

1 KEITH M. WHITE #188536
 2 COLEMAN & HOROWITT, LLP
 3 Attorneys at Law
 4 499 West Shaw, Suite 116
 5 Fresno, California 93704
 6 Telephone: (559) 248-4820
 7 Facsimile: (559) 248-4830
 8
 9 Attorneys for Defendant,
 10 METACJ, INC., dba SUNRISE FOOD MARKET

11 UNITED STATES DISTRICT COURT
 12 EASTERN DISTRICT OF CALIFORNIA

13 HENDRIK BLOCK
 14
 15 Plaintiffs,
 16
 17 v.
 18 SUNRISE FOOD MARKET, INC., dba
 19 SUNRISE FOOD MARKET; MOHAMED
 20 SALEH ALHOMEDI; METACJ, INC., dba
 21 SUNRISE FOOD MARKET
 22
 23 Defendants.

Case No. 1:17-CV-00189-AWI-EPG

STIPULATION AND ORDER TO:

- 1. SET ASIDE DEFAULT
- 2. SET RESPONSIVE PLEADING DEADLINE; and
- 3. CONTINUE SCHEDULING CONFERENCE

24 Defendant, METACJ, INC., dba SUNRISE FOOD MARKET (“Defendant”) and
 25 Plaintiff HENDRIK BLOCK (“Plaintiff”), by and through their undersigned counsel, hereby
 26 agree and stipulate as follows:

27 WHEREAS, Plaintiff filed a Complaint in the above-entitled court on February 10,
 28 2017;

WHEREAS, Defendant was served with the Complaint on March 11, 2017;

WHEREAS, Defendant believed that because it did not own the subject property at the
 time of the incidents alleged in the Complaint, and that the former owners would be responsible
 to Plaintiff, it did not need to file a responsive pleading;

///

///

1 WHEREAS, Plaintiff filed a Request for Entry of Default as to Defendant on May 10,
2 2017. The Clerk's Entry of Default against Defendant was entered on May 11, 2017 (ECF
3 Document 11);

4 WHEREAS, once Defendant retained counsel, it promptly contacted Plaintiff's counsel
5 and asked that the default be set aside, a responsive deadline be set, and the scheduling
6 conference continued;

7 WHEREAS, neither party will be prejudiced by the setting aside of the default;

8 WHEREAS, counsel for the parties herein have worked together in resolving similar
9 lawsuits in the past and are likely to informally resolve the present dispute if allowed the time
10 to do so;

11 WHEREAS, this matter arises out of Plaintiff's claims that Defendant denied him full
12 and equal access to the subject property on account of his disability in violation of Title III of
13 the Americans with Disabilities Act and parallel California law. To assess Plaintiff's claims
14 and in an effort to reach a full resolution of those claims, Defendant has retained a Certified
15 Access Specialist to inspect the subject property and the inspection is scheduled for the week of
16 July 24, 2017;

17 WHEREAS, the Court has set a Continued Initial Scheduling Conference for August 9,
18 2017;

19 WHEREAS, Plaintiff and Defendant have agreed, subject to the Court's approval, to set
20 aside the default, set a responsive pleading deadline, and continue the scheduling conference in
21 order to allow time for the parties to explore settlement and resolve Plaintiff's claims on the
22 merits if needed rather than by default;

23 THEREFORE, in consideration of the foregoing recitals and subject to the Court's
24 approval, Plaintiff and Defendant hereby stipulate as follows:

- 25 1. Defendant's default be set aside;
- 26 2. Defendant have to and including September 15, 2017 file its responsive
27 pleading; and

1 3. The Initial Scheduling Conference be continued for at least 60 days from its
2 currently set date of August 9, 2017, at the Court's convenience.

3
4 Dated: July 25, 2017

MISSION LAW FIRM, A.P.C.

5 By: /s/ Zachary M. Best
6 ZACHARY M. BEST
7 Attorneys for Plaintiff, HENDRIK
8 BLOCK

9 Dated: July 25, 2017

COLEMAN & HOROWITT, LLP

10 By: /s/ Keith M. White
11 KEITH M. WHITE
12 Attorneys for Defendant, METACJ, INC.,
13 dba SUNRISE FOOD MARKET

ORDER

14 Pursuant to stipulation, and for good cause shown,

15 IT IS HEREBY ORDERED as follows:

16 1. The default entered against Defendant Metacj, Inc. dba Sunrise Food Market
17 (ECF Document 11) is set aside;

18 2. Defendant has to and including September 15, 2017 to file its responsive
19 pleading; and

20 3. The Initial Scheduling Conference is set for October 17, 2017 at 10:00 AM in
21 courtroom 10. The parties are to file their Joint Scheduling Report no less than seven days
22 prior to the conference. The Court grants telephonic appearances, with each party directed to
23 use the following dial-in number and passcode: 1-888-251-2909; passcode 1024453.

24 IT IS SO ORDERED.

25 Dated: July 26, 2017

26 /s/ Eric P. Grogan
27 UNITED STATES MAGISTRATE JUDGE