

# JUDICIAL COUNCIL OF CALIFORNIA

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## INVITATION TO COMMENT W16-03

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Title	Action Requested
Civil Forms: Disability Access Litigation	Review and submit comments by January 22, 2016
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Approve form DAL-002 and revise forms DAL-001, DAL-005, DAL-010, and DAL-012	July 1, 2016
Proposed by	Contact
Civil and Small Claims Advisory Committee Hon. Raymond M. Cadei, Chair	Susan R. McMullan, susan.mcmullan@jud.ca.gov, 415-865-7990

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### Executive Summary and Origin

The Civil and Small Claims Advisory Committee proposes that certain statutorily mandated Disability Access Litigation forms used in construction-related accessibility claims be revised and that a verified answer form be approved for optional use. The forms are used for parties to apply for, and the court to grant, stays and mandatory evaluation conferences in this type of litigation. The forms must be changed to reflect the amendments to the Civil Code made by Assembly Bill 1521 (Assembly Committee on Judiciary; Stats. 2015, ch.755), enacted on October 10, 2015 as urgency legislation (and thus operative on enactment) to (1) add a new category of defendants that may request a stay and early evaluation conference, (2) allow defendants to request a joint inspection, (3) provide certain information in the statutory advisory form for building owners and tenants, and (4) provide a verified answer form.

### Background

Assembly Bill 1521 (Assembly Committee on Judiciary; Stats. 2015, ch.755) (AB 1521) enacted on October 10, 2015 as urgency legislation and therefore already in effect, amended the statutory provisions concerning construction-related disability access claims. The new law is intended to limit the practice of high-volume lawsuits motivated by quick settlement with business owners—rather than correction of ADA violations—by placing new requirements, including substantially higher filing fees, on what the bill refers to as “high-frequency litigants.”<sup>1</sup> The new law also

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<sup>1</sup> New Code of Civil Procedure section 425.55 defines “high-frequency litigant” as (1) a plaintiff who has filed 10 or more complaints alleging a construction-related accessibility violation within the 12-month period immediately preceding the filing of the current complaint or (2) an attorney who has represented as attorney of record 10 or more

*The proposals have not been approved by the Judicial Council and are not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. These proposals are circulated for comment purposes only.*

provides some additional rights to defendant businesses in cases brought by such litigants, which are now in effect. In addition, the new law requires the Judicial Council to make some changes effective July 1, 2016. (Civ. Code, § 55.3(b)(1)(A) and (b)(1)(B).) The council must revise the advisory notice to building owners and tenants to provide certain additional information and approve a verified answer form that may be used by defendants.

## **The Proposal**

The committee is seeking comments on revisions to forms used in construction-related accessibility claims and on a proposed new verified answer to be used by defendants. These changes are urgently needed to respond to a recent change in the law. As noted above, the new law on construction-related disability access claims became effective October 10, 2015. To comply with this law, the committee has recommended that three forms (DAL-005, DAL-010, and DAL-012) be revised effective January 1, 2016; without the revisions, the forms would be incomplete or inaccurate. Because of this tight time frame, there was not time to circulate the changes for public comment before the Judicial Council will consider the form revisions at its December 2015 meeting. These forms are being circulated for public comment now, along with a new and a revised form (DAL-002 and DAL-001, respectively) to be effective July 1, 2016.

## **Form revisions effective January 1, 2016**

Assembly Bill 1521 (Assembly Committee on Judiciary; Stats. 2015, ch.755) (AB 1521) amended the statutory provisions concerning construction-related disability access claims. The new law also provides some additional rights to defendant businesses in cases brought by such litigants, which are now in effect.

