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7 *Attorney for Plaintiff*

8 [Additional Counsel on Signature Page]

9 **IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

10 BRETT BOYER, individually and on
11 behalf of all others similarly situated,

Case No. '16CV2745 LAB BLM

12 Plaintiff(s),

13 v.

Complaint – Class Action

14 OUTERWALL INC.,

15 Defendant(s).

Jury Demanded

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CLASS ACTION COMPLAINT

¹Plaintiff Brett Boyer (“Plaintiff” or “Boyer”), on behalf of himself and all others similarly situated, alleges as follows:

INTRODUCTION

1. In enacting the Americans with Disabilities Act (“ADA”), 42 U.S.C. § 12101 *et seq.*, Congress provided a clear mandate regarding the elimination of discrimination against individuals with disabilities. Such discrimination that Congress sought to eliminate includes: (i) barriers to full integration; (ii) barriers to independent living; and (iii) barriers to equal opportunity for persons with disabilities, including places of public accommodations that are inaccessible to blind and visually-impaired persons (collectively, “visually-impaired individuals”).²

2. This action involves Defendant Outerwall Inc.’s Coinstar automated coin-counting kiosk system, which is utilized by the general public to “convert their coins to cash or stored value products.” *See* Outerwall Inc. Quarterly Report filed with the Securities and Exchange Commission for quarterly period ending September 30, 2015, filed on or about October 29, 2015 (“3Q 2015”).

3. Coinstar kiosks are self-service, automated machines that permit individuals to use a touch-screen interface to exchange their coins, without the assistance of a store clerk or any other third party.

4. As explained in detail below, Defendant’s kiosks fall within the

¹ Plaintiff filed a complaint against Defendant on February 8, 2016, which alleged violations of the ADA identical to those alleged in this complaint. The February 8, 2016 complaint was dismissed without prejudice on October 24, 2016 for failure to serve and failure to prosecute.

² Plaintiff uses the term “visually-impaired individuals” to refer to all persons with visual impairments who meet the legal definition of blindness in that they have a visual acuity with correction of less than or equal to 20 x 200. Some individuals who meet this definition have limited vision, while others have no vision.

1 purview of the ADA as they are deemed places of public accommodations.

2 5. Plaintiff is legally blind and is an “individual with a disability” as that
3 term is understood pursuant to Title III of the Americans with Disabilities Act
4 (“ADA”), 42 U.S.C. § 12101 *et seq.*, and its implementing regulations.

5 6. Although classified as an “individual with a disability” under the ADA,
6 Plaintiff leads an active social life and routinely travels for school, work, and social
7 functions.

8 7. However, Plaintiff’s active lifestyle is impeded by Defendant’s failure
9 to conform to the requirements of the ADA. As described more fully below,
10 Defendant’s Coinstar kiosks prevent visually-impaired individuals, such as Plaintiff,
11 from independently using them.

12 8. As set forth in detail below, Defendant’s Coinstar kiosks are
13 inaccessible to visually impaired individuals. The kiosks make use of an exclusively
14 visual interface that requires users to identify and interact with command icons on
15 the screen, without any adaptive features to accommodate visually-impaired
16 individuals. As a result, all of the services and features provided at Defendant’s
17 kiosks are only available to sighted customers.

18 9. Unless Defendant corrects the access barriers detailed herein, Plaintiff
19 will be effectively denied full and equal access to Defendant’s accommodations.

20 10. The ADA permits private individuals, such as Plaintiff, to bring suit in
21 federal court so as to compel compliance with the ADA.

22 11. Accordingly, through this class action, Plaintiff seeks to end the
23 systematic violation of the ADA – and thus the ongoing civil rights violations – of a
24 class of similarly situated individuals by Defendant. In particular, Plaintiff seeks: (i)
25 a declaration that Defendant’s kiosks violate federal law as described; and (ii) an
26 injunction requiring Defendant to remove the identified access barriers so that they
27 are fully accessible to, and independently usable by, visually-impaired individuals

1 such as Plaintiff and the class he seeks to represent.

