

1 CENTER FOR DISABILITY ACCESS  
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6 Attorney for Plaintiff SCOTT JOHNSON

7 UNITED STATES DISTRICT COURT  
8 EASTERN DISTRICT OF CALIFORNIA  
9

10 SCOTT JOHNSON,

11 Plaintiff,

12 v.

13 DENNIS JAMES;  
14 CARTER'S TOWING AND RECOVERY LLC,  
a California Limited Liability Company; and  
Does 1-10,

15 Defendants.  
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) No. 2:14-cv-2520-TLN-DAD

) **Stipulation and Order on Fact  
Regarding Defendants' Financial  
Wherewithal and Defendants'  
Discovery Responses**

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22 **JOINT STIPULATION**  
23

24 The following terms, phrases, and definitions will be applied in this stipulation and are  
25 intended to conform to the usage given in the Americans with Disabilities Act Accessibility  
26 Guidelines:  
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1 **ADAAG:** Americans with Disabilities Act Accessibility Guidelines  
2 found at 28 C.F.R. Part 36.  
3 **ACCESSIBLE:** Complying with the technical requirements of the ADAAG.  
4 **SUBJECT PROPERTY:** Carter’s Towing and Recovery located at or about 2510  
5 Palm, East Nicolaus, 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  
13 complaint.

14 **PLAINTIFF SCOTT JOHNSON AND DEFENDANT DENNIS JAMES, BY AND THROUGH**  
15 **THEIR ATTORNEYS OF RECORD, HEREBY STIPULATE:**

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

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

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

24 **Plaintiff:** Plaintiff will currently forbear from propounding any discovery that seeks  
25 information concerning the financial status, ability, or wherewithal of the Stipulating  
26 Defendants. Plaintiff also withdraws all discovery already propounded concerning this  
27 information, including but not limited to: Interrogatories, Set One, nos. 4 and 15 and

1 Requests for Production of Documents, Set One, nos. 11 and 12.

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

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

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

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26 **IT IS SO STIPULATED.**

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Dated: May 3, 2015

CENTER FOR DISABILITY ACCESS

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

Dated: May 3, 2015

MICHAEL D. WELCH ASSOCIATES

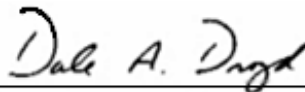
By:           /s/ Michael D. Welch            
MICHAEL D. WELCH  
Attorney for Defendants

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**ORDER**

Pursuant to the parties' stipulation, IT IS SO ORDERED.

Dated: May 15, 2015



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DALE A. DROZD  
UNITED STATES MAGISTRATE JUDGE

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