

Exhibit A

1 Thiago M. Coelho, SBN 324715
thiago@wilshirelawfirm.com
2 Shahin Rezvani, SBN 199614
srezvani@wilshirelawfirm.com
3 Jennifer M. Leinbach, SBN 281404
jleinbach@wilshirelawfirm.com
4 Jesenia A. Martinez, SBN 316969
jesenia.martinez@wilshirelawfirm.com
5 Jesse S. Chen, SBN 336294
jchen@wilshirelawfirm.com
6 **WILSHIRE LAW FIRM, PLC**
7 3055 Wilshire Blvd., 12th Floor
8 Los Angeles, California 90010
9 Telephone: (213) 381-9988
Facsimile: (213) 381-9989

10 *Attorneys for Plaintiffs*
and Proposed Class

11 **UNITED STATES DISTRICT COURT**

12 **FOR THE EASTERN DISTRICT OF CALIFORNIA**

13 FLOR JIMENEZ, individually and on
14 behalf of all others similarly situated,

15 Plaintiff,

16 v.

17 INTER-CONTINENTAL HOTELS
18 CORPORATION, a Delaware Corporation;
19 and DOES 1 to 10, inclusive,

20 Defendants.
21

CASE No.:

CLASS ACTION COMPLAINT

1. VIOLATIONS OF THE AMERICANS WITH DISABILITIES ACT OF 1990, 42 U.S.C. § 12101
2. VIOLATIONS OF THE UNRUH CIVIL RIGHTS ACT

DEMAND FOR JURY TRIAL

22
23 Plaintiff Flor Jimenez (“Plaintiff”), individually and on behalf of all others similarly
24 situated, brings this action based upon personal knowledge as to herself and her own acts, and as
25 to all other matters upon information and belief, based upon, *inter alia*, the investigations of her
26 attorneys.

27 **NATURE OF THE ACTION**

- 28 1. Plaintiff is a visually impaired and legally blind person who requires screen-

1 reading software to read website content using her computer. Plaintiff uses the terms “blind” or
2 “visually impaired” to refer to all people with visual impairments who meet the legal definition
3 of blindness in that they have a visual acuity with correction of less than or equal to 20 x 200.
4 Some blind people who meet this definition have limited vision. Others have no vision.

5 2. Plaintiff, individually and on behalf of those similarly situated persons (hereafter
6 “Class Members”), brings this Class Action to secure redress against Inter-Continental Hotel
7 Corporation (“Defendant”), and DOES 1-10, for its failure to design, construct, maintain, and
8 operate its website to be fully and equally accessible to and independently usable by Plaintiff and
9 other blind or visually impaired people. Defendant’s denial of full and equal access to its website,
10 and therefore denial of its products and services offered thereby and in conjunction with its
11 physical locations, is a violation of Plaintiff’s and the Class Member’s rights under the Americans
12 with Disabilities Act (“ADA”) and California’s Unruh Civil Rights Act (“Unruh Act”).

13 3. Because Defendant’s website, including but not limited to
14 <https://www.ihg.com/hotels/us/en/reservation> (the “website” or “Defendant’s website”), is not
15 fully or equally accessible to blind and visually impaired consumers, resulting in violation of the
16 ADA, Plaintiff seeks a permanent injunction to cause a change in Defendant’s corporate policies,
17 practices, and procedures so that Defendant’s website will become and remain accessible to blind
18 and visually impaired consumers.

19 **THE PARTIES**

20 4. Plaintiff, at all times relevant and as alleged herein, is a resident of California,
21 County of Solano. Plaintiff is a legally blind, visually impaired, disabled person, and member of
22 a protected class of individuals under the ADA, pursuant to 42 U.S.C. § 12102(1)-(2), and the
23 regulations implementing the ADA set forth at 28 CFR §§ 36.101 *et seq.*

24 5. Defendant is a Delaware corporation with its headquarters in Atlanta, Georgia.
25 Defendant’s servers for the website are in the United States. Defendant conducts a large amount
26 of its business in California and the United States as a whole. The physical locations where
27 Defendant’s goods and services are sold to the public constitute places of public accommodation
28 pursuant to 42 U.S.C. § 12181(7)(A), as Defendant owns, operates, and controls brick-and-mortar

1 hotels. Defendant's hotels provide the public with important goods and services. Moreover,
2 Defendant's website provides consumers access to the goods and services which Defendant offers
3 in its brick-and-mortar hotels. For example, Defendant's website allows consumers to make hotel
4 reservations, sign up for Defendant's credit card, access Defendant's rewards program, and book
5 event and meeting spaces.

6 6. Defendant's hotels are public accommodations within the definition of Title III of
7 the ADA, 42 U.S.C. § 12181(7)(A).

