



# DIRECTIVE TRANSMITTAL

1. SUBJECT. UNRUH ACT CASES.
  2. PURPOSE. To provide guidelines for accepting cases alleging violations of the Unruh Act (Civil Code Section 51).
  3. ORIGINATOR. Office of the General Counsel.
  4. RESPONSIBILITIES. Consultants, senior consultants and lawyers share the responsibility for implementing this directive.
  5. DISTRIBUTION. Consultants, senior consultants, area administrators, clerical office supervisors, legal staff and headquarters administrative staff.
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6. BACKGROUND. The Unruh Civil Rights Act (Civil Code Section 51) expressly prohibits discrimination by business establishments, including those selling or renting real property, on the basis of sex, race, color, religion, ancestry, and national origin. The Act has been interpreted to prohibit, in addition, discrimination on any arbitrary basis. The Division does not have the personnel or resources to enforce the Act against any and all arbitrary discrimination, and must therefore establish some priorities for exercising its jurisdiction under the Act. That is the purpose of these guidelines.
  7. CASES TO BE ACCEPTED.
    - a. Grounds Specifically Enumerated in the Act. We will accept Unruh complaints based on the Act's specifically enumerated grounds (sex, race, color, religion, ancestry or national origin), except that complaints involving grooming restrictions alleged to discriminate on the ground of sex will not be accepted unless Division legal counsel has determined that the harm involved makes appropriate our exercise of jurisdiction.
    - b. Other Grounds. We will also accept Unruh complaints of discrimination on the ground of marital status, medical condition and age

(expressly listed as protected classes in the Rumford or FEP Acts). However, after initial investigation sufficient to determine the defense asserted by the respondent, legal counsel should be consulted to determine whether the case should be pursued. Legal counsel will determine whether the defense is sufficiently rational so that arbitrary discrimination could not be proved.

8. CASES NOT TO BE ACCEPTED.

- a. Physical Handicap. We will not accept Unruh Act complaints based on physical handicap. Instead, prospective complainants will be informed that their rights are protected under Section 54.1 of the Civil Code. They should be advised (give each prospective complainant a copy of Attachment A) that they may bring suit under Section 55, or attempt to get the Department of Rehabilitation (through the Attorney General), the city attorney, the district attorney or the Attorney General to sue for an injunction against the discrimination.

Note that this applies only to non-employment cases. The Division will continue to accept complaints of discrimination on the basis of physical handicap in employment, under the FEP Act.

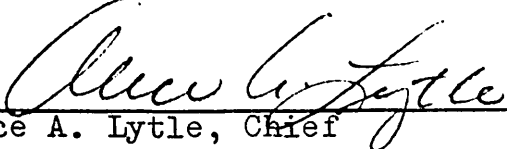
- b. Other Cases. We will not accept other complaints within our Unruh Act jurisdiction, i.e., complaints alleging discrimination on bases other than those enumerated in the Act or in the FEP Act or Rumford Act. This excludes, for example, complaints alleging discrimination in housing against families with children, discrimination in housing against gay people, discrimination in restaurants against barefoot people, discrimination in housing against people who are welfare recipients, are mentally retarded or have pets, and discrimination in housing against people with criminal records or poor credit ratings. However, consultants should be alert to identify cases in which the respondent's asserted basis for discrimination is a pretext for exclusion on the basis of race, national origin, etc.

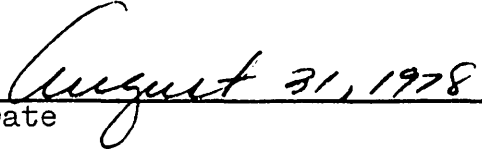
In all cases not accepted, an Inquiry Report should be filled out and forwarded to the headquarters EDP coordinator. The Division wishes to identify the

kinds of people, discrimination and facilities involved in potential Unruh Act cases.

Finally, the prospective complainants should be given Attachment B, which explains that our limited personnel and resources require us to concentrate on the persons expressly enumerated in the statutes we enforce.

9. APPROVAL.

  
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Alice A. Lytle, Chief

  
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Date

- ATTACHMENTS: A - To Physically Disabled Persons Experiencing Discrimination in Housing or Public Accommodations.
- B - To Persons Wishing to File Unruh Act Complaints.

ATTACHMENT A

TO PHYSICALLY DISABLED PERSONS EXPERIENCING  
DISCRIMINATION IN HOUSING OR PUBLIC ACCOMMODATIONS

Section 54.1 of the California Civil Code prohibits discrimination against physically disabled persons. A California court of appeal has determined that Section 55 is the exclusive remedy for such persons. The Division of Fair Employment Practices therefore does not pursue complaints of such discrimination.

Accordingly, you may bring suit for damages under Civil Code Section 55 against the person who discriminated against you, or you may under Section 55.1, attempt to get the Department of Rehabilitation (through the Attorney General), the city attorney, the district attorney, or the Attorney General to sue for an injunction against the discrimination.

ATTACHMENT B

TO PERSONS WISHING TO FILE UNRUH ACT COMPLAINTS

Although the Unruh Civil Rights Act, California Civil Code Section 51, has been interpreted to prohibit any arbitrary discrimination by business establishments, the Division of Fair Employment Practices lacks the personnel and resources to pursue all such complaints other than those alleging discrimination based on sex, race, color, religion, ancestry, national origin, age, medical condition or marital status. Accordingly, we are unable to accept your complaint.

Under Civil Code Section 52, however, you may bring suit against the person who has discriminated against you on an arbitrary basis.