

Invitation to Comment

Title	Civil Form: Disability Access Litigation (adopt <i>Important Information for Building Owners and Tenants</i> (form DAL-001).
Summary	This form would accompany a civil complaint or monetary demand claiming that a building does not comply with construction-related accessibility laws or regulations. Under Civil Code section 55.3 (Sen. Bill 1608 [Corbett]; Stats. 2008, ch. 549), the plaintiff's attorney must send it to or serve it on a building owner or tenant along with the complaint or monetary demand.
Source	Civil and Small Claims Advisory Committee
Staff	Susan R. McMullan, Complex Litigation and Case Management Subcommittee Counsel, 415-865-7990, susan.mcmullan@jud.ca.gov
Discussion	<p>SB 1608 made changes to existing law concerning disability access litigation, including the addition of section 55.3 to the Civil Code. Section 55.3 relates to construction-related accessibility claims in which a plaintiff represented by an attorney has made a monetary demand or has filed or is about to file a civil complaint. The attorney must provide a written advisory to the defendant along with each monetary demand or complaint.</p> <p>Civil Code section 55.3 requires the Judicial Council, by July 1, 2009, to adopt a form for attorneys to use to comply with the requirements of a written advisory. The bill contains the text that must be set out in the form. The required text includes a statement that the form is available in several languages in addition to English, indicates that the building owner or tenant has important legal obligations and rights and may wish to consult an attorney, and describes circumstances in which the defendant may have the right to a stay and early evaluation conference. All text required by Civil Code section 55.3 is included in the proposed form.</p> <p>Because the language in the form is statutorily required, the advisory committee will consider comments in response to this invitation that suggest additional or different text for possible legislative proposals.</p>

IMPORTANT INFORMATION FOR BUILDING OWNERS AND TENANTS

This form is available in English, Spanish, Chinese, Vietnamese, and Korean through the California Courts Web site. Persons with visual impairments can get assistance in viewing this form through the Web site. The Web site is located at www.courtinfo.ca.gov.

Existing law requires that you receive this information because the demand for money or 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 persons 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. Commencing September 1, 2009, information will also be available from the California Commission on Disability Access Web site.

You Have Important Legal Rights.

You are not required to pay any money unless and until a court finds you liable. Moreover, **receipt of this advisory does not necessarily mean you will be found liable for anything.**

You may wish to promptly consult an attorney experienced in this area of the law to get helpful legal advice or representation in responding to the demand for money or complaint you received. You may contact the local bar association in your county for information on available attorneys in your area. If you have insurance, you may also wish to contact your insurance provider. You have the right to seek assistance or advice about this demand for money or complaint from any person of your choice, and no one may instruct you otherwise. Your best interest may be served by seeking legal advice or representation from an attorney.

If a complaint has been filed and served on you and your property has been inspected by a Certified Access Specialist (CASp; see www.dsa.dgs.ca.gov/casp), you may have the right to a court stay (temporary stoppage) and early evaluation conference to evaluate the merits of the construction-related accessibility claim against you pursuant to Civil Code section 55.54. At your option, you may be, but need not be, represented by an attorney to file a reply and to file an application for a court stay and early evaluation conference. If you choose not to hire an attorney to represent you, you may obtain additional information about how to represent yourself and how to file a reply without hiring an attorney through the California Courts Web site at www.courtinfo.ca.gov/selfhelp/. You may also obtain a form to file your reply to the lawsuit, as well as the form and information for filing an application to request the court stay and early evaluation conference at that same Web site.

If you choose to hire an attorney to represent you, the attorney who sent you the demand for money or complaint is prohibited from contacting you further unless your attorney has given the other attorney permission to contact you. If the other attorney does try to contact you, you should immediately notify your attorney.

Item W09-02 Response Form

Title: **Civil Form: Disability Access Litigation** (adopt *Important Information for Building Owners and Tenants* (form DAL-001))

- Agree** with proposed changes
- Agree** with proposed changes **if modified**
- Do not agree** with proposed changes

Comments: _____

Name: _____ **Title:** _____

Organization: _____

- Commenting on behalf of an organization**

Address: _____

City, State, Zip: _____

To Submit Comments

Comments may be written on this form, prepared in a letter format, or submitted online. If you are *not* commenting directly on this form, please include the information requested above and the proposal number for identification purposes. Please submit your comments online or email, mail, or fax comments.

Internet: www.courtinfo.ca.gov/invitationstocomment

Email: invitations@jud.ca.gov

Mail: Ms. Camilla Kieliger
Judicial Council, 455 Golden Gate Avenue
San Francisco, CA 94102

Fax: (415) 865-7664, Attn: Camilla Kieliger

DEADLINE FOR COMMENT: 5:00 p.m., Wednesday, January 21, 2009

*Circulation for comment does not imply endorsement by the Judicial Council
or the Rules and Projects Committee.
All comments will become part of the public record of the council's action.*