



1           **WHEREAS**, this action arises out of Plaintiff’s claims, all of which are disputed by  
2 Defendants, that Defendants discriminated against him in violation of Title III of the  
3 Americans with Disabilities Act, 42 U.S.C. §§ 12101, *et seq.* (“ADA”) and related California  
4 law. Plaintiff’s lawsuit seeks injunctive relief under state and federal law, damages under state  
5 law, and the recovery of his attorneys’ fees, costs, and litigation expenses as permitted by  
6 statute;

7           **WHEREAS**, a settlement was reached between Plaintiff and defendant FedEx Office  
8 and Print Services, Inc. (“FedEx”) and FedEx was dismissed from the action on October 6,  
9 2016 (Dkt. 15);

10           **WHEREAS**, Plaintiff recently passed away, and counsel for Plaintiff filed a Statement  
11 Noting Party’s Death on October 20, 2016 (Dkt. 18);

12           **WHEREAS**, no personal representative has come forward yet on behalf of Plaintiff’s  
13 estate;

14           **WHEREAS**, once the representative of Plaintiff’s estate has been identified, counsel  
15 for Plaintiff anticipates filing a motion to substitute parties to name that individual as a plaintiff  
16 on behalf of Plaintiff’s estate;

17           **WHEREAS**, the Parties wish to conserve their resources as well as those of the Court  
18 pending the substitution into the case of a representative on behalf of Plaintiff’s estate;

19           **WHEREAS**, pursuant to Fed. R. Civ. P. 25(a)(1), a motion for substitution must be  
20 made within 90 days of service of the statement noting Plaintiff’s death, or by January 17,  
21 2017;

22           **WHEREAS**, pursuant to Fed. R. Civ. P. 25(a)(1), “[i]f the motion is not made within  
23 90 days after service of a statement noting the death, the action by or against the decedent must  
24 be dismissed.”

25           **NOW, THEREFORE, THE PARTIES HEREBY STIPULATE** that this matter be  
26 stayed. Should a motion for substitution of parties not be filed in this action on or before  
27 January 17, 2017, the Parties shall file a stipulation for dismissal of the action on or before  
28 January 24, 2017.

1 **IT IS SO STIPULATED.**

2 Dated: November 3, 2016

MOORE LAW FIRM, P.C.

3  
4 /s/ Zachary M. Best

Zachary M. Best  
Attorneys for Plaintiff,  
Arthur Owens

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6  
7 Dated: November 2, 2016

CALL & JENSEN  
A Professional Corporation

8  
9 /s/ Ryan M. McNamara

Ryan M. McNamara  
Attorneys for Defendants,  
Irwin Hoffman, as Trustee of the Irwin Hoffman  
Irrevocable Trust Agreement dated 3/19/91, and as  
Trustee of the Hoffman Trust dated 11/20/98; and  
Terry Poders Hoffman, Trustee of the Hoffman  
Trust dated 11/20/98

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15 **ORDER**

16 The Parties having so stipulated and good cause appearing, IT IS HEREBY ORDERED  
17 as follows:

- 18 1. This action is stayed.
- 19 2. Plaintiff's representative shall either file a Motion for Substitution of Parties in this  
20 action on or before January 17, 2017, or the parties shall file a stipulation for  
21 dismissal of the action on or before January 24, 2017.

22  
23 **IT IS SO ORDERED.**

24 Dated: November 4, 2016

/s/ Barbara A. McAuliffe  
UNITED STATES MAGISTRATE JUDGE