

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 JOSEPH HENSLER, in his individual and
 18 representative capacity as trustee—The Hensler
 19 Family Trust;
 20 GAYLE HENSLER, in her individual and
 21 representative capacity as trustee—The Hensler
 22 Family Trust;
 23 WILLIAM LAWTON; and Does 1-10,

24 Defendants.

Case No.: 2:14-CV-02832-JAM-DAD

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

JOINT STIPULATION

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

28 **ADAAG:** Americans with Disabilities Act Accessibility Guidelines found

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at 28 C.F.R. Part 36.

ACCESSIBLE: Complying with the technical requirements of the ADAAG.

SUBJECT PROPERTY: Tile Outlet located at or about 2736 Teepee Drive, Stockton, California.

READILY ACHIEVABLE: Shall have the same definition as that found at 42 U.S.C. § 12181(9).

BARRIER: Any architectural or configuration element of the subject property that does not comply with the technical provisions found in the Americans With Disabilities Act Accessibility Guidelines and/or Title 24 of the California Code of Regulations, and which is identified in the Plaintiff’s complaint.

PLAINTIFF SCOTT JOHNSON AND DEFENDANTS JOSEPH HENSLER, GAYLE HENSLER AND WILLIAM LAWTON, BY AND THROUGH THEIR ATTORNEYS OF RECORD, HEREBY STIPULATE:

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

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

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

Plaintiff: Plaintiff will currently forbear from propounding any discovery that seeks information concerning the financial status, ability, or wherewithal of the Stipulating Defendants. Plaintiff also withdraws all discovery already propounded concerning this information, including but not limited to: Interrogatories, Set One, propounded on all Defendants, nos. 4, 14, and 15, Requests for Production of

1 Documents, Set One, propounded on Defendant Lawton, nos. 9, 10, 11, and Requests for Production
2 of Documents, Set One Propounded on Defendants Joseph Hensler and Gayle Hensler, nos. 10, 12,
3 and 13.

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

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

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

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24 **IT IS SO STIPULATED.**

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Dated: May 20, 2015

CENTER FOR DISABILITY ACCESS

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

Dated: May 20, 2015

MICHAEL D. WELCH ASSOCIATES

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

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6 Attorney for Plaintiff SCOTT JOHNSON

7 UNITED STATES DISTRICT COURT
8 EASTERN DISTRICT OF CALIFORNIA

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10 SCOTT JOHNSON,) Case No.: 2:14-CV-02832 JAM DAD
11)
Plaintiff,)
12 v.)
JOSEPH HENSLER, in his individual and) **Order Regarding Joint Stipulation of Fact and**
13 representative capacity as trustee—The Hensler) **Discovery**
Family Trust;)
14 GAYLE HENSLER, in her individual and)
representative capacity as trustee—The Hensler)
15 Family Trust;)
WILLIAM LAWTON; and Does 1-10,)
16 Defendants.)
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19)

20 **ORDER**

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

24 **IT IS SO ORDERED.**

25
26 Dated: 5/20/2015

/s/ John A. Mendez _____

27 UNITED STATES DISTRICT COURT JUDGE
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