

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**Case No.:**

ALL DISABLED AMERICANS, INC. an  
Indiana Non Profit Corporation; LORRI  
VOLKMAN; LORRAINE LANES; TOM  
RYAN; DEBBIE RYAN; and MARTHA  
KIRSCHNER,

Plaintiffs,

v.

MUSEUM OF ART, INC. d/b/a/ THE FORT  
LAUDERDALE MUSEUM OF ART, a Florida  
Non Profit Corporation; NATIONAL  
GEOGRAPHIC SOCIETY INCORPORATED,  
a Foreign Non Profit Corporation; and ARTS  
AND EXHIBITIONS INTERNATIONAL LLC,  
a Florida Limited Liability Corporation,

Defendants.

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**COMPLAINT FOR VIOLATION OF CIVIL RIGHTS AND DISCRIMINATION  
AGAINST PERSONS WITH DISABILITIES; AMERICANS WITH DISABILITIES ACT  
OF 1990; INJUNCTIVE RELIEF**

Plaintiffs, ALL DISABLED AMERICANS, INC., an Indiana Non Profit  
CORPORATION, (hereinafter referred to as “ALL DISABLED AMERICANS”); LORRI  
VOLKMAN, (hereinafter referred to as “VOLKMAN”); LORRAINE LANES, (hereinafter  
referred to as “LANES”); TOM RYAN, (hereinafter referred to as “TOM RYAN”); DEBBIE  
RYAN, (hereinafter referred to as “DEBBIE RYAN”); and MARTHA KIRSCHNER  
(hereinafter referred to as “KIRSCHNER”); (hereinafter collectively referred to as “Plaintiffs”),  
file this Complaint, and sue Defendants, MUSEUM OF ART, INC. d/b/a/ THE FORT

LAUDERDALE MUSEUM OF ART, a Florida Non Profit Corporation, (hereinafter referred to as the “MUSEUM OF ART”); NATIONAL GEOGRAPHIC SOCIETY INCORPORATED, a Foreign Non Profit Corporation, (hereinafter referred to as “NATIONAL GEOGRAPHIC”); and ARTS AND EXHIBITIONS INTERNATIONAL LLC, a Florida Limited Liability Corporation, (hereinafter referred to as “A&E”) (hereinafter referred to as “Defendants”), and in support thereof allege as follows:

**PARTIES**

- 1) Defendant, MUSEUM OF ART, is a Florida corporation that owns, operates and/or maintains a place of public accommodation located at One E. Las Olas Blvd., in Ft. Lauderdale, FL, (hereinafter referred to as the “SUBJECT FACILITIES”), and which hosts a wide variety of cultural events and exhibitions. Currently, the MUSEUM OF ART is hosting the exhibition titled “TUTANKHAMUN AND THE GOLDEN AGE OF THE PHARAOHS” (hereinafter referred to as the “KING TUT EXHIBIT”).
- 2) Defendant, NATIONAL GEOGRAPHIC, is a foreign non-profit corporation, with its principal place of business in Washington DC. As part of its operations, NATIONAL GEOGRAPHIC organizes various cultural and educational programs to promote natural, historical, and cultural conservation. NATIONAL GEOGRAPHIC promotes, organizes and sponsors exhibits and events throughout the United States in furtherance of its corporate objectives. NATIONAL GEOGRAPHIC is a principal organizer of the KING TUT EXHIBIT.
- 3) Defendant, A&E, is a Florida Limited Liability corporation, with its principal place of business in AURORA, OH. As part of its operations, A&E organizes various cultural and educational programs to promote natural, historical, and cultural conservation. A&E

promotes, organizes and sponsors exhibits and events throughout the United States in furtherance of its corporate objectives. A&E is a principal organizer of the KING TUT EXHIBIT.

