Index

AMERICANS WITH

DISABILITIES ACT,

INCORPORATION INTO STATE LAW—Cont'd

Incorporation of ADA into California law, generally, **12:1**

Incorporation of California laws

into ADA violations, gener-

AFFIRMATIVELY

AGE

FURTHERING FAIR

Zoning and land use planning and development, 2:4

Public Accommodations (this

HOUSING LAW

Children (this index)

Public Accommodations (this	ally, 12:10
index)	Inspection by CASp (Certified
AGENTS	Access Specialist program),
Principal and Agent (this index)	12:18
	Jurisdiction, 12:15
AIDING AND ABETTING	New construction, 12:5
UNLAWFUL PRACTICES	Physical accessibility of the built
Fair housing, 1:17	environment, generally, 12:11
ALTERED PHYSICAL	Prima facie elements of a claim,
FACILITIES	12:7
Americans with Disabilities Act,	Prohibited acts, generally, 12:8
12:5	Reliance on federal ADA claim only, 12:9
AMERICANS WITH	Retaliation, 12:22
DISABILITIES ACT,	Service accessibility, 12:19 to
INCORPORATION INTO STATE LAW	12:21
~	Stay of claims, 12:17
Generally, 12:1 to 12:21	Summary of Title III of ADA,
Altered physical facilities, 12:5	12:3
Building code standards, state vs. ADA, 12:14	Supplemental jurisdiction, 12:15
CASp (Certified Access Specialist	Unruh Civil Rights Act, ADA
program) in California, 12:16	incorporation, 12:1
to 12:18	Website accessibility, 12:12
"Commercial facilities" covered,	ANCESTRY
12:5	Fair housing, protected classes,
Definitions	3:11
disability, 12:6	
public accommodations, 12:4	ARBITRATION
Disabled Persons Act, ADA	Generally, 7:8
incorporation, 12:1	Fair housing, defense, 6:7
Early evaluation, 12:17	ASSOCIATION WITH PERSONS
Existing facilities, state requirements for, 12:13	IN PROTECTED CLASSES
Federal question jurisdiction,	Fair housing, 3:16
12:15	Public accommodations, 10:12
	Index-1

ATTORNEY GENERAL

Fair housing, 8:36

Public Accommodations (this index)

ATTORNEYS' FEES

Generally, 9:1 to 9:21

Complete success not required, **9:9**

Damages cases, no proportionality required, **9:16**

Deadlines for seeking fees, **9:21** Denial of fees under Code Civ.

Proc. § 1033, 9:12

Disabled Persons Act, generally, 18:20

Entitlement to fees, 9:2

Expert witness fees, 9:7

Hensley test. Reductions for limited success under twopart Hensley test, below

Hourly rate, reasonableness of, **9:19**

Hours, reasonable number of, **9:18** Important issue, must achieve success on, **9:10**

Lack of success, reduction, 9:15 Lodestar method required, 9:17

Multipliers, **9:20**Non-statutory costs, **9:8**

Notice motion required, 9:21

Other fee statutes, fair housing, 9:8

Procedure for seeking fees, **9:21** Reasonable amount of fees

generally, 9:17 to 9:20

hourly rate, reasonableness of, 9:19

hours, reasonable number of, **9:18**

lodestar method required, 9:17 multipliers, 9:20

Reductions for limited success under two-part Hensley test

overall lack of success, 9:13 separability of unsuccessful and successful claims, 9:14

Separability of unsuccessful and successful claims, **9:14**

ATTORNEYS' FEES—Cont'd

Statutory entitlement to fees

generally, 9:1 to 9:6

FEHA, 9:6

"may" be awarded to prevailing parties, statutes providing, 9:3

"shall" be awarded to prevailing plaintiff or party, statutes providing, **9:4**, **9:5**

Success can take variety of forms, 9:11

Unruh Civil Rights Act, generally, **18:11**

BANE CIVIL RIGHTS ACT

Public accommodations, 14:5

BUILDING CODES

Americans with Disabilities Act vs. state standards, **12:14**

BURDEN OF PROOF

Proof Issues Under the Fair Employment and Housing Act (this index)

CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT (FEHA)

Fair Housing (this index)

CASp (CERTIFIED ACCESS SPECIALIST PROGRAM) IN CALIFORNIA

Americans with Disabilities Act, incorporation into state law, 12:16 to 12:18

CHILDREN

Homeless Youth (this index)

Public accommodations, 1:22

CIRCUMSTANTIAL EVIDENCE

Fair Employment and Housing Act, proof issues under, **5:5**

CITIZENSHIP

Fair housing, protected classes, 3:18

Public accommodations, prohibited acts, **10:10**

CIVIL RIGHTS

Fair housing, freedom from housing discrimination as civil right, **3:5**

CIVIL RIGHTS DEPARTMENT

Fair Housing (this index)

CLASS ACTIONS

Public accommodations procedure, **17:8**

COLLATERAL ESTOPPEL

Fair housing, defense, 6:11

COLOR

Fair housing, protected classes, **3:6**

COMMUNICATIONS ABOUT HOUSING

Fair housing, illegal communications, 1:13

COMPLAINTS

Fair Housing (this index) Unruh, **17:3**

CONSTRUCTION AND INTERPRETATION

Fair Housing (this index)
Public accommodations
interpretation of "business
establishment," 10:19
procedure, 17:21