8 7. The website provides access to the goods, services, privileges, and advantages of
9 Defendant's brick-and-mortar hotels, places of public accommodation, by allowing consumers to
10 make hotel reservations, sign up for Defendant's credit card, access Defendant's rewards
11 program, and book event and meeting spaces.

12 8. Plaintiff is unaware of the true names, identities, and capacities of Defendants sued
13 herein as DOES 1 to 10. Plaintiff will seek leave to amend this complaint to allege the true names
14 and capacities of DOES 1 to 10 if and when ascertained. Plaintiff is informed and believes, and
15 thereupon alleges, that each Defendant sued herein as a DOE is legally responsible in some
16 manner for the events and happenings alleged herein and that each Defendant sued herein as a
17 DOE proximately caused injuries and damages to Plaintiff as set forth below.

18 **JURISDICTION AND VENUE**

19 9. This Court has subject matter jurisdiction over the state law claims alleged in this
20 Complaint pursuant to the Class Action Fairness Act, 28 U.S.C. §1332(d)(2)(A) because: (a) the
21 matter in controversy exceeds the sum of \$5 million, exclusive of interest and costs; and (b) some
22 of the class members are citizens of a state (California), which is minimally diverse from
23 Defendant's states of citizenship (Delaware and Georgia).

24 10. Defendant is subject to personal jurisdiction in this District. Defendant has been
25 and is committing the acts or omissions alleged herein in the Eastern District of California that
26 caused injury, and violated rights prescribed by the ADA and Unruh Act, to Plaintiff and to other
27 blind and other visually impaired consumers. A substantial part of the acts and omissions giving
28 rise to Plaintiff's claims occurred in the Eastern District of California. Specifically, on several

1 separate occasions, Plaintiff has been denied the full use and enjoyment of the facilities, goods,
2 and services of Defendant's website in Solano County. The access barriers Plaintiff has
3 encountered on Defendant's website have caused a denial of Plaintiff's full and equal access
4 multiple times in the past and now deter Plaintiff on a regular basis from accessing Defendant's
5 website. Similarly, the access barriers Plaintiff has encountered on Defendant's website have
6 impeded Plaintiff's full and equal enjoyment of goods and services offered at Defendant's
7 physical locations. Moreover, Defendant owns and operates branded hotels in the State of
8 California, including Solano County.

9 11. This Court also has subject matter jurisdiction over this action pursuant to 28
10 U.S.C. § 1331 and 42 U.S.C. § 12181, as Plaintiff's claims arise under Title III of the ADA, 42
11 U.S.C. § 12181, *et seq.* and 28 U.S.C. § 1367.

12 12. This Court also has subject matter jurisdiction under 28 U.S.C. § 1332, as the
13 amount in controversy exceeds \$75,000, exclusive of interest and costs, and Plaintiff and
14 Defendant are completely diverse.

15 13. This Court has personal jurisdiction over Defendant because it conducts and
16 continues to conduct a substantial and significant amount of business in the State of California,
17 County of Solano, and because Defendant's offending website is available across California.

18 14. Venue is proper in the Eastern District of California pursuant to 28 U.S.C. § 1391
19 because Plaintiff resides in this District, Defendant conducts and continues to conduct a
20 substantial and significant amount of business in this District, Defendant is subject to personal
21 jurisdiction in this District, and a substantial portion of the conduct complained of herein occurred
22 in this District.

23 15. Defendant owns, operates, and maintains brick-and-mortar hotel locations in the
24 State of California and the United States as a whole. Defendant's brick-and-mortar hotel locations
25 offer goods and services to the public. Defendant also offers the very goods and services that are
26 offered in Defendant's places of public accommodation to the public through the website.
27 Defendant's brick-and-mortar hotel locations are places of public accommodation pursuant to 42
28 U.S.C. § 12181(7)(A), and Defendant's website is subject to the ADA because it provides

1 methods by which consumers can access the goods and services offered in Defendant’s brick-
2 and-mortar hotels, which are inaccessible to Plaintiff and the Class Members, who are disabled
3 screen reader users.

4 **THE AMERICANS WITH DISABILITIES ACT AND THE INTERNET**

5 16. The Internet has become a significant source of information, a portal, and a tool
6 for conducting business, doing everyday activities such as shopping, learning, banking,
7 researching, as well as many other activities for sighted, blind, and visually impaired persons
8 alike.

9 17. In today's tech-savvy world, blind and visually impaired people can access
10 websites using keyboards in conjunction with screen access software that vocalizes the visual
11 information found on a computer screen. This technology is known as screen-reading software.
12 Screen-reading software is currently the only method a blind or visually impaired person may
13 independently use to access the internet. Unless websites are designed to be read by screen-
14 reading software, blind and visually impaired persons are unable to fully access websites, and the
15 information, products, and services contained thereon.

