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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

SCOTT JOHNSON,

Plaintiff,

v.

JOHN PAUL BOURBEAU;
TAQUERIA YVETTE, INC., a
California Corporation,

Defendants.

No. 2:14-cv-01730-JAM-EFB

**ORDER GRANTING PLAINTIFF'S
MOTION FOR PARTIAL SUMMARY
JUDGMENT**

Plaintiff Scott Johnson ("Plaintiff") sued Defendants John Paul Bourbeau and Taqueria Yvette, Inc. ("Defendants"), alleging that two businesses, Taqueria Yvette and the Rusty Hook, did not comply with the Americans with Disabilities Act ("ADA") and California law. Compl., ECF No. 1. Plaintiff moved for partial summary judgment. Mot., ECF No. 29. Defendants did not oppose Plaintiff's motion. For the reasons set forth below, the Court GRANTS Plaintiff's motion.¹

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¹ This motion was determined to be suitable for decision without oral argument. E.D. Cal. L.R. 230(g). The hearing was scheduled for September 19, 2017.

1 I. OPINION

2 Plaintiff, a quadriplegic, visited Taqueria Yvette several
3 times between May 2012 and February 2014 and found that the
4 restaurant did not have a van accessible parking spot. Johnson
5 Decl. ¶¶ 2, 4-6, ECF No. 29-5. Plaintiff also encountered
6 difficulty with opening the door of the Taqueria, seeing over the
7 top of the transaction counter, and accessing the restroom. Id.
8 ¶¶ 7-9. Inside the restroom, Plaintiff was unable to use the
9 mirror because it was placed too high and he worried about
10 burning his legs on an unwrapped hot water pipe below the sink.
11 Id. ¶¶ 10-11.

12 Plaintiff visited the Rusty Hook at least three times in
13 February and March 2014. Id. ¶ 16. Similar to the Taqueria,
14 Plaintiff found that the bar did not have a van accessible
15 parking spot and he struggled with the door handle because of his
16 manual dexterity impairments. Id. ¶¶ 17-19. Within the Rusty
17 Hook's bathroom, Plaintiff was unable to utilize the mirror
18 because of its high placement, struggled with the sink's
19 hardware, and could not reach the paper towel dispenser. Id.
20 ¶¶ 20-22. Again, he feared burning his legs on the unwrapped hot
21 water pipes below the sink. Id. ¶ 21.

22 Plaintiff regularly visits businesses in the area, but was
23 deterred from patronizing either the Taqueria or the Rusty Hook
24 because of the businesses' barriers to access. Id. ¶¶ 25-26.

25 Plaintiff seeks statutory damages of \$8,000: \$4,000 for his
26 first visit and \$4,000 "for all the many times he was deterred
27 from visiting." Mot. at 14-15.

28 The Eastern District has held that the same Plaintiff was

1 entitled to statutory damages for one encounter and a separate
2 award for deterrence. Johnson v. Guedoir, 218 F. Supp. 3d 1096,
3 1100 (E.D. Cal. 2016). There is no genuine dispute of material
4 fact that Defendants' businesses did not comply with the ADA and
5 Unruh Act, that Plaintiff visited both businesses on several
6 occasions, and that Plaintiff was deterred from patronizing the
7 businesses thereafter. Plaintiff is entitled to partial summary
8 judgment and \$8,000 in statutory damages.

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10 II. ORDER

11 For the reasons set forth above, the Court GRANTS
12 Plaintiff's motion for partial summary judgment.

13 IT IS SO ORDERED.

14 Dated: September 27, 2017

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17 JOHN A. MENDEZ,
18 UNITED STATES DISTRICT JUDGE
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