CORPORATE OFFICERS AND DIRECTORS

Vicarious liability, 4:21

COUNTY OF RIVERSIDE

Senior housing provisions, 1:27

CREDIT DENIAL TO WOMEN

Public accommodations, 13:5

CRIMINAL HISTORY

Fair housing prohibited acts, 1:19

DAILY DAMAGES

Public accommodations, 18:4

DAMAGES

Attorneys' fees, no proportionality required, **9:16**

Emotional Distress (this index)

DAMAGES-Cont'd

Fair Housing (this index)
Public Accommodations (this index)

Punitive Damages (this index)

DAY CARE OPERATORS

Fair housing, 3:22

DEADLINES

Attorneys' fees, seeking, 9:21

DEFENSES

Fair Housing (this index)
Public Accommodations (this index)

DESIGN REQUIREMENTS

Fair housing, physically-accessible design, **1:11**Public accommodations, senior housing, **1:23**, **1:26**

DEVELOPMENT

Zoning and Land Use Planning and Development (this index)

DIRECT AND VICARIOUS LIABILITY UNDER THE FEHA

Generally, **4:17 to 4:23**

Agents, vicarious liability for acts of, **4:19**

Corporate officers and directors, vicarious liability of, **4:21**

Independent contractors, vicarious liability for acts of, **4:20**

Joint and several liability, **4:23**

Other tenants, vicarious liability for acts of, 4:22

Principal's own action or inaction, direct liability for, **4:18**Tort principles apply, **4:17**

DISABILITY DISCRIMINATION IN PUBLIC ACCOMMODATIONS

Generally, **11:1 to 11:7**

Definition of disability, **11:2**

Disabled Persons Act, generally, 11:4

Federal statutes, generally, 11:3 History, 11:1

DISABILITY DISCRIMINATION IN PUBLIC

ACCOMMODATIONS

-Cont'd

Proper plaintiffs or "who is covered," 11:3

Public accommodations, prohibited acts, **10:6**

Special issues, 11:7

Specific state disability laws, 11:6
State or state-funded entities, 11:5
Unruh Civil Rights Act, generally, 11:4

DISABILITY DISCRIMINATION IN PUBLIC HOUSING

Americans with Disabilities Act, incorporation into State Law (this index)

DISABLED PERSONS ACT

Americans with Disabilities Act, incorporation into state law, 12:1

Attorneys' Fees (this index)

Disability Discrimination in Public Accommodations (this index)

Public Accommodations (this index)

DISCOVERY

Investigating Complaints of Discrimination (this index)

DISPARATE IMPACT

Defenses, 6:5

Proof Issues Under the Fair Employment and Housing Act (this index)

DISPARATE TREATMENT

Defenses, 6:5

Proof Issues Under the Fair Employment and Housing Act (this index)

DIVERSION OF RESOURCES

Fair housing, damages, 8:10

DOMESTIC VIOLENCE

Fair housing, survivors as protected class, **3:19**

DOMESTIC VIOLENCE

—Cont'd

Public accommodations, gender motivated violence. **14:1**

ELECTION OF DAMAGES

Public accommodations, election of damages under Unruh or DPA, 18:9, 18:19

EMOTIONAL DISTRESS

Fair housing, damages, **8:19**Public accommodations, damages, **18:15**

EVIDENCE

Fair Housing (this index)
Land use discrimination, 2:8
Public accommodations, 18:17

EXISTING FACILITIES

State requirements for, 12:13

EXPERT WITNESS FEES

Attorneys' fees, 9:7

FACIALLY NEUTRAL HOUSING POLICIES AND PRACTICES

Proof issues under the Fair Employment and Housing Act, 5:8, 5:12

FAIR EMPLOYMENT AND HOUSING ACT (FEHA)

Fair Housing (this index)

FAIR HOUSING

Generally, 4:1 et seq.

Administrative procedures complaints, below

Investigating Complaints of Discrimination (this

index)

statute of limitations, below

Aiding and abetting unlawful practices, **1:17**

Amount of damages, 8:18, 8:29, 8:30

Ancestry as protected class, 3:11

Arbitration, **6:7, 7:8**

Association with one who has or is perceived to have a protected characteristic, **3:16**