16 18. Blind and visually impaired users of Windows operating system-enabled
17 computers and devices have several screen-reading software programs available to them. Some
18 of these programs are available for purchase and other programs are available without the user
19 having to purchase the program separately. Job Access With Speech, otherwise known as
20 “JAWS,” is currently the most popular, separately purchased and downloaded screen-reading
21 software program available for a Windows computer.

22 19. For Apple-based products, such as laptops and iPhones, the screen reader called
23 “VoiceOver” is built into the operating system. Akin to JAWS, VoiceOver converts text to
24 speech.

25 20. For Android-based products, TalkBack is built into the operating system and
26 converts text to speech.

27 21. For screen-reading software to function, the information on a website must be
28 capable of being rendered into text. If the website content is not capable of being rendered into

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3055 Wilshire Blvd, 12th Floor
Los Angeles, CA 90010-1137

1 text, the blind or visually impaired user is unable to access the same content available to sighted
2 users.

3 22. The international website standards organization, the World Wide Web
4 Consortium, known throughout the world as W3C, has published Success Criteria for version 2.1
5 of the Web Content Accessibility Guidelines ("WCAG 2.1" hereinafter). WCAG 2.1 are well-
6 established guidelines for making websites accessible to blind and visually impaired people.
7 These guidelines are adopted, implemented, and followed by most large business entities who
8 want to ensure their websites are accessible to users of screen-reading software programs. Though
9 WCAG 2.1 is one of, if not the most, valuable resources for companies to operate, maintain, and
10 provide a website that is accessible under the ADA to the public. Plaintiff seeks Defendant's
11 compliance with WCAG 2.1 as a remedy. Plaintiff does not premise Defendant's violations of
12 the ADA nor the Unruh Act on violations of WCAG 2.1. However, the Department of Justice
13 ("DOJ") has issued guidance on how to make web content accessible to people with disabilities.
14 The DOJ's guidance provides that: "Existing technical standards provide helpful guidance
15 concerning how to ensure accessibility of website features. These include [WCAG] and the
16 Section 508 standards, which the federal government uses for its own websites."¹ Accordingly,
17 although not a sole basis to premise violations of the ADA and the Unruh Act on, WCAG 2.1
18 "provide[s] helpful guidance concerning how to ensure accessibility of website features."

19 23. Within this context, the Ninth Circuit has recognized the viability of ADA claims
20 against commercial website owners/operators concerning the accessibility of such websites.
21 *Robles v. Domino's Pizza, LLC*, 913 F.3d 898, 905-06 (9th Cir. 2019), *cert. denied*, 140 S.Ct.
22 122, 206 L. Ed. 2d 41 (2019). This is in addition to the numerous courts that have already
23 recognized such application.

24 24. Each of Defendant's violations of the Americans with Disabilities Act is likewise
25 a violation of the Unruh Civil Rights Act. Indeed, the Unruh Civil Rights Act provides that any
26 violation of the ADA constitutes a violation of the Unruh Civil Rights Act. Cal. Civ. Code § 51(f).

27
28

¹ <https://beta.ada.gov/resources/web-guidance/>

FACTUAL BACKGROUND

25. Defendant offers the website to the public. The website offers features that should allow all consumers to access the goods and services which Defendant offers in connection with its physical locations. The goods and services offered by Defendant include but are not limited to, the following: hotel reservations, credit card offers, Defendant’s rewards program, and event and meeting spaces.

26. Due to Defendant’s failure to properly code its website, Plaintiff and the Class Members have been and are still being denied equal and full access to Defendant’s hotels and the numerous goods, services, and benefits offered to the public through Defendant’s website in conjunction with Defendant’s brick-and-mortar hotel locations.

THE WEBSITE BARRIERS DENY PLAINTIFF AND CLASS MEMBERS ACCESS

27. Plaintiff and the Class Members are visually impaired and legally blind persons, who cannot use a computer, cellphone, or tablet without the assistance of screen-reading software. However, Plaintiff and the Class Members are proficient users of screen-reading software. Plaintiff is a proficient user of JAWS and uses it to access the internet. Plaintiff visited <https://www.ihg.com/hotels/us/en/reservation> using the JAWS screen reader to make a hotel reservation for a trip she was planning.

28. During Plaintiff’s visits to Defendant’s website, Plaintiff encountered multiple access barriers which denied Plaintiff full and equal access to the facilities, goods, and services offered and provided to the public through the website in conjunction with its brick-and-mortar hotels. For example, while attempting to navigate Defendant’s website to reserve a room at one of Defendant’s hotels, Plaintiff encountered dialog windows that could not be announced by her screen reader due to the position of the windows’ code in the website’s navigation order. If the code for a dialog window does not immediately follow the code for the link that the user activates to open the window, screen-reading software will not announce the contents of the dialog window after the user activates the link. Screen-reading software will announce the content outside of the dialogue window that follows the activated link as if the dialog window did not open. This makes the dialog window inoperable to visually impaired users by giving such users the impression that