2 12. Plaintiff also requests that once Defendant is fully in compliance with
3 the requirements of the ADA, the Court retain jurisdiction for a period of time to be
4 determined to ensure that Defendant has adopted and is following an institutional
5 policy that will, in fact, cause Defendant to remain in compliance with the law.

6 **JURISDICTION AND VENUE**

7 13. This Court has federal question jurisdiction over the ADA claims
8 asserted herein pursuant to 28 U.S.C. § 1331 and 42 U.S.C. § 12188.

9 14. Plaintiff's claims asserted herein arose in this judicial district and
10 Defendant does substantial business in this judicial district.

11 15. This Court has supplement jurisdiction pursuant to 28 U.S.C. § 1367,
12 over Plaintiff's pendent claims under the California Unruh Civil Rights Act (the
13 "Unruh Act"), Cal. Civ. Code, §51 et seq., and the California Disabled Persons Act
14 (the "CDPA"), Cal. Civ. Code, §54 et seq.

15 16. Venue in this judicial district is proper under 28 U.S.C. § 1391(b)(2) in
16 that this is the judicial district in which a substantial part of the acts and omissions
17 giving rise to the claims occurred.

18 **PARTIES**

19 17. Plaintiff is and, at all times relevant hereto, was a resident of the State
20 of California. Plaintiff is and, at all times relevant hereto, has been a legally blind
21 individual, and is therefore a member of a protected class under the ADA, 42 U.S.C.
22 § 12102(2) and the regulations implementing the ADA set forth at 28 CFR §§
23 36.101 *et seq.*

24 18. Defendant Outerwall, Inc., ("Defendant" or "Outerwall") is
25 incorporated in the state of Delaware with headquarters in Bellevue, Washington.
26 Defendant's Coinstar segment owns and operates well over 15,000 coin-counting
27 kiosks, which enable consumers to convert their coins to cash or eGift Cards, or to

1 donate their coins to a charitable cause.

2 19. Defendant reported gross revenues of \$318,611,000 by its Coinstar
3 segment in 2015.

4 **TITLE III OF THE ADA**

5 20. On July 26, 1990, President George H.W. Bush signed into law the
6 ADA, a comprehensive civil rights law prohibiting discrimination on the basis of
7 disability.

8 21. The ADA broadly protects the rights of individuals with disabilities
9 with respect to employment, access to State and local government services, places of
10 public accommodation, transportation, and other important areas of American life.

11 22. Title III of the ADA prohibits discrimination in the activities of places
12 of public accommodation and requires places of public accommodation to comply
13 with ADA standards and to be readily accessible to, and independently usable by,
14 individuals with disabilities. 42 U.S.C. § 12181-89.

15 23. The ADA applies to all places of “public accommodation.” Effectively,
16 a public accommodation is any private entity that owns, operates, leases, or leases to
17 a place of public accommodation. Based on the broad definition, restaurants, hotels,
18 theaters, doctors’ offices, dentists’ offices, hospitals, retail stores, health clubs,
19 museums, libraries, private schools, and day care centers are all considered places of
20 public accommodation under the ADA.

21 24. Section 302(a) of Title III of the Americans with Disabilities Act of
22 1990, 42 U.S.C. §§ 12101 et seq., provides:

23 No individual shall be discriminated against on the basis of
24 disability in the full and equal enjoyment of the goods,
25 services, facilities, privileges, advantages, or
26 accommodations of any place of public accommodation by
27 any person who owns, leases (or leases to), or operates a
28 place of public accommodation.

1 25. Under Section 302(b)(1) of Title III of the ADA, it is unlawful
2 discrimination to deny individuals with disabilities or a class of individuals with
3 disabilities the opportunity to participate in or benefit from the goods, services,
4 facilities, privileges, advantages, or accommodations of a place of public
5 accommodation.

6 26. Under Section 302(b)(1) of Title III of the ADA, it is unlawful
7 discrimination to deny individuals with disabilities or a class of individuals with
8 disabilities an opportunity to participate in or benefit from the goods, services,
9 facilities, privileges, advantages, or accommodations of a place of public
10 accommodation, which is equal to the opportunities afforded to other individuals.

