



Judicial Council of California · Administrative Office of the Courts

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: December 14, 2012

Title

Civil Practice and Procedure: Application for
and Notice of Stay and Early Evaluation
Conferences in Construction-Related
Accessibility Claims

Agenda Item Type

Action Required

Effective Date

January 1, 2013

Rules, Forms, Standards, or Statutes Affected

Adopt forms DAL-005, DAL-006, and DAL-
010; approve form DAL-012.

Date of Report

November 16, 2012

Recommended by

Civil and Small Claims Advisory Committee
Hon. Dennis M. Perluss, Chair

Contact

Anne Ronan, 415-865-8933,
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Executive Summary

The Civil and Small Claims Advisory Committee recommends that the Judicial Council adopt forms for defendants to apply for and the court to give notice of a stay of proceedings and early evaluation conference in construction-related accessibility claims. Senate Bill 1186 (Steinberg and Dutton; Stats. 2012, ch. 383) was enacted in late September 2012 to promote compliance with the state's disability access laws and deter unwarranted litigation in that area. Many provisions of the new law are already in effect, including the expansion of the categories of defendants who are eligible for automatic stays and early evaluation conferences under Civil Code section 55.54. The new law mandates that the Judicial Council revise the current provisional and statutorily mandated forms to implement these changes by January 1, 2013.

Recommendation

The Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective January 1, 2013:

1. Adopt the following mandatory forms:
 - *Defendant's Application for Stay of Proceedings and Early Evaluation Conference* (form DAL-005),
 - *Confidential Cover Sheet and Declaration re Documents for Stay and Early Evaluation Conference* (form DAL-006), and
 - *Notice of Stay of Proceedings and Early Evaluation Conference* (form DAL-010).
2. Approve as an optional form *Proof of Service—Disability Access Litigation* (form DAL-012).

The proposed forms are attached at pages 10–15.

Previous Council Action

In October 2009, when the provisions of Civil Code section 55.54 on applications for stays of proceedings and early evaluation conferences became operative, the statutorily required application form and notice and stay form were added to the judicial branch website. Because the format and content of the *Defendant's Application for Stay of Proceedings and Early Evaluation Conference* and the *Notice of Stay of Proceedings and Early Evaluation Conference* were fully set forth within the statute, there was no need at that time for the council to adopt them as Judicial Council forms.

Rationale for Recommendation

Senate Bill 1186 (SB 1186) was enacted on September 19, 2012, to promote compliance with the state's disability access laws and deter unwarranted litigation in that area. Among other things, the new statute imposes new pleading requirements, expands the current early evaluation conference process, creates a new alternative mandatory evaluation conference option, reduces statutory damages and provides other protections for specified defendants who timely correct construction-related accessibility violations of the Unruh Civil Rights Act. The recommendations in this report are intended to implement and facilitate the provisions in the new law that expand the types of defendants who qualify for automatic stays and early evaluation conferences under Civil Code section 55.54.¹ The statute mandates that the council adopt forms to implement those changes—which are already in effect—by January 1, 2013. (§ 55.54(l)(1).)

Section 55.54 provides a procedure whereby certain categories of defendants in cases with construction-related accessibility claims are eligible to receive an automatic stay of court proceedings and early evaluation conference. Under prior law, such procedures were limited to defendants whose property had been inspected by a certified access specialist (CASp). Once an application was made by such a defendant, including a statement under penalty of perjury that a CASp inspection had been made and a report issued, the court was to immediately issue a stay,

¹ Unless otherwise noted, all statutory references herein are to the Civil Code.

set an early evaluation conference within 50 days,² and direct the parties to file and exchange certain information prior to that conference. (§ 55.54(c).) The Legislature included within the statute the forms to be used by the parties to request a stay and conference and by the court to issue a notice of stay and conference and to direct each party to file and serve various items prior to the conference. (§ 55.54(c)(7); see *Defendant's Application for Stay of Proceedings and Early Evaluation Conference* and *Notice of Stay of Proceedings and Early Evaluation Conference* set out in full at that code section.)

