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

RACHEL LOBATO,
Plaintiff,

v.

EVERARDO O. GOMEZ, individually and dba EL
SARAPE RESTAURANT; DOLORES B.
GOMEZ, individually and dba EL SARAPE
RESTAURANT,
Defendants.

Case No. 1:15-cv-00686-EPG
**ORDER ON MOTIONS IN LIMINE
AFTER HEARING**

(ECF Nos. 61-62)

This is an action under Title III of the Americans with Disabilities Act alleging that Plaintiff Rachel Lobato was denied full access and enjoyment of Defendants’ restaurant—El Sarape Restaurant—because of various structural barriers in the restaurant that Defendants have failed to remedy.

This case is set for trial on March 7, 2016. The Court held a motion hearing on the parties’ motions in limine (ECF Nos. 61-62) on February 22, 2017.¹ Attorney Zachary Best appeared for Plaintiff and attorney Kathleen Marie Phillips-Vieira appeared for Defendants. The purpose of this order is to summarize the rulings issued on the record at the February 22 hearing.

¹ Both parties have consented to the jurisdiction of a United States Magistrate Judge under 28 U.S.C. § 636(c)(1). (ECF Nos. 7, 11.)

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A. Motions In Limine

Plaintiff’s motion in limine consists of four requests to exclude the following evidence:

- 1. Testimony and videos/photographs taken by Allen Stacey. (ECF No. 61.)
- 2. Prior litigation history of Plaintiff. (ECF No. 61-1.)
- 3. Plaintiff’s attorneys’ fees. (ECF No. 61-2.)
- 4. Expert testimony of Kelly Bray, except as to the information contained in his June 5, 2015 CASp report. (ECF No. 61-3.)

Defendants’ filed a response in opposition to Plaintiff’s motion. (ECF No. 65.) Plaintiff has filed a reply in support of her motion. (ECF No. 71.)

Defendants’ motion in lime is a combined request to exclude 1) Plaintiff’s medical records and 2) the testimony of Dr. Samuel Leon. (ECF No. 62). Plaintiff filed a response opposing the motion. (ECF No. 68.)

B. Rulings Issued at February 22, 2017 Hearing

For the reasons provided on the record, the following rulings were issued:

1. Plaintiff’s motion in limine No. 1 is denied. (ECF No. 61.) Plaintiff’s objection that the probative value is substantially outweighed by a danger of unfair prejudice is overruled.

2. Plaintiff’s motion in limine No. 2 is taken under advisement. (ECF No. 61-1.) Defendants are granted leave to file an opposition brief by February 23, 2017. Plaintiff may file a reply by February 27, 2017.

3. Plaintiff’s motion in limine No. 3 is granted. (ECF No. 61-2.) Defendants are precluded from introducing any comment or evidence regarding Plaintiff’s right to recover her attorneys’ fees should she prevail in this action.

4. Plaintiff’s motion in limine No. 4 is granted. (ECF No. 61-3.) Witness Kelly Bray’s testimony shall be limited to the information contained in his June 5, 2015 CASp report. Defendants are hereby order to supplement its expert disclosure by February 27, 2017, to include the information referenced in Federal Rule of Civil Procedure 26(a)(2)(B)(iv) through (vi).

