code of Civil Procedure 1021.5. (Also see Christiansburg Garment  
13 Company vs. Equal Employment Opportunity Commission).

14  
15 Dated: May 6, 2024

16 Respectfully Submitted,

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