SB 1186 has expanded the categories of defendants who are eligible for the automatic stay and early evaluation conferences. In addition to the CASp-certified defendants (who are defined in the statute as “qualified” defendants), three new categories have been added, two relating to new construction and one to small businesses:

- New construction:
 1. Until January 1, 2018, a defendant whose site’s new construction or improvement on or after January 1, 2008, and before January 1, 2016:
 - was approved pursuant to the local building permit and inspection process, and
 - to the best of the defendant’s knowledge, has had 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
 - has had all violations corrected or scheduled to be corrected within 60 days of being served with the complaint. (§ 55.54(b)(2)(A).)
 2. A defendant whose site’s new construction or improvement:
 - was approved by a local public building department inspector who is a certified access specialist,³ and
 - to the best of the defendant’s knowledge, has had 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
 - has had all violations corrected or scheduled to be corrected within 60 days of being served with the complaint. (§ 55.54(b)(2)(B).)
- Small business:

Site is owned or occupied by defendant who

² This time frame has changed to 70 days under the amended law.

³ Because the only distinction between these first two categories, whether or not the local building inspector was CASp-certified, will not be required until cases are brought litigating access to buildings or improvements constructed and approved after January 1, 2016, the committee has not included the distinction in the recommended application form. The form can be revised in 2015 if that distinction remains in the law at that point.

- is a small business, defined as having 25 or fewer employees and with gross receipts under a certain eligibility level (currently no more than \$3.5 million in gross receipts, but that amount may be changed every second year; see § 55.56(f)), and
- has corrected all violations or will have corrected them within 30 days of being served with the complaint. (§ 55.54(b)(2)(C).)

Applications for a stay and early evaluation conference by defendants in these new categories must include declarations under penalty of perjury as to each element of the applicable category described above (§ 55.54(c)(2)–(4).)

In addition, a defendant who is seeking the stay as a small business must provide the following with the application:

- wage report forms filed with the Employment Development Department showing the defendant’s number of employees;
- federal or state tax documents showing the defendant’s average gross receipts for the previous three years, or for the existence of the business if less than three years;⁴ and
- evidence showing correction of all violations within 30 days of the service of the complaint, unless the application is filed prior to 30 days after service, in which case it is to be provided to the court and served upon the plaintiff within 10 days of the court order setting the early evaluation conference. (§ 55.54(c)(5).)

Application form

Although SB 1186 adds these new categories of eligible defendants, and adds new requirements as to what they must state in their applications, the act does not make any changes to the forms provided in the statute. Instead, the new law directs the new types of defendants to continue to use the statutory application form, and to mark it up to add the new required declarations in place of the declarations currently on the form (regarding CASp inspections and reports), until such time as the Judicial Council adopts new forms, which the Legislature mandates that the council do by January 1, 2013. (§ 55.54(l)(1)–(2).)

The proposed Judicial Council form *Defendant's Application for Stay of Proceedings and Early Evaluation Conference* (form DAL-005) is modeled directly on the statutory form,⁵ with the primary substantive change being the addition in items 3b and 3c of the newly required statements for each of the new categories of defendants.⁶ The statements required for each of the three different types of eligibility (CASp-inspected site, new construction approved by local building process, and small business) are separate and each set is given its own title for clarity.

⁴ These first two items are to be kept confidential by the court. (§ 55.54(c)(6).)

⁵ The current statutory forms can be seen in the statute at § 55.54(c)(7).

⁶ The format of the form has also been revised slightly, to meet the current formatting standards of Judicial Council forms.

The defendant is to check the statements applicable to the provisions under which the defendant is seeking relief.

The proposed Judicial Council form also differs from the provisional statutory form in that it requires a signature by the attorney representing the defendant, if any. This addition is to comply with Code of Civil Procedure section 128.7, which mandates that every pleading, petition or similar paper be signed by at least one attorney of record if the party is represented by counsel.