- 4) The organizational Plaintiff, ALL DISABLED AMERICANS, is an Indiana non profit corporation that has its principal place of business in Indianapolis, Indiana. The membership of ALL DISABLED AMERICANS is comprised of both the disabled and able-bodied. Many of the organization's members are qualified individuals with disabilities under, and as defined by, the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 *et seq.* ALL DISABLED AMERICANS is engaged, *inter alia*, in seeking compliance with the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 *et seq*, educational efforts to correct violations, when found, and when necessary and appropriate, litigation to require persons and entities in violation of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 *et seq* to comply with the act. One of ALL DISABLED AMERICANS' purposes is to assure businesses are accessible to, and usable by, all persons, including those persons with disabilities. ALL DISABLED AMERICANS' organizational purpose is adversely affected by Defendants' failure to comply with the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 *et seq.* ALL DISABLED AMERICANS has members within Miami Dade County, Florida and Broward County, Florida, and at several of ALL DISABLED AMERICANS' members, including the named Plaintiffs in this case, have experienced discrimination by Defendants due to the access violations at issue herein.
- 5) Plaintiff, VOLKMAN, is a member of ALL DISABLED AMERICANS, and is a qualified individual with a disability under the Americans with Disabilities Act of 1990,

42 U.S.C. § 12101 *et seq.* VOLKMAN suffered from a malignant 4th ventricle brain tumor, which has relapsed. In addition, VOLKMAN suffers from Leukemia and avascular necrosis. VOLKMAN has sustained significant damage to multiple joints, including her knees and hips, and has undergone an unsuccessful hip replacement. VOLKMAN has severe dyslexia which has substantially limited her ability to learn due to the impact on her ability to read. VOLKMAN currently uses a power wheelchair for mobility assistance, and is substantially limited in the major life activity of walking. VOLKMAN has availed herself of the goods and services sold and provided at the SUBJECT FACILITIES, including the KING TUT EXHIBIT, and intends to avail herself of the goods and services sold and provided at the SUBJECT FACILITIES, including the KING TUT EXHIBIT, in the immediate future. VOLKMAN has been denied access to, and full and equal enjoyment of goods, services, facilities, privileges, advantages and/or accommodations located at the SUBJECT FACILITIES, including the KING TUT EXHIBIT.

- 6) Plaintiff, LANES, is a member of ALL DISABLED AMERICANS, and is a qualified individual with a disability under the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 *et seq.* LANES contracted Polio as a child, and suffers from post polio syndrome. In addition, LANES suffered a significant leg injury in her teens with resultant traumatic thrombo-phlebitis, and she has plantar fasciitis. LANES suffers from fibromyalgia with overall body pain and fatigue, has arthritis of multiple joints including spine and cervical spine, and currently uses a power motor scooter for mobility assistance. LANES is substantially limited in the major life activity of walking. LANES has availed herself of the goods and services sold and provided at the SUBJECT

FACILITIES, including the KING TUT EXHIBIT, and intends to avail herself of the goods and services sold and provided at the SUBJECT FACILITIES, including the KING TUT EXHIBIT, in the immediate future. LANES has been denied access to, and full and equal enjoyment of goods, services, facilities, privileges, advantages and/or accommodations located at the SUBJECT FACILITIES, including the KING TUT EXHIBIT.

7) Plaintiff, TOM RYAN, is a member of ALL DISABLED AMERICANS, is a qualified individual with a disability under the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 *et seq.* TOM RYAN is visually impaired, as he was born blind. TOM RYAN has availed himself of the goods and services sold and provided at the SUBJECT FACILITIES, including the KING TUT EXHIBIT, and intends to avail himself of the goods and services sold and provided at the SUBJECT FACILITIES, including the KING TUT EXHIBIT, in the immediate future. TOM RYAN has been denied access to, and full and equal enjoyment of goods, services, facilities, privileges, advantages and/or accommodations located at the SUBJECT FACILITIES, including the KING TUT EXHIBIT.

8) Plaintiff, DEBBIE RYAN, is a member of ALL DISABLED AMERICANS, is a qualified individual with a disability under the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 *et seq.* DEBBIE RYAN is visually impaired, as she is legally blind. DEBBIE RYAN has availed herself of the goods and services sold and provided at the SUBJECT FACILITIES, including the KING TUT EXHIBIT, and intends to avail herself of the goods and services sold and provided at the SUBJECT FACILITIES, including the KING TUT EXHIBIT, in the immediate future. DEBBIE RYAN has been

denied access to, and full and equal enjoyment of goods, services, facilities, privileges, advantages and/or accommodations located at the SUBJECT FACILITIES, including the KING TUT EXHIBIT.

