



1 In this case, plaintiff, a California resident with physical disabilities, alleges that he was  
2 discriminated against by defendants at Burlington Coat Factory Store # 750 in Woodland, CA  
3 because the location is not accessible to persons with disabilities in violation of the Americans  
4 with Disability Act, the California Unruh Civil Rights Act, and the California Disabled Persons  
5 Act. (See generally ECF No. 1.)

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

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

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

1           6.       Plaintiff shall supply the U.S. Marshal, within 30 days from the date this order is  
2 filed, with all information needed by the U.S. Marshal to effectuate service of process, and shall,  
3 within 10 days thereafter, file a statement with the court that such documents have been submitted  
4 to the U.S. Marshal.

5           7.       The U.S. Marshal shall serve process, with copies of this court's scheduling order  
6 and related documents, within 90 days of receipt of the required information from plaintiff,  
7 without prepayment of costs.

8           8.       If a defendant waives service, the defendant is required to return the signed waiver  
9 to the U.S. Marshal. The filing of an answer or a responsive motion does not relieve a defendant  
10 of this requirement, and the failure to return the signed waiver may subject a defendant to an  
11 order to pay the costs of service by the U.S. Marshal.

12           9.       The Clerk of Court shall serve a copy of this order on the U.S. Marshal.

13           10.      Failure to comply with this order may result in any appropriate sanctions,  
14 including monetary sanctions and/or dismissal of the action pursuant to Federal Rule of Civil  
15 Procedure 41(b).

16 Dated: April 13, 2018

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19 CAROLYN K. DELANEY  
20 UNITED STATES MAGISTRATE JUDGE

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