Confidential cover sheet

The proposed *Confidential Cover Sheet and Declaration re Documents for Stay and Early Evaluation Conference* (form DAL-006) is an entirely new form, not based on any current statutory form. The statute requires that the court keep confidential and not include in publicly accessible files certain of the documents that the parties are required to file, specifically, the business records of the small business defendant, which under SB 1186 must be filed with the application, and the CASp inspection reports of defendants seeking a stay on that basis, which may be filed later. (See § 55.54(c)(6) and (d)(4).) In order to facilitate a court's compliance with this mandate of confidentiality, the committee proposes a simple cover sheet to be used by the parties in filing these documents, so that the confidential nature of the documents will be clearly indicated when they arrive at the court and it will be easy for the clerk to segregate the documents from those to be put in the public files. Including a declaration on the form provides an easy way for the party to authenticate the attached copies.

The committee concluded that, in light of the requirement that courts keep confidential the documents small business defendants file with their applications, the adoption of this form with a January 1, 2013 effective date will make compliance with requirements that are already in effect easier for the courts and parties. The group also recommends this effective date so that references to this form can be incorporated into the other two forms—the application and notice—that must be adopted by January 1. See item 3c(iv) of the application (form DAL-005) and item 6 on the notice of stay (form DAL-010), which instruct parties to use the *Confidential Cover Sheet* to file the required documents.

Notice of stay and early evaluation conference

The proposed *Notice of Stay of Proceedings and Early Evaluation Conference* (form DAL-010) is modeled on the current statutory form and contains each element mandated for the notice and stay. (See § 55.54(d).) In developing and recommending this form, the committee considered the following points:

Form to be issued by clerk. The current statutory form is set up to allow for the issuance of the notice of stay and early evaluation conference as a ministerial action by a court clerk. The statute mandates that

upon the filing of an application for stay and early evaluation by a qualified defendant [with a CASp-inspected site] or a defendant described by paragraph 2 of subdivision (b)

[in one of the SB 1186 categories for defendants with new construction sites or small businesses] the court shall *immediately* issue an order that does the following: [grant stay, schedule early evaluation conference, direct parties to attend in person, direct parties to provide various types of information]. (emphasis added, §55.54(d).)

There is no provision in the statute for denying such a stay and early evaluation hearing, just the mandate that the court immediately issue a notice of stay and hearing once the completed application has been filed. The Legislature indicated its intent that the issuance of the notice of stay of proceedings and setting the hearing be a ministerial action taken by a clerk by including a form for such action, and only such action, in the statute. The Legislature developed the original statutory form (a notice of stay and conference—not an order by court) to be issued as a ministerial action, with a signature line for a clerk only. The Legislature did not include in the statutory forms any form for action taken by a judicial officer.

The committee recommends that the new Judicial Council form be in the same format, proposing form DAL-010 as a notice to be issued by a court clerk. Should a judicial officer, for whatever reason, decide to deny or terminate the requested stay, a form is not required by statute for such an action.

Revisions to content of current form. There are three substantive differences between proposed notice form DAL-010 and the current statutory form: the expansion of item 5, which directs the defendants as to what they are statutorily required to file and serve on plaintiff before the conference; the revision of item 8, which mandates service of the notice and the application; and the removal of the integrated proof of service (which is being proposed as a separate proof of service form).

Item 5 has been expanded and divided into subparts, based on which eligibility category the defendant applied under: CASp-inspected site, new construction, or small business. These are the same three categories that are listed on the application, in item 3 of form DAL-005. The notice is somewhat different for each category of defendant because the requirements as to what documentation each defendant must serve and file before the early evaluation conference, and when they have to do so, differs by category. (See § 55.54(d)(4).) As proposed, it will be up to the defendant to determine which directive in the notice applies, based on which category the defendant checked in the application.

The committee considered but rejected an alternative item 5, with check boxes in front of each subpart, which would leave it up to the clerk to check the subpart that matched the corresponding subpart in item 3 on the application.

Item 8 in proposed form DAL-010 provides direction to the defendant to serve the notice and application on the plaintiff within five court days of the court's issuance of the notice by hand-delivery or mailing. These methods parallel the provisions in the current statutory form, although

that form further directs that the papers be served on the same day the court issues the notice. Because there is nothing in the text of the statute that mandates such a short time frame for service,⁷ the committee recommends that the proposed notice form address this point somewhat differently than the form it is replacing, adding a few additional days for service.

