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11 Attorney for Plaintiff SCOTT JOHNSON

12 UNITED STATES DISTRICT COURT  
13 EASTERN DISTRICT OF CALIFORNIA

14 SCOTT JOHNSON, ) Case No.: 2:14-CV-01256-TLN-KJN  
15 )

16 Plaintiff,

17 v. )

18 DARLENE RAE DOWNES, in her individual and )  
19 representative capacity as Trustee—Darlene Rae )  
20 Downes Trust; )  
21 JEFFRA MCGOWAN; )  
22 MICHAEL MCGOWAN; and Does 1-10, )

23 Defendants. )  
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- (1) Joint Stipulation of Fact Regarding Defendants' Financial Wherewithal;  
(2) Joint Stipulation Regarding Defendants' Discovery Responses;  
(3) Order Thereon.

31 JOINT STIPULATION

32 The following terms, phrases, and definitions will be applied in this stipulation and are  
33 intended to conform to the usage given in the Americans with Disabilities Act Accessibility  
34 Guidelines:  
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**ADAAG:** Americans with Disabilities Act Accessibility Guidelines found at 28 C.F.R. Part 36.

**ACCESSIBLE:** Complying with the technical requirements of the ADAAG.

**SUBJECT PROPERTY:** Old McGowan’s Feed Store, located at or about 398 E Lathrop Rd., Manteca, California.

**READILY ACHIEVABLE:** Shall have the same definition as that found at 42 U.S.C. § 12181(9).

**BARRIER:** Any architectural or configuration element of the subject property that does not comply with the technical provisions found in the Americans With Disabilities Act Accessibility Guidelines and/or Title 24 of the California Code of Regulations, and which is identified in the Plaintiff’s complaint.

**PLAINTIFF SCOTT JOHNSON AND DEFENDANTS DARLENE RAE DOWNES, JEFFRA MCGOWAN, AND MICHAEL MCGOWAN, BY AND THROUGH THEIR ATTORNEYS OF RECORD, HEREBY STIPULATE:**

**WHEREAS** Plaintiff has propounded written discovery to assist him in determining the ability of the Stipulating Defendants to undergo “readily achievable” barrier removal and to support Plaintiff’s damages assessment; and

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

The Plaintiff and the Stipulating Defendants enter into the following stipulation:

**Plaintiff:** Plaintiff will currently forbear from propounding any discovery that seeks information

1 concerning the financial status, ability, or wherewithal of the Stipulating Defendants. Plaintiff also  
2 withdraws all discovery already propounded concerning this information, including but not limited to:  
3 Interrogatories, Set One, nos. 4, 16, and 17 and Requests for Production of Documents, Set One, nos.  
4 9, 11, and 12.

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6 **Stipulating Defendants:** The Stipulating Defendants hereby declare that in determining whether the  
7 removal of a BARRIER is READILY ACHIEVABLE, factors such as the (1) Stipulating Defendant’s  
8 financial resources; (2) the facility’s financial resources; (3) the “effect on expenses and resources”;  
9 and (4) impact on finances, shall NOT be raised by STIPULATING DEFENDANTS as a defense as  
10 to why the Stipulating Defendants cannot remedy and/or remove those alleged BARRIERS.  
11 Defendants further stipulate to respond fully to all discovery requests not concerning the financial  
12 status, ability, or wherewithal of the Stipulating Defendants within 14 days of the Court’s Order.

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14 **NOTE:** Stipulating Defendants are **not** stipulating (A) liability to the Plaintiff; (B) that the above  
15 identified barrier removals are required by law; (C) that the above referenced barriers exist; or (D) that  
16 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 in  
19 support of a claim for punitive damages. However, Plaintiff will forbear from seeking that information  
20 until Plaintiff believes that further discovery information warrants the prosecution of a punitive  
21 damages claim against the Stipulating Defendants. Even if Plaintiff reaches a decision that a punitive  
22 damages claim should be prosecuted, Plaintiff will, nonetheless, wait until the end of the discovery  
23 window to request such information so as to allow maximum opportunity for resolution of the case.

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26 **IT IS SO STIPULATED.**

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Dated: July 9, 2015

CENTER FOR DISABILITY ACCESS

By:           /s/ Amanda Lockhart            
AMANDA LOCKHART  
Attorney for Plaintiff

Dated: July 9, 2015

MICHAEL D. WELCH ASSOCIATES

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

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7 UNITED STATES DISTRICT COURT  
8 EASTERN DISTRICT OF CALIFORNIA  
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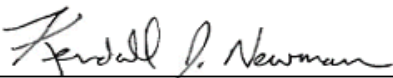
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12 Plaintiff, )  
13 v. )  
14 DARLENE RAE DOWNES, in her individual and ) **Order Regarding Joint Stipulation of Fact and**  
representative capacity as Trustee—Darlene Rae ) **Discovery**  
14 Downes Trust; )  
15 JEFFRA MCGOWAN; )  
MICHAEL MCGOWAN; and Does 1-10, )  
16 Defendants. )  
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19 **ORDER**

20 Having read the Joint Stipulation of Fact Regarding Defendants' Financial Wherewithal and  
21 Discovery Responses, the Court hereby orders Defendants to respond to all outstanding discovery  
22 requests not withdrawn by Plaintiff within 14 days.

23 **IT IS SO ORDERED.**

24 Dated: July 23, 2015

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26 KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE  
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