Index-4

FAIR HOUSING—Cont'd	FAIR HOUSING—Cont'd
Attorney General, complaints or	Damages—Cont'd
suits brought by, 8:36	organizational plaintiffs, 8:9 et
Attorneys' Fees (this index)	seq.
Case law interpreting who may be	out of pocket losses, 8:6
liable, 4:10	proof, 8:11 , 8:12 , 8:14
Citizenship as protected class,	punitive damages, below
3:18	purpose of compensatory dam-
Civil penalty, 8:24	ages, 8:3
Civil prosecution, Civil Rights Department, 7:7	ratio between punitive and compensatory damages,
Civil right, freedom from housing discrimination as, 3:5	8:33 review, standard of review, 8:17
Civil Rights Department	special damages, 8:4, 8:9
investigative process, 7:6	standard of review, 8:17
Color as protected class, 3:6	statutory basis, 8:16
Compensatory damages. Dam-	Day care operators, 3:22
ages, below	Defenses
Complaints	generally, 6:1 to 6:13
Civil Rights Department, filing	administrative remedies, failure
a complaint of discrimina-	to exhaust, 6:6
tion with, 7:5	affirmative defense, nature of,
statute of limitations, below	6:2
Construction and interpretation. Identifying those liable for	after-acquired evidence of plaintiff, 6:12
discriminatory practices	arbitration, 6:7
under the FEHA, below Criminal history information, 1:19	collateral estoppel, 6:11
Cut-off period for damages, 8:20	direct threat, disability
Damages	discrimination, 6:9
generally, 8:3 to 8:23	disparate impact, 6:5
administrative proceedings, 8:5	disparate treatment, 6:5 exemptions, 6:3
amount of award, 8:18, 8:29,	First Amendment, 6:10
8:30	releases, 6:13
compensatory damages, gener-	res judicata, 6:11
ally, 8:3 to 8:21	statute of limitations, 6:8
cut-off period for damages, 8:20	substantive defenses to particular claims, 6:4
diversion of resources damages,	unclean hands, 6:12
8:10 emotional distress, 8:19	Denial of reasonable accommoda-
evidence, 8:11 , 8:12 , 8:14	tion as prohibited act, 1:9
frustration of mission damages,	Denial of reasonable modification as prohibited act, 1:10
8:13, 8:14	Department of Fair Employment
general damages, 8:15	and Housing (Civil Rights
guidelines, 8:26 interest, 8:37 to 8:39	Department)
lost housing opportunity, 8:7,	filing a complaint of discrimination with, 7:5
8:8	Direct and Vicarious Liability
mitigation of damages, 8:21	under the FEHA (this index)

FAIR HOUSING—Cont'd	FAIR HOUSING—Cont'd
Disability as protected class, 3:14	Identifying proper defendants
Discrimination defined and	—Cont'd
construed, 1:2 , 1:6	naming defendants properly,
Disparate impact, defenses, 6:5	4:25
Disparate treatment, defenses, 6:5	responsibility, determining who is responsible, 4:24
Diversion of resources damages,	Identifying those liable for
8:10 Domestic violence survivors as	discriminatory practices
protected class, 3:19	under the FEHA
Emotional distress damages, 8:19	generally, 4:1 to 4:16
Evidence	case law interpreting who may
damages, 8:11, 8:12, 8:14, 8:27	be liable, 4:10
FEHA. Proof Issues Under the	construction and interpretation
Fair Employment and	case law interpreting who may be liable, 4:10
Housing Act (this index)	federal Fair Housing Act as a
prohibited acts, 1:5	source for interpreting
punitive damages, 8:27	who may be liable under
Exemptions under the FEHA, 3:17	FEHA, 4:11
Fair Employment and Housing Act (FEHA), generally, 4:1 et	HUD regulations interpreting the FHA, 4:13
seq.	definitions
Fair Employment and Housing	"housing accommodation,"
Council (FEHC)	4:3
decisions, 4:16	"owners," 4:5
Family day care operators, 3:22	"persons," 4:7
Family status as protected class,	Direct and Vicarious Liability
3:12	under the FEHA (this index)
Federal Fair Housing Act, generally, 4:11 to 4:13	Fair Employment and Housing
Financial or income standard,	Commission (FEHC) deci-
discriminatory, 1:16	sions, 4:16
Frustration of mission damages,	federal Fair Housing Act, gener-
8:13, 8:14	ally, 4:11 to 4:13
Genetic information and	"housing accommodation" defi- nition, 4:3
characteristics as protected	housing regulations, 4:15
class, 3:15	HUD administrative law judge
Guidelines	decisions, 4:14
damages, 8:26	HUD regulations interpreting
Harassment, 1:12	the FHA, 4:13
"Housing accommodation" definition, 4:3	interrelation of federal and state law, 4:1
Housing regulations, 4:15	limitations on liability, below
HUD administrative law judge decisions, 4:14	"owners" liability, generally,
HUD regulations interpreting the FHA, 4:13	"persons" liability, generally, 4:7
Identifying proper defendants	proper defendants. Identifying
generally, 4:24 to 4:26	proper defendants, above