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1 activating the link had no effect. Plaintiff was unable to navigate the website’s “Select Your
2 Room” page because she was unable to access the page’s “Room Details” dialog. Because the
3 “Room Details” dialog’s code did not immediately follow the code of its triggering link in the
4 webpage’s sequential navigation order, Plaintiff was not able to access or interact with the dialog
5 window’s content. After activating the “Room Details” link and using her keyboard to navigate
6 down the webpage, Plaintiff’s screen reader announced the “View Prices” button rather than the
7 contents of the “Room Details” dialog window. This and other examples of deficiently coded
8 navigation order prevented Plaintiff from being able to navigate and operate Defendant’s website.
9 As a result of Defendant’s deficient website coding practices, Plaintiff was unable to reserve a
10 room using Defendant’s website in conjunction with her screen reader and was denied the goods
11 and services of Defendant’s brick-and-mortar hotels. Because Plaintiff and the Class Members
12 are legally blind, they must rely on their screen readers in conjunction with their keyboards,
13 cellphones, or tablets to access and navigate websites, like Defendant’s website. As a result of
14 Defendant’s failure to ensure that its website is coded to sufficiently interface with Plaintiff’s and
15 the Class Member’s screen readers, Plaintiff and the Class Members were denied the goods and
16 services offered through Defendant’s website which Defendant offers in conjunction with its
17 brick-and-mortar hotels, such as the ability to make hotel reservations which Defendant offers on
18 its website in conjunction with Defendant’s brick-and-mortar hotels. The barriers Plaintiff
19 encountered prevented Plaintiff from consummating the reservation of a hotel room, as
20 Defendant’s coding failures made Defendant’s website impossible to navigate and impossible to
21 understand what goods and services are being sold.

22 29. Defendant’s website has numerous access barriers in addition to those already
23 listed, including but not limited to user controls that are coded such that they cannot be announced
24 or interacted with using screen-reading technology. To be usable by screen reader users, user
25 controls such as fillable form fields and dropdown lists must be coded in such a way that screen
26 readers are able to both announce the controls’ purpose and function and interact with the controls
27 in conjunction with a keyboard. On Defendant’s website’s main page, the “Rate Preference”
28 dropdown list, a user control, is coded such that a screen reader cannot announce its purpose and

1 function and it cannot be interacted with in conjunction with a keyboard. When interacting with
2 the “Rate Preference” dropdown list, screen readers are unable to announce the items included in
3 the list and, once an item on the list is selected, screen readers do not announce the currently
4 selected item. These barriers prevent users who rely on a screen reader from being able to select
5 their desired rate thus preventing them from searching for and booking a hotel room using
6 Defendant’s website. These and other coding failures have prevented visually impaired users,
7 such as Plaintiff and Class Members, from accessing the goods and services offered through
8 Defendant’s website which Defendant offers in conjunction with its brick-and-mortar hotels.

9 30. The Class Members all encountered a deficiently coded website. Thus, the Class
10 Members and Plaintiff were barred from accessing goods and services because of Defendant’s
11 failure to code its website to be usable by screen readers and they all encountered similar barriers.

12 31. As a result, Plaintiff, and the Class Members, who desired to make purchases and
13 access services which Defendant provides through the website in conjunction with Defendant’s
14 brick-and-mortar hotels could not do so as a sighted person could. If Defendant had sufficiently
15 coded the website to be readable by Plaintiff’s and the Class Members’ screen readers and
16 accessible with their keyboards, Plaintiff and the Class Members would have been able to interact
17 with these elements and complete a purchase as a sighted person could.

18 32. Accordingly, Plaintiff and the Class Members were denied the ability to make
19 purchases of goods and services which Defendant provides through the website in conjunction
20 with its places of public accommodation, its hotels, because Defendant failed to have the proper
21 procedures in place to ensure that content uploaded to the website contain the proper coding to
22 convey the meaning and structure of the website and the goods and services provided by
23 Defendant therewith.

24 33. Due to the widespread access barriers Plaintiff and Class Members encountered
25 on Defendant’s website, Plaintiff and Class Members have been deterred, on a regular basis, from
26 accessing Defendant’s website. Similarly, the access barriers Plaintiff and Class Members
27 encountered on Defendant’s website have deterred Plaintiff and Class Members from visiting
28 Defendant’s physical locations.

1 34. Despite Plaintiff's and the Class Member's attempts to do business with Defendant
2 on its website, the numerous access barriers contained on the website and encountered by
3 Plaintiff, have denied Plaintiff full and equal access to Defendant's website, and Defendant's
4 hotels. Plaintiff, because of the barriers on Defendant's website, continues to be deterred from
5 accessing Defendant's website, and Defendant's hotels. Likewise, based on the numerous access
6 barriers Plaintiff and the Class Members have been deterred and impeded from the full and equal
7 enjoyment of goods and services offered in Defendant's hotels. If Defendant's website was
8 properly coded, Plaintiff and the Class Members could and would complete purchases and access
9 other goods and services provided through the website by Defendant in conjunction with its
10 physical hotels.

