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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

SCOTT JOHNSON,

Plaintiff,

v.

SIU KEUNG CHAN, et al.,

Defendants.

No. 2:17-cv-00138-KJM-AC

ORDER

This is an action for violations of the Americans with Disabilities Act of 1990 (“ADA”) and California’s Unruh Civil Rights Act. Compl., ECF No. 1. The plaintiff is a C-5 quadriplegic who uses a motorized wheelchair and has significant manual dexterity impairments. *Id.* The defendants own or owned the physical premises of a Subway restaurant located at 6530 Florin Road, Sacramento, California. *Id.* ¶¶ 2–13; *see also* Answer, ECF No. 7.

On July 1, 2019, plaintiff filed an ex parte application to vacate trial dates and order defendants to appear, contending that they could not reach defendants through their counsel of record, Mark T. Gallagher. Ex Parte Appl., ECF No. 29. The application stated that Mr. Gallagher had lost his license to practice law as of January 18, 2019, and the California State Bar was in the process of disbaring him for several ethics violations. Appl., Ex. 2, ECF No. 29-4. The court took notice of State Bar records reflecting that Mr. Gallagher defaulted at a State Bar Court proceeding on January 15, 2019. *In the Matter of Mark T. Gallagher- #180514*, 18-O-

1 13772-CV (Cal. State Bar Ct., Jan. 15, 2019). The Supreme Court of California has since ordered
2 Mr. Gallagher disbarred, on October 31, 2019. *In re Mark T. Gallagher on Discipline*, 18-O-
3 13772-CV, slip op. S256339 (Cal. S. Ct. Oct. 31, 2019). Following plaintiff's July 1 application
4 and before Mr. Gallagher's disbarment, on July 8, 2019, this court issued an order to show cause
5 to Mr. Gallagher, which was returned as undeliverable. Order to Show Cause, ECF No. 30. On
6 July 30, 2019, the court issued an order notifying defendants their counsel was ineligible to
7 practice law and directing them to find new counsel or proceed pro se. Order, ECF No. 31.

8 On August 12, 2019, defendants Siu Keung Chan and Rita Ngan Chan filed a
9 consent order substituting Richard Morin in place of their previous counsel, Mr. Gallagher. ECF
10 No. 32. On August 19, 2019, the court authorized Mr. Morin to substitute in as counsel of record
11 for defendants. ECF No. 33. On August 29, 2019, defendants Siu Keung Chan and Rita Ngan
12 Chan filed a motion for reconsideration of the court's partial grant of summary judgment, ECF
13 No. 34, and the court granted this motion on January 15, 2020, ECF No. 44. Upon the court's
14 ruling on the motion for reconsideration, the court referred plaintiff and defendants Siu Keung
15 Chan and Rita Ngan Chan to this court's ADR coordinator for a VDRP session to take place
16 within 30 to 60 days. Reconsideration Order, ECF No. 44, at 6.


17 While the other defendants responded to the court's order regarding Mr.
18 Gallagher's ineligibility to represent them, defendant Haneshinder Singh Chauhan never filed a
19 notice of substitution of attorney or a notice to proceed pro se. As a result, on March 6, 2020, the
20 court issued a minute order directing plaintiff to notify the court of the last known place of
21 residence for this defendant and to serve the defendant a copy of this court's order within 45 days.
22 ECF No. 47. Plaintiff provided the court with defendant Haneshinder Singh Chauhan's address
23 on March 30, 2020 and served the court's order on defendant at the address on March 16, 2020.
24 *See* ECF Nos. 48, 50.

25 Defendant Haneshinder Singh Chauhan has yet to respond to the court's
26 notification as ordered. Accordingly, the court orders plaintiff to move for default judgment
27 against defendant Haneshinder Singh Chauhan before the assigned magistrate judge within thirty
28 (30) days of this order. Fed. R. Civ. P. 55(b)(2). Should plaintiff not do so, the court anticipates

1 dismissing the case against defendant Haneshinder Singh Chauhan for failure to prosecute. Fed.
2 R. Civ. P. 41(b).

3 IT IS SO ORDERED.

4 DATED: June 2, 2020.

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7 CHIEF UNITED STATES DISTRICT JUDGE
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