Certain categories of defendants in construction-related disability access cases have the right to a 90-day stay upon request, and to an early evaluation conference held by the court during the stay period. The new law adds an additional category of defendants to those with the right to a stay—business defendants in cases filed by high-frequency litigants. (Civ. Code, § 55.54(b)(2)(D).) *Defendant's Application for Stay and Early Evaluation Conference Pursuant to Civil Code Section 55.54* (current form DAL-005) is the form mandated for use by defendants to make such a request. The form contains the statutorily mandated facts that the various categories of defendants must state under penalty of perjury to receive a stay and early evaluation conference.

The proposed revisions to form DAL-005 would add item 3d for the new category of defendants that can seek a stay and include all statements defendants must declare under the statute, i.e: that it is a business and was served with a complaint by a high-frequency litigant as defined by Code of Civil Procedure section 425.55. (Civ. Code, § 55.54(c)(7).) Under the new law, each complaint in these cases must state whether it is filed by a high-frequency litigant and the complaint caption must state whether the action is subject to the supplemental fee for high-frequency litigants set by Government Code section 70616.5(Code Civ. Proc., § 425.50(a)(4)).

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high-frequency litigant plaintiffs in actions that were resolved within the 12-month period immediately preceding the filing of the current complaint, with certain exclusions (including successful cases).

New item 3d includes a statement for the defendant to check indicating that the complaint included this information.

The new law also provides that when issuing the stay and setting the early evaluation conference, the court should, if defendant requests it, direct the parties to meet in person at the subject premises, no later than 30 days after the issuance of the order, for a joint inspection of the property. (Civ. Code, § 55.54(d)(6).) The application form has been revised to include this optional request, at item 4e. (See revised form DAL-005.) The *Notice of Stay of Proceedings and Early Evaluation Conference* (current form DAL-010) has also been revised, with a new section “Notice of Joint Inspection,” and new items 8, 9, and 10. Because the court is to direct a joint inspection only if specifically requested to do so, items 8 and 9 on form DAL-010 have check boxes in front of them, which can be checked by the clerk if the request has been made on form DAL-005.

The new law provides that the court may allow a plaintiff who is unable to meet in person at the subject premises to be excused from participating in a site visit or, for good cause, to participate by telephone or other alternative means. (Civ. Code, § 55.54(d)(6).) New item 10 on revised form DAL-010 therefore informs any plaintiff who is unable to meet at the site that he or she may move the court for leave to be excused.

The titles of forms DAL-005 and DAL-010 have also been revised, to include the term “*Joint Inspection*.” The revised forms are titled *Defendant’s Application for Stay of Proceedings and Early Evaluation Conference, Joint Inspection* (form DAL-005) and *Notice of Stay of Proceedings and Early Evaluation Conference, Joint Inspection*, (form DAL-010). To reflect these changed titles, another form, *Proof of Service—Disability Access Litigation* (form DAL-012), has been revised to add “*Joint Inspection*” to the titles of the two revised forms.

### **Form revisions effective July 1, 2016**

The new law requires the council to revise *Important Advisory Information for Building Owners and Tenants* (DAL-001), the form used by an attorney to provide mandated information about the defendant’s legal obligations and rights with the initial demand letter or complaint. The exact language to be added is contained in the legislation. (Civ. Code, § 55.3(b)(1)(A).) The form would be revised to add this information, which concerns attorney conduct, reducing damages, and information for commercial tenants.

The new law also requires the council to develop a verified answer form that could also be used as an informal response to a demand letter or for settlement discussion purposes and to notify the defendant that the answer can be used in this way. (Civ. Code, § 55.3(b)(2).) Specifically, the answer form must include the following possible affirmative defenses: that (1) the defendant’s landlord is responsible for ensuring that the property leased by the defendant is accessible to the public and (2) the defendant qualifies for reduced damages under Civil Code section 55.56(f)(1) or (f)(2) and facts supporting that assertion. (Civ. Code, § 55.3(b)(2).) These and other required elements of the verified answer form are included in proposed new *Answer—Disability Access*

(form DAL-002). One item in the legislation concerning the answer has been modified. Civil Code section 55.3(b)(2)(A)(iii) provides that the answer should include a request to meet in person at the subject premises, if the defendant qualifies for an early evaluation conference pursuant to section 55.54. Because the stay and early evaluation conference and inspection at the subject premises would have already taken place before an answer is filed, the option to request to meet for an inspection has been modified to include a check box to indicate whether such a meeting has been requested. (See form DAL-002, item 5.)

