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9 IN THE UNITED STATES DISTRICT COURT  
10 FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 Mohan Vallabhapurapu, *et al.*, on behalf of  
themselves and others similarly situated,

12 Plaintiffs,

13 vs.

14 Burger King Corporation,

15 Defendant/Third Party Plaintiff,

16 vs.

17 Antelope Valley Restaurants, Inc., *et al.*,

18 Third Party Defendants.

Case No. C11-00667-WHA (JSC)

**PLAINTIFFS’ MOTION FOR CLASS  
CERTIFICATION**

**Before the Hon. William H. Alsup**

Hearing Date: January 19, 2012  
Hearing Time: 8:00 a.m.  
Courtroom 8, 19th Floor

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1                                    **NOTICE OF MOTION AND MOTION CLASS CERTIFICATION**

2            PLEASE TAKE NOTICE that on January 19, 2012 at 8:00 a.m., in Courtroom 8 of the  
3 United States District Court for the Northern District of California, San Francisco Division,  
4 located at 450 Golden Gate Avenue, San Francisco, California, 94102, the Honorable William  
5 Alsup, District Judge, presiding, Plaintiffs will, and hereby do, move the Court for class  
6 certification pursuant to Rule 23 of the Federal Rules of Civil Procedure.

7                                    **INTRODUCTION**

8            Defendant Burger King Corp. -- the self-described second largest fast food hamburger  
9 chain in the world, with revenues of \$2.5 billion last year<sup>1</sup> -- flouted state and federal laws  
10 requiring access for its disabled customers for at least 38 years. Plaintiffs bring this lawsuit to  
11 redress this systematic and intentional violation of the civil rights of California's disabled  
12 citizens, violations that have affected and continue to affect all of the members of the proposed  
13 class and subclasses.

14            Since July, 1970, California has mandated that new and altered buildings provide basic  
15 access to people who use wheelchairs. *See infra* at 6. All but one of the restaurants at issue in  
16 this case were built after that date.<sup>2</sup>

17            Since 1982, California has had a well-developed access code, similar to the one in  
18 place now, that applied to all new construction and alterations. In 1990, the federal Americans  
19 with Disabilities Act ("ADA") was enacted, requiring new construction and alterations to  
20 comply and requiring businesses to remove barriers from existing facilities where readily  
21 achievable to do so. *See infra* at 5-6.

22            Access codes such as these are put in place so that citizens with disabilities can enjoy  
23 something nondisabled citizens take for granted: the ability to freely and conveniently  
24 participate in the social and economic life of our country. To be able to drive up to a  
25 restaurant, park, enter, order, dine, and, if necessary, use the restroom. Indeed, one stated goal

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26                                    <sup>1</sup>            Burger King Holdings Inc. Form 10-K (fiscal year ended June 30, 2010) at 3,  
27 28 (Robertson Decl. Ex. 4)

28                                    <sup>2</sup>            Robertson Decl. Ex. 5.

1 of the ADA is to “assure equality of opportunity, full participation, independent living, and  
2 economic self-sufficiency” for people with disabilities.<sup>3</sup>

3 Thus for at least the 38 years from the first accessibility code in 1970 to 2008 when --  
4 in response to Plaintiffs’ demand letter -- BKC finally stepped in and started instructing its  
5 franchisees to remove barriers, the restaurants at issue here contained significant -- illegal --  
6 barriers to their disabled patrons. Barriers that not only prevented disabled patrons -- the  
7 putative class members here -- from anything close to an equal dining experience with  
8 nondisabled customers, but barriers with more distressing and dehumanizing consequences as  
9 well.

10 Lead plaintiff Mohan Vallabhapurapu, a former U.S. Navy medic who suffered a spinal  
11 cord injury while on active duty, several times had problems with incontinence because the  
12 inaccessibility of Burger King’s restrooms. Appendix 1 at 16-17.

13 Ginene Mills is the mother of plaintiff Tyrey Mills, a boy with Down syndrome and  
14 other disabilities that cause him to use a wheelchair. Ms. Mills works hard to include Tyrey in  
15 all activities with her other sons, but barriers at Burger King restaurants make that impossible  
16 when the family eats there. *Id.* at 10-11.

17 Plaintiff Kenneth Kilgore is a single dad whose kids like to eat at Burger King. At the  
18 restaurant he patronized with his daughter, all of the accessible seats were segregated on the far  
19 side of a wall, with no nondisabled seating nearby, that is, with nowhere for Mr. Kilgore’s  
20 daughter to sit with him. Mr. Kilgore explains, “I felt like they were putting me on the back of  
21 the bus.” *Id.* at 8.

22 Plaintiff George Partida, a financial consultant and former mechanical engineer who is  
23 also active as a minister, explains that the lack of accessibility at Burger King makes him feel  
24 “degraded to a second-class citizen, second-class customer.” *Id.* at 12.

25 For Plaintiff Priscilla Walker, the barriers become “part of the isolation that a  
26 handicapped person feels.” *Id.* at 18. She sums up the problem: businesses need to be

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27  
28 <sup>3</sup> 42 U.S.C. § 12101(a)(7).



1 accessible “if they want to be part of the community, if they want to be part of the real world.”

2 *Id.*

3 In depositions, Plaintiffs describe their experiences at the Burger Kings at issue as  
4 “embarrassing” and that the access they sought was a matter of “dignity and pride.” *Id.* at 4, 6,  
5 11.

6 Plaintiffs seek class certification to ensure that barriers are removed from the  
7 restaurants at issue, that access is maintained there, and that patrons with disabilities who  
8 encountered these barriers within the class period -- only since October, 2006, unfortunately,  
9 since the statute of limitations prevents redress for all four decades of Burger King’s  
10 delinquent conduct -- are able to obtain the minimum statutory damages that the State of  
11 California has mandated for the violation of its citizens’ civil rights.

12 **RELIEF REQUESTED**

13 Plaintiffs request certification of a Rule 23(b)(2) Injunctive Class and 65 Rule 23(b)(3)  
14 Store-Specific Subclasses.

15 This action is a follow-on to a prior action, *Castaneda v. Burger King Corp.*, 3:08-cv-  
16 04262- WHA. In 2009, this Court certified, pursuant to Rule 23(b)(3), ten classes of Burger  
17 King customers who use wheelchairs or scooters challenging barriers at ten Burger King leased  
18 (“BKL”) restaurants in California. *Castaneda v. Burger King Corp.*, 264 F.R.D. 557, 572  
19 (N.D. Cal. 2009). The *Castaneda* case settled in 2010. C-ECF<sup>4</sup> 361. Pursuant to the terms of  
20 the *Castaneda* settlement, among other things, BKC committed to regularly monitor -- and  
21 cause franchisees to monitor -- the ten *Castaneda* BKL restaurants through daily, triennial, and  
22 remodeling surveys. C-ECF 359 (“*Castaneda* Settlement”), ¶ 7.

23 The present case addresses the BKL restaurants (“Remaining BKLs”) that were not  
24 covered by the *Castaneda* settlement. As in *Castaneda*, Plaintiffs bring suit to challenge  
25 barriers to wheelchair access in violation of Title III of the Americans with Disabilities Act  
26

27  
28 \_\_\_\_\_  
4

“C-ECF” denotes documents filed in the *Castaneda* matter.

1 (“ADA”), 42 U.S.C. § 12181 *et seq.*, the Unruh Civil Rights Act (“Unruh”), Cal. Civ. Code  
2 § 51, and the California Disabled Persons Act (“CDPA”), Cal. Civ. Code § 54.

3 Through this Motion, Plaintiffs respectfully request certification of two types of  
4 classes:

- 5 ● “Store-Specific Subclasses” under Rule 23(b)(3) of the Federal Rules of Civil  
6 Procedure -- identical to those certified in *Castaneda* -- covering each of the 65  
7 Remaining BKLs at which at least one named Plaintiff has encountered barriers;  
8 and
- 9 ● an “Injunctive Class” under Rule 23(b)(2) addressing all Remaining BKLs,  
10 seeking only the uniform monitoring measures required by the *Castaneda*  
11 settlement.

12 **POINTS AND AUTHORITIES IN SUPPORT OF MOTION**

13 **ISSUES TO BE DECIDED**

- 14 1. Whether the Injunctive Class should be certified pursuant to Rule 23(b)(2);
- 15 2. Whether the Store-Specific Subclasses should be certified pursuant to Rule  
16 23(b)(3);
- 17 3. Whether Plaintiffs Vallabhapurapu, Sarfaty, Walker, and Farber should be  
18 appointed to represent the Injunctive Class and the Plaintiffs set forth in  
19 Appendix 2 appointed to represent Store-Specific Subclasses; and
- 20 4. Whether Plaintiffs’ counsel should be appointed Class Counsel for the  
21 Injunctive Class and the Store-Specific Subclasses.

22 **BACKGROUND**

23 There are over 600 Burger King restaurants in California; BKC has a leasehold interest  
24 in approximately 96 of them. BKC leases the BKL restaurants to franchisees. In the  
25 *Castaneda* matter, three plaintiffs filed a class action lawsuit challenging violations of the  
26 ADA and state law at all California BKL restaurants. This Court ultimately certified, pursuant  
27 to Rule 23(b)(3), ten classes, one for each of the restaurants (“*Castaneda* BKLs”) that the three  
28 plaintiffs had patronized. *Castaneda*, 264 F.R.D. at 572.

1 The *Castaneda* case settled in 2010. C-ECF 361. Pursuant to the terms of the  
 2 *Castaneda* Settlement, BKC committed to maintain access at the *Castaneda* BKLs in three  
 3 primary ways: (1) by requiring the franchisees to perform a checklist of access-related tasks  
 4 prior to opening each day, C-ECF 359, ¶ 7.1.1; (2) by surveying each of the ten restaurants at  
 5 least once every three years using an agreed-upon form and requiring the franchisees to take  
 6 any required corrective action, *id.* ¶ 7.1.2; and (3) by requiring the franchisees to hire  
 7 registered architects to survey each restaurant every time the lease agreement is renewed and  
 8 resurveying to ensure that the remodeled restaurant complies, *id.* ¶ 7.1.3.

9 Earlier this year, the 26<sup>5</sup> plaintiffs in this case filed suit against BKC, alleging  
 10 violations of the ADA and state law at the Remaining BKLs. There are approximately 86  
 11 Remaining BKLs; Plaintiffs have patronized a total of 65 of them.

### 12 LEGAL FRAMEWORK

13 This Court set out the legal framework in detail in the *Castaneda* class certification  
 14 decision. 264 F.R.D. at 560-61. In brief, Title III of the ADA prohibits discrimination on the  
 15 basis of disability by those who own, operate, lease or lease to places of public  
 16 accommodation. 42 U.S.C. §§ 12181 *et seq.* There is no dispute that BKC leases the  
 17 Remaining BKLs to franchisees. ECF 45 ¶ 1. The Department of Justice Standards for  
 18 Accessible Design (“DOJ Standards” or “ADAAG”), 28 C.F.R. pt. 36, app. A (1992), have  
 19 governed new construction since January 26, 1993, and alterations since January 26, 1992.  
 20 *Castaneda*, 264 F.R.D. at 561 (citing 42 U.S.C. § 12183(a); 28 C.F.R. § 36.406(a)). Barriers in  
 21 unaltered buildings built before 1993 are required to be removed where “readily achievable” to  
 22 do so. *Id.* (citing 42 U.S.C. § 12182(b)(2)(A)(iv)).

23 Under state law,

24 both the CDPA which was enacted in 1968, and the Unruh Act which was  
 25 amended in 1987 to cover persons with disabilities, prohibit discrimination on  
 26 the basis of disability in the full and equal access to the services, facilities and  
 advantages of public accommodations. Cal. Civ. Code §§ 51(b), 54.1(a)(1). A

27 <sup>5</sup> There are currently 27 Plaintiffs. However, Plaintiff Daniel Hernandez has  
 28 recently encountered a serious medical setback and Plaintiffs have informed BKC of his intent  
 to withdraw from the case.

1 prevailing plaintiff is entitled among other relief to statutory minimum damages  
 2 regardless of whether the plaintiff has suffered any actual damages. *Botosan v.*  
 3 *Paul McNally Realty*, 216 F.3d 827, 835 (9th Cir. 2000) (holding that “proof of  
 actual damages is not a prerequisite to recovery of statutory minimum  
 damages” under the Unruh Act and the CDPA).

4 *Id.* A violation of the ADA constitutes a violation of the Unruh Act and the CDPA. Cal. Civ.  
 5 Code §§ 51(f) & 54(c). Regulations governing new construction and alterations to public  
 6 accommodations have been in place in California since July 1, 1970, and the first version of  
 7 the current regulations -- Title 24 of the California Code of Regulations -- took effect on  
 8 December 31, 1981. *Id.*

### 9 THE PLAINTIFFS

10 Plaintiffs are all individuals with disabilities requiring the use of a wheelchair or  
 11 scooter for mobility. They have all patronized one or more Remaining BKL restaurant and  
 12 encountered common barriers there. Brief descriptions of each Plaintiff and his or her  
 13 experiences are set forth in Appendix 1.<sup>6</sup>

14 Plaintiffs are a diverse group including a veteran, a retired police officer, a minister, a  
 15 daycare provider/tutor, a retired store manager, a retired IRS auditor, a research assistant, and a  
 16 part-time realtor. They have in common that they all use wheelchairs or scooters and all  
 17 encountered barriers while attempting to patronize one or more of the Remaining BKL  
 18 restaurants. They also share a desire to ensure that the Remaining BKLs are brought into full  
 19 compliance and maintained that way.

