

1 CENTER FOR DISABILITY ACCESS  
 2 MARK D. POTTER, ESQ., SBN 166317  
 3 PHYL GRACE, ESQ., SBN 171771  
 4 Mail: P.O. Box 262490  
 5 San Diego, CA 92196-2490  
 6 Deliveries: 9845 Erma Road, Suite 300  
 7 San Diego, CA 92131  
 8 Phone: (858) 375-7385  
 9 Fax: (888) 422-5191  
 10 phylg@potterhandy.com

11 Attorney for Plaintiff SCOTT JOHNSON

12 UNITED STATES DISTRICT COURT  
 13 EASTERN DISTRICT OF CALIFORNIA

14 SCOTT JOHNSON,

15 Plaintiff,

16 v.

17 JOE CHARLES CRIVELLO SR, in his individual )  
 18 and representative capacity as Trustee—Crivello )  
 19 Family Trust; )  
 20 SUSAN M CRIVELLO, in her individual and )  
 21 representative capacity as Trustee-Crivello Family )  
 22 Trust; )  
 23 CRIVELLO & DI SALVO, INC., a California )  
 24 Corporation; and Does 1-10, )

25 Defendants.

Case No.: 2:14-CV-01692-JAM-AC

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

**JOINT STIPULATION**

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

1 **ADAAG:** Americans with Disabilities Act Accessibility Guidelines found  
2 at 28 C.F.R. Part 36.  
3 **ACCESSIBLE:** Complying with the technical requirements of the ADAAG.  
4 **SUBJECT PROPERTY:** Crivello Body & Paint located at or about 2412 N Wilson Way,  
5 Stockton, California.  
6 **READILY ACHIEVABLE:** Shall have the same definition as that found at 42 U.S.C. §  
7 12181(9).  
8 **BARRIER:** Any architectural or configuration element of the subject  
9 property that does not comply with the technical provisions  
10 found in the Americans With Disabilities Act Accessibility  
11 Guidelines and/or Title 24 of the California Code of  
12 Regulations, and which is identified in the Plaintiff’s complaint.

13  
14 **PLAINTIFF SCOTT JOHNSON AND DEFENDANTS JOE CHARLES CRIVELLO SR,  
15 SUSAN M CRIVELLO, AND CRIVELLO & DI SALVO, INC., BY AND THROUGH THEIR  
16 ATTORNEYS OF RECORD, HEREBY STIPULATE:**

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

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

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

25 **Plaintiff:** Plaintiff will currently forbear from propounding any discovery that seeks information  
26 concerning the financial status, ability, or wherewithal of the Stipulating Defendants. Plaintiff also  
27 withdraws all discovery already propounded concerning this information, including but not limited to:  
28 Interrogatories, Set One, nos. 4, 13, and 14 and Requests for Production of Documents, Set One, nos.

1 8, 13, and 14.

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

10  
11 **NOTE:** Stipulating Defendants are **not** stipulating (A) liability to the Plaintiff; (B) that the above  
12 identified barrier removals are required by law; (C) that the above referenced barriers exist; or (D) that  
13 they are subject to the ADA or related state disability access laws.

14  
15 **NOTE:** The parties understand that the Plaintiff reserves his right to seek financial information in  
16 support of a claim for punitive damages. However, Plaintiff will forbear from seeking that information  
17 until Plaintiff believes that further discovery information warrants the prosecution of a punitive  
18 damages claim against the Stipulating Defendants. Even if Plaintiff reaches a decision that a punitive  
19 damages claim should be prosecuted, Plaintiff will, nonetheless, wait until the end of the discovery  
20 window to request such information so as to allow maximum opportunity for resolution of the case.

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23 **IT IS SO STIPULATED.**

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25 Dated: May 3, 2015

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28 By:           /s/ Amanda Lockhart

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AMANDA LOCKHART  
Attorney for Plaintiff

Dated: May 3, 2015

MICHAEL D. WELCH ASSOCIATES

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

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5 Fax: (888) 422-5191  
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6 Attorney for Plaintiff SCOTT JOHNSON

7 UNITED STATES DISTRICT COURT  
8 EASTERN DISTRICT OF CALIFORNIA  
9

10 ) Case No.: 2:14-CV-01692-JAM-AC  
11 SCOTT JOHNSON, )  
 )  
12 Plaintiff, )  
 )  
13 v. ) **Order Regarding Joint Stipulation of Fact and**  
 ) **Discovery**  
14 JOE CHARLES CRIVELLO SR, in his individual )  
and representative capacity as Trustee—Crivello )  
Family Trust; )  
15 SUSAN M CRIVELLO, in her individual and )  
representative capacity as Trustee-Crivello Family )  
Trust; )  
16 CRIVELLO & DI SALVO, INC., a California )  
Corporation; and Does 1-10, )  
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18 Defendants. )  
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23 **ORDER**

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

27 **IT IS SO ORDERED.**

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Dated: May 4, 2015

/s/ John A. Mendez

UNITED STATES DISTRICT COURT JUDGE