FAIR HOUSING—Cont'd	FAIR HOUSING—Cont'd
Identifying those liable for	Multiple listing service (MLS)
discriminatory practices	access, discrimination in,
under the FEHA—Cont'd	1:15
statutory provisions of the	Naming defendants properly, 4:25
FEHA, generally, 4:2	National origin as protected class,
triggering liability, the act itself	3:11
triggers liability, 4:9	Organizational plaintiffs, 8:9 et
Immigration status as protected	Seq.
class, 3:18	Out of pocket losses, 8:6
Immunities from FEHA liability, 4:28	Perception that one has a protected characteristic, 3:16
Income, source of, protected	Physically-accessible design, 1:11
classes, 3:13	Privileges in FEHA cases, 4:29
Inferior terms, conditions, or privi-	Procedure
leges of housing, providing, 1:8	generally, 7:1 to 7:11 arbitrability, 7:8
Injunctive relief, 8:22, 8:23	civil prosecution, Civil Rights
Interest, 8:37 to 8:39	Department, 7:7
Interference as prohibited act,	Civil Rights Department
1:18	civil prosecution, 7:7
Interrelation of federal and state	investigative process, 7:6
law, 4:1	notice requirements, 7:9
Investigating Complaints of	parties, 7:2
Discrimination (this index)	settlement, 7:11
Land use planning and develop-	standing, 7:3
ment. Zoning and Land Use	statute of limitations, 7:4, 7:5
Planning and Development (this index)	venue, 7:10
Lending practices, discrimination	Prohibited acts
in, 1:14	generally, 1:1 to 1:33
Limitations on liability	aiding and abetting unlawful
generally, 4:27 to 4:29	practices, 1:17
FEHA liability without limita-	communications about housing,
tion as to actor, 4:8	illegal communications, 1:13
immunities from FEHA	criminal history information,
liability, 4:28	1:19
privileges in FEHA cases FEHA	denial of reasonable accom-
liability, 4:29	modation, 1:9
statutory exemptions from	denial of reasonable modifica-
FEHA liability, 4:27	tion, 1:10
Lost housing opportunity, 8:7, 8:8	discrimination defined and
Marital status as protected class,	construed, 1:2, 1:6
3:10	evidence, 1:5
Medical condition as protected	Fair Employment and Housing
class, 3:14	Act (FEHA), generally, 1:1
Military service members, 3:21	federal laws, 1:33
Mitigation of damages, 8:21	financial or income standard,
Modification, denial of reasonable,	discriminatory, 1:16

FAIR HOUSING—Cont'd	FAIR HOUSING—Cont'd
Prohibited acts—Cont'd	Protected classes—Cont'd
inferior terms, conditions, or	land use discrimination, 3:20
privileges of housing,	marital status, 3:10
providing, 1:8	medical condition, 3:14
interference, 1:18	military service members, 3:21
lending practices, discrimina-	national origin, 3:11
tion in, 1:14	perception that one has a
modification, denial of reason-	protected characteristic,
able, 1:10	3:16
multiple listing service (MLS) access, discrimination in,	prohibited acts, 1:3
1:15	race, 3:6
physically-accessible design,	religion, 3:7
1:11	sex, 3:8
proof, methods of, 1:5	sexual orientation, 3:9
protected classes under the	substantial equivalency, 3:2
FEHA, 1:3	Unruh Act, arbitrary discrimina-
real estate transactions,	tion under the Unruh Act
discrimination in, 1:14	also protected, 3:4
retaliation, 1:18	zoning discrimination, 3:20
states laws, 1:33	Punitive damages generally, 8:25 to 8:36
unlawful practices, generally,	amount, 8:29, 8:30
1:7, 1:17	Attorney General, civil suits
Unruh Act, generally, 1:1, 1:4	brought by, 8:36
Protected classes	comparison with other penal-
generally, 1:3, 3:1 to 3:23	ties, 8:32
ancestry, 3:11	evidence, 8:27
association with one who has or	guidelines, 8:26
is perceived to have a	interest, 8:37 to 8:39
protected characteristic,	nexus, 8:28
3:16	proof, 8:27
citizenship, 3:18	public entities, 8:35
civil right, freedom from hous-	ratio between punitive and
ing discrimination as, 3:5	compensatory damages,
color, 3:6	8:33
day care operators, 3:22	reprehensibility of conduct,
disability, 3:14	8:31 wealth of defendant, 8:34
domestic violence survivors,	Race as protected class, 3:6
3:19	Ratio between punitive and
exemptions under the FEHA, 3:17	compensatory damages, 8:33
Fair Employment and Housing	Real estate transactions,
Act (FEHA), generally, 3:1	discrimination in, 1:14
to 3:18	Religion as protected class, 3:7
family status, 3:12	Remedies
genetic information and	administrative procedures,
characteristics, 3:15	above
immigration status, 3:18	damages, above
income, source of, 3:13	injunctive relief, 8:22, 8:23