### 20 THE REMAINING BKL RESTAURANTS

21 Appendix 2 sets forth the store numbers and addresses of the Remaining BKLs, as well  
 22 as the proposed class representative for the 65 restaurants for which Plaintiffs request  
 23 certification of Rule 23(b)(3) subclasses. Plaintiffs’ testimony demonstrates that these  
 24 restaurants have -- during the class period -- had common barriers to customers who use  
 25 wheelchairs. *See generally* Appendix 1. This testimony is supported by the testimony of John  
 26 Salmen, BKC’s expert in the case of *Newport v. Burger King Corp.*, 10-04511-WHA. Mr.

27 \_\_\_\_\_  
 28 <sup>6</sup> The deposition excerpts cited in Appendix 1 are attached to the Declaration of  
 Caitlin Anderson.

1 Salmen -- who also surveyed the Remaining BKLs, ECF 74 at 1-2 -- when asked about surveys  
2 of Burger King restaurants following a 1997 ADA settlement, testified that “almost all of [the  
3 accessibility issues] were common” and that “almost everything in the survey form had issues  
4 that were repetitive and were found commonly throughout the chain.” Dep. of John P.S.  
5 Salmen (“Salmen Dep.”) 106:21 - 107:7 (Robertson Decl. Ex. 2).

6 Preliminary evidence gathered by Plaintiffs’ expert Eric McSwain suggests that BKC  
7 continues to fail to take actions necessary to prevent violations from recurring, thus supporting  
8 the entrance of an injunction extending the policies implemented in the ten *Castaneda*  
9 restaurants to all Remaining BKL restaurants. Mr. McSwain found examples of this in a  
10 number of areas, including but not limited to moveable items obstructing required clear floor  
11 space, the reach range to condiments and tableware, and the force required to open doors and  
12 the time they take to close.<sup>7</sup> McSwain Decl. Ex. 2. The former two items are addressed in the  
13 daily surveys required by the *Castaneda* Settlement, *id.* ¶ 7.1.1.2, and, based on Mr.  
14 McSwain’s surveys, should be extended to -- or improved at -- the Remaining BKLs. The last  
15 -- door force and closing time -- was not included in the daily surveys in *Castaneda*, but should  
16 be in this case.

17 Importantly, this Court acknowledged BKC’s power over the BKL restaurants in its  
18 Order Denying MTD, which noted, among other things, that Burger King franchise agreement  
19 provides that ““BKC shall have the unrestricted right to enter the Franchised Restaurant to  
20 conduct such activities as it deems necessary to ascertain Franchisee’s compliance with this  
21 Agreement,” that if a franchisee does not make required repairs, BKC “may enter the Premises  
22 for the purpose of making such Repairs,” and that BKC had “conducted surveys of [BKL]  
23 restaurants and directed changes for access compliance.” ECF 41 at 7. This Court further  
24 noted that BKC “does not challenge, and in fact acknowledges, that it maintains all of these  
25 powers over restaurant premises.” *Id.* (citing Reply at 5-6).

26  
27 <sup>7</sup> Mr. McSwain’s findings are the result of his preliminary analysis of his notes  
28 and photographs, and are not intended to set forth all violations at all of the stores surveyed to  
date. McSwain Decl. ¶ 7.

1 BKC has used this power to purportedly put in place access policies at the Remaining  
 2 BKLs, including apparently some of the *Castaneda* monitoring policies,<sup>8</sup> but Plaintiffs'  
 3 surveys demonstrate that its implementation of these policies has been poor at best.

4 **THE CLASSES PLAINTIFFS SEEK TO BE CERTIFIED**

5 Plaintiffs respectfully request certification of the following classes.

6 Store-Specific Subclasses. Plaintiffs request that the Court certify, pursuant to Rule  
 7 23(b)(3), a subclass for each of the 65 BKL restaurants at which Plaintiffs have encountered  
 8 barriers. These restaurants and the proposed subclass representatives are set forth in Appendix  
 9 2. As noted above, the Store-Specific Subclasses are identical to those certified in *Castaneda*,  
 10 264 F.R.D. at 572. As such, each Store-Specific Subclass would be defined:

11 All individuals with mobility-impairment disabilities who use wheelchairs or  
 12 electric scooters for mobility who, at any time on or after October 16, 2006,<sup>9</sup>  
 13 and up to the date of the class notice, were denied, or are currently being  
 14 denied, on the basis of their mobility-impairment disability, full and equal  
 15 enjoyment of the goods, services, facilities, privileges, advantages, or  
 16 accommodations of [the particular restaurant applicable to that class].

17 This is the same class definition used in *Castaneda* but for the substitution of the agreed  
 18 commencement date for the class period. *See* 264 F.R.D. at 564. The Store-Specific  
 19 Subclasses seek injunctive relief under the ADA, Unruh, and the CDPA and minimum  
 20 statutory damages under Unruh, Cal. Civ. Code § 52(a), and the CDPA, Cal. Civ. Code  
 21 § 54.3(a). BKC has already fixed a number of the barriers in its restaurants, and thus the  
 22 injunctive relief sought by the subclasses will consist largely of those remedial measures that

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23 <sup>8</sup> For example, BKC's Senior Director of Construction, Ronald Hailend, testified  
 24 that BKC also provides franchisees a "user guide for ADA" as part of its "Design with BK"  
 25 online resources. Hailend Dep. 38:13 - 41:12. Mr. Hailend also testified that BKC instructs  
 26 franchisees to use Exhibit D to the *Castaneda* settlement to survey their restaurants at the  
 27 successor remodel stage. *Id.* 33:5 - 34:17. Finally, he testified that one opening path-of-travel  
 28 checklist -- such as that required by the *Castaneda* settlement, C-ECF 359 ¶ 7.1 -- is used  
 "uniformly" by "all Burger King restaurants in North America." *Id.* 51:20 - 52:11. Mr.  
 Hailend was also BKC's designee pursuant to Fed. R. Civ. P. 30(b)(6) on the subject of BKC's  
 communications with franchisees about compliance with the ADA and state law. Hailend  
 Dep. 8:1-14 & Ex. 80, ¶ 7. Excerpts and exhibits from his deposition are attached as Ex. 3 to  
 the Robertson Declaration.

<sup>9</sup> The parties have agree that claims relating to the Remaining BKLs have been  
 tolled since this date. C-ECF 359, ¶ 18.1; Robertson Decl. ¶ 3 and Ex. 1.

1 Mr. McSwain determines have since come undone or were not done properly in the first  
 2 instance, as was the case in *Castaneda*, see *Castaneda Settlement* ¶ 6 and Ex. A

3 The Injunctive Class. Plaintiffs request that the Court certify, pursuant to Rule  
 4 23(b)(2), a single class of individuals who use wheelchairs or scooters for mobility and who  
 5 have encountered barriers at any Remaining BKL restaurant. In *Castaneda*, this Court  
 6 declined to certify a Rule 23(b)(2) class encompassing all BKL restaurants on the grounds that  
 7 -- as there was no single blueprint or policy that mandated the existence of all of the barriers --  
 8 injunctive relief would involve a barrier-by-barrier analysis, and would require an injunction  
 9 separately addressing each violation. *Id.*, 264 F.R.D. at 566, 569. Here, in contrast, the  
 10 injunctive relief sought by the Injunctive Class is forward-looking and uniform across all  
 11 Remaining BKLs, requiring BKC to implement procedures to ensure that accessibility at the  
 12 restaurants is maintained, procedures that are virtually identical to the generally-applicable  
 13 measures that the *Castaneda Settlement* required to be implemented. This relief involves the  
 14 common question whether there is sufficient evidence of recurring violations to justify an  
 15 injunction requiring maintenance of access. As will be explained in greater detail below, this  
 16 can be shown through ““symptomatic”” evidence, *Moeller v. Taco Bell Corp.*, --- F. Supp 2d --  
 17 -, 2011 WL 4634250 at \*27 (N.D. Cal. Oct. 5, 2011) (quoting *Armstrong v. Davis*, 275 F.3d  
 18 849, 871 (9th Cir. 2001)), without the need for an analysis of every barrier in every restaurant.

### 19 ARGUMENT

20 Plaintiffs will demonstrate below that the Injunctive Class and the Store-Specific  
 21 Subclasses satisfy Rule 23. By way of overview, the *Castaneda* decision is one of many  
 22 decisions holding that the requirements of Rule 23 are met by classes of persons with  
 23 disabilities asserting claims under disability rights statutes.<sup>10</sup>

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24  
 25 <sup>10</sup> See, e.g., *Armstrong v. Davis*, 275 F.3d 849, 869-70, 879 (9th Cir. 2001)  
 26 (affirming the certification of a class of prisoners and parolees with sight, hearing, learning,  
 27 developmental, and mobility disabilities); *Park v. Ralph's Grocery Co.*, 254 F.R.D. 112,  
 28 120-23 (C.D. Cal. 2008) (certifying class of persons with mobility disabilities suing for alleged  
 violations of architectural accessibility requirements at a grocery store chain); *Californians for  
 Disability Rights, Inc. v. Cal. Dep't of Transp.*, 249 F.R.D. 334, 344-49 (N.D. Cal. 2008)

(continued...)

1 **I. The Proposed Classes Satisfy Rule 23(a).**

2 The Store-Specific Subclasses are identical to the *Castaneda* classes and thus satisfy  
3 Rule 23(a) for the same reasons this Court held in that case. 264 F.R.D. at 572-73. As set  
4 forth below, the Injunctive Class satisfies the requirements of Rule 23(a) as well.

5 **A. The Classes are Sufficiently Numerous that Joinder Would Be  
6 Impracticable.**

7 This Court held, in *Castaneda*, that classes identical to the Store-Specific Subclasses  
8 satisfied Rule 23(a)(1), 264 F.R.D. at 572-73; the Injunctive Class -- which covers all of the  
9 subclass stores and 19 others -- *a fortiori* satisfies that requirement.

10 Rule 23(a)(1) requires that a class be so numerous that joinder of all members is  
11 impracticable. There are a number of factors that are relevant to this requirement, including  
12 class size, the geographic diversity of class members, and the relative ease or difficulty in  
13 identifying members of the class for joinder. *See Colo. Cross-Disability Coal. v. Taco Bell*  
14 *Corp.*, 184 F.R.D. 354, 357 (D. Colo. 1999) (“*CCDC*”); 1 William B. Rubenstein, Alba Conte,  
15 and Herbert B. Newberg, *Newberg on Class Actions* (“*Newberg*”) § 3:11 (5th ed.) (and cases  
16 cited therein). These factors show that joinder is impracticable in the present case.

17 “Plaintiffs do not need to state the exact number of potential class members, nor is a  
18 specific number of class members required for numerosity.” *Moeller v. Taco Bell Corp.*, 220  
19 F.R.D. 604, 608 (N.D. Cal. 2004); *Bates v. United Parcel Serv.*, 204 F.R.D. 440, 444 (N.D.  
20 Cal. 2001). A court may make common sense assumptions to support a finding that joinder  
21 would be impracticable. *Moeller*, 220 F.R.D. at 608; *CCDC*, 184 F.R.D. at 358; *Charlebois v.*  
22 *Angels Baseball, LP*, 2011 WL 2610122, at \*4 (C.D. Cal. June 30, 2011) (same).

23 \_\_\_\_\_  
24 <sup>10</sup>(...continued)

25 (certifying class of persons with mobility and/or vision disabilities suing due to barriers along  
26 outdoor designated pedestrian walkways throughout the state of California which are owned  
27 and/or maintained by the California Department of Transportation); *Nat’l Fed’n of the Blind v.*  
28 *Target Corp.*, 582 F. Supp. 2d 1185, 1199-1203 (N.D. Cal. 2007) (certifying class of persons  
with visual impairments suing for alleged violations of accessibility requirements at online  
store); *Lucas v. Kmart Corp.*, 2005 WL 1648182 (D. Colo. July 13, 2005) (nationwide class) &  
2006 WL 722163 (D. Colo. Mar. 22, 2006) (damages settlement sub-class). *See also* C-ECF  
138 at 15-17 & n.15 (citing cases).



