

United States District Court
Northern District of California

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7 JOHN RODGERS,
8 Plaintiff,
9 v.
10 CORI CLARK, et al.,
11 Defendants.

Case No.: 4:14-cv-00084-KAW

ORDER REQUIRING PARTIES TO
SUBMIT SUPPLEMENTAL BRIEFING

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14 In this ADA case, Plaintiff moves for leave to file a second amended complaint, which
15 would include additional accessibility barriers identified during a March 10, 2014 joint site
16 inspection. (Pl.'s Mot., Dkt. No. 23.) Defendants oppose the motion, arguing, among other
17 things, that granting such leave will prejudice them because the time period set forth in California
18 Civil Code section 55.56, which permits a defendant to reduce liability for statutory damages by
19 "correct[ing] all construction-related violations that are the basis of a claim within 30 days of
20 being served with the complaint," has expired. (Def.'s Opp'n at 3, 4, Dkt. No. 27.)

21 The Court orders the parties to submit further briefing on whether the 30-day period set
22 forth in California Civil Code section 55.56 commences only upon the filing of an original
23 complaint or begins with the filing of each amended complaint. Each party shall submit a brief of
24 no more than five pages on the issue by no later than June 11, 2014.

25 The parties may also consider whether it is appropriate to stipulate to the filing of a second
26 amended complaint, on the condition that Defendants be given 30 days, from the filing of that
27 complaint, to cure the construction-related violations not included in the first amended complaint.
28 If the parties agree on the terms of a stipulation, they may file their stipulation and proposed

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order, together with a copy of the proposed second amended complaint, in lieu of filing supplemental briefing. Any such stipulation shall be filed by no later than June 11, 2014. The motion hearing currently set for June 5, 2014 is hereby VACATED.

IT IS SO ORDERED.

Dated: May 28, 2014


KANDIS A. WESTMORE
United States Magistrate Judge