

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DARREN GILBERT,  
  
Plaintiff,  
  
v.  
  
MODESTO GROUP INC. dba McHENRY  
CIRCLE K; SHYAM CHOUDHARY;  
NEETA CHOUDHARY,  
  
Defendants.

Case No. 1:21-cv-01683-AWI-BAM  
  
ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS REGARDING  
PLAINTIFF’S MOTION FOR DEFAULT  
JUDGMENT  
  
(Docs. 10, 14)

On November 19, 2021, Plaintiff Darren Gilbert initiated this action pursuant to the Americans with Disabilities Act of 1990 (“ADA”), 42 U.S.C. § 12181 *et seq.*, California’s Unruh Civil Rights Act, California Civil Code § 51, and the California Health and Safety Code, against Defendants Modesto Group Inc. dba McHenry Circle K, Shyam Choudhary and Neeta Choudhary (collectively “Defendants”). (Doc. 1.) The Clerk of the Court entered Defendants’ default on January 4, 2022. (Doc. 8.)

On March 24, 2022, the assigned magistrate judge issued findings and recommendations that Plaintiff’s motion for default judgment be granted in part. (Doc. 14.) Those findings and recommendations were served on the parties and contained notice that any objections thereto were to be filed within fourteen (14) days after service. (*Id.*; *see also* Doc. 15.) The time for filing objections has passed and no objections have been filed.

In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(C), this court has conducted a *de novo* review of this case. Having carefully reviewed the entire file, the court finds the findings and recommendations to be supported by the record and by proper analysis.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Accordingly, IT IS HEREBY ORDERED that:

1. The findings and recommendations issued on March 24, 2022 (Doc. 14) are adopted in full;
2. Plaintiff's motion for default judgment is granted in part;
3. Defendants are found and declared to be in violation of Title III of the Americans with Disabilities Act and the California Unruh Civil Rights Act;
4. Defendants are ordered to make the following modifications to the facility known as McHenry Circle K, located at 3459 McHenry Avenue in Modesto, California, such that each item is brought into compliance with the accessibility requirements of the Americans with Disabilities Act and California Code of Regulations, Title 24, as follows:
  - a. Provide a properly configured and identified accessible parking stall; and
  - b. Provide and maintain proper clear width of the merchandise aisles.
5. Judgment is entered in Plaintiff's favor and against Defendants in the amount of \$6,888.18, consisting of:
  - a. Statutory damages awarded to Plaintiff under the Unruh Act in the amount of \$4,000.00;
  - b. Attorney's fees and costs awarded to Plaintiff in the amount of \$2,888.18 (attorney's fees in the amount of \$1,710.00 (5.7 hours at \$300 per hour), paralegal fees in the amount of \$391.00 (3.4 hours at \$115.00 per hour), and costs of suit in the amount of 787.18); and
6. The Clerk of the Court is directed to close this case.

IT IS SO ORDERED.

Dated: June 10, 2022

  
\_\_\_\_\_  
SENIOR DISTRICT JUDGE