1           Particularly where, as here, the class consists of persons with disabilities impacted by  
2 architectural barriers, joinder is impracticable because it is difficult to identify individual class  
3 members. *See, e.g., CCDC*, 184 F.R.D. at 358-59; *Arnold v. United Artists Theatre Circuit,*  
4 *Inc.*, 158 F.R.D. 439 (N.D. Cal.), modified, 158 F.R.D. 439, 448 (1994) (“by the very nature”  
5 of the class of persons with disabilities affected by architectural barriers, its members were  
6 “unknown” and could not be “readily identified” and thus joinder of class members was  
7 impracticable.). Where the number of class members are small, other factors -- such as  
8 geographical diversity -- can weight in favor of numerosity. *Jordan v. County of Los Angeles,*  
9 669 F.2d 1311, 1319 (9th Cir. 1982), *vacated on other grounds County of Los Angeles v.*  
10 *Jordan*, 459 U.S. 810 (1982); *see also 1 Newberg* § 3:12 (relevant factors also include “judicial  
11 economy arising from avoidance of multiplicity of actions”).

12           Plaintiffs submit deposition testimony from the 26 named Plaintiffs, all of whom have  
13 patronized Remaining BKLs since 2006 and encountered similar accessibility barriers. *See*  
14 *generally* Appendix 1; Anderson Decl. Exs. 1-26. Census figures demonstrate that there are  
15 approximately 151,580 non-institutionalized people 16 years of age or older in California who  
16 use wheelchairs. *See Moeller*, 220 F.R.D. at 608 (citing census data). Burger King is “the  
17 world’s second largest fast food hamburger restaurant . . . chain as measured by the total  
18 number of restaurants and system-wide sales.” Burger King Holdings Inc. Form 10-K (fiscal  
19 year ended June 30, 2010) at 3 (Robertson Decl. Ex. 4). As a matter of common sense, then,  
20 the class in this case is large, substantially exceeding the number of Named Plaintiffs who have  
21 provided testimony. As in *Castaneda*, “the combination of census data, declarations from  
22 numerous potential class members, and evidence of Burger King’s popularity,” satisfies the  
23 burden of demonstrating numerosity. *Id.*, 264 F.R.D. at 572; *see also Nat’l Fed’n of the Blind,*  
24 582 F. Supp 2d at 1199 (“Courts, including this one, have repeatedly certified ADA classes  
25 like the one proposed here based on similar evidentiary showings [concerning numerosity].”)

26           For these common sense reasons, each Store-Specific Subclass independently satisfies  
27 Rule 23(a)(1). In addition, Plaintiffs have been contacted by approximately 850 individuals  
28 who report that they use wheelchairs or scooters and have experienced discrimination at one or

1 more Remaining BKL restaurant. Robertson Decl ¶ 4. The number of people alleging  
2 discrimination at each of the Store-Specific Subclass restaurants and the number of different  
3 states in which these individuals reside are set forth in Appendix 2 in the columns labeled  
4 “contacts” and “states,” respectively. In sum, Plaintiffs have received contacts from at least 30  
5 individuals for all but seven of the 65 proposed Store-Specific Subclasses. In most of the  
6 proposed Subclasses, Plaintiffs have heard from 50 or more potential class members, including  
7 13 with more than 100 contacts. *Id.* & Appendix 2. In all but three of the proposed subclasses,  
8 potential subclass members come from multiple states; in 38 of them, from five or more states.  
9 *Id.*

10 It is important to note, too, that these numbers reflect contacts with Plaintiffs’ counsel  
11 prior to the issuance of any formal notice; it is likely that the numbers would be far higher if  
12 such notice were to issue. Following a formal claims procedure in *Castaneda*, between 93 and  
13 217 class members filed claims for each of the ten restaurants at issue in that case. *Id.* ¶ 5.  
14 These claimants came from a total of 28 states. *Id.* ¶ 6.

15 **B. There are Questions of Law and Fact Common to each Class.**

16 As in *Castaneda*, the Store-Specific Subclasses satisfy the commonality requirement by  
17 addressing only the common barriers in a single store. *Id.*, 264 F.R.D. at 572. In each store,  
18 too, the construction date, alterations history, and defenses will be the same, rendering  
19 virtually every legal and factual question relating to liability not just common but identical.  
20 BKC has conceded this in its Motion for Relief from Nondispositive Order of Magistrate  
21 Judge: “Plaintiffs’ allegations, and a supporting affidavit, are likely sufficient to demonstrate  
22 commonality, since all members of those insular sub-classes presumably will have been  
23 impacted by the same barrier in the same way.” ECF 139 at 3-4 n.4.

24 The Injunctive Class is based on two common questions: whether access violations are  
25 likely to recur at the Remaining BKLs; and thus whether an injunction should be entered  
26 requiring BKC to monitor to maintain access. As the Supreme Court recently clarified, the  
27 crucial question in Rule 23(a)(2) commonality is “the capacity of a classwide proceeding to  
28 generate common *answers* apt to drive the resolution of the litigation.” *Wal-Mart Stores, Inc.*

1 v. *Dukes*, 131 S. Ct. 2541, 2551 (2011) (emphasis in original; citation omitted). Here, the  
2 “likelihood of recurrence” standard involves common questions central to whether the  
3 proposed injunction should be entered, including: has BKC repeatedly engaged in past  
4 violations, thereby establishing a likelihood of recurrence? *Armstrong*, 275 F.3d at 861; and  
5 do the injuries to the class “stem from a failure to take action” by BKC, also establishing a  
6 likelihood of recurrence? *Id.* at 863.

7 The answers to these questions are common to the class, and do not require an analysis  
8 of each barrier in each store. Indeed,

9 [a] court need not address every violation in order to conclude that violations  
10 are sufficiently widespread to necessitate a system wide injunction. Rather, a  
11 court can enter such an injunction based on evidence that is “symptomatic” of  
the defendant's violations, including “individual items of evidence [that are]  
representative of larger conditions or problems.”

12 *Moeller*, 2011 WL 4634250, at \*27 (quoting *Armstrong*, 275 F.3d at 871). The court in  
13 *Moeller* -- an ADA/Unruh/CDPA class action spanning approximately 220 fast-food  
14 restaurants -- held that the plaintiffs had “established that classwide injunctive relief [was]  
15 warranted” based on (1) an order granting partial summary judgment in Plaintiffs’ favor on  
16 three types of elements (interior doors, exterior doors and dining tables) in fewer than all of the  
17 restaurants at issue; and (2) the results of an exemplar trial concerning a single store. *Moeller*,  
18 2011 WL 4634250 at \*1, 37.

19 These questions can be answered with common proof, specifically, testimony and  
20 surveys showing recurring violations. This is what occurred in *Moeller v. Taco Bell Corp.*,  
21 2007 WL 2301778, at \*9-10, 13-15, 20-22 (N.D. Cal. Aug. 8, 2007). Based on common proof  
22 consisting of survey measurements of the same types of architectural elements found in  
23 multiple restaurants, the court granted partial summary judgment to Plaintiffs under the ADA  
24 and state law as to several elements across more than 100 restaurants.

25 Further, John Salmen -- the individual who surveyed the Remaining BKLs, ECF 74 at  
26 1-2, and who was designated by BKC as an expert in the related *Newport* case -- when asked  
27 about surveys of Burger King restaurants following a 1997 ADA settlement, testified that  
28 “almost all of [the accessibility issues] were common” and that “almost everything in the

1 survey form had issues that were repetitive and were found commonly throughout the chain.”  
 2 Salmen Dep. 106:21 - 107:7 (Robertson Decl. Ex. 2). Finally, Plaintiffs’ preliminary evidence  
 3 suggests that BKC continues to fail to take actions necessary to prevent violations from  
 4 recurring, thus supporting the entrance of an injunction extending the policies implemented in  
 5 the ten *Castaneda* restaurants to all Remaining BKL restaurants. McSwain Decl. Ex. 2.

6 **C. The Claims and Defenses of the Representative Parties are Typical**  
 7 **of those of the Classes.**

8 As in *Castaneda*, the Store-Specific Subclasses satisfy the typicality requirement: “The  
 9 named plaintiffs here, like members of each proposed class they represent, all use wheelchairs  
 10 or scooters for mobility and by definition have encountered the same allegedly discriminatory  
 11 barriers at the same particular store.” *Id.*, 264 F.R.D. at 572.

12 The Injunctive Class also satisfies that requirement. As the Supreme Court recently  
 13 reiterated, “[t]he commonality and typicality requirements of Rule 23(a) tend to merge.”  
 14 *Wal-Mart*, 131 S. Ct. at 2551 n.5 (citation omitted). In this case, the Named Plaintiffs and the  
 15 members of the class have

16 disabilities which, although not identical, require the use of a wheelchair or  
 17 scooter for mobility. Thus, the effect of the disability is shared by all class  
 18 members. Further, the representative plaintiffs contest the legality of  
 19 architectural barriers under the same statutes as the class. [T]herefore . . . the  
 20 claims of the representative plaintiffs are typical of the class.

21 *CCDC*, 184 F.R.D. at 360; *see also Lucas*, 2005 WL 1648182, at \*3 (holding that where the  
 22 focus of an ADA lawsuit is final injunctive relief against the defendant benefitting the class as  
 23 a whole, “the prerequisites of commonality and typicality are met”).

24 **D. The Representative Parties Will Fairly and Adequately Protect the**  
 25 **Interests of the Classes.**

26 Named Plaintiffs satisfy the adequacy requirement of Rule 23(a)(4) because neither  
 27 they nor their counsel have any conflicts of interest with other class members and because they  
 28 and their counsel will prosecute the action vigorously on behalf of the class. *See Ellis v.*  
*Costco Wholesale Corp.*, 657 F.3d 970, 985 (9th Cir. 2011). Adequate representation is  
 usually presumed in the absence of contrary evidence. 3 *Newberg* § 7:24.

1 None of the Named Plaintiffs has a conflict with any others, and nothing in the record  
2 suggests that they would not vigorously pursue injunctive and monetary relief on behalf of the  
3 class and their respective subclasses. *See Ellis*, 657 F.3d at 985-86.

4 The competence of counsel seeking to represent a class is also an appropriate  
5 consideration under Rule 23(a)(4). *Local Joint Executive Bd. of Culinary/Bartender Trust*  
6 *Fund v. Las Vegas Sands, Inc.*, 244 F.3d 1152, 1162 (9th Cir. 2001). As Plaintiffs' counsel  
7 have previously demonstrated, they have a great deal of experience in complex class action  
8 cases of precisely this sort and are thus "capable of adequately and vigorously prosecuting this  
9 litigation." *Hodges v. Akeena Solar, Inc.*, 274 F.R.D. 259, 267-68 (N.D. Cal. 2011). Indeed, in  
10 the *Castaneda* litigation, these same counsel litigated and negotiated zealously in support of  
11 the ten classes and achieved a settlement that included injunctive relief that one experienced  
12 attorney deemed "exemplary," Decl. of Claudia Center, C-ECF 354, ¶ 10, and damages that  
13 another experienced attorney testified constituted "the largest per person monetary recovery  
14 ever in a disability rights class action involving a public accommodation." Decl. of Laurence  
15 W. Paradis, C-ECF 355, ¶ 6; *see also* Joint Mot. for Final Approval of Settlement Agreement,  
16 C-ECF 350 at 10 (same).

## 17 **II. The Proposed Injunctive Class Satisfies Rule 23(b)(2)**

18 A class is proper under Rule 23(b)(2) if the party opposing the class "acted or refused  
19 to act on grounds that apply generally to the class, so that final injunctive relief or  
20 corresponding declaratory relief is appropriate respecting the class as a whole" and the  
21 representatives are seeking "final injunctive relief or corresponding declaratory relief." "Rule  
22 23(b)(2) applies only when a single injunction or declaratory judgment would provide relief to  
23 each member of the class." *Wal-Mart*, 131 S. Ct. at 2557. Named Plaintiffs here seek a single  
24 injunction ordering BKC to monitor and maintain access through daily, triennial, and  
25 remodeling surveys similar to the type that it agreed to adopt and implement in the *Castaneda*  
26 settlement.

27 The Injunctive Class here differs from the multi-store Rule 23(b)(2) class rejected by  
28 this Court in *Castaneda* in three crucial ways: (1) it requests only injunctive relief (the

1 *Castaneda* plaintiffs sought a Rule 23(b)(2) class covering injunctive relief and damages);  
2 (2) the injunctive relief it requests consists of generally-applicable policies of a type that BKC  
3 has already demonstrated that it can and is willing to adopt, rather than store-by-store barrier  
4 removal; and accordingly, (3) the requested injunction can be based on symptomatic evidence  
5 and will not require a barrier-by-barrier analysis. The first factor is self-evident. Plaintiffs will  
6 examine the second two separately below.

7 **A. The Injunctive Class Requests Generally-Applicable Injunctive Relief**  
8 **Similar to Measures BKC Has Already Undertaken.**

9 In *Castaneda*, this Court held that final injunctive relief was not appropriate on a  
10 classwide basis, but only where the injunctive relief addressed individual noncompliant  
11 barriers, which would have required a detailed, individualized examination of each store and a  
12 similarly detailed injunction. *Castaneda*, 264 F.R.D. at 562. In contrast, the single injunction  
13 that the Injunctive Class seeks here would apply to all Remaining BKLs, requiring measures to  
14 monitor the maintenance of access at all Remaining BKLs just as the single set of measures  
15 required by Paragraph 7 of the *Castaneda* Settlement applies to all ten *Castaneda* restaurants.  
16 Similarly, BKC's Senior Director of Construction has testified that both daily checklists and  
17 successor remodel surveys are applicable chain-wide. Hailend Dep. 33:5 - 34:17, 51:20 -  
18 52:11, and this Court has acknowledged -- and BKC does not challenge -- BKC's power to  
19 force franchisee compliance. ECF 41 at 7.