11 35. Akin to Plaintiff, the Class Members were denied goods and services which
12 Defendant provides through the website in conjunction with Defendant's hotels, and places of
13 public accommodation. The Class Members and Plaintiff are thereby deterred from patronizing
14 Defendant's hotels as a result of Defendant's failure to properly code the website. Like Plaintiff,
15 the Class Members were denied access because of Defendant's coding failures. Plaintiff and the
16 Class Members all suffered the same injury because their screen readers were all incapable of
17 reading aloud the visual elements of the website which support the services and goods which
18 Defendant provides through the website in conjunction with its hotels.

19 **DEFENDANT'S WEBSITE HAS A SUFFICIENT NEXUS TO DEFENDANT'S**
20 **PHYSICAL LOCATIONS TO SUBJECT THE WEBSITE TO THE REQUIREMENTS**
21 **OF THE ADA**

22 36. Defendant's website is subject to the ADA because the goods and services that
23 Defendant offers on the website are an extension of the goods and services offered in Defendant's
24 brick-and-mortar hotels. For example, the goods and the services which can be procured online
25 are available for purchase in Defendant's brick-and-mortar hotels. Moreover, the website
26 connects consumers to the goods and services of Defendant's website by allowing consumers to
27 purchase goods and services provided in Defendant's hotels through the website. Thus, since the
28 website facilitates access to the goods and services of places of public accommodation, the

1 website falls within the protection of the ADA because the website connects customers to the
2 goods and services of Defendant’s physical hotels.

3 **DEFENDANT MUST REMOVE BARRIERS TO ITS WEBSITE**

4 37. Due to the inaccessibility of the Defendant’s website, blind and visually impaired
5 customers such as Plaintiff and the Class Members, who need screen readers, cannot fully and
6 equally use, or enjoy the facilities and services Defendant offers to the public on its website. The
7 access barriers Plaintiff and Class Members encountered have caused a denial of Plaintiff’s and
8 the Class Members’ full and equal access in the past and now deter Plaintiff and the Class
9 Members on a regular basis from accessing the website.

10 38. These access barriers on Defendant’s website have deterred Plaintiff and the Class
11 Members from enjoying the goods and services of Defendant’s brick-and-mortar hotels which are
12 offered through Defendant’s website in a full and equal manner to sighted individuals. Plaintiff
13 and Class Members intend to visit the Defendant’s locations if Plaintiff and Class Members could
14 access Defendant’s website fully and equally as a sighted person can.

15 39. If the website was equally accessible to all, Plaintiff and Class Members could
16 independently navigate the website and complete a desired transaction, as sighted individuals do.

17 40. Plaintiff, through Plaintiff’s attempts to use the website, has actual knowledge of
18 the access barriers that make these services inaccessible and independently unusable by blind and
19 visually impaired people.

20 41. The Defendant uses standards, criteria, or methods of administration that have the
21 effect of discriminating or perpetuating the discrimination against others, as alleged herein.

22 42. The ADA expressly contemplates the injunctive relief that Plaintiff seeks in this
23 action. In relevant part, the ADA requires:

24 In the case of violations of [...] this title, injunctive relief shall include an order to
25 alter facilities to make such facilities readily accessible to and usable by
26 individuals with disabilities [...]. Where appropriate, injunctive relief shall also
27 include requiring the [...] modification of a policy [...]. 42 U.S.C. § 12188(a)(2).

28 43. Because Defendant’s website has never been equally accessible and because

1 Defendant lacks a corporate policy that is reasonably calculated to cause the Defendant's website
2 to become and remain accessible, Plaintiff invokes 42 U.S.C. § 12188(a)(2) and seeks a
3 permanent injunction requiring the Defendant to retain a qualified consultant acceptable to
4 Plaintiff to assist Defendant to comply with WCAG 2.1 guidelines for Defendant's website. The
5 website must be accessible for individuals with disabilities who use desktop computers and
6 laptops. Plaintiff and Class Members seek that this permanent injunction require Defendant to
7 cooperate with the agreed-upon consultant to: train Defendant's employees and agents who
8 develop the website on accessibility compliance under the WCAG 2.1 guidelines; regularly check
9 the accessibility of the website under the WCAG 2.1 guidelines; regularly test user accessibility
10 by blind or vision-impaired persons to ensure that the Defendant's website complies under the
11 WCAG 2.1 guidelines; and develop an accessibility policy that is clearly disclosed on the
12 Defendant's website. The above provides contact information for users to report accessibility-
13 related problems and require that any third-party vendors who participate on the Defendant's
14 website to be fully accessible to people with disabilities by conforming with WCAG 2.1.