Finally, a minor revision to *Proof of Service—Disability Access Litigation* (form DAL-012), would add a check box for service of the new answer form, *Answer—Disability Access* (DAL-002).

### **Alternatives Considered**

These form revisions and new answer form are required by AB 1521. The advisory committee therefore did not consider alternatives to recommending these revisions and the new form. The advisory committee would have preferred that all forms were circulated for public comment before being revised by the council, but because some of the changes were effective immediately upon enactment of AB 1521, there was not time to circulate them first. Three forms—*Defendant’s Application for Stay of Proceedings and Early Evaluation Conference, Joint Inspection* (forms DAL-005), *Notice of Stay of Proceedings and Early Evaluation Conference, Joint Inspection* (form DAL-010), and *Proof of Service—Disability Access Litigation* (form DAL-012) are being circulated during the period immediately before and after the effective date of January 1, 2016. The advisory committee will consider the need for further revisions to these three forms (as well as the other forms in this proposal), based on the comments received and will recommend any revisions to be effective July 1, 2016.

### **Implementation Requirements, Costs, and Operational**

The legislative changes to the disability access litigation procedures will require courts to implement some training in the new procedures for considering requests for a joint inspection. Adding “*Joint Inspection*” to the titles of forms DAL-005 and DAL-010, with a check box to indicate whether it applies, should assist courts in quickly determining if a joint inspection has been requested or granted. For cases that proceed to the answer stage, *Answer—Disability Access* (form DAL-002) may improve the adequacy and quality of answers. Courts that maintain supplies of forms will incur the costs of replacing old forms with the revised forms.

## Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?
- Should *Answer—Disability Access* (DAL-002) include additional affirmative defenses? (There is a check box for additional defenses not listed.)

The advisory committee also seeks comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so please quantify.
- What would the implementation requirements be for courts? For example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems.
- Would 2 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

### Attachments and Links

1. Judicial Council forms DAL-001, DAL-002, DAL-005, DAL-010, and DAL-012 at pages 6–15
2. Assembly Bill 1521, available at [http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201520160AB1521](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB1521)

## STATE LAW REQUIRES THAT YOU GET THIS IMPORTANT ADVISORY INFORMATION FOR BUILDING OWNERS AND TENANTS

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This information is available in English, Spanish, Chinese, Vietnamese, and Korean through the Judicial Council of California. People with visual impairments can get assistance in viewing this form through the judicial branch website, at [www.courts.ca.gov](http://www.courts.ca.gov).

California law requires that you receive this information because the demand letter or court complaint you received with this document claims that your building or property does not comply with one or more existing construction-related accessibility laws or regulations protecting the civil rights of people with disabilities to access public places.

**YOU HAVE IMPORTANT LEGAL OBLIGATIONS.** Compliance with disability access laws is a serious and significant responsibility that applies to all California building owners and tenants with buildings open for business to the public. You may obtain information about your legal obligations and how to comply with disability access laws through the Division of the State Architect, at [www.dgs.ca.gov/dsa](http://www.dgs.ca.gov/dsa). Information is also available from the California Commission on Disability Access at [www.cdda.ca.guide.htm](http://www.cdda.ca.guide.htm).

**YOU HAVE IMPORTANT LEGAL RIGHTS.** The allegations made in the accompanying demand letter or court complaint do not mean that you are required to pay any money unless and until a court finds you liable. Moreover, RECEIPT OF A DEMAND LETTER OR COURT COMPLAINT AND THIS ADVISORY DOES NOT NECESSARILY MEAN YOU WILL BE FOUND LIABLE FOR ANYTHING. You will have the right if you are later sued to fully present an explanation of why you believe you have not in fact violated disability access laws or have corrected the violation or violations giving rise to the claim.

