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Attorney for Plaintiff SCOTT JOHNSON

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

) Case No.: 2:14-cv-01497-MCE-AC

Plaintiff.

JOHN D. WARREN

JOHN D. WARREN;
CALVIN EDWARD KEE; and Does 1-10,

Defendants.

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

JOINT STIPULATION

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

1
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:** Ed's Rockery located at or about 6000 E Lathrop Road,
6 Manteca, 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 **PLAINTIFF SCOTT JOHNSON AND DEFENDANTS JOHN D. WARREN AND CALVIN
16 EDWARD KEE, BY AND THROUGH THEIR ATTORNEYS OF RECORD, HEREBY
17 STIPULATE:**

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

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

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

25
26
27 **Plaintiff:** Plaintiff will currently forbear from propounding any discovery that seeks

1 information concerning the financial status, ability, or wherewithal of the Stipulating
2 Defendants. Plaintiff also withdraws all discovery already propounded concerning this
3 information, including but not limited to: Interrogatories, Set One, nos. 4, 14, and 15 and
4 Requests for Production of Documents, Set One, nos. 10, 12, and 13.

5

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

14

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

18

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

IT IS SO STIPULATED.

Dated: May 19, 2015

CENTER FOR DISABILITY ACCESS

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

Dated: May 19, 2015

MICHAEL D. WELCH ASSOCIATES

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

ORDER

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

IT IS SO ORDERED.

Dated: June 2, 2015


MORRISON C. ENGLAND, JR., CHIEF JUDGE
UNITED STATES DISTRICT COURT