15 44. If Defendant's website was accessible, Plaintiff and Class Members could
16 independently access information about goods and services offered and consummate a purchase
17 as a sighted person can.

18 45. Although Defendant may currently have centralized policies regarding
19 maintaining and operating Defendant's website, Defendant lacks a plan and policy reasonably
20 calculated to make Defendant's website fully and equally accessible to, and independently usable
21 by, blind and other visually impaired consumers.

22 46. Defendant has, upon information and belief, invested substantial sums in
23 developing and maintaining Defendant's website and Defendant has generated significant
24 revenue from Defendant's website. These amounts are far greater than the associated cost of
25 making Defendant's website equally accessible to visually impaired customers.

26 47. Without injunctive relief, Plaintiff and Class Members will continue to be unable
27 to independently use Defendant's website resulting in a violation of their rights.

28 **CLASS ACTION ALLEGATIONS**

1 48. Plaintiff, on behalf of herself and all others similarly situated, seeks to certify a
2 nationwide class under Fed. R. Civ. P. 23(a) and 23(b)(2) (b)(3), the Nationwide class is initially
3 defined as follows:

4 all legally blind individuals who have attempted to access Defendant's website
5 using screen-reading software from January 2022 up to and including final
6 judgment in this action.

7 49. The California class is initially defined as follows:

8 all legally blind individuals in the State of California who have attempted to access
9 Defendant's website using screen-reading software during January 2022 to July
10 31, 2023.

11 50. Excluded from each of the above Classes is Defendant, including any entity in
12 which Defendant has a controlling interest, is a parent or subsidiary, or which is controlled by
13 Defendant, as well as the officers, directors, affiliates, legal representatives, heirs, predecessors,
14 successors, and assigns of Defendant. Also excluded are the judge and the court personnel in this
15 case and any members of their immediate families. Plaintiff reserves the right to amend the Class
16 definitions if discovery and further investigation reveal that the Classes should be expanded or
17 otherwise modified.

18 51. *Numerosity*: Fed. R. Civ. P. 23(a)(1). This action has been brought and may
19 properly be maintained as a class action against Defendant under Rules 23(b)(1)(B) and 23(b)(3)
20 of the Federal Rules of Civil Procedure. Upon information and belief, there are no fewer than
21 6,100 injured class members. The Members of the Class are so numerous that joinder of all
22 Members is impracticable and the disposition of their claims in a class action rather than in
23 individual actions will benefit the parties and the courts.

24 52. *Typicality*: Plaintiff and Class Members' claims are typical of the claims of the
25 Members of the Class as all Members of the Class are similarly affected by Defendant's wrongful
26 conduct, as detailed herein.

27 53. *Adequacy*: Plaintiff will fairly and adequately protect the interests of the Members
28 of the Class in that they have no interests antagonistic to those of the other Members of the Class.

1 Plaintiff has retained experienced and competent counsel.

2 54. *Superiority*: A class action is superior to other available methods for the fair and
3 efficient adjudication of this controversy. Since the damages sustained by individual Class
4 Members may be relatively small, the expense and burden of individual litigation make it
5 impracticable for the Members of the Class to individually seek redress for the wrongful conduct
6 alleged herein. Furthermore, the adjudication of this controversy through a class action will avoid
7 the potentially inconsistent and conflicting adjudications of the claims asserted herein. There will
8 be no difficulty in the management of this action as a class action. If Class treatment of these
9 claims were not available Defendant would likely unfairly receive thousands of dollars or more
10 in improper revenue.

11 55. *Common Questions Predominate*: Common questions of law and fact exist as to
12 all Members of the Class and predominate over any questions solely affecting individual
13 Members of the Class. Among the common questions of law and fact applicable to the Class are:

- 14 i. Whether Defendant's website is inaccessible to the visually impaired who
15 use screen-reading software to access internet websites;
- 16 ii. Whether Plaintiff and Class Members have been unable to access
17 Defendant's website through the use of screen-reading software;
- 18 iii. Whether the deficiencies in Defendant's website violate the Americans
19 with Disabilities Act of 1990, 42 U.S.C. § 12181 *et seq.*;
- 20 iv. Whether the deficiencies in Defendant's website violate the California
21 Unruh Civil Rights Act, California Civil Code § 51 *et seq.*;
- 22 v. Whether, and to what extent, injunctive relief should be imposed on
23 Defendant to make its website readily accessible to and usable by visually
24 impaired individuals;
- 25 vi. Whether Plaintiff and Class Members are entitled to recover statutory
26 damages with respect to Defendant's wrongful conduct; and
- 27 vii. Whether further legal and/or equitable relief should be granted by the Court
28 in this action.

1 56. The class is readily definable and prosecution of this action as a Class action will
2 reduce the possibility of repetitious litigation. Plaintiff knows of no difficulty which will be
3 encountered in the management of this litigation that would preclude the maintenance of this
4 matter as a Class action.