20 The injunction sought by the Injunctive Class will be straightforward, familiar, and  
21 generally applicable; far from the barrier-by-barrier injunction rejected in *Castaneda*.

22 **B. The Evidence Required to Support the Injunction Is Common to the Class.**

23 The injunction sought by the Injunctive Class here would not require the store-by-store  
24 analysis rejected in *Castaneda*, 264 F.R.D. at 569, but rather could be supported by "evidence  
25 that is 'symptomatic' of the defendant's violations, including 'individual items of evidence  
26 [that are] representative of larger conditions or problems.'" *Moeller*, 2011 WL 4634250 at \*26  
27 (quoting *Armstrong*, 275 F.3d at 871). As noted above, the *Moeller* court held that a class  
28 wide injunction was appropriate based on (1) an order granting partial summary judgment in

1 Plaintiffs' favor on three types of elements (interior doors, exterior doors and dining tables) in  
 2 fewer than all of the restaurants at issue; and (2) the results of an exemplar trial concerning a  
 3 single store. *Moeller*, 2011 WL 4634250 at \*1, 37. Similarly, here, the preliminary results  
 4 tabulated by Plaintiffs' expert as to 25 stores shows a number of common recurring barriers,  
 5 McSwain Decl. Ex. 2, while BKC's expert has acknowledged accessibility issues were "found  
 6 commonly throughout the chain." Salmen Dep. 106:21 - 107:7.

### 7 **III. The Proposed Store-Specific Subclasses Satisfy Rule 23(b)(3).**

8 Plaintiffs request certification of 65 Store-Specific Subclasses pursuant to Rule  
 9 23(b)(3). Rule 23(b)(3) has two requirements: (1) that questions of law or fact common to  
 10 class members must predominate over any questions affecting only individual members; and  
 11 (2) that a class action is superior to other available methods for fairly and efficiently  
 12 adjudicating the controversy. Those requirements are met here. Plaintiffs will discuss both of  
 13 these requirements below. As noted above, however, the Store-Specific Subclasses are  
 14 identical to the ten store-specific classes certified under Rule 23(b)(3) in *Castaneda*, 264  
 15 F.R.D. at 572, which in itself provides ample support for their certification here.

#### 16 **A. Common Questions Within Each Store-Specific Subclass Predominate over 17 Individual Questions.**

18 As this Court held in *Castaneda*,

19 [a]ll mobility-impaired patrons of a particular restaurant who use wheelchairs face  
 20 identical facilities and identical access barriers. Their common interest in assuring that  
 21 all the features at the particular restaurant are in compliance will predominate over any  
 22 individual differences among them. Addressing any barriers at each store with  
 23 injunctive relief lends itself to a single adjudication.

24 *Id.*, 264 F.R.D. at 572. This remains true with the identical Store-Specific Subclasses for  
 25 which Plaintiffs seek Rule 23(b)(3) certification. As noted above, each store's construction  
 26 date, alterations history, and defenses will also be identical within each subclass.

27 Similarly, the court in *Lucas* -- certifying for settlement purposes<sup>11</sup> a Rule 23(b)(3)  
 28 class with claims for statutory damages under Unruh and the CDPA -- held:

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27 <sup>11</sup> As the *Kmart* court noted, "[t]he class must satisfy the requirements of F.R.C.P.  
 28 23 even in the settlement context." 2006 WL 722163, at \*2 n.3 (citing *Amchem Prods., Inc. v.*  
*Windsor*, 521 U.S. 591, 619-20 (1997)).

1 [W]hen a class . . . of individuals with disabilities seeks statutory minimum  
2 damages for alleged discrimination based on architectural or other barriers, the  
3 factual and legal issues common to the class predominate over any individual  
4 issues. . . [W]hile there [are] various questions concerning the defendant's  
possible liability that were common to the class, the only issue individual to  
each class member [is] "the number of instances of discrimination encountered  
by each class member."

5 *Id.*, 2006 WL 722163, at \*5 (citation omitted). While each class member's damages claim will  
6 have to be resolved, the Ninth Circuit has repeatedly held that "[t]he amount of damages is  
7 invariably an individual question and does not defeat class action treatment." *Yokoyama v.*  
8 *Midland Nat'l Life Ins. Co.*, 594 F.3d 1087, 1089 (9th Cir. 2010) (quoting *Blackie v. Barrack*,  
9 524 F.2d 891, 905 (9th Cir. 1975)). In each Store-Specific Subclass, common issues  
10 predominate over individual, making certification pursuant to Rule 23(b)(3) appropriate. *See*  
11 *Castaneda*, 264 F.R.D. at 572.

12 **B. A Class Action Is Superior to Other Available Methods for Fairly and**  
13 **Efficiently Adjudicating the Controversy.**

14 Rule 23(b)(3) also requires that a "class action [be] superior to other available methods  
15 for fairly and efficiently adjudicating the controversy." "This determination necessarily  
16 involves a comparative evaluation of alternative mechanisms of dispute resolution." *Hanlon v.*  
17 *Chrysler Corp.*, 150 F.3d 1011, 1023 (9th Cir. 1998). "The overarching focus remains whether  
18 trial by class representation would further the goals of efficiency and judicial economy."  
19 *Vinole v. Countrywide Home Loans, Inc.*, 571 F.3d 935, 946 (9th Cir. 2009). There is no  
20 question here that resolving damages claims through the Store-Specific Subclasses will be far  
21 more efficient than resolving each class member's claim individually in individual lawsuits  
22 around the state.

23 At the most basic level, the barriers that Plaintiffs allege in each store and the defenses  
24 that BKC raises will only have to be litigated once, instead of repeatedly each time an  
25 individual class member seeks to enforce his or her rights as to that store. Beyond that, there  
26 are a number of legal issues that will be common to all of them, which may be resolved on  
27 summary judgment or through the first or first several damages trials.  
28



1 For example, the court in *Moeller* issued an order granting partial summary judgment  
 2 in the plaintiffs' favor which answered common legal questions relating to the standards  
 3 governing interior door force, accessible dining tables, and queue lines. *Moeller*, 2007 WL  
 4 2301778, at \*9-10, 13-15, 20-22. The court later conducted an exemplar liability trial for a  
 5 single store which answered additional common legal questions. *Moeller*, 2011 WL 4634250.

6 Litigating the claims of putative class members through the 65 Store-Specific  
 7 Subclasses will be far more efficient than hundreds or thousands of individual lawsuits.

8 **IV. Plaintiffs' Counsel Satisfy Rule 23(g).**

9 This Court appointed Plaintiffs' current counsel as class counsel in *Castaneda*: Lewis,  
 10 Feinberg, Lee, Renaker & Jackson, with Bill Lann Lee as lead counsel; Fox & Robertson, P.C.;  
 11 and Mari Mayeda. C-ECF 252 at 5.<sup>12</sup> The Court later approved the fee petition that those  
 12 attorneys submitted in connection with the *Castaneda* Settlement, holding that the requested  
 13 fees were "reasonable and well-justified." C-ECF 361 at 5.

14 Proposed Class Counsel possess extensive class action and ADA experience. Lee Decl.  
 15 ¶ 5; Robertson Decl. ¶¶ 19-30; Mayeda Decl. ¶¶ 4-5. Plaintiffs' counsel have been certified as  
 16 class counsel in many class actions under the ADA and other disability rights statutes,  
 17 including several prior class actions against fast food restaurants and chain stores. Lee Decl.  
 18 ¶ 5; Robertson Decl. ¶¶ 19-30; Mayeda Decl. ¶¶ 4-5. Plaintiffs' counsel were appointed  
 19 litigation class counsel, and subsequently settlement class counsel, in *Lucas v. Kmart*,  
 20 99-cv-01923-JLK (D. Colo.), a nationwide class action challenging architectural barriers to  
 21 access in over 1,400 Kmart stores across the country. After litigating the case for almost seven  
 22 years, including through Kmart's bankruptcy, the parties reached a class-wide settlement  
 23 covering all Kmart stores in the United States and Puerto Rico. The settlement provided for  
 24 damages under certain state laws, and resulted in extensive and ongoing injunctive relief, as  
 25 well as \$13 million in monetary relief, the largest monetary recovery -- in absolute terms -- in  
 26

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27 <sup>12</sup> In connection with the appointment of class counsel in *Castaneda*, this Court  
 28 requested certain *ex parte* submissions. *Castaneda*, 264 F.R.D. at 573. Plaintiffs incorporate  
 those submissions by reference and, if it would be helpful, will update and resubmit them here.  
*Vallabhapurapu v. Burger King Corp.*, Case No. C11-00667-WHA (JSC)  
 Plaintiffs' Motion for Class Certification

1 this type of case; it is now second to the *Castaneda* settlement in per-person and per-facility  
2 recovery. Robertson Decl. ¶¶ 21

3 Judge John L. Kane, who approved the settlement, remarked during the final approval  
4 hearing, “I would say that anyone, whether a lawyer or a layman, who is interested in class  
5 action litigation should examine the file in this case to see how a class action should be  
6 handled. It is the best example I can think of.” *Lucas*, Reporter’s Transcript Final Approval of  
7 Settlement Agreement (July 27, 2006), at 87, Robertson Decl., Ex. 6. He added, “The quality  
8 of the briefs and the motions filed by both sides in this case has been exemplary. It has been of  
9 the highest quality.” *Id.* at 88.

10 **CONCLUSION**

11 For the reasons set forth above, Plaintiffs respectfully request that this Court certify the  
12 Injunctive Class and the Store-Specific Subclasses, appoint Plaintiffs Vallabhapurapu, Sarfaty,  
13 Walker, and Farber as representative plaintiffs for the Injunctive Class, appoint the individuals  
14 in Appendix 2 as representative plaintiffs for the Store-Specific Subclasses set forth therein,  
15 and appoint Plaintiffs’ counsel listed in the caption as Class Counsel.

16  
17 Respectfully submitted,

18 FOX & ROBERTSON, P.C.

19 By: /s/ Amy F. Robertson  
20 Amy F. Robertson

21 Dated: December 8, 2011

1           **Appendix 1 to Plaintiffs' Motion for Class Certification: Named Plaintiffs**

2           The deposition excerpts referenced below can be found at Exhibits 1-26 to the  
3 Declaration of Caitlin Anderson.

4           **Elizabeth Baker**

5           Elizabeth Baker suffers from lupus, psoriatic arthritis, and degenerative joint disease,  
6 each of which limit her ability to walk. Baker Dep. (Anderson Decl. Ex. 1) 11:1-14:12. Ms.  
7 Baker has patronized the BKL located at 619 West Charter Way in Stockton, California  
8 because it is near her doctor's office. *Id.* 37:8-15. She has visited this restaurant in an  
9 electric wheelchair. *Id.* 17:25-18:5, 46:14-17. Ms. Baker has encountered barriers to access  
10 at this restaurant, including a heavy entrance door that she was unable to open without  
11 assistance from her caregiver, *id.* 44:22-46:9; service items out of her reach, *id.* 50:2-7; and a  
12 bathroom door too heavy for her to open without assistance, *id.* 51:23-52:1. Ms. Baker  
13 believes that the Stockton BKL made changes relating to accessibility beginning in 2008. *Id.*  
14 53:8-22.

15           **Alfred Brown**

16           Alfred Brown has chronic arthritis in both knees which limits his ability to walk.  
17 Brown Dep. (Anderson Decl. Ex. 2) 11:6-7. Mr. Brown previously lived in Oakland,  
18 California and regularly returns to Oakland because his son and in-laws live there. *Id.*  
19 33:9-13. He has patronized the BKL at 1541 East 12th Street in Oakland because it is close  
20 to where his relatives live. *Id.* 32:08. Mr. Brown has used both a manual and power  
21 wheelchair inside the restaurant. *Id.* 44:5-16. He has encountered barriers to his access at this  
22 restaurant, including heavy entrance doors that close too quickly and hit him in the back, *id.*  
23 43:13-16; a restroom with doors that are too heavy for him to open independently, that has  
24 been difficult for him to maneuver and that has items that are hard for him to reach, *id.* 46:13,  
25 49:25-50:4; a queue line that makes it difficult for him to order his own food, *id.* 50:16-23;  
26 self service items that are difficult for him to reach, *id.* 52:12-16; and a lack of accessible  
27 seating, *id.* 51:4-6. He is a plaintiff in the lawsuit "to make it better for people like me" and to  
28 asks that "Burger King correct the problems and keep them corrected." *Id.* 81:15-18.