You have the right to seek assistance or advice about this demand letter or court complaint from any person of your choice. If you have insurance, you may also wish to contact your insurance provider. Your best interest may be served by seeking legal advice or representation from an attorney, but you may also represent yourself and file the necessary court papers to protect your interests if you are served with a court complaint. If you have hired an attorney to represent you, you should immediately notify your attorney.

If a court complaint has been served on you, you will get a separate advisory notice with the complaint advising you of special options and procedures available to you under certain conditions.

**ADDITIONAL THINGS YOU SHOULD KNOW: ATTORNEY MISCONDUCT.** Except for limited circumstances, state law generally requires that a prelitigation demand letter from an attorney MAY NOT MAKE A REQUEST OR DEMAND FOR MONEY OR AN OFFER OR AGREEMENT TO ACCEPT MONEY. Moreover, a demand letter from an attorney MUST INCLUDE THE ATTORNEY'S STATE BAR LICENSE NUMBER.

If you believe the attorney who provided you with this notice and prelitigation demand letter is not complying with state law, you may send a copy of the demand letter you received from the attorney to the State Bar of California by facsimile transmission to 1-415-538-2171, or by mail to the State Bar of California, 180 Howard Street, San Francisco, CA, 94105, Attention: Professional Competence.

## **STATE LAW REQUIRES THAT YOU GET THIS IMPORTANT ADVISORY INFORMATION FOR BUILDING OWNERS AND TENANTS**

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**REDUCING YOUR DAMAGES.** If you are a small business owner and correct all of the construction-related violations that are the basis of the complaint against you within 30 days of being served with the complaint, you may qualify for reduced damages. You may wish to consult an attorney to obtain legal advice. You may also wish to contact the California Commission on Disability Access for additional information about the rights and obligations of business owners.

**COMMERCIAL TENANT.** If you are a commercial tenant, you may not be responsible for ensuring that some or all portions of the premises you lease for your business, including common areas such as parking lots, are accessible to the public because those areas may be the responsibility of your landlord. You may want to refer to your lease agreement and consult with an attorney or contact your landlord, to determine if your landlord is responsible for maintaining and improving some or all of the areas you lease.

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY: ZIP CODE: BRANCH NAME:	
Plaintiff: Defendant:	
<b>ANSWER—DISABILITY ACCESS</b>	CASE NUMBER:

*This form may be filed with the court and served on the plaintiff as an answer to the complaint, or it may be used as an informal response to a demand letter or for settlement discussion purposes.*

1. Defendant(s) *(Each defendant for whom this answer is filed must be named and must sign this answer unless his or her attorney signs):*

answers the complaint as follows:

2. **Check ONLY ONE of the next three boxes, a, b, or c:**

- a.  Defendant generally denies each statement of the complaint.
- b.  Defendant denies that plaintiff has demonstrated that he or she was denied full and equal access to the place of public accommodation on a particular occasion. *(See Civil Code section 55.56.)*
- c.  Defendant admits that all of the statements of the complaint are true EXCEPT:
  - (1) Defendant claims the following statements of the complaint are false. *(State paragraph numbers from the complaint or explain below:)*  Explanation is on Attachment 2c(1). *(You may use Form MC-025 for this purpose.)*

- (2) Defendant has no information or belief that the following statements of the complaint are true, so defendant denies them. *(State paragraph numbers from the complaint or explain below:)*
  - Explanation is on Attachment 2c(2). *(You may use Form MC-025 for this purpose.)*

3. **AFFIRMATIVE DEFENSES** **(NOTE: For each box checked below, you must state brief facts to support it in item 4.)**