5 57. The prerequisites to maintaining a class action for injunctive relief or equitable
6 relief pursuant to Rule 23(b)(2) are met, as Defendant has acted or refused to act on grounds
7 generally applicable to the Class, thereby making appropriate final injunctive or equitable relief
8 with respect to the Class as a whole.

9 58. The prerequisites to maintaining a class action for injunctive relief or equitable
10 relief pursuant to Rule 23(b)(3) are met, as questions of law or fact common to the Class
11 predominate over any questions affecting only individual Members and a class action is superior
12 to other available methods for fairly and efficiently adjudicating the controversy.

13 59. The prosecution of separate actions by Members of the Class would create a risk
14 of establishing inconsistent rulings and/or incompatible standards of conduct for Defendant.
15 Additionally, individual actions may be dispositive of the interest of all Members of the Class
16 although certain Class Members are not parties to such actions.

17 60. Defendant's conduct is generally applicable to the Class as a whole and Plaintiff
18 seek, *inter alia*, equitable remedies with respect to the Class as a whole. As such, Defendant's
19 systematic policies and practices make declaratory relief with respect to the Class as a whole
20 appropriate.

21 **COUNT I**

22 **VIOLATIONS OF THE AMERICANS WITH DISABILITIES ACT, 42 U.S.C. § 12181**

23 ***ET SEQ.***

24 (On Behalf of Plaintiff, the Nationwide Class, and the California Class)

25 61. Plaintiff re-alleges and incorporates herein by reference each and every allegation
26 contained in Paragraphs 1 through 59, inclusive, of this complaint as though fully set forth at
27 length.

28 62. Section 302(a) of Title III of the ADA, 42 U.S.C. § 12181 *et seq.*, provides: "No

1 individual shall be discriminated against on the basis of disability in the full and equal enjoyment
2 of the goods, services, facilities, privileges, advantages, or accommodations of any place of public
3 accommodation by any person who owns, leases (or leases to), or operates a place of public
4 accommodation.” 42 U.S.C. § 12182(a).

5 63. Under Section 302(b)(2) of Title III of the ADA, unlawful discrimination also
6 includes, among other things: “a failure to make reasonable modifications in policies, practices,
7 or procedures, when such modifications are necessary to afford such goods, services, facilities,
8 privileges, advantages, or accommodations to individuals with disabilities, unless the entity can
9 demonstrate that making such modifications would fundamentally alter the nature of such goods,
10 services, facilities, privileges, advantages or accommodations”; and “a failure to take such steps
11 as may be necessary to ensure that no individual with a disability is excluded, denied services,
12 segregated or otherwise treated differently than other individuals because of the absence of
13 auxiliary aids and services, unless the entity can demonstrate that taking such steps would
14 fundamentally alter the nature of the good, service, facility, privilege, advantage, or
15 accommodation being offered or would result in an undue burden.” 42 U.S.C. §
16 12182(b)(2)(A)(ii)-(iii). “A public accommodation shall take those steps that may be necessary
17 to ensure that no individual with a disability is excluded, denied services, segregated, or otherwise
18 treated differently than other individuals because of the absence of auxiliary aids and services,
19 unless the public accommodation can demonstrate that taking those steps would fundamentally
20 alter the nature of the goods, services, facilities, privileges, advantages, or accommodations being
21 offered or would result in an undue burden, i.e., significant difficulty or expense.” 28 C.F.R. §
22 36.303(a). In order to be effective, auxiliary aids and services must be provided in accessible
23 formats, in a timely manner, and in such a way as to protect the privacy and independence of the
24 individual with a disability.” 28 C.F.R. § 36.303(c)(1)(ii).

25 64. Defendant’s hotel locations are “public accommodations” within the meaning of
26 42 U.S.C. § 12181 *et seq.* Upon information and belief, Defendant generates millions of dollars
27 in revenue from the sale of its amenities and services, privileges, advantages, and
28 accommodations in California through its locations and related services, privileges, advantages,

1 and accommodations, and its website is a service, privilege, advantage, and accommodation
2 provided by Defendant that are inaccessible to customers who are visually impaired like Plaintiff
3 and the Class Members. This inaccessibility denies visually impaired customers full and equal
4 enjoyment of and access to the facilities and services, privileges, advantages, and
5 accommodations that Defendant makes available to the non-disabled public. Defendant is
6 violating the Americans with Disabilities Act, 42 U.S.C. § 12181 *et seq.*, in that Defendant denies
7 visually impaired customers the services, privileges, advantages, and accommodations provided
8 by the website. These violations are ongoing.

9 65. Pursuant to 42 U.S.C. § 12188 and the remedies, procedures, and rights set forth
10 and incorporated therein Plaintiff requests relief as set forth below.