1 **Anne Casey**

2 Anne Casey lives in Palm Springs, California. Ms. Casey is a partial amputee and has  
3 used a manual wheelchair for mobility since 2001. She has also occasionally used a scooter  
4 since 2004. Casey Dep. (Anderson Decl. Ex. 3) 11:8-15, 12:7-19. She belongs to the  
5 Amputee Coalition of America and is a member of CERT, Community Emergency Response  
6 Teams. *Id.* 21:24 - 22:2, 23:1-2. Ms. Casey goes to Orange County five or six times a year to  
7 visit relatives and friends. *Id.* 40:12-21. She has patronized the BKLs located at 3150  
8 Harbor Blvd., Costa Mesa, 13421 Newport Ave., Tustin and 601 E. Dyer Rd., Santa Ana  
9 while on visits to Orange County. *Id.* 39:20-24, 43:9-19. Ms. Casey has encountered  
10 barriers to her access at these restaurants, including heavy entrance doors that she could not  
11 open on her own, *id.* 64:15, 80:20-24, 90:5-11; queue lines that make it difficult for her to  
12 order her own food, *id.* 67:18 - 68:13, 82:2-10, 90:12 - 91:2; self service items that are  
13 difficult for her to reach, *id.* 65:11-14, 68:20 - 69:10, 92:3-17; and a lack of accessible  
14 seating, including tables under which she can not fit her wheelchair, *id.* 65:15-19, 70:5-10,  
15 82:23 - 83:4, 92:21 - 93:17. She is a plaintiff in the lawsuit because “it’s one of my favorite  
16 restaurants” and “there’s a lot of handicapped people that do go there that do have the same  
17 issues.” *Id.* 103:9-12.

18 **Judy Cutler**

19 Judy Cutler lives in Apple Valley, California. Ms. Cutler is paraplegic, Cutler Dep.  
20 (Anderson Decl. Ex. 4) 19:23 - 20:17, and uses both a motorized and manual wheelchair for  
21 mobility, *id.* 18:9-25. Ms. Cutler is retired, and was formerly on the Governor’s Committee for  
22 the State of California and the Mayor’s Committee in Pasadena, focusing on employment for  
23 disabled people. *Id.* 28:2-9. Ms. Cutler has patronized the BKLs located at 1200 E. Colorado  
24 St., Glendale, 9710 Central Ave., Montclair, 41383 Big Bear Lake Blvd., Big Bear Lake, and  
25 1666 2<sup>nd</sup> St., Norco. She has traveled to these areas to visit family, *id.* 71:2-4, 80:20-23, 104:7-  
26 11, and to go along with her kids who were snowboarding, *id.* 89:20-22. Ms. Cutler has  
27 encountered barriers to her access at these restaurants, including inaccessible parking lot, *id.*  
28 98:5 - 99:15; heavy entrance doors, *id.* 74:12-19, 82:4-8, 108:4-6; queue lines that make it

1 difficult for her to order her own food, *id.* 99:16 - 100:14; self service items that are out of  
2 reach, *id.* 87:9-15, 100:22 - 101:2, 109:10-14; and inaccessible seating areas, including narrow  
3 aisles, insufficient room to maneuver, a lack of accessible seating, and tables under which she  
4 cannot fit her wheelchair, *id.* 75:24 -76:1, 77:9-11, 83:11-25, 87:2-5, 102:1-5, 110:2-10. Ms.  
5 Cutler is a plaintiff in the lawsuit because she “wanted to make sure that the accessibility  
6 conditions were improved because I want to represent all those people out there in wheelchairs  
7 who will not speak up or cannot speak up on their own. I want to be their voice,” and “I want  
8 to speak for them so that they can go and enjoy it like you want them to.” *Id.* 121:15-19,  
9 121:25 - 122:2.

#### 10 **Diane Dailey**

11 Diane Dailey lives in Lockeford, California. Ms. Dailey suffered a severe pelvic  
12 fracture and injury to her sacroiliac joint which required a surgery to pin her spine to her pelvic  
13 bone. Dailey Dep. (Anderson Decl. Ex. 5) 15:4-8, 12-18, 16:13-21. Because of those injuries,  
14 Ms. Dailey has a limited ability to walk and relies primarily on a manual wheelchair for  
15 mobility when outside of her home. *Id.* 20:11-17. Ms. Dailey has patronized the BKLs located  
16 at 619 West Charter Way in Stockton, California, because it is near her doctor's office, *id.* 40:6-  
17 14, and at 5315 Hopyard Road in Pleasanton, California, because it is near an IMAX movie  
18 theater that she and her husband visit, *id.* 40:17-25. Ms. Dailey has encountered barriers to her  
19 access at these restaurants, including entrance doors that were too heavy, *id.* 60:10-22, 70:10-  
20 17; drinks that were out of her reach and as a result caused her to spill a drink on herself, *id.*  
21 61:22-25, 62:1-22, 70:20-22; service items that were out of her reach, *id.* 61:22-25, 70:20-22 ;  
22 restrooms that were too small to navigate her wheelchair inside, *id.* 64:9-24; and a narrow  
23 queue line, *id.* 66:1-12. Ms. Dailey is a plaintiff in the lawsuit because she “would really like  
24 an equal chance to be treated like regular people.” *Id.* 31:10-11.

#### 25 **Kitty Dean**

26 Kitty Dean lives in San Diego, California. Ms. Dean is paraplegic, Dean Dep.  
27 (Anderson Decl. Ex. 6) 10:18-20, and uses a manual wheelchair for mobility, *id.* 11:6-14. Ms.  
28 Dean teaches daycare and provides tutoring for six children, working close to 40 hours per

1 week. *Id.* 13:7-23. Ms. Dean has patronized the BKLs located at 822 N. Johnson St., El Cajon,  
2 12427 Poway Rd., Poway, 377 Vista Village Dr., Vista, 728 W. San Marcos Blvd., San  
3 Marcos, and 3747 Rosecrans St., San Diego. She travels to these areas to watch her daughter  
4 and grandson play sports, and for doctor's appointments. *Id.* 35:19 - 36:3, 55:20 - 56:8, 61:10-  
5 16, 67:13-18. Ms. Dean has encountered barriers to her access at these restaurants, including  
6 steep ramps, *id.* 36:7-14, 47:9-11, 56:14-17, 63:8-13, 74:12-15; insufficient sidewalk clearance  
7 in front of the entrance doors, *id.* 37:7-12, 48:5-11; heavy entrance doors that she could not  
8 open on her own, *id.* 37:2-3, 47:18 - 48:4, 63:17-21, 74:19 - 75:1; queue lines that make it  
9 difficult for her to order her own food, *id.* 49:15 - 50:13, 62:11-16, 66:15-21, 75:2-7; high  
10 ordering counters that make it difficult for her to order her own food, *id.* 59:1-8, 63:22 - 64:13,  
11 75:15 - 76:2; self service items that are difficult for her to reach, *id.* 38:18-24, 48:17-22, 59:14-  
12 16, 65:4-7, 76:11-19; narrow aisles in the dining area and a lack of accessible seating, *id.*  
13 39:16-20, 50:14-20, 51:22-24, 65:15-20. Ms. Dean is a plaintiff in the lawsuit with the hope  
14 "that something actually might be done," *id.* 89:1-2, and that "they'll actually start making  
15 things for disabled people so we are treated just like everyone else." *Id.* 89:7-9.

#### 16 **William Farber**

17 William Farber lives in Anaheim, California. Mr. Farber suffers from Progressive  
18 Multiple Sclerosis, Farber Dep. (Anderson Decl. Ex. 7) 10:12-13, and relies on an electric  
19 wheelchair for mobility, *id.* 10:19-24. Mr. Farber is retired, and used to work for Goodyear as  
20 a store manager. *Id.* 14:14 - 15:5. Mr. Farber has patronized the BKL located at 2734 North  
21 Tustin Avenue in Orange, California when attending his grandson's basketball games and notes  
22 that it is near a gas station that he frequents. *Id.* 29:20 - 30:5, 38:13-18. Mr. Farber has  
23 encountered barriers to his access at this restaurant, including heavy entrance doors too heavy  
24 for him to open, *id.* 35:23 - 36:13, 41:7-10; and parking spaces that are too narrow to  
25 accommodate his van's side lift for his wheelchair, *id.* 38:22 - 39:8. He is a plaintiff in the  
26 lawsuit "to get things corrected for people" and notes that it's "embarrassing" to have to have  
27 to face barriers to accessibility at Burger King. *Id.* 22:13-16.

28

1 **Richard Felix**

2 Richard Felix, a resident of Fresno, has had polio since the age of 18 months. Felix  
3 Dep. (Anderson Decl. Ex. 8) 30:22. An auditor and manager with the Internal Revenue Service  
4 for 26 years, Mr. Felix left his employment on disability in 2002. *Id.* 23:5, 24:5-6. He has used  
5 a motorized wheelchair for mobility since 2005 when he could no longer stand because of the  
6 weakening of his muscles. *Id.* 31:11 - 32:13, 131:5-10.

7 Mr. Felix visited the BKL located on 2410 N. Cedar Avenue in Fresno once a month  
8 from October 2006 to the end of 2009 on trips to pay his monthly bill at a nearby Comcast  
9 store. *Id.* 80:13-17. He encountered access barriers at the Cedar Avenue BKL, including an  
10 entrance door too heavy to open, *id.* 84:8-9; a queue line too narrow for Mr. Felix to enter, *id.*  
11 84:9-12; a drink dispenser and condiments that were out of reach, *id.* 84:12-14, 102:20-23; a  
12 restroom door too heavy to open, *id.* 86:2-15; and insufficient space in the restroom for him to  
13 maneuver his wheelchair or to enter the toilet stall, *id.* 84:16-19. The last time Mr. Felix  
14 visited the Cedar Avenue BKL in 2010, he asked employees for assistance with condiments for  
15 his order because they were out of reach. He was told to wait. After waiting for 15-20  
16 minutes, he again asked. After waiting another 15-20 minutes, he left the BKL in frustration.  
17 *Id.* 102:9-19.

18 Mr. Felix visited the BKL located at 4610 E. Kings Canyon Road in Fresno once every  
19 two or three months from October 2006 to 2010 to go shopping at a nearby shopping center.  
20 *Id.* 111:8-12. He encountered similar access barriers at the E. Kings Canyon Road. *Id.* 114:8-  
21 11, 117:20-24, 118:17 - 119:3.

22 Mr. Felix visits other fast food restaurants, such as Weiner Schnitzel and In-N-Out  
23 Burger, where he has not encountered the barriers he encountered at the BKL restaurants. *Id.*  
24 63:12-14, 64:20-22. Mr. Felix is involved in the lawsuit because the barriers he faced were  
25 “things that stopped me from being independent, being able to do things that I do - or try to do  
26 on my own.” *Id.* 143:24 - 144:2. He would return to the two BKLs if he learned that the access  
27 barriers had been eliminated. *Id.* 108:16-25.

28

**1 Kathleen Gonzalez**

2 Kathleen Gonzalez lives in Big Bear City, California. Ms. Gonzalez has severe chronic  
3 lymphedema and circulation problems in her legs, Gonzalez dep. (Anderson Decl. Ex. 9) 26:20  
4 - 27:8, and uses a scooter for mobility, *id.* 18:10-15. Ms. Gonzalez worked for Northrop  
5 Grumman for 19 years and is now retired. *Id.* 25:3-4, 26:10-12. She is a member of Civitan  
6 International, a service club that does community service and works with children, seniors, and  
7 mentally and physically disabled persons. *Id.* 78:14 - 79:3. Ms. Gonzalez has patronized the  
8 BKLs located at 139 N. China Lake Blvd., Ridgecrest, while traveling to watch her grandson  
9 play football, *id.* 63:5-13, 64:4-8, and 41383 Big Bear Lake Blvd., Big Bear Lake, because  
10 some of her children and grandchildren worked there, *id.* 50:11-23. Ms. Gonzalez has  
11 encountered barriers to her access at these restaurants, including the distance of accessible  
12 parking from the entrance, *id.* 70:23 - 71:6, 72:22-25; steep slope of the path of travel toward  
13 the entrance, *id.* 81:16-22; heavy entrance doors, *id.* 54:10-19, 57:6-11, 66:24 - 67:3; queue  
14 lines that make it difficult for her to order her own food, *id.* 68:15 - 69:3; self service items that  
15 are difficult for her to reach, *id.* 69:17-25; a lack of accessible seating, *id.* 59:13-17, 70:7-12;  
16 and a small restroom that she can not access, *id.* 52:19 - 53:10. Ms. Gonzalez is a plaintiff in  
17 the lawsuit with the understanding that “this lawsuit will help to get the restaurants where the  
18 handicapped can go in with their scooters or their chairs or however they need to get in,  
19 because there are so many people that have no choice. They only have one way to go in and  
20 they should be able to go in with dignity and pride.” *Id.* 76:3-8. She also feels “that it’s my  
21 right to make sure that everyone is respected and has their rights protected no matter what.” *Id.*  
22 39:1-3.