11 27. Under Section 302(b)(2) of Title III of the ADA, unlawful
12 discrimination also includes, among other things:

13 a failure to make reasonable modifications in policies,
14 practices, or procedures, when such modifications are
15 necessary to afford such goods, services, facilities,
16 privileges, advantages, or accommodations to individuals
17 with disabilities, unless the entity can demonstrate that
18 making such modifications would fundamentally alter the
19 nature of such goods, services, facilities, privileges,
20 advantages, or accommodations; and a failure to take such
21 steps as may be necessary to ensure that no individual with
22 a disability is excluded, denied services, segregated, or
23 otherwise treated differently than other individuals because
24 of the absence of auxiliary aids and services, unless the
25 entity can demonstrate that taking such steps would
26 fundamentally alter the nature of the good, service, facility,
27 privilege, advantage, or accommodation being offered or
28 would result in an undue burden;

25 28. Importantly, places of public accommodation newly built or altered
26 after January 26, 1993 must be readily accessible and usable by disabled individuals.

1 29. As set forth below, Defendant has failed to comply with the
2 aforementioned requirements of the ADA.

3 **FACTUAL ALLEGATIONS**

4 30. Defendant owns, operates, and/or leases a place of public
5 accommodation.

6 31. Defendant's facilities are not fully accessible to, and independently
7 usable by, individuals with disabilities.

8 32. Modern technology has provided a wave of automated and self-service
9 shopping services. As such, self-service kiosks are becoming an increasingly
10 common, and thus necessary, way people shop and access other services.

11 33. One such type of self-service kiosk is Defendant's "Coinstar" branded
12 kiosks which allow individuals to exchange loose coins for cash or stored value
13 products.

14 34. Defendant maintains Coinstar kiosks in well over 15,000 locations
15 across the United States. Its kiosks are located primarily in supermarkets, drug
16 stores, convenience stores, malls, restaurants, and financial institutions across the
17 United States.

18 35. For example, Defendant maintains Coinstar kiosks at CVS Pharmacies,
19 Wal-mart Stores, Inc., and Albertsons.

20 36. Upon information and belief, Defendant maintains over one thousand
21 Coinstar kiosks within the State of California.

22 37. Upon information and belief, Defendant uses a uniform design for its
23 Coinstar kiosks in the United States. As part of this uniform design, Coinstar kiosks
24 use a visual, touch-screen interface that offers customers the same form of services
25 irrespective of the actual kiosk used.

26 38. The touch-screen interface allows sighted customers to access a variety
27 of accommodations, advantages, facilities, privileges, and services, including the

1 ability to independently select the product they wish to receive in exchange for their
2 coins.

3 39. Exclusively via the touch-screen interface, and prior to inserting their
4 coins into the Coinstar kiosk, sighted customers opt to either receive cash (minus a
5 service fee of more than 10% of the value of the coins inserted), an eGift Card from
6 a selected group of merchants, or to donate their coins to one of several charities
7 offered at each kiosk.

8 40. Through the use of the visual, touch-screen interface, a sighted person
9 can make their selection without the assistance of third parties and, as such, does not
10 have to disclose any information, such as the amount of coins deposited or the cash
11 value thereof, to said third-parties.

12 41. After making their selection, Defendant's customers must add their
13 coins to a tray on the kiosk, lift the corresponding handle, and guide the coins into
14 the slot.

15 42. Depending on the selection made, once the value of the coins has been
16 calculated the kiosk produces one of the following: a printed cash voucher that must
17 be redeemed for cash at the customer service area or checkout area of the merchant
18 in which the kiosk is located; a printed voucher with a unique eGift Card code; or, a
19 receipt detailing the value of the charitable donation.

20 43. The touch-interface also allows sighted customers the ability to see the
21 calculated amount of the coins they have inserted into the Coinstar kiosk and the
22 corresponding value of their voucher, eGift Card or charitable donation.