- a.  Defendant is not liable because the facility is not open to the public.
- b.  Defendant is not liable because defendant's landlord is responsible for ensuring that some or all of the property leased by the defendant, including the areas at issue in the complaint, are accessible to the public. *(Give the name and contact information of defendant's landlord in Item 4.)*
- c.  Defendant qualifies for reduced damages. *(See Civil Code section 55.56(f)(1).)*
- d.  Other affirmative defenses *(Specify and state facts in support in Item 4.)*

CASE NUMBER:

4. FACTS SUPPORTING AFFIRMATIVE DEFENSES (**NOTE:** For each box checked in Item 3, you must state brief facts to support the defense. Include letters a, b, c, and d from item 3 to make clear which affirmative defense(s) you are supporting.)
- Supporting facts are on Attachment 4. (You may use Form MC-025 for this purpose.)

5.  A request for an early evaluation conference and to meet in person with plaintiff at the subject premises has been filed or is being filed concurrently with this answer, on *Defendant's Application for Stay of Proceedings and Early Evaluation Conference, and Joint Inspection* (form DAL-005).

6. Number of pages attached: \_\_\_\_\_

(Each defendant for whom this answer is filed must be named in item 1 and must sign this answer unless his or her attorney signs.)

\_\_\_\_\_  
(TYPE OR PRINT NAME)

▶ \_\_\_\_\_  
(SIGNATURE OF DEFENDANT OR ATTORNEY)

\_\_\_\_\_  
(TYPE OR PRINT NAME)

▶ \_\_\_\_\_  
(SIGNATURE OF DEFENDANT OR ATTORNEY)

**VERIFICATION**

(Use a different verification form if the verification is by an attorney or for a corporation or partnership.)

I am the defendant in this proceeding and have read this answer. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Date:

\_\_\_\_\_  
(TYPE OR PRINT NAME)

\_\_\_\_\_  
(SIGNATURE OF DEFENDANT)

ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NO.: _____ NAME: _____ FIRM NAME: _____ STREET ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL ADDRESS: _____ ATTORNEY FOR (name): _____	<p style="font-size: 1.2em; font-weight: bold;">DRAFT 11/13/15</p> <p style="font-size: 1.2em; font-weight: bold;">NOT APPROVED BY JUDICIAL COUNCIL</p>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
Plaintiff: _____ Defendant: _____	
<b>DEFENDANT'S APPLICATION PURSUANT TO CIVIL CODE SECTION 55.54 FOR <input type="checkbox"/> STAY AND EARLY EVALUATION CONFERENCE <input type="checkbox"/> JOINT INSPECTION</b>	CASE NUMBER: _____

*(Information about this application and filing instructions may be obtained at [www.courts.ca.gov/selfhelp.htm](http://www.courts.ca.gov/selfhelp.htm))*

1. Defendant (name): \_\_\_\_\_ requests a stay of proceedings and early evaluation conference pursuant to Civil Code section 55.54.
2. The complaint in this case alleges a construction-related accessibility claim as defined under Civil Code section 55.52(a)(1).
3. The claim concerns a site that meets one of the following sets of requirements *(All items in one of a, b, c or d must be checked for the court to order a stay and early evaluation conference. Check a box if the statement is true.)*
  - a.  **CASp-Inspected Site**
    - (1)  Site has been inspected by a Certified Access Specialist (CASp) and determined to be CASp inspected or CASp determination pending and, if CASp inspected, there have been no modifications completed or commenced since the date of inspection that may impact compliance with construction-related accessibility standards to the best of defendant's knowledge; and
    - (2)  An inspection report by a Certified Access Specialist (CASp) relating to the site has been issued.
  - b.  **New Construction**
    - (1)  Site has had new construction or improvements on or after January 1, 2008, approved pursuant to the local building permit and inspection process;
    - (2)  To the best of defendant's knowledge, there have been no modifications or alterations completed or commenced since that approval that impacted compliance with construction-related accessibility standards with respect to the plaintiff's claim; and
    - (3)  All violations have been corrected, or will be corrected within **60** days of defendant's being served with the complaint.
  - c.  **Small Business**
    - (1)  Site is owned or occupied by a defendant that is a small business that has employed an average of 25 or fewer employees over the past three years and meets the gross receipts eligibility criteria provided in Civil Code, § 55.56(2)(f);
    - (2)  All violations have been corrected, or will be corrected within **30** days of being served with the complaint; and
    - (3)  Evidence showing that all violations have been corrected (*check one*)  is attached  will be filed with the court within **10** days of the court order setting an early evaluation conference.
    - (4) I am filing the following with the court along with this application: *(The documents should be filed separately attached to a Confidential Cover Sheet and Declaration (form DAL-006).)*
      - Proof of the number of defendant's employees as shown by wage reports forms filed with the Employment Development Department over the past three years or for existence of the business if less than three years.
      - Proof of defendant's average gross receipts as shown by federal or state tax documents for the three years before this application or for existence of the business if less than three years.

