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11 **UNITED STATES DISTRICT COURT**
12 **EASTERN DISTRICT OF CALIFORNIA**

13 NATIVIDAD GUTIERREZ,

14 Plaintiff,

15 vs.

16 JOHN OHANIAN, AYEDH ALSHOGAA
17 dba LA ESTRELLA MARKET,

18 Defendants.

) No. 1:11-cv-00579-SMS

) **CONSENT DECREE AND ORDER**

19 **INTRODUCTION**

20 1. Plaintiff NATIVIDAD GUTIERREZ (“Plaintiff”) filed a complaint in this action
21 on April 8, 2011 (“Complaint”) to obtain statutory damages and to enforce provisions of the
22 Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 *et seq.* (“ADA”), and California
23 civil rights laws against Defendants JOHN OHANIAN and AYEDH ALSHOGAA dba LA
24 ESTRELLA MARKET (collectively referred to as “Defendants”) (Plaintiff and Defendants
25 collectively referred to as the “Parties”), relating to the condition of their public
26 accommodations. Plaintiff has alleged that Defendants violated Title III of the ADA and
27 sections 51, 52, 54.1 and 55 of the California Civil Code, and sections 19955 *et seq.* of the
28 California Health and Safety Code, by failing to provide full and equal access to the facilities
located at 449 North Fresno Street, Fresno, California (the “Facility”).

1 **JURISDICTION**

2 2. The Parties to this Consent Decree agree that the Court has jurisdiction of this
3 matter pursuant to 28 U.S.C. § 1331 for alleged violations of the ADA, and supplemental
4 jurisdiction for alleged violations of California Health & Safety Code § 19955 *et seq.*,
5 including § 19959; Title 24 California Code of Regulations; and California Civil Code §§ 51,
6 52, 54, 54.1, 54.3 and 55.

7 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:**

8 **REMEDIAL RELIEF**

9 3. This Order shall be a full, complete and final disposition and settlement of
10 Plaintiff's claims against Defendants for injunctive relief that have arisen out of the Complaint
11 but shall not be construed to be a resolution of Plaintiff's claim for attorney fees, costs and
12 litigation expenses.

13 4. Defendants agree to make the following modifications to the Facility in
14 compliance with the standards and specifications set forth in the Americans with Disabilities
15 Act Accessibility Guidelines and Title 24 California Code of Regulations:

16 **Site Entrance Signage**

- 17 1) Provide site directional signage at all entrances directing to the accessible entrance
18 and route of travel. These signs shall be at each site entrance and walkways entering
19 the site directing to the accessible entrance. Signs shall have an accessible symbol
20 with arrows pointing in the direction of travel and viewable by persons in a
21 wheelchair, preferably 27" maximum height to bottom of sign.
- 22 2) Provide proper tow away warning signage at each entrance to the off-street parking
23 facilities.

24 **Accessible Parking**

- 25 3) Provide a minimum of two accessible parking spaces with one being a van
26 accessible parking space with proper slopes that do not exceed 2% slope.
- 27 4) Properly stripe and identify accessible parking stalls.

28 //

1 Order and shall be in the form of a cashier's check. The taxpayer identification number for the
2 Moore Law Firm is 22- 3978544.

3 7. Tax Liability. Plaintiff takes complete responsibility for any tax liability from
4 the receipt of any settlement monies under this Agreement. An IRS 1099-MISC will be issued
5 to the Moore Law Firm, P.C. for the Settlement Payment.

6 **ATTORNEY FEES, LITIGATION EXPENSES AND COSTS**

7 8. The Parties have not reached an agreement regarding Plaintiff's claim for
8 attorney fees, litigation expenses and costs. This issue shall be the subject of further motion to
9 the Court which date has already been set by the Court to be heard April 11, 2012. Nothing
10 herein shall be construed to be a waiver of Plaintiff's rights to recover attorney fees, litigation
11 expenses and costs.

12 **CONSENT ORDER BINDING ON PARTIES AND SUCCESSORS IN**
13 **INTEREST**

14 9. This Consent Decree and Order shall be binding on Plaintiff and Defendants
15 and any successors in interest. The Parties have a duty to notify all such successors in
16 interest of the existence and terms of this Consent Decree and Order during the period of the
17 Court's jurisdiction over this Consent Decree and Order.

18 **TERM OF CONSENT DECREE AND ORDER**

19 10. This Consent Decree and Order shall be in full force and effect for a period of
20 twelve (12) months after the date of entry of this Consent Decree and Order, or until the
21 injunctive relief contemplated by this Order is completed, whichever occurs later. The Court
22 shall retain jurisdiction of this action to enforce provisions of this Order for twelve (12) months
23 after the date of this Consent Decree, or until the injunctive relief contemplated by this Order is
24 completed, whichever occurs later.

25 **SIGNATORIES BIND PARTIES**

26 11. Signatories on behalf of the Parties represent that they are authorized to bind the
27 Parties to this Consent Decree and Order. This Consent Decree and Order may be signed in
28

1 counterparts and a facsimile signature shall have the same force and effect as an original
2 signature.

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4 Dated: February 8, 2012

/s/ Natividad Gutierrez
Plaintiff NATIVIDAD GUTIERREZ

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6 Dated: February 7, 2012

/s/ John Ohanian
Defendant JOHN OHANIAN

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8
9 Dated: February 7, 2012

/s/ Ayedh Alshogaa
Defendant AYEDH ALSHOGAA
dba LA ESTRELLA MARKET

10
11 APPROVED AS TO FORM:

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13 Dated: February 8, 2012

MOORE LAW FIRM, P.C.

/s/ Tanya E. Moore
Tanya E. Moore, Attorneys for
Plaintiff Natividad Gutierrez

14
15
16
17 Dated: February 6, 2012

MICHAEL WELCH + ASSOCIATES

/s/ Michael D. Welch
Michael D. Welch, Attorney for
John Ohanian and Ayedh Alshogaa
dba La Estrella Market

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21 **ORDER**

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23 Pursuant to the consent of the Parties, and good cause having been shown,

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26 IT IS SO ORDERED.

27 Dated: February 14, 2012

/s/ Sandra M. Snyder
UNITED STATES MAGISTRATE JUDGE

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