FAIR HOUSING—Cont'd FEDERAL OUESTION Remedies-Cont'd JURISDICTION interest, 8:37 to 8:39 Americans with Disabilities Act, punitive damages, above incorporation into state law, substantial equivalence in 12:15 determining remedies, 8:1, FINANCIAL OR INCOME 8:2 **STANDARDS** Reprehensibility of conduct, puni-Fair housing, 1:16 tive damages, 8:31 Responsibility, determining who is FIRST AMENDMENT responsible, 4:24 Fair housing, defense, 6:10 Retaliation, 1:18 Hate crimes, 14:4 Review, standard of review, 8:17 Public accommodations, 10:22 Sexual orientation as protected **FRANCHISES** class, 3:9 Public accommodations, Special damages, 8:4, 8:9 discrimination in granting Standard of review, 8:17 franchises. 13:2 Statute of limitations FRUSTRATION OF MISSION generally, 7:4 Fair housing, damages, 8:13, 8:14 Civil Rights Department, filing a complaint with, 7:5 GENDER DISCRIMINATION defense, 6:8 **Sex Discrimination** (this index) Statutory basis for damages, 8:16 GENDER MOTIVATED Statutory exemptions from FEHA VIOLENCE liability, 4:27 Statutory provisions of the FEHA, Public accommodations, 14:1 generally, 4:2 GENETIC INFORMATION AND Substantial equivalence, 3:2, 8:1, **CHARACTERISTICS** 8:2 Fair housing, protected classes, Triggering liability, the act itself 3:15 triggers liability, 4:9 Unruh Act, generally, 1:1, 1:4, 3:4 **GUESTS** Venue, 7:10 Public accommodations, guests as Wealth of defendant, punitive temporary residents, 1:25 damages, 8:34 HARASSMENT **Zoning and Land Use Planning** Fair housing, 1:12 and Development (this index) HENSLEY TEST **FAMILY STATUS Attorneys' Fees** (this index) Fair housing, protected classes, HOSTILE ENVIRONMENT 3:12 Sexual harassment claims, 5:14 FEDERAL LAWS **HOURLY RATE** Fair housing Attorneys' fees, reasonableness of, prohibited acts, 1:33 9:19 Public accommodations, 10:23 **HOURS** FEDERAL PREEMPTION Attorneys' fees, reasonable Public accommodations, 1:29 number of, 9:18

HOUSING AND URBAN DEVELOPMENT DEPARTMENT (HUD)

Fair Housing (this index)

HUMAN TRAFFICKING

Notice postings, public accommodations, 13:7

IMMIGRATION STATUS

Protected classes, **3:18**Public accommodations, prohibited acts, **10:10**

IMMUNITIES

Fair housing, FEHA liability, 4:28

INCOME, SOURCE OF

Fair housing, protected classes, 3:13

INDEPENDENT CONTRACTORS

Vicarious liability for acts of, 4:20

INFERIOR TERMS, CONDITIONS, OR PRIVILEGES OF HOUSING

Fair housing, 1:8

INJUNCTIVE RELIEF

Fair housing, **8:22**, **8:23**Public accommodations, **18:10**

INSPECTION BY CASP (CERTIFIED ACCESS SPECIALIST PROGRAM)

Americans with Disabilities Act, incorporation into state law, 12:18

INSTRUCTIONS TO JURY

Ralph Act, 14:3

INTEREST

Fair housing, 8:37 to 8:39

INTERFERENCE WITH, OR DENIAL OF, USE AND ACCESS

Fair housing, prohibited acts, 1:18

INTERGENERATIONAL HOUSING DEVELOPMENT

Public accommodations, 1:32

INTERPRETATION

Construction and Interpretation (this index)

INTERSTATE COMMERCE

Public accommodations, 10:26

JOINT AND SEVERAL LIABILITY

Direct and vicarious liability under the FEHA, **4:23**

JURISDICTION

Americans with Disabilities Act, incorporation into state law, 12:15

Public accommodations procedure. **17:4**

JURY INSTRUCTIONS

Ralph Act, 14:3

LAND USE PLANNING AND DEVELOPMENT

Zoning and Land Use Planning and Development (this index)

LANGUAGE

Public accommodations, prohibited acts, **10:10**

LENDING PRACTICES

Fair housing, 1:14
Public accommodations, credit denial to women, 13:5

LODESTAR

Attorneys' fees, 9:17

LOST HOUSING OPPORTUNITY

Fair housing, damages, 8:7, 8:8

MARITAL STATUS

Fair housing, protected classes, 3:10

Public accommodations, 10:8

MEDICAL CONDITION

Fair housing, protected classes, 3:14

Public accommodations, prohibited acts, **10:7**

MILITARY SERVICE MEMBERS

Fair housing, 3:21

MINIMUM DAMAGES

Public accommodations, **18:3**, **18:17**, **18:18**

MITIGATION OF DAMAGES

Fair housing, 8:21

MOBILE HOME PARKS

Public accommodations, 1:30

MULTIPLE LISTING SERVICE (MLS)

Fair housing, discrimination in MLS access, 1:15

MULTIPLIERS

Attorneys' fees, 9:20

NATIONAL ORIGIN

Fair housing, protected classes, 3:11

NEW CONSTRUCTION

Americans with Disabilities Act, incorporation into state law, 12:5

NOTICE

Attorneys' fees, notice motion required, 9:21

OUT OF POCKET LOSSES

Fair housing, 8:6

PERCEPTION

Fair housing, 3:16

PHYSICALLY-ACCESSIBLE DESIGN

Fair housing, 1:11

PREEMPTION

Public accommodations, 1:29, 17:20

PRIMA FACIE ELEMENTS OF CLAIM

Americans with Disabilities Act, incorporation into state law, 12:7

PRIMARY LANGUAGE

Public accommodations, prohibited acts, **10:10**

PRINCIPAL AND AGENT

Direct liability for principal's own action or inaction, **4:18**Vicarious liability for acts of agents, **4:19**