- 9) Plaintiff, KIRSCHNER, is a member of ALL DISABLED AMERICANS, is a qualified individual with a disability under the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 *et seq.* KIRSCHNER is visually impaired, as she is legally blind. KIRSCHNER has availed herself of the goods and services sold and provided at the SUBJECT FACILITIES, including the KING TUT EXHIBIT, and intends to avail herself of the goods and services sold and provided at the SUBJECT FACILITIES, including the KING TUT EXHIBIT, in the immediate future. KIRSCHNER has been denied access to, and full and equal enjoyment of goods, services, facilities, privileges, advantages and/or accommodations located at the SUBJECT FACILITIES, including the KING TUT EXHIBIT.
- 10) Defendants have known that the SUBJECT FACILITIES, including the KING TUT EXHIBIT itself, have been, and currently are, in violation of disability access requirements and standards, but have refused to rectify such violations.
- 11) The SUBJECT FACILITIES, including the KING TUT EXHIBIT itself, provide inadequate access to people with mobility and visual disabilities, including, inter alia, systemically discriminating against Plaintiffs, and others who are similarly situated, by:  
(1) denying access to, and full and equal enjoyment of goods, services, facilities, privileges, advantages and/or accommodations located at the SUBJECT FACILITIES, including the KING TUT EXHIBIT itself, in derogation of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 *et seq.*; (hereinafter referred to as the

“ADA”), and by (2) failing to remove certain architectural barriers at the SUBJECT FACILITIES, including the KING TUT EXHIBIT itself as required by the ADA.

- 12) Defendants A&E and MUSEUM OF ART are Florida corporations, authorized to perform business operations and transactions, and which do in fact perform business operations and transactions in Florida. NATIONAL GEOGRAPHIC is a foreign corporation, which performs significant business operations within Florida, including the organization, sponsorship and promotion of the KING TUT EXHIBIT. Defendant MUSEUM OF ART is the owner, lessee and/or operator of the SUBJECT FACILITIES, which is currently hosting the KING TUT EXHIBIT.
- 13) This case arises out of Defendants’ policy to deny access to goods and services at its public accommodation to persons with physical disabilities, and failure to remove architectural barriers which has effectively precluded the Plaintiffs from enjoying the goods and services provided at the SUBJECT FACILITIES, including the KING TUT EXHIBIT, in a manner equal to that provided to able-bodied patrons.
- 14) This Honorable Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1343 (a)(3) and 1343 (a)(4) for claims arising under the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101, et seq.
- 15) Pursuant to 28 U.S.C. § 1391(b), venue is proper in the District in which this Complaint is filed.
- 16) Plaintiffs each purchased tickets to the KING TUT EXHIBIT, and attempted to avail themselves of the goods and services provided by Defendants.
- 17) During their visit to the KING TUT EXHIBIT, LANES and VOLKMAN, both of whom are mobility impaired and confined to a wheelchair and/or motor scooter, experienced

architectural barriers to access, as well as policies that deprived them of equal access to the goods and services provided at the KING TUT EXHIBIT. These barriers to access included, but are not limited to:

- (a) Inaccessible overhead descriptive signage for each exhibit.
- (b) Insufficient equivalent facilitation in the form of an audio tour, which only provided substantive information for approximately twenty (20) of the one hundred and thirty-one (131) exhibits.
- (c) Discriminatory policies and lack of training regarding the use of the elevator for mobility impaired patrons, which amounted to the creation of an inaccessible path of travel to the exhibit.
- (d) Inaccessible restrooms, parking and access aisles.

