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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

SCOTT JOHNSON,

Plaintiff,

No. CIV 10-3431 MCE CKD

vs.

ALI ALJABRI, et al.,

Defendants.

FINDINGS & RECOMMENDATIONS

_____ /

Presently before the court is plaintiff’s motion for default judgment. This matter was submitted without oral argument. The undersigned has fully considered the briefs and record in this case and, for the reasons stated below, will recommend that plaintiff’s motion for default judgment be granted.

Plaintiff is a permanently disabled wheelchair user. Defendants operate a convenience store “Ralph Square Mini Mart/Rancho Market” located on Airport Way in Stockton, California. Plaintiff visited the subject establishment on May 25, 2010 and June 8, 2010 and encountered architectural barriers which denied him full and equal access.

The record reflects that defendants were properly served with process by substituted service on February 17, 2011 and default was entered on April 8, 2011. Plaintiff thereafter filed a motion for default judgment with a proof of service reflecting service of the

1 motion on defendants. Plaintiff seeks an entry of default judgment in the amount of \$8,000
2 pursuant to California Civil Code section 52(a)¹ as well as injunctive relief.²

3 Entry of default effects an admission of all well-pleaded allegations of the
4 complaint by the defaulted party. Geddes v. United Financial Group, 559 F.2d 557 (9th Cir.
5 1977). The court finds the well pleaded allegations of the complaint state a claim for which
6 relief can be granted. Anderson v. Air West, 542 F.2d 1090, 1093 (9th Cir. 1976). The
7 memorandum of points and authorities and affidavits filed in support of the motion for entry of
8 default judgment also support the finding that plaintiff is entitled to the relief in the form of
9 statutory damages and injunctive relief requested in the prayer for default judgment, which does
10 not differ in kind from the relief requested in the complaint. Henry v. Sneiders, 490 F.2d 315,
11 317 (9th Cir.), cert. denied, 419 U.S. 832 (1974). Plaintiff is entitled to statutory damages for
12 each “offense,” i.e., each obstructed visit. See Lentini v. Cal. Ctr. for the Arts, 370 F.3d 837, 847
13 (9th Cir. 2004); see also Feezor v. DeTaco, Inc., 431 F.Supp.2d 1088 (S.D. Cal. 2005). There are
14 no policy considerations which preclude the entry of default judgment of the type requested. See
15 Eitel v. McCool, 782 F.2d 1470, 1471-1472 (9th Cir. 1986) (factors that may be considered by
16 the court are possibility of prejudice to the plaintiff, merits of plaintiff’s substantive claim,
17 sufficiency of the complaint, sum of money at stake in the action; possibility of a dispute
18 concerning material facts; whether the default was due to excusable neglect, and strong policy
19 underlying the Federal Rules of Civil Procedure favoring decisions on the merits).

20 For the foregoing reasons, IT IS HEREBY RECOMMENDED that:

21 1. Plaintiff’s motion for default judgment (dkt. no. 15) against defendants
22 Abdullah Yasen Algazzali and Abdullah Dahan Alhumisi be granted;

24 ¹ The Unruh Civil Rights Act provides, in relevant part, for a minimum statutory damage
25 amount of \$4,000 per violation. Cal. Civ. Code § 52(a).

26 ² Plaintiff seeks injunctive relief requiring defendant to remove identified architectural
barriers only to the extent such alterations are readily achievable.