23 44. In contrast, visually-impaired individuals must seek the assistance of
24 companions, strangers, or other third parties in order to use Coinstar kiosks in any of
25 the foregoing ways. Such assistance requires, among other things, disclosure to
26 other individuals of the amount of coins deposited and the value of the cash or eGift
27 Cards received, or the charitable contribution made.

1 45. Accordingly, because of the touch-screen interfaced utilized by
2 Defendant's kiosks, all Coinstar kiosks are effectively not independently accessible
3 to visually-impaired individuals.

4 46. According to the National Federation of the Blind, California has the
5 largest population of visually impaired people in the United States. *See*
6 <https://nfb.org/blindness-statistics> (last visited November 4, 2016). As of 2013,
7 there were approximately 790,700 blind/visually-impaired people in California.

8 47. Plaintiff seeks full and equal access to the accommodations,
9 advantages, facilities, privileges, and services provided by Defendant at all its
10 Coinstar kiosks located in the State of California.

11 48. Based on the sheer volume of kiosks Defendant has in California,
12 Defendant's kiosks provide an array of coin-changing services to hundreds (if not
13 thousands) of customers on a daily basis.

14 49. Many visually-impaired individuals, including Plaintiff, wish to
15 exchange their coins for cash or eGift Cards, or to donate their coins to a charitable
16 cause.

17 50. Indeed, Plaintiff makes use of Defendant's Coinstar kiosks for coin-
18 changing purposes.

19 51. The lack of accessible Coinstar kiosks means that visually-impaired
20 individuals, including Plaintiff, are excluded from independently accessing this
21 service. Consequently, visually-impaired individuals must rely on sighted
22 companions or strangers to assist them in exchanging coins at Defendant's Coinstar
23 kiosks.

24 52. In order to use Defendant's kiosk, Plaintiff is required to seek the
25 assistance of others as Defendant's kiosks are designed to be self-service machines
26 and thus Defendant does not typically maintain employees at the machines.

27 53. On or around October 21, 2015, Plaintiff used the Coinstar kiosk
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1 located at the Ralph's grocery store in San Marcos, California to exchange his loose
2 change for cash.

3 54. Because the Coinstar kiosks are not independently accessible to
4 visually-impaired individuals, Plaintiff was forced to rely on assistance from a third
5 party.

6 55. Indeed, due to the nature of Defendant's Coinstar machines, Plaintiff
7 was placed in the unenviable position of seeking assistance from a third party
8 regarding his personal financial matters – how much money he was carrying and
9 whether he intended to keep said funds on his person or donate the money charity.

10 56. Although he has encountered Coinstar machines at other locations,
11 Plaintiff typically uses the Coinstar kiosk located at the Ralph's grocery store in
12 San Marcos as this location is frequently visited by Plaintiff in the course of his
13 daily activities.

14 57. Typically, Plaintiff has used Defendant's Coinstar kiosks at least once
15 or twice a year, as it allows him to exchange his loose coins for cash.

16 58. Plaintiff will continue to attempt to use Defendant's accommodations as
17 he wishes to exchange his coin money for cash or eGift Cards, or to make charitable
18 donations. However, so long as Defendant's kiosks continue to violate the ADA,
19 Plaintiff will be unable to use them independently and will be, thereby, denied full
20 access to Defendant's accommodations.

21 59. The inaccessible nature of Defendant's kiosks exists despite the fact
22 there is readily available accessible technology. This technology has long been used
23 by financial institutions that make use of audio features, tactile controls, and screen
24 reading software which permits visually-impaired individuals to use their ATMs
25 independently.³

26 ³ The ADA and its implementing regulations required ATMs to be fully accessible
27 by March 2012.

1 the state of California” (the “Class”).

2 68. Upon information and belief, the Class is so numerous that joinder of
3 all individual members in one action would be impracticable. The disposition of the
4 individual claims of the respective Class members through this class action will
5 benefit both the parties and this Court.

6 69. Typicality: Plaintiff’s claims are typical of the claims of the members
7 of the Class. The claims of the Plaintiff and members of the Class are based on the
8 same legal theories and arise from the same unlawful conduct.

9 70. Common Questions of Fact and Law: There is a well-defined
10 community of interest and common questions of fact and law affecting members of
11 the Class in that they all have been and/or are being denied their civil rights to full
12 and equal access to, and use and enjoyment of, Defendant’s accommodations and/or
13 services due to Defendant’s failure to make its accommodations fully accessible and
14 independently usable as above described.

15 71. The questions of fact and law common to the class include but are not
16 limited to the following:

- 17 a. Whether Defendant is a “public accommodation” under the
18 ADA;
- 19 b. Whether Defendant’s conduct in failing to make its
20 accommodations fully accessible and independently usable as
21 described above violated the ADA; and
- 22 c. Whether Plaintiff and members of the class are entitled to
23 declaratory and injunctive relief.

24 72. Adequacy of Representation: Plaintiff is an adequate representative of
25 the class because her interests do not conflict with the interests of the members of
26 the Class. Plaintiff will fairly, adequately, and vigorously represent and protect the
27 interests of the members of the class and have no interests antagonistic to the

1 members of the class. Plaintiff has retained counsel who are competent and
2 experienced in the prosecution of class action litigation, including litigation
3 involving claims of violations of the ADA.

4 73. Class certification is appropriate pursuant to Fed. R. Civ. P. 23(b)(2)
5 because Defendant has acted or refused to act on grounds generally applicable to the
6 Class, making appropriate both declaratory and injunctive relief with respect to
7 Plaintiff and the Class as a whole.

8 **COUNT I**

9 **VIOLATION OF THE ADA**

10 74. The allegations contained in the previous paragraphs are incorporated
11 by reference.

12 75. Defendant's kiosks are places of public accommodation within the
13 definition of Title III of the ADA. 42 U.S.C. §§12181(7)(E).

14 76. Defendant has discriminated against Plaintiff and the Class in that it has
15 failed to make its kiosks fully accessible to, and independently usable by, individuals
16 with disabilities in violation of the ADA, as described above.

17 77. Defendant's acts described above constitute a violation of Title III of
18 the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq., and the
19 regulations promulgated thereunder.

20 78. Complying with the ADA would neither fundamentally alter the nature
21 of Defendant's business or its kiosks, nor result in an undue burden to Defendant.

22 79. Defendant's conduct is ongoing, and, given that Defendant has not
23 complied with the ADA's requirements that public accommodations make
24 themselves fully accessible to, and independently usable by, individuals with
25 disabilities – as specified by the ADA, Plaintiff invokes his statutory right to
26 declaratory and injunctive relief, as well as costs and attorneys' fees.

27 80. Without the requested injunctive relief, specifically including the
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1 request that the Court retain jurisdiction of this matter for a period to be determined
2 after the Defendant certifies that it is fully in compliance with the mandatory
3 requirements of the ADA that are discussed above, Defendant's non-compliance
4 with the ADA's requirement that its kiosks be fully accessible to, and independently
5 usable, by individuals with disabilities is likely to recur.

6 **COUNT II**

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

8 81. The allegations contained in the previous paragraphs are incorporated
9 by reference.

10 82. The Unruh Act guarantees, inter alia, that persons with disabilities are
11 entitled to full and equal accommodations, advantages, facilities, privileges, or
12 services in all business establishments of every kind whatsoever within the
13 jurisdiction of the State of California. Cal. Civ. Code, §51(b).

14 83. The Unruh Act also provides that a violation of the ADA is a violation
15 of the Unruh Act. Cal. Civ. Code, §51(f).

16 84. Defendant has violated the Unruh Act by, inter alia, denying, or aiding
17 or inciting denial of, Plaintiff's and the class members' rights to the full and equal
18 accommodations, advantages, facilities, privileges, or services offered by Coinstar
19 kiosks.

20 85. Defendant has also violated the Unruh Act by denying, or aiding or
21 inciting the denial of, Plaintiff's and class members' rights to equal access arising
22 from the provisions of the California state accessibility regulations and the ADA.

23 86. Pursuant to the remedies, procedures, and rights set forth in Cal. Civ.
24 Code §52, Plaintiff prays for judgment as set forth below.

25 **COUNT III**

26 **VIOLATION OF THE CALIFORNIA DISABLED PERSONS ACT**

27 87. The allegations contained in the previous paragraphs are incorporated
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1 by reference.

2 88. Defendant's Coinstar kiosks are places of public accommodation and/or
3 places to which the general public is invited and, as such, are obligated to comply
4 with the provisions of the CDPA.

5 89. The CDPA guarantees, inter alia, that persons with disabilities are
6 entitled to full and equal access, as other members of the general public, to
7 accommodations, advantages, facilities, and privileges of covered entities. Cal. Civ.
8 Code §54.1(a)(1).

9 90. The CDPA also provides that a violation of the ADA, or of California
10 state accessibility regulations, is a violation of the CDPA. Cal. Civ. Code §54.1(d).

11 91. Defendant has violated the CDPA by, inter alia, denying and/or
12 interfering with Plaintiff's and class members' right to full and equal access as other
13 members of the general public to the accommodations, advantages, or facilities of
14 Coinstar kiosks in California.

15 92. Defendant has also violated the CDPA by denying and/or interfering
16 with the Plaintiff's and class members' rights to equal access arising from the
17 provisions of the California state accessibility regulations and the ADA.

18 93. Pursuant to the remedies, procedures, and rights set forth in California
19 law, including Cal. Civ. Code §§54.3 and 55, Plaintiff prays for judgment as set
20 forth below.

21 **PRAYER FOR RELIEF**

22 WHEREFORE, Plaintiff, on behalf of himself and the members of the Class,
23 pray for:

24 A. A Declaratory Judgment that at the commencement of this action
25 Defendant was in violation of the specific requirements of Title III of the ADA
26 described above, the Unruh Act, and the CDPA;

27 B. A permanent injunction which directs Defendant to take all steps
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1 necessary to bring its facilities into full compliance with the requirements set forth in
2 the ADA, and its implementing regulations, and which further directs that the Court
3 shall retain jurisdiction for a period to be determined after Defendant certifies that all
4 of its facilities are fully in compliance with the relevant requirements of the ADA to
5 ensure that Defendant has adopted and is following an institutional policy that will
6 in fact cause Defendant to remain in compliance with the law;

7 C. An Order certifying the Class proposed by Plaintiff, and naming
8 Plaintiff as the class representative and appointing his counsel as class counsel;

9 D. An award of minimum statutory damages under Unruh and the CDPA
10 to Plaintiff and members of the proposed class;

11 E. Payment of costs of suit;

12 F. Payment of reasonable attorneys' fees; and

13 G. The provision of whatever other relief the Court deems just, equitable
14 and appropriate.

15 **DEMAND FOR JURY TRIAL**

16 Plaintiff demands a trial by jury as to all issues so triable.

17
18 Date: November 5,
2016

Respectfully submitted,

19
20 By: **Meghan S Maertz**

21
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Counsel for Plaintiff and the Proposed Class

CIVIL COVER SHEET

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

I. (a) PLAINTIFFS

BRETT BOYER, individually and on behalf of all others similarly situated.

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

(c) Attorneys (Firm Name, Address, and Telephone Number) Meghan Maertz, 185 South Linden Drive, Ventura CA, 93004 805-444-6801

DEFENDANTS OUTERWALL INC

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

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

Attorneys (If Known) Sue J Stott, 505 Howard Street, Suite 1000, San Francisco CA 94105-3204, 1-415-344-7000

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

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

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

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship and business location (Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country).

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

Large table with categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

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

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 6 Multidistrict Litigation, Original Proceeding (dsn)

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 42 USC Section 12101 et seq. Brief description of cause: legally blind individual unable to use kiosk because of its non compliance with ADA

VII. REQUESTED IN COMPLAINT:

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

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE Larry Alan Burns DOCKET NUMBER 3:16-cv-00306-LAB-BLM

DATE 11/07/2016 SIGNATURE OF ATTORNEY OF RECORD Meghan S Maertz

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- Date and Attorney Signature.** Date and sign the civil cover sheet.

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Outerwall, Inc. Facing Class Action over Coinstar ADA Compliance](#)