**23 Uverda Harry**

24 Uverda Harry uses a power wheelchair for mobility, Harry Dep. (Anderson Decl. Ex.  
25 10) 17:23 - 18:1, due to a failed joint replacement in her left knee, osteoarthritis and  
26 rheumatoid arthritis, which limits her ability to walk, *id.* 14:3-10, 15:18 - 16:5. Ms. Harry  
27 resides in San Pablo, California and regularly travels to Alameda to go shopping and to Pinole  
28 to visit her physician. *Id.* 49:4-18, 56:24 - 57:2. She has patronized the BKL at 2200 Otis



1 Drive in Alameda, California because it is close to where the Oakland Innercity Youth Gospel  
2 Choir rehearsed, *id.* 51:22 - 52:4, 56:4-9, and because of the restaurant's proximity to retail  
3 stores where Ms. Harry likes to shop, *id.* 56:15-23. Ms. Harry has used a power wheelchair  
4 inside the Alameda BKL restaurant and has encountered access barriers at this restaurant,  
5 including lack of an accessible route from the sidewalk to the entrance, *id.* 63:19 - 64:1;  
6 difficulty getting to the entrance because of the slope of the area in front of the entrance, *id.*  
7 64:18-21; heavy entrance doors that she was unable to open without assistance, *id.* 67:18-25; a  
8 queue line that made it difficult for her to order her own food, *id.* 70:1-25; narrow aisles in the  
9 dining area that made it difficult for her to maneuver her wheelchair, *id.* 69:10-15; self-service  
10 items that are difficult for her to reach, *id.* 74:5-11; and a narrow hallway which makes it  
11 difficult for her to get to the bathroom in her wheelchair, *id.* 75:16-22.

12 She has also visited the BKL at 1571 Fitzgerald Drive in Pinole, California because of  
13 its close proximity to her physician's office. *Id.* 79:6-15. Ms. Harry has used a power  
14 wheelchair inside the Pinole BKL restaurant and has encountered access barriers at this  
15 restaurant, including a steep curb ramp then made it difficult for her to get to entrance from the  
16 parking lot, *id.* 79:16-22; heavy entrance doors that she was unable to open without assistance,  
17 *id.* 80:4-6; a high service counter that makes it difficult for her to order her own food, *id.* 80:22  
18 - 81:1; and narrow aisles in the dining area that make it difficult for her to maneuver her  
19 wheelchair, *id.* 81:21-22. Ms. Harry is a plaintiff in the lawsuit "because my focus is on just  
20 ensuring that people using wheelchairs and are disabled are operating on the same playing level  
21 as everybody else." *Id.* 46:5-8.

## 22 **Jenilyn Jimenez**

23 Jenilyn Jimenez lives in San Diego, California. Ms. Jimenez is paraplegic and has a  
24 brain injury, Jimenez Dep. (Anderson Decl. Ex. 11) 10:23-24, and uses a wheelchair for  
25 mobility, *id.* 11:12-14. Ms. Jimenez belongs to an advocacy group for in-home support  
26 services, *id.* 15:6-12, and used to volunteer at Paradise Valley Hospital, *id.* 17:2-6. She  
27 received her bachelor's degree in criminal justice in 2010 from SDSU. *Id.* 17:19 - 18:2. Ms.  
28 Jimenez has patronized the BKLs located at 680 E. San Ysidro Blvd., San Ysidro, and 3747

1 Rosecrans St., San Diego. *Id.* 26:19-25. Ms. Jimenez has encountered barriers to her access at  
2 these restaurants, including too narrow parking spaces and access aisles, *id.* 30:6-9, 31:19 -  
3 32:3; steep ramps, *id.* 32:8-14; heavy doors, *id.* 33:17-23, 45:17-18; queue lines that make it  
4 difficult for her to order her own food, *id.* 39:6-23, 48:14-18; self service items that are difficult  
5 for her to reach, *id.* 35:2-7; inaccessible seating areas, *id.* 35:22 - 36:4, 47:25 - 48:4; and  
6 inaccessible restrooms, *id.* 33:24 - 34:5, 36:24 - 37:11, 45:21 - 46:4, 46:13-17. She is a  
7 plaintiff in the lawsuit “so that the modifications could be made so that it could be accessible  
8 for all the disabled.” *Id.* 56:9-12.

### 9 **Kenneth Kilgore**

10 Kenneth Kilgore lives in Santa Rosa, California. Kilgore Dep. (Anderson Decl. Ex. 12)  
11 9:4-7; 15-19. He is a quadriplegic who uses a electric and manual wheelchair for mobility. *Id.*  
12 12:14-20, 14:1-6. He lives with his 18 year old son and 9 year old daughter. *Id.* 52:4-7. As a  
13 single father, “it is a lot of work” and sometimes “it has to be fast food.” *Id.* 52:5-7. Burger  
14 King is his son’s favorite restaurant, Mr. Kilgore likes their burgers and his daughter likes their  
15 chicken. *Id.* 55:1-11. He has patronized the BKL in Petaluma and the BKL in Rohnert Park  
16 because they are near his in-laws and near shops or parks that his children frequent. *Id.* 58:1-7,  
17 61:5-11. At these BKLs he has experienced problems with parking, *id.* 66:22 - 67:1, 97:19 -  
18 98:2; steep ramps, *id.* 98:3-7; heavy doors, *id.* 69:4-11, 98:23 - 99:10; queue lines, *id.* 71:18 -  
19 72:4; self service items, *id.* 74:13-14; inaccessible seating, *id.* 75:21 - 77:6, 104:7-16; and  
20 restrooms, *id.* 81:4-9, 101:9-12. Although Mr. Kilgore works out and does weightlifting at  
21 Santa Rosa Junior College, *id.* 50:10-20, he has found that the doors at these BKLs in the past  
22 have been “so heavy”, *id.* 69:4-11; 99:23-24. At the restaurant he patronized with his daughter,  
23 all of the accessible seats were segregated away from any nondisabled seating on the far side of  
24 a wall. Mr. Kilgore explained, “I felt like they were putting me on the back of the bus.” *Id.*  
25 75:21 - 76:20. In addition to Burger King, he is a frequent patron of Carl’s Junior and  
26 McDonalds, where he has not experienced these difficulties. *Id.* 46:24; 49:3-5. He is  
27 participating in the case to make “things accessible for people in wheelchairs and scooters so  
28 we can live our lives more independently” and recognized that this long overdue promise, set

1 forth in the ADA was made to him and the class he seeks to represent “twenty years ago.” *Id.*  
2 46:13-19.

3 **Carol Lacher**

4 Carol Lacher lives in Apple Valley, California. Ms. Lacher has back problems,  
5 arthritis, and osteoporosis in her knees, and uses a manual wheelchair for mobility outside her  
6 home. Lacher Dep. (Anderson Decl. Ex. 13) 11:14-22. Ms. Lacher has patronized the BKs  
7 located at 41383 Big Bear Lake Blvd., Big Bear Lake, and 4918 West Sunset Blvd., Los  
8 Angeles. She has patronized these locations while visiting family in the area, *id.* 38:3-9, and  
9 while visiting the Children’s Hospital for her children’s doctors’ appointments, *id.* 56:19-24.  
10 Ms. Lacher has encountered barriers to her access at these restaurants, including inaccessible  
11 parking, *id.* 44:22 - 45:3; a narrow access ramp, *id.* 45:17 - 46:15; heavy entrance doors, *id.*  
12 60:13-16; self service items that were out of reach, *id.* 52:25 - 53:5, 66:15 - 67:10; inaccessible  
13 restrooms, including heavy restroom doors and inadequate grab bars, *id.* 43:10-15, 43:20-  
14 44:21, 61:22 - 62:16, 63:5-14; and inaccessible seating areas, including narrow aisles and tables  
15 under which she cannot fit her wheelchair, *id.* 47:6 - 50:8. Ms. Lacher hopes that this case  
16 “will open the eyes of other restaurants to the fact that there are people like us in wheelchairs  
17 and scooters” and “that we just want to be treated like the normal people in the world.” *Id.*  
18 29:5-7, 12-14. Ms. Lacher is a plaintiff in the lawsuit because she is “hoping it will help  
19 Burger King become more handicap friendly, to change the restaurants so people that are in  
20 wheelchairs and scooters can enjoy going out with their families and being treated like we’re  
21 part of the world too.” *Id.* 78:4-8.

22 **Bethany McClam**

23 Bethany McClam lives with her family in Palmdale in Los Angeles County. McClam  
24 Dep. (Anderson Decl. Ex. 14) 10:10 - 11:15. Before a traffic accident in 2001, she worked as a  
25 home health aide. *Id.* 12:13-17. She has been disabled since the accident with chronic pain in  
26 her lower back, right knee, and left hip, and fibromyalgia, *id.* 44:1-21, that require that she use  
27 a wheelchair for mobility outside of the immediate vicinity of her home, *id.* 43:19 - 44:5, 74:22  
28 - 76:7.

1 She visits the Burger King restaurants located at 39519 10th Street West in Palmdale,  
2 near her home, *id.* 155:9-16, at 1202 West Avenue I, in Lancaster, where she shops and visits a  
3 cousin, *id.* 135:15 - 136:4, and at 43627 North 15th Street, West, Lancaster, near the hospital,  
4 *id.* 132:4-10. She used to eat inside the restaurants, but uses the drive through with her  
5 husband and children because she found accessibility barriers – such as heavy entrance doors,  
6 *id.* 115:18-23, 142:22 - 143:1, 158:5-16; queue lines that prevented her from ordering normally,  
7 *id.* 124:23 - 125:11, 150:19-24; aisles too narrow in the dining area, *id.* 116:2-7, 146:21-24,  
8 148:8-15; heavy restroom doors, *id.* 116:8-14, 151:3 - 152:24, 162:5-22; hard-to-reach  
9 condiments and drink dispensers, *id.* 166:16-19, 193:20-22; and narrow parking stalls, *id.*  
10 170:18 - 171:25 – too difficult to manage in her wheelchair.

11 She would like to eat inside the restaurants, particularly with her 9-year old daughter,  
12 instead of the car. *Id.* 148:19 - 149:6. She likes Burger King because both she and her husband  
13 enjoy the food, and it is one of the few chains that offer a vegetarian burger. *Id.* 188:13-20.

#### 14 **Tyrey Mills**

15 Ginene Mills is the mother and next friend of Tyrey Mills, a minor. They live in  
16 Oakland, California. Mr. Mills has Down syndrome, as well as an immune deficiency and  
17 respiratory problems. Mills Dep. (Anderson Decl. Ex. 15) 11:4 - 12:8. He uses a manual  
18 wheelchair for mobility. *Id.* 12:25 - 13:12. Ms. Mills has accompanied Mr. Mills on all of his  
19 visits to Burger King restaurants. *Id.* 30:12-20. They have patronized the BKLs at 1901  
20 Webster St., Alameda, and 2200 Otis Drive, Alameda. They, along with Ms. Mills's other  
21 sons, patronized these BKLs while on the way to visit a family friend who lives in the area, *id.*  
22 29:2-15, after medical appointments at Kaiser, *id.* 57:3-12, or on the way to the mall in  
23 Alameda, *id.* 42:18-24.

24 At these locations, Mr. Mills has encountered barriers to access, including parking lots  
25 with difficult and dangerous paths of travel, *id.* 44:16 - 45:1, 65:20 - 66:10; entrance doors that  
26 were too heavy and with insufficient space to open the door and navigate Mr. Mills's  
27 wheelchair, *id.* 47:13-22, 67:4-8, 67:13-17; narrow queue lines that prevented Mr. Mills from  
28 ordering normally, *id.* 50:5-16, 69:22 - 70:14; seating that did not permit Mr. Mills to sit

1 comfortably in the dining area, *id.* 53:11-18, 67:18-21; and inaccessible restrooms, *id.*54:7-15,  
2 68:13 - 69:5. Ms. Mills seeks to include Mr. Mills equally in every activity her other sons can  
3 participate in. Ms. Mills is involved in the case “to make it better for people and kids like my  
4 son.” *Id.* 26:12-13.

#### 5 **Erik Nieland**

6 Erik Nieland has muscular dystrophy and uses a power wheelchair for mobility.  
7 Nieland Dep. (Anderson Decl. Ex. 16) 15:23 - 17:1. Mr. Nieland resides in Pleasant Hill,  
8 California. He previously lived in Hayward, California, *id.* 12:12 - 15, and regularly patronized  
9 the BKL at 16 Southland Mall in Hayward because it was close to where he lived, *id.* 41:2-10.  
10 He has also patronized the BKL at 1801 Decoto Road in Union City because of its close  
11 proximity to where his friend worked. *Id.* 33:2-6. Mr. Nieland has used a power wheelchair  
12 inside both restaurants. At the Union City BKL, he has encountered access barriers, including  
13 heavy entrance doors that he was unable to open without assistance, *id.* 37:6-14; and self-  
14 service items that were difficult for him to reach, *id.* 38:12-17. At the Hayward BKL, he has  
15 encountered access barriers, including self-service items that were difficult for him to reach, *id.*  
16 43:6-12. Mr. Nieland is involved in the case because the barriers he faces are “embarrassing  
17 and it’s just hard to deal with.” *Id.* 47:13-14.

