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UNITED STATES DISTRICT COURT

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EASTERN DISTRICT OF CALIFORNIA

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11 SCOTT JOHNSON,

No. 2:16-cv-00978-JAM-DB

12 Plaintiff,

13 v.

**ORDER GRANTING PLAINTIFF'S
MOTION FOR SUMMARY JUDGMENT**14 KRISHNA G. KUMAR and
15 NALINI K. KUMAR,

16 Defendants.

17 Plaintiff Scott Johnson ("Plaintiff") sued Defendants
18 Krishna G. Kumar and Nalini K. Kumar ("Defendants"), alleging
19 that their business, the Economy Inn, does not comply with the
20 Americans with Disabilities Act ("ADA") and the Unruh Civil
21 Rights Act. Compl., ECF No. 1. Plaintiff moved for summary
22 judgment. Mot., ECF No. 26. Defendants did not oppose
23 Plaintiff's motion. For the reasons set forth below, the Court
24 GRANTS Plaintiff's motion. ¹

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¹ This motion was determined to be suitable for decision without
28 oral argument. E.D. Cal. L.R. 230(g).

1 I. OPINION

2 Plaintiff, a quadriplegic, visited the Economy Inn, located
3 at 528 E. Pacheco Blvd., Los Banos, California, on February 23,
4 2015, March 9, 2015, April 20, 2015, May 27, 2015, September 6,
5 2015, October 6, 2015, October 7, 2015 and December 7, 2015.
6 Johnson Decl. ¶ 4, ECF No. 26-5. During his visits, Plaintiff
7 found that the entrance ramp to the office door lacked a landing;
8 the door hardware was hard to operate; and the transaction
9 counter was too high for him to use. Id. at ¶¶ 7-12. Traveling
10 to a guestroom, Plaintiff found the path to his guestroom
11 obstructed by air conditioning units. Id. at ¶¶ 13-15.

12 Plaintiff plans to return and patronize the Economy Inn once
13 barriers are removed. Id. at ¶¶ 19-20. He seeks injunctive
14 relief and statutory damages under the Unruh Civil Rights Act
15 corresponding to two (2) obstructed visits to the Economy Inn
16 (\$4,000.00 minimum statutory damages per visit, for a total
17 amount of \$8,000.00). Mot. at 11.

18 Here, Plaintiff provided factual evidence that Defendants'
19 business did not comply with the ADA and Unruh Civil Rights Act.
20 Defendants did not oppose or provide evidence demonstrating an
21 issue of material fact as to those violations. Thus, there is no
22 dispute of fact as to Plaintiff's visits to the Economy Inn and
23 Defendants' statutory noncompliance, making relief appropriate.

24 Although a plaintiff may recover statutory damages for
25 several visits to a non-compliant facility, making multiple
26 visits to a non-complaint facility in a short amount of time may
27 constitute a failure to mitigate. See Johnson v. Guedoir, 218 F.
28 Supp. 3d 1096, 1103 (E.D. Cal. 2016). Here, Plaintiff visited

1 the Economy Inn eight times in ten months. Since Plaintiff only
2 seeks statutory damages for two of his eight visits and there is
3 no showing of failure to mitigate, the Court will grant Plaintiff
4 \$8,000 in statutory damages.

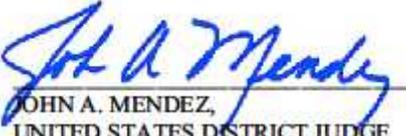
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II. ORDER

For the reasons provided, Plaintiff's Motion for Summary Judgment, ECF No. 26, is GRANTED. Defendants are enjoined to "alter facilities to make such facilities readily accessible to and useable by individuals with disabilities" to the extent required by the ADA. 42 U.S.C. § 12188(a)(2). The Court also awards Plaintiff statutory damages in the amount of \$8,000.

IT IS SO ORDERED.

Dated: November 9, 2017



JOHN A. MENDEZ,
UNITED STATES DISTRICT JUDGE