Plaintiff: Defendant:	CASE NUMBER:
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d.  **Case Filed by High-Frequency Litigant**

- (1)  Site is owned or occupied by a defendant that is a business.
- (2)  The complaint was filed by, or on behalf of a "high-frequency litigant," as defined in Code of Civil Procedure section 425.55(6), asserting a construction-related accessibility claim including, but not limited to a claim brought under Civil Code sections 51, 54, 54.1 or 55.
- (3)  The complaint includes a statement that it was filed by or on behalf of a high-frequency litigant, or a statement in the caption that "action subject to the supplemental fee in Government Code section 70616.5."

4. Defendant requests that the court:

- a. Stay the proceedings relating to the construction-related accessibility claim.
- b. Schedule an early evaluation conference.
- c. Order defendant to:
  - (1) File a confidential copy of the Certified Access Specialist (CASP) report with the court and serve a copy of the report on the plaintiff at least **15** days before the date of the early evaluation conference, which shall be kept confidential as set forth in Civil Code section 55.54(d)(4); or
  - (2) File with the court and serve on plaintiff evidence showing correction of all violations within **10** days of completion of the correction or, if seeking relief as a small business, within **10** days after issuance of a court order granting a stay.
- d. Order plaintiff to file with the court and serve on defendants the statement required by Civil Code section 55.54(d)(6) at least **15** days before the date of the early evaluation conference.
- e.  Order plaintiff and plaintiff's counsel, if any, to meet in person with defendant within 30 days, at the site that is the subject of this action, for a joint inspection to review any issues that plaintiff claims are a violation of construction-related accessibility standards.

Date:

\_\_\_\_\_  
(TYPE OR PRINT NAME)

\_\_\_\_\_  
(SIGNATURE OF ATTORNEY OR PARTY WITHOUT ATTORNEY)

**DECLARATION OF DEFENDANT**

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

\_\_\_\_\_  
(TYPE OR PRINT NAME OF DECLARANT)

\_\_\_\_\_  
(SIGNATURE OF DECLARANT)

ATTORNEY (Name, State Bar number, and address): STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	<b>FOR COURT USE ONLY</b>  <b>DRAFT</b> <b>11/13/15</b>  <b>NOT APPROVED BY</b> <b>JUDICIAL COUNCIL</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF: DEFENDANT:	
<b>NOTICE OF <input type="checkbox"/> STAY OF PROCEEDINGS AND EARLY EVALUATION</b> <b>CONFERENCE <input type="checkbox"/> <b>JOINT INSPECTION (DISABILITY ACCESS LITIGATION)</b></b>	CASE NUMBER:

**Stay of Proceedings**

For a period of 90 days from the date of the filing of this court notice, unless otherwise ordered by the court, the parties are stayed from 90 days taking any further action relating to the construction-related accessibility claim or claims in this case.

This stay does not apply to any construction-related accessibility claim in which the plaintiff has obtained temporary injunctive relief which is still in place.

1. This action includes a construction-related accessibility claim under Civil Code Section 55.52(a)(1) or other provision of law.

**Notice of Early Evaluation Conference**

2. A defendant has requested an early evaluation conference and a stay of proceedings under Civil Code Section 55.54.
3. The early evaluation conference is scheduled as follows:

a. Date:	Time:	Dept.:	Room:
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- b. The conference will be held at  the court address shown above  at the following address:

4. The plaintiff and defendant must attend with any other person needed for settlement of the case unless, with court approval, a party's disability requires the party's participation by a telephone appearance or other alternate means or through the personal appearance of an authorized representative.
5. The defendant who requested the conference and stay of proceedings must serve on all parties and file with the court the following:
  - a. (For a defendant applying under **CASp-Inspected Site** section) A copy of the CASp report for the site that is the subject of the construction-related accessibility claim. Defendant must serve and file the report at least **15** days before the date set for the early evaluation conference. The CASp report is confidential and only available as set forth below and in Civil Code Section 55.54(d)(4).
  - b. (For a defendant applying under **New Construction** section) Evidence showing the correction of all violations giving rise to the construction-related accessibility claim within **60** days of the service of the complaint. Defendant must serve and file the evidence within **10** days following completion of the corrections.
  - c. (For a defendant applying under **Small Business** section) Evidence, if not previously served and filed, showing the correction within **30** days of the service of the complaint of all violations giving rise to the construction-related accessibility claims. Defendant must serve and file the evidence within **10** days of issuance of this order.
6. The CASp report must be marked "CONFIDENTIAL" and may be disclosed only to the court, the parties to the action, the parties' attorneys, those individuals employed or retained by the attorneys to assist in the litigation, and insurance representatives or others involved in the evaluation and settlement of the case. (File the court's copy attached to Confidential Cover Sheet and Declaration (form DAL-006).)

PLAINTIFF: DEFENDANT:	CASE NUMBER:
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7. The plaintiff must at least 15 days before the date set for the early evaluation conference serve and file a statement of, to the extent known, all of the following:
- a. An itemized list of specific issues on the subject premises that are the basis of the claimed construction-related accessibility violations in the plaintiff's complaint;
  - b. The amount of damages claimed;
  - c. The amount of attorney's fees and costs incurred to date, if any, that are being claimed; and
  - d. Any demand for settlement of the case in its entirety.

**Notice of Joint Inspection**

*(only applies if boxes are checked)*

8.  A defendant has requested a meeting with plaintiff to jointly inspect the site that is the subject of the construction-related accessibility claim.
9.  Plaintiff and plaintiff's counsel, if any, must, within 30 days of the date this notice is issued, meet in person with defendant at the site to jointly inspect the premises and review any programmatic or policy issues that are claimed to constitute a violation of a construction-related accessibility standard. (See Civil Code, section 55.54(d)(6).)
10. If plaintiff is unable to meet in person at the site, he or she may move the court for leave to be excused or to appear telephonically or by other means. (See Civil Code, section 55.54(d)(6).)

**Service of Notice**

11. A copy of this notice and defendant's application must be served on the plaintiff by hand-delivering it or mailing it to the address listed on the complaint of plaintiff's attorney or plaintiff if without an attorney, within 10 days of date that the court issues the *Notice of Stay of Proceedings and Early Evaluation Conference, Joint Inspection*. Defendant must file proof of service with the court at least 15 days before the date of the conference. *Proof of Service—Disability Access Litigation* (form DAL-012) may be used to show service of the documents.

Date: \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy

*More information about this Notice and Order and the defendant's application, and instructions to assist plaintiff and defendants in complying with this Notice and Order, may be obtained at [www.courts.ca.gov/selfhelp](http://www.courts.ca.gov/selfhelp).*



**Request for Accommodation**

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least 5 days before the date on which you are to appear. Contact the clerk's office or go to [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms) for *Request for Accommodations by Persons with Disabilities and Response* (form MC-410). (Civil Code section 54.8.)