#### 18 **George Partida**

19 George Partida, a resident of Torrance in Los Angeles County, is quadriplegic due to  
20 Duchenne muscular dystrophy, Partida Dep. (Anderson Decl. Ex. 17) 14:21-25, and uses a  
21 wheelchair for mobility, *id.* 15:3-11. Mr. Partida runs Bronco, Inc., a financial consulting  
22 business, *id.* 18:9 - 19:1, and worked for many years in the aerospace industry and was  
23 educated as a mechanical engineer, *id.* 19:9-19. He also represents his neighborhood in the  
24 Neighborhood Empowerment Congress sponsored by the City of Los Angeles, *id.* 58:9 - 59:10,  
25 and is active as a minister, *id.* 60:9-10. He also pursues fishing at local piers as a hobby. *Id.*  
26 46:9-17.

27 Mr. Partida has patronized the BKLs located at 2101 W. Whittier Blvd., La Habra, 8845  
28 S. Painter St., Whittier, 1919 Artesia Blvd., Redondo Beach, 1919 Pico Blvd., Santa Monica,

1 1453 W Manchester Ave., Los Angeles, 215 N. Gaffey St., San Pedro, 2600 Long Beach Blvd.,  
2 Long Beach, 5540 Cherry Ave., Long Beach, 12513 E. Carson St., Hawaiian Gardens, and  
3 1666 2nd St., Norco. He travels to these areas for specific reasons, including visiting his father,  
4 *id.* 60:20-25; visiting a client, *id.* 59:14-18; attending financial services lectures at Santa  
5 Monica College, *id.* 50:11-21; attending meetings and assemblies related to his activities as a  
6 minister, *id.* 60:5-10; attending business appointments, *id.* 57:6-8; and on his way to pier  
7 fishing and to visit area beaches, *id.* 46:1 - 50:11.

8 Mr. Partida has encountered barriers to his access at these restaurants, including heavy  
9 entrance doors, *id.* 64:21-22, 95:16-18, 110:9-16; service counters that were too high, *id.*  
10 125:25 - 126:7; self service items that are difficult for him to reach, *id.* 64:22-24, 73:21-24,  
11 97:24 - 98:9, 102:12, 130:8-11; narrow aisles in dining areas and otherwise inaccessible  
12 seating, *id.* 99:20 - 100:2, 106:14-22, 127:16-19; and inaccessible restrooms, *id.* 114:3-9,  
13 119:21-23.

14 Mr. Partida's favorite food at Burger King is the whopper. *Id.* 134:19-20. Mr. Partida  
15 is a plaintiff in the lawsuit because the lack of accessibility at Burger King makes him feel  
16 "degraded to a second-class citizen, second-class customer." *Id.* 87:7-8. He is "hoping that  
17 they can make the changes that would make it more accessible and enjoyable for me to go there  
18 and eat a Whopper." *Id.* 136:12-14.

### 19 **Carol Picchi**

20 Carol Picchi lives in San Mateo, California. Ms. Picchi has right cerebral palsy and  
21 secondary hemidystonia, Picchi Dep. (Anderson Decl. Ex. 18) 13:21 - 14:11, and uses a  
22 motorized wheelchair for mobility, *id.* 7:9-14. Ms. Picchi works for the county of Santa Clara  
23 as a part-time data quality research assistant. *Id.* 20:4-13. She has patronized the BKLs located  
24 at 175 W. Calaveras Blvd., Milpitas, 385 S. Kiely, San Jose, and 2170 Monterey Rd., San Jose.  
25 Ms. Picchi has visited these locations in conjunction with trainings or meetings for work, *id.*  
26 57:16-21, 71:7-12, or to meet a friend, *id.* 99:18 - 100:5. At all of the locations, she has  
27 encountered barriers to her access, including heavy entrance and restroom doors. *Id.* 65:25 -  
28 66:22, 68:18 - 69:1, 79:19-23, 101:19-24. At many of the locations she has additionally

1 encountered napkins and drinks on counters out of reach, *id.* 67:1-7; restrooms that were too  
2 small to navigate comfortably in her wheelchair, *id.* 68:7-13, 69:17 - 70:2, 79:19-22, 80:1-8,  
3 101:25 - 102:2; and inaccessible parking lots, *id.* 77:12-24. Ms. Picchi wants Burger King “to  
4 be accessible for other disabled people.” *Id.* 108:11-14.

#### 5 **Ron Sarfaty**

6 Ron Sarfaty lives in West Hills, California. Mr. Sarfaty has left side hemiplegia,  
7 Sarfaty Dep. (Anderson Decl. Ex. 19) 14:14-21, and uses a motorized wheelchair for mobility,  
8 *id.* 15:13-16. He is retired. *Id.* 10:8-11. Mr. Sarfaty used to do prototype design and  
9 development at Hughes Research Laboratories, *id.* 25:1-8, and was also a Los Angeles County  
10 Sheriff’s Deputy, *id.* 6:10-12. Mr. Sarfaty has patronized the BKLs located at 21227 Sherman  
11 Way, Canoga Park, 1919 Pico Blvd., Santa Monica, 8030 Van Nuys Blvd., Panorama City,  
12 24530 Lyons Ave., Newhall, and 29136 Roadside Dr., Agoura. He patronizes these locations  
13 when in the area checking his post office box or visiting the shooting range, *id.* 51:17 - 52:15,  
14 visiting a specialty store, Island Pacific Market, *id.* 69:6-16, visiting a friend, *id.* 73:5-11,  
15 77:13-24, and visiting family, *id.* 41:5-7. Mr. Sarfaty has encountered barriers to his access at  
16 these restaurants, including an inaccessible path of travel, *id.* 53:11-22, 54:23 - 55:24; heavy  
17 entry doors, *id.* 58:21 - 59:6; a queue line that prevented him from ordering normally, *id.* 63:6-  
18 25; and self service items, including drink dispensers, that are out of reach, *id.* 43:5-8, 65:1 -  
19 66:2, 72:2-5, 76:6-10, 80:7-14. Mr. Sarfaty is a plaintiff in the lawsuit “to get Burger King to  
20 fix these issues,” *id.* 88:22-24, and because he is “aggravated” with the barriers that he has  
21 faced. *Id.* 38:20.

#### 22 **Marsha Shining Woman**

23 Marsha Shining Woman suffers from osteoarthritis and fibromyalgia, which require that  
24 she use a motorized wheelchair or a manual wheelchair for mobility beyond her home in the  
25 rural community of Cottonwood. Shining Woman Dep. (Anderson Decl. Ex. 20) 13:22-25,  
26 15:14-24, 16:20 - 17:8. She also suffers from diabetes. *Id.* 6:9-11.

27 Using a wheelchair, she visited the 2055 Eureka Way BKL located in Redding twice in  
28 fall 2006 and once in October 2008. *Id.* 50:15-24. The BKL is near where one of her

1 physicians and shops she patronizes are located. *Id.* 46:19 - 47:2, 54:25 - 55:6. Her reason for  
2 visiting the BKL on those three occasions was because her blood sugar level dropped to such  
3 an extent that she needed a drink with sugar. *Id.* 54:15-20.

4 Ms. Shining Woman, however, was unable to obtain a sugared drink on the first visit  
5 because she was unable to open the front door because the door was too heavy and because the  
6 space near outside the door was insufficient for her to maneuver her wheelchair. *Id.* 63:25 -  
7 64:4. She left the BKL to purchase a drink from a AM/PM that did not have any barriers. *Id.*  
8 64:15-18. On the second visit, she was able to enter the BKL because someone opened the  
9 front door for her, but she was unable to enter the restroom because the door was too heavy and  
10 she was unable to reach the sugar or lid for her cup of coffee and received no assistance from  
11 the staff. *Id.* 65:2-5. She left the cup of coffee on the counter and bought a drink from another  
12 store. *Id.* 71:13-18. On her 2008 visit, she attempted to avoid the heavy front door by going to  
13 the drive through in her wheelchair, but was refused service and again went elsewhere for her  
14 drink. *Id.* 56:5-18. At the Eureka BKL, Ms. Shining Woman encountered barriers to her  
15 access, including heavy entrance doors, *id.* 57:6-15; insufficient maneuvering space around the  
16 entrance doors, *id.* 58:19 - 59:4; a queue line that prevented her from ordering normally, *id.*  
17 59:5-21; lids and condiments that were out of her reach, *id.* 68:18 - 69:11; and heavy restroom  
18 doors, *id.* 70:8 - 71:9. Because Ms. Shining Woman continues to see her physician and shop in  
19 Redding and continues to suffer from declines in her blood sugar level occasionally, she would  
20 return to the Eureka Way if access barriers were eliminated. *Id.* 53:10-11. She is involved in  
21 the case because “it’s what needs to be done.” *Id.* 74:11.

## 22 **William Showen**

23 William Showen lives in Sacramento, California. Mr. Showen is a partial amputee and  
24 suffers from End Stage Renal Failure, and uses a wheelchair for mobility outside of his home.  
25 Showen Dep. (Anderson Decl. Ex. 21) 11:3-6, 12:4-10, 15:4-6. Mr. Showen works part-time  
26 as a realtor for R.E. Brokerage, selling single-family residences in Sacramento. *Id.* 19:23 -  
27 20:6. Mr. Showen has patronized the BKLs located at 175 W. Calaveras Blvd., Milpitas, 111  
28 S. Harding Blvd., Roseville, and 450 Leavesley Rd., Gilroy. He patronizes these locations



1 when traveling to and from his daughter's house in Gilroy, *id.* 53:17 - 54:3, and when doing  
2 errands in the neighborhood, *id.* 72:8-16, 74:13-17. Mr. Showen has encountered barriers to  
3 his access at these restaurants, including heavy entrance doors, *id.* 56:19 - 57:14, 82:9-10,  
4 90:21-24; narrow queue lines that make it difficult for him to order his own food, *id.* 59:4 -  
5 60:15, 83:1-7, 83:23-25, 91:17-21; and self service items that are out of reach, *id.* 63:21 -  
6 64:12, 94:9-14. Burger King is Mr. Showen's "number one selection" when it comes to fast  
7 food restaurants. *Id.* 52:8. He is a plaintiff in this lawsuit because he feels that his rights are  
8 "limited, and I was not being treated as a normal customer at multiple Burger Kings," and  
9 wants to help other wheelchair users "by breaking those barriers, allowing them a little bit more  
10 freedom so they would be treated as an equal to nonhandicapped people." *Id.* 103:6-15.

### 11 **Goldene Springer**

12 Goldene Springer has had Peripheral Arterial Disease since approximately 2000, which  
13 limits her ability to stand and walk. Springer Dep. (Anderson Decl. Ex. 22) 18:16-22,  
14 20:12-15. When she leaves her home, she generally uses a scooter. *Id.* 15:22-16:18. Ms.  
15 Springer lives in Willows, California, within walking distance of the BKL at 455 N. Humboldt  
16 St., Willows. *Id.* 73:13-22. She patronized that restaurant approximately once per week from  
17 2006 through 2010. *Id.* 61:24-62:1. She ceased frequenting the restaurant in late 2010 because  
18 of problems with its accessibility. *Id.* 86:9-18. She has encountered barriers to access at this  
19 restaurant, including heavy entrance doors, *id.* 89:3-5; an inaccessible seating area, *id.* 79:7-8;  
20 heavy restroom doors, *id.* 89:20-22; insufficient room in the restroom, *id.* 94:18-21; and a  
21 blocked condiments counter, *id.* 105:9-17. She is a plaintiff in this lawsuit because she  
22 believes that "[t]he whole reason for a mobility scooter or a[n] electrical wheelchair is for  
23 personal independence. That means a person should be able to maneuver through a business  
24 the same as anyone else." *Id.* 37:15-18. She believes that "[s]omething ha[s] to be done" to  
25 remedy inaccessibility at BKLs. *Id.* 37:18-19.

### 26 **Kathryn Tyler**

27 Kathryn Tyler has central core myopathy, a form of muscular dystrophy. Tyler Dep.  
28 (Anderson Decl. Ex. 23) 53:1-3. She has had this genetic condition since birth and has used a

1 wheelchair for mobility since 1973. *Id.* 53:16-17, 55:10-12. Ms. Tyler lives in Paradise,  
2 California, but travels frequently to San Jose, the San Francisco Bay Area, and Stockton to visit  
3 family and friends. *Id.* 10:16, 71:16-18. When traveling, she and her family often eat at the  
4 BKLs located at 619 Charter Way, Stockton, 329 North Capital Avenue, San Jose, and 3098  
5 Story Road, San Jose. *Id.* 83:11-21, 115:6-18. She has encountered barriers to access at all  
6 three of these restaurants, including inaccessible ramps and parking areas, *id.* 91:24 - 92:4,  
7 108:8-13, 111:20-25, 124:7-19; heavy entrance doors, *id.* 90:5-7, 107:20-21, 122:16-18; heavy  
8 restroom doors, *id.* 88:9-24, 121:7-9; inaccessible seating areas, *id.* 89:9-17, 110:9-16, 119:14-  
9 16, 124:25 - 125:17; drinks and condiments counters that were out of reach, *id.* 88:3-4, 113:14-  
10 20, 120:1-10; and queue lines that restricted her ability to order normally, *id.* 118:23-25,  
11 125:22-25. She is a plaintiff in this lawsuit because it is “[h]umiliating” to experience these  
12 barriers to access and she wishes to speak for others who have similar experiences. *Id.*  
13 21:14-21.

