

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JOSE ACOSTA,

Plaintiff

V.

**ALONZO FAVIO RUIZ, JR. d/b/a
Ventura Tire Shop, et al.,**

Defendants

CASE NO. 1:17-CV-0230 AWI SKO

**ORDER DENYING APPLICATION FOR
STAY UNDER CALIFORNIA CIVIL
CODE § 55.54**

(Doc. No. 10)

This is a disability discrimination lawsuit that alleges claims under the Americans with Disabilities Act (“ADA”) (42 U.S.C. § 12101 et seq.), the California Unruh Civil Rights Act (Code § 51 et seq.), and the California Health and Safety Code § 19955 et seq. Currently the Court is Defendant J.L. Marquez Properties, LLC’s application for a stay pursuant to California Civil Code § 55.54 (“§ 55.54”).

Under California law, the Construction-Related Accessibility Standards Compliance Act (Cal. Civ. Code §§ 55.51-55.54) “entitles some defendants in construction-related accessibility suits to a stay and [an early] evaluation conference for the lawsuit.” O’Campo v. Chico Mall, LP, 758 F.Supp.2d 976, 983 (E.D. Cal. 2010). However, courts in this Ninth Circuit have held that § 55.54’s stay and early evaluation provisions are preempted by the ADA. See Johnson v. GDRR Props., LLC, 2016 U.S. Dist. LEXIS 176156, *2 (N.D. Cal. Dec. 20, 2016); Owens v. Ishihara-Liang, Inc., 2016 U.S. Dist. LEXIS 59511, *2 (E.D. Cal. May 4, 2016); Daubert v. City of Lindsay, 37 F.Supp.3d 1168, 1179-80 (E.D. Cal. 2014); O’Campo, 758 F.Supp.2d at 985. Further, courts in the Ninth Circuit have found, pursuant to *Erie R.R. Co. v. Tompkins*, 304 U.S. 64 (1938),

1 that federal courts should not apply § 55.54 to supplemental state law claims because that statute's
2 provisions are not outcome determinative. See Johnson, 2016 U.S. Dist. LEXIS 176156 at *2-*3;
3 Owens, 2016 U.S. Dist. LEXIS 59511 at *2; Daubert, 37 F.Supp.3d at 1180; O'Campo, 758
4 F.Supp.2d at 985. In light of this law, Defendant's application will be denied. See id.

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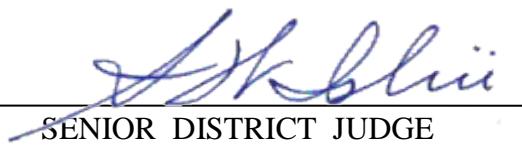
6 ORDER

7 Accordingly, IT IS HEREBY ORDERED that Defendant's application for a stay pursuant
8 to California Civil Code § 55.54 (Doc. No. 10) is DENIED.

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10 IT IS SO ORDERED.

11 Dated: April 11, 2017



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SENIOR DISTRICT JUDGE