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**May 8, 2008**

# in the NEWS



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## **Jason Singleton Strikes Again**

***A new rash of ADA lawsuits has businesses scraping to comply, and get by***

Story & photos by Heidi Walters

*Meredith Maier shows Six Rivers Brewery's new wheelchair accessible bathroom sink.*

Driving through Eureka on 101, you may have noticed that a long-time fixture, the Arctic Circle, is all boarded up. On Tuesday, the Times-Standard had the report:



The restaurant was sued in February over violations under the Americans with Disabilities Act. The case settled, and the owners, unable to afford the fixes required to become compliant, closed shop.

The lawsuit was filed by Eureka attorney Jason Singleton. He made a splash several years back by suing a plethora of local entities over ADA violations the plaintiffs said prevented their access to the establishments. He sued Humboldt County, the Eureka Chamber of Commerce, the Humboldt Bay Harbor, Recreation and Conservation District, Gottschalks, the Minor Theater Corp., Café Waterfront, Café Marina and more. (Since 1997, Singleton has filed nearly 300 civil rights suits across California, more than 75 of them ADA-related.)

Now he's onto a new round. There's the Arctic Circle lawsuit, as well as one against Six Rivers Brewery filed last June and mentioned briefly in the *T-S* report. And there are more: Toni's 24-hr Restaurant in Arcata (sued in March 2006); Carl's Jr. in the Valley West shopping center (January 2006); Barnes Arcata Family Drug (February 2006); Central Station bar in McKinleyville (April 2007); and, on March 24 this year, Open Door Community Health Centers' Arcata clinic on 10th Street.

Singleton didn't respond to the *Journal's* request for an interview.

Carmichael-based attorney Catherine Corfee, who represented Toni's and Six Rivers Brewery, said by phone last week that these cases usually have little to do with actual discrimination. They often focus on slight imperfections found not to have deterred other disabled people's access. And they nearly always settle — it's cheaper than a costly court battle. A jury trial could rack up \$80,000, or far more, in attorney's fees, which the defendant has to pay. Even so, the defendant might still shell out between \$5,000 and \$30,000 in a settlement, she said.

There are some valid cases, she said. She doesn't count Singleton's among them.

"I believe that he basically is a wolf in sheep's clothing," Corfee said.

And sometimes a settlement can sink a business. Or send it into partial hibernation.

Last Thursday afternoon, Meredith Maier was behind the bar at Six Rivers Brewery, pouring raspberry-colored pints for several gents sitting by the windows and pale ales for two fellows bellied up closer to her station, where the phone rang off the hook. Maier, who co-owns Six Rivers with

two others, said the brewery was sued last June by Sunny Brae resident Elizabeth Miller. The parties reached a settlement in November, the details of which are confidential. The brewery has just paid off the last of the settlement and now it has to suck in its belly for a while.

"We pulled our advertising — from the *Journal*, from the *Times-Standard*, and from all of the local radio stations we were advertising with, and the local visitor magazine," Maier said. "We've had to cut back shifts — [my partners] and I are now working five shifts instead of three. We pay bands to play here, Sunday through Thursday, and we've had to cancel those standing bookings because we couldn't afford to pay them. We canceled all the karaoke."

Miller sent a letter last March to Maier, listing problems she said she had encountered at the brewery: The paint marking the parking spaces was faded. She couldn't get in the side door, where the wheelchair ramp is. The front entrance has a step she couldn't negotiate. The ladies room was too small for her to turn her wheelchair around in, the stalls were too narrow, and the paper towel and seat cover holders were too high. And so on.

Maier wrote back the day the letter arrived, noting Miller's frustrations and also that they had other disabled customers who never had problems, but that they had contacted a local engineer to help them comply. She told Miller the brewery would refund her meal from the day of her visit.

After that, Maier said, the brewery got started on changes to be in compliance — all the "readily achievable" fixes, as required by the law, that wouldn't cause undue hardship for the business.

Ninety days later, Miller sued. Maier said she and her partners aren't looking for pity, but they do feel they were blindsided.

"We're trying to be upstanding business owners and we definitely don't want anybody of any handicap to feel like they can't use our facilities," Maier said. "Now we're on the brink of bankruptcy because of this."

Some customers aren't happy about it, either. Last Friday, by phone, Lynn Navarro said she's a regular at Six Rivers Brewery and Toni's. "I am in a wheelchair," she said. "I was born this way: I have no legs and one arm. And I tell you, I had no problem in Toni's and no problem in Six Rivers."

Navarro, who lives in McKinleyville, said she can point to innumerable ADA violations in the area — quite a few in Arcata, not to mention those tilty floors in the Taco Bell bathrooms and their too-high drink dispensers that cause liquid to dribble down a wheelchair-bound person's arm. And, yeah, Central Station probably did need to add that new handicapped-accessible bathroom. But Navarro's not one to sue over such things.

"I don't think society owes me anything," she said. "I worked all my life. I raised two kids. And I just never even thought about whining about disabled stuff."

She said she used to let businesses know when they're violating access codes — for their own protection, she said. But one time she told a local Mexican restaurant that its bathroom wasn't ADA-compliant, and that it would only cost them about \$200 to fix. "They got freaky, like I'm going to sue them," she said.

Miller, reached Friday by phone, said she doesn't sue everyone — just the businesses that "shirk off" ADA violations.

Miller said she herniated a disc in her neck while working as a police officer in Monterey County. She retired, and moved to Arcata in 1998. She has trouble walking and sometimes uses a wheelchair.

According to court records, Miller is the plaintiff in five of the recent Singleton lawsuits, against Carl's Jr., Barnes Family Drug, Central Station, Six Rivers and Arcata Open Door Clinic. (She did not sue Toni's or Arctic Circle; others did.)

But Miller had trouble remembering what the problems were at Six Rivers and Central Station.

"I honestly can't recall," she said. "You know, it's been a few over the years. And my memory's not that great because of the medications I take for the nerve pain. Used to be sharp."

When asked about the Arcata Open Door Clinic, she said, "They're OK. They don't have any serious problems."

She hadn't sued them?

"No," she said. "Why would you think I would have sued them?"

On Monday, Open Door's risk manager, Christopher Peters, said they

were served with Miller's complaint April 15. "We don't believe the case has any merit," he said. "But we will investigate and we will defend."

The complaint lists three issues: a doorbell Miller had to ring to gain access, a blocked parking space and a blocked ladies room.

Peters said the clinic, undergoing renovation, did recently install a buzzer on the door to one waiting area to make it secure from the outside. It's something they've done at all of the clinics.

Hermann Spetzler, Open Door's executive director, sounded bemused on Monday about the lawsuit. He said the Arcata clinic sees up to 500 people a week. He can't remember a single time, he said, someone has sued over patient access.

"I find it a very unusual way to approach a community organization whose primary mission is access to care," he said. "We've had a number of disabled staff who indicated they had difficulty negotiating this or that, and we immediately made changes. I'm not sure what the point of this lawsuit is."

Miller, last Friday, said she isn't in it for the money. She declined to say how much money she has made in settlements.

"I haven't earned a whole lot of money," she said. "You know, I prefer to keep it down." By the time she pays taxes, it isn't much.

Miller didn't know who she might sue next. "I haven't thought of any," she said. "I haven't filed any in six months. It averages one, maybe two a year. It just happens to be chance — it depends on where I go."

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