It appears that the assumption underlying the direction in the statutory form (that the notice be served on the day it is issued) is that a court will issue the notice of stay to a defendant standing at the clerk's counter, upon the filing of the application. While this may once have been viewed as an ideal situation, it is not always practicable and is completely impossible for applications filed by mail. A defendant who mails in an application will not be at the courthouse waiting for issuance of a notice, and will not receive it on the day it is issued. Hence, the form could not be served on that day.

The committee concluded that because there is no express requirement in the text of the statute providing that service must be done in that time frame, it would not recommend a form directing service be done on the day of issuance of the order. The group considered several alternatives and concluded that a determinate number of days for service should be used, recommending five court days as an appropriate implementation of the short time frame for service envisioned by the Legislature.⁸

Proof of Service

Other than the two items in the original statutory form concerning service (item 7 and the integrated declaration of service), there is no statutory provision in section 55.54 mandating how or when service is to be provided, or directing whether or when a proof of service is to be filed. There is, however, an express statutory provision that mandates that the statutory forms and "any replacement Judicial Council forms shall include the defendant's declaration of proof of service" (§ 55.54(c)(8).) Hence it is clear, even though the proof of service in the statutory form has been placed on a form that will already have been issued and filed by the court and so is not in a form that can be filed as it stands, that service is required and that filing proof of service is at least contemplated.

In light of the mandate that the Judicial Council forms include the defendant's declaration of proof of service (see § 55.54(c)(8)), the committee recommends a separate form, *Proof of Service—Disability Access Litigation* (form DAL-012), that may be used for that purpose. Having a separate form will comply with the legislative mandate while also making it easier for parties to actually file the proof of service, with no further cover sheet needed. The item on the

⁷ The statute expressly mandates that the statutory form and any Judicial Council form replacing the statutory form include a declaration for defendant's proof of service of the application and notice, but does not include any time frame for that service. See § 55.54(c)(8).

⁸ The committee is also proposing a rule mandating such service, which is being circulated for comment in the Winter Cycle.

proposed notice form regarding service (item 8 on proposed form DAL-010) includes a reference to this new proof of service form so that the parties will be able to locate it easily.

Proposed form DAL-012 is more detailed than the declaration of service included as the integrated proof on the statutory form, so that this new proof will comply with the requirements of Code of Civil Procedure section 1013. The form is limited to proof of service by mail or in person, because those are the two forms of service authorized in the current statutory form. The new form includes a checklist of documents in addition to the application and notice of stay that the proof of service may be used with, to facilitate filing proofs of service for other documents for which service on the parties is required under section 55.54(d) or section 55.545 (the new alternative mandatory evaluation process). Although the statute does not mandate that the council approve a form for proof of service of these other documents, the committee concluded that adding this list to the proof of service did not impose any burden on the courts and would facilitate the parties' compliance with the revised law.

The form is proposed with a January 1, 2013 effective date because of the mandate that any Judicial Council forms that replace the current statutory forms include a proof of service. The form as recommended is an optional form, as there is no statutory basis for precluding parties from individually crafting proofs of service, or from using another Judicial Council proof of service form, should they wish to do so.

Comments, Alternatives Considered, and Policy Implications

In light of the short time frame for adoption of the forms, there is no time for pre-adoption comments. However, the adopted forms will be circulated for comment during the winter cycle, and the committee will review any comments received and return to the council with further revisions should the comments indicate that changes are appropriate.

Because SB 1186 mandates that the council adopt forms that allow the current and new categories of defendants to file applications for, and the court to issue notices of, stays and early evaluation conferences by January 1, 2013, the committee did not consider the alternative of taking no action. The committee did consider only recommending two forms, the application and notice forms, due to the very short time frame for implementation, but concluded that the confidential cover sheet and separate proof of service form would not further burden the courts and would facilitate the courts' and parties' implementation of the new provisions.