PRIVILEGES

Fair housing, privileges in FEHA cases, **4:29**

PROOF ISSUES UNDER THE FAIR EMPLOYMENT AND HOUSING ACT

Generally, **5:1 to 5:15**

Burden of proof

direct vs. circumstantial evidence, **5:3**

intentional violations—

disparate treatment, 5:1

unintentional violations—disparate impact, **5:10**

Circumstantial evidence, **5:5**

Direct evidence of intentional discrimination, **5:4**

Discriminatory effect, generally, 2:8, 5:11, 5:12

Disparate impact. Unintentional violations—disparate impact, below

Disparate treatment. Intentional violations—disparate treatment, below

Facially neutral housing policies and practices, **5:8**, **5:12**

Hostile environment, sexual harassment claims, **5:14**

Intentional violations—disparate treatment

generally, **5:1 to 5:6**

burden of proof, claimant has ultimate burden, **5:1**

circumstantial evidence, 5:5

direct evidence of intentional discrimination, **5:4**

direct vs. circumstantial evidence, **5:3**

intent to discriminate, generally, 5:2

PROOF ISSUES UNDER THE	PUBLIC ACCOMMODATIONS
FAIR EMPLOYMENT AND	—Cont'd
HOUSING ACT—Cont'd	Business establishments defined
Intentional violations—disparate	and construed—Cont'd
treatment—Cont'd	commercial entities open to and
testing evidence, 5:6	serving the public, gener-
Land use discrimination, 2:8	ally, 10:20
Prohibited acts, generally, 1:5	examples of covered business
Quid pro quo, sexual harassment	establishments, 10:21
claims, 5:15	expansion of prior law, 10:18
Sexual harassment claims	First Amendment
generally, 5:13 to 5:15	considerations, 10:22
hostile environment harassment,	interstate commerce, 10:26
5:14	non-profit entities open to and serving the public, gener-
quid pro quo harassment, 5:15	ally, 10:20
Testing evidence, 5:6	purpose of Unruh Civil Rights
Unintentional violations—	Act, 10:17
disparate impact	Title II, generally, 10:24
generally, 5:7 to 5:10	Children, 1:22
burden-shifting analysis, 5:10	Circumstantial evidence, 15:7
delegating discretion, policy of,	Citizenship, prohibited acts, 10:10
5:9	Civil Rights Department
neutral policies which	complaint, 18:12
potentially have disparate	investigation, 17:2
impact on protected classifications, 5:8	Construction, other laws, 17:21
sineations, 5.0	Continuing violations, 17:24
PUBLIC ACCOMMODATIONS	County of Riverside, specific
Generally, 10:17 et seq.	senior housing provisions,
Accumulation of damages, gener-	1:27
ally, 18:5	Credit denial to women, 13:5
Actual damages, 18:2, 18:14,	Daily damages, 18:4
18:17	Defenses
Age	generally, 16:1 to 16:17
generally, 1:22 to 1:31	affirmative defenses
children, 1:22	generally, 16:2 , 16:3 , 16:12 ,
senior citizens, below	16:14
Americans with Disabilities Act,	availability, 16:3
incorporation into State	nature of, 16:2
Law (this index)	third party liability, 16:14
Association, prohibited acts, 10:12	auxiliary aids and services, 16:7
Attorney General enforcement,	barrier removal, 16:6
18:13	causation, 16:15
Attorneys' Fees (this index)	constitutional challenges, 16:17
Bane Civil Rights Act, 14:5	de minimus violations, 16:16
Business establishments defined	dimensional tolerances, 16:9
and construed	direct threat, 16:8
generally, 10:19	discrimination, 16:4, 16:13
broad interpretation of "busi-	industry standards, 16:9
ness establishment," 10:19	intent, 16:13

PUBLIC ACCOMMODATIONS	PUBLIC ACCOMMODATIONS
—Cont'd	—Cont'd
Defenses—Cont'd	Gender discrimination. Sex
pre-litigation demand, 16:10	discrimination, below
third party liability, affirmative	Gender motivated violence, 14:1
defenses, 16:14	Guests as temporary residents,
unclean hands, 16:11	1:25
unreasonableness of accom-	Immigration status, prohibited acts, 10:10
modation (ADA), 16:5	Injunctive relief, 18:10
Unruh claims, 16:13	Interaction of Unruh Act with
Design requirements for senior housing, 1:23, 1:26	other California fair housing laws, 1:21
Disability, prohibited acts, 10:6	Intergenerational housing develop-
Disability Discrimination in Public Accommodations	ment, 1:32
(this index)	Interpretation of "business
Disparate treatment, 15:4	establishment," 10:19
Election of damages under Unruh	Interstate commerce, 10:26
or DPA, 18:9, 18:19	Jury instructions, 14:3
Emotional distress damages, 18:15	Marital status, 10:8
Evidence	Medical condition, prohibited acts,
generally, 15:1 to 15:15	10:7
actual damages, 18:17	Minimum damages, 18:3 , 18:17 , 18:18
ADA violation, 15:3	Mixed motive cases, 15:8
business establishment, 15:9	Mobile home parks, 1:30
circumstantial evidence, 15:7	Notice, pre-filing, 17:19 , 17:23
Discrimination in Business	Other statutes covering public
Dealings, 15:13 disparate treatment, 15:4	accommodations, 13:1
intentional discrimination, 15:2	Preemption, 17:20
justified or reasonable	Primary language, prohibited acts,
discrimination, 15:12	10:10
mixed motive cases, 15:8	Procedure
non-enumerated categories,	generally, 17:1 to 17:24
15:11	ADA standing, 17:11 , 17:13 , 17:16
Sexual Harassment in Business,	aggrieved party, 17:7
Service, or Professional	Civil Rights Department
Relationship, 15:15 single discriminatory act, 15:5	investigation, 17:2
statistical evidence, 15:6	class actions, 17:8
Unruh Act, 15:1, 15:10	construction, other laws, 17:21
Federal Fair Housing Act and	construction-related accessibil-
regulations, effect of, 1:28	ity claims, 17:17
Federal laws, 10:23	continuing violations, 17:24
Federal preemption, 1:29	deterrence, 17:14, 17:15
First Amendment considerations,	equitable tolling, 17:24
10:22	fraudulent concealment, 17:24
Franchises, discrimination in	futile gesture, 17:12
granting, 13:2	jurisdiction, 17:4