#### 14 **Mohan Vallabhapurapu**

15 Mohan Vallabhapurapu, a resident of Norco in West Riverside County, served as a  
16 medic in the U.S. Navy’s Hospital Corps for 20 years. Vallabhapurapu Dep. (Anderson Decl.  
17 Ex. 24) 17:11-14. He suffered a spinal cord injury while on active duty, and has used a  
18 wheelchair for mobility since 2002. *Id.* 12:20-13:8; 15:3-4. He is a member of Paralyzed  
19 Veterans of America and Disabled American Veterans. *Id.* 17:21-18:1.

20 Mr. Vallabhapurapu is an avid, ranked table tennis player who travels frequently  
21 throughout California to play in tournaments for individuals in wheelchairs. *Id.* 57:21-58:23.  
22 He also travels to see doctors or visit a VA hospital, to shop for Indian spices, to maintain his  
23 car, see air shows, and for business reasons. *See id.* 82:6-17; 106:3-18; 146:5-147:2; 153:22-  
24 154:8. He identified the dates he visited BKL restaurants by reviewing his calendar for trips he  
25 made. *Id.* 32:15-24.

26 He patronized a large number of BKLs for a small number of times as part of his travel  
27 from 2006 to 2008. These restaurants include 510 Euclid Street in Anaheim; 1420 Mission  
28 Avenue in Oceanside; 1919 Pico Boulevard in Santa Monica; 911 W. Jefferson Boulevard, Los

1 Angeles; 385 South Kiely, San Jose; 36030 Tyler Street, Riverside; 2430 Lyons Avenue,  
2 Newhall; 2600 Long Beach Boulevard, Long Beach; 12513 East Carson Street , Hawaiian  
3 Gardens; 81-779 U.S. Highway 111 in Indio; 261 Race Street, San Jose; 10931 Los Alamitos  
4 Boulevard, Los Alamitos; 1666 2nd Street, Norco; 2500 East Imperial Highway, Brea; and  
5 23125 Hemlock Avenue, Moreno Valley. *Id.* 63:10-24; 96:8-17; 97:6-11; 105:21-25; 115:5-  
6 14; 125:17-126:22; 138:10-139:15.

7 Mr. Vallabhapurapu encountered access problems at the BKLs, including narrow  
8 parking spaces, *id.* 72:10-25, 91:9 - 92:5, 100:12-15, 133:18 - 134:1, 159:10-13, 183:2-9; heavy  
9 entrance doors, *id.* 101:8-9, 108:19-23, 124:18-24, 133:16-18, 144:9-15, 159:16-17, 164:8-9,  
10 168:2-3, 183:10-15; heavy bathroom doors, *id.* 92:14-22; and insufficient space in the  
11 restrooms, *id.* 77:8-24, 95:3-22, 109:17-24, 136:4-12, 145:3-15, 160:23 - 161:1, 164:10-11,  
12 168:3, 173:13-16. He has had several problems with incontinence because of difficulties  
13 gaining access to and maneuvering in BKL restrooms. *Id.* 112:3-17. He has patronized BKLs  
14 less often since he remarried and eats meals prepared by his wife. *Id.* 151:4-6. He believes that  
15 he would generally continue to visit BKLs, particularly if they are accessible, because he  
16 continues to take trips and needs to stop for food and a bathroom break. *Id.* 151:22 - 152:9.

17 **Priscilla Walker**

18 Priscilla Walker cannot walk without assistance due to orthopedic problems in both  
19 knees, Walker Dep. (Anderson Decl. Ex. 25) 12:11 - 13:14, and uses both a power wheelchair  
20 and scooter for mobility, *id.* 16:4-9. Ms. Walker currently resides in Carmel, California and  
21 regularly returns to Gilroy to go shopping and to have her mobile home serviced. She has  
22 patronized the BKL at 450 Leavesley Road in Gilroy because it is close to retail stores where  
23 she likes to go shopping and because she has her mobile home serviced nearby. *Id.* 45:19-21,  
24 48:11-18. Ms. Walker has used both a power wheelchair and scooter inside the restaurant. She  
25 has encountered access barriers at this restaurant, including heavy entrance doors that she was  
26 unable to open without assistance, *id.* 52:19-22; a queue line that made it difficult for her to  
27 order her own food, *id.* 58:5-14; and a high service counter that made it difficult for her to  
28 reach the counter, *id.* 63:3-13. Ms. Walker is a plaintiff in the lawsuit because the barriers

1 she's faced "become[] part of the isolation that a handicapped person feels," *id.* 37:24 - 38:1,  
2 and when she encounters barriers "it's very disappointing," *id.* 38:25. She believes that  
3 "businesses, if they want to be part of the community, if they want to be part of the real world,  
4 [] they need to make it accessible." *Id.* 39:18-20.

5 **Daniel Xenos**

6 Daniel Xenos lives in Rocklin, California. Mr. Xenos has congestive heart failure and  
7 chronic body pain, Xenos Dep. (Anderson Decl. Ex. 26) 12:1-9, 13:4-10, and uses a scooter for  
8 mobility outside of his home, *id.* 22:23 - 23:4. He has patronized the BKLs located at 111 S.  
9 Harding Blvd., Roseville, and 13446 Lincoln Way, Auburn. Mr. Xenos visits the Roseville  
10 location in conjunction with visits to his doctor as well as with his relatives, *id.* 45:11-20,  
11 48:15-21, 53:2-7, and visits the Auburn location when he visits his sister, who currently lives in  
12 the area, *id.* 64:21 - 65:13, or for shopping, *id.* 66:10-18. Mr. Xenos has encountered barriers  
13 to his access at these restaurants, including narrow doors, *id.* 49:11-18; narrow queue lines that  
14 he could not navigate in his scooter, *id.* 51:5-15, 72:10-24; a dining area in which the aisles  
15 were too narrow, *id.* 53:21 - 54:2; and restrooms that he had difficulty entering and navigating,  
16 *id.* 54:12-21, 56:7-13, 74:5-12. He is a plaintiff in this lawsuit because he believes "that things  
17 could get better" at Burger King restaurants. *Id.* 82:9-13. He thinks that his involvement  
18 "could get Burger King to correct their access problems. It will go a long ways to get other  
19 companies to follow suit." *Id.* 82:22-25.

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## Appendix 2 to Plaintiffs' Motion for Class Certification

Store Number	Address	City	Subclass?	Proposed Subclass Representative(s)	Contacts	States
609	2101 W Whittier Blvd	La Habra	✓	Partida	32	6
726	510 S Euclid St	Anaheim	✓	Vallabhapurapu	142	10
733	8845 S. Painter St.	Whittier	✓	Partida	49	5
780	815 Highland Ave	National City				
814	822 N Johnson St	El Cajon	✓	Dean	34	4
817	1420 Mission Ave	Oceanside	✓	Vallabhapurapu	45	5
835	3747 Rosecrans St	San Diego	✓	Jimenez	71	7
896	4253 Mission Blvd	Pacific Beach				
910	6960 Broadway	Lemon Grove				
912	1919 Artesia Blvd	Redondo Beach	✓	Partida	55	4
916	12427 Poway Rd	Poway	✓	Dean	12	4
918	1919 Pico Blvd	Santa Monica	✓	Sarfaty, Vallabhapurapu, Partida	82	8
919	3520 Sepulveda Blvd	Los Angeles				
943	911 W Jefferson Blvd	Los Angeles	✓	Picchi	139	7
975	175 W Calaveras Blvd	Milpitas	✓	Sarfaty	80	3
1036	21227 Sherman Way	Canoga Park	✓	Sarfaty	52	7
1038	8030 Van Nuys Blvd	Panorama City	✓	Sarfaty	31	1
1346	1453 W Manchester Ave	Los Angeles	✓	Partida	142	7
1417	12736 South Avalon Blvd	Los Angeles				
1549	2410 N Cedar Ave	Fresno	✓	Felix	123	6
1572	385 S Kiely	San Jose	✓	Vallabhapurapu, Picchi	71	7
1646	3630 Tyler St	Riverside	✓	Vallabhapurapu	98	5
1682	8030 Greenback Ln	Citrus Heights				
1897	215 N Gaffey St	San Pedro	✓	Partida	42	5
1932	936 Blossom Hill Rd	San Jose				
1937	24530 Lyons Ave	Newhall	✓	Sarfaty, Vallabhapurapu	34	4
2022	601 Colusa Ave	Yuba City				
2119	2600 Long Beach Blvd	Long Beach	✓	Vallabhapurapu, Partida	120	7

Store Number	Address	City	Subclass?	Proposed Subclass Representative(s)	Contacts	States
2132	1200 E Colorado St	Glendale	✓	Cutler	70	7
2149	3150 Harbor Blvd	Costa Mesa	✓	Casey	59	7
2215	13421 Newport Ave	Tustin	✓	Casey	39	5
2268	619 W Charter Way	Stockton	✓	Baker, Tyler, Dailey	121	5
2279	329 N Capitol Ave	San Jose	✓	Tyler, Picchi	66	5
2319	301 W Lacey Blvd	Hanford				
2359	29136 Roadside Dr	Agoura	✓	Sarfaty	31	3
2399	5540 Cherry Ave	Long Beach	✓	Partida	95	7
2473	1202 W Avenue I	Lancaster	✓	McClam	59	5
2474	111 S Harding Blvd	Roseville	✓	Showen	66	5
2495	2200 Otis Dr	Alameda	✓	Harry, Mills	144	6
2521	139 N. China Lake Blvd	Ridgecrest	✓	Gonzalez	10	3
2555	450 Leavesley Rd	Gilroy	✓	Showen, Walker	64	2
2563	711 E Perkins St	Ukiah				
2671	525 Pacheco Blvd	Los Banos				
2795	5315 Hopyard Rd	Pleasanton	✓	Dailey	108	3
2867	16025 Monterey Road	Morgan Hill				
2891	7201 Fair Oaks Blvd	Carmichael				
2893	9710 Central Ave	Montclair	✓	Cutler	69	5
2901	43627 N. 15th St W	Lancaster	✓	McClam	52	6
2976	13446 Lincoln Way	Auburn	✓	Xenos	47	2
3034	1801 Decoto Rd	Union City	✓	Nieland	94	3
3147	12513 E Carson St	Hawaiian Gardens	✓	Vallabhapurapu, Partida	44	3
3157	211 N McDowell Blvd	Petaluma	✓	Kilgore	46	2
3160	4610 E Kings Canyon Rd	Fresno	✓	Felix	110	6
3208	2055 Eureka Way	Redding	✓	Shining Woman	55	4
3217	1571 Fitzgerald Dr	Pinole	✓	Harry	67	1
3233	81-779 Us Highway 111	Indio	✓	Vallabhapurapu	45	5
3246	635 E Capitol Expressway	San Jose				
3316	41383 Big Bear Lake Blvd	Big Bear Lake	✓	Gonzalez, Cutler, Lacher	60	7

Store Number	Address	City	Subclass?	Proposed Subclass Representative(s)	Contacts	States
3355	680 E San Ysidro Blvd	San Ysidro	✓	Jimenez	27	1
3441	455 N. Humboldt St.	Willows	✓	Springer	15	4
3459	2090 West Hwy 88	Martell				
3530	1250 9th St	Crescent City				
3546	261 Race St	San Jose	✓	Vallabhapurapu, Picchi	57	4
3580	6125 Commerce Blvd	Rohnert Park	✓	Kilgore	37	1
3587	3746 Mission Ave	Oceanside				
3777	2734 N Tustin Ave	Orange	✓	Farber	55	4
3827	3098 Story Rd	San Jose	✓	Tyler	78	4
4088	227 S Tremont St	Oceanside	✓	Dean	26	5
4405	14600 Valley Blvd	La Puente				
4514	1901 Webster St	Alameda	✓	Mills	152	7
4552	601 E Dyer Rd	Santa Ana	✓	Casey	48	4
4641	728 W San Marcos Blvd	San Marcos	✓	Dean	15	4
5150	10931 Los Alamitos Blvd	Los Alamitos	✓	Vallabhapurapu	32	4
5869	16 Southland Mall	Hayward	✓	Nieland	151	5
6028	4040 Monterey Road	San Jose	✓	Picchi	62	6
6755	2170 Monterey Rd	San Jose	✓	Picchi	77	6
6816	1666 2nd St	Norco	✓	Vallabhapurapu, Cutler, Partida	38	5
6931	2500 E Imperial Hwy	Brea	✓	Vallabhapurapu	50	5
6947	34943 Newark Blvd	Newark				
9913	6735 N Golden State Blvd	Fresno				
10567	23125 Hemlock Ave	Moreno Valley	✓	Vallabhapurapu	82	5
11490	4918 W Sunset Blvd	Los Angeles	✓	Lacher	115	9
13284	1541 E 12th St	Oakland	✓	Brown	210	7
13580	377 Vista Village Dr	Vista	✓	Dean	12	2
15079	San Francisco Int'l Airport	San Francisco				
16563	39519 10th Street West	Palmdale	✓	McClam	53	5