Implementation Requirements, Costs, and Operational Impacts

Three of the new forms, the application, confidential cover sheet, and proof of service, will be completed by the parties, while the new notice form will be primarily completed by the court. Implementation of the revised and new forms, especially the notice form to be issued by the court, will require some training costs, for both judges and clerks, although some of that training may already be under way in an effort to implement the new procedures already in effect under SB 1186. Implementation of the notice form will have a further impact on courts that issue

notices and orders via computerized case management systems, in that it will have to be programmed into those systems and, until it is, courts will have to issue it manually. The new law mandates the adoption of the application for stay and the notice of stay, though, as well as a declaration of service of both (forms DAL-005, DAL-010, DAL-012) by January 1, 2013, so there is no option to delay the effective dates of those forms.

The confidential cover sheet (form DAL-006) is not mandated, so its adoption could be deferred. However, its adoption should not place any burden on the court and the form is expected to facilitate the court's implementation of the confidentiality provisions of the new law. The documents filed with this cover sheet must be kept confidential whether or not the form is approved.

Relevant Strategic Plan Goals and Operational Plan Objectives

These forms, in addition to being mandated by the Legislature, fall within Goal III of the strategic plan, Modernization of Management and Administration, particularly Objective 5 of the operational plan for that goal: develop and implement effective trial and appellate case management rules, procedures, techniques, and practices to promote the fair, timely, consistent and efficient processing of all types of cases.

Attachments

1. Forms DAL-005, DAL-006, DAL-010, DAL-012, at pages 10–15.
2. SB 1186 may be found at http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201120120SB1186&search_keywords

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number if attorney, and address): TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL ADDRESS : _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY DRAFT 11/26/12 Not approved by Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF: DEFENDANT:	
DEFENDANT'S APPLICATION FOR STAY AND EARLY EVALUATION CONFERENCE PURSUANT TO CIVIL CODE SECTION 55.54	CASE NUMBER:

(Information about this application and filing instructions may be obtained at 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, or c 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**
 - i. 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
 - ii. An inspection report by a Certified Access Specialist (CASp) relating to the site has been issued.
 - b. **New Construction**
 - i. Site has had new construction or improvements on or after January 1, 2008, approved pursuant to the local building permit and inspection process;
 - ii. 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
 - iii. All violations have been corrected, or will be corrected within **60** days of defendant's being served with the complaint.
 - c. **Small Business**
 - i. 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);
 - ii. All violations have been corrected, or will be corrected within **30** days of being served with the complaint; and
 - iii. 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.
 - iv. 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:	CASE NUMBER:
DEFENDANT:	

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:
 - i. 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
 - ii. 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.

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 OR PARTY WITHOUT ATTORNEY (Name, State Bar number of attorney, and address): TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL ADDRESS: _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY <p style="text-align: center;">DRAFT 11/29/12 Not approved by Judicial Council</p>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
<p style="text-align: center;">CONFIDENTIAL COVER SHEET AND DECLARATION RE DOCUMENTS FOR STAY AND EARLY EVALUATION CONFERENCE</p>	CASE NUMBER:

This Confidential Cover Sheet and Declaration should be affixed to the first page of any of the documents listed below. It may not be used with other documents.

INSTRUCTIONS TO CLERK: Certain supporting documents to be filed along with or following an *Application for Stay of Proceedings and Early Evaluation Conference* are to be kept confidential, as provided by Civil Code sections 55.54(b)(2)(C)(6) and 55.54(d)(4)–(5). Such document are not to be made part of the public record except to the extent provided in Civil Code section 55.54(e)(4).

Attached hereto is a true and correct copy of one or more of the following documents (*check all that apply*):

1. Report issued by a Certified Access Specialist on a site that is the subject of this litigation. (*This document may become publicly accessible at some point, under Civil Code section 55.54(e)(4).*)
2. Wage report forms filed by defendant with the Employment Development Department.
3. State or federal income tax returns filed by 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 OR PARTY WITHOUT ATTORNEY (Name, State Bar number if attorney, and address): <hr/> <p style="text-align: center;">TELEPHONE NO.: FAX NO.:</p> <p style="text-align: center;">E-MAIL ADDRESS :</p> <p style="text-align: center;">ATTORNEY FOR (Name):</p>	FOR COURT USE ONLY <h2 style="margin: 0;">DRAFT</h2> <h2 style="margin: 0;">11/26/12</h2> <h3 style="margin: 0;">Not approved by Judicial Council</h3>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF: DEFENDANT:	
NOTICE OF STAY OF PROCEEDINGS AND EARLY EVALUATION CONFERENCE (CONSTRUCTION-RELATED ACCESSIBILITY CLAIM)	CASE NUMBER:

Stay of Proceeding

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 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.