PUBLIC ACCOMMODATIONS —Cont'd	PUBLIC ACCOMMODATIONS —Cont'd
Procedure—Cont'd	Prohibited acts—Cont'd
organizational standing, Unruh,	interaction of Unruh Act with
17:9	other California fair hous-
preemption, 17:20	ing laws, 1:21
pre-filing notice, 17:19 , 17:23	jury instructions, 14:3
standing	marital status, 10:8
generally, 17:6	medical condition, 10:7
ADA standing, 17:11 , 17:13 ,	non-enumerated bases, 10:14
17:16	primary language, 10:10
aggrieved party, 17:7	race, 10:4
compliance enforcement,	Ralph Act, 14:2
17:18	religion, 10:5
organizational, 17:9	rentals of housing, Unruh's
recovery of damages, 17:18	applicability to, 1:20
statute of limitations, 17:22	retaliation, 10:13
Unruh	sales of housing, Unruh's
complaints, 17:3	applicability to, 1:20
unlawful business practice,	senior citizens, below
17:10	sex, 10:3
venue, 17:5	sexual harassment, 13:6
Prohibited acts	sexual orientation, 10:9
generally, 10:1 to 10:13	slavery and human trafficking,
age, above	notice postings, 13:7
association covered, 10:12	third party policies or contracts
Bane Civil Rights Act, 14:5	requiring discrimination, 13:3
children, 1:22	
citizenship, 10:10	Punitive damages, 18:6 to 18:8 Qualifying senior housing, 1:26
credit denial to women, 13:5	Race, prohibited acts, 10:4
design requirements for senior	Ralph Act, 14:2 to 14:4
housing, 1:23, 1:26	Religion, prohibited acts, 10:5
disability, 10:6	Remedies
Disability Discrimination in Public Accommodations	generally, 18:1 to 18:20
(this index)	accumulation of damages, gen-
elderly persons. Senior citizens,	erally, 18:5
below	actual damages, 18:2 , 18:14 ,
examples of arbitrary	18:17
discrimination, 10:15	Attorney General enforcement,
examples of non-arbitrary	18:13
discrimination, 10:16	Attorneys' Fees (this index)
franchises, discrimination in granting, 13:2	Civil Rights Department complaint, 18:12
gender-based price discounts,	daily damages, 18:4
13:4	election of damages under
gender motivated violence, 14:1	Unruh or DPA, 18:9, 18:19
guests as temporary residents, 1:25	emotional distress damages, 18:15
immigration status, 10:10	injunctive relief, 18:10

PUBLIC ACCOMMODATIONS	PUBLIC ACCOMMODATIONS
—Cont'd	—Cont'd
Remedies—Cont'd	Title II, generally, 10:24
minimum damages, 18:3,	Treble damages, 18:6, 18:8, 18:16
18:17, 18:18	Unruh Civil Rights Act
proof, 18:17	generally, 10:1 to 10:26
punitive damages, 18:6 to 18:8	prohibited acts, above
treble damages, 18:6, 18:8,	protected classes
18:16	generally, 10:1
Rentals of housing, Unruh's applicability to, 1:20	arbitrary discrimination, 10:15
Retaliation, 10:13	enumerated classes, 10:2
Sales of housing, Unruh's applicability to, 1:20	non-arbitrary, examples, 10:16
Senior citizens	non-enumerated bases, 10:14
generally, 1:23 to 1:31	PUNITIVE DAMAGES
change in circumstances of the	
senior, 1:24	Fair Housing (this index) Public accommodations, 18:6 to
County of Riverside, specific	18:8
senior housing provisions, 1:27	1000
design requirements for senior	QUID PRO QUO
housing, 1:23, 1:26	Sexual harassment claims, 5:15
federal Fair Housing Act and	RACE
regulations, effect of, 1:28	Fair housing, protected classes,
federal preemption, 1:29	3:6
guests as temporary residents, 1:25	Public accommodations, prohibited acts, 10:4
HUD regulations, 1:31	RALPH ACT
intergenerational housing	Public accommodations, 14:2
development, 1:32	
mobile home parks, 1:30	REDUCTIONS
qualifying senior housing, 1:26 social needs, 1:23	Attorneys' Fees (this index)
Sex discrimination	RELIGION
credit denial to women, 13:5 generally, 10:3	Fair housing, protected classes, 3:7
price discounts, gender-based,	Public accommodations,
13:4	prohibited acts, 10:5
Sexual harassment, 13:6	REMEDIES
Sexual orientation, 10:9	Fair Housing (this index)
Slavery and human trafficking,	Public Accommodations (this
notice postings, 13:7	index)
Social needs of seniors, 1:23	DEDDEHENCIDH ITV OF
Standing. Procedure, above	REPREHENSIBILITY OF
Statistical evidence, 15:6	CONDUCT
Statute of limitations, 17:22	Fair housing, punitive damages, 8:31
Third party policies or contracts	0.31
requiring discrimination,	RETALIATION
13:3	Fair housing, 1:18

