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11 Attorney for Plaintiff SCOTT JOHNSON

12 UNITED STATES DISTRICT COURT
 13 EASTERN DISTRICT OF CALIFORNIA

14 SCOTT JOHNSON,

15 Plaintiff,

16 v.

17 GREGG HENRIKSON;
 18 KJELL O HENRIKSON;
 19 RASSAMEE KAITAMMA; and Does 1-10,

20 Defendants.

Case No.: 2:13-CV-02330-TLN-EFB

**Joint Stipulation of Fact Regarding
 Defendants' Financial Wherewithal**

JOINT STIPULATION

21 The following terms, phrases, and definitions will be applied in this stipulation and are
 22 intended to conform to the usage given in the Americans with Disabilities Act Accessibility
 23 Guidelines:

24 Joint Stipulation

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2:13-CV-02330-TLN-EFB

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2 **ADAAG:** Americans with Disabilities Act Accessibility Guidelines
3 found at 28 C.F.R. Part 36.
4 **ACCESSIBLE:** Complying with the technical requirements of the ADAAG.
5 **SUBJECT PROPERTY:** Thai Kitchen located at or about 255 N Lake Blvd., Tahoe
6 City, California.
7 **READILY ACHIEVABLE:** Shall have the same definition as that found at 42 U.S.C. §
8 12181(9).
9 **BARRIER:** Any architectural or configuration element of the subject
10 property that does not comply with the technical provisions
11 found in the Americans With Disabilities Act Accessibility
12 Guidelines and/or Title 24 of the California Code of
13 Regulations, and which is identified in the Plaintiff's
14 complaint.

15
16 **PLAINTIFF SCOTT JOHNSON AND DEFENDANTS GREGG HENRIKSON, KJELL O.**
17 **HENRIKSON, AND RASSAMEE KAITAMMA, BY AND THROUGH THEIR**
18 **ATTORNEYS OF RECORD, HEREBY STIPULATE:**

19 **WHEREAS** Plaintiff has propounded written discovery to assist him in determining the
20 ability of the Stipulating Defendant to undergo "readily achievable" barrier removal and to
21 support Plaintiff's damages assessment; and

22 **WHEREAS** such discovery information is of a personal and confidential nature and,
23 therefore, the Stipulating Defendants have a legitimate concern about unnecessarily producing
24 such information;

25 The Plaintiff and the Stipulating Defendants enter into the following stipulation:
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1 **Plaintiff:** Plaintiff will currently forbear from propounding any discovery that seeks
2 information concerning the financial status, ability, or wherewithal of the Stipulating
3 Defendants. Plaintiff also withdraws all discovery already propounded concerning this
4 information, namely: Interrogatories, Set One, nos. 3, 7, 9, and 12 and Requests for Production
5 of Documents, Set One, nos. 9, 11, and 12.

6
7 **Stipulating Defendants:** The Stipulating Defendants hereby declare that in determining
8 whether the removal of a BARRIER is READILY ACHIEVABLE, factors such as the (1)
9 Stipulating Defendant's financial resources; (2) the facility's financial resources; (3) the "effect
10 on expenses and resources"; and (4) impact on finances, shall NOT be raised by STIPULATING
11 DEFENDANTS as a defense as to why the Stipulating Defendants cannot remedy and/or
12 remove those alleged BARRIERS.

13
14 **NOTE:** Stipulating Defendants are **not** stipulating (A) liability to the Plaintiff; (B) that the
15 above identified barrier removals are required by law; (C) that the above referenced barriers
16 exist; or (D) that they are subject to the ADA or related state disability access laws.

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18 **NOTE:** The parties understand that the Plaintiff reserves his right to seek financial information
19 in support of a claim for punitive damages. However, Plaintiff will forbear from seeking that
20 information until Plaintiff believes that further discovery information warrants the prosecution
21 of a punitive damages claim against the Stipulating Defendants. Even if Plaintiff reaches a
22 decision that a punitive damages claim should be prosecuted, Plaintiff will, nonetheless, wait
23 until the end of the discovery window to request such information so as to allow maximum
24 opportunity for resolution of the case.

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2 **IT IS SO STIPULATED.**

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4 Dated: January 29, 2015

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7 By: /s/ Amanda Lockhart
8 AMANDA LOCKHART
9 Attorney for Plaintiff

10 Dated: February 8, 2015


MICHAEL D. WELCH ASSOCIATES

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13 By: /s/ Michael D. Welch
14 MICHAEL D. WELCH
15 Attorney for Defendants

16 Approved and So Ordered.

17 Within 14 days of the date of this order, defendant shall respond to all outstanding discovery
18 requests not withdrawn by plaintiff.

19 DATED: February 10, 2015.
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22 
23 EDMUND F. BRENNAN
24 UNITED STATES MAGISTRATE JUDGE
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