

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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CECIL SHAW,

Plaintiff,

V.

ERNIE'S GENERAL STORE, INC.,
et al.,

Defendants.

CIV. NO. 2:14-1263 WBS KJN

ORDER RE: MOTION FOR LEAVE TO
FILE FIRST AMENDED COMPLAINT

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Plaintiff Cecil Shaw brought this action under the Americans With Disabilities Act ("ADA"), 42 U.S.C. §§ 12101, et seq., and related California law, alleging that defendants Ernie's General Store, Inc., and Ernest Giannecchini failed to remove barriers preventing plaintiff's access to a public accommodation.

Plaintiff now moves pursuant to Federal Rules of Civil Procedure 15 for leave to file a First Amended Complaint ("FAC")

1 adding additional alleged barriers to his access. (Docket No.
2 14.) “[A] party may amend its pleading only with the opposing
3 party’s written consent or the court’s leave. The court should
4 freely give leave when justice so requires.” Fed. R. Civ. P.
5 15(a) (2). Defendants have not filed an opposition or statement
6 of non-opposition as required by Local Rule 230(c).

7 A plaintiff who has established standing to sue under
8 the ADA regarding at least one barrier to access “may, in one
9 suit, permissibly challenge all barriers in that public
10 accommodation that are related to his or her specific
11 disability.” Doran v. 7-Eleven, Inc., 524 F.3d 1034, 1047 (9th
12 Cir. 2008). The plaintiff “need not have personally encountered
13 all the barriers that bar his access to the . . . store in order
14 to seek an injunction to remove those barriers.” Pickern v.
15 Holiday Quality Foods, Inc., 293 F.3d 1133, 1137-38 (9th Cir.
16 2002).

17 Plaintiff represents that the additional barriers he
18 seeks to add to his Complaint were not identified until after a
19 consultant conducted a site inspection on October 10, 2014, and
20 wrote a report identifying them. (Pl.’s Mem. at 2 (Docket No.
21 14-1).) Moreover, plaintiff indicated in the Joint Status Report
22 filed by the parties on September 15, 2014, that he would seek
23 amendment after conducting this inspection. (JSR at 2 (Docket
24 No. 8).)

25 Good cause appearing therefor, IT IS THEREFORE ORDERED
26 that plaintiffs’ unopposed motion for leave to file a FAC be, and
27 the same hereby is, GRANTED.

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1 Dated: January 7, 2015

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3 **WILLIAM B. SHUBB**

4 **UNITED STATES DISTRICT JUDGE**

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