18) During their visit to the KING TUT EXHIBIT, TOM RYAN, DEBBY RYAN, AND KIRSCHNER, all of whom are visually impaired (TOM RYAN and DEBBIE RYAN are blind), experienced architectural barriers to access, as well as policies that deprived them of equal access to the goods and services provided at the KING TUT EXHIBIT. These barriers to access included, but are not limited to:

- (a) Inaccessible overhead descriptive signage for each exhibit.
- (b) Insufficient equivalent facilitation in the form of an audio tour, which only provided substantive information for approximately twenty (20) of the one hundred and thirty-one (131) exhibits.
- (c) Discriminatory policies and lack of training by failing to provide a guide for the visually impaired for the purpose of addressing and describing the specific exhibits presented, or to assist the visually impaired manage

through the crowds of patrons contemporaneously viewing the exhibits.

- 19) Upon information and belief, Plaintiffs believe there are other violations present at the SUBJECT FACILITIES that will be more fully alleged upon discovery.
- 20) At the SUBJECT FACILITIES, Defendants have failed to make efforts required under the ADA to remove such barriers to access that are technically feasible and readily achievable.
- 21) Defendants have also, by maintaining such barriers, failed to comply with ADA and access requirements for areas of new construction or alteration.
- 22) Plaintiffs have also been, and are being denied, full and equal access to the SUBJECT FACILITIES due to Defendants' failure to provide adequate customer assistance service to patrons with disabilities.
- 23) Defendants have also failed to provide its customers the necessary auxiliary aids and services necessary to make the SUBJECT FACILITIES accessible, the provision of which would not constitute an undue burden upon Defendants.
- 24) Many of the actions which Defendants have failed to take to make the SUBJECT FACILITIES accessible to persons with disabilities are technically feasible, readily achievable, required by law, and would greatly assist persons with mobility disabilities at little expense to Defendants.
- 25) The inaccessibility of the SUBJECT FACILITIES to persons with disabilities is illegal, degrading and humiliating.
- 26) Plaintiffs would immediately return to the SUBJECT FACILITIES, including the KING TUT EXHIBIT, in the event said facilities were made accessible.

**VIOLATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990**

- 27) Defendants' acts and omissions alleged herein are in violation of the ADA, and the regulations promulgated thereunder, 28 Code of Federal Regulations Part 36.
- 28) The SUBJECT FACILITIES, including the KING TUT EXHIBIT, are public accommodations covered by Title III of the ADA.
- 29) Defendants have failed to remove barriers to access by persons with mobility and visual disabilities at the SUBJECT FACILITIES, including the KING TUT EXHIBIT, where such barrier removal is technically feasible and readily achievable.
- 30) Defendants have failed to provide necessary auxiliary aids and services at the SUBJECT FACILITIES, including the KING TUT EXHIBIT, where provision of such auxiliary aids and services does not pose an undue burden, is technically feasible and is readily achievable.
- 31) Defendants have failed to modify policies and procedures at the SUBJECT FACILITIES, including the KING TUT EXHIBIT, where required to ensure equal access for persons with mobility and visual disabilities.
- 32) Defendants have newly constructed and/or altered the SUBJECT FACILITIES, including the KING TUT EXHIBIT, in violation of access requirements imposed by Title III of the ADA.
- 33) Defendants' conduct constitutes ongoing and continuous violations of the ADA and, unless restrained from doing so, Defendants will continue to violate said law. Said conduct, unless enjoined, will continue to inflict injuries for which Plaintiffs have no adequate remedy at law.
- 34) Pursuant to 42 U.S.C. § 12188, this court is provided authority to grant Plaintiffs

injunctive relief, including an order to alter the subject facilities to make them readily accessible to and useable by individuals with disabilities to the extent required by the ADA, and closing the subject facilities until the requisite modifications are completed.

**WHEREFORE**, Plaintiffs respectfully request this Honorable Court issue a permanent injunction enjoining Defendants from continuing its discriminatory practices, ordering Defendants to alter the subject premises as appropriate to comply with the ADA, awarding Plaintiffs their attorney's fees, costs, and expenses incurred in this action, and grant such further relief as this Honorable Court deems just and equitable.

Dated this \_\_\_\_\_ day of February, 2006.

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