

ATTORNEY OR PARTY WITHOUT ATTORNEY:		STATE BAR NO.:	FOR COURT USE ONLY
NAME:			
FIRM NAME:			
STREET ADDRESS:			
CITY:		STATE:	ZIP CODE:
TELEPHONE NO.:		FAX NO.:	
E-MAIL ADDRESS:			
ATTORNEY FOR (name):			
<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</b> <b>FOR <input type="checkbox"/> STAY AND EARLY EVALUATION CONFERENCE <input type="checkbox"/> JOINT</b> <b>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 section 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; and
  - 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.

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3. 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(b), asserting a construction-related accessibility claim including, but not limited to, a claim brought under Civil Code section 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 OF DECLARANT)

(SIGNATURE OF DECLARANT)

#### **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)