

1 In this case, plaintiff, a disabled individual with mobility and visual impairments, alleges
2 that he patronized the Burlington Coat Factory located at “5601 #101 Florin Rd, Sacramento, Ca.
3 95823,” which is owned and operated by defendants, and encountered certain structural features
4 on the premises that acted as barriers to accessibility for persons with his alleged disabilities.
5 (See generally ECF No. 1.) Based on these alleged facts, plaintiff asserts claims under the
6 Americans with Disabilities Act, the California Unruh Civil Rights Act, the California Disabled
7 Persons Act, and for negligence. (Id.)

8 Based on the limited record before the court, the court cannot conclude that plaintiff’s
9 action is frivolous, that the complaint fails to state a claim upon which relief can be granted, or
10 that plaintiff seeks monetary relief from an immune defendant. The court reserves decision as to
11 plaintiff’s claims until the record is sufficiently developed, and this order does not preclude
12 defendants from challenging plaintiff’s complaint through a timely motion pursuant to Federal
13 Rule of Civil Procedure 12 or other appropriate method of challenging plaintiff’s pleading.
14 Accordingly, the court orders service of the complaint on defendants.

15 For the foregoing reasons, IT IS HEREBY ORDERED that:

- 16 1. Plaintiff’s motion to proceed *in forma pauperis* (ECF No. 2) is granted.
- 17 2. Service of the complaint is appropriate for defendants Burlington Coat Factory
18 Realty Florin, Inc., Burlington Coat Factory of California, LLC, and Thomas Kingsbury.
- 19 3. The Clerk of Court is directed to issue forthwith all process pursuant to Federal
20 Rule of Civil Procedure 4.
- 21 4. The Clerk of Court shall send plaintiff one USM-285 form, one summons, this
22 court’s scheduling order, and the forms providing notice of the magistrate judge’s availability to
23 exercise jurisdiction for all purposes.
- 24 5. Plaintiff is advised that to effectuate service, the U.S. Marshal will require:
 - 25 a. One completed summons;
 - 26 b. One completed USM-285 form for each defendant to be served;
 - 27 c. A copy of the complaint for each defendant to be served, with an extra
28 copy for the U.S. Marshal; and