11 **COUNT II**

12 **VIOLATIONS OF THE UNRUH CIVIL RIGHTS ACT, CALIFORNIA CIVIL CODE §**
13 **51 *ET SEQ.***

14 (On Behalf of Plaintiff and the California Class)

15 66. Plaintiff re-alleges and incorporates herein by reference each and every allegation
16 contained in Paragraphs 1 through 64, inclusive, of this complaint as though fully set forth at
17 length.

18 67. Defendant's hotel locations are "business establishments" within the meaning of
19 the California Civil Code § 51 *et seq.* Upon information and belief, Defendant generates millions
20 of dollars in revenue from the sale of its services in California through its physical locations and
21 related services, and the website is a service provided by Defendant that is inaccessible to
22 customers who are visually impaired like Plaintiff and Class Members. This inaccessibility denies
23 visually impaired customers full and equal access to Defendant's facilities and services that
24 Defendant makes available to the non-disabled public. Defendant is violating the Unruh Civil
25 Rights Act, California Civil Code § 51 *et seq.*, in that Defendant is denying visually impaired
26 customers the services provided by the website. These violations are ongoing.

27 68. Defendant is violating the Unruh Civil Rights Act, California Civil Code § 51 *et*
28 *seq.* in that the conduct alleged herein likewise constitutes a violation of various provisions of the

1 ADA, 42 U.S.C. § 12101 *et seq.* Section 51(f) of the California Civil Code provides that a
2 violation of the right of any individual under the ADA shall also constitute a violation of the
3 Unruh Civil Rights Act.

4 69. The actions of Defendant were and are in violation of the Unruh Civil Rights Act,
5 California Civil Code § 51 *et seq.*; therefore, Plaintiff and Class Members are entitled to injunctive
6 relief remedying the discrimination.

7 70. Plaintiff and Class Members are also entitled to statutory minimum damages
8 pursuant to California Civil Code § 52 for each and every offense.

9 71. Plaintiff and Class Members are also entitled to reasonable attorneys' fees and
10 costs.

11 72. Plaintiff and Class Members are also entitled to a preliminary and permanent
12 injunction enjoining Defendant from violating the Unruh Civil Rights Act, California Civil Code
13 § 51 *et seq.*, and requiring Defendant to take the steps necessary to make the website readily
14 accessible to and usable by visually impaired individuals.

15 **PRAYER FOR RELIEF**

16 WHEREFORE, Plaintiff, individually and on behalf of all Class Members, respectfully
17 requests that the Court enter judgment in her favor and against Defendant as follows:

- 18 A. For an Order certifying the Nationwide Class and California Class as defined
19 herein and appointing Plaintiff and her Counsel to represent the Nationwide Class
20 and the California Class;
- 21 B. A preliminary and permanent injunction pursuant to 42 U.S.C. § 12188(a)(1) and
22 (2) and section 52.1 of the California Civil Code enjoining Defendant from
23 violating the Unruh Civil Rights Act, the ADA and requiring Defendant to take
24 the steps necessary to make the website readily accessible to and usable by visually
25 impaired individuals;
- 26 C. An award of statutory minimum damages of \$4,000 per offense per person
27 pursuant to section 52(a) of the California Civil Code;
- 28

- 1 D. For attorneys' fees and expenses pursuant to California Civil Code §§ 52(a),
- 2 52.1(h), and 42 U.S.C. § 12205;
- 3 E. For pre-judgment interest to the extent permitted by law;
- 4 F. For costs of suit; and
- 5 G. For such other and further relief as the Court deems just and proper.

6 **DEMAND FOR JURY TRIAL**

7 Plaintiff, on behalf of herself and all others similarly situated, hereby demands a jury trial
8 for all claims so triable.

9
10 Dated: December 28, 2023

Respectfully Submitted,

11
12 */s/ Thiago M. Coelho*

Thiago M. Coelho

WILSHIRE LAW FIRM

Attorney for Plaintiff and

Proposed Class

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WILSHIRE LAW FIRM, PLC
3055 Wilshire Blvd, 12th Floor
Los Angeles, CA 90010-1137

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

FLOR JIMENEZ, individually and on behalf of all others similarly situated,

(b) County of Residence of First Listed Plaintiff Solano
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

WILSHIRE LAW FIRM, PLC
3055 Wilshire Blvd., 12th Floor; Los Angeles, CA 90010
Telephone: (213) 381-9988 || Facsimile: (213) 381-9989

DEFENDANTS

INTER-CONTINENTAL HOTELS CORPORATION, a Delaware Corporation; and DOES 1 to 10, inclusive,

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 INTELLECTUAL PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS			
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input checked="" type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District (specify)
- 6 Multidistrict Litigation - Transfer
- 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C. § 12101, Americans with Disabilities Act
Brief description of cause:
Americans with Disabilities Act

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ _____ CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE: 12/28/2023 SIGNATURE OF ATTORNEY OF RECORD: /s/ Thiago M. Coelho

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____