RETALIATION—Cont'd

Public accommodations, 10:13

RETALIATION

Americans with Disabilities Act, incorporation into state law, 12:22

REVIEW

Fair housing, 8:17

SEGREGATION

Restrictive land use and zoning perpetuating, 2:2

SENIOR CITIZENS

Public Accommodations (this index)

SEPARABILITY OF UNSUCCESSFUL AND SUCCESSFUL CLAIMS

Attorneys' fees, 9:14

SERVICE ACCESSIBILITY

Americans with Disabilities Act, incorporation into state law, 12:19 to 12:21

SETTLEMENT

Fair housing, procedure, 7:11

SEX DISCRIMINATION

Credit denial to women, 13:5 Fair housing, sex as protected class, 3:8

Public Accommodations (this index)

SEXUAL HARASSMENT

Proof Issues Under the Fair Employment and Housing Act (this index)

Public accommodations, 13:6

SEXUAL ORIENTATION

Fair housing, protected classes, 3:9

Public accommodations, 10:9

SLAVERY

Notice postings, public accommodations, **13:7**

SOCIAL NEEDS OF SENIORS

Public accommodations, 1:23

SPECIAL DAMAGES

Fair housing, **8:4, 8:9**

STANDING

Fair housing litigation, 7:3

STATE LAWS

Affirmatively Furthering Fair Housing Law, **2:4** Fair housing

prohibited acts, 1:33

STATE OR STATE-FUNDED ENTITIES

Disability discrimination in public accommodations, 11:5

STATUTE OF LIMITATIONS

Fair Housing (this Index)
Public accommodations, 17:22

STAYS

Americans with Disabilities Act, incorporation into state law, 12:17

SUBSTANTIAL EQUIVALENCE

Fair housing, 3:2, 8:1, 8:2

SUPPLEMENTAL JURISDICTION

Americans with Disabilities Act, incorporation into state law, 12:15

TEMPORARY RESIDENTS

Public accommodations, guests as temporary residents, **1:25**

TENANTS

Vicarious liability for acts of other tenants, **4:22**

THIRD PARTIES

Public accommodations, third party policies or contracts requiring discrimination, 13:3

TITLE II

Public Accommodations (this index)

TORT PRINCIPLES

FEHA, direct and vicarious liability under, **4:17**

INDEX

TREBLE DAMAGES

Public accommodations, **18:6**, **18:8**, **18:16**

UNRUH CIVIL RIGHTS ACT

Americans with Disabilities Act, incorporation into state law, 12:1

Attorneys' Fees (this index)

Disability Discrimination in Public Accommodations (this index)

Fair Housing (this index)

Public Accommodations (this index)

VENUE

Public accommodations procedure, **17:5**

VICARIOUS LIABILITY

Direct and Vicarious Liability under the FEHA (this index)

WEALTH

Fair housing, wealth of defendant, punitive damages, **8:34**

WEBSITE ACCESSIBILITY

Americans with Disabilities Act, incorporation into state law, 12:12

ZONING AND LAND USE PLANNING AND DEVELOPMENT

Generally, 2:1 to 2:11

Affirmatively Furthering Fair Housing Law, public land use practices, **2:4**

ZONING AND LAND USE PLANNING AND DEVELOPMENT—Cont'd

Affordable housing, state law prohibits discrimination against, 2:7

Disability, discrimination based on, **2:9**

Evidence of land use discrimination, **2:8**

FEHA expressly covers public and private land use and zoning laws and practices, 2:3

Housing developments, laws requiring approval of, **2:10**

Impact of fair housing laws on land use planning and development approval, 2:5

Impediments to development, obligation to remove, **2:11**

Incentives, 2:10

Obligations to plan and zone for housing and to remove impediments to development, 2:11

Proof of land use discrimination, **2:8**

Protected classes, **3:20**Public land use practices,
 Affirmatively Furthering Fair
 Housing Law, **2:4**

Reasonable accommodation requirement, **2:9**

Segregation, restrictive land use and zoning perpetuating, 2:2

State and federal housing laws prohibit discrimination, **2:6**, **2:7**

Waivers, 2:10