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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

SCOTT N. JOHNSON,

Plaintiff,

No. 2:10-cv-02114 MCE KJN PS

v.

JANICE M. CONROY, Individually and
d/b/a WHISKEY DICKS, et al.,

Defendants.

ORDER

On August 6, 2010, plaintiff filed this action, which as a general matter seeks recovery pursuant to Title III of the Americans With Disabilities Act (“ADA”) and the California Civil Code.¹ (Dkt. No. 1.) On October 22, 2010, defendant Raymond W. Hadley filed an “Application for Stay and Early Evaluation Conference Pursuant to [California] Civil Code 55.54” on what appears to be a Judicial Council of California form. (Dkt. No. 12.) Mr. Hadley’s filing seeks a stay of proceedings because the site in question has been inspected by a Certified Access Specialist and an inspection report has been issued.

¹ This action proceeds before this court pursuant to Eastern District of California Local Rule 302(c)(21) and 28 U.S.C. § 636(b)(1), and was reassigned by a minute order entered November 1, 2010 (Dkt. No. 13).

1 As a general matter, this court follows the Federal Rules of Civil Procedure,
2 which do not provide for the stay and Early Evaluation Conference procedures available under
3 California Civil Code § 55.54. See O'Campo v. Chico Mall, LP, No. CIV. S-10-1105
4 LKK/CMK, 2010 WL 3220141, at *7 (E.D. Cal. Aug. 13, 2010) (unpublished) (concluding that
5 the ADA preempts the stay and Early Evaluation Conference procedures provided for in
6 California Civil Code § 55.54 insofar as federal ADA claims were concerned and denying
7 motion to the extent it would seek application of those procedures to supplemental state law
8 claims). Accordingly, Mr. Hadley's request for a stay and Early Evaluation Conference is
9 denied.

10 However, the undersigned construes Mr. Hadley's request as an initial ex parte
11 application for an extension of time to file an answer or otherwise respond to plaintiff's
12 complaint filed pursuant to Eastern District Local Rule 144(c).² The undersigned grants Mr.
13 Hadley an additional 14 days in which to file an answer or other responsive document.³ Any
14 further stay or extension should be sought through a noticed motion that conforms with the
15 requirements of this court's Local Rules, or through a stipulation and proposed order that
16 conforms with the court's Local Rules.

17 Accordingly, it is HEREBY ORDERED that:

18 1. Defendant Raymond W. Hadley's motion for a stay (Dkt. No. 12) is
19 denied.

20 ² Local Rule 144(c) provides:

21 **(c) Initial Ex Parte Extension.** The Court may, in its discretion, grant an
22 initial extension ex parte upon the affidavit of counsel that a stipulation
23 extending time cannot reasonably be obtained, explaining the reasons why
24 such a stipulation cannot be obtained and the reasons why the extension is
necessary. Except for one such initial extension, ex parte applications for
extension of time are not ordinarily granted.

25 ³ The undersigned grants this extension despite the fact that Mr. Hadley has not indicated
26 why the parties could not agree on a stipulated extension, which is a requirement of Local
Rule 144(c).