Notice of Early Evaluation Conference

1. This action includes a construction-related accessibility claim under Civil Code Section 55.52(a)(1) or other provision of law.
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 that requested the conference and stay of proceedings must file with the court and serve on all parties
 - 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 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. The evidence must be filed and served on all other parties within **10** days following completion of the corrections.
 - c. (For a defendant applying under **Small Business** section) Evidence if not previously filed and served showing the correction, within **30** days of the service of the complaint, of all violations giving rise to the construction-related accessibility claims. The evidence must be filed and served on all other parties 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:	CASE NUMBER:
DEFENDANT:	

7. The plaintiff must file with the court and serve on all parties at least 15 days before the date set for the early evaluation conference 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.

8. 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 5 court days of date that the court issues the *Notice of Stay of Proceedings and Early Evaluation Conference*. Defendant may file *Proof of Service--Disability Access Litigation* (form DAL-012) with the court 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.



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 <http://www.courts.ca.gov/forms.htm> for *Request for Accommodations by Persons with Disabilities and Order* (form MC-410). (Civil Code section 54.8.)

ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name, State Bar number if attorney, and address</i>): TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL ADDRESS : _____ ATTORNEY FOR (<i>Name</i>): _____	FOR COURT USE ONLY <p style="text-align: center;">DRAFT 11/29/12 Not approved by Judicial Council</p>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF: DEFENDANT:	CASE NUMBER:
<p style="text-align: center;">PROOF OF SERVICE—DISABILITY ACCESS LITIGATION</p> Check method of service (<i>only one</i>): <input type="checkbox"/> By Personal Service <input type="checkbox"/> By Mail	JUDGE: DEPT.:

(This proof of service may only be used to show service of documents in cases with construction-related accessibility claims, as listed below. Do NOT use it to show service of a summons and complaint, or to show electronic service.)

1. At the time of service I was over 18 years of age and not a party to this action.
2. My residence or business address is:
3. I served the following documents (*check the applicable boxes*):
 - a. Defendant's Application for Stay of Proceedings and Early Evaluation Conference (form DAL-005)
 - b. Notice of Stay of Proceedings and Early Evaluation Conference (form DAL-010)
 - c. Application for Mandatory Evaluation Conference (form DAL-015)
 - d. Notice of Mandatory Evaluation Conference (form DAL-020)
 - e. Inspection report by Certified Access Specialist (*name*): _____ regarding
the site in this action (See Civ. Code, § 55.54(d)(4)(A).)
 - f. Evidence showing correction of violation giving rise to construction-related claims or plans for remediation (See Civ. Code, § 55.54(d)(4)(B) or (C) or § 55.545(c)(3).)
 - g. Plaintiff's statement of issues, damages, attorney's fees, and any settlement demand. (See Civ. Code, § 55.54(d)(5) or § 55.545(c)(3).)
 - h. Other (*describe*): _____
4. **By Mail.** I am a resident of or employed in the county where the mailing occurred. I served a copy of the document or documents by mailing them, in a sealed envelope with first-class postage fully prepaid, as follows:
 - a. I deposited the envelope with the United States Postal Service.
 - b. I placed the envelope for collection and processing for mailing following this business's ordinary practice with which I am readily familiar. On the same day correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service.
 - c. Date of deposit: _____
 - d. Place of deposit (*city and state*): _____
 - e. Addressed as follows (*name and address*): _____
5. **By Personal Service.** I served a copy of the document or documents by personally delivering copies as shown below:
 - a. Name of person served: _____
 - b. Address of person served: _____
 - c. On (*date*): _____
 - d